

MINUTES
REGULAR MEETING OF THE BOARD OF EDUCATION
MT. DIABLO UNIFIED SCHOOL DISTRICT
Monday, February 27, 2012 (7:30 PM)

Board Members: Sherry Whitmarsh, Linda Mayo, Gary Eberhart, Lynne Dennler, and Cheryl Hansen

Administrative Staff: Superintendent Steven Lawrence, Assistant Superintendents Julie Braun Martin, Mildred Browne, Rose Lock, General Counsel Gregory Rolen, and Chief Financial Officer Bryan Richards

CALL TO ORDER

The Meeting of the Board of Education of the Mt. Diablo Unified School District was called to order by Sherry Whitmarsh at 6:00 p.m. in the Board room at the MDUSD Dent Center.

Public Comment

Mike Langley, President, MDEA.

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 6:03 p.m. in Room 6 at the Dent Center. In Closed Session the Board discussed negotiations, expulsions, existing litigation, and General Counsel's evaluation. In closed session the Board voted to readmit one student who met the conditions of rehabilitation.

RECONVENE OPEN SESSION AT 7:41 P.M.

President Whitmarsh led the Pledge of Allegiance to the Flag and reported action taken in Closed Session.

EXPULSION RECOMMENDATIONS

Expulsion Recommendation Student #15-12

Hansen moved, Eberhart seconded, and the Board voted 5-0-0 that Student #15-12 be expelled from all schools and programs of Mt. Diablo Unified School District and that Student #15-12 may apply for readmission after January 25, 2013. It is required that Student #15-12 participates in twenty (20) hours of individual counseling to address aggressive behavior, complete 30 hours of community service, attend COPS Program for Aggression, attend MDUSD's Anger Management Workshop, and show evidence of a successful school experience with at least 2.0 GPA and good attendance prior to applying for readmission.

Expulsion Recommendation Student #16-12

Mayo moved, Dennler seconded, and the Board voted 5-0-0 that Student #16-12 be expelled from all schools and programs of Mt. Diablo Unified School District and that Student #16-12 may apply for readmission after January 25, 2013. It is required that Student #16-12 participates in twenty (20) hours of individual/family counseling to address aggressive behavior, complete 30 hours of community service, attend COPS Program for Aggression, attend MDUSD'S Anger Management Workshop, and show evidence of a successful school experience with at least 2.0 GPA and good attendance prior to applying for readmission.

CONSENT AGENDA

Eberhart moved, Dennler seconded, and the Board voted 5-0-0 to approve the Consent Agenda as presented with the exception of Item #2 and #12 (pulled by Hansen), Item #8 (pulled by staff), and Item #11 (pulled by Eberhart), thereby approving the following:

9.2 (Item #3) Recommended Action for Certificated Personnel

Changes in status of the following certificated employees.

9.3 (Item #4) Request to increase and decrease Full Time Equivalent (FTE) for the 2011-2012 school year

9.4 (Item #5) Recommended Action for Classified Personnel-

Changes in status of classified employees.

9.5 (Item #6) Classified Personnel: Create a Part-time Site Technology Support Technician I Position at Wren Avenue

Wren Avenue is requesting the creation of a part-time 19 hour/week; 10 month/year Site Technology Support Technician I position.

9.6 (Item #7) Fiscal Transactions for the month of January 2012

Payments have been made to meet the District's obligations for salaries, benefits, supplies, contract services equipment, capital improvements and other outgo.

9.7 (Item #9) Request permission to submit a McKinney-Vento Education for Homeless Children and Youth grant to the California Department of Education

Staff requests authorization to submit a McKinney-Vento Education for Homeless Children and Youth grant to support homeless students and families in Mt. Diablo Unified School District. The McKinney-Vento Education for Homeless Children and Youth grant is designed to improve academic achievement for children and youth who are homeless. The grant provides funds for personnel to conduct case management and provide tutoring support. If funded, the grant will provide \$75,000 annually for a total of \$225,000 over three years.

9.8 (Item #10) Request permission to submit an application to the State Board of Education to serve as a Supplemental Education Service (SES) Provider

Staff requests permission to submit an application to the State Board of Education in order to provide Supplemental Educational Services for schools in program improvement. This certification enables parents the option to choose Mt. Diablo Unified School District as a Supplemental Educational Services provider rather than exclusively using outside providers. Supplemental Education Service Providers offer direct tutoring services to eligible students as required by No Child Left Behind. Supplemental Educational Services will be provided through the Mt. Diablo CARES After School Program. Mt. Diablo CARES has previously served as an approved Supplemental Education Service Provider since 2003.

9.9 (Item #13) Approval of Preliminary Services Agreement for the Development of Modular Chemistry Laboratory Buildings at Clayton Valley and Mt. Diablo High Schools

In December, 2011 the District issued a Request for Qualifications (RFQ) soliciting submissions from qualified firms interested in entering into a lease-leaseback agreement for the development of new modular chemistry buildings at Clayton Valley and Mt. Diablo High Schools. Staff is recommending that the District enter into a Preliminary Services Agreement with Meehleis Modular Building, Inc. for a not to exceed fee of \$32,900.00 for the provision of preliminary services relating to the construction of these specified modular chemistry buildings at Clayton Valley and Mt. Diablo High Schools. Said services include, but are not limited to management and coordination services, plan/specification constructability reviews, value engineering reviews and recommendations necessary to optimize project quality and delivery, project budget development assistance, project scheduling, construction planning and bidding tasks. As authorized by California Education Code section 17406, a lease-leaseback contract structure is one in which the District can select a builder in a different manner other than just a "lowest bidder." For this project, the RFQ evaluated other factors including past K-12 experience, design, etc., including price. Under a lease-leaseback, the District leases property under a "site lease" to a builder for \$1. That builder constructs the facility and then leases the facility back to the District under a "facilities lease." The District makes "tenant improvement payments" during construction and "lease payments" after construction. Title to the new facility vests in the District as lease payments are made. The District has the option to make an early, balloon payment to the builder to buy out the facilities lease. In addition, the District selects/approves all plans and specifications and uses its own Architect of Record to submit the project to the Division of the State Architect for approval. Only after DSA approval can the District enter into the 2 leases. Since DSA approval is still a few months away, the work the District would like Meehleis to begin now can be done under this preliminary services agreement.

9.10 (Item #14) Award of Inspector of Record (Project Inspector) Contract

The services of a State Certified Inspector of Record (Project Inspector) are required to oversee, inspect and to verify that the installation of interim housing needed in support of the planned 2010 Measure C Heating, Ventilating and Air Conditioning Program at Loma Vista Adult Center is conducted in full compliance with all applicable codes and regulations. Staff is recommending that a contract be awarded to Alisha Jensen for the provision of these services for a not to exceed fee of \$2,250.00.

9.11 (Item #15) Approval of Resolution - Arts Education Month

The California Department of Education has designated March as Arts Education Month. The resolution recognizes the importance of celebrating the arts with meaningful student activities and programs

9.12 (Item #16) Approval of Resolution - Women's History Month

The California Department of Education has designated March as Women's History Month. The resolution recognizes the many contributions made by women in the information of America's history.

9.13 (Item #17) Resolution - Week of the School Administrator - March 4 - 10, 2012

9.14 (Item #18) Resolution 11/12-38 of the Board of Education of the Mt. Diablo Unified School District Approving a Preliminary Official Statement and Related Documents

On September 27, 2011, the Board of Education approved a Resolution authorizing the issuance of not to exceed \$100,000,000 of general obligation refunding bonds which would refinance the District's outstanding General Obligation Bonds (Election of 2002, Series 2004) (the "Prior Bonds"). The purpose of the refinancing was to take advantage of low interest rates and lower the debt service payments on the Prior Bonds. However, interest rates were only low enough to lower the interest rate on a portion of the Prior Bonds. Recently, interest rates have dropped further and an additional portion of the Prior Bonds may be refinanced. Because the September 27, 2011 Resolution authorized up to \$100,000,000 in bonds in one or more series and only \$43,700,000 in bonds were issued, the District may issue additional refunding bonds under that Resolution. However, while the issuance of the bonds has already been approved, now the Board is being asked to approve the legal documents related to the issuance of the bonds. Those documents include the Preliminary Official Statement, the Escrow Agreement and the Bond Purchase Agreement in connection with the issuance of the Refunding Bonds.

CONSENT ITEMS PULLED FOR DISCUSSION

10.1 (Item #2) Minutes of the meeting of February 6, 2012

Eberhart moved, Dennler seconded, and the Board voted 4-0-1 (Hansen – no) to approve the minutes as presented.

10.2 (Item #8) Award of Inspector of Record (Project Inspector) Contract

No action taken.

10.3 (Item #11) Increase the Contract/Purchase Order amount with Beyond the Words, Inc. for the Services of Educational Interpreters for the Deaf for School Year 2011-12

On December 13, 2011, the Board approved a contract increase with Independent Contractor Beyond the Words for \$100,000 to provide the District with staffing of Educational Interpreters for the Deaf. This was due to the difficulty in finding and hiring qualified interpreters. The district currently has vacancies of 4.05 FTE at this position. To meet the required needs of students' Individualized Education Plans, the district has had to use staff contracted through this agency. This year district staff has missed more than the usual amount of time due to illness. Therefore, contract expenses have increased greatly. It is necessary to increase the contract amount by \$95,000 for the remainder of the year.

Eberhart moved, Hansen seconded, and the Board voted 5-0-0 to table the item until the next Board meeting.

10.4 (Item #12) LEA Plan Addendum Update

On June 28, 2011 the MDUSD board approved an LEA Addendum as an outcome to the requirement to submit an update of the Local Education Agency Plan (LEA Plan) titled LEA Plan Addendum as required under the Sub-grant Conditions and Assurances for the School Improvement Grants (S.I.G.). In October 2011, MDUSD received notice that our LEA was identified as Title I Program Improvement, Year 1. One requirement of this identification is that the LEA write an addendum to their LEA Plan and submit it to the California Department of Education (CDE) by January 23, 2012. The June 28, 2011 LEA Plan Addendum was submitted to CDE on January 23, 2012. On November 1, 2011, MDUSD received permission to resubmit the LEA Plan Addendum approved by the MDUSD School Board on June 28, 2012. CDE staff specifically cited the plan as "very thorough and very well done". CDE staff saw "no need to redo the work that had been done recently and well". MDUSD was asked to update the demographic data and the data statements in the needs assessment. This update is the document that is being presented to the Board at this time. The LEA Addendum is considered by the California Department of Education a

fluid document which can be revised in response to student achievement data, district allocation fluctuations, staffing changes, and/or Board directives.

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve the LEA Plan Addendum.

RECOGNITIONS

The Board recognized Zehra Otus, College Park High School teacher, who recently received the German Embassy Teacher of Excellence Award.

STUDENT REPRESENTATIVES

Student Representatives from Clayton Valley, College Park, Concord, Diablo Day, Northgate, and Ygnacio Valley high schools reported on activities at their schools.

PUBLIC COMMENT

Derek Wang, Jim Rowe, Sandra Davis, Cherie Adcock, Raul Reyes, Kellie Morales, Sharon Marks, Ruben Quinoñes, David Rosenbaum, Pam Dean & Bray McCollum, Keith Coppage, Heather Fontanilla, Bryan Shaw, Jules Cook, Karen Arcangelo, Barbara Breashears, and Shey Reed spoke in support of the administration at Mt. Diablo High School.

COMMUNICATIONS

None

SUPERINTENDENT'S REPORT

California State Senator Mark DeSaulnier shared information on the State budget.

BUSINESS/ACTION ITEMS

16.1 Resolution No. 11/12-34 to decrease the number of certificated employees due to a reduction or elimination of particular kinds of services

Resolution No. 11/12 - 34 directs the Superintendent or his/her designee to send appropriate notices to all employees whose positions may be lost by virtue of the reduction or elimination of the particular kinds of services listed in the Resolution. Per Education Codes 44949, 44951 and 44955, a district prepares for the possibility it may find it necessary to decrease the number of full time employees due to changes in enrollment or a lack of funds. At this time, the district is anticipating the closure of one high school. There is a pending waiver under consideration with the state for the approval of QEIA funding. Teachers must be notified by March 15th of a possible layoff. To meet that deadline, this resolution is submitted for approval to the Board to indicate the areas of possible reduction of service

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve Resolution No. 11/12 - 34 to decrease the number of certificated employees due to a reduction or elimination of particular kinds of service.

16.2 Award of Design Services Contract for the Adaptive Design Necessary for the Construction/Installation of New 'SMART' Classrooms

One of the more prominent facets of the 2010 Measure C Facilities Improvement Plan is the specified replacement of the District's remaining thirty-five(35) obsolete "portable" classrooms (not identified in, or replaced as part of the 2002 Measure C Program) with new high efficiency classrooms. These remaining portables are located at ten (10) different sites throughout the district. Construction on the first phase of this 2010 Measure C portable replacement program is scheduled to begin in June 2014. Staff has negotiated a 'not to exceed', fully inclusive contract for the provision of comprehensive engineering, architectural and administrative(DSA) services necessary for the site adaptive design of all identified portable replacements with PHd Architects for a fixed fee of \$444,300.00. It is intended that all designs will utilize the District's DSA approved high efficiency 'SMART' classroom PC (pre-checked) design which was authorized by the Board on February 23, 2010.

Eberhart moved, Mayo seconded, and the Board voted 5-0-0 to approve design services contract with PHd Architects as presented.

16.3 Award of Design Services Contract for the Adaptive Design Necessary for the Construction/Installation of New 'SMART' General Science Classrooms at Middle Schools

Included in the 2010 Measure C Facilities Improvement Plan is the scheduled construction of new, high efficiency general science classrooms at the District's nine(9) middle schools. Staff has negotiated a 'not to exceed', fully inclusive contract for the provision of comprehensive engineering, architectural and administrative (DSA) services necessary for the site adaptive design, approval and construction of all proposed general science facilities with PHD Architects for a fixed fee of \$549,405.00. It is intended that all designs will utilize the District's DSA approved PC (Pre-checked) general science classroom design which was authorized by the Board on April 12, 2011.

Eberhart moved, Mayo seconded, and the Board voted 5-0-0 to approve design services contract with PHD Architects as presented.

16.4 Approve Increase to Contract/PO with Independent Service Contractor, Phoenix Education Specialists

Mt. Diablo Unified School District utilizes Independent Service Contractors through the Individualized Education Placement (IEP) process. Phoenix Education Specialists provides intervention in core academic areas to students in the Special Education Program. Services are provided to students that are in jeopardy of going into a more restrictive program, through referral by the Special Education Management Team, or as compensatory education through the Alternative Dispute Resolution process. Phoenix Education Specialists was originally approved by the Board on August 23, 2011.

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve increase to contract as presented.

16.5 Approve Non-Public School Contract/Purchase Order Adjustments for 2011/12 School Year

Non-Public School (NPS) contracts are reviewed and updated several times during the fiscal year. Changes to contracts are required due to changes in residency, students entering and leaving placements, increase/decrease in intensity of services, and corrective actions/settlement agreements to assure a free and appropriate public education. The details for these changes as well as rationale for the changes can be found in the attached documentation.

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve contract adjustments as presented.

16.6 Agreement between Mt. Diablo Unified School District (MDUSD) and Contra Costa County Office of Education (CCCOE)

The MOU was Board approved on January 12, 2010. The MOU between the Contra Costa Special Education Local Plan Area and Mt. Diablo Unified School to calculate the actual exchange of revenue for placements. The MOU includes payment for additional assistants when required by the IEP.

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve contract as presented.

16.7 Award of Design Services Contract for the Remodel/Renovation of the Home Economics Lab at Mt. Diablo High School

Programmatic needs associated with the International Hospitality and Tourism Academy at Mt. Diablo High School have resulted in a need to upgrade/renovate the existing Home Economics Lab. Staff has negotiated a 'not to exceed', fully inclusive contract for the provision of comprehensive engineering, architectural and administrative (DSA) services necessary to satisfactorily deliver these renovations with PHD Architects for \$38,000.00

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve design services contract with PHD as presented.

16.8 Award of Design Services Contract for Interim Housing Installation at Mt. Diablo High School

The proposed renovation of the existing Home Economics Lab for the International Hospitality and Tourism Academy and the construction of a new classroom to support the Medical/Bio-Technology Academy at Mt. Diablo High School are projected to run well into the fall semester of 2012. As such, there will exist a need to install two (2) interim housing units to accommodate the programs until construction is completed. Staff has negotiated a 'not to exceed', fully inclusive contract for \$25,850.00 for the provision of comprehensive design and administrative(DSA)services necessary to satisfactorily install these interim housing units. The scope of work stipulated in this contract includes, but is not limited to the siting of the units themselves as well as the design and

approval of necessary fire alarm, communication systems and utility connections as well as any necessary path of travel improvements.

Eberhart moved, Mayo seconded, and the Board voted 5-0-0 to approve design services contract with PHd as presented.

16.9 Approve contract with Resource Development Associates, Inc. (RDA) for evaluation services for the School Improvement Grant (SIG).

Staff requests approval to enter into a contract with Resource Development Associates, Inc. (RDA) for Pre-Implementation services for 2012-2013 school year for the School Improvement Grant (SIG - Cohort 2 - Meadow Homes Elementary & Oak Grove Middle. The School Improvement Grant requires that the District use an external entity to monitor the program implementation and effectiveness.

Dennler moved, Eberhart seconded, and the Board voted 5-0-0 to approve authorization of contract.

16.10 Contra Costa County Mental Health Memorandum of Understanding

This is an agreement entered into by the Contra Costa County Health Services Department, Mental Health Division and Mt. Diablo Unified School District, San Ramon Valley Unified School District, and West Contra Costa Unified School District, which are each single-district SELPAs. The purpose of this Agreement is to establish a set of working guidelines and procedures between Mental Health and the Local Education Areas (LEAs) in Contra Costa County to provide Mental Health services and Residential supervision to children with disabilities in compliance with Federal and State laws governing each agency. This agreement is based on distribution of AB 100 funds received by Contra Costa Health Services Department from the California Department of Education. Funds will be distributed to the Local Educational Agencies as needed for special education students. Services may be recommended or requested by an Individualized Education Program (IEP) team in connection with the identification, assessment, and/or placement of a student who is, or may be eligible for special education.

Mayo moved, Hansen seconded, and the Board voted 5-0-0 to approve the Memorandum of Understanding as presented.

16.11 Approve Adjustments to Contracts/PO in Residential Non-Public School Placements for 2011/12 School Year

Non-Public School (NPS) contracts are reviewed and updated several times during the fiscal year. Changes to contracts are required due to changes in residency, students entering and leaving placements, increase/decrease in intensity of services, and corrective actions/settlement agreements to assure a free and appropriate public education. The details for these changes as well as rationale for the changes can be found in the attached documentation.

Dennler moved, Hansen seconded, and the Board voted 5-0-0 to approve contract adjustments as presented.

16.12 Appointment to California School Board's Association (CSBA)

Based on the Average Daily Attendance (ADA) of the Mt. Diablo Unified School District, the board is entitled to two representatives to CSBA's Delegate Assembly. The delegates have two-year terms, with the positions expiring in alternate years. The position currently held by Gary Eberhart expires in 2012. CSBA has requested the name of the board representative who will serve the term April 1, 2012 through March 31, 2014.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to support Gary Eberhart in the appointment to the CSBA Delegate Assembly.

16.13 2012 California School Board's Association (CSBA) Delegate Assembly Election

There are three vacancies in Subregion 7-A for membership on the 2011 CSBA Delegate Assembly. The candidates are: Kathi McLaughlin (Martinez USD) Antonio Medrano (West Contra Costa USD) George H. Miller (Pittsburg USD) Jerrold "Jerry" Parsons (John Swett USD) Raymond Valverde (Liberty Union HSD)

Eberhart moved, Mayo seconded and the Board voted 4-1-0 (Hansen – no) to cast ballot for Kathy McLaughlin, Antonio Medrano, and Jerrold "Jerry" Parsons.

16.14 Draft MDUSD Board Action Progress Report

The adoption of this tool will allow the Board and community to monitor progress made on significant Board actions, decisions, and directives. All Board actions that exceed \$100,000 in expense as well as other significant actions where the Board takes action to place items on the progress report will be maintained on the report until such time as the item is completed. Once an item is completed, it will be contained in a separate electronic file dedicated to continuously archive Board actions which have been completed. That file shall be archived in perpetuity and shall be available to the Board and community via the District web site. Items which will typically be excluded from the report are actions to hire employees, actions to enter into food service contracts and actions to expend facility dollars. Hiring an employee as well as food purchase agreements are tracked very well in our budget and do not require progress tracking on this document. Most facility improvement decisions receive bond oversight committee review. The Board and public receive regular progress reports on facility expenditures and facility improvement progress. As is outlined above, the Board can always place any item on the progress report by Board action. At the first Board meeting of each month, the progress report will be included as an information item on the agenda. This will allow the Board and the public to review progress regularly and to ask questions and discuss progress at Board meetings. In addition, this progress report will be posted and available for public viewing on the district's web site. All items that have not been completed by the due date will be highlighted in yellow and staff shall provide an oral report on all highlighted items during Board discussion of the progress report. If Board Members have specific questions regarding any item contained in the progress report, Board Members shall forward those questions to the Superintendent prior to the Board meeting to ensure that District Staff is prepared to discuss specific questions at the Board meeting.

Motion

Dennler moved, Hansen seconded, and the Board voted 4-1-0 (Mayo – no) to approve the Board Action Progress Report as presented.

Amended Motion

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve the Board Action Progress Report be piloted through December 31, 2012.

16.15 Waive Board Policy 3290 due to Conversion Charter

Education Code sets forth that charter schools are entitled to equivalent materials and facilities. The Code also states donated items are the property of a school district. Accordingly, the Governing Board has the discretion and authority to distribute donated materials in an equitable manner. Staff recommends that the Board exercise its discretion under Board Policy 3290 and that items donated to Clayton Valley High School by individuals or groups including parent clubs, booster organizations, or the Associated Student Body remain at the site. Items such as the radio station license and tower will be addressed through the Proposition 39 negotiations process.

Dennler moved, Hansen seconded, and the Board voted 5-0-0 to exercise its discretion under Board Policy 3290 and waive the policy around donated items located at Clayton Valley High School and allow the Clayton Valley Charter High School to use those items.

16.16 Budget Presentation Update

Bryan Richards, Chief Financial Officer, presented an update on the budget.

BOARD MEMBER REPORTS

Board members reported on their recent activities.

ADJOURNMENT

The meeting adjourned at 10:39 p.m. in memory of retired district employee Dennie Cowell.

Steven Lawrence, Secretary