

**SCHOOL FACILITIES BOARD  
July 14, 2003  
Phoenix, Arizona**

The School Facilities Board held a board meeting at the School Facilities Board Office, 1700 West Washington, Suite 230, Phoenix, Arizona. The meeting began at approximately 10:05 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Van Sittert, Logan	None
Wright, John, Vice-Chair (via telephone)	
Conley, Patrice (via telephone)	<u>Staff Present</u>
Keenan, Brooks (Via telephone)	Edward Boot, Interim Executive Director
McGee, Kate (via telephone)	Tim Brand, Deputy Director
Wicks, Michael	Judith Darknall, Assistant Attorney General
	Dena Epstein, Assistant Attorney General
<u>Members Absent</u>	Dave Young, SFB Land Specialist
Vaughan, Keith	Kristen Landry, Public Information Officer
Vicki Salazar, Superintendent's Representative (non-voting)	Amber Peterson, School Finance Specialist

Welcome

Logan Van Sittert called the meeting to order.

I. Call to Order

The meeting was called to order at approximately 10:05 A.M.

II. Roll Call

There were six Board Members present at this meeting, four of which participated via telephone.

III. Consideration of Filing Amicus Brief in a Special Action Proceeding in Tanque Verde Unified School District No. 13 of Pima County v. Hon. Deborah Bernini and Tanque Verde Coalition, Inc., et al., Court of Appeals No. 2CA-SA-2003-0667 and related appellate actions

Ed Boot refreshed the Board on recent occurrences with the Tanque Verde lawsuit that was filed by the coalition. Per A.R.S. § 15-2041(F), the SFB may only pay the fair market value for a piece of property. The judge ruled that severance damages are in addition to the fair market value, and therefore cannot be paid by the SFB. That decision is being appealed by the district, which will appear before the appeals court on July 23<sup>rd</sup>. The ruling also contradicts the approach previously taken by the SFB, which considered any additional costs awarded by a court to be included in the "fair price". Staff believes that the judge's ruling is in conflict with the statutes that established the SFB and with the SFB's administrative rules, and could preclude the SFB from fulfilling its responsibility to find and acquire property for school districts. Staff recommends filing an amicus brief on behalf of the Board. If approved by the Board, the legal paperwork will be submitted within the next 24 hours.

Brooks Keenan moved that the Board go into Executive Session for the purpose of obtaining legal advice. Pat Conley seconded. Motion passed on a 6-0 voice vote. Executive Session was held from approximately 10:10 A.M. until 10:30 A.M.

When public session resumed, John Wright moved that the Board accept the staff recommendation to file an amicus brief on this issue. Mike Wicks seconded. Kate McGee expressed concern with the scope of the brief, and suggested that this filing be specific to defining the fair market value for the Tanque Verde issue only, and that the Board find a more neutral venue to address the acquisition of other school sites. Brooks Keenan offered some insight based on his previous experience with condemnation and severance damages, explaining that fair market value has been determined to mean either a certified appraisal or whatever a condemnation court orders to be fair compensation to the property owner, which may include severance damages. Kate McGee asked if the SFB would be obligated to pay a condemnation ruling that was hypothetically as high as \$10 million. Ed Boot replied that the SFB would be obligated to pay any amount ordered by a court if this ruling is overturned, but that the risk of any condemnation is that the fair market value as deemed by a court may exceed the appraised value. He added that the district has a right to withdraw its condemnation action up until the time that the property has been disturbed.

Motion passed on a 6-0 voice vote.

IV. Public Comment

Ed Boot expressed his regret that this would be his last School Facilities Board meeting, and the Board members expressed their gratitude to Mr. Boot for his service.

Adjournment

There being no further business, Chair Logan Van Sittert, adjourned the meeting at approximately 10:40 A.M.

Approved by the School Facilities Board on \_\_\_\_\_, 2003

\_\_\_\_\_  
John Wright, Vice Chair