

**SPECIAL SESSION
January 10, 2006**

The Board of Supervisors of Maricopa County Arizona convened in Special Session at 10:15 a.m., January 10, 2006, in the Tom Sullivan Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman, District 2; Fulton Brock, Vice Chairman, District 1, Andrew Kunasek, District 3 and Mary Rose Wilcox, District 5. Absent: Max W. Wilson, District 4. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Manager; Paul Golab, Deputy County Attorney and Anne Longo, Assistant Chief Counsel. Votes of the Members will be recorded as follows: aye-nay-absent-abstain.

RECESS TO EXECUTIVE SESSION

Motion was made by Supervisor Wilcox, seconded by Supervisor Kunasek, and unanimously carried that the Board recess into Executive Session, pursuant to listed statutory authority, to consider the following item. Chiefs of Staff Latto, Candland, Bloom, Isham and Leija were also in attendance.

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) AND (A)(4)

E-1. Advice regarding legal issues and options concerning County Regional School District Accommodations School funding and audit issues.

Chris Keller, Chief Counsel, Civil Division
Bruce White, Deputy County Attorney
Dean Wolcott, Outside Counsel
Sandi Wilson, Deputy County Manager
Brian Hushek, Deputy Budget Director
Tom Manos, Chief Financial Officer
Ross Tate, Internal Auditor

OPEN SESSION RECONVENED

Chairman Stapley reconvened open session at 10:55 a.m. with all members as listed above remaining in session. Chairman Stapley asked Ross Tate to give a summary of this matter to date.

ACTION REGARDING SUPERINTENDENT OF SCHOOLS

Mr. Tate reported that the Board of Supervisors had given him a formal directive to began an audit process on the Accommodation Schools on December 7, 2005, although some discussions had been held on the matter prior to that date. After receiving the directive, Mr. Tate assembled a team that included legal counsel to go to the school's office to initiate the audit. In response, they were given access to computer files on the 6th floor of the Administration Building and copies of the last five yearly annual audits compiled by an independent firm. He reported that while some of the files obtained were somewhat useful they were unable to obtain the "source documents" of detailed information that are indispensable to any thorough financial audit. He added that even a high level analysis was impossible with the access they have been given to date.

Mr. Tate explained that he and his team had gone to the school in late December in another attempt to procure the information on the public documents filed there and Steve Zimmerman, Assistant Superintendent, had refused to cooperate with their request. When asked why he would not cooperate, Mr. Zimmerman said that Dr. Dowling had instructed him not to give them this access.

Supervisor Brock asked Mr. Tate if an audit would require interviews with staff members of the schools. Mr. Tate said it would be essential to talk to staff members in order to understand the records.

In response to a request from the Chairman, Sandi Wilson reported on the history of the school's current deficit of more than four million dollars. It has recently been found that in 2000 the school had a budget deficit of half a million dollars. She indicated that this total had accumulated over time because a succession of County Treasurers had honored the schools' warrants as if they were a County department's warrants and paid them out of a special reserve account. Newly elected Treasurer had simply continued a long-standing practice without question. The schools were charged interest on the negative balance in this account. The interest has been paid while the deficit continued to grow. Ms. Wilson added that the Office of Management and Budget (OMB) had not become aware of this deficit until recently because the schools, unlike a regular County department, receive federal and state funds as well as funding from Maricopa County. The schools also receive a number of donations from private sources. The total amount of revenue they receive in one form or another during any given school year is unknown and so far, documentation has not been forthcoming from Superintendent Dowling to provide this information. The Superintendent of Schools is not now required to submit their budget to OMB or the Board of Supervisors for oversight and approval. Salaries and other expenses were covered until funds were depleted and the Treasurer had to cover the warrants from the special fund, which is the fund that now has a negative balance of \$4.179 million.

Ms. Wilson said, "We need to get some information so we can understand what has happened. The County may be held responsible for this outlay of taxpayer dollars and we need to treat this fund as any other fund that has a deficit. To do this we need a better understanding so we can work with them to get it resolved."

Chairman Stapley remarked that when this first came to the Board's attention late last year the deficit was \$3.4 or \$3.5 million and it was most alarming to see how much it had grown in that short period of time.

Ms. Wilson said that there could be a good explanation but without being able to obtain necessary information it was impossible to know what it would be. She added that if this deficit happened in any other County department OMB would immediately ask for a Corrective Action Plan to get it resolved. She added that this is different because it is a school fund that was apparently set-up as a line of credit fund, and regular schools all have these, but there is no line of credit on the special fund for the Accommodation Schools. She said this has shown them a "hole" in the OMB process and it would be changed.

Supervisor Brock said it was important to establish interaction between the Board, the Treasurer and the Superintendent of Schools. He felt the Treasurer had an obligation to notify someone of the huge deficit that had accumulated. He stated that a warrant system should be established. Ms. Wilson agreed.

David Smith said the County has a budget monitoring system that highlights any department that developed a negative balance, but the Accommodation School is not part of the County budget system and the deficit fund was outside of the County's appropriation process, so it was not identified earlier. He added that because the budget was not part of the County's system a large deficit accrued at the direction of one elected official. He said that the appropriation process for the Accommodation Schools should be reviewed and, more importantly, find out who is responsible for this deficit.

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Supervisor Wilcox said with a deficit in a regular school they would have the ability to tax residents to pay for it but the school does not have taxing authority similar to other schools because it does not have unique geographic boundaries. She asked Mr. Tate if the planned audit of the schools was anything out of the ordinary and he responded, "It's no different from any other audit." Chairman Stapley remarked that Internal Audit had done an audit on the Board of Supervisors and it would be ordinary to do one on any County department.

Chairman Stapley related that he had signed a subpoena that compels Dr. Dowling to provide any and all information that is requested for an audit. The subpoena was delivered to Superintendent Dowling this morning.

Chairman Stapley said that Dr. Dowling had called him earlier and he had encouraged her to attend this meeting, "But, she's not here." He also encouraged her to cooperate with the audit and said her mood during the conversation fluctuated between cooperation and non-cooperation. He therefore felt it necessary to move forward with issuing the subpoena.

Dean Wolcott said that David Cantelme, Ms. Dowling's personal attorney, has stated that the Board does not have the legal authority to conduct an audit on the schools or the Superintendent of Schools. Mike King represents the School District and was present during this meeting. Mr. Wolcott said that Mr. Cantelme concedes that school records are public records and indicated that he will produce specific record requests. Wolcott added, "That procedure doesn't work for an audit directed by the Board and it is not what Ross needs."

Mr. Wolcott said that attorneys Cantelme and King have both requested a meeting with him and he planned to schedule a meeting before the end of this week.

Motion was made by Supervisor Brock, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to take all action necessary regarding warrants drawn on the County Special Reserve Fund and any other Accommodation School funds, to bring the accounting, budgeting, payment of expenses, and related financial procedures into alignment with all current County financial, procurement and budgeting policies. In addition, to revoke any prior delegation to the Superintendent of Schools to approve warrants on the Special County School Reserve Fund. All action pursuant to A.R.S. §15-1001 and other pertinent statutory guidelines and authorities. (ADM3814-002)

MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

Don Stapley, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board