MT. DIABLO UNIFIED SCHOOL DISTRICT
BOARD MEETING – February 28, 2006

ATTENDANCE: Board: Linda Mayo, Dick Allen, Gary Eberhart, April Treece (6:15 p.m.); one seat vacant
Administrative Staff: Superintendent Gary McHenry; Associate Superintendent Alan Young; assistant superintendents
Roger Bylund, Mildred Browne, Gail Isserman, and Dick Nicoll; General Counsel Greg Rolen; Chief Financial Officer
Gloria Gamblin
Student Representatives: Sheila Rezaei and then Alyson Bonde, College Park (voting); Avani Mody, Concord;
Kaitlyn Strand, Olympic; David Cranmer, Ygnacio Valley

1. CALL TO ORDER: President Mayo called the meeting to order at 6:01 p.m. in the Board Room at the MDUSD Dent Center.

PUBLIC COMMENT: None

CLOSED SESSION: The Board adjourned to Closed Session at 6:02 p.m. in Room 6 of the Dent Center. Topics discussed included 2 expulsions, 10 requests for readmission, and one request to extend the timeline for a discipline hearing; existing litigation (Sierra Bay v MDUSD), conference with real property owner (Oak Park Christian Center); public employee discipline/dismissal/release/complaint; and contract extensions for associate and assistant superintendents.

Readmissions
Eberhart moved, Allen seconded, and the Board voted 3-0-0 (Treece not yet in attendance) to approve staff’s recommendation to deny readmission to 10 students who had not met requirements.

Timeline extension
Allen moved, Eberhart seconded, and the Board voted 3-0-0 (Treece not yet in attendance) to approve the extension of the expulsion hearing timeline for Student 39-06.

Public Employee Discipline/Dismissal/Release/Complaint
Allen moved, Eberhart seconded, and the Board voted 3-0-0 (Treece not yet in attendance) to approve a settlement agreement with certificated employee #15815.

Treece moved, Eberhart seconded, and the Board voted 4-0-0 to reassign certificated employee #14025.

Eberhart moved, Treece seconded, and the Board voted 4-0-0 to reassign certificated employee #14741.

2. RECONVENE OPEN SESSION: The Board returned to Open Session at 7:30 p.m. President Mayo led the Pledge of Allegiance to the Flag and then reported the action taken and topics discussed in Closed Session.

Expulsion
Student 37-06: Allen moved, Treece seconded, and the Board voted 4-0-0 that Student 27-06 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student 37-06 may apply for readmission after June 16, 2006. It is required that Student 37-06 participate in individual counseling, community service, the COPS program, the Mt. Diablo Unified School District’s anger management workshop and show evidence of a successful school experience, prior to applying for readmission.

Student 38-06: Eberhart moved, Allen seconded, and the Board voted 4-0-0 that Student 38-06 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student 38-06 may apply for readmission after June 16, 2006. It is required that Student 38-06 participate in individual counseling, community service, the COPS program, and show evidence of a successful school experience, prior to applying for readmission.

3. CONSENT AGENDA
Public Comment In regard to Item 3.9.2 (award of bid for telephone systems) Tony Lenhart of Nexus IS explained the reasons that his company had submitted a bid protest letter. In response to Board questions, Purchasing Director Brian Slaughter said the recommended contractor, who was the low bidder, has agreed to meet any and all bid specifications.

Board action Allen moved, Treece seconded, and the Board voted 4-0-0 to adopt the Consent Agenda, thereby approving the following:

3.1 Minutes of the meeting of February 14, 2006.

- 3.2 Certificated Personnel
  3.2.1 Leaves of Absence, Resignations, Retirements, Employment
3.2.2 Resolution 05/06-57 Education Code 44258.3 – Board Authorization
Under Ed. Code 44258.3, the Board can authorize holders of any California teaching credential to teach departmentalized classes in grades K-12.

3.2.3 Resolution 05/06-58 Education Code 44263 – Board Authorization
Under Ed. Code 44263, the Board can authorize holders of any California teaching credential who have 18 lower division units or 9 upper division units in a subject to teach the subject, full or part time.

3.2.4 Resolution 05/06-59 Variable Term Waiver Requests
Variable term waivers provide applicants with additional time to complete certain requirements for the credential that authorizes the service. The waiver request is made when there is not a properly credentialed person available for the position.

3.2.5 Change of Funding Source for School Psychologist
Changed the funding source for a .60 FTE School Psychologist for the 2005-06 school year from the School Improvement Program (SIP) budget to the Immediate Intervention/Underperforming Schools (IIUSP) budget. Fiscal impact: $52,159

3.3 Classified Personnel
3.3.1 Leaves of Absence, Resignations, Retirements, Employment

3.3.2 Increase in Hours for a Site Technology Support Technician II at Sequoia Middle School
Increased from 7 to 10 hours/week an existing 10-month/year Site Technology Support Technician II position at Sequoia Middle School. There is no impact to the General Fund. The increased cost for fiscal year 2005-06 is $2,106. Funding Source: School Improvement Program funds.

3.4 Monthly Budget Transfers and/or Budget Increases/Decreases for the Month of January 2006

3.5 Grant Application Requests
3.5.1 School Community Violence Prevention Program
Approved submittal of an application for a five-year $2,500,000 School Community Violence Prevention Program grant to the California Department of Education. There is no impact to the General Fund.

3.5.2 Teaching American History Grant
Approved submittal of an application for a $997,757 Teaching American History grant to the U.S. Department of Education. There is no impact to the General Fund.

3.5.3 Teacher Recruitment and Student Support Grant
Approved submittal of an application for a $209,289 Teacher Recruitment and Student Support grant to the California Department of Education. There is no impact to the General Fund.

3.6 Final Deductive Change Order – Bid 1365, Contract C-802
Approved final deductive change order to Bid 1365, Contract C-802 in the amount of ($62,026) to Taber Construction for new classrooms and modernization at Hidden Valley Elementary and Sequoia and Valley View middle schools. Funding Source: Measure C

3.7 Contract Amendment
Approved amendment to the contract with Harlan Krusemark for architectural/engineering services for Group 5 Measure C work at Loma Vista Adult Center and Diablo View Middle School. Amendment in the amount of $100,000 including reimbursables provides for work at Willow Creek Center. Funding Source: Measure C

3.8 Notice of Completion
Approved Notice of Completion for Contract C-802, Bid 1365 in the amount of $13,003,874 to Taber Construction for modernization and new classrooms at Hidden Valley Elementary School and Sequoia and Valley View middle schools. Funding Source: Measure C

3.9 Award of Bids
3.9.1 Award of Bid 1406 to Robert A. Bothman, Inc. in the amount of $136,234 for turf renovations at Rio Vista Elementary School. Funding Source: Measure A

3.9.2 Award of Bid 1408 to Shared Technologies, Inc. in the amount of $177,879.61 to provide new telephone systems in 2006 at Hidden Valley, Holbrook, Highlands, and Mt. Diablo elementary schools and Foothill, Pine Hollow, and Sequoia middle schools. Funding Source: Measure C

3.10 Designation of Applicant's Agent Resolution
Adopted a resolution designating Peder Pedersen as the District's agent to file a request for public assistance
with the California Office of Emergency Services in order to pursue reimbursement for costs associated with damage to schools from flooding in December 2005 and January 2006.

4. **RECOGNITIONS** - None

5. **PUBLIC COMMENT**

Denise Hood, parent, spoke in support of teachers, but said one who recently lost his temper at her child’s school was not disciplined sufficiently for his behavior.

Danielle Barcona, community member, said students at Mt. Diablo High who haven’t passed the High School Exit Exam are being sorted by race to look at exam results for their subgroup. She believes such sorting violates the U.S. Civil Rights Act. (Mayo asked staff to investigate.)

6. **COMMUNICATIONS**

6.1 **Student Representatives**

Sheila Rezaei, College Park; Avani Mody, Concord; Kaitlyn Strand, Olympic; and David Cranmer, Ygnacio Valley, reported on events, activities, and issues at their respective high schools.

6.2 **Organizations**

Mike Noce, MDEA president, thanked CFO Gloria Gamblin and her staff for getting the retroactive paychecks to teachers, saying he has received no complaints. He also thanked Ada Torres and others in Personnel and Payroll for helping a veteran teacher get credit for back pay. He announced that Sue Chambers, assistant director of student services, is running for president of the state organization for P.E., health, recreation, and dance instructors and he congratulated Gary Eberhart for getting the MDEA Executive Board’s endorsement in his campaign for county supervisor. Noce criticized the District’s use of EduSoft, a web-based software program that tracks students’ academic progress. He said most of the 300 teachers who responded to a technical survey MDEA distributed do not use the program. He believes that any technology in the classroom should be financed through a parcel tax. He also told the Board to keep “competitive salary” as its highest priority when considering how to allocate any additional revenue the District receives.

7. **REPORTS/INFORMATION**

7.1 **On Track Program – Adult Education**

Susie Passeggi, assistant director, adult and career education, gave a presentation on Mt. Diablo Adult Education’s On Track Program, which serves students who have a traumatic or acquired brain injury. A Tenth Anniversary Celebration for the program will be held on Friday, March 10, from 3:30 to 5:30 p.m. at Loma Vista. Student Kevin Reisser described his experience with the On Track Program. Passeggi introduced Faye and Sandor Straus, who have donated funds and equipment to the program. Mayo thanked them for their important support. Allen, a member of the program’s Board, praised the students and staff for their dedication and success.

7.2 **General Obligation Bonds**

Lori Ranieri and Keith Weaver of Government Financial Strategies, the District’s bond consultant, reviewed Measure C bond activity to date. Of the $250 million approved by voters, the District has so far issued $190.4 million in bonds and is about to issue another $59.6 million. Growth in the tax base and District strategies have allowed the tax rate to be consistently under the $63 per $100,000 limit promised to voters. The District’s Series 2002 and 2004 general obligation bonds are rated A+ and are insured to AAA. The sale of bonds is scheduled for May 11.

8. **SUPERINTENDENT’S REPORT** - None

9. **BUSINESS**

9.1 **Review and Clarification of the Process to Fill the Vacant Board of Education Seat**

At its meeting on February 14 the Board decided to use the appointment process rather than conduct a special election to fill the vacant seat on the Board. McHenry reported that the announcement of the vacancy has been publicized and so far 12 individuals have picked up applications. Each has been given a set of Board By-Laws, the 2005-06 budget, and the 2004-05 Annual Report. He will send a letter of confirmation to each person who submits an application. The deadline is 4 p.m. on March 13. He expects the Board will decide on a date for the interviews after the application period closes. The interviews must be conducted in Open Session, but he’s checked with other districts and learned that the candidates can wait outside the room while one at a time is interviewed. The interview schedule will be determined by random order. Board members still need to develop interview questions.

Board comment Allen suggested that each Board member send questions to the Superintendent for the candidate interviews. Treece said she would like to see information from the California School Boards Association to use as guidance. The Board agreed to meet on Tuesday, March 7, at 7 p.m. to review and develop questions. Members suggested the following general topics for the questions: governance, labor relations, student support services, student
achievement, public/community relations, position/views on public education, school finance, curriculum. In addition to a question/answer format, candidates will be invited to make opening and/or closing remarks.

9.2 Public Hearing – Deferred Maintenance Plan
McHenry reviewed projects listed on the five-year Deferred Maintenance Plan. AB 939 Education Code 17584.1 requires that “the governing board of a school district shall discuss proposals and plans for expenditures of funds for the deferred maintenance of school district facilities of a regularly scheduled public hearing.” There is no impact to the General Fund. Funding Source: Deferred Maintenance

Public Hearing Mayo opened the public hearing at 9:04 p.m. With no requests to speak, she closed the hearing.

9.3 Resolution 05/06-50, Women’s History Month – March 2006
Treece moved, Allen seconded, and the Board voted 4-0-0 (Student Rep, yes) to adopt Resolution 05/06-50, acknowledging the California Department of Education’s designation of March 2006 as Women’s History month to recognize the many contributions made by women throughout America’s history.

9.4 Resolution 05/06-51, Arts Education Month – March 2006
Eberhart moved, Allen seconded, and the Board voted 4-0-0 (Student Rep, yes) to adopt Resolution 05/06-51, acknowledging the California Department of Education’s designation of March 2006 as Arts Education Month to recognize the importance of celebrating the arts with meaningful student activities and programs.

9.5 Audit Report – Fiscal Year 2004-05
David Becker of Perry Smith auditing firm provided an overview of the Audit Report for 2004-05, which he had reviewed last Friday with Chief Financial Officer Gloria Gambin, Internal Auditor Don Burkhalter, and the Board audit committee of Linda Mayo and April Treece. No adjustments were made to the District’s financial records. Some audit findings and recommendations were made regarding attendance accounting and internal controls as related to payroll and student funds. District staff reviewed these findings and recommendations and provided a written response to each finding. They will take action as identified. Presented as information only at this time. Mayo thanked Fiscal Services staff for producing financial records that needed no adjustments.

9.6 Award of Bid 1399
Eberhart moved, Treece seconded, and the Board voted 4-0-0 (Student Rep, abstain) to award Bid #1399 to Sausal Corporation in the amount of $11,845,589 to provide new classrooms and renovations at Ayers, Monte Gardens, and Mt. View elementary schools. Funding Source: Measure C

9.7 Continuation of Edusoft Student Information Software System Contract
Renewal of contract from February 1 to June 30, 2006 (second term, in which sum is $119,666.28). Renewal of contract from July 1, 2006 to June 30, 2007 (third term, in which sum is $253,498.50). Total: $373,164.78. Funding Source: Federal and state categorical funds targeted for underperforming students. Second term: Title I—$91,666.28. Small Learning Communities grant—$18,000.00, Block 5 grant—$91,666.28. Third term: Title I—$17,645.00, Block 5 grant—$235,853.50. Presented as information only at this time.

Board comment Eberhart said he still has major concerns about the contract, which he has delineated in the past. He would like to visit a site with a staff member to see the software in use.

9.8 Special Education Assistants
Treece moved, Allen seconded, and the Board voted 4-0-0 (Student Rep, yes) to approve an additional 14.63 FTE Special Education Assistant positions to meet legal requirements for Special Education services and District and classroom needs for the 2005-06 school year. Fiscal Impact: $253,463 for March 1–June 16, 2006; annual cost of $653,215 for 2006-07. Funding Source: General Fund

Staff report Browne explained that two high schools have added additional hours, which require more assistant time, and several students have Individualized Education Plans (IEPs) that call for one-on-one assistants. Without the extra support, some students would have to attend a nonpublic school. The assistants allow the students to remain in the least restrictive environment. In response to Allen, Browne said the District currently employs 111 Special Ed. Assistants. Allen pointed out that the District’s Special Education enrollment is decreasing, but costs are increasing due to the level of services required.

9.9 Review and Clarification of Criteria for Additions to the Budget

Public comment Sarah Burgstahler, Concord High band student, spoke of the importance of band in her life and music in students’ lives. She urged the Board to restore 4th grade instrumental music. Christopher Brown, Concord High, said he has done studies on how music in elementary school helps student learning.

Board/staff discussion McHenry reported that at the meeting on January 17, 2006, the Board of Education approved criteria for determining additions to the budget. As part of the discussion at that meeting, Board members said they
wanted clearer definitions for some of the criteria. The criteria listed in priority order are as follows:

A. Meet legal and programmatic mandates.
   - Meet contractual requirements.
     Recommendation from oversight agencies – County Office of Education, Fiscal Crisis Management and Assistance Team (FCMAT), State Department of Education, Office of Civil Rights.

B. Competitive salaries.

C. Critical infrastructure support.

D. Establish/restore effective programs.

Discussion for each criteria area:

**Mandates** McHenry said it is not difficult to understand what constitutes a contractual requirement, but ‘recommendation from oversight agencies’ might not mean the same thing to everyone. Treece said she continues to be concerned about the underperforming schools and the resources needed to assist them. Are recommendations made by outside agencies, such as a State Academic Intervention Team (SAIT) sent by the state to work with the schools considered “programmatic mandates”? McHenry said the District is required to implement recommendations in such a case because the school’s failure to make academic progress could result in the state’s imposing sanctions. There is some state funding for these schools. Mayo said she presumes the Consent Decree and other court orders would fall under “legal mandates.” Allen said the Board needs to look at each case individually.

**Competitive salary** McHenry suggested that criteria for “competitiveness” be 1) the District’s ability to hire staff and 2) its ability to retain staff. Mayo said she would like information from other districts, not just in regard to salaries but also training and other factors that contribute to the work environment. Treece stressed that in looking at total compensation it’s important to compare, as best as possible, apples to apples, e.g. the number of work days. Eberhart said contract negotiations in the past three years have been conducted at the same time the Board has had to make budget cuts, so salaries have not kept up with the cost of living. He believes the Board needs to provide a portion of new dollars to salaries and to total compensation because employees need to be the number one priority. Allen expressed frustration in comparing compensation from one district to another because there are so many variables. He and Eberhart both said it’s important to know how much money the District receives before making decisions. (Gamblin said the Second Interim Report that will be presented to the Board on March 14 will provide data based on the Governor’s budget proposal last January. The annual May Revise may cause some changes, too.) Mayo said information from other districts would help the Board establish some benchmarks.

**Critical infrastructure** McHenry explained that critical infrastructure includes school buses and bus drivers, textbooks, and staffing necessary to produce required reports. Mayo said for her the category includes positions that provide critical services/ongoing support to students, e.g. counselors, attendance liaisons, elementary vice principals. In comparison to other districts, she said, Mt. Diablo is low in regard to the ratio of counselors and school nurses to students. Treece said she would include in this definition the ability of students and employees to access real-time data about student achievement. She said to the District Technology Plan currently being revised will determine needs.

**Establish/restore effective programs** McHenry reminded the Board that the criteria used for budget reductions included a goal to spread cuts across the District and employee bargaining groups. He has been talking with parents and students and heard them say loudly and clearly that they expect programs to be restored. Mayo said the Board promised the public during budget reductions that it would consider restoring programs once the District had money again. There is a good faith measure with the community that must be considered, she said. Treece agreed.

McHenry said he will make some recommendations to the Board, including rationale and being respectful of the criteria that the Board has established. Eberhart asked when the Budget Advisory Committee will be established and when the recommendations will be presented at a Board meeting so the community can attend and comment. McHenry said some cost-saving measures the District has undertaken may also be helpful. For example, the Dependent Verification Audit could save the District between $500,000 and $1 million. Would the Board want to spend those savings on salaries, on adding back programs, and/or enhancing services? He said it is also possible to divide the additional funding into, say, three pots to make sure each area is addressed to some extent.

9.10 2006 California School Board’s Association (CSBA) Delegate Assembly Election
Eberhart moved, Treece seconded, and the Board voted 4-0-0 (Student Rep, abstain) to cast one of three District votes for a vacancy in Subregion 7-A on the 2006 CSBA Delegate Assembly to Margot Tobias (Acalanes Union USD).

Allen moved, Eberhart seconded, and the Board voted 4-0-0 (Student Rep, abstain) to cast a second of three District votes for a vacancy in Subregion 7-A on the 2006 CSBA Delegate Assembly to Joyce Seelinger (Antioch USD).

9.11 Resolutions of Dedication of Easements:
05/06-52 Hidden Valley Elementary
05/06-53 Highlands Elementary
05/06-54 Holbrook Elementary
05/06-55 Pine Hollow Middle
05/06-56 Sun Terrace Elementary

Public hearing  Mayo opened the public hearing at 10:30 p.m. Receiving no request to speak, she closed the hearing.

Eberhart moved, Treece seconded, and the Board voted 4-0-0 (Student Rep, abstain) to adopt Resolutions 05/06-52, 53, 54, 55, and 56, granting easements at five schools to the Contra Costa Water District. Measure C work made it necessary to request services and equipment from CCWD to install a fire hydrant and water line at each site. CCWD required an easement to access, operate, maintain and repair the improvements and the connections it installed on the District’s behalf. There is no impact to the General Fund.

9.12 Employee Contract Extensions for Associate Superintendent and Assistant Superintendents
Allen moved, Treece seconded, and the Board voted 4-0-0 (Student Rep, yes) to approve contract extensions until June 30, 2009, for Associate Superintendent Alan Young and Assistant Superintendents Mildred Browne, Roger Bylund, Gail Isserman, and Dick Nicoll. The current contracts expire on June 30, 2007.

Public comment  Dorothy Englund, parent, questioned the need to renew these contracts a year and a half before they are set to expire. She asked the Board to postpone action on the extensions for a year.

9.13 AR 5111.1 – District Residency
Eberhart moved, Treece seconded, and the Board voted 4-0-0 (Student Rep, yes) to adopt Administrative Rule 5111.1, which has been revised to reflect the changes of the documents that may be offered as proof of residency. This modification is necessary to implement the District’s residency verification process. Presented as information at the February 14 board meeting, this item was returned for action at this time.

Public comment  John Ferrante, resident, asked how the policy would apply to families who move into an area due to a job change and do not have permanent housing, if data that could be used for identify theft can be blacked out, and whether anyone understood what a burden on employees the implementation of this policy will be.

Procedural action:  It being five minutes to 11:00 p.m., when Board meetings are required to end unless extended by a vote of the Board, Eberhart moved, Allen seconded, and the Board voted 4-0-0 to extend meeting time to 11:15 p.m.

Treece moved, Eberhart seconded, and the Board voted 4-0-0 (Student Rep, yes) to approve Cambridge Elementary School’s school wide uniform dress code, which is intended to standardize apparel to support a productive school learning environment. Presented as information at the February 14 meeting, this item was returned for action at this time.

9.15 BP 5131 (e) and AR 5131 (e) – Possession of Cellular Phones and Other Personal Electronic Signaling Devices
Board policy and administrative rule are being revised to include possession and use of cellular phones and other personal electronic signaling devices. Presented as information only at this time, this item will be returned for action at a subsequent meeting.

Board comment  Mayo asked for the students and staff response to “no use during lunch period.” Student Services Director Larry Jaurequi said principals are in favor, students are not, and parents are somewhat split, though most favor use during lunch. Allen asked if staff is willing to enforce the policy. Jaurequi said some schools already have policies like this one in place for the site. Treece said the policy seems “prescriptive,” written in a negative tone to deal with the exception rather than today’s students’ normal use of cell phones. She believes the possibility of suspension and expulsion is rather harsh. (McHenry expressed that the need for a cell phone policy arose a little more than a year ago when the press wrote about a cheating scandal involving cell phones at one of the District’s schools. In addition, some campus turmoil has been stirred up due to students’ ability to use their cell phones to call for friends’ support. Young said secondary principals had many discussions about the policy and were of mixed opinions. They did agree that the policy needed to apply “across the board” and should call for “use and no use” to make monitoring easier. Their main concern was that parents and students would be able to contact each other when needed.) In response to Eberhart, Jaurequi said the policy does not ban use of cell phones at football games and other extracurricular activities. Eberhart said he would rather trust students to handle responsibility for cell phone use during breaks and lunch periods than ask school staff to take time from other duties to enforce the rule. Mayo said monitoring would be easier if cell phones were to be turned off all day rather than allowed to be on periodically during the day. She pointed out that the initial reason for the policy is valid.

9.16 BP 5131.63, AR 5131.63 and E 5131.63 – Anabolic Steroids
Board policy, administrative rule, and exhibit 5131.63 are being revised to comply with the new California Interscholastic Federation policy on the use and abuse of steroids by student athletes. Presented as information only at this time, this item will be returned for action at a subsequent meeting.
9.17 **Board Policy 6178.1 - Work Experience Education**
In order to reflect current law, the policy on Work Experience Education has been revised. Presented as information only at this time, this item will be returned for action at a subsequent meeting.

9.18 **District Plan Revision – Work Experience Education**
In order to reflect current law, the Work Experience Education plan has been revised. Presented as information only at this time, this item will be returned for action at a subsequent meeting.

10. **BOARD REPORTS** - None

11. **ADJOURNMENT** Mayo adjourned the meeting at 11:15 p.m.

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Gary McHenry, Secretary