

MINUTES  
REGULAR MEETING OF THE BOARD OF EDUCATION  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
Monday, January 28, 2013 (7:30 PM)

Board Members: Cheryl Hansen, Barbara Oaks, Linda Mayo, Lynne Dennler, and Brian Lawrence

Administrative Staff: Superintendent Steven Lawrence, Assistant Superintendent Julie Braun Martin, Interim Assistant Superintendent Kerri Mills, and General Counsel Gregory Rolan

**CALL TO ORDER**

The meeting of the Board of Education of the Mt. Diablo Unified School District was called to order by President Hansen 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 6:01 p.m. in Room 6 at the Dent Center.

**REPORT OF SECOND CLOSED SESSION - JANUARY 18, 2013**

Ms. Hansen reported that in the Closed Session the Board discussed the Superintendent's performance evaluation. The Board looked at targets and set priorities.

**REPORT OF CLOSED SESSION – JANUARY 25, 2013**

Ms. Hansen reported that the Board discussed negotiations and expulsion. The Board voted to readmit three students and provided direction to staff regarding three certificated employees #12073, 14628, and 23563. The Board discussed two cases of anticipated litigation.

**RECONVENE OPEN SESSION**

Open Session reconvened at 7:41 p.m. President Hansen led the Pledge of Allegiance and reported action taken in Closed Session.

**EXPULSION RECOMMENDATIONS**

**8.1 Expulsion Recommendation - Student #07-13**

Mayo moved, Dennler seconded, and the Board voted 5-0-0 that Student #07-13 be expelled from all schools of Mt. Diablo Unified School District and that Student #07-13 may apply for readmission after January 28, 2014. It is required that Student #07-13 participates in a minimum of 20 hours of counseling designed to address drug issues; complete 30 hours of community service; complete California Offender Program Services (COPS) class for Alcohol/Drug Offender; complete MDUSD's Alcohol/Drug Workshop; show evidence of drug free test and a successful school experience to include 95% attendance, no suspendible behavior infraction, a minimum of C average, and earn 65 credits to graduate.

**CONSENT AGENDA**

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve the Consent Agenda as presented with the exception of items 5, 10, 11, 12, 13, 15, 16, and 17.

**Public Comment**

**Item #10 Contract for Architectural services for Ball Wall replacement at Walnut Acres Elementary school**

John Parker said he feels the District spends too much money for professional services.

**Item #12 Award Inspector of Record (Project Inspector) Contract**

John Parker said he would like the District to do its due diligence to get qualified people to give competitive prices.

**Item #13 Contract for Architectural/Engineering Services for New Modular Gym and Multi-Use Room Modifications at Concord High School**

John Parker shared his concern that the District's insurance of \$1 million per occurrence would not go far to fix things such as science buildings.

**9.2 (Item #2) Minutes of the meeting of December 21, 2012**

**9.3 (Item #3) Recommended Action for Certificated Personnel**

**9.4 (Item #4) Request to decrease Full Time Equivalent (FTE) for the 2012-2013 school year**

**9.5 (Item #6) Recommended Action for Classified Personnel**

**9.6 (Item #7) Classified Personnel: Request to Increase and Decrease Positions**

**9.7 (Item #8) Fiscal Transactions for the month of December 2012**

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

**9.8 (Item #9) Williams Quarterly Summary Report**

The Williams legislation is a package of state laws resulting from the settlement of class action lawsuit filed in San Francisco County Superior Court in 2000, Eliezer Williams et al, vs. State of California. The basis of the lawsuit was that agencies failed to provide public school students with equal access to instructional materials, safe and decent school facilities, and qualified teachers. The Contra Costa County Office of Education has requested quarterly reports on specific complaints designated in the Williams lawsuit settlement. Quarterly reports reflect complaints regarding textbooks and instructional materials, teacher vacancies or misassignments, facilities conditions and Valenzuela/CAHSEE support. This quarter's report includes the months of October through December 31, 2012.

**9.9 (Item #14) Approval of Interagency Agreement Between Mt. Diablo Unified School District (MDUSD) and Contra Costa Health Services, Mental Health Division**

Approve the Interagency Agreement between Contra Costa County Mental Health Services - Behavioral Health Services Division/Mental Health to establish a set of working guidelines and procedures between Mental Health through its Educationally Related Mental Health Services Program (ERMHS) and the Local Education Agency to provide educationally related mental health services to Med-Cal eligible children with disabilities in compliance with Federal and State laws governing each agency.

**CONSENT ITEMS PULLED FOR DISCUSSION**

**10.1 (Item #5) Student Teaching Agreement between Cal Teach, Berkeley Science and Math Initiative and Mt. Diablo Unified School District**

This agreement is to provide teaching experience through student teaching for students of the University of California Cal Teach, Berkeley Science and Math Initiative.

Julie Braun Martin, Assistant Superintendent of Personnel provided background on the student teaching agreement.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to adopt the student teaching agreement between Cal Teach, Berkeley Science and Math Initiative and Mt. Diablo Unified School District as presented.

**10.2 (Item #10) Contract for Architectural services for Ball Wall replacement at Walnut Acres Elementary School**

Due to severe deterioration of existing ball wall at Walnut Acres Elementary the wall needs to be replaced. Staff has negotiated a contract of \$5,994 with Charles Ham Associates to provide design services for the ball wall.

Jeff McDaniel, Director of Maintenance and Operations answered questions from the Board.

Dennler moved, Mayo seconded, and the Board voted 5-0-0 to approve the Contract for Architectural services for the Ball Wall replacement at Walnut Acres Elementary school.

**10.3 (Item #11) Increase purchase order with Independent Contractor Evelina Villa for Spanish language interpreting and document translations for the Special Education Dept. for School Year 2012-2013**

Evelina Villa provides interpreting services and document translations for Spanish speaking students and their families. The District currently has a contract with this vendor in the amount of \$24,500. Based on current projections, it is estimated that we will need an additional \$25,000 to cover services for the remainder of the school year. This contractor was one of the agencies approved by the Board to provide translation services. The contract has been updated to reflect the rate change.

Bryan Cassin provided background on the use of multiple vendors and the plan on moving forward.

Mayo moved, Dennler seconded, and the Board voted 4-1-0 (Lawrence – no) to increase the purchase order with Independent Contractor Evelina Villa for Spanish language interpreting and document translations for the Special Education Department for School Year 2012-2013.

**10.4 (Item #12) Award 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 the Board approved portable building replacement and middle school science buildings at various sites is conducted in compliance with all DSA approved drawings, specifications and applicable codes and regulations. Staff is recommending that a contract be awarded to Alisha Jensen for a 'not to exceed' fee of \$255,000 for the provision of said services.

Tim Cody, Measure C, gave background on the award of the inspector of record contract.

Dennler moved, Mayo seconded and the Board voted 5-0-0 to approve the award of inspector of record contract as presented.

**10.5 (Item #13) Contract for Architectural/Engineering Services for New Modular Gym and Multi-Use Room Modifications at Concord High School**

On June 4, 2012 the Board of Education approved the Measure C facility enhancement project list for Concord High School. As part of their greater list the site requested the construction of a multi-purpose type facility to accommodate various programs. The District requires architectural and engineering services for the design, construction and certification of this proposed facility. Staff has issued a Request For Qualifications (RFQ) for engineering/architectural services for this project and has negotiated a 'not to exceed' contract with Charles Ham Associates for a 'not to exceed' fee of \$142,837.00 for the provision of comprehensive design, engineering, construction administration and certification services necessary for construction of the new facility and associated modifications to the multi-use facility.

Tim Cody, Measure C answered questions from the Board regarding the adequacy of insurance coverage.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve the Contract for Architectural/Engineering Services for New Modular Gym and Multi-Use Room Modifications at Concord High School.

**10.6 (Item #15) Approve Adjustments to Non-Public School Contracts/Purchase Orders for Residential/Mental Health for 2012/13 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.

**Amended Motion**

Oaks moved, Hansen seconded, and the Board voted 5-0-0 to approve Adjustments to Non-Public School Contracts/Purchase Orders for Residential/Mental Health for 2012/13 School Year as presented with date correction. Board approval is subject to receipt of an amended certification to reflect June 30, 2013.

**10.7 (Item #16) Resolution #12/13-28 African American History Month**

Dennler moved, Lawrence seconded, and the Board voted 5-0-0 to approve resolution #12/13-28 African American History Month.

### **10.8 (Item #17) Committee Assignments**

At the January 14, 2013 Board Meeting, the Board reviewed the proposed Committee assignments and Trustee Linda Mayo made a motion for revisions to the Committee categories (motion passed 5-0).

#### **Public Comment**

Dr. Mary Bacon, Equity Advisory Team, shared that the State dictates what the categories are for disproportionality committees.

#### **Motion**

Hansen moved, Oaks seconded, and the Board voted 3-2-0 (Mayo and Dennler – no) to eliminate the category called Management Committees and place those three committees under Board Advisory/Standing Committees to ensure we comply with bylaws and the public has access to these meetings.

### **PUBLIC COMMENT**

Dorothy Weisenberger, parent, said that the previous Board's approval of employee contracts should be upheld. She also shared that she feels that conversations will not continue to be frank if the press is allowed to attend committee meetings, such as the Equity Advisory Team.

Joe Partansky, asked that wording be changed on the agenda to allow community members to pull items from the Consent Agenda. He also provided handouts to the Board from the United States Department of Education Civil Rights Division clarifying schools' obligation to allow equal opportunity to students with disabilities to participate in extracurricular activities.

### **COMMUNICATIONS**

Deborah Cooksey, Associate General Counsel, corrected her answer from the last special board meeting and confirmed that the board president is parliamentarian and rules on points of order.

Ernie DeTrinidad, District English Learners Advisory Committee (DELAC), shared that the committee fully supports the master plan which will be presented at the February 25 Board meeting.

### **SUPERINTENDENT'S REPORT**

#### **13.1 Update on School Crossing Guards Issue**

##### **Public Comment**

Kristi Buchholz, parent, thanked the board for its collaboration and support in keeping students safe.

Superintendent Lawrence shared that the District and City of Concord will run a pilot crossing guard program at Ayers Elementary School.

#### **13.2 Tomorrow's Chef's Culinary Competition**

Food and Nutrition Services shared a video of the 4<sup>th</sup> and 5<sup>th</sup> graders who participated in the Tomorrow's Chef's Culinary competition held at Concord High School.

### **BUSINESS/ACTION ITEMS**

#### **14.1 Walnut Creek Sister Cities International Program**

Walnut Creek Sister Cities International Program involves people and organize groups at all levels of our society in personal diplomacy. It provides a vehicle for planned and continuous contact between school communities to be actively involved in the rewarding field of international relations at the local level. The goal of the Student Exchange Program is to make a significant contribution to global peace through the exchanges of people, ideas, and cultures. Through the Student Exchange Program, Foothill Middle School will participate in an exchange of students and teachers with Siofok, Hungary. As an integral and initial part of this program, Margaret Elliott, a teacher at Foothill MS, will be traveling to Siofok, Hungary, February, 10 - 16, 2013. Board approval is requested for Ms. Elliott to participate in the program.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve Margaret Elliott's participation in the Walnut Creek Sister Cities exchange program to travel to Siofok Hungary.

#### **14.2 2011-2012 Audit Report**

The 2011-2012 Audit Report will be presented to the board members by Christy White Associates. The audit was submitted to the County Office of Education and the State Controller's Office in accordance to state guidelines. There were no financial adjustments that needed to be made. When findings were identified the District created a response which is in the attached report. The Audit Report is before the Board for acceptance.

Christy White gave a presentation on the Audit findings.

Dennler moved, Mayo seconded, and the Board voted 5-0-0 to approve the 2011-12 Audit Report.

#### **14.3 Resolution #12/13-29 of the Board of Education of the Mt. Diablo Unified School District Authorizing the**

Issuance and Sale of its General Obligation Refunding Bonds, 2002 Election, 2013 Series C in an Aggregate Principal Amount not to exceed \$60,000,000. The bonds would refinance a portion of the District's currently outstanding General Obligation Bonds, Election of 2002, Series 2006. The refinancing will result in a lower overall interest cost which will lower the tax rate necessary to pay the 2006 Bonds. The taxpayers in the District will receive a lower tax bill because of the lower tax rate.

Jon Isom, Isom Advisors shared a presentation that summarized the bond refunding.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve Resolution #12/13-29 of the Board of Education of the Mt. Diablo Unified School District Authorizing the Issuance and Sale of its General Obligation Refunding Bonds, 2002 Election, 2013 Series C in an Aggregate Principal Amount not to exceed \$60,000,000.

#### **14.4 Budget Development Calendar 2013-2014**

Education Code 42127 requires the Board of Education to adopt a budget for the 2013-2014 school year and submit it to the County Superintendent of Schools by July 1, 2013. In order to ensure that the district meets this requirement, a calendar of the major budget development activities has been prepared.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to adopt the budget development calendar for 2013-14.

#### **14.5 Document Tracking Services Independent Contract**

Senate Bill 374 requires that as a condition of receiving funding for specified categorical programs, the school district will ensure that each school in the district operating those categorical programs consolidates any plans that are required by those programs into a single plan to be known as the Single Plan for Student Achievement (SPSA). MDUSD has used Document Tracking Service(DTS) since 2009 to assist with this process by providing an application to create, edit, update, print and track, and archive sites' Single Plans for Student Achievement. Additionally, DTS converts the plans to PDF and translates plans for all Title I sites and other sites with 15% or more of the population that speak a language other than English as required by Ed Code and NCLB. The initial contract addressed only the services related to untranslated SPSAs. We are seeking approval to increase the contract with DTS as translation costs will cause the contract with DTS to exceed \$25,000, thus requiring Board approval.

Mayo moved, Dennler seconded, and the Board vote 5-0-0 to approve the independent contract with Document Tracking Service which provides an application to create, edit, update, print and track, and archive sites.

#### **Meeting Extension**

At 10:47 p.m. Mayo moved, Dennler seconded, and the Board voted 5-0-0 to adjourn the meeting no later than 12:30 a.m.

#### **14.6 Mt. Diablo Unified School District Significant Disproportionality Coordinating Early Intervening Services (SD-CEIS) Plan**

The California Department of Education (CDE) has identified 50 local educational agencies (LEAs) as having significant disproportionality by race and ethnicity of students receiving special education services pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA). Since 2010, MDUSD has been identified as a Disproportionate district for the over-identification of African American students in Special Education and in July 2012, MDUSD was identified as Significantly Disproportionate in the over-identification of African Americans as

Emotionally Disturbed (ED). In the early stages of exploring this phenomenon MDUSD decided to pursue the issue of disproportionality in a broader context that would have a substantive impact on how the district does business in addressing the needs of all of its students and particularly those who were described as culturally different. This resulted in the creation of the Equity Advisory Team comprised of district and community stakeholders and the adoption of an equity agenda of which disproportionality was a part and Board policies were adopted for both equity and disproportionality in 2010 that ensured the district's commitment to solving this problem. The designation of Significantly Disproportionate requires MDUSD to broadly examine General Education systems to address the problem and to designate 15% of the existing Special Education budget allocation (approximately 1.2 million dollars) to address this area. In addition, MDUSD is required to develop a Significant Disproportionality – Coordinating Early Intervening Services (SD-CEIS) plan, implemented over the 2012-14 school years. The Plan creates the opportunity to provide culturally responsive academic and behavioral interventions and supports to general education students thus reducing the need, or being identified as needing, special education services, thus helping to reduce disproportionate representation in special education. The SD-CEIS Plan outlines; Services and Supports Provided to ALL Students (general education), Professional Development, Use of Special Education Funds, and Program Evaluation. MDUSD's proposed SD-CEIS plan is aligned to existing district initiatives and was based on a three pronged approach to guide its analysis to identify root causes in order to address equity and disproportionality; analysis of disaggregated data , Self-Assessment of needs using the CREATE Wisconsin Annotated Checklist for Addressing Racial Disproportionality in Special Education and (3) a file audit review of African American students identified as eligible for special education under the criteria of Emotionally disturbed (ED). The proposed SD-CEIS Plan has identified three focus areas; Response to Intervention, Positive Behavior Intervention Supports (PBIS) and Culturally Responsive School Environments to address disproportionality in MDUSD. The 15% IDEA funds will support professional development for certificated and classified staff, coaching for classroom teachers on PBIS strategies, support classes and counseling for students with severe behavior issues, and staff to support the plan implementation, monitoring and evaluation. Annually the CDE will review district data to determine disproportionality. MDUSD will have until June 2014 to implement the SD-CEIS Plan.

Stephanie Roberts, Director of Development; Susan Peterson, Elementary Support Director; Carolyn Patton, Special Education Administrator; Felicia Stuckey-Smith, Student Services Director; and Bill Morones, Secondary Support Director, shared details of the plan and strategy for implementation.

#### **14.7 Governor's Budget Update**

The Superintendent and Chief Financial Officer updated the Board on the significant elements of Governor Brown's proposed 2013-14 budget and its effect on the district's budget planning for next year.

#### **14.8 Review of 2012-2013 Single Plans for Student Achievement (SPSA) and the Academic Program Surveys (APS)**

Senate Bill 374 requires that as a condition of receiving funding for specified categorical programs, the school district will ensure that each school in the district operating those categorical programs consolidates any plans that are required by those programs into a single plan to be known as the Single Plan for Student Achievement. The following are requirements of Senate Bill 374 as it relates to the Single Plan for Student Achievement: • The plan is aligned with school goals for improving pupil achievement. • School goals are based upon an analysis of verifiable state data, including the Academic Performance Index developed pursuant to Section 52052, the California English Language Development Test, and may include any data voluntarily developed by districts to measure pupil achievement. • The plan addresses how funds provided to the school will be used to improve the academic performance of all pupils to the level of the performance goals as established by the API including Safe Harbor targets. • The plan identifies the schools' means of evaluating progress toward accomplishing the goals. • The plan addresses how state and federal law governing these programs will be implemented. • The plan is developed with the review, certification and advice of any applicable school advisory committees. • The plan is written, reviewed annually and updated by the school site council, including proposed expenditure of funds allocated to the school through the consolidated application. • The plan is reviewed and a request for approval is submitted to the governing board of the local education agency at a regularly scheduled meeting. To be compliant with state and federal regulations, all 2012-13 Single Plans for Student Achievement and the Academic Program Surveys are approved by School Site Councils. A request for approval of the plans and surveys will be submitted to the Board at the first meeting in January. Copies of all site plans and surveys are available online at MDUSD.org.

Lori O'Brien updated the Board on the single plans.

#### **14.9 AB 1575 Requirements**

Associate General Counsel Deborah Cooksey provided information on the requirements of AB 1575, the new law to avoid stigmatization of families who are unable to pay for educational programs and field trips. She also provided information about the status of the state-required update of Uniform Complaint Procedure to address AB 1575 violations.

#### **14.10 Video System to Broadcast Board Meetings**

##### Public Comment

Joe Partansky, asked that the equipment be ADA compliant.

Joe Estrada, Director of Technology and Information Services shared information and cost on video systems.

#### **14.11 Update on the Review Process for Administrators' Contracts**

On January 18, 2013, in Open Session discussion regarding the Consideration of Two Cure and Correct Demands, the Board decided that the five district administrators' contracts should be reviewed and corrected by outside counsel and then brought forward to the public for comment and for Board discussion and action. Board President Hansen has contacted Fagen, Friedman, and Fulfroast attorney Roy Combs about providing that service with the initial goal of placing those contracts on the February 25, 2013 Board meeting.

##### Public Comment

Ron Hansen said he does not believe that the current board is not legally or morally obligated to uphold the prior Board's approval of the contracts.

Ms. Hansen reported that she has contacted Roy Combs of Fagen Friedman and Fulfroast who will work on revision of the contracts with the intention of bringing them to the February 25 Board meeting.

#### **14.12 Board Retreat 2013: February 23, 2013**

The Board will discuss plans for a Board Retreat to be held on Saturday, February 23, 2013. The public is invited to attend this retreat. The purpose of this retreat will be the following: District Strategic Plan – Review and assess the Strategic Plan. Prioritize and develop a coherent plan for implementation. Setting Board Priorities/Goals for 2013 Brown Act Review and Discussion: What is the intent of and actual legal requirements of the Brown Act? What is the Public Records Act, and how is it best used? What are the legal guidelines and what is the Board's authority regarding the release or use of Closed Session/Confidential documents and information?

Ms. Hansen shared that Diane Marshall Freeman of Fagen Friedman and Fulfroast will provide the presentation at the retreat.

#### **14.13 Public Input and Information Meetings**

On February 6, 2012, the Board approved holding six Public Input and Informational Meetings. On February 22, 2012, concerns arose around ensuring that those meetings had specific topics which could be placed on a public agenda. Consequently, on March 12, 2012, the superintendent and general counsel proposed a format for those input meetings that focused only on the strategic plan; however, that proposal was not approved. On September 10, 2012 as Information Item 5.2 Public Prioritization on Strategic Plan, one of those meetings was identified as being utilized for that purpose. As of this date, at least four of these approved Public Input and Informational Meetings remain approved and the meeting format and dates still need to be determined. Since their approval in February, Trustee Hansen has proposed a variety of uses for these meetings including a State of the District report, gathering input regarding what we're doing well and what we can improve, attendance and boundary issues, Bay Point School Planning, Measure C projects and updates, among others. The goal now is for the current Board to brainstorm ideas to determine how best to define and conduct these four remaining Public Input and Informational meetings.

Ideas for public input and information meetings

- Budget
- Common Core
- Current ethics and initiatives/staff training
- Food and Nutrition Services
- Adult Ed Programs

**FUTURE AGENDA ITEMS**

- Videotaping of board meetings matrix – Joe Estrada
- Bond follow up – Jon Isom
- Update on crossing guard pilot program at Ayers Elementary

**BOARD MEMBER REPORTS**

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

The meeting adjourned at 12:23 a.m. in memory of Isabella Richardson, Henry Warkin, and Bianca Crosby.