

**NUTLEY BOARD OF EDUCATION
SPECIAL PUBLIC MEETING
NOVEMBER 24, 2008**

The Nutley Board of Education held a Special Public Meeting on Monday, November 24, 2008 at the Board Conference Room, 315 Franklin Avenue, Nutley, NJ 07110.

President Casale opened the meeting at 6:00 PM.

**CALL TO
ORDER**

MEETING NOTICE

**MEETING
NOTICE**

President Casale stated that in compliance with Chapter 231, Public Law 1975 entitled Open Public Meetings Act, adequate notice of this meeting had been provided as specified in the Act. Proper notice of this Special Public Meeting was provided in the notice of November 21, 2008. Said notice was posted at the entrance of the Board of Education offices, mailed to The Nutley Sun, The Star Ledger, The North Jersey Herald & News and The Nutley Journal and mailed to the Nutley Township Clerk.

This is an official meeting.

FLAG SALUTE

**FLAG
SALUTE**

President Casale led the assembly in the flag salute.

ROLL CALL

**ROLL
CALL**

Present: Mrs. Maria Alamo
Mr. Angelo Frannicola
Mr. James A. Kuchta
Mr. Vincent Moscaritola
Mr. Kenneth Reilly
Mr. Steven Rogers
Mr. Walter Sautter
Ms. Patricia Williams
Dr. Philip T. Casale

Also Present: Mr. Joseph Zarra, Superintendent of Schools
Mrs. Mariana Francioso, Assistant Superintendent of Schools
Mr. Michael DeVita, Business Administrator/ Board Secretary
Mr. Thomas Cosma, Board Construction Attorney

MOTION TO ADJOURN TO EXECUTIVE SESSION

**EXECUTIVE
SESSION**

At 6:05 PM Trustee Moscaritola moved, and Trustee Kuchta seconded, the following resolution:

WHEREAS, the Board of Education will be discussing matters exempt from public discussion pursuant to N.J.S.A. 10:4-12,

NOW, THEREFORE, BE IT RESOLVED that the Board of Education recess to Closed Executive Session at this time to discuss the following:

Contracts
Personnel
Legal Issues

BE IT FURTHER RESOLVED that the results of the discussions will be made public by inclusion on the agenda of a subsequent meeting of the Board of Education or when the reasons for discussing such matters in closed session no longer exist.

The motion was approved by voice vote.

RECONVENE MEETING

RECONVENE

At 8:00 PM Trustee Frannicola moved, Trustee Moscaritola seconded, and the Board unanimously approved by voice vote a motion to reconvene the public meeting.

The meeting reconvened in the JHWMS Auditorium located at 325 Franklin Avenue, Nutley, NJ.

President Casale announce that the Board would be going back into Closed Executive Session and would return after a resolution for tonight's meeting was prepared.

MOTION TO ADJOURN TO EXECUTIVE SESSION

**EXECUTIVE
SESSION**

At 8:05 PM Trustee Moscaritola moved, and Trustee Alamo seconded, the following resolution:

WHEREAS, the Board of Education will be discussing matters exempt from public discussion pursuant to N.J.S.A. 10:4-12,

NOW, THEREFORE, BE IT RESOLVED that the Board of Education recess to Closed Executive Session at this time to discuss the following:

Contracts
Personnel
Legal Issues

BE IT FURTHER RESOLVED that the results of the discussions will be made public by inclusion on the agenda of a subsequent meeting of the Board of Education or when the reasons for discussing such matters in closed session no longer exist.

The motion was approved by voice vote.

RECONVENE MEETING

RECONVENE

At 8:15 PM Trustee Reilly moved, Trustee Kuchta seconded, and the Board unanimously approved by voice vote a motion to reconvene the public meeting.

ROLL CALL

**ROLL
CALL**

Present: Mrs. Maria Alamo
Mr. Angelo Frannicola
Mr. James A. Kuchta
Mr. Vincent Moscaritola
Mr. Kenneth Reilly
Mr. Steven Rogers
Mr. Walter Sautter
Ms. Patricia Williams
Dr. Philip T. Casale

Also Present: Mr. Joseph Zarra, Superintendent of Schools
Mrs. Mariana Francioso, Assistant Superintendent of Schools
Mr. Michael DeVita, Business Administrator/ Board Secretary
Mr. Thomas Cosma, Board Construction Attorney

HEARING OF CITIZENS (Resolutions Only)

**HEARING
OF
CITIZENS**

Several residence asked questions and made comments on the following resolution not limited to the following:

- What can stop Tri-Tech from suing the district again?
- When did the district learn that there was no money left in surplus to honor the previous resolution?
- Was there a performance bond with Tri-Tech?
- Is Tri-Tech aware of this resolution?
- Is Tri-Tech taking any action on their part?
- Does null and voiding this resolution have any effect on the contractors?
- Is it true that there is no relationship with Tri-Tech?
- Does this resolution terminate the contract with Tri-Tech?
- Will you be talking to Tri-Tech managers?
- Is the payment schedule to Tri-Tech null and void with this resolution?
- Concern that this resolution will start a lawsuit again.
- When will the district go out for proposals for another construction manager?
- Has money been paid to Tri-Tech already?

- If there was a copy of the settlement agreement?
- Suggestion to go out for another construction manager.
- Did counsel have a chance to review this resolution?
- Advised the Board to look at the settlement agreement before the resolution is voted upon.

President Casale, Mr. Zarra, Mr. Cosma and several trustees responded to the questions.

Trustee Moscaritola moved, and Trustee Frannicola seconded, a motion to table the resolution being voted on. Upon being put to a roll call vote the motion was not carried out with Trustees Alamo, Kuchta, Reilly, Rogers, Sautter, Williams and President Casale voting "No" and Trustees Moscaritola and Frannicola voting "Yes".

**NULL & VOID
SETTLEMENT AGREEMENT
TRI-TECH**

RESOLUTION:

**DECLARING NULL AND VOID RESOLUTION 5, MAY 1,
2008 SETTLEMENT AGREEMENT**

Trustee Reilly moved, and Trustee Kuchta seconded, the following resolution. Upon being put to a roll call vote the resolution was approved with the following exceptions:

1. Trustee Frannicola voted "No".
2. Trustee Moscaritola abstained.

WHEREAS, the settlement agreement between the Nutley Board of Education and Tri-Tech Environmental Engineering Inc. was conditioned upon the opinion of Bond Counsel that the settlement obligation can be funded from the 2006 Referendum;

WHEREAS, the Nutley Board of Education has subsequently been told by Bond Counsel that such settlement obligation can only be paid out of any surplus that might remain after "(i) all the work that was approved by the New Jersey Department of Education, Office of School Facilities and included in the December 12th special election has been completed; and (ii) the total amount expended for the work and related fees on the December 12th Bond referendum does not exceed \$39,760,000."

THEREFORE BE IT RESOLVED that the Nutley Board of Education nullifies and voids Resolution 5 – Settlement Agreement between the Nutley Board of Education and Tri-Tech Environmental Engineering, Inc. approved at the Special Public Meeting on May 1, 2008.

Mr. Zarra introduced Mr. DeVita and said that he would give a brief overview of what happened with the heat at Washington and Lincoln Schools starting with Tuesday of this week.

Mr. Zarra also introduced Trustee Reilly, Facilities Committee Chairperson, and said he would give an in-depth overview as to what has been happening with the construction throughout the schools the past couple of months.

Trustee Moscaritola left the meeting at 9:35 PM.

Both Mr. DeVita and Trustee Reilly addressed the audience and spoke separately about the chain of events regarding the heat and construction.

Construction Attorney, Tom Cosma, explained the payment situation to Bill Leary.

HEARING OF CITIZENS

HEARING OF CITIZENS

Several residence asked questions and made comments on the heating situation at Lincoln and Washington Schools, not limited to the following:

- Lack of communication between the Board of Education and the parents.
- What confidence should they have that the contractor can deliver and there will be heat for this Monday?
- Suggested using the PTO's for communication like the Nutley Crime Alert.
- Security and air quality of the schools.
- Are the contractors working without a contract?
- Expressed feelings of negativity and that the Board holds back information.
- Was the construction manager on the site every day?
- What standards are being utilized to make sure the temperature is adequate?
- What extent did the non-existence of the concrete slab have in the delay in heat?

President Casale and Mr. Zarra responded to most of the questions.

ADJOURNMENT

ADJOURN

There being no further business, the meeting was adjourned at 11:25 PM on a motion by Trustee Kuchta seconded by Trustee Williams and unanimously approved by voice vote.

Respectfully submitted,

Michael DeVita
Board Secretary