

**FAME Public Charter School  
Board of Directors Special Meeting  
3300 Kearney St., Fremont CA  
Wednesday, February 9, 2011, 6:00PM**

**Reasonable accommodation for any individual with a disability** -- Any individual with a disability who requires reasonable accommodation to participate in a Board meeting may request assistance by contacting us at (510) 687-1500, ext. 120 by 3:00 P.M., Wednesday, February 09, 2011.

**Minutes**

**1. CALL TO ORDER & ROLL CALL**

1.01 Call to Order

Mr. Naeem Malik, Board President, called the meeting to order at: 6:05 PM

1.02 Roll Call

<b>Board Members</b>	<b>Present</b>	<b>Absent</b>
<b>Mr. Kastriotis</b>	<b>X</b>	
<b>Mr. Khattak</b>	<b>X</b>	
<b>Ms. Iqbal</b>	<b>X</b>	
<b>Mr. Malik</b>	<b>X</b>	
<b>Mr. Rasheed</b>	<b>X</b>	

**2. COMMUNICATION FROM PUBLIC**

*(Limited to 3 minutes per person (or as established by the Board President), up to a total of 15 minutes, but there is no limit on the number of members of the public who may speak. At a special board meeting there will be no public comment on matters NOT on the agenda.)*

2.01 Public comment regarding matters ON the agenda

Mehdi Rizvi; FAME CFO: Commented on item number 4:01. Mr. Rizvi noted that besides two staff members no other members of the public were at the meeting which was probably a function of the short posting period which should be of concern. He further stated that as an administrative staff member he was reluctant to speak at a public meeting but at this time he wanted to make some clarifications regarding the agenda item relating for IRS form 990. He stated that it is a form that FAME fills out every year and this year there were changes to the form which caused some red flags for him. He discussed his concerns with the CEO and the President of the Board and that those items are highlighted in the materials provided in the Board packet. The CEO requested permission to speak with FAME's legal counsel and auditors and after one week's time the approval was granted. The CEO summarized her discussion with legal counsel and the auditor's tax expert in an email given to Board on January 31, 2011. The email included recommendations on how to fill out the form. Further, Mr. Rizvi indicated that his role was to act as a liaison between the Board and auditor who is preparing the tax form. All of the items in question have been given to the Board and the Board must determine how to answer those questions. He noted that he had suggested to the Board, via email, that professional help be sought which could come from the IRS, auditors, FCMAT or other legal experts. What he needed for item 4.01 was for the Board to answer the highlighted questions that have not been filled

in and the checklist needed to be signed by the Board President. Tomorrow (Thursday) he would send the checklist to the auditors so they could prepare the final forms and send it back to FAME by Monday at which point he would need the final signature of the President so the form could be submitted the IRS on Tuesday, February 15, 2011.

Leslie Nilson; FAME staff: Ms. Nilson had indicated on her form that her public comment time requested for item 4:01 be given to Ms. Alaiwat.

Maram Alaiwat; FAME CEO: Ms. Alaiwat indicated that she was at the meeting as a member of the public and that all of her comments were related to specific agenda items. She asked the Board if they would like her to address the items at the time they were opened for discussion. There were no objections from members to this proposal. Ms. Alaiwat indicated that at this point she wanted to read for the Board the definition of a Non-profit 501(c)(3) organization as posted on the IRS web site which the Board should be aware of in making decisions regarding item 4.01, IRS form 990. She read as follows:

“A section 501(c)(3) organization must not be organized or operated for the benefit of private interests, such as the creator or the creator’s family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests. No part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization.”

Julie Mattoon: Leslie Nilson read a message for Ms. Mattoon, who was on assignment elsewhere regarding agenda item 4.06. Ms. Mattoon implored the Board to bring on a member that provided representation for the Independent Study program, who had expertise in education, and that addressed the current gender imbalance on the Board. She further indicated that a candidate had been interviewed last spring who met all of these qualifications and that person was still interested and she wished for the Board to consider electing the candidate to the Board.

### **3. OFFICER & SCHOOL DIRECTOR REPORTS**

#### 3.01 CEO – Maram Alaiwat

As Ms. Alaiwat was not attending the meeting in an official capacity, the CEO report was not presented.

### **4. ITEMS FOR BOARD DISCUSSION/APPROVAL**

#### 4.01 Review and Approve IRS Form 990

Discussion:

Mr. Rasheed asked for someone who is familiar with the form to walk the Board through it.

Mr. Malik said he had discussed the form with the IRS but there were still some unanswered questions and he suggested that Mr. Rizvi explain the form to them.

Mr. Rasheed wanted to clarify that everyone understood the timeline for this item. Based on Mr. Rizvi’s earlier comments, he stated to Mr. Malik that the Board needed to finalize the form at this

evening's meeting so that Mr. Rizvi could send it to auditors tomorrow (Thursday) and who would send it back to FAME by Monday which would require another signature by the Board President so it could be submitted to the IRS.

Mr. Malik confirmed and stated what was in question was the definition of a key employee.

Ms. Alaiwat reminded the Board that she was not a tax specialist but that she had looked at the IRS regulation which is defined in the instructions for Form 990 and that she had provided a definition in her summary email to the Board.

Mr. Rasheed asked her to state the definition based on her understanding of it.

Ms. Alaiwat stated that her understanding was that it is an employee who makes \$150,000 or more or whom holds one of the top five highest paid positions in the organization. She said that Mr. Malik and Mr. Rizvi were present when this was discussed with the auditor and that part of the delay in holding this meeting was so that the members of the Board could do their own research on this issue.

Mr. Rizvi then proceeded to review the form in detail. He stated that when he received the 990 form and noted that it was different from prior years it raised some red flags. He and the CEO sought expert opinion from FAME's auditing firm, Hosaka and Nagel, in particular Mr. Todd Torpett, who has been working with the School for several years and whom was quite familiar with FAME's financial operations. Mr. Torpett referred them to the firm's tax expert, Mr. Vic Turner. Mr. Turner's contact information was given to Mr. Malik so that he could follow-up on the issue as well. Mr. Rizvi further stated that other sources of expertise that could be utilized in determining the best way to fill out the form would be FCMAT and the IRS directly but he was not aware if these were actually consulted.

Mr. Rasheed clarified that FAME pays the auditors to prepare FAME's tax forms. Ms. Alaiwat confirmed that the firm was a State approved auditing firm for public schools. Mr. Rasheed questioned what their liability was in ensuring the forms were prepared correctly. Ms. Alaiwat stated she did not know what their liability would be but would assume it is the same as any CPA firm. Mr. Kastriotis stated that he believed that the CPA firm has a level of responsibility on what he signs but if he receives wrong information from the organization would not be held liable.

Mr. Rasheed stated that the Board and staff did not have the expertise to discern the subtleties of filling out the form and his expectation would be that School would rely on outside expertise to prepare the forms. Ms. Alaiwat agreed but indicated that FAME had to report to them who was on the Board and where conflict of interest may have occurred.

Mr. Khattak stated that he understood that last year's form was completed incorrectly. Ms. Alaiwat said that is an area that should be checked with a professional. This year and last year things changed. There are two main issues; excess benefit transactions and conflict of interest with a key employee. The excess benefit was not the situation last year. The other, the conflict of interest with a key employee, was not a key employee last year, so again we could check with auditor if it was correct or not but this year these items for sure have been highlighted and are two main points that needed to be addressed.

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Mr. Rasheed confirmed that the forms are being signed under the penalty of perjury and that his expectation would be that Mr. Rizvi and Ms. Alaiwat have enough information to help the Board move through the areas of question.

Mr. Rizvi indicated that where he had put a check he was quite sure there is a correct answer; the items not checked were what needed to be addressed. #50; excess benefit; Schedule L gives the definition; disqualified person is a stakeholder, key employee, officer or trustee, pertains to any one of those people. Related is #51, did the organization become aware that it had engaged in excess benefit from a transaction and what was done to correct it.

Mr. Rasheed asked if FAME was saying yes both of these questions.

Mr. Rizvi stated that was what the Board needed to decide and that Ms. Alaiwat's email of January 31, 2011 provided a summary of the discussion with the auditor which the Board should use in making their decision.

Ms. Alaiwat stated that she sent several emails informing the Board on this topic and they were part of the Board packet but not for public consumption. They present the accurate answers according to her and Mr. Rizvi and discussions with legal and the auditors but what she and Mr. Rizvi recommended the Board to do was qualify the answers by saying that the School was moving away from past practices or correcting any conflicts.

Mr. Malik said that the School needed to mark yes to both item #50 and #51, consistent with the email from Ms. Alaiwat, and finalize the Schedule L checklist. It should be sent to the auditor for review and they should tell the Board if the form had been filled out correctly.

Ms. Alaiwat stated that the form would be public information and wondered if Mr. Malik was trying to use code to discuss the topic. We understand there is an excess benefit transaction.

Ms. Iqbal stated that she had the email of January 31 and believed the form should be filled out consistent with that and with the information regarding the persons who would be defined as receiving excess benefit.

Mr. Malik stated that he was willing to sit down and fill out the form this evening. Ms. Alaiwat stated that was the point of the meeting with the auditor and it could have been filled out earlier.

Mr. Malik said that he would like a completely filled out copy that was consistent with the email of January 31 which could be sent to the auditor to get their final opinion and then the Board could review the finalized copy and determine if they could sign it. Mr. Rasheed stated that he would like to know whether or not there is any conflict and if so would like to know from the Board President how the Board would be correcting it.

Ms. Alaiwat stated that she wanted to be clear on what Mr. Malik was asking and that he wanted CFO to fill out the form consistent with the email of January 31 with the concerns regarding the disqualified people, and that Mr. Malik would give the required signature so that the form could be sent to the

auditor, and that when it comes back from the auditor the Board could make final a determination and sign it at that time.

Mr. Malik confirmed that once it was filled out he would better be able to review it and determine what was needed.

Mr. Khattak stated that he had received 48 emails just that day and it was impossible for Board members to review them all and to make an informed decision.

Ms. Alaiwat stated that she wanted to point out that in general, emails between the CEO and Board are confidential, however, the email of January 31 would become a public record since it was used by the Board to determine how to fill out the form.

Mr. Rasheed stated that he believed what would be public would be the final form that is sent to the IRS and that any prior discussions or recommendations about how to fill out the form would be client privilege and would not be public information.

Ms. Alaiwat stated that she was glad Mr. Rasheed thought emails needed to be confidential as it appeared that many emails in which she had asked for confidentiality were being shared by the Board.

Mr. Malik called for a motion to fill out the form per Ms. Alaiwat's recommendations in the email dated December 31, 2011, get the checklist signed by the Board President, and send it to the auditor for a final check and once it was returned the Board would review it again to determine any further steps needed.

Moved: Mr. Kastriotis            Second: Mr. Iqbal Khattak

Ayes: Mr. Kastriotis, Mr. Khattak, Ms. Iqbal, Mr. Malik, Mr. Rasheed

Noes: None

Abst: None

Absent: None

**Motion Carried**

4.02    Review and approval of Resolution #2011-6 requiring two signatures on each check written on the Bay Area School for Independent Study banking account.

Mr. Malik called for a motion to discuss the resolution requiring two signatures on BASIS/FAME checks.

Moved: Mr. Kastriotis            Second: Mr. Khattak

Public Comment from Ms. Alaiwat; she stated that she believed it was good idea to require two signatures on BASIS/FAME checks but wanted to make sure that the Board knew there was only one signature line on the current checks and that the resolution, if implemented, should not start immediately so as to give the CFO time to order new checks. She also stated that, in the future, if it

pleases the Board, that it would be nice for the agenda to state where the recommendation was coming from and that she had been requesting items be placed on the agenda but was not getting a response and that it would be interesting for her to know whose recommendations the Board is favoring.

Mr. Kastriotis stated that the Finance Committee had discussed this option but that it was up to Board to discuss it and decide what to do.

Mr. Rasheed stated that as a member of the Board who was not on the committee he would like to know the thinking behind the recommendation.

Mr. Kastriotis stated that it was more transparent to have two signatures on a check and that a lot of corporations use the two signature model and believed that it was appropriate for a public school to have two signatures.

Mr. Rasheed stated that transparency could be had with one signature as all of the checks require back-up documentation and possibly Mr. Kastriotis was meaning that there would be a better balance of power, oversight and accountability. He questioned how having two signatures would help transparency.

Mr. Khattak explained that if there was some error, not deliberate but a mistake, and the number one person to sign the check didn't catch it, but the second signer did catch it would save time in the future. Mr. Rasheed clarified that they were not looking for transparency, just additional oversight and could agree with that. He questioned what the cons would be to implementing this type of policy.

Ms. Alaiwat stated that over 2000 items per month and it would be a big job for the Board member responsible for signing all of the checks related to those.

M. Rasheed questioned what the lowest amount of check FAME would cut could be; \$1, \$10, \$20? Mr. Rizvi confirmed that yes, some checks were that small. Mr. Rasheed questioned whether they really wanted to have a Board member sign such small checks.

Ms. Alaiwat indicated that the board member signing the second signature could not have any conflict of interest which would meant that Mr. Kastriotis could not sign any checks that might be benefiting Leslie street or San Leandro.

Mr. Kastriotis indicated that checks are not given directly to the staff and there is no direct benefit.

Ms. Alaiwat said that technically he could refuse to sign some checks but then sign others which means he could be accused of not signing checks for pet programs.

Mr. Rasheed suggested that the Board seek a ruling from the attorneys whether or not a board member with family members on the staff designated as a signatory would be a problem.

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Ms. Alaiwat stated that she was worried about unavailability of a Board member to sign the checks and that someone would need to be available at all times.

Mr. Rasheed stated that the Board should discuss implementing the resolution with limits.

Mr. Malik stated that Mr. Rizvi had sent an email raising some concerns about the signature requirement and would he address the Board with those.

Mr. Rizvi stated that he tried to have one check run every week; checks are printed Friday morning, signed mid-day, and then sent out in the afternoon but that was not possible all the time. Sometimes the School has to make up front payment to vendor course instructors, or had an emergency issue that needed payment.

Mr. Kastriotis believed that the conversation was getting very detailed and that he did not think the banks would accept 1 signature on some checks and 2 on others but that the entire account needed to have the same amount of signatures on each check.

Mr. Rizvi confirmed that the bank would accept different number signatures if there were stipulations on the amounts requiring two signatures.

Ms. Alaiwat stated that if the Board wished to set a limit they should do it consistent with other fiscal policies and that since the CEO has a limit of \$5000 maybe any check over \$5000 should require the two signatures.

Mr. Malik indicated that possibly the Board should consider this item at a later time once there was a ruling from the attorney.

Mr. Rasheed questioned whether or not the Board members fundamentally agreed that requiring two signatures was a good thing. Mr. Khattak affirmed and Ms. Iqbal affirmed.

Mr. Rasheed stated that if they set the limit at \$5000 and the attorney gives the clarity on the conflict of issue question, then the Board should make a resolution to pass it.

Mr. Kastriotis and Mr. Khattak stated they were in favor of tabling the item until the Board hears from the attorney and they look at ongoing contracts less than \$5000 so the appropriate limit could be set.

No action was taken on the item pending further information.

4.03 Review and approval of Resolution #2011-7 adding Mr. Iqbal Khan on the Bay Area School for Independent Study banking account for the purposes of signing checks.

Mr. Malik called for a motion to open item 4.03 for discussion

Moved: Mr. Kastriotis          Second: Mr. Khattak

Ms. Alaiwat stated that whoever is a signatory on the checking account should be required to go through a background check as in the past the School had found out after the fact that a Board member had a record. Also, all persons on the account must comply with the Patriot Act in providing appropriate documentation. There currently is a member on the Board who has been authorized to sign checks but as been rejected by the bank because of lack of proper information on required forms.

Mr. Kastriotis indicated that he was an intended signatory but that when he initially filled out the forms that he had filled them out incorrectly. He had used P.O. Box address instead of a physical address because where he lives, in Sunol, mail often doesn't get delivered to physical addresses.

Ms. Alaiwat stated that he had also left off other items. Mr. Kastriotis stated that he had also omitted his driver's license and that he just needed to resubmit the forms and then would be finalized on the account.

Mr. Khattak stated that since Mr. Kastriotis is currently a second person, that he would be the fall back if Mr. Kastriotis was not available.

Ms. Alaiwat stated that a policy should be developed for how the signatures should be handled.

Mr. Rasheed asked for the background on this item.

Mr. Khattak stated that if the first Board member is unavailable then a second one must be designated.

Mr. Rasheed sought clarification that this item would only be applicable if only 4.02 passes.

Mr. Khattak clarified that not necessarily; the first signer currently is a staff person, the CEO. If she is not available, and no other staff person is available who is authorized to sign, then a Board member needs to be available.

Mr. Rizvi indicated that he believed that a detailed procedure needed to be developed for how to handle both items, (4.02 and 4.03) to prevent unnecessary work for him to determine who can and who can't sign and when and for how much. He recommended that if the Board wishes to add so many people on the account, an email should be sent to FCMAT to get their point of view to make sure it is done correctly; we should find out how many signatures are recommended. Mr. Khattak stated that he did not believe the FCMAT should be involved in School business.

Mr. Kastriotis stated that from the business world, an office has more than one signature on a check, if someone isn't there, there are typically more than 1 or 2 people who can sign. Just because you sign the check doesn't mean you have access to accounts and to withdraw funds.

Mr. Khattak stated that the the Finance Committee is recommending adding additional signatories not to hinder work but rather trying to streamline it and ensure that any error that may happen has a

checks and balance and that they are willing to work with staff to make themselves available for the second signature.

Mr. Rizvi stated that in accounting two areas need to be addressed: methodology so that checks are signed properly and in time; and the other is internal controls. When FCMAT came in they had highlighted 40 points all of which had been corrected. Now the Board is wishing to change the fiscal policies and as such he suggested that the Board seek feedback from FCMAT on what would be appropriate internal controls on check writing.

Ms. Iqbal asked if FCMAT had been asked to comment or make any recommendations on these items. Mr. Rizvi confirmed that they had not. Mr. Rasheed suggested that they be contacted. Mr. Rasheed stated that he felt these two recommendations had not gone through the proper homework. He requested that any committee wishing to make a recommendation work first with the administration so that all questions are answered before they come to the Board for approval.

Mr. Malik concurred that when a committee brings an item before the Board they should have the input of the management first. He suggested that a policy be developed on these items and brought before the board at a later time.

No action taken.

4.04 Approval of funding for overtime work for Ms. Bushra Khan to provide support functions to the Board of Directors in an amount to be determined by the full board.

Mr. Malik called for a motion to open for discussion. Mr. Malik indicated that future agendas should not include employee names and that it appeared this item should be handled by administration.

Mr. Iqbal Khattak requested to table this item.

Moved: Mr. Rasheed Second: Mr. Khattak

Ayes: Mr. Kastriotis, Mr. Khattak, Ms. Iqbal, Mr. Malik, Mr. Rasheed

Noes: None

Abst: None

Absent: None

**Motion Carried**

4.05 Review and approval to increase the number of hours allocated for the Site Assistant position at the Leslie Street campus.

Mr. Malik called for a motion to open the item for discussion

Moved: Mr. Khattak Second: Ms. Iqbal

Mr. Kastriotis stated that this item was suggested by the Finance Committee. He said that there had been a discussion about suspicious activity near campus and that there was a safety issue.

Mr. Rasheed indicated that if it is an issue of security, it is not up to the Finance Committee to bring it to the board and that the Finance Committee charter does not address security concerns.

Mr. Khattak explained that his wife had indicated that while she was picking up at Leslie Street there was a big van with two people in it that looked suspicious. He said when he heard about it he sent an email to Krista and warned her to be wary of this as the day before a child abduction had taken place. There was a committee meeting that evening and Ms. Kastriotis brought it to the committee.

Mr. Rasheed stated that the police should have been called if there was a security issue and the principal should have brought it to the full board if she needed help. The agenda item should have been listed as a security issue at Leslie not to increase hours for a staff person.

Ms. Alaiwat pointed out that it was also inappropriate for the daughter of the Finance Committee chair to take an item to the committee and then for the committee to recommend it to the full board without any further discussion or input from management. This item should have been a management item from the beginning. Mr. Malik indicated that he agreed with Mr. Rasheed and Ms. Alaiwat and that it was better to have the input of the CFO/CEO before bringing an item to the Board.

Ms. Nilson brought to the attention of the Board that Ms. Kastriotis' comments were made during the committee agenda item related to Public Comments NOT On the Agenda and that possibly this option should be removed from committee agendas. Mr. Malik agreed that there should only be public comments for items ON a committee agenda and that other comment should be brought before the full Board.

Mr. Rasheed stated that this item should be taken to management.  
No action taken.

#### 4.06 Election of new candidate to serve on the Board of Directors.

##### Discussion:

Ms. Iqbal opened the discussion by stating that at last Board meeting where new applicants were interviewed the Board determined that they wanted to add someone with a background in education. It was her understanding that the search was still on. She questioned why all of the sudden this request was added to the agenda.

Mr. Malik stated that any member can request for an item to be on the agenda.

Ms. Iqbal stated that she had inquired in several emails about this item regarding who was being considered, if they had been called, etc. and Mr. Kastriotis did not provide any further clarification.

Mr. Kastriotis stated that there have been four or five candidates interviewed in the last year, and he believed that the Board had closed the process and should select from prior candidates.

Ms. Iqbal stated that she thought the process was open, and, a new member would be added either from the granting agency or a person that the Board would interview.

Mr. Malik indicated that he had spoken with Ms. Sheila Jordan and ACOE had promised to add a person with an education background and that he was waiting for their input.

Ms. Alaiwat indicated that it looks bad when something like this is posted to a Special meeting agenda as it denies the public a right to comment given the short notice of the meeting.

Mr. Malik stated if a member wants to add something to the agenda more background was needed.

Mr. Rasheed indicated that the Board needed to have a procedure in place for placing an item on the agenda and that in his mind none of the items that were on this evening's agenda, outside for the IRS Form 990, should have been agendized and that the Finance Committee had not done their homework on item 4.02-4.06.

Mr. Malik agreed that a procedure needed to be implemented and that he would work on one.

Ms. Alaiwat requested that the procedure address how the CEO adds items as well as she had recommended items for the agenda that had not been added.

**Mr. Malik announced that he meeting will now convene to closed session to discuss the following matters described in Section 5. Meeting adjourned to closed session at 7:45 PM**

## **5. ADJOURNMENT TO CLOSED SESSION**

5.01 Conference with legal counsel –Anticipated Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9: multiple cases

5.02 Threat to Public Services or Facilities pursuant to Government Code Section 54957

## **6. REOPENING IN OPEN SESSION**

Announcement of action taken in closed session (if any).

Mr. Malik reported that no action was taken during the close session.

**7. MEETING ADJOURNMENT**

The meeting was adjourned at 10:30 PM.

*As required by the Brown Act, in CA Government Code Section 54969, notice of this special meeting was posted, delivered, and received at least 48 hours before the time of the meeting. None of the agenda items will begin earlier than the posted opening meeting time. The Board may alter the sequence of the agenda items at the meeting.*