

**MINUTES
REGULAR MEETING OF THE BOARD OF EDUCATION
MT. DIABLO UNIFIED SCHOOL DISTRICT
Monday, October 8, 2012 (6:30 PM)**

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

Administrative Staff: Superintendent Steven Lawrence, Assistant Superintendents Julie Braun Martin, Rose Lock, and Interim Assistant Superintendent Kerri Mills, 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 Vice President Linda Mayo at 6:00 p.m. in the Board room at the MDUSD Dent Center.

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 6:00 p.m. in Room 6 at the Dent Center. In Closed Session the Board gave staff direction on negotiations, existing litigation – Roaldson v. Mt. Diablo Unified School District, and one potential case of anticipated litigation. In Closed Session the Board voted to readmit one student.

RECONVENE OPEN SESSION

Open Session reconvened at 6:40 p.m. President Whitmarsh led the pledge of allegiance and reported action taken in Closed Session. Ms. Whitmarsh introduced Dr. Kerri Mills, Interim Assistant Superintendent, Pupil Services and Special Education.

CONSENT AGENDA

Public Comment

John Parker spoke to Item #7 and asked if information contained in previous reports could be recycled, so that Measure C funds would not have to be used to pay for updated reports.

Mayo moved, Eberhart seconded, and the Board voted 5-0-0 to approve the Consent Agenda with the exception of Item #2 (pulled by Hansen), Item #7 (pulled by Eberhart) and Item #13 (pulled by Dennler), thereby approving the following:

8.2 (Item #3) Recommended Action for Certificated Personnel

8.3 (Item #4) Request to increase and decrease Full Time Equivalent (FTE) for the 2012-2013 school year

8.4 (Item #5) Recommended Action for Classified Personnel

8.5 (Item #6) REVISED Classified Personnel: Increase in Hours for an Assistant to the Hearing Impaired Position

Increase the hours (.250 FTE) for an existing Assistant to the Hearing Impaired position from 20 hours/week to 30 hours/week, School Day Only. The increase is due to the IEP from Walnut Creek School District. Incumbent #16431 will remain in the position with the increased hours.

8.6 (Item #8) Award of Design Services Contract: Interim Housing for Measure C Portable Replacement Program

The services of a professional architect are needed to provide site adaptive design services and secure DSA approval for the installation of the interim housing units needed during construction of the first phase (Phase I) of new, permanent classrooms which will be replacing existing portable classrooms at Ygnacio Valley Elementary, Mt. Diablo Elementary, El Dorado Middle and Valley View Middle Schools. Staff has negotiated a 'not to exceed' contract in the amount of \$29,000.00 for comprehensive design and administrative services necessary for the successful installation of these interim housing units.

8.7 (Item #9) Award of Design Services Contract: Stadium Improvements at Clayton Valley Charter High School

On September 10, 2012 the Board of Education approved a prioritized list of facility enhancement projects for Clayton Valley Charter High School. The construction of improvements to the site's athletic stadium complex were identified as high priority projects. Staff has collaborated with the site administration and identified those improvements which include renovation of the synthetic track system, replacement of the all-weather field surfacing, installation of safety netting, the construction of supplemental bleachers, concession, storage, restroom and weight room facilities as well as a ticket booth. Staff has negotiated a design services contract with Verde Design, Inc. for a 'not to exceed' value of \$233,200.00 for the provision of comprehensive design and administrative services necessary for the approval and successful completion of said stadium improvements

8.8 (Item #10) Contract Amendment: PHd Architects: Modification to Incorporate Additional Classrooms at Concord High School (Nueva Vista/Summit) and Pleasant Hill Middle School (Prospect/Horizon)

On June 25, 2012 the Board of Education awarded a design services contract to PHd Architects for \$137,190.00 to provide comprehensive architectural and engineering services related to the necessary site-adaptation and construction of District Pre-Checked Laboratory classrooms at Concord and College Park High Schools. On June 25, 2012 the Board approved project lists for facility improvement projects at the Alternative Education sites. Included in the approved project lists were new science classrooms for both Nueva Vista/Summit and Prospect/Horizon. Staff has negotiated a contract amendment in the amount of \$43,000.00 with PHd Architects for comprehensive design services necessary for the construction of a 1440 square foot SMART General Science Classroom (District Pre-checked) for both Nueva Vista/Summit and Prospect/Horizon. This proposed amendment will result in a revised contract value of \$180,190.00

8.9 (Item #11) Contract Amendment: LSA Associates, Inc.: Provision of Requisite Environmental Consulting Services Related to the Revised Stadium Improvement Project at Ygnacio Valley High School

On June 28, 2011 the Board of Education awarded a professional services contract to LSA Associates, Inc. for \$47,440.00 for the provision of comprehensive environmental consulting services related to a proposed stadium lighting project at Ygnacio Valley High School. This contract was subsequently amended on October 25, 2011 and to address additional site-requested project scope enhancements and again on June 25, 2012 to a revised value of \$64,264.00 in recognition of the additional response services required which were not anticipated in the original agreement. The site has requested that original project scope be expanded to include stadium lighting, a permanent public address system, a sound attenuation system (possibly including bleacher systems of reduced height), a concession/restroom building(s)/storage, a ticket booth, a stand-alone press box behind the existing home bleacher system, additional electrical/low voltage work and DSA-compliant exit lighting. Staff has negotiated a contract amendment with LSA Associates, Inc. for a fee of \$112,455.00 for the provision of all environmental consulting services necessary to prepare, submit and satisfactorily complete all necessary tasks required to complete the expanded stadium improvement project in full compliance with all pertinent codes, laws and regulations. The revised value of this contract would then be \$176,719.00

8.10 (Item #12) Amendment to the Bylaws of the 2002 and 2010 Measure C Citizens' Bond Oversight Committees

On July 10, 2012 the Governor signed AB 1199 into law. Prior to approval of this law, members of a citizens' oversight committee could serve a term of two (2) years without compensation and for no more than two (2) consecutive terms. AB 1199 modifies the term limits so that members of a citizens' oversight committee serve for a minimum of two (2) years without compensation and for no more than three (3) consecutive terms. Staff is recommending that the bylaws of both the 2002 and 2010 Measure C Citizens' Oversight Committees be amended to reflect this change.

8.11 (Item #14) Professional Services Agreement For Legal Services: Measure C Facilities Improvement Program

As the District's Measure C management team administers the various facets and programs of the Facility Improvement program it has a need for specialized legal counsel related to matters pertaining, but certainly not limited to, construction law, contract code, facilities development, real estate, labor compliance and environmental law. Staff is recommending that a Professional Services Agreement for a 'not to exceed value' of \$200,000.00 be

awarded to Orbach, Huff and Suarez LLP for the provision of said legal services. The term of the proposed agreement would be from July 1, 2012 through June 30, 2014.

8.12 (Item #15) Independent Services Contracts with John F. Kennedy University

If contract #1 is approved, John F. Kennedy University interns will provide counseling services at District schools at \$3,150 per day of services for the school year. Schools at which counseling services will be provided: El Dorado Middle School Oak Grove Middle School Pleasant Hill Middle School Riverview Middle School Sequoia Middle School Valley View Middle School College Park High School Diablo Day Community School Ygnacio Valley High School - Pro Bono Cambridge Elementary School - Site Funded Shore Acres Elementary School - Site Funded. If contract #2 is approved, students otherwise unable to afford counseling services, including students put forward for expulsion, will be able to participate in counseling services at the John F. Kennedy University Counseling Center at \$45 per hour. Total contract not to exceed \$5,000.

8.13 (Item #16) Request to Approve Independent Services Contract for Events to the "T", Inc.

Concord High School is requesting that the District approve an Independent Services Contract for Events to the "T", Inc., an event planning service, for their Junior/Senior Prom to be held on Saturday, June 1, 2013. Total amount of services: \$30,000

8.14 (Item #17) 2012-13 Contract for Sierra Pacific Tours

Sierra Pacific Tours will provide transportation for MDUSD students for fieldtrips and athletic events that MDUSD cannot provide. This will be on an as needed basis. The contract will be for \$60,000.00.

8.15 (Item #18) 2012-13 Contract for Michaels Transportation Services

Michaels Transportation Services will provide transportation for MDUSD students for fieldtrips and athletic events that MDUSD Transportation cannot provide. This is on an as needed basis. Contract amount is \$110,000.00.

8.16 (Item #19) Increase purchase order with Non-Public Agency Ed. Support Services

On June 25, 2012, the Board of Education approved a master contract with Ed Support Services for \$28,900 to cover Extended School Year costs. Additional funds of \$167,330 are being requested for the 2012-13 School Year. Ed Support Services provide intensive behavioral intervention services for MDUSD students. These are direct IEP related services that are provided according to the terms of a master contract and individual service agreements.

8.17 (Item #20) Certificate of Adopting Resolution 12-13-14 to comply with Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) and Worker, Retiree, and Employer Recovery Act of 2008 (WRERA)

Mid-America, the District's Third Party Administrator has presented a supplemental amendment for HEART and WRERA. Adoption of this amendment enables the District's 403(b) plan document to comply in form with various laws including the: 1) Heroes Earnings Assistance & Relief Tax Act of 2008 (HEART Act) (including HEART Act guidance contained in IRS Notice 2010-15 and 2) suspension of 2009 Required Minimum Distributions (RMDs) as set forth in the Worker, Retiree, & Employer Recovery Act of 2008 (WRERA).

8.18 (Item #21) Board Action Progress Report

8.19 (Item #22) Proclamation of October 23 - 31, 2012 as "Red Ribbon Week"

During Red Ribbon Week, schools and many community agencies throughout California will join together to highlight their commitment of a drug and tobacco free society. Through this proclamation, the MDUSD Board of Education urges all students, staff, parents, and members of our community to wear a red ribbon or Drug & Tobacco Free bracelet during Red Ribbon Week and to support efforts to make our schools and community drug and tobacco free.

CONSENT ITEMS PULLED FOR DISCUSSION

9.1 (Item #2) Minutes of the meeting of September 24, 2012

Amended Motion

Hansen moved, Mayo seconded, and the Board voted 5-0-0 that the minutes be corrected to read "Ms. Whitmarsh asked for a Point of Information from Ms. Hansen on the topic of audio recordings of Board meetings".

Original Motion

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

9.2 (Item #7) Award of Professional Services Contract for the Preparation of Updated Enrollment

The Bay Point Master Planning Committee will require accurate and current demographic, land use/development and resident projection data in their effort to draft recommendations related to facility use in the Northeast Area of the school district. As part of a previous master planning project, Jack Schreder and Associates has prepared a demographic analysis of the Northeast area. So as to address changing demographics, including age based demographic shifts, economic factors, migration in and out of the community by various populations, birth rates and other demographic and land/facility use factors staff is now recommending that they be awarded a 'not to exceed' professional services contract in the amount of \$21,895.00 for the preparation of a report of updated enrollment projections, demographic analysis and boundary study for the northeast area of MDUSD.

Eberhart moved, Mayo seconded, and the Board voted 4-1-0 (Hansen – no) to approve the professional services contract as presented.

9.3 (Item #13) Award of Bid #1618 to provide Structured Cabling, Adding Ethernet Drops in Classrooms with Fiber Optic Backbone at Secondary Schools

Bid No. #1618 was called to provide Structured Cabling, Adding Ethernet Drops in Classrooms with Fiber Optic Backbone at Secondary Schools. The lowest responsible, responsive bidder is DecoTech Systems, Inc., for the total amount of \$1,083,000.00. The scope of work includes, but is not limited to: Structured Cabling, Adding Ethernet Drops in Classrooms with Fiber Optic Backbone at College Park HS, Mt. Diablo HS, Oak Grove MS, Riverview MS, Northgate HS, Concord HS, Ygnacio Valley HS, Clayton Valley HS, Sequoia MS, El Dorado MS, Foothill MS, Loma Vista Adult Center, Diablo View MS, and Valley View MS. Engineer's estimate \$1,150,000.00

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

PUBLIC COMMENT

Jeff Mosely, director of the movie Chasing Rodriguez, gave background on producing the movie. Proceeds of the movie will be donated to the District.

COMMUNICATIONS

Annie Nolen, vice president of CSEA, said that thirty-two CSEA members have resigned. She would also like all sites to know the CSEA contract.

SUPERINTENDENT'S REPORT

Superintendent Lawrence thanked Mr. Mosely for the update on the family friendly film. He also thanked UMDAF for the 5K run last weekend. Lawrence explained that in lieu of the Parent Advisory Committee meetings, he is now holding four meetings per year, per feeder pattern, in the hope that it will engage more parent participation.

BUSINESS/ACTION ITEMS

13.1 Public Hearing regarding Sufficiency of Textbooks and Instructional Materials for 2012/2013 for Pupil Textbook and Instructional Materials Incentive Program and Williams Settlement Instructional Materials Funds

The local governing board is required to make an annual determination of the sufficiency of textbooks or instructional materials, consistent with the content standards adopted pursuant to Education Code Section 60605. All MDUSD schools have determined text needs. Site councils have participated in any plans to remedy shortages within two months, as required by law, unless the school is a Williams School requiring immediate remedy of shortage.

The public hearing was opened at 7:34 p.m. There were no speakers. The public hearing closed at 7:34 p.m.

Eberhart moved, Mayo seconded, and the Board voted 5-0-0 to adopt 2012/2013 Resolution of Sufficiency of Textbooks and Instructional Materials.

13.2 Resolution 12/13-08 Against Proposition 32 Special Exemptions Act

Proposition 32, the "Special Exemptions Act", is on the November 6, 2012 ballot in California as an initiated state statute. If approved, Proposition 32 will: Prohibit the government from deducting union dues from government employee paychecks that will be used for political purposes. Ban contributions to candidate-controlled committees by corporations and labor unions. Ban contractors who receive government contracts from donating to the officeholder who awarded the contract. The proposition will not constrain the spending of political action committees but will inhibit the political activity of those organizations representing working citizens.

Public Comment

Guy Moore, President, MDEA urged the Board to vote for the resolution against Proposition 32.

Eberhart moved, Dennler seconded, and the Board voted 5-0-0 to adopt resolution 12/13-08 as presented.

13.3 Board Resolution in Support of Proposition 30

Proposition 30 Initiative Text Proposition 30 Title, Summary and Fiscal Analysis Proposition 30 Resolution Attachments include the initiative text the each proposition prepared by the Secretary of State of California; the title, summary and fiscal analysis prepared by the Office of the Attorney General and the Legislative Analyst; and resolution.

Public Comment

Guy Moore, President, MDEA, thanked the Board for putting this item back on the agenda. He urged the Board to support Proposition 30.

Dennler moved, Eberhart seconded, and the Board voted 4-1-0 (Mayo – no) to adopt the resolution as presented.

13.4 Adoption of AP English Language Textbooks

A committee of high school AP English Language teachers and the English Language Arts Curriculum Coordinator from the SASS department participated in the district textbook review and evaluation process to recommend for adoption the following AP English Language texts and materials: The Language of Composition: Reading, Writing, Rhetoric (Bedford/St. Martin's) Second Edition 50 Essays: A Portable Anthology (Bedford/St. Martin's) Third Edition The committee reviewed the AP textbook recommendations, the AP Themes and Modes and the alignment to the Common Core State Standards to evaluate the resources to meet the AP Focus Standards. Back up documents are available in Student Achievement and School Support Department.

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

13.5 Adoption of AP English Literature Textbooks

A committee of high school AP English Literature teachers and the English Language Arts Curriculum Coordinator from the SASS department participated in the district textbook review and evaluation process to recommend for adoption the following AP English Literature texts and materials: Literature and Composition: Reading, Writing and Thinking (Bedford/St. Martin's) Bedford Introduction to Literature: Reading, Thinking and Writing (Bedford/St. Martin's) The committee reviewed the AP textbook recommendations, the AP Themes and Modes and the alignment to the Common Core State Standards to evaluate the resources to meet the AP Focus Standards. Back up documents are available in Student Achievement and School Support Department.

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

13.6 Strategic Plan Process - Final Steps

In order to bring the Strategic Plan process to closure in a coherent, organized, and defined manner, the Board will implement the following steps: 1. Take the strategic plan draft to the stakeholders through School Site Councils. SSCs already have built-in representation from all stakeholder groups and have a decision making role that should be honored. 2. At their next meeting in October or November, each Site Council will discuss and review the draft plan and give this feedback: a. Their rank order of the goals for each of the five strategic initiatives. b. Suggestions they have for any revisions to the phrasing of these goals. 3. The principal will return these results to Rose Locke's office by November 16. 4. The Site Council rank-ordered results will be tallied and their suggestions collated. 5. The

Board will then hold a Study Session during the last three weeks of November to review and discuss all the input and finalize the Strategic Plan. 6. The final Strategic Plan will be brought to the December Board meeting for approval and adoption. 7. The superintendent will then immediately begin to develop action plans for the implementation and accomplishment of these adopted goals, submit a preliminary plan by March 1, 2013, and make this available to the public. 8. The two Public Input and Information meetings that the Board approved in February 2012 for Strategic Planning have not yet been scheduled will be held during March 2013 for the superintendent to present and discuss the district action plans and to seek community input. These meetings will be widely advertised to the public. 9. The superintendent will then present an end-of-the-year, summative progress report on the district's action plans.

Hansen moved to approve then read the steps of the plan. Motion died for lack of a second.

13.7 Adoption of Strategic Plan

Eberhart moved to approve the adoption of the Strategic Plan as presented. Dennler seconded.

Mayo moved to amend the motion on the floor by defining the goals in each of the strategic plan to the top two vote getters in each category. Eberhart seconded for discussion. Ms. Mayo said that the rationale for her amendment was to reduce the number of items so that the Superintendent can develop a plan that can be implemented in the short time frame, June 2013. Ms. Hansen shared her thoughts on the process. Ms. Mayo asked for a Point of Order, saying she believed that if Ms. Hansen was going to speak on the process used, it should wait until the main motion was discussed. General Counsel Rolan stated that it is appropriate for the Board President to rule on the Board Member's Point of Order. Ms. Whitmarsh gave the floor to Ms. Hansen. Ms. Hansen provided commentary on the strategic plan and said that she would like the Board to develop a community process before approving the plan. Mr. Eberhart Called the Question on the amendment. Ms. Mayo seconded the motion. Ms. Hansen rose to a Point of Order that a speaker cannot be interrupted in the midst of commentary. President Whitmarsh called a recess at 8:06 p.m. to confer with Counsel on the correct procedures. The Board reconvened at 8:12 p.m. Rolan reported out that the motion to Call the Question was not in order at the particular time. Ms. Hansen concluded her comments.

Hansen moved to postpone further action until the new Board is seated in December and implement a more comprehensive community input process with advisory teams. Motion died for lack of a second.

Upon President Whitmarsh moving back to the amended motion, Ms. Mayo withdrew her amended motion.

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

13.8 Amendment to BP 2140(a) Evaluation of the Superintendent

CSBA's publication entitled "Maximizing School Board Governance" Superintendent Evaluation" provides the following exemplary governance standard: "Meeting in open session, the board, working with the superintendent, who will be working with staff, should: • Using the previous year's priorities and goals as a baseline, agree on updated priority areas and set goals for the following year that the governance team believes will reasonably move the district toward its long-range vision. • Agree on success indicators for each new goal or revised indicators for ongoing goals, and on progress reports the board would like to receive. • Discuss the governance team's level of satisfaction with the evaluation instruments and methods we used this year. Decide whether to modify our evaluation system for next year based on the new goals we have set." Mt. Diablo USD's Board Policy 2140(a) currently omits this important practice that other districts have adopted. The intent of this proposed amendment is to increase the public's awareness of the superintendent's goals, ensure that these goals are aligned to district goals, and increase Board accountability. After each evaluation has been completed, the Board shall meet in open session to give the Board and Superintendent an opportunity to jointly identify performance goals for the next year. (cf. 2111 – Superintendent Governance Standards) (cf. 9005 – Governance Standards) (cf. 9400 – Board Self-Evaluation Legal Reference: Government Code 54957 – Closed session, personnel matters Management Resources CSBA Publication Maximizing School Board Governance: Superintendent Evaluation, 2004 Web sites: CSBA: www.csba.org ACSA: www.acsa.org

Hansen moved, Eberhart seconded, and the Board voted 1-4-0 (Eberhart, Mayo, Dennler, and Whitmarsh – no). Motion failed.

BOARD MEMBER REPORTS

Board members shared highlights from their recent school site visits and community activities.

The meeting adjourned at 9:13 p.m. in memory of Marilyn Watson.