

# TEXAS PUBLIC FINANCE AUTHORITY

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Robert P. Coalter

## MINUTES OF THE MEETING OF THE TEXAS PUBLIC FINANCE AUTHORITY CHARTER SCHOOL FINANCE CORPORATION

**December 10, 2012**

The Board of Directors of the Board of the Texas Public Finance Authority Charter School Finance Corporation (the "CSFC") convened in open meeting, notice duly posted pursuant to law (a copy of which notice is attached hereto as Exhibit "A") at 10:30 a.m., Monday, December 10, 2012, Capitol Extension Hearing Room E2.028, Austin, Texas. Present were: Dr. Susan Barnes, Vice-Chair, Mr. Paul Jack, Secretary; Mr. Tom Canby, Member; and Mr. Bob Schulman, Member. Representing TPFA's staff was: Mr. Robert Coalter, Executive Director, Ms. Susan K. Durso, General Counsel, John Hernandez, Deputy Director, and Paula Hatfield.

**Item 1. Call to order.**

Dr. Barnes called the meeting to order at 10:30 a.m.

**Item 2. Approve the minutes of the October 30, 2012 Board meeting.**

Dr. Barnes asked if there are any changes to the minutes as presented. Mr. Jack moved to approve the minutes as presented. Mr. Canby seconded. The motion passed unanimously.

**Item 3. Discussion, consideration and possible action on Texas Credit Enhancement Program (TCEP) grants, refunding transactions, and applications, including request by Uplift Education to permit transfer of grant to refunding and new issuance transaction.**

Mr. Coalter stated the Uplift Education (Beasley Higher Education Finance Corporation) had informed the CSFC of its intent to refund 2005 bonds, which are supported by a \$1 million TCEP grant award. The refunding transaction consists of a \$16 million bond financing and a \$29 million new money portion. The school requests that the grant be transferred from the current bonds to the refunded bonds. Mr. Coalter

identified the school consultants, McCall Parkhurst & Horton as bond counsel and Buck Financial Advisors, LLC as financial advisor. He introduced Bill Mays, Chief Financial Officer for Uplift Education who was available to answer questions. Mr. Coalter stated staff was asking the Board for direction on how to proceed and identified two policy concerns. The first policy concern is whether the TCEP grant is transferrable and possible concern from other prospective applicants, and the second concern is that the financial condition of the school continues to be as it was at the time of the grant award.

Mr. Mays stated the transaction was anticipated to occur around January 24<sup>th</sup>. The 2005 bonds were insured by ACA. Uplift has done three or four transactions that required ACA approval, and it was committed to them that at some point in time when a refunding became economically favorable it would be considered. The new money portion of the transaction is to build a new primary school on some land purchased with funds from a prior bond transaction, develop some space in a retail building, a parking garage, remodel a church facility already owned by Uplift and build a twenty classroom attachment to the church.

Mr. Schulman asked if Mr. Mays could speak to the two policy concerns identified by Mr. Coalter. Mr. Mays stated he did not know of the concerns and could not respond. Mr. Jack asked if the TCEP grant funds were for the refunding bonds and if the new money portion of the request was predicated on the refunding being done. Mr. Mays indicated the TCEP grant was for the refunded bonds and if the refunding does not occur, it would necessitate another type of approval from ACA.

Mr. Coalter stated he forgot to mention that currently staff has no procedures regarding transferring grants and is asking the Board for that policy direction. Dr. Barnes asks if no policy exists, and if the Board were to ask staff to prepare proposed policies, how would it impact the timeline presented by Uplift. Ms. Durso stated that the CSFC Board is not required to go through formal rule-making procedures, and it could adopt rules differently. Ms. Durso explained that her concern was that under the application process that Uplift responded to and under which it received its grant there was no notice in that document to the other applicants or potential applicants that the monies could be carried forth in a refunding. Ms. Durso stated that she might have less concern if the refunding was going to shorten the maturity date or even meet the current maturity date, but the maturity date would be extended and the funds would be tied up. From a public policy perspective all parties have not received the same opportunities to have access to these funds. If the Board would like to change its policies and procedures so that going forward the application offers the opportunity a refunding might be reviewed or that funds might be allowed to be carried forward on a refunding. The Department of Education does not address without some ambiguity the performance agreement about refundings. It states it is possible to give grants for refundings, but that can be read in one of two ways: if the refunding is something not supported by a grant, a grant can be given, or that a grant could be carried forward through a refunding, but it does not expressly state. It is likely to suggest that if a school had something to refund, the grant could also be offered. Transferring a grant was not contemplated when the grant was given, the documents do not speak to it or how to handle it. As Mr. Coalter mentioned, there probably should be some kind of review process that would ensure that the refunding and any new money are a part of the same mission and goal of the organization, that the management and academic tests that are required and were considered at the time the initial grant was awarded remain in place. If the Board wanted to instruct staff to write something up that could be done fairly quickly.

Mr. Jack inquired if this transaction would be done through a private placement and Mr. Mays responded “no.” He also stated the school had an investment grade rating.

The Board began an Executive Session at 10:44 a.m. under Government Code Section 551.0712 to obtain legal advice from its counsel concerning a matter listed on the agenda and ended its Executive Session at 10:58 a.m. The Board reconvened open meeting at 10:58 a.m.

Mr. Schulman stated he was not in favor of voting on the Uplift request at this time due to the fact the offer had not been made available to other applicants and that he was not sure about the federal guidelines. He did not object to having another meeting with an agenda item that allowed for consideration of refunding program, rules for that program and a policy discussion. Mr. Jack stated he was interested in directing staff to have discussions, depending what the county does with the financial plan, to prepare for a normal round and open up the application process. Mr. Schulman asked what the process would be. Ms. Durso asked if Mr. Jack if his intention was to ask the Board, if the funds were released, to go ahead and open up the application process?

If that were so, staff would update the application with dates, issue and bring any responses, along with an evaluation of the applicant responses back to the Board for consideration. Ms. Durso added that if the direction was to add the language that the funds could potentially be refunded if that was the Board's choice, that change could be made.

Mr. Schulman stated he would not be comfortable with the last part of the suggestion until after a Board discussion with counsel and administration on the policy decisions behind the generalized refunding program and whether or not it is consistent with the intent of the current program. Mr. Jack asked if he was talking about the refunding part being included in the application update and Mr. Schulman answered "yes." Mr. Canby indicated he had no comments. Dr. Barnes stated she had no concerns about the programs at all, that the programs were very strong, a shining example of the type of charter school success one would want to see and wanted to second Mr. Schulman's comments.

Dr. Barnes asked if the Board was ready for a motion and asked if staff had any additional comments. Mr. Coalter asked Mr. Schulman if his intent was for another Board meeting in which to discuss how to proceed with refunding or with that whole option within the program, other guidelines and other types of program around the country and what the criteria may or may not be. Mr. Schulman stated that could be put on a future agenda item and that he is not speaking in favor of it or against it. Ms. Durso asked if the Chair was requesting language to use in a motion to deny Uplift's request to use the TCEP grant for its refunding. Dr. Barnes stated she was waiting for a motion. Mr. Schulman stated he was waiting for a motion. Mr. Jack asked if it was just to deny the transfer for the refunding. Ms. Durso stated that was the request. Mr. Schulman stated the word "deny" was troubling to him and suggested it be couched in terms "not to approve."

Mr. Canby asked if it would be appropriate to table this item and consider it at a future time. Dr. Barnes asked if the motion was to table, how would it effect applications. Ms. Durso stated that Uplift had requested that its TCEP grant be transferred to its refunding. If the agenda item were tabled, the school would be left in limbo. Based on the request, if a member were making a motion, it could be stated for a policy and legal reasons. Ms. Durso stated she believed the school needed an up or down answer.

Mr. Schulman made a motion based on policy and legal reasons discussed at this meeting that the request be denied. Mr. Jack seconded. The motion passed unanimously.

Ms. Durso clarified staff understanding that the Board desires that at a later date when it meets, an agenda item addressing these issues for your consideration be included. Mr. Jack said he was in favor of written policies. Ms. Durso further clarified that the Board's intention was not to do this now or in any particular timeframe, but at the Board's next meeting. Dr. Barnes stated that was correct.

Dr. Barnes asked if the remaining direction to staff was to move forward with the application. Mr. Jack stated “no,” and that the next step would be to consider a written policy related to a refunding and make application updates at that time for posting.

**Item 4. Adjourn.**

The meeting adjourned at 11:10 a.m.

The foregoing minutes were approved and passed by the Board of Directors on July 11, 2013.

  
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Susan K. Barnes, PH.D.  
Vice President, Board of Directors

ATTACHMENT: Posting Notice - Exhibit A