



IN AND FOR THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

AUG 31 2023

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

**KELSEY ROYCE and Others, Home
Owners and Residents**

Petitioners,

CV-2023-01809

Vs.

Caroline Wall

**CITY OF TULSA BOARD OF ADJUSTMENT
Defendants,**

**IN RE: Appeal from the City of Tulsa Board of Adjustment meeting decision of
August 8th and continued on August 22, 2023 on Agenda No. 1322, Case No.
BOA-23557 when the BOA approved the special exception for the Tulsa
City-County Library Commission to build a library on Tulsa Public Schools
property in a residential neighborhood (RS-3) and resultant variance to the
setback to 15ft.**

2023 AUG 28 P 4:28
DANIEL J. NEWBERRY, COURT CLERK

NOTICE OF APPEAL FROM CITY OF TULSA BOARD OF ADJUSTMENT

**COMES NOW, Kelsey Royce and Other Home Owners and Residents, the
Petitioners vs. The City of Tulsa Board of Adjustment Agenda No. 1322, in Case
No. BOA-23557, hereby appeal the decision of said Board of Adjustment
rendered on said application. In support of this Appeal, Petitioners state the
following:**

1. The City of Tulsa Board of Adjustment (“BOA”) is a quasi-judicial body organized under the authority of (11 O.S. 44-10) for the purpose of issuing final decisions on findings of fact in City land use zoning, special exceptions, and variances.
2. **Pursuant to Tulsa Zoning Code 70.120-F** approval of a special exception requires an affirmative vote of at least 3 members of the board of adjustment.
3. **Pursuant to Tulsa Zoning Code 70.130-G** approval of a variance requires an affirmative vote of at least 3 members of the board of adjustment.
4. On August 22, 2023, BOA approved Case No. BOA-23557 to build a Library on 1110 with the following votes: 3 - yea; 1 - absent; 1- abstain.
5. On August 22, 2023, conflicted BOA Member, Whitney Stauffer, did not recuse from discussion and voted to approve BOA-23557.
6. **Pursuant to Tulsa Zoning Code 70.120-B Authority to File** - Applications for special exception approval may be filed only by the owner of the subject property or by the property owner’s authorized agent.
7. **Pursuant to Tulsa Zoning Code 70.130-C Authority to File** Variance applications may be filed only by the owner of the subject property or by the property owner’s authorized agent.
8. The property owner of 1110 E. 45th Place (“the Property”) is Independent School District No. 1 Tulsa, Tulsa County (“Property Owner”).
9. The governing body of the Property Owner is a body of 7 elected members of the local Board of Education (BOE).
10. The governing body of the Property Owner did not approve the application for BOA-23557 and did not retain Lou Reynolds to represent them in the aforementioned case.
11. Lou Reynolds (Eller & Detrick) was retained as Counsel for the Tulsa City-County Library Commission (“TCCL”) to apply for a special exception and variance for property that is not owned by TCCL.

12. The BOA is held to standards outlined in its Ethics Policy which instruct members to avoid what a reasonable person would understand to be a conflict of interest or appear to be a conflict of interest (General Policy & Procedures, Section III).
13. The Property Owner is currently under investigation by state and federal authorities.
14. Independent Auditor's Report Dated January 27, 2021, found a significant deficiency in internal control over financial reporting related to "inappropriate revenue recognition related to transactions with the Foundation" (Foundation for Tulsa Schools, hereafter, "FTS").

BOA Member Conflict of Interest

15. City of Tulsa Board of Adjustment ("BOA") Member, Whitney Stauffer, was appointed to the BOA on April 12, 2023.
16. BOA member, Whitney Stauffer, is Chairman of the Board of Directors of the Foundation for Tulsa Schools (FTS), a charitable entity organized to support the mission of the Property Owner.
17. The interests of FTS have become so confused with the operations of the Property Owner that it is inconceivable that Whitney Stauffer in her role as BOA Member and simultaneously Chair of FTS could make an unbiased decision when it comes to BOA-23557.
18. Moises Echeverria-Ashworth is the President and CEO of FTS and is a TCCL Commission Member.
19. Ellen Duecker is a TCCL Commission Member and is employed by the Property Owner as Special Bond Projects manager.
20. BOA Member, Whitney Stauffer, works closely with Moises Echeverria-Ashworth at FTS.
21. BOA Member, Whitney Stauffer, worked closely with TCCL Commission Member, Ellen Duecker on the 2021 Bond Committee for the Property Owner.

22. On August 15, 2023, BOA Member, Whitney Stauffer, presided over a meeting of FTS which included the Property Owner's Chief Financial Officer and now-resigned former superintendent Deborah Gist.

23. The interests of FTS have become so confused with the operations of Independent School District No.1, Tulsa, Tulsa County, that it is inconceivable that Whitney Stauffer in her role as BOA Member and simultaneously Chair of FTS could make an unbiased decision when it comes to BOA-23557.

BOA Failed to Consider the Concerns Brought Forth by Neighborhood

24. Questions and concerns emailed to Austin Chapman, Senior Planner at the Tulsa Planning Office in charge of BOA-23557, were not raised to the BOA.

25. Comments from residents and property owners all opposed the special exception and variance.

26. Findings of fact for approval were not made pursuant to 70.120G as required.

WHEREFORE, Kelsey Royce and others were deprived of their rights to an impartial public hearing before the City of Tulsa Board of Adjustment. The District Court should stay all proceedings on BOA-23557 and conduct a trial de novo to show that there was not only a conflict of interest when Whitney Stauffer was allowed to vote to approve the special exception for the construction for the building of library and variance; but also violated the rules when Lou Reynolds was allowed to represent the Library Commission because they aren't the property owner.

CERTIFICATE OF SERVICE

This is to certify that on this 30th day of August, 2023 the above was filed with the Tulsa County Court Clerk with a request that a filed and stamped copy be forwarded and sent to the Judge Presiding over this case and the City of Tulsa Board of Adjustment.

A handwritten signature in black ink, appearing to read "Kelsey Royce", with a long, sweeping horizontal line extending to the right.

336 E. 45th Ct.
Tulsa, OK 74105



Board Meeting Minutes and Notes Tuesday, August 15, 2023

The Foundation for Tulsa Schools held its Board of Directors Meeting in person on August 15, 2023.

Board members present: 20 board members present, which represents quorum.

Attended: Dr. Deborah Gist, Daniel Regan, Larry Faulkner, Brad White, Lachelle King, Jared Kuykendall, Annie Tomecek, Joey Wignarajah, Whitney Stauffer, Drew France, Maggie Hille Yar, Mary Spears, Sarah Gould, Emily Fuller, Rick Kelly, Shanese Slaton, Molly Aspan, Judie Hackerott, Steffanie Bonner, Teil Blackshare, Lauren Sherry

Staff present: Moises Echeverria, Brena Meadows Thrash, Joey Oneal, Sam Tinker

-
- Welcome & Call to Order – Whitney Stauffer, Board Chair
 - **Call to Order [Whitney Stauffer] – 7:35AM**
 - Board portal will be available on FTS website this week. Link will be sent out by staff
 - New board members
 - Lachelle King, City of Tulsa
 - Jared Kuykendall, JP Morgan
 - Emily Fuller, Intern & Reading Partners
 - Addressing issues brought up by State Superintendent.
 - Board Member Spotlight
 - Lachelle King, City of Tulsa
 - Jared Kuykendall, JP Morgan
 - Emily Fuller, Intern & Reading Partners
 -
 - Consent Agenda – 7:41
 - **(MOTION) To approve [Joey Wignarajah]. Seconded [Molly Aspan], passed unanimously.**
 - Consent agenda items:
 - Finance Report
 - Committee Reports
 - Partners in Education
 - Program Evaluation & Development
 - Tulsa Public Schools Update - Dr. Deborah Gist speaks (7:42)
 - Accreditation
 - Accreditation officer visits each school as well as the district for the accreditation process annually.
 - Originally the district had 1 accreditation deficiency when process concluded in May, due to report late by 1 week

- 2nd deficiency was added by state after Dr. Gist had reviewed and signed document
- Deficiencies are not cumulative, start over each year, if deficiency is resolved
- The accreditation process does not look at student outcomes
- Accountability
 - Student outcomes measured by school report cards.
 - When schools with failing grades consolidate, their grades start over, examples can be seen by districts like Oklahoma City
 - Two major goals in Strategic Plan for TPS– literacy for all ages and college/career readiness. Plan available for review.
- Audit
 - Misconduct found internally by TPS
 - Reported the employee immediately to authorities once discovered and district has been as transparent as possible throughout the process as there is an open investigation
 - TPS does have strong internal controls
 - Dr. Gist and CFO met with State Superintendent to discuss the new requests for documentation
- Additional Information Discussed
 - Claims that TPS disregard religious liberties – Opposite of what is established in law.
 - 65 school districts with the same or lower accreditation status than TPS.
- Open to questions.
 - Timeline for accreditation? (7:54AM)
 - Accreditation status remains same until state issues changes.
 - State board meeting Thursday, August 24 and accreditation has been stated to be on agenda
 - If tabled again, State Superintendent must address TPS accreditation by Dec.
 - If OSDE votes for accreditation with probation , the state has the ability to make leadership changes within the district
 - What happens to the kids? (8:05AM)
 - We will not know the long-term impact to students, but schools will still be open with instruction continuing
 - TPS has already lost teachers due to the accreditation question and will lose more if accreditation changes
 - There has not been public discussion from OSDE to change leadership in the 6 districts that are currently accredited with probation.
 - State Superintendent falsely claimed that 52% of TPS budget were administrative costs. The figure he used contained nutrition, buses, counselors, reading interventionists which are not administrative costs.
 - There is a cap by the state for every school district's administrative costs of 5% and there is dollar for dollar penalty if over 5%.
 - TPS; administrative costs are 4%

- What is the strategy moving forward for TPS? (8:14AM)
 - Launching landing page tulsapublicschools.org/facts
 - Would love to see business leaders take on addressing facts and media miscommunications.
 - Has anyone spoken to legislators to address checks and balances in OSDE? (8:23AM)
 - Statutes need to be written more tightly to strengthen procedures and clarify step-by-step processes for accreditation
 - Anything FTS can do to be proactive to address conversations relating to programs? (8:29AM)
 - Addressing it, but hard to plan for something that is unprecedented. Gathering data, we have strong arguments to show impact of our programs that support community.
- Dr. Gist meets with Chamber board members today (Aug 15th, 2023).
- President's Report – Moises Echiverria, President & CEO (8:39AM)
 - Discussing long-term strategies, current issues might create a temporary pause in philanthropic support.
 - Discussing worst-case scenarios while continuing to support schools.
 - Moving forward with what is already scheduled.
 - Outreach to officials is critical.
 - ProtectTPS.com – most organized support effort.
 - Letter campaign, draft included in packet.
- Other Updates – Whitney Stauffer
 - Calendar in board packet.
 - Board social networking at Driller's game September 16th.
 - Next Board Meeting: October 17th at 7:30AM at Memorial MS
 - Magic City Books have T-Shirts in support of TPS
- Adjourn
 - **(MOTION) To Adjourn [Drew France]. Seconded [Larry Falkner], passed unanimously.**
 - Adjourned 9:03AM



**Thursday, July 20, 2023
July Regular Meeting**

12:00 p.m.

**Central Library
Executive Conference Room on Level "L"
400 Civic Center
Tulsa, OK 74103**

1. Opening of Meeting

A. Call to Order - Leanne Helmerich, Chair

B. Roll Call/Announcement of a Quorum

2. Chief Executive Officer's Monthly Report

A. CEO Remarks - Kimberly Johnson, CEO

B. Employee Recognition

3. Committee Report

A. Physical Facilities Committee Discussion and vote to Adopt, Reject or Modify an Agreement for Naming Rights for the new Brookside Library. Ellen Duecker (Action)

B. Personnel Committee -Vote to Adopt, Reject or Modify the Proposed 2024 Library Commission Meeting Schedule-Dr. Wimberly (Action)

4. Consent Agenda

A. Approval of Consent Agenda

B. Approval of June 2023 Minutes

C. TCCL June Financial Reports

D. Resolution: Declaring IT Surplus Property

5. Nominating Committee

A. Appointment of commissioners to the Nominating Committee - Leanne Helmerich, Chair (Report)

6. Closing of Meeting

A. Announcement of Next Meeting: August 17, 2023 at Rudisill Regional Library - 1520 N. Hartford Avenue, Tulsa, OK - Leanne Helmerich, Chair

B. Adjournment - Leanne Helmerich, Chair

General Policies and Rules of Procedure

Board of Adjustment of the City of Tulsa

SECTION I – RULES OF PROCEDURE

A. Name

The name of this board shall be "Board of Adjustment of the City of Tulsa", hereinafter referred to as the "Board".

B. Membership

The Board shall consist of five members, who shall be appointed by the Mayor and confirmed by the City Council. Members of the Board shall serve without pay for a term of three years and shall continue to serve until their successors are appointed. Vacancies shall be filled for an unexpired term of any member in the manner set forth for appointments to a full term.

C. Removal

A Board member may be removed for cause by the City Council after notice, written charges and a public meeting. Three consecutive absences from regular and/or special called meetings, or absences totaling 2/3 of the regularly called or special called meetings held during any six month period, shall be sufficient cause for removal from the Board.

D. Officers

The Board shall elect annually from its appointed members a Chairman, a Vice-Chairman and Secretary. The Vice-Chairman shall serve as Chairman in the absence of the Chairman. Any vacancy in office shall be filled by the Chairman for the unexpired term only. The election shall take place on the first regularly scheduled meeting of the Board in the month of June.

1) The duties of the Chairman shall include:

- a) Presiding over meetings with all powers under parliamentary procedure, unless the Chairman designates another member to preside;
- b) Signing official documents of the Board;
- c) Appointing a Vice-Chairman and Secretary in the event the said officers are absent from the meeting.

2) The duties of the Vice-Chairman shall include:

- a) Presiding over all meetings in the absence of the Chair and shall have full powers of the Chair in matters that come before the Board; and
- b) Assuming the duties of the Secretary in the event that the Secretary is absent from the meeting.

3) The duties of the Secretary shall include:

- a) Assuming duties of the Chair in the event that the Chair and Vice-Chair are absent from the meeting; and
- b) Collecting and stamping exhibits of each meeting for the official record.

E. Quorum

A numerical majority of three Board members shall constitute a quorum for the conduct of any Board business.

F. General Procedures

1. If inclined, the Board may grant a continuance of a scheduled public meeting at the request of the applicant, interested parties, or Board staff.
2. A motion to reconsider any action of the Board can be made by a Board member who voted for the prevailing party.

- a) The Board may take a vote to reconsider an action of the Board during the meeting or at the next regularly scheduled meeting of the Board.
 - b) The action to be reconsidered will be placed on the subsequent meeting agenda and written notice must be given to all interested parties at least five working days in advance of the scheduled meeting.
3. When the public wishes to communicate with Board members, the appropriate way is through a letter or e-mail correspondence to Board staff, who will in turn distribute it to the Board members and the applicant.

G. Public Meeting Procedures

1. The Board shall consider only public meeting items which have been properly advertised as required by law and only those where all fees have been paid, including fees for legal advertising.
2. The Chair can modify the order in which the cases will be considered from the order in which they are listed on the agenda. The procedure for each case shall normally be as follows:
 - a) Staff will announce the case by reading the item number, case number and applicant's name.
 - b) Staff will read the location of the subject tract and the action requested from the case report.
 - c) The Chair calls on the applicant for a presentation, **not to exceed fifteen (15) minutes**. If the applicant presents a significantly changed application from that submitted for BOA staff review (as determined by BOA staff and at the BOA at the time of the presentation), such action is considered grounds for continuance.
 - d) Any member of the public may address the Board at a regular or special meeting after signing in for a specific item. When recognized by the Chair, a member of the public should state his or her name and address. Speakers will be given **five (5) minutes to speak on an item**; however, the Chair may further limit that time based on the number of speakers for an item or impose an aggregate time for all speakers.
 - e) The Chair may rule a comment out of order if it is redundant, irrelevant, indecorous or untimely.
 - f) The applicant is given the opportunity to rebut and is allowed **no more than ten (10) minutes to speak**. If the applicant, in the Chair's opinion, should present new facts or information, the Chair may allow the protestants time to rebut same.
 - g) The Chair announces the public hearing is closed on the case and opens the review session, during which the Board members will discuss the case among themselves and make a recommendation.
 - h) BOA members shall address only the presiding Chair for recognition and shall confine their remarks to the question under discussion.
 - i) During the review session, which shall be open and public, no new evidence shall be admitted unless specifically requested by a member of the Board and permitted by the Chair. However, any Board member may make a motion at any point in time when he/she feel they have sufficient information to do do.
 - j) Before a motion is made, there shall be an opportunity for discussion of the case by the Board and for each Board member to make comments. After a motion is made, there shall be further opportunity for discussion by the Board, and the maker of the motion may refine the terms of the motion pursuant to such discussion. When the motion is formalized, the Chair shall restate the motion, state the name of the maker of the motion and the member seconding the motion, and call for a vote. If a Board member desires to amend the motion following the Chair's restatement of the motion but prior to the Chair's call for a vote, the Board member suggesting the amendment may ask unanimous consent to modify the motion. If any Board Member objects to the modification of the motion, the Board Member proposing the amendment shall move that the motion be amended. The motion to amend must be seconded, is debatable, and must be adopted by a majority vote of the members present.
3. A second is required on all motions in order to bring the question to a vote of the Board.

**Tulsa Public Schools
Independent School District No. I-1, Tulsa County, Oklahoma**

**Schedule of Findings and Questioned Costs (Continued)
Year Ended June 30, 2020**

II. Findings Relating to the Financial Statement Audit as Required to be Reported in Accordance with *Government Auditing Standards*

A. Internal Control

Finding 2020-001

Significant deficiency in internal control over financial reporting

Finding: The Foundation for Tulsa Schools (the Foundation) is a legally separate not-for-profit organization whose purpose is to enhance the educational programs of the District by providing a permanent entity through which contributions can be received and distributions made for the benefit of the District and its students. During the course of performing the FY 2020 audit, we noted the following matters with regards to the Foundation:

- District management did not perform a timely review to determine whether the Foundation met the reporting requirements of a component unit, as defined in GASB Statement No. 39, *Determining Whether Certain Organizations Are Component Units, an Amendment of GASB Statement No. 14*.
- The District did not adequately review contribution funds received from the Foundation in both FY2019 and FY2020 as described in the condition below. The misstatement was corrected by the District and recorded in its 2020 financial statements.

Criteria: Effective internal controls should be established and maintained to prevent, or detect and correct material misstatements in the annual financial statements on a timely basis. In addition, monitoring procedures should be established to ensure that potential component units are evaluated at least annually as to whether inclusion in the District's financial statements is required.

Condition: The Foundation is a legally separate but related organization. As such, transactions with them need to be subject to the same review and scrutiny as all other transactions. In the current year, certain Foundation receipt journal entries were posted in the financial statements incorrectly resulting in:

- (1) An overstatement of 2020 other local revenue in the government-wide activities financial statements (of approximately \$1.5 million) as there were revenues related to 2019 that were incorrectly recognized in 2020; and
- (2) An understatement of 2020 other local revenue in the government-wide activities financial statements (of approximately \$1.6 million) as there were receipts related to 2020 that were incorrectly recognized in 2021. This misstatement was corrected by the District and recorded in its 2020 financial statements.

In addition, U.S. GAAP requires that certain legally separate not-for-profit organizations be evaluated for potential inclusion in the primary government financial statements as a component unit. The District did not perform a timely review to determine whether the Foundation met those requirements. Although District management ultimately concluded that inclusion in the District's financial statements was not required, this is an accounting policy that needs to be reviewed in a timely manner in order to facilitate accurate financial reporting.

**Tulsa Public Schools
Independent School District No. I-1, Tulsa County, Oklahoma**

**Schedule of Findings and Questioned Costs (Continued)
Year Ended June 30, 2020**

Cause: With regards to the inappropriate revenue recognition related to transactions with the Foundation, the errors were caused by a combination of factors, including lack of review and scrutiny of Foundation-related transactions. With regards to the consideration of whether the Foundation financial statements should be included in the District's CAFR, this is the result of not having an accounting policy that specifically addresses monitoring of potential component units.

Effect: Preliminary fund financial statements, government-wide financial statements and note disclosures contained errors that were significant to its 2020 financial statements. Such errors were corrected and revised by the District, and are properly reflected in its 2020 financial statements.

Although it was ultimately determined that the Foundation did not meet the reporting requirements of inclusion in the District's financial statements as a component unit, failing to include a discrete component unit in accordance with U.S. GAAP would result in the District's financial statements being materially misstated.

Recommendation: We recommend that the District implement procedures to ensure that Foundation transactions are reviewed for proper cutoff. We also recommend that the District establish an accounting policy that requires regular review, at least annually, of all organizations that could meet the requirements for inclusion in the District's financial statements as a component unit.

District Management's Response: The District agrees with the finding and recommendation.

**Tulsa Public Schools
Independent School District No. I-1, Tulsa County, Oklahoma**

**Schedule of Findings and Questioned Costs (Continued)
Year Ended June 30, 2020**

Finding 2020-002

Significant Deficiency in Internal Control Over Financial Reporting

Finding: The District's internal controls over financial reporting failed to detect significant errors in the District's financial statements in the recording of the Net Pension Liability and Deferred Inflows of Resources and Deferred Outflows of Resources related to the District's participation in employee retirement system sponsored by Oklahoma Teachers' Retirement System (OTRS). The District's internal control system also failed to detect errors in the recording and disclosures of the Net OPEB Asset and Deferred Inflows of Resources related to the District's participation in the post-employment benefits sponsored by OTRS.

Criteria: Effective internal controls should be established and maintained to prevent, or detect and correct material misstatements in the annual financial statements on a timely basis.

Condition: The District's financial statements as originally prepared contained significant misstatements in the recording of the financial statement amounts, specifically Deferred Inflows and Deferred Outflows of Resources related to the District's participation in the OTRS defined benefit pension plan. In addition, recorded amounts and disclosures related to the District's participation in the OTRS other Post-Employment Benefit Obligation were also misstated.

Cause: District personnel understand the financial reporting requirements of GASB Statement No. 68 and GASB Statement No. 75; however due to lack of experienced accounting personnel, there was not an adequate review of the supporting schedules maintained by the District to determine that the amounts reported by the District were correct.

Effect: Amounts reported for Deferred Outflows and Deferred Inflows of Resources were misstated in the original financial statements. The District subsequently corrected its June 30, 2020 financial statements.

Recommendation: More than one member of the District's financial reporting staff should be trained to have a deeper knowledge of the accounting and reporting requirements of GASB 68 and GASB 75, and an independent review of the supporting schedules and journal entries prepared by the District should be performed.

District's Management Response: The District agrees with the finding and recommendation.

B. Instance of Noncompliance

No matters to report.

Findings and Questioned Costs for Federal Awards

A. Internal Control

No matters to report.

B. Instances of Noncompliance

No matters to report.