

**MINUTES**  
**REGULAR MEETING OF THE BOARD OF EDUCATION**  
**MT. DIABLO UNIFIED SCHOOL DISTRICT**  
**Wednesday, August 28, 2013 (7:30 p.m.)**

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

Administrative Staff: Interim Superintendent John Bernard, Assistant Superintendent Julie Braun Martin, Assistant Superintendent Rose Lock, Assistant Superintendent Kerri Mills, Interim General Counsel Rich Pio Roda, 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 Cheryl Hansen at 6:00\* p.m. in the Board Room at the MDUSD Dent Center. President Hansen conducted Roll Call with all Board members present.

**ADJOURN TO CLOSED SESSION**

The Board adjourned to Closed Session at 6:02\* p.m.

**4.1 Negotiations - The Board may discuss negotiations or provide direction to its representatives regarding represented employees, pursuant to EERA (Govt. Code Section 3549.1) Agency negotiators: Julie Braun Martin and Deborah Cooksey. Agencies: MDEA, CSEA, Local One M&O, Local One CST, MDSPA, and Supervisory**

**4.2 Conference with Labor Negotiators pursuant to Govt. Code Section 54957.6 Designated District representatives: President Cheryl Hansen, Interim General Counsel Jayne Williams; Unrepresented employee: District Superintendent**

**4.3 Public Employee Appointment pursuant to Govt. Code Section 54957 (b) (1): District Superintendent**

**RECONVENE OPEN SESSION**

Open Session reconvened at 7:30\* p.m.

**PRELIMINARY BUSINESS**

President Hansen led the Pledge of Allegiance and conducted Roll Call with all Board members present.

**REPORT OUT ACTION TAKEN IN CLOSED SESSION**

In Closed Session, the Board discussed negotiations and gave direction to District negotiators. The Board received additional council, and had the opportunity for questions with labor negotiators over an unrepresented employee, the Superintendent. There was no reportable action or conversation necessary on the public employee appointment.

**CONSENT AGENDA**

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to approve the Consent Agenda as presented, thereby approving the following:

**9.1 (Item #1) Items listed under Consent Agenda are considered routine and will be approved/adopted by a single motion. There will be no separate discussion of these items; however, any item may be removed from the consent agenda upon the request of any member of the Board and acted upon separately.**

**9.2 (Item #2) Recommended Action for Certificated Personnel**

**9.3 (Item #3) Request to increase Full Time Equivalent (FTE) for the 2013-2014 school year**

**9.4 (Item #4) Approval of Variable Term Waiver Request**

All requests for a Variable Term Waiver must be presented for approval to the governing board of a public school district. Every waiver request submitted to the Commission on Teacher Credentialing must include verification that a notice of intent to employ the named applicant in the identified position has been made public.

#### **9.5 (Item #5) Recommended Action for Classified Personnel**

#### **9.6 (Item #6) Classified Personnel: Request to Increase and Decrease Positions**

#### **9.7 (Item #7) Approve Contract/Purchase Order with My Therapy Company for bilingual Speech and Language Services at Meadow Homes Elementary for the 2013-14 School Year**

Due to existing District vacancies for Speech-Language Pathologists (SLPs), the Special Education Department continues to use Independent Contractors to meet student Individualized Education Program requirements. My Therapy Company has provided speech/language services to MDUSD for the previous three school years with the same therapist. This contract is not to exceed \$100,800.

#### **9.8 (Item #8) Renewal of Memorandum of Understanding between Seneca Center for Children & Families and Mt. Diablo Unified School District (MDUSD)**

On August 20, 2012, the Board of Education voted to approve the continuation of a Memorandum of Understanding with Seneca Center to operate three NPS collaborative classrooms with intensive day treatment services for MDUSD students diagnosed with serious emotional disturbances. This program is designed to create a cost-effective service system that will maximize available District resources, while efficiently controlling costs. The program provides a highly supportive educational setting for parents to consider in lieu of placing their children in expensive residential treatment programs. The desks in these classrooms will be dedicated to serve MDUSD students exclusively, thereby providing options for meeting the more intense needs of students and their families. In addition, this program will offer community-based treatment services to families with students currently placed out of state enabling the students to return home and successfully integrate into the Seneca NPS program. The District is proposing to continue this agreement for the 2013/14 School Year.

#### **9.9 (Item #9) Approval of Master Contract between Mt. Diablo Unified School District (MDUSD) and Progressus Therapy Services to provide District-Wide Occupational/Physical Therapy Services for the 2013-2014 School Year and 2012-2013 Extended School Year Program**

Progressus Therapy LLC. has been the primary Non-Public Agency (NPA) provider of Occupational, Physical and Speech Therapy services to the MDUSD since the 2001-2002 school year. Licensed and Registered Occupational and Physical Therapists provide direct treatment, consultation, and evaluations to students according to their Individualized Education Plans (IEP). This contract is not to exceed \$1,263,099.

#### **9.10 (Item #10) Increase Purchase Order with Non Public Agency Ed Support Services**

Ed Support Services currently provides intensive behavioral services for the Mt. Diablo Unified School District, including eight behavioral aides (6.5hrs/day) with clinical supervision. These are direct IEP-driven services that are provided according to the terms of a Master Contract and Individual Service Agreement. Services are agreed upon through a settlement agreement or approved by the District's Special Education Management Team to maintain a student in the least restrictive environment. The District currently has an approved contract for \$24,500. Additional funds of \$260,500 are requested for the 2013-14 school year.

A cost comparison for a District SEA2 versus Ed Support Behavioral Aide is listed below for review.

- 1) 6.5 hour NPA Behavioral Aide (180 days) = \$44,460
- 2) The estimated cost for a vacant 0.75 FTE (6 hours/day) SEA2 is \$43,622
- 3) The estimated cost for a vacant 0.8125 FTE (6.5 hours/day) SEA2 is \$45,659
- 4) The estimated cost for a vacant 0.875 FTE (7 hours/day) SEA2 is \$47,916

#### **9.11 (Item #11) Contract Between Mt. Diablo Unified School District (MDUSD) and Maxim Healthcare Services, Non Public Agency (NPA) for the 2013-2014 School Year**

Non Public Agencies (NPA) are used by Special Education and Section 504 in the provision of specialized health care services. Services include diabetic monitoring, catheterizations, and other medically prescribed procedures. NPAs assist the District in assuring compliance with all applicable federal and state laws and regulations. The attached NPA contract provides the costs required for the 2013-2014 school year.

In an attempt to reduce costs, we are currently advertising nursing positions with the goal of hiring District staff.

**9.12 (Item #12) Alignment of Updated Editions/Copy Write Years of Currently Adopted Instructional Materials**

Due to statewide suspension of the traditional textbook adoption cycle, MDUSD has not adopted new textbooks for most courses in several years. For the past few years, some original adoptions of high school texts were no longer published in the same edition or copyright year. Where possible the originally adopted materials are still in use but some were supplemented or replaced with newer editions or copyright years of the same title and publisher. In the interest of full compliance regarding Board approval of textbook adoptions, it is recommended these new editions or copyright years receive Board approval.

**9.13 (Item #13) Approve Submission of the Cleveland Foundation Grant to Expand Technology Labs at El Dorado Middle School**

Staff requests authorization to submit a grant request to the Cleveland Foundation for El Dorado Middle School to upgrade the school's current computer labs and purchase new equipment for the labs. The grant will provide increased access for all students enrolled in Computer/Technology classes to this new technology and resources. The grant is designed to serve all students at El Dorado Middle School enrolled in the Computer/Technology classes in grades 6th-8th. The grant will provide \$20,000 to purchase the new computer equipment (PC, monitors and software) and furniture for the affected classrooms. If funded, the grant will provide \$20,000 for one year.

**9.14 (Item #14) Approval of contracts with Exploring New Horizons (ENH) for Pleasant Hill Elementary School and Hidden Valley Elementary School Outdoor Ed Programs**

Students at Hidden Valley Elementary School and Pleasant Hill Elementary School will participate in the Exploring New Horizons Outdoor Schools on the following dates. Hidden Valley - Oct. 7-11, 2013 and Pleasant Hill El - Sept. 17-20, 2013.

**9.15 (Item #15) Approve Contract with Marin County Office of Education (COE) Outdoor School of Walker Creek Ranch for Walnut Acres Elementary School**

Students at Walnut Acres Elementary School will participate in the Marin County Outdoor School Program at Walker Creek Ranch in Petaluma, CA October 21-25, 2013.

**CONSENT ITEMS PULLED FOR DISCUSSION**

There were no Consent Items Pulled for Discussion.

**RECOGNITIONS AND RESOLUTIONS**

There were no Recognitions and Resolutions.

**PUBLIC COMMENT**

Debbie Hickey, CST Local One, asked the Board to restore the hours that classified employees have been reduced. She noted that the reductions were not made as part of labor negotiations, but as a sacrifice made by the employees for the District.

Cindy Dean, teacher, shared with the Board that she purchased \$500 worth of literacy materials for her classroom using grant money which she had been awarded. These materials were thrown away in an error made by a District custodian, and she has been unable to get a response from District staff regarding the incident.

John Ferrante voiced his concern about air conditioners running in empty classrooms.

Greg Enholm, Contra Costa Community College Board Trustee, invited the Board members and all District staff and students to attend one of five Community College District forums; their 65<sup>th</sup> Anniversary Celebration on December 7<sup>th</sup>; and their monthly Board meetings in Martinez.

Debbie Heinzmann spoke in favor of the Ygnacio Valley High School Stadium Lighting Project.

Jim MacMillan represented a group of local neighbors regarding the Ygnacio Valley High School Stadium Lighting Project. He informed the Board that their group has retained legal counsel, and presented the members with a comment and objection letter prepared by that counsel.

Dan Reynolds, teacher, read an excerpt from Martin Luther King, Jr.'s "I Have a Dream" speech, and asked that we all promote justice and equality.

Willie Mims, East Bay NAACP representative, welcomed Dr. Meyer to the District.

### **DISTRICT ORGANIZATIONS**

Carmen Terrones-Torres, CST Local One President, asked the Board to restore the hours that classified employees have been reduced. She reminded the Board that the reductions were not made as part of labor negotiations.

Lisa Davis, CST Local One Business Agent, shared the disappointment and concerns that classified employees have over the reduction of hours that have been placed upon them due to budget cuts. She asked the Board to restore the hours that they have been reduced.

Christine Flinn, Mt. Diablo Council of PTAs President, invited the Board members to attend the first Council meeting of the school year, on September 23<sup>rd</sup>.

Anita Johnson, MDEA Vice President, asked the Board to work on improving the relationship between the teachers and the District.

### **SUPERINTENDENT'S REPORT**

Dr. Bernard observed that today was a successful first day of school. He visited 12 schools, and said that it was exciting to see how smoothly things went. He recognized that a number of groups helped make today a success, including custodians, office staff, maintenance, and contractors.

Dr. Bernard shared that the Diablo Valley Athletic Association has provided a year pass to each Board member, allowing them to participate in any event during the 2013/14 school year.

Dr. Bernard provided the Board members with an article written by MDUSD teacher Johanna Rauhala, which was published in the National Education Association's national publication.

Dr. Bernard announced that there will be a delay in the State providing the District with the final calculations for the new Local Control Funding Formula (LCFF).

Dr. Bernard stated that District API and AYP test scores are embargoed until 11:30 a.m. tomorrow morning.

Dr. Bernard welcomed incoming Superintendent Nellie Meyer.

### **BUSINESS/ACTION ITEMS**

#### **15.1 Approve Contract for District Superintendent**

Attached is a copy of the contract for District Superintendent, Dr. Nellie Meyer. This position will begin September 23, 2013 and will continue through June 30, 2016.

Public Comment: Michael Langley expressed his opinion that Dr. Meyer is a perfect choice to fill the role of Superintendent.

President Hansen shared an overview of the extensive selection process that the Board used to search for a new Superintendent.

Lawrence moved, Dennler seconded, and the Board voted 5-0-0 to approve the appointment and contract for Dr. Nellie Meyer to the position of District Superintendent.

Dr. Meyer thanked the Board, Dr. Bernard, and the community for their support. She recognized that today is the first day of school, and welcomed the kindergarten class of 2027. Dr. Meyer shared her excitement about this opportunity, and her commitment to growth, collaboration, and a new focus.

The Board members and Dr. Meyer participated in the contract signing ceremony.

Cindy Matteoni, Diablo Managers Association President, presented Dr. Meyer with a District shirt as a token of welcome.

#### **15.2 Appointment of Vice Principal, High School**

Interviews have been conducted, and Michael Burstein has been selected to fill the vacant position of Vice Principal, High School. The incumbent in this position has taken a position outside the District.

Mr. Lawrence abstained from voting due to not having been provided with the candidate's background information prior to voting. His choice to abstain is not a reflection of the candidate.

Mayo moved, Dennler seconded, and the Board voted 4-0-1 (Lawrence abstained) to appoint Michael Burstein to the position of Vice Principal, High School.

#### **15.3 Appointment of Vice Principal, High School**

Interviews have been conducted, and Nicole Reyherme has been selected to fill the vacant position of Vice Principal, High School. The incumbent in this position has accepted another position within the District.

Mr. Lawrence abstained from voting due to not having been provided with the candidate's background information prior to voting. His choice to abstain is not a reflection of the candidate.

Dennler moved, Mayo seconded, and the Board voted 4-0-1 (Lawrence abstained) to appoint Nicole Reyherme to the position of Vice Principal, High School.

#### **15.4 Appointment of Vice Principal, High School**

Interviews have been conducted, and Efa Huckaby has been selected to fill the vacant position of Vice Principal, High School. The incumbent in this position has accepted another position within the District.

Mr. Lawrence abstained from voting due to not having been provided with the candidate's background information prior to voting. His choice to abstain is not a reflection of the candidate.

Public Comment: Willie Mims voiced his concern over the lack of candidate background checks. Dr. Bernard clarified that Mr. Lawrence abstained because he is interested in receiving biographies in advance, not because of lack of background checks.

Oaks moved, Mayo seconded, and the Board voted 4-0-1 (Lawrence abstained) to appoint Efa Huckaby to the position of Vice Principal, High School.

#### **15.5 Legal Services Contract with Meyers Nave to Provide Specialized Litigation Services**

At the request of the Board, and separate from Meyers Nave role as Interim General Counsel, a new contract for specialized and complex litigation and related services is attached. The scope of work and estimated budget for this proposed litigation services agreement shall be subject to letter agreement.

Dr. Bernard clarified that this is the same firm that currently provides the District with Interim General Counsel, but that this is a separate contract for specialized litigation.

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

**15.6 Extension of Legal Services Contract with Latisha McCray, Contract Attorney**

Ms. McCray is a first-year attorney who volunteered her time to work at the District three days per week from January-May 2013. On May 6, 2013, the Board approved a legal services contract through July 31, 2013. Ms. McCray has proven herself indispensable. She is skilled in legal research, and has been trained over the last few months by the lawyers in the Office of General Counsel to conduct workplace investigations and employee training, public records act requests, assessing tort claims, providing legal advice to school sites, and address a myriad of other issues. A contract extension is requested through June 30, 2014, to continue Ms. McCray's services.

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

**15.7 Three Month Extension of Contract with Meyers Nave to Provide Interim General Counsel Services**

Attached is an amendment to the contract for legal services dated May 2, 2013, for Interim General Counsel services provided by Jayne Williams and Meyers Nave law firm, to extend the term of the contract for an additional three months, from September 8, 2013 through November 29, 2013. A contract extension is necessary to provide additional time for the Interim General Counsel to continue to address current legal issues, provide continuity in the management of the legal office, and to conduct a thorough analysis of the operations of the General Counsel's Office.

Public Comment: J. Parker questioned the fiscal impact of the Interim General Counsel. He noted that the agenda states this contract saves the District \$90,000 as a result of the General Counsel vacancy, and asked for that to be clarified. Dr. Bernard responded that this contract extension is a portion of the salary amount for the General Counsel.

Mr. Lawrence asked for clarification on the amount of this contract, and stated that he does not have enough information to vote for the contract.

Mayo moved, Dennler seconded, and the Board voted 4-1-0 (Lawrence dissented) to approve as presented.

**15.8 Independent Contract with Document Tracking Services for the 2013-2014 School Year**

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 Services (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.

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

**15.9 Renewal of Independent Service Contract with David H. Costa for Courier Service for Food Services and Site Pick-Up to Financial Institution**

Courier services provided by David H. Costa to pick-up petty cash (twice a week) and food service (daily) monies from various school sites and deliver directly to a financial institution at \$6.75 per pick-up for the 2013-2014 school year.

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

**15.10 Solar Renewable Energy Credits/Certificates (REC's)**

At the August 14, 2013 meeting, staff provided information related to energy generated by installed solar systems. As discussed, staff would like to provide the Board with updated information related to feasibility, applicability and viability of potential revenue stream related District owned Renewable Energy Certificates.

Tim Cody gave a presentation.

Public Comment: Willie Mims voiced his concern about buying and selling energy credits. Dr. Bernard stated that the District is not buying and selling energy credits; this information was provided in response to a Board request for information on the concept of renewable energy.

This item was for information only.

#### **15.11 Mandated Costs**

In 2012-13, the Board elected to accept the Mandated Costs Block Grant rather than continue filing under the traditional mandated costs filing method. This decision was partially based on Graduation Requirements not being part of the Block Grant and the District being able to continue to file the claim.

For 2013-14, the State has modified the program to include the Graduation Requirements mandate. As a result the funding model is changed from a flat \$28/ADA for all students to \$28/ADA for grades K-8 and \$56/ADA for grades 9-12.

The additional \$28/ADA covers between 15 and 20 cents on the dollar for the Graduation Requirements claim. However, not utilizing the Block Grant will cost the District with relation to the other claims.

The Board's decision tonight is whether to go with the Block Grant that will pay us about 55-60 cents on the dollar blended across all mandates now, versus filing the claims and waiting until the State actually pays the claims with interest.

Bryan Richards delivered a presentation on Mandated Costs. Staff recommended selecting the Mandated Costs Block Grant rather than filing under the traditional Mandated Costs filing method.

Ms. Mayo stated that she is frustrated as a taxpayer, and noted that legislature should not be passing legislation if they cannot fund it.

Oaks moved, Dennler seconded, and the Board voted 4-1-0 (Mayo dissented) to approve the application for the State Mandated Costs Block Grant for the 2013/14 school year.

#### **15.12 Meeting Extension**

Adjournment time will be no later than 11:00 p.m. for all regular and special meetings unless extended to a specific time as determined by a majority of the Board.

A Meeting Extension was not required.

#### **FUTURE AGENDA ITEMS**

Ms. Hansen noted that the issue of candidate biographies will be included on a future agenda.

Dr. Bernard announced that graduation requirements will be returning as an agenda item.

Mr. Lawrence requested an informational item regarding the District policy on electronic vs. paper communications.

#### **BOARD MEMBER REPORTS**

Ms. Mayo welcomed all staff and students back to school, and noted that she feels that the start of school is more important than the start of the New Year on January 1<sup>st</sup>.

Ms. Oaks concurred with Ms. Mayo, and shared that she visited four schools today.

Mr. Lawrence shared that he visited three schools today, Ygnacio Valley High School, Northgate High School, and Walnut Acres Elementary School. He also met with neighbors concerned about the Ygnacio Valley High School Stadium Lighting Project.

Ms. Dennler visited Delta View and Wren Avenue Elementary Schools today. She noted that it was interesting to see the process that administrators use when they visit schools on the first day, including a checklist to ensure that the school has what it needs for the year.

Ms. Hansen visited Woodside Elementary School with Dr. Bernard and Julie Braun Martin. She announced that the Board is setting up joint meetings with city councils in six neighboring cities. Ms. Hansen also announced that the Board and Superintendent Meyer will participate in a governance workshop in October to focus on goal setting and team building.

**CLOSED SESSION**

The Board did not return to Closed Session.

**ADJOURNMENT**

The meeting adjourned at 9:50 p.m.

\*All times marked are approximate.

Respectfully submitted,

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Nellie Meyer, Ed.D.  
Superintendent