

The School Board of Broward County, Florida  
**AUDIT COMMITTEE**

MINUTES OF AUDIT COMMITTEE MEETING

October 27, 2011

Dr. Henry Mack, Chair, called the Audit Committee meeting to order at 11:30 a.m. at the Kathleen C. Wright Building in the 1<sup>st</sup> Floor Board Room. Members and guests were introduced.

Members Present: Ms. Mary Fertig  
Ms. Charlotte Greenberg  
Mr. John Herbst, CPA  
Mr. Steve Hurst, CFP  
Dr. Henry Mack  
Mr. Andrew Medvin, CPA  
Ms. Mary Lou Ruderman, CPA  
Ms. Alexandra (Alex) Mores, CPA

Staff Present: Mr. Robert W. Runcie, Superintendent of Schools  
Ms. Katherine Leach, School Board Member  
Mr. Donnie Carter, Interim Superintendent of Schools  
Mr. Paul Carland, General Counsel, Office of General Counsel  
Mr. Thomas Cooney, Office of General Counsel  
Mr. Thomas Lindner, Deputy Superintendent, F&CM  
Mr. Jeff Moquin, Support Operations  
Mr. Patrick Reilly, Chief Auditor, Office of the Chief Auditor (OCA)  
Mr. Dave Rhodes, Director, Facility Audits, OCA  
Mr. Joe Wright, Facility Audits, OCA  
Mr. Gerardo Usallan, Facility Audits, OCA  
Mr. Mark Magli, Supervisor, Property Audits, OCA  
Ms. Patricia McLaughlin, Confidential Clerk Specialist C, OCA  
Ms. Megan Gonzalez, Confidential Clerk Specialist B, OCA  
Ms. Sharon Airaghi, North Area Superintendent  
Dr. Desmond Blackburn, Central Area Superintendent  
Dr. Joel Herbst, South Area Superintendent  
Mr. Robert Hamberger, Chief Building Official  
Ms. Cyrilla Bradley, Transportation Services  
Ms. Nell Johnson, Director, Internal Accounts  
Mr. Jimmy Morrow, Hallandale Adult Center  
Mr. John Hodge, F&CM  
Mr. Denis Herrmann, F&CM  
Mr. Sam Bays, F&CM  
Ms. Shelley Meloni, F&CM  
Mr. Omar Shim, Capital Budget

Guests Present: Mr. Pablo Llerena, GLSC & Company, PLLC  
Mr. Dan O’Keefe, Moore Stephens Lovelace, P.A.  
Mr. Ronald Thompkins, TCBA Watson Rice LLP  
Ms. Lauren Jackson, State Representative for Evan Jenne  
Mr. Bob Norman, WPLG Channel 10 News

**Old Business**

A motion was made to approve the minutes for the September 8, 2011 Audit Committee meeting. Motion carried.

**Current Status Report – Follow-Up Items**

**Follow Up Item #1 - Update on the Audit of the Ashbritt, Inc. and C&B Services Invoices for District Portable Repairs Related to Hurricane Wilma – July 23, 2009**

Mr. Tom Cooney began “We are still firmly entrenched in the discovery litigation. Nations Roof, as you may recall, we brought them in as a third party defendant. They are now actively involved in the litigation of the matter. We’re encouraged by their initial interest in trying to resolve and correct the issues. That’s about it for this update since our last meeting.”

**Follow Up Item #2 – Miscellaneous Discussions – May 5, 2011**

Mr. Reilly stated “This is regarding the follow up to the Change Orders ‘Other’ Audit. The Committee asked for an update on the forty-seven items that are being pursued by Facilities & Construction Management. In addition, the Audit Committee requested that the schedule provided by the General Counsel include an additional column that provides the name of the vendor from whom they are seeking recovery for each project. This information should include the fifteen projects that the auditors reviewed and the 133 change orders that were not part of the audit scope, for a total of 148 change orders.”

Mr. Cooney asked “Are you looking for an update since the last meeting?”

Mr. Reilly stated “Yes.”

Mr. Cooney continued “As far as the request from the Facilities Department, it wasn’t directed to our office, so I’m not quite certain whether someone’s been asked to come here and present that information to the Committee from the Facilities Department. We are not pursuing those 47 matters.”

Mr. Reilly stated “I will meet with you on those matters and we will present an update at the next meeting.”

Dr. Mack asked Mr. O’keefe to update the Committee regarding the District’s ongoing financial audit.

Mr. Dan O’Keefe of Moore Stephens Lovelace, P.A. stated “At the last meeting, we told you about the timeline we have this year, which is historic; this has never been done. I’m trying to present the draft audit report to the Audit Committee at the November 17, 2011 meeting and

have it finalized for the Board meeting in December. It's never happened before to my knowledge. This took a lot of coordination, but from the reports I received yesterday, it appears we will make the deadline. The feedback has been good; we've gotten the responses from last year's comments and verified that a lot of good activities have happened. We're out of the field and received a copy of the draft of the Comprehensive Annual Financial Report (CAFR) on Tuesday and it's almost ready for our review process. I think we'll be able to make it by the next meeting."

**Follow Up Item #3 – Audit of the Physical Plant Operations Division – November 2008**

Mr. Reilly began "The Audit Committee requested that the General Counsel revisit the pursuit of the \$52,250 related to the PPO Audit performed by the Office of the Chief Auditor and provide an opinion letter on how to proceed. We received a legal opinion, which we included in your audit package. If you have any questions, please refer them to Mr. Carland."

Ms. Charlotte Greenberg asked "This is five years out, so it's too late. That, exactly, has been the problem we've been having for thirteen years that I can remember; things are delayed and delayed, demand letter are not sent, and then it's too late to do anything. I do know that the audit noted that the RFP was expanded; whether or not it was expanded correctly and done the way it was supposed to be done, I suppose we might have a discussion about that. We backed the auditors' findings at the time of the audit and I still do and I imagine the Audit Committee still does. I just hope that we don't get another one of these that has been delayed so long where we can't collect the money."

Dr. Mack asked "About the RFP for Auditing Services, in many cases, the RFP states that the person who does the initial job or initial evaluation would not be permitted to perform implementation. As I recall from the Grau contract, that was one of the provisions and ultimately, they did become involved in the implementation process and this was, of course, with the approval of the Board. For clarification, can you tell me just what that process is, to modify an RFP which specifically states the person who does the first or discovery phase is not to be involved in the implementation?"

Mr. Paul Carland responded "Each RFP is different. In this particular case, it appears the conflict centered on implementation services that would result after a study was done by this accounting firm. The RFP process, as I noted in my memo to you, is different than a hard bid or other types of procurement methodologies and by its nature, does permit agencies to negotiate some revisions to what's been proposed once you find that person that you want to contract services with. Whether or not it would be the same in every case, I don't know. This, I guess, was a unique study that the School District was doing with regard to that Department. In that situation, the RFP indicated that there wouldn't be implementation. When you started negotiating a contract, which ultimately went to the Board and said 'when we started dealing with this person, this looks like a better way to go', or at least that looks like the documentation that was presented to the Board. It doesn't have to happen that way and that's really up to staff and the Superintendent to do that negotiation and take what ultimately will be the contract for services to the Board. Because of the nature of that process, this is somewhat a case-by-case basis that you need to look at, but certainly, there are best practices that surround procurement methodologies. If there is a concern from this Committee how that particular procurement was handled from the letting process to ultimately the contract that went to the Board, certainly, those concerns can be

communicated to the Superintendent and his staff and they'll need to look at whether or not that practice should be continued for future procurement.”

Dr. Mack stated “So that you understand the nature of my question, we will have to go out with an RFP in the future for external auditors. In some cases in the past, in the RFP, we have asked the external auditors, for example, to examine the Information Technology Department. As a result of that analysis, they would not be involved in the implementation. That has served as a means of eliminating some people from bidding, simply because while they didn't have the technology to do the analysis part of IT, they did have the technology and knowledge to do the implementation phase. By changing that provision, the result could be that a firm did not bid because of that restriction. We wouldn't want a complaint coming back to us.”

Mr. Carland replied “I think your concern is well-founded and again that's something that the Superintendent needs to look at. It may be a policy consideration going forward in looking at how we internally handle the RFP process. Again, those are policy concerns that the Superintendent and staff need to address.”

Mr. Robert Runcie stated “As a general rule, my practice has been that if an external vendor is involved in any activity that is leading up to the issuance of an RFP, that vendor can't participate. Secondly, if you're working on a piece of work that is essentially a study that is leading up to the implementation, typically you would state in the RFP process that you'd be excluded from bidding on future implementation. It's just been a general practice that I've used throughout my career in the public sector and as a result, some firms have to make a decision if they want to engage on the front side on Phase 1, or if they want to essentially participate and go after Phase 2 work, if that even materializes. That's just a general best practice I've had, so it doesn't result in any conflict of interest. You could have vendors say that this was not a competitive process, because someone had an inside track into getting the work. I typically eliminated that practice, so we don't get any sense of that, whether real or perceived. I would concur with moving to a practice; obviously, it would be on a case-by-case basis, but as a general rule, we want to ensure that our processes are as competitive as possible.”

Ms. Fertig stated “I'm really glad to hear that. I'd like to compliment you on your letter. We have discussed this at every Audit Committee meeting for years, or every other Audit meeting, but consistently, this topic on this one issue comes up, and the way you wrote the letter was great. Maybe we could have eliminated all those discussions and saved all those resources if we had gotten an answer like that three years ago. I want to thank you. I'm hoping, Dr. Mack, that this is the kind of answer that we will start to see, so that we can have a more efficient Audit Committee. This all began because the person who was going to find the person to do the job actually ended up doing that job, and that has led to a lot of years of discussion and bad feelings.”

Dr. Mack stated “We are delighted now with the work that's coming out of the Legal Department. There were a lot of frustrating years where we got absolutely, well we didn't get what we were looking for. We can function much better when we can get a legal opinion immediately. Thank you very much.”

**Follow Up Item #4 – Update on the Grand Jury Responses**

Mr. Reilly stated “The Audit Committee requested an update regarding Recommendation #13 from the Grand Jury Report, which was to create an independent office of the Inspector General. I will ask Jeff Moquin for an update.”

Mr. Jeff Moquin stated “On Monday afternoon, there was a joint meeting between the Broward Delegation and the School Board. One of the presentations we gave was an update on where the District was in responding to the issues that were addressed in the Grand Jury report. The presentation was very similar to the one I provided to this Committee at your last meeting. There was discussion on a topic that specifically relates to this. One of the representatives has a draft bill that they are introducing that would have the School Board also come under the umbrella of the new County Inspector General and the premise would be that all of the County’s budget, the School Board’s budget and all the municipalities’ budgets would all work to prorate the expense of that office. To compensate for some of that, part of the bill would allow the District to charge a fee to its vendors and contractors. It’s in the discussion phase now; I believe there’s a public hearing tonight actually, the first one. Monday, management took the position that we do not support that endeavor. We believe that the actions that we’ve done to date show that we’re faithfully trying to address the concerns, combined with the fact that we have an audit function, to the extent that through Mr. Reilly’s office, there is illegal activity that’s found. There are mechanisms in place right now to turn them over to the proper authorities and have them investigated. This (proposed) process would serve as an additional layer at an expense to the District at a time when we’re realizing significant budget cuts. Even though there is an opportunity to charge our vendors and contractors, the long term implication of that is probably that those fees would be absorbed and turn into higher fees for service as we continue the business relationships with those entities. That’s where we are right now with this specific recommendation.”

Ms. Greenbarg added “What I gathered when talking to people about this issue in my community is that they don’t have any objection to having people from the District contact the Inspector General with valid complaints, something that they could back up and also charging people if they turn out not to be, if there’s an expense. The question is who is going to pay the cost? They don’t object to the Inspector General being brought in.”

Mr. Runcie added “There certainly would be a cost associated with this and given our past financial challenges and the challenges that we will be facing going forward, we need to squeeze every penny we can to ensure that they go into our classroom and our instructional core. I would submit that we have an Inspector General at the State that we are working with, we have an Internal Audit function, and we have this Audit Committee. We are intending to secure services sometime within the next two or three months to have a management review by an outside party to review our controls and our processes in our Facilities & Construction Management Division. In the context of what we’ve seen in the Grand Jury Report, issues have been raised by this Committee to ensure that our processes are sound, so that we can move forward. As an outsider, who has now come into the District, I would say that the process you have here worked. When individuals have committed actions that were against ethics guidelines, this institution and the State, they were caught and penalized, so the process actually works. Adding another layer on top of it is not going to stop that type of behavior. I don’t want to punish our organization or our children by spending additional dollars on the processes that we have now. That’s my general

feeling about it. I think we have enough in place. Finally, this all boils down to culture and the tone that's set at the top of the organization. I certainly intend to be held accountable for actions and processes that exist in our Facilities & Construction Management area and we have a relatively new Board. I can tell you the Board members, themselves, are committed to ensuring that the integrity of this institution is restored and the trust of the public is restored, as well. We're not going to tolerate anything but strong ethical practices in all of our operational areas."

### **Regular Agenda**

#### **Internal Audit Report - Audit of the Facilities & Construction Management Division's Project No. P.000917 – PPO – Zone 4 Maintenance Facility**

Mr. Reilly stated "In accordance with the 2011-12 Audit Plan, our office performed an audit of the PPO Zone 4 Maintenance project. The audit report emphasizes internal control procedures that need to be developed or strengthened to improve contract administration, enforcement terms and conditions of agreements, payment review and authorization procedures, compliance with applicable standards for modular construction projects, agenda items presented, and revise applicable job descriptions to enhance internal control procedures and administration of construction projects.

We reported what we found. Management refuted some things and we modified our report accordingly. For example, we found the definition of "Agency" in the beginning of F.S. 287.012. The definition of "Agency" includes boards and was specifically called out in F.S. 287.055 – Consultant's Competitive Negotiations Act (CCNA) as an applicable definition. We relied on the definition of "Agency" in our analysis and applied the same to the findings of fact in our audit. We originally opined that the provisions and requirements set forth in F.S. 287.057 (14) and (15) were applicable to the contracts negotiated and/or administered by the Facilities & Construction Management Division (F&CM). During the Exit Conference with the F&CM Division for this audit, management made assertions that the "Agency" references were not applicable to School Boards and that they had an opinion of the same from the School Board attorney. We requested that opinion and began further research to verify the statements made in the Exit Conference. Upon receiving email correspondence from the School Board construction attorney and also soliciting and receiving corroborating information from the Inspector General with the Florida Department of Education (DOE), we revised our draft audit report to incorporate the case law and consensus evaluation provided by these various parties. It has been concluded that, other than for F.S. 287.055, School Boards are not included under the definition of "Agency." We identified this situation in our audit. Yesterday, I received an email from the General Counsel, which stated 'It seems to me that it is inappropriate for this office to be asked to opine on matters during the course of an audit.' I believe that is the appropriate time to ask for an opinion to ensure that we are factual in our reporting. The exit conference that we hold is part of the audit process to discuss and/or correct any information, if needed. The Facility Management staff and the Chief Building Official disagreed on other observations. We feel that management has the right to agree or disagree. We don't have to reach an agreement to transmit the audit report. We still believe that management assumes the risk if they don't implement recommendations or perform steps to address the internal control weaknesses identified. Our position is management has the right to disagree, but our observations and recommendations are reported and we stand behind them. We're always looking to safeguard District assets, one objective of Internal Control

is to deter and detect errors, fraud and theft. When you have one individual handling all functions, you have a poorly designed internal control procedure. If the design or operation of one or more internal control structure elements does not reduce the risk of errors or irregularities from occurring in the normal course of performing assignments, there is a poor system. Management says they have internal control. We're saying develop or strengthen internal control. If the controls were in place, you would have increased the chances to identify or detect that it was an expired contract for the Zone 4 project. Also, with regard to contracts, a contract entered into by two or more parties places an obligation on each party to do or not to do something for one or more of the parties, and that gives each party the right to demand the performance of whatever is promised to them by the other party. We had no ability with an expired contract to demand performance and we didn't monitor the process of off-site modular building, (even if it was an ancillary modular, rather than a factory-built school modular) and as a result, we have units that have been sitting on the vendor's site for two years that were built without the prior plan approval by their third party agency. To this day, modulares still have not been inspected. According to the Department of Community Affairs, (DCA), the Insignias have not been ordered and the building code states the Insignias have to be ordered as soon as third party approval occurs. None of that has happened, for this stuff to be right. Trying to operate with a purchase order, rather than a contract in a construction project does not provide the necessary safeguards when overseeing taxpayers' dollars. Currently, the DCA is performing an investigation into the irregularities identified in the modular building project. A final disposition is pending from Ms. Ila Jones, who manages the DCA's modular building program. Ms. Jones stated to me that she has confirmation that the modulares for the Zone 4 project were built prior to having approval and were not inspected. To summarize, we have identified internal control procedures that can improve operations that we recommend that will assist in contract administration and monitoring of modular construction projects, payment processes and improve agenda information. I would like to address any questions at this time."

Mr. John Herbst asked "My first thought, and this has to do with the attorney's office; I know in the course of my work with the city (Ft. Lauderdale), I have frequently relied on the attorney's office to provide me with guidance and official legal opinions during the course of my audits. Typically, it's because, when I come out with a recommendation (it just happened the other day in dealing with the county), the first question I am asked is "are you an attorney?" to which I respond 'No, but I do have attorneys on my staff'. Apparently, only attorneys are capable of reading Florida Statutes and determining what they mean in the eyes of some people. I'm sure Mr. Reilly runs into the same problem on occasion, when people say "I know you're a CPA, but what do you know about statutes?" Therefore, I think it's imperative that the attorney's office and the auditor's office have the kind of collegiate type of relationship where they can get a prompt response and official guidance, in order that they can execute the duties of their office in a timely manner. I'm concerned that you (Mr. Carland) didn't think it was appropriate to provide guidance to them (auditors) during the course of the engagement. Certainly, that guidance is going to inform the direction, nature, extent of testing and other things. I think, hopefully, going forward, that the working relationship will be a little stronger, so we'll be able to avoid these kinds of problems."

Mr. Carland responded "First, I think, just so that the Committee is clear, I think I have a very good working relationship with Mr. Reilly, and we've met several times since I've come to the District. I respect his office and his function immensely. The concern I expressed to Mr. Reilly

was not that my office should not be involved, simply that I believe we should have some form of protocol as to when and how my office is asked to opine on matters. I was bothered when this first came to my attention, that we don't have anything like that. I'm not an auditor; you made a distinction between people who are attorneys and who are trained in that respect and operate in the world and professional certified accountants also operate in a world that I'm not familiar with, and also those small rules and regulations. My concern with Mr. Reilly simply was that I just want to make sure that my involvement and my office's involvement protects the integrity of the process. I thought we should have a conversation with the Superintendent and ourselves to come up with a formal protocol as to when and how opinions would be requested. I have no problem with being involved, certainly we could be a vital part of the process, and should be. I just want to make sure we're doing it the right way. It seemed to me that the request for the opinion came up from a staff person and was a little informal in nature. I was concerned whether or not my office had all the facts at the time, before we gave an opinion, because certainly, the law is what it is, but how it's applied varies greatly depending on the facts of any given situation. So my thought was that we probably need to have a formal process, by which the question comes up to our office with all the pertinent facts laid out and precisely what the question is. That was my sole purpose for directing that comment to Mr. Reilly, not to suggest that we would not be involved, just that we would be involved in the right way."

Mr. John Herbst stated "That's definitely more reassuring, because I can certainly understand your desire and your need for having a formal process for how an opinion is requested. I would encourage that while you develop that formal process with the Superintendent and the Auditor, it doesn't delay the course of the engagement. As several of our members have noted, and no disrespect to the other attorney, haste has not been part of the process in getting opinions. I would encourage you in that process to have some sense of a timeline that does not impede or otherwise get in the way of the auditors getting their work done in a timely manner."

Ms. Mary Fertig stated "When I started reading this, I was disturbed by the amount of hostility and animosity that I read in the report. I really think, John just said it really well, sometimes we are delayed for months and months, years and years, and our ability to recover funds that may be due to us are negatively impacted by the time that we spend fighting between departments. I really think, having now served on the committee for several years, that the auditors have a really good track record. We've had a lot of questions over the years about whether they were correct or not, but ultimately in the end, they've had an excellent track record. I would hope that the ability to work together is not too formal and is efficient enough to allow the taxpayers to recover whatever monies are owed to them, when the auditors find there is probable cause to proceed and collect funds. With that said, I understand that you feel this was a rogue Project Manager, who went off on his own, and violated the rules that you have in place. Is that correct, Mr. Lindner?"

Mr. Tom Lindner replied "I wouldn't characterize it as a rogue. I would say that there was an executive decision made to continue with the project despite staff's recommendation that we should proceed at a slower pace and that is in writing. It's presented as one of the exhibits. Staff continued to proceed with the project. In review of the project file, a lot of the information in that project file was not present until after we began the audit. I believe people knew about this well before we began this process and, in fact, the project manager involved here, actually worked in the Contracts Department for the past year prior to his being laid off, I mean his retirement,



excuse me. The person who actually helped create this situation was actually in the Contracts Department for an entire year. Whether he was aware of it, I'm not sure, but I think there were staff members who knew of this, quote, unquote, fatal flaw and I think that there was no intent. We were in meetings that discussed this project prior to this audit. I believe Mr. Reilly was in some of those meetings. It was very easy to correct this situation. There was evidence given that it was. I don't want to speak out of turn, Sir, but the fact that we proceeded with the work, based upon the terms of the contract, the second one, and we received work that was performed, established a contractual relationship, which obligates the school District in some way. That can be sorted out in the legal process, but as we moved forward for several years on this project, staff was under the understanding erroneously, and admittedly erroneously, that they were proceeding under a valid contract. That would be something that would be presented in litigation."

Ms. Fertig stated "I read that Mr. Reilly had four recommendations and as I read through this, I feel like when I see what happened in schools with the loss of property and then you instituted a system where people now have to be accountable for that property. There was a lot of agony at first, but now we see really good property reports, because of the policies and procedures that were put in place. That is what I see could happen with Facilities, except sometimes I feel like we're defending the actions of the past without having any accountability. It's always another person who 'did it'. I know in your case, Mr. Lindner, that you are holding people accountable, but what was the accountability for the individuals who were involved in this process?"

Mr. Lindner replied "I think what should have happened and what remains to be seen, this process isn't over yet. We sat down as a group and made this response. I think, if you read the report, I agree with the intent of the findings. What I don't agree with is the, I call it inflammatory. I believe that you should not portray issues that occurred in the past as though they are continuing to occur in the present. I also believe that you should benchmark the current processes before you make recommendations to improve things, without going back and benchmarking and looking at what the current process is. You should present that current process and tell the whole story and then let the Audit Committee determine how egregious the violations and/or shortfalls are. I'm not quite sure in this audit that's what happened. We went to some of the experts and there is a difference between standards and practice. The people who write those standards, it's important to also research what the practice is. There may be a political reason or some other reason, but practice is what we operate under. I think that needed to be reviewed, as well. That was presented, I believe, fairly accurately, in Mr. Hamberger's response. Like I said, I agree that there were weaknesses, but I also think it's unfair to the current staff and to the School District, particularly, as this is presented to the public. The public sees that this happened in the past, but we are making changes and have procedures in place that help rectify some of these situations and then benchmark the recommendations against where the current procedures aren't adequate, and that's what we should be seeing here. That's one of the reasons that we tried to craft a response that created a bigger, broader picture of the way we understood what happened and the way we reconstructed it."

Ms. Fertig stated "I may have comments after the other members speak, but we've had so many changes in the District with new Board members, new legal staff and now a new Superintendent, that we're going to see a better working relationship between the departments. I think that the auditors' reports are a tremendous tool in helping to craft new policies and procedures to help us have a more efficient business. I hope that's how everyone will view it. The collegiality that

should help make this organization run well will be the result of taking those reports as a good tool for improvement, and not, ‘oh, they’re criticizing us and this is inflammatory.’”

Dr. Mack stated “The circumstances surrounding what’s happening in that department are not new to this Committee for this particular project. You know and I know about the animosity that has existed between that department and the Office of the Chief Auditor. We are really, really concerned that the culture continues that was established by your predecessor of bashing the auditors and we do not feel that it is wise to continue that. Ever since you’ve been here, this Committee, with one exception, has applauded you frequently about the excellent job you’ve been doing and we continue to congratulate you for that. But in that one instance, and I’m sure you know which one I’m speaking about, I’m seeing the same behavior, and I’m going to ask you, Tom, to stop it. It isn’t necessary to accomplish what you want to accomplish. With that said, I’m concerned about how this project affects the District and its funds. My firm, Traintechs Inc. was among the group that drafted the legislation for modular construction in Broward County. It started back in 1972, with a firm called Zimco Housing in Pompano Beach. My company went with Kings Point; you’re all familiar with Kings Point. We designed the factory, we trained the production workers; we trained the supervisors and the Board of Directors in the modular construction industry. We were the forerunners in it. We designed the first pre-stress concrete bed to produce the pre-stress concrete wall for the two stories and that’s when the legislation and the standards were written to change the Florida Building Code. What troubles me now is that we’ve got structures out there that have been built that have not been inspected. The nature of this is horrendous. We should not be paying them one dime for those structures without those inspections. Obviously, you can’t inspect Phase 2 of a building when it’s already been completed. I anticipate that those structures will be ordered to be torn down or will be declared uninhabitable. Mr. Superintendent, I think we will wind up ‘eating’ those buildings, or somebody will. They do not comply with the Florida Building Code. Despite all of our fights about staff relationships, etc., to me, that’s moot. I’m looking at money that we can potentially pay out and money we’ve already paid out, the validity of the contract relationship, which will become very important here. The fact that even though the contract may not be valid, we have a contractual relationship here, because performance and consideration have moved in both directions, which establishes a contractual relationship. That means, Legal Department, you’ve got to come up with a good recommendation for the Superintendent and the Board. I feel, Tom, if we have to beat you to death, we’re going to change this negative culture that you’ve got and let’s get on the right team. With little things like this, we sometimes lose the big picture, the big picture being those buildings that we’d better not walk into making a determination of what the status is going to be. I respectfully request that both you and the attorney consider my remarks very carefully, because this is a very serious situation. I’m sure the Superintendent will take care of the staff thing, the disagreements between staff. We have to determine where we’re going to go with those buildings.”

Ms. Greenberg stated “I’d like to remark about Mary’s (Fertig) characterization of the Project Manager. On page 24, your administrative response, we agree and based upon the representation created by a dishonest or incompetent Project Manager, and it goes on to talk about misrepresentation. I think your characterization wasn’t that far off from Mary’s characterization of that Project Manager. I would like to make a few points. As far as what has happened recently; I’m not talking about past history. On May 26, 2011, you (Mr. Lindner) gave a Notice to Proceed to this company. On August 1, 2011, you signed on I-1 and I-2 (exhibits, pages 49-

50), an authorization to give this company \$514,000. That's recent history. The plans, Mr. Reilly, were those plans stamped, the letter said they were stamped in 2009, but they were not in fact stamped until 2010? Is that correct? Did you see an indicator of fraud here?

Mr. Reilly responded "I believe the information that was provided to the Building Official was incorrect, because they knew those plans were not approved prior to sending that information, because if it was dated July 2, 2009 and the July 2, 2010 is the date of the approved plans, then I thought it was more than a typographical error."

Ms. Greenberg said "Thank you. Those few points alone, and I'm not even going to get into the specifics of your responses; I'll characterize those in a minute. Those few points alone indicate to me that every word of the auditors' findings are correct and I support them completely and firmly. I agree with everything Dr. Mack, Ms. Fertig and Mr. Herbst have stated in regard to this whole matter. I want these responses to go with this audit, and I hope the Committee will agree. I don't want to edit or censor anybody. I think the responses are the responses and they should stay with this audit and it should be transmitted as it is to the Board. I'm not suggesting that anybody should be censored. I must say that those responses, way too many of them, are filled with anger and animosity that my colleagues have already spoken about. They are very angry, very defensive and most unprofessional. As Dr. Mack said, this really has to stop. Thank you."

Mr. Steve Hurst added "Mr. Lindner, on the auditors' response stating that this creates weaknesses when you have these shortcomings, can this happen again? That becomes the overriding question to a lot of this. Will these suggestions make a difference or are there really enough rules in place to keep this from happening again?"

Mr. Lindner stated "I'm open to suggestions, and benchmarking against what's currently in place. I have agreed to make a couple of changes. I just sent out a letter to every contractor that is awaiting award of a contract that asks us to modify a contract that we bid out in the RFP, asking if they would agree to additional contract language on the Right to Audit clause. That was a meeting we had over the phone, and we agreed to send out that letter and asked them if they would accept that modification to the contract before we awarded the contract. This was despite the fact that our attorneys had already said that the current language in the contract protects us. Is that true?"

Mr. Rhodes stated "Yes."

Mr. Lindner continued "We went ahead and continued to do this; I sent several of those letters out this week, so, I'm not against change that improves our controls or protects our scarce resources at all. I am concerned that this is being portrayed as something that exists today. I think we've tried to make very significant changes in our processes to include the General Counsel and the Auditors in our review processes on a weekly and semi-weekly basis, when we have our meetings and go through these items. I believe I've discussed with the Superintendent about having an outside auditor come in and benchmark our processes that exist in the F&CM Division. I've asked for that when I originally took the job. Perhaps the Council of Great City Schools could come in. Mr. Runcie agreed and we are working on the RFP for that. Some of the processes that are detailed in this audit are those that I've identified that we need to look at to make sure that we're benchmarked against the best. We will implement those changes when they are brought forward."

Dr. Mack stated “What you said is inconsistent with the memorandum that you wrote that’s attached. I have no problem, with the exception of one, to your management responses to the actual findings and recommendations of the auditor. Had you stopped right there, that would have been fine, but that attached memorandum, to me, was an in house organ that should not have been a part of the audit, but something that you and Mr. Reilly’s office could resolve without going public. Why? Because it makes the public feel that we still have our little boy fighting here, that we’ve used all our knowledge, all of our training, to deal with this issue of working as a team, and we cannot get it done. That’s not the impression that this Committee wants to see in this community. So again, I reiterate, fix it.”

Mr. Lindner stated “So noted, Sir.”

Mr. Hurst stated “Could this happen again? In probability, could it happen again?”

Mr. Lindner replied “Not without someone making a conscious decision to override the current processes in place and that would require removal of a document in the payment file, removal of documents in the project file. I think there are too many systems in place now; we have a spreadsheet that monitors expiration dates of contracts. We’ve taken on board what this said and I think we have processes in place that would stop this, unless I made a command decision to ignore those processes.”

Mr. Hurst asked “So again, it comes back to you in your department. The Legal Counsel represents us, the School Board; we won’t have a weakness through an individual exercising his/her imagination.”

Mr. Lindner stated “That’s correct.”

Ms. Fertig asked “For years, we’ve had this discussion about writing a policy for when you re-bid a project, when the scope of that project has increased. We were told by Counsel that there was no way to put that in writing. That had to be a decision made by the General Counsel’s office on a case-by-case basis. I find that topic related and would like to ask Mr. Carland if there’s been any resolution to that issue.”

Mr. Carland stated he did not know the answer.

Ms. Fertig asked Mr. Reilly to make that a follow up item.

Dr. Mack asked “Please tell me what we are going to do with these buildings that have not been inspected?”

Mr. Robert Hamberger replied “When you say these buildings that have not been inspected, what are you referencing? Are we speaking about Zone 4 only?”

Dr. Mack said “You tell me.”

Mr. Hamberger said “I understood that this audit was about Zone 4.”

Dr. Mack replied “I’m talking about the buildings that were built pursuant to the RFP that we’ve been discussing, the modular buildings that have been completed that we’re not occupying.”

Mr. Lindner stated “Those buildings are not in place. Those buildings are actually structural work that is at the plant in Okeechobee. Those buildings have not been delivered to the site or constructed. What you have are building materials, they are essentially slab that would be assembled on site as part of that construction project. As part of that methodology, I believe the statute says, correct me if I’m wrong, that the contractor is responsible for the cost to the District that would be required to ensure that they met the code. We could do testing to ensure that they are safe, including x-ray testing, non-destructive testing, etc. That would be a cost borne by the contractor, prior to our taking delivery and paying for those buildings.”

Dr. Mack asked “What are those pictures that I’m looking at?”

Mr. Lindner replied “Those are pictures of building materials that would be assembled on site. They actually truck those down to the site. They’re at the plant right now in Okeechobee, north of West Palm. They would usually disassemble them, put them on a truck, bring them to the job site and install them at the site, once the foundations are poured and the structure is made ready to receive them. Is that correct, Sam?”

Mr. Sam Bays replied “Correct.”

Dr. Mack asked “Who’s doing the third party inspections?”

Mr. Hamberger replied “HWC (Hilborn, Werner, Carter & Associates, Inc.).”

Dr. Mack asked “Do we intend to move in?”

Mr. Lindner replied “The project is on hold, Sir. The Board asked us to place it on hold. We would have to remedy the contractual issue here, prior to moving forward and then recommence construction or discontinue the current project and essentially put the funds for this project in escrow, since this project is COPS funding. The project is leveraged against those funds, so you couldn’t use those funds for any other project, unless we found another project that was bondable and combined it with other additional funds in the Capital Funds Reserve and put it against another project that we could bond against. That would have to come from Capital Budget, but we’d have to restructure our debt, to use those funds for anything other than this project.”

Mr. Reilly stated “Right now, according to the DCA, those buildings cannot be placed anywhere in the state of Florida. They can be placed in Georgia, but not in Florida.”

Mr. Dave Rhodes added “When we were doing our original research, we contacted the DCA, because we identified that they were ultimately in charge of the modular building program in the state of Florida, from an oversight perspective. When we spoke with them, they referred us to their primary third party agency, which conducts audits and provides oversight of all their other third party agencies. To give you an understanding of third party agency, a third party agency is essentially a roving building code inspector who goes to offsite manufacturing facilities and provides plan reviews, plan permitting and inspections for the manufacturer of the modular units. After having a discussion with that auditor who was with the primary third party agency of the DCA, he recommended that we file an inquiry, so that he could do some further investigation into the circumstances that we found, because he was uncomfortable with those. After doing the further investigation, based on the initial inquiry, he recommended that we file a formal complaint, because he had concerns that were even greater than that at the level of the inquiry.

We did that, they launched an investigation, the reports that we have received back are that the company did, in fact, construct those units off site, prior to third party agency approval, which is essentially the same as building without a permit and that two years after the units have been completed, have yet to be inspected by a third party agency. Those facts combined have led the DCA to opine to us that those units are not able to be used in the state of Florida. If there's any remedy in sight, their final recommendations in their report would be the way that would be transferred to us."

Dr. Mack added "Thank you. That's what I was referring to."

Mr. Hamberger asked "Would that not be Clemons Rutherford and Associates, the prime third party agency?"

Mr. Rhodes replied "If you're referring to the firm that would have provided the audit for the DCA, that is Clemons Rutherford and Associates. Yes."

Mr. Hamberger stated "If that were an educational institution, that would be an educational occupancy."

Mr. Dave Rhodes stated "If they were providing plan review of an educational building, but in terms of providing audit for any other third party agency, it only needs to be part of the modular program in the state of Florida."

Mr. Hamberger replied "Ok, because I was under the opinion from speaking to the representative from CRA, that they only became involved when it was an educational occupancy."

Mr. Rhodes stated "That is true if they were providing plan review."

Mr. Hamberger asked "What you're saying is they become involved when inspections are in place?"

Mr. Rhodes stated "They become involved when there is an inquiry or a complaint that leads to an audit, one of the many third party agencies that they provide oversight for."

Mr. Hamberger said "Ok. In that case, if the DCA opines that, I would have to agree."

Mr. Rhodes stated "That's the information that we received to date."

Dr. Mack added "I'm not playing the game of whether it's an educational facility or not. It's the construction method, with regard to what you're going to use the building for. The South Florida Building code says if you're going to have modular construction, these things have to happen. I'm not going to get into this thing of whether it's an educational facility, whether it's safety to life issues or not. I just want you to assure us, Mr. Building Official, that we're going in the right direction. I don't want to point any fingers at anyone. If you want to avoid any problems on the road, think like Tom is thinking now. What's happening today? What do we want to do today to be sure that we don't get into a problem tomorrow? We either want this thing to die very quietly or execute it and get rid of it. Do you follow where I'm coming from?"

Mr. Hamberger said "Yes, I do. In terms of recognition for what is acceptable by this Building Department over the years, from the days of Mr. Martin through Mr. Morgan and myself and the

other five major school Districts in the state, what is acceptable for the finished product would be to have the DCA insignia affixed to the units, either to the building as a whole or to each modular, depending on the type of construction that we're discussing. That really is what we've always looked for in this District; that is what we have gotten for any type of modular in the past. I noticed that the audit response made the inference that we would need to question or bring into question previous precast projects, factory built projects that we've had. Previous factory built projects have met the criteria as per the Florida Building Code, as well as we've checked to see that we have the DCA insignias."

Ms. Greenberg stated "I'm especially concerned about the fact on the proposition put forward that because you made certain contractual functions, even though you didn't have a contract, that would allow you to go forward with this project. I would be really upset personally; I don't know how the Committee feels to see this project go forward. I know you can get waivers, because we were told that you can get waivers when this was brought before the Board originally, just like you can get waivers for everything else. To use this money for other projects, maybe put them together, I am looking at nineteen pages in one area, twenty seven pages in another area of ADA projects memorialized. ADA projects, federal projects that are supposed to be done immediately, haven't been done over the years by the contractors who were supposed to do them or they were old, long gone, or no longer required at that point. I would really personally, I don't know how the Committee feels, like to see this money. Ask for a waiver, do whatever you have to do to be allowed to use this money where it's desperately needed in this District. This PPO project, to me, at least, from what I've read and what I've seen, and all the input I've gotten, is definitely not desperately needed in this District."

Mr. Lindner said "I don't care what we build, whatever the Board tells me to build, I build it. I don't have a dog in that fight. I do know that you have to restructure the debt and that the project is put against the COPS that funded that project. I also know there will be litigation, I'm sure, over this, when we cancel this project. We'll have to fight that out in arbitration, I'm sure, but that doesn't fall on my plate, other than having to give depositions and provide documentation. ADA projects are fine, too. We have the money to do ADA projects, that's fine too. I really don't have a preference of what we construct."

Mr. John Herbst stated "Mr. Lindner, this is in response to a comment that you made earlier about benchmarking against current practices. I'm sympathetic to the issue that you raised. Unfortunately, as an auditor, we look back at what was done and that's the nature of the process and it's unfortunate that you don't necessarily get full credit, if you will, for the effective changes that you've made to ineffective processes. The time for that, though, in my mind, is to say 'we agree and we have implemented the following changes' and then when Pat (Reilly) comes back and does a follow up review at some point down the road, that's when you get the credit for all the good things you're doing today. Again, the nature of auditing is a rear-view mirror approach to life. Unfortunately, as people always say, the auditor is the guy who comes in and bayonets the survivors, and that's the truth. We get to play Monday morning quarterback and criticize you for what you've already done. We're not necessarily going to pat you on the back and say what a great job you're doing today and benchmark you against what you're doing. We need some history to be able to do that. From your perspective, I understand it's somewhat problematic, but it is the nature of the process, so I would encourage you not to read more into that than there is. You will, at some point, get credit for all the things you're doing today, but not

today, it'll be a year from now that you start getting recognition for the changes that you put in place and the improved processes you made. Part of the reason for that, that we look historically, is so that you can't change it. If I go back and I audit numbers from three years ago, it's really hard for anyone to fudge those numbers. If I'm auditing what you're doing today, and I've seen this in audits that I've done, where people will create documentation that didn't exist the day I started my audit. We go and look at properties of word documents and excel files, and the date that the document was created was after we asked the question."

Mr. Lindner stated "Gotta love technology."

Mr. Herbst added "It is, unfortunately, again, inherent in the nature of what we do."

Mr. Lindner added "I don't disagree with you, I absolutely agree with what you are saying; however, I do disagree in the presentation. To portray, we need to be more sensitive to how we portray the issue, because when we are in the midst of trying to make positive changes, and then we're told or we read something that says 'discontinue the process', it portrays to everybody that there's this process in place and that we're routinely performing this function. I submit that there's another way to present that finding. Numbers are very easy to look at and I can tell you that if you find something that is flawed, this isn't my first rodeo. I've been in financial audits too. If you find something that's flawed in the process, and somebody is making a payment, that you will take that historical look and move it forward to see if that payment is still continuing, if it's not authorized and you go into the present, so then your finding is that we found it here and it's still happening. So I think we need to develop a process in our own audits that allows us to do that. I don't have a problem. I submitted my responses. When you word it to say 'discontinue this' when it was discontinued a long time ago and staff is trying to do the right thing. . ."

Dr. Mack said "We're not going there, folks."

Ms. Fertig stated "There's been some good discussion here today from various different departments and individuals. I wish that we had the benefit of that discussion before we came here today. I'm going to suggest that before this goes to the Board, and I'm with Charlotte, I don't want to change anything in this report. I think that's what led to the good discussion. I would hope that before this goes to the Board, all of you get together and are able to answer a simple question, which is, what is the current status and where are we headed with this? It's a logical question that most people will want to know. I don't know, Dr. Mack, the best way to do this."

Dr. Mack stated "I'm going to suggest that the best method for doing this is not to transmit this report today or approve the transmittal of the report until staff comes back to us and says OK. We're all together on the team. Everything's going to be alright and I'm going to leave that to the Superintendent, if I may, and let the Superintendent handle this. He doesn't have to tell us how he's going to do it. I know this feeling that we want the world to see what's going on between these two birds. I don't think that's really necessary, but what we want to do is to show a new spirit of teamwork. This is a new day folks. I've spent some time talking about staff relationships here and the Superintendent definitely understands your position, Charlotte and mine, all of us, and I didn't pull any punches. What I said to the Superintendent at our meeting I will say in front of Tom, Pat, anybody, we're headed in the right direction. I think, Mary, your idea is good. Let's clean it up. We're not going to hide anything. Have staff get themselves



together, so we can start out, even if we leave it like it is in writing, but in actuality, we're going to be working as a team. Ok, Charlotte, what did you want to say?"

Ms. Fertig stated "I'm going to move that we defer this item to the next meeting, and I want to speak to this when we're finished to our next meeting with a clear understanding that we have an updated, not a cleansed report, but an updated report at that time."

Dr. Mack stated "You do not have to move that; that's a decision that I will make as the Chair. We don't need a motion for that."

Ms. Fertig stated "I would like to add to that that I would not want to see anything go beyond the next meeting. Too many things the auditors have brought forward where we could have recouped funds, we did not, because it was delayed by all of the in-house bickering; at most, the next meeting."

Ms. Greenberg stated "I have to respectfully disagree. I may be a minority of one, but I believe the audit report should be transmitted to the Board and we can do a follow up with the kum-bayah communication after that. That's just my opinion. I think this audit report is ready to go to the Board. Nobody wants to change anything in it and we can do the follow up afterwards. Give us the follow up at the next meeting."

Dr. Mack stated "So, you're saying we're going to transmit it the way it is."

Ms. Fertig added "I totally agree with Charlotte in that I don't think it should be cleansed. It's already out there, and is public record. Everyone knows what the situation is. There was a lot of conversation today. For example, Dave had a great report that he was sharing. I just felt like everyone was bringing new information. I think it would be good to package that; we may be able to transmit that and I think you could include that as part of the package, but for the individual who's trying to follow all this, I think it's important for them to understand where we were and what happened, and where we are, and where we headed. What is eventually going to happen with this project, and in order to do that, I think you'd have to have a clear and concise package on exactly the conversation that we heard today."

Dr. Mack said "Pat, I think it's imperative that you almost verbatim reflect Mary's comments in the minutes, so that the reader will understand where we are. Again, it doesn't take any motion. That's a decision we can make right here, and I can make it as the Chair. If you're saying, let's transmit it, make the motion to transmit."

Ms. Greenberg made a motion to transmit the report. Ms. Fertig seconded the motion.

Ms. Fertig stated "Now, I'm going to move to amend it with the updated comments provided at the meeting."

Dr. Mack asked "Do you accept her amendment? Is there a second?"

Mr. Hurst added "I'm agreeing on that. Do you want to set a timeframe on that?"

Ms. Fertig stated "I may be misunderstanding, but I think Charlotte's goal on this is to expedite things so that if there is a way to resolve this, so that the funds are spent as efficiently as

possible, that we do that and don't spend months. I think those additional comments need to be done immediately and submitted to the Board with the transmittal of this report.”

A motion was made to transmit the report. Motion carried.

Mr. Robert Runcie added “It makes sense, usually if you have any findings, you allow the departments to have an opportunity to respond and follow up. I haven't had a chance to work through this issue. I heard everything you've said and it sounds very reasonable to me. My intention is to get everyone together, our Internal Auditor, our Facilities & Construction Management Department, our legal department and figure out a path going forward that's in the best interest of the District and the limited resources that have been entrusted to us by the public. We have a scarce amount of dollars and we have to make sure we maximize every penny that we have. If this is a project that doesn't appear to have a good disposition, we need to cut our losses early and move on. I need to have more conversations to determine the pros and cons of the various options that we have in front of us. Give us a little bit of time and we'll get that done in short order.”

Dr. Mack stated “Please Mr. Superintendent understand that the Auditing Department and the Audit Committee are labeled everything from internal terrorists to having weapons of mass destruction and that goes with the turf.”

Mr. Runcie stated “You get better by having folks who are not involved day to day sometimes look from a different perspective and that is something that can be refreshing. I have no concerns with that. I welcome that. I see your work is key to the organization's getting better at what it's doing. They say if you're not getting better, you're not really moving anywhere, so I'm here to work with you and look forward to the recommendations you provide on a regular basis.”

#### **Internal Audit Report – Audit of the Internal Funds of Selected Schools in the North, Central and South Areas**

Mr. Reilly stated “Our internal audit report contained thirteen schools. Ten schools complied with policies and procedures; three schools had some minor bookkeeping issues with regard to receipts and disbursements. Overall, the audit reports were very good.”

Dr. Mack complimented the Area Superintendents for their oversight on the internal fund audits.

A motion was made to transmit the report. Motion carried.

#### **Internal Audit Report – Property and Inventory Audits of Selected Locations**

Mr. Reilly stated “Our property audit report contained thirty-two locations; thirty-one contained no audit exceptions and complied with the new current procedures for property and inventory control. I'd like to thank the Area Superintendents for their efforts with these improved audit reports.”

Ms. Greenberg stated “I'd like to thank Mark Magli and his team. They have brought us to the point we're at now. Ten years ago, it wasn't like that.”

A motion was made to transmit the report. Motion carried.

**Annual Audits of Charter Schools for the Fiscal Year Ended June 30, 2011**

Mr. Reilly stated “This is a report we are providing to you. I have brought forward a Charter school that has a financial situation that requires a follow up or a financial recovery plan. We reviewed 47 of the approximately 68 Charter schools that we have, for which their external CPA firms have provided the annual audit reports for the June 30, 2011 fiscal year. The Smart School was the only school that had a deficit balance. They do have some significant IRS issues that have been ongoing for a couple of years.”

Ms. Fertig stated “I’m going to recuse myself from this discussion, as they were previously my client.”

Mr. Hurst asked “Has there been a letter of going concern from the CPA?”

Mr. Reilly replied “Yes, they’ve notified Tallahassee and that was in their report. They actually had a financial plan the year before. We are aware and are required to assist them with their recovery plan. They have an arrangement with the IRS to pay a certain amount on a monthly basis.”

Dr. Mack asked “Do we have a repeat of the same situation as with Charter School Institute?”

Mr. Reilly stated “Yes, to some extent.”

Mr. Medvin asked “What is this school? How many students does it have? What is it costing the District to keep it going? If they’re behind on their payroll tax, they’re behind on a lot of things.”

Mr. Reilly said “Absolutely. Again, I’ll have to research that to determine the enrollment. I’ve been there a couple of times, and we’ve been monitoring them throughout the years. I think they’re living day to day with the revenues that they receive. All we can do right now is work with them to see if they can increase their revenues or decrease their costs to get out of that deficit fund balance situation.”

Dr. Mack stated “If we do have to take it over, then any assets that we’ve provided to that school have to be brought back. We did that with Charter School Institute, so we do have that experience. It took us a long time to get there, because for many years, the authority that the School Board had over Charter schools was very limited and unclear.”

Mr. John Herbst stated “To follow up on that, if that school is shut down, which it shows every likelihood that it will be, as you pointed out, if they’re not paying sales tax, they’re probably not paying anything else. They may be contemplating selling assets to try to stay afloat, some of those assets which, as you point out, should be reverting back to the District. How do we ensure that we are securing these assets? I’m concerned and I see that they are supposed to file a recovery plan within 30 days. I’m wondering what the next steps are. If the recovery plan comes in and is inadequate, what happens and what are we doing to protect the District’s interests in the interim?”

Mr. Reilly replied “We do monitor them. The Charter School Office reviews them even further on the educational side; the Safety Department and other departments are involved also. Once a school is identified as being shut down, if we are not there immediately, there are assets that you

really have to fight for to get back. We know what assets they have reported; sometimes we don't have a good subsidiary ledger on what's stated on their financial statements, but the best we can do is monitor that. We've have bad experiences with at least four schools that have shut down over the past several years. We try to go out ahead of time if we know a school is closing. In the past, we've had a pretty good system to secure the assets. We've even had issues where we've argued over who purchased an item. One of the schools was being monitored by a city, rather than a non-profit group, so we had some litigation to get some buses back. Actually, last week, we just got another bus back from a closed school where they claimed the bus was purchased by the owner, not by the school. However, the financial statements showed that the bus was purchased with FTE funds, so we got that bus back. There are a lot of departments that are monitoring the schools and that's all we can do at this point with the Charter schools. We are looking at having approximately 90 Charter schools next year."

Mr. Herbst stated "I've raised the issue in the past and this continues to be a concern of mine. While I applaud the Charter schools for the job that they do, many of them tend to be on a financially unstable footing. The oversight is more than warranted, because it certainly does pose a risk both for the continuity of the students' experience, as well as the financial integrity of the District. I encourage you to continue your monitoring. I understand the limitations that you have with respect to that. There's only so much you can do; certainly, the more you can do, the better off we'll all be. Thank you."

Mr. Medvin asked "With the volume of applications for existing schools, do we have enough staff to continue monitoring and supervising?"

Dr. Mack replied "No. That's not rocket science. I don't know how Pat does it, he and Mark with this property thing. Until his department is brought up to staff, he'll never be able to do everything that he's charged with doing, as well as it could be done. It's getting done, but it's taking longer to do it. Before you folks came on the Committee, we started this Charter school business with the District all the way through. We went through all this agony of making input to the legislation to get it changed, so that the School District did have some teeth. We were charged with responsibilities, but didn't have the authority to do anything. About four years ago, we had a big shake up of Charter schools that had financial issues. This Committee and Pat's department had them at every meeting, and we hammered and hammered and when we shut down the first school, that's when they began to respect the fact that we had some input on their future, be it their success or their demise. So, understand that we do have a little influence out there, and when Mr. Reilly calls, he means business. I think that the probability of a loss and getting rid of assets is far less than it was five years ago, so I think we're moving in the right direction in terms of controls established by Pat's department and other departments. I know personally what the educational side of the house has been doing. Mr. Superintendent, I think we're on the way in terms of risk of exposure to the District."

### **Miscellaneous Discussions**

Ms. Fertig stated "I briefly raised an issue of trying to put into writing our policy of when we re-bid, when the scope of a project increases. I'd like to add that at the end to make sure we captured that. That's a topic we've had going for a lot of years and we were told that we couldn't actually figure out how to put into writing requirements for that, but with all new people, new

Superintendent, new Attorneys, new School Board and Audit Committee members, I would like to have that again be added as a topic for follow up.”

Mr. Runcie asked “Isn’t there a maximum amount that you can go over on a contract, for example, ten percent or so, and that’s it and after that amount, you have to re-bid?”

Ms. Greenberg replied “We were told by the Auditors, actually, that the State law does set a limit, and I don’t understand why our prior attorney never recognized that, but he didn’t.”

Ms. Fertig stated “In practice, they were not re-bidding if it met the criteria, but apparently, that could not be put into writing. They were at the discretion of the attorney’s office, which led to a lot of confusion when some items were re-bid and others were not. Is that right, Mr. Lindner? Mr. Lindner is nodding back there.”

Mr. Runcie stated “I think that would be a good practice even if you awarded to the same contractor; it creates a competitive process, so you know you’re getting the best possible market price for that additional piece of work. We’ll review that. That should be part of our procurement guidelines, not necessarily a policy.”

Mr. Lindner stated “I think a Business Practice Bulletin could handle that, Sir. I have an issue right now where we are re-bidding a project that was originally bid, and then unable to be performed. Rather than awarding the work to the contractor who originally started it, because the scope grew, we’re actually putting it out there for re-bid. There has to be some type of justifiable analysis to determine whether or not giving it to the current contractor is cheaper than re-bidding the contract, and I think that’s the type of analysis required on any project that’s over my signature authority of \$500,000. I think we should write a Business Practice Bulletin, bring it to Pat’s office, General Counsel and determine where the threshold should be before we send it out and where we should cut off the negotiation.”

Mr. Runcie added “That’s a good recommendation. We’ll turn that over to Jeff Moquin to work on.”

Meeting adjourned at 1:15 p.m.