

DEMAREST BOARD OF EDUCATION SPECIAL MEETING AGENDA/PUBLIC HEARING

County Road School - Media Center
January 2, 2024
Immediately following the Reorganization Meeting

I. OPEN PUBLIC MEETING

- A. Meeting called to order
- B. Board President's Announcement

The New Jersey Open Public Meetings Law was enacted to ensure the right of the public to have advance notice of and to attend the meetings of public bodies at which any business affecting their interests is discussed or acted upon.

In accordance with the provisions of this Act, the Demarest Board of Education has caused notice of this meeting to be published by having the date, time and place thereof posted at the Borough Hall and at the Middle School and by notifying in writing two newspapers: The Record and The Suburbanite.

- C. Roll Call

II. PUBLIC HEARING TO DISCUSS DEMAREST MIDDLE SCHOOL GYMNASIUM ADDITION FINANCING

III. PUBLIC COMMENT ON PUBLIC HEARING

- A. Move to open the meeting to public comment limited to the public hearing.
- B. Public comment.
- C. Move to close the meeting to public comment.

IV. CLOSE PUBLIC HEARING

V. ACTIONS

1. Move to approve the following resolution, as recommended by the Chief School Administrator:

RESOLUTION OF THE BOARD OF EDUCATION OF THE BOROUGH OF DEMAREST IN THE COUNTY OF BERGEN, NEW JERSEY, AUTHORIZING CERTAIN ACTIONS IN CONNECTION WITH A LEASE PURCHASE TRANSACTION:

January 2, 2024

WHEREAS, The Board of Education of the Borough of Demarest in the County of Bergen, New Jersey (the "Board" when referring to the governing body and the "School District" when referring to the territorial boundaries governed by the Board) has determined to undertake a capital improvement project pursuant to N.J.S.A. 18A:20-17, consisting of the construction of an addition to house a new gymnasium addition at the Demarest Middle School, including acquisition and installation of furnishings, fixtures, equipment and any site work (the "Project") for an estimated total project cost of \$7,500,000, such cost to be funded by a capital reserve contribution in an amount not to exceed \$4,500,000, and through entering into a lease purchase agreement, as permitted by N.J.S.A. 18A:20-4.2(f), in amount not to exceed \$3,000,000 (the "Lease Purchase"); and

WHEREAS, the Board desires to finance a portion of the Project pursuant to the Lease Purchase in an amount not to exceed \$3,000,000; and

WHEREAS, pursuant to N.J.A.C. 6A:26-10.3, the Board is required to conduct a public hearing on the Project and the proposed Lease Purchase; and

WHEREAS, notice of such public hearing was advertised on or about December 26, 2023 in The Record; and

WHEREAS, the Board has conducted such public hearing on the date hereof; and

WHEREAS, the Board now seeks to take certain steps to authorize such Lease Purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE BOROUGH OF DEMAREST IN THE COUNTY OF BERGEN, NEW JERSEY (by the affirmative vote of at least two-thirds of the full membership of the Board), as follows:

Section 1. The Board hereby authorizes a capital reserve contribution in an amount not to exceed \$4,500,000, and endorses the financing of a portion of the Project through a lease purchase financing and approves a maximum funding level of \$3,000,000 for the Lease Purchase.

Section 2. Wilentz, Goldman & Spitzer, P.A., Bond Counsel and Phoenix Advisors, Municipal Advisor are hereby authorized to advertise the advertisement for proposals for the selection of a lessor for the Lease Purchase. Any publication that may have occurred prior to this resolution is hereby ratified by the Board.

Section 3. Wilentz, Goldman & Spitzer, P.A., Bond Counsel and Phoenix Advisors, Municipal Advisor are hereby authorized and directed to prepare and to submit an application to the New Jersey Department of Education ("NJDOE") to obtain approval of the Lease Purchase. The Board hereby authorizes that a title search be completed on the site of the Project in connection with the abovementioned application.

Section 4. Upon receipt of NJDOE approval, the Business Administrator/Board Secretary, is authorized to award the Lease Purchase to the lessor which proposed the most economically advantageous proposal to the Board. The term of the Lease shall not exceed five (5) years. In consultation with Bond Counsel, the Board President, the Board Vice President, the Superintendent and the Business Administrator/Board Secretary are each hereby authorized and directed to execute all documents including, but not limited to, a lease purchase agreement, a ground lease, if required, an escrow agreement, as applicable, and all closing documents in connection with the Lease Purchase and are hereby authorized to take any other action necessary therefor or incidental thereto.

Section 5. To the best of its knowledge, the Board hereby confirms that the annual lease payments and any operating expenses related to the agreement can be included within the School District's net budget spending growth limitations and will not result in the need for approval by the voters of additional spending proposals to maintain existing instructional programs or extracurricular activities.

Section 6. The Board hereby covenants that it will comply with any conditions subsequently imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the Lease, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Lease Purchase.

Section 7. The Lease will be designated as a "qualified tax-exempt obligation" for purposes of Section 265(b) (3) (B) (ii) of the Code.

Section 8. The Board reasonably expects to reimburse its expenditure of Project costs paid prior to the issuance of the Lease with proceeds of the Lease. This resolution is intended to be and hereby is a declaration of the Board's official intent to reimburse the expenditure of ESP Costs paid prior to the issuance of the Lease with the proceeds of the Lease, in accordance with Treasury Regulations §150-2. The maximum principal amount of the Lease expected to be issued to finance the Project is \$3,000,000. The Project costs to be reimbursed with the proceeds of the Lease will be "capital expenditures" in accordance with the meaning of Section 150 of the Code. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Code. The proceeds of the Lease used to reimburse the Board for Project costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative

pledge" (as such terms are defined in Treasury Regulations §1.148-1), of the Lease or another issue of debt obligations of the Board, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1). All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Lease is paid, or (ii) the date the Project is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.
Section 9. This resolution shall take effect immediately.

2. Move to approve Phoenix Advisors, LLC for municipal advisor services in connection with the Demarest Middle School gymnasium addition lease purchase, in the amount of \$7,500.00, as recommended by the Chief School Administrator.

VI. PUBLIC COMMENT

- A. Move to open the meeting to public comment.
- B. Move to close the meeting to public comment.

VII. NEW BUSINESS

VIII. EXECUTIVE SESSION (if necessary)

- A. Move to enter the executive session to discuss personnel/legal matters/negotiations.
- B. Move to close the executive session and reenter the public session.

IX. ADJOURNMENT

- A. Move to adjourn.