

**MINUTES**  
**REGULAR MEETING OF THE BOARD OF EDUCATION**  
**MT. DIABLO UNIFIED SCHOOL DISTRICT**  
**Wednesday, October 23, 2013 (7:30 p.m.)**

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

Administrative Staff: Superintendent Nellie Meyer, Assistant Superintendent Julie Braun Martin, Assistant Superintendent Rose Lock, Assistant Superintendent Kerri Mills, Interim General Counsel Jayne Williams, 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 6:11\* p.m. in the Board Room at the MDUSD Dent Center. President Hansen conducted Roll Call with Ms. Hansen, Ms. Oaks, Ms. Mayo, and Mr. Lawrence present. Ms. Dennler participated via teleconference.

(Please note that due to technical difficulties, all votes during this meeting were cast as verbal, Roll Call votes.)

**ADJOURN TO CLOSED SESSION**

The Board adjourned to Closed Session at 6:13\* p.m.

**4.1 Student Discipline - Adult student appeal of dismissal: One (1) matter from an adult education student seeking Board review of the District's decision to dismiss student from the Surgical Technology Program**

**4.2 Expulsion of Student #01-14 from all regular schools of the Mt. Diablo Unified School District**

**4.3 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**

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

**4.5 Public Employee Discipline/Dismissal/Release/Complaint**

**4.6 Pending Litigation - Conference with Legal Counsel pursuant to Government Code Section 54956.9 (1) regarding Bay Area News Group, et al v. Mt. Diablo Unified School District, et al, Contra Costa Superior Court Case No. N13-1551**

**4.7 Anticipated Litigation - Conference with Legal Counsel regarding the initiation of litigation in one (1) matter pursuant to Government Code Section 54956.9(c)**

**4.8 Potential litigation based on facts and circumstances regarding various J. Doe claims pursuant to Government Code section 54956.9(3)(c)**

**RECONVENE OPEN SESSION**

Open Session reconvened at 7:38 p.m.

**PRELIMINARY BUSINESS**

President Hansen led the Pledge of Allegiance, and conducted Roll Call with all Board members present. Ms. Dennler participated via teleconference.

**REPORT OUT ACTION TAKEN IN CLOSED SESSION**

In Closed Session, the Board addressed pending and potential litigation, and took action to uphold the dismissal of an adult student. The Board discussed negotiations and three cases of public employee discipline/dismissal, and it will return to Closed Session after Open Session to resume those discussions. The Board heard information on the expulsion of Student #01-14, which will be voted on as an Open Session item.

**7.2 Expulsion of Student #01-14 from all regular schools of the Mt. Diablo Unified School District**

Staff recommends that student #01-14 be expelled from all regular schools of the Mt. Diablo Unified School District, and that student #01-14 apply for readmission after January 24, 2014. It is required that student #01-14 participate in 20 hours of counseling to address anger and decision making skills; serve 30 hours of community service; attend the California Offender Program Service (COPS) Aggressive Offender Class; attend MDUSD's Anger Management Workshop; show evidence of a successful school experience, to include: good attendance, no suspendable behavior infractions, and a minimum of a C average prior to applying for readmission. Placement will be determined by the MDUSD Student Services Department.

Mayo moved, Oaks seconded, and the Board voted 5-0-0 to approve the expulsion of student #01-14.

### **BOARD MEMBER REPORTS**

President Hansen announced that due to community member feedback, Board Member Reports will now be limited to two minutes each.

Ms. Mayo noted that Board members have less time for comments than community members. Ms. Mayo attended two meet and greet events with Superintendent Meyer: one with the Diablo Managers Association, and the other with the Greater Concord Chamber of Commerce Business Education Committee. She also attended the Contra Costa County School Board Association's presentation on the Local Control Funding Formula, where she learned that school districts will be required to complete a Local Control Accountability Plan. The Department of Education will release the template for the plan on March 31, 2014, and the Board will have until June 30, 2014 to adopt it. Ms. Mayo also visited Pleasant Hill Elementary School, and represented the Board at the Mt. Diablo Council of PTA's General Meeting.

Ms. Oaks attended the Common Core presentation last night, which she said was very informative and had many parents asking good, well-informed questions. She expressed her thanks to Bill Morones and the Department of Secondary Support for getting out into the schools, and to the parents who attended the meeting.

Ms. Hansen attended the Common Core meeting as well, and she echoed Ms. Oaks in her thanks. She noted that it was interesting to see what information has gone out to parents, and that the presentation was very well done.

### **SUPERINTENDENT'S REPORT**

Dr. Meyer visited Pleasant Hill Middle School, Prospect Necessary Small High School, the Center for Independent Study, Valley View Middle School, Fair Oaks Elementary School, Cambridge Elementary School, Ygnacio Valley Elementary School, Wren Avenue Elementary School, El Monte Elementary School, Silverwood Elementary School, Diablo View Middle School, Mt. Diablo Elementary School, Concord High School, Summit/Nueva Vista Necessary Small High Schools, Mountain View Elementary School, and Westwood Elementary School. She noted that on these site visits she is seeing first-hand both the great work, as well as the challenges, in our schools.

Dr. Meyer announced that the United Mt. Diablo Athletic Foundation hosted a 5K walk/run, which brought all of the high schools together. The event raised money to support student athletes.

Dr. Meyer noted the warm welcome that she received from the Diablo Managers Association. This event was held at Serendipity Restaurant & Bakery, where the students created and served beautifully prepared food.

Dr. Meyer also enjoyed the opportunity to meet with the Greater Concord Chamber of Commerce, where many people from Concord came to see how they can partner with MDUSD.

Dr. Meyer recognized the Lights On event for after-school programs throughout the district. She thanked Terri Porter and the staff at Riverview Middle School for their program emphasizing the value of nutrition for the students. She also recognized the Concord High School-hosted cooking competition, and complimented the way it brought community partners together with the students. Dr. Meyer thanked Tim Watson-Williams for coordinating that event.

Dr. Meyer thanked the Measure C team and Northgate High School Principal John McMorris for holding a community discussion on the possible Northgate High School Aquatic Center.

Dr. Meyer shared that she met with Congressman George Miller, a longtime advocate of education in the local area. He visited the Dent Center, and met with Dr. Meyer to discuss his office's support for MDUSD, Local Control Funding, and Common Core.

### **CONSENT AGENDA**

Public Comment, Item 11.5: Dan Reynolds notified the Board that the Declaration of Need attached to the public agenda was blank. He also pointed out that the Declaration of Need may not be adopted by the Board as part of the Consent Agenda.

Public Comment, Item 11.8: Dan Reynolds wondered why the District is exploring relationships with schools outside of the local area.

Public Comment, Item 11.25: J. Parker voiced his concerns about hiring one firm to handle all of the CEIS inspections. He pointed out that uninsured subcontractors have been hired without permission, opening the District up to potential liability issues.

Consent Agenda Item 11.11 was pulled for discussion by Ms. Mayo; Items 11.5, 11.8, and 11.25 were pulled for discussion by Mr. Lawrence.

Oaks moved, Lawrence seconded, and the Board voted 5-0-0 to approve the Consent Agenda, with the exception of the removed items, as presented, thereby approving the following:

**11.1 (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**

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

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

**11.4 (Item #4) Approval of Variable Term Waiver Requests**

Variable term waivers provide applicants with additional time to complete certain requirements for the credential that authorizes the service. The waiver request is made when there is not a properly credentialed person available for the position. 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.

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

**11.6 (Item #7) Changes in status of the following employees**

**11.7 (Item #9) Approval of independent contract with Martha Pollock for \$36,500 to provide specialized counseling services at Mt. Diablo High School. The contract amount should not exceed \$46,080 as per contract amendment dated September 19, 2013**

**11.8 (Item #10) Approval of Non-Public School Contracts/Adjustments**

**11.9 (Item #12) Agreement between Mount Diablo Unified School District and Independent Contractor Dr. Mary Bacon**

Staff requests an increase of \$26,000 to Dr. Mary Bacon's contract. The increase is requested so that the District can continue to receive services from consultant, Dr. Mary Bacon, as we continue to implement the Coordinated Early Intervening Services (CEIS) plan.

**11.10 (Item #13) Approve submission of the CalSTAT grant to support district professional development during the 2013-14 school year**

Staff requests authorization to apply for a CalSTAT grant. CalSTAT is a special project of the California Department of Education, Special Education Division, administered by the Napa County Office of Education (NCOE), which provides funds (Technical Assistance dollars) to support professional development. Funds will support professional development for school teams (administrative and teachers) and district staff in the areas of Positive Behavior Intervention and Support (PBIS) and creating a culturally responsive school environment. These are two of the three focus areas in the district's Coordinating Early Intervening Services (CEIS) Plan to address Disproportionality and Equity. If funded, the grant will provide \$12,000 for one year.

**11.11 (Item #14) Approve submission of an application to the State Board of Education to serve as a Supplemental Education Service (SES) Provider**

Staff requests approval 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 ASPIRE Program, a subset of the Mt. Diablo CARES After School Program. Mt. Diablo CARES has previously served as an approved Supplemental Education Service Provider since 2003. On average, 150-200 District students participate in the ASPIRE SES program annually.

**11.12 (Item #15) Approval of contracts with Exploring New Horizons (ENH) for Bancroft Elementary, Monte Gardens Elementary, Strandwood Elementary, and Valle Verde Elementary School Outdoor Ed Programs**

Students at Bancroft Elementary, Monte Gardens Elementary, Strandwood Elementary, and Valle Verde Elementary Schools will participate in the Outdoor Education Programs. Bancroft will participate November 19-22. Strandwood will participate Nov. 4-8. Valle Verde will participate Nov. 19-22. Monte Gardens will participate Dec. 2-6.

**11.13 (Item #16) Approve contract with Westminster Woods Camp and Conference Center for Sequoia Elementary School**

Students at Sequoia Elementary School are participating in the Outdoor Education Program at Westminster Woods, October 21-October 24, 2013. Contract amount has now exceeded \$25,000, therefore Board approval is required. Originally, the contract amount was fully executed in the amount of \$21,250. Attendance recently increased from 70 students to 91 students, therefore increasing the contract amount. Change Order completed.

**11.14 (Item #17) Budget Transfer and/or Budget Increases/Decreases for July-September 2013**

**11.15 (Item #18) Annual Renewal of Bi-Tech Services Contract**

The Annual Support Agreement between Bi-Tech and the District, which provides for customer support and software updates for Business Plus, formerly the Integrated Financial Administrative Solution System (IFAS), is due for renewal. The contract covers service from October 1, 2013 through September 30, 2014.

**11.16 (Item #19) Request Purchase Order for (2) 78-Passenger Buses**

Staff is requesting a Purchase Order be issued in the amount of \$339,999.30 be issued to A to Z Bus Sales, Inc. in Sacramento, California. These two 78-passenger buses are to be fully reimbursed through a grant from Bay Area Air Quality Management District (BAAQMD). As part of the grant, the District must remove two existing buses from the current fleet which are not compliant with current air quality specifications. The price of the buses is from a "piggyback" bid by the Waterford School District.

**11.17 (Item #20) Replacement School Bus Purchase**

On June 14, 2013, MDUSD school bus V-63, 1987 Ford Econoline caught fire and was declared a total loss. Allient Insurance Company has determined the value at \$55,569.07 per policy. The cost of a replacement bus is \$84,333.17 from A-Z Bus Sales, Inc., based on the Waterford Unified School District "piggyback". The difference of \$28,724.10 would be paid by District Bus Replacement account 3964.

**11.18 (Item #21) Award of RFO for RFO#1657 - Integrated GPS System**

RFQ #1657 was called to provide an Integrated Global Positioning System (GPS) for the district vehicle fleet. This system will assist District staff in providing efficient and safe monitoring of the District bus system and maintenance fleet. After reviewing the proposals, staff is recommending Tyler Technologies, Inc. for a total cost of \$297,212.93 for two years. (\$227,050.43 first year, \$70,162.50 second year) The price is based on installation in 110 buses and 110 maintenance vehicles. The scope of work includes, but is not limited to: a complete GPS system, including: GPS hardware, hardware installation, and tracking software for all vehicles. The GPS system must be fully integrated with the routing system currently in use in the District.

**11.19 (Item #22) Award of RFP #1665 - Swimming Pool Maintenance Service**

RFP #1665 was called to provide Swimming Pool Maintenance Service. After reviewing the proposals, staff is recommending East Bay Pool Services, at a base bid of \$61,620 for a 52-week commitment. The scope of work includes, but is not limited to: materials, labor, supervision, transportation, permits, licenses, equipment and any incidentals necessary for Swimming Pool Maintenance Service at College Park High School and Mt. Diablo High School.

**11.20 (Item #23) Notice of Completion for Lease/Leaseback #1634 - Bell Products Inc.**

Lease/Leaseback agreement #1634 was called to provide HVAC Modernization at El Monte Elementary, Monte Gardens Elementary, Shadelands Center, Sunrise Elementary and Westwood Elementary. The lease/leaseback agreement was issued to Bell Products, Inc., in the amount of \$6,902,055.32. The scope of work included, but was not limited to: provide all tools, materials, labor and equipment necessary to complete installation of HVAC units, demolition of existing units, installation of equipment pads, site work, roof repairs and other items as it relates to the Drawings and Specifications. There was a change order on this project in the amount of (\$130,050.32). Work and services for this project have been satisfactorily completed for a total expenditure of \$6,772,005.

#### **11.21 (Item #24) Award of Design Services Contract: MU Modernization at College Park High School**

On June 4, 2012, the Board of Education approved a prioritized list of facility enhancement projects for College Park High School. One of the projects identified in this list was modernization of the site MU building to accommodate additional theatrical components. Staff has negotiated, and is now recommending, that a contract stipulating a 'not to exceed' fee of \$47,500 (inclusive of all reimbursable items) be awarded to Bendrew Jong, Architect for the provision of comprehensive design, engineering, and construction administration support necessary for the approval and satisfactory completion of the proposed project. The services of a professional architect are needed to provide comprehensive design services and secure DSA approval for modernization of the existing MU building at College Park High School.

#### **CONSENT ITEMS PULLED FOR DISCUSSION**

##### **12.1 (Item #5) Amended Declaration of Need for Fully Qualified Educators**

Regulations from the Commission on Teacher Credentialing require the District to submit an annual Declaration of Need form, indicating the number of teachers we anticipate hiring under emergency permits for the 2013-2014 school year. In the past, a Declaration of Need form was filed with each emergency permit submitted by the District. The annual filing will eliminate paperwork both for us and for the Commission. Attached is the form indicating the number of teachers we anticipate hiring or rehiring with emergency permits, and the credentials and subject areas in which we may have need to hire. We have anticipated numbers by credential type larger than our anticipated need, so as not to request from the Board a second identical action later in the year. The number of teachers hired or rehired under emergency permits includes substitutes, current employees required to reapply for a permit, and summer school teachers.

According to Title 5 Regulations 80026 (1) "...the Declaration of Need shall not be adopted by the Board as part of the consent calendar." The Commission on Teacher Credentialing requires there be opportunity for public comments or questions. With this requirement, I am requesting that this item be approved outside the consent calendar.

Julie Braun Martin stated that the Board already approved this form at the beginning of the year. It has been brought back as a Consent Agenda item because it was amended to add one additional librarian.

Ms. Mayo pointed out that if the Board were to vote on this item now, it is no longer on the Consent Agenda.

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

##### **12.2 (Item #8) Student Teaching Agreement between Grand Canyon University and Mt. Diablo Unified School District**

This agreement is to provide student teaching internships to students enrolled in the teaching program at Grand Canyon University.

Julie Braun Martin said that if one person is interested in going through an organization, the District may set up an agreement with that organization. The goal is to offer people as many options as possible.

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

##### **12.3 (Item #11) Agreement between Mount Diablo Unified School District and Independent Contractor Jon Eyler**

Staff requests the approval of the contract with Jon Eyler of Collaborative Learning Solutions, LLC in the amount of \$34,800. The approval of this contract is being requested so that Jon Eyler can provide services to Mount Diablo Unified School District as we implement the Coordinated Early Intervening Services (CEIS) plan.

Ms. Dennler expressed concern about the amount of money already going to administrative overhead, and asked if the District can handle this internally. Jonathan Roselin responded that MDUSD has been designated as significantly disproportionate, and has two years to create systemic changes within the District. This consultant has been identified by the California Department of Education as one to use to support districts going through this transition.

Mr. Lawrence asked how long the District will need to rely on outside consultants. Mr. Roselin replied that the goal is to be able to handle it through the District's own information system (AERIES) by the end of the 2014/15 school year. Ms. Hansen summarized it as short-term, targeted instruction.

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

**12.4 (Item #25) Award of Inspector of Record (Project Inspector) Contract for New Chemistry Classroom Building Project at Ygnacio Valley High School**

The services of a State Certified Inspector of Record (Project Inspector) are required to oversee, inspect, and to verify that the installation of the New Chemistry Classroom Building Project at Ygnacio Valley High School is conducted in compliance with all DSA approved drawings, specifications, and applicable codes and regulations. Staff solicited and received proposals from several inspectors for this project. Staff is recommending that a contract be awarded to Alisha Jensen Inspection, for a 'not to exceed' fee of \$16,320, for the provision of said services.

Tim Cody said that under this contract the contractor would meet the insurance requirements, and that he does not anticipate any lower-tier inspection services on this contract.

Mr. Lawrence asked if MDUSD has used any other inspectors over the last several years. Mr. Cody responded that it has. He noted that the District has solicited proposals from numerous inspectors, and that this contract was the most advantageous for MDUSD.

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

**PUBLIC COMMENT**

Denise Pursche voiced her concerns about the Common Core State Standards.

Monica Brombacher shared her love of teaching, and her family's struggle to afford medical coverage.

Maureen Postigo said that pay rates have not kept up with increases in medical insurance costs.

Connie Miller told that Board that more demands are being placed on teachers, and they deserve to be compensated for that.

Katie Webber shared her family's difficulty paying for medical insurance.

Craig Yen asked the District to show its appreciation to teachers, and he wondered why the teachers did not have a meet and greet event with Superintendent Meyer.

James Wogan shared information about the District's Homeless Outreach Program for Education (HOPE) and Foster Youth Services. He thanked Felicia Stuckey Smith and Kerri Mills, and mentioned that he is working on adding a PayPal donation button to the MDUSD website to raise funds for these programs. Mr. Lawrence thanked Mr. Wogan for his work.

Dan Reynolds said that the District is not treating teachers in a way that suggests that MDUSD is a destination district for teachers.

Willie Mims stated that the District has problems which were created over time, and will take a long time to resolve.

**DISTRICT ORGANIZATIONS**

Annie Nolan, CSEA Union Representative, told the Board that many people cannot afford to work for the District. She is concerned that the District is losing long-time employees.

Guy Moore, MDEA President, talked about the importance of restoring medical benefits to teachers. He believes that all problems stem from this core issue.

**BUSINESS/ACTION ITEMS**

**17.1 Appointment of Administrator, Special Education**

Interviews have been conducted, and Susan Massey-Clover has been selected to fill the vacant position of Administrator, Special Education. The incumbent in this position has taken a position outside the District.

Mayo moved, Oaks seconded, and the Board voted 5-0-0 to appoint Susan Massey-Clover to the position of Administrator, Special Education.

### **17.2 Appointment of Program Specialist, Special Education**

Interviews have been conducted, and Rochelle Hooks has been selected to fill the vacant position of Program Specialist, Special Education. The incumbent in this position has left the District.

Mayo moved, Lawrence seconded, and the Board voted 5-0-0 to appoint Rochelle Hooks to the position of Program Specialist, Special Education.

### **17.3 Appointment of Principal, Sequoia Middle School**

Interviews have been conducted, and Kevin Honey has been selected to fill the vacant position of Principal, Sequoia Middle School. The incumbent in this position has left the District.

Oaks moved, Lawrence seconded, and the Board voted 5-0-0 to appoint Kevin Honey to the position of Principal, Sequoia Middle School.

### **17.4 Appointment of Coordinator, Student/Community Services 9-12 - Olympic High School**

Interviews have been conducted, and Sandra Spaulding has been selected to fill the vacant position of Coordinator, Student/Community Services 9-12. The incumbent in this position has accepted another position within the District.

Mayo moved, Oaks seconded, and the Board voted 5-0-0 to appoint Sandra Spaulding to the position of Coordinator, Student/Community Services 9-12, Olympic High School.

### **17.5 Classified Personnel: Appointment of Transportation Dispatcher**

Interviews have been conducted, and June Lopez has been selected to fill the position of Transportation Dispatcher.

Mayo moved, Lawrence seconded, and the Board voted 5-0-0 to appoint June Lopez to the position of Transportation Dispatcher.

### **17.6 Public presentation of the Initial Successor Agreement Proposal for Mt. Diablo School Psychologists Association (MDSPA) and the Mt. Diablo Unified School District's Initial Successor Agreement Proposal to MDSPA**

By law, school districts are required to "sunshine" collective bargaining proposals in an open session of the Board. The attached proposals from Mt. Diablo School Psychologists Association (MDSPA) and Mt. Diablo Unified School District must first be submitted as an informational item, and then returned at a later meeting for action.

Public Comment: Dan Reynolds commented on employee discipline and just cause.

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

### **17.7 Adult Education Board Policy and Administrative Regulations 6200**

MDUSD's Board Policy 6200 for Adult Education has been reviewed and deemed appropriate as previously written. However, Administrative Regulations 6200 have been rewritten and greatly expanded to address a number of regulations, including several specifically required for Mt. Diablo Adult Education's administration of Pell grants, and for accreditation by Council on Occupational Education (COE).

This item was presented as information only. Joanne Durkee was available to answer Board member questions. This item will be returned for action on the November 13, 2013 agenda.

### **17.8 Proclamation of October 23 - November 1, 2013 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.

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

### **17.9 Resolution of Intent to Dedicate an Easement at Shore Acres Elementary School**

The Contra Costa Public Works Department is requesting a grant of easement at Shore Acres Elementary School. This easement is required to extend the distance of the sidewalk along Pacifica Avenue. Improvements consist of constructing approximately 1,000 linear feet of curb and gutter, a 5-foot wide sidewalk, driveway conforms, drainage improvements, and curb ramps.

Section 17556 of the Education Code authorizes the Mt. Diablo Unified School District to dedicate or convey an easement to any public entity through a process that involves: 1) a Resolution of Intent to Dedicate an Easement adopted in a regular open meeting by a two-thirds vote of the Board; 2) a Notice of Adoption of the resolution and the time and place of a scheduled public meeting/hearing regarding the resolution (posted in three public places not less than ten days prior to the scheduled meeting and published once in a newspaper of general circulation no less than five days before the scheduled hearing); and 3) a public hearing on the adopted resolution and final action on the resolution dedicating the easement by a two-thirds vote of the Board.

The public hearing and request for Board action on this particular resolution will be scheduled and brought to the Board at the November 13, 2013 Board meeting, pursuant to the provisions of Education Code section 17556.

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

#### **17.10 Resolution 13/14-21 Native American Heritage Month**

The California Department of Education has designated November as Native American Heritage Month. The attached resolution recognizes the many contributions made by Native Americans to the American Heritage. Ms. Mayo read the resolution aloud.

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

#### **17.11 Award of Lease-Leaseback Agreement with Taber Construction, Inc. to support RFQ/RFP 1644 – Ygnacio Valley HS – SMART Science Building**

On August 29, 2013, the District issued a Request for Qualifications (RFQ) soliciting submissions from qualified firms interested in entering into a lease-leaseback agreement for the New Chemistry Classroom Building at Ygnacio Valley High School. In addition to advertising the project on the District webpage, the District solicited qualifications from 10 vendors and received four packages. As a result of the RFQ process, staff is recommending that the District enter into a lease-leaseback agreement with Taber Construction, Inc. for a Guaranteed Project Cost of \$1,725,275.19 for the completion of all specified new construction per approved plans and specifications.

The lease-leaseback project delivery method is authorized by California Education Code 17406, and authorizes the governing board, without advertising for bids, to enter into a lease with a builder for the purpose of construction, including remodeling and permanent improvements, upon property. Under a lease-leaseback, the District leases property under a "site lease" to a builder for \$1. That builder constructs the facility/completes the renovation 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. Titles to the 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 determines all plans and specifications and uses its own Architect of Record to submit the project to the Division of the State Architect (DSA) for approval.

The scope of work includes, but is not limited to: provide all tools, materials, labor and equipment necessary to complete construction of New SMART Chemistry Classroom Building including site preparation, selective demolition, site work, building construction, interior amenities, and other items as necessary to deliver a complete project as it relates to the Drawings and Specifications. All spoils will be removed from the site. This contract includes, but is not limited to, all work associated with the plans and specifications.

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

#### **17.12 Final Change Order for LLB #1634 – HVAC Modernization at El Monte ES, Monte Gardens ES, Westwood ES and Shadelands/Sunrise School**

On May 6, 2013, the Board of Education awarded Lease-Leaseback Agreement #1634 to Bell Products, Inc. for a Guaranteed Maximum Project Cost of \$6,902,055.32 for the provision of all tools, materials, labor and equipment necessary to complete the installation of new heating, ventilating and air conditioning systems at El Monte Elementary, Monte Gardens Elementary, Westwood Elementary, and Shadelands/Sunrise Elementary Schools.

As a result of a need to 1) implement electrical modifications, 2) modification to equipment pads, 3) structural modifications and 4) unused contract contingency, a single, final deductive change order in the amount of (\$130,050.32) is necessary. This single, final change order will result in a final, revised contract value of \$6,772,005. This final change order represents a decrease of 1.88% to original contract value.



Mr. Lawrence requested an update on the HVAC modernizations. Tim Cody responded that there are approximately nine total sites pending, and the work is to be completed by the end of the 2014/15 school year.

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

**17.13 Public Hearing regarding Sufficiency of Textbooks and Instructional Materials for 2013-2014 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. California Education Code Section 60119 stipulates using instructional materials “aligned to the content standards” but references the standards adopted both in 1997 (EC 60605) or 2010, referencing the CCSS, (60605.8). Therefore, either set of standards will suffice at this time. 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. This item will be brought to the next meeting for action.

President Hansen opened the Public Hearing at 9:53 p.m.

Willie Mims voiced his concern about the number of textbooks still at the warehouse pending delivery. Lorie O’Brien responded that as soon as the needs information is received from school site council meetings, it is relayed to the warehouse for delivery. She noted that all sites have received their textbooks, except Social Science books for 2<sup>nd</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> grades, which have not yet arrived from the vendor.

President Hansen declared the Public Hearing closed at 9:57 p.m.

President Hansen noted that this item is for information only, and Lorie O’Brien put forward a request for action. Interim General Counsel Jayne Williams said that there is sufficient notice on the agenda for the Board to take action, even though it is indicated as an informational item.

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

**17.14 Adoption Textbook for Sports Medicine II**

Lorie O’Brien shared that this textbook is for a course piloted at Mt. Diablo High School last year. Mt. Diablo High School currently is the only school in the District to offer this course. The Board approved this course in June 2013. The teacher for the pilot course feels that this is the best textbook available on this subject.

This item was presented as information only. This item will be returned for action at the Board meeting on November 13, 2013.

**17.15 Meeting Extension**

Adjournment time will be no later than 10:30 p.m. for all regular and special meetings unless extended to a specific time as determined by a majority of the Board.

Oaks moved, Mayo seconded, and the Board voted 5-0-0 to approve a meeting extension until 11:30 p.m.

**FUTURE AGENDA ITEMS**

Ms. Mayo reminded the Board that there are two Resolutions requiring Board member signatures. Ms. Hansen said that she would like to have a regular item for Signatures added to the agenda.

**CLOSED SESSION**

The Board reconvened Closed Session at 10:04 p.m.

**4.3 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**

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

**4.5 Public Employee Discipline/Dismissal/Release/Complaint**

**ADJOURNMENT**

The Board reconvened Open Session at 11:00\* p.m.

President Hansen reported that during Closed Session, the Board gave staff direction on one certificated and two classified public employee dismissal/release cases. The Board also discussed negotiations, and gave staff feedback and direction.

The meeting adjourned at 11:03\* p.m.

\*All times marked are approximate.

DRAFT

Respectfully submitted,

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Dr. Nellie Meyer, Ed.D.