

# EAST SIDE UNION HIGH SCHOOL DISTRICT

## Minutes of Meeting

**Approved**

**Board Audit Committee**

April 16, 2011

9:00 a.m.

East Side Union High School District  
Education Center

Superintendent's Conference Room  
830 Capitol Avenue San Jose, CA 95133-1398

### 1. Call to Order /Roll Call

*The meeting was called to order by Chair Frank Biehl at 9:00 a.m. Present were Vice Chair Martinez-Roach, Member Berg, Member Neighbors and Member Juchau. Alternate Member Gonzalez was absent (excused).*

*Staff members in attendance were:*

- *Dan Moser*
- *Ian Marsh*
- *Hardy Childers*
- *Mary Guillen*

*Presenter:*

- *Ahmad Gharaibeh, External Auditor*

*Members of the public in attendance were:*

- *Bill Masching*
- *Jon Reinke*

### 2. Introductions: Chairman Frank Biehl will announce newly appointed or reappointed members.

*Chair Biehl announced that Member Dan Juchau was reappointed for a two-year term and Member Gustavo Gonzalez was appointed to a one-year term as the Alternate Member.*

*Persons present at the meeting introduced themselves.*

### 3. Adopt Agenda

*Motion by Member Berg, second by Member Neighbors, to approve the agenda as presented.*

*Vote: 5/0*

**4. Special Order of Business**

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

*There was no change to the order of items on the agenda.*

**5. Public Comments**

Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As a unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Board may instruct the Chair to agendize the item for a future meeting.

*There were no comments from the public.*

**6. Report:** Counsel opinion re: Does the Charter permit a school Board member from a feeder school district to sit on the Audit Committee?

*Chair Biehl shared with the Committee a legal opinion by District's Counsel. Counsel reviewed the Charter and there is no conflict of interest for Member Neighbors to serve on the ESUHSD Audit Committee during his term as a Board Member with the Berryessa School District.*

**7. Approval of Minutes**

**Action:** Minutes from the December 11, 2010, meeting will be presented for approval.

*Motion by Member Juchau, second by Member Neighbors, to approve the amended minutes as follows:*

*Page 9: Special Projects – change word “enormous” to “anomalous”*

*Vote: 4/0; Member Martinez-Roach abstained from vote because she was not a member of the Committee when this meeting was conducted on April 16.*

**8. Discussion/Action: FCMAT Report: Update the status of all actions taken in response to the FCMAT Report recommendations**

Ian Marsh and Hardy Childers will review all actions taken by the Board and the Administration in response to the recommendations included in the FCMAT Report.

*Internal Auditor Marsh provided an update regarding the status and actions taken in response to the FCMAT report recommendations. He explained an Excel spreadsheet that was developed by the Santa Clara County Office of Education and a result of the County Office's assessment regarding the status of corrective action taken. The chart has yellow and green color coding; yellow signifies "open items" and green signifies "fully or mostly compliant."*

*#2: Amend Administration Regulation #3323*

*Under SCCOE comment: Consulting Services -- The Government Code was not addressed in the new Administrative Regulation, which was prepared by staff.*

*The new Administration Regulation does include language regarding such services. He feels that the District is fully compliant on this item.*

*#5: Require evidence that a conflict of interest statement has been submitted for each consultant contract being considered for approval.*

*Comment: Please advise if the conflict of interest statement was developed by an attorney and submit completed forms when received.*

*This has been done. The form was developed by Counsel Rogelio Ruiz and will be provide to SCCOE staff prior to the May 4 meeting between ESUHSD and SCCOE reps. The district is fully compliant on this item.*

*#8: Submit all contract extensions for Board approval*

*Comment: All contract extensions were not covered in the Administrative Regulation.*

*A response from Procurement has been requested. To-date, no response has been provided. This item is still open, but will be resolved in advance of the meeting with SCCOE.*

- #13: Review the process utilized to hire the consultant whose payments were made under the purchase order of a different consultant and determine whether these services were authorized.

*This has been an ongoing issue with FCMAT. Internal Auditor Marsh has been trying to find out which consultant and subconsultant they are referring to. He is in contact with a Senior FMCAT staff person who has promised to follow up at their end. Jim Ceretta who performed the audit is no longer with FCMAT. The District cannot adequately respond to the comment unless the District knows who are the consultant and subconsultant.*

- #14: Require all vendors to provide detailed invoices that include specific dates and hours per day of service, detailed by the person providing the service, with the underlying facility project identified with each charge.

*Staff from the SCCOE came and reviewed a number of invoices. On this particular one, they feel that the underlying documentation for billings by one consultant was insufficient. In particular, we are being billed lots of dollars and the County's expectation of the consultant is that they are expecting to see who worked on the assignment, hours worked and their billing rates.*

*Internal Auditor Marsh has met with Facilities staff and they have provided documentation to him. Facilities staff feel that since the billing is specified in the contract, it is sufficient information. Internal Auditor Marsh feels there is insufficient information in the documentation he reviewed. This relates, specifically, to billings by Blach. He feels that the District should have minimum documentation requirements. Most of the consultants provide the information and he is not sure why Blach does not. He has a copy of the architectural services agreement and is currently reviewing the document.*

*Blach identifies the major category of the work by preconstruction. They identify the amounts that have been billed to-date. They identify what is left to be spent. The District does not have the names of the individuals that performed the work, the hours worked and the billing rate.*

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*Interim Associate Superintendent Childers indicated that a request for the information would be made with Blach and that, in the future, the information will be provided. This issue may also necessitate the review of administrative regulation related to adequate documentation.*

*Chair Biehl indicated that this item will be reviewed at the next meeting.*

*#15: Consider a review of all invoices charged to Measure G and Measure E funds to determine that project costs were properly allocated to each bond program.*

*This item states it is substantially compliant.*

*The only item being requested is the Performance Audit Report under Measure E and that will be provided. This item should be fully compliant.*

*#21: Develop and implement forms to be utilized by the staff to request and process accrued vacation payouts.*

*A process has been developed. This item is substantially compliant.*

*Vice Chair Martinez-Roach asked how could #19 be compliant if #21 is substantially compliant since they are somewhat related – the payoff issue.*

*Member Juchau understands this item to mean that no one has left, but a process is in place.*

*Chair Biehl indicated that an Associate Superintendent did leave under retirement during the time of this audit. Did the District follow the proper procedures?*

*Internal Auditor Marsh stated that he met with Associate Superintendent Giammona regarding the procedures and forms used; he is satisfied.*

*Member Neighbors indicated that he interprets #21 as accrued vacation that can have 30 paid out at the end of the fiscal year.*

*This item will be clarified at the next meeting by Internal Auditor Marsh.*

**9. Discussion/Action: FCMAT Report: Bond Funds – Contracted Services, FCMAT recommendation #2 to the District: Consider a review of all invoices charged to Measure G and Measure E funds to determine that project costs were properly allocated to each bond program. Issue referred to Audit Committee for advice per Board action on February 9, 2010.**

Dan Moser, Superintendent, will update the committee on the actions taken by the administration and the Board since our last meeting.

*Superintendent Moser indicated that there will be a continued review of the invoices by Internal Auditor Ian Marsh.*

*External Auditor Gharaibeh stated that item #15 from the FCMAT report update indicates the matter is substantially compliant. The language in item #15 is the same as item #9, which indicates that the expenses have been properly allocated between the two measures. Once VTD provides their report, it will be fully compliant. He indicated that item #9 is resolved. External Auditor Gharaibeh considers this matter to be closed.*

**10. Discussion/Action: Measure G & E General Obligation Bond Fund Performance Audit Reports for Fiscal Year Ended June 30, 2010**

Ahmad Gharaibeh, External Auditor, will brief the committee on each report's findings.

*External Auditor Gharaibeh commented that these audits are performed annually. The audit covers two areas: financial and performance. The financial covers the fact that the money has been accounted for properly. The performance report requires the District to obtain a review of the expenses that were charged to the bond fund and ensure that the expenses are in compliance with the Bond language. The scope of the audit is to ensure that the expenses are in compliance with the Bond Measures.*

*Substantially, it is fully compliant, but it was noted that when the contracts were reviewed, specifically, consultants for program management, some of the contracts did not give full guidance to the contractor as to what they can and cannot invoice.*

*With construction consultant contracts, it includes payment of hours and incurred charges for incidentals, such as travel, communication, etc. Some of these expenses were approved under different management. When management changed, the interpretation of what is and what is not allowed became different. The contracts were reviewed and they did not explain what is and what is not allowable under the contract. What a vender can charge for incidentals has not been clearly defined in this particular contract. All of these contracts have expired and are up for renewal. The status of the contracts and how they have been rewritten is unknown. This has been communicated to the Facilities Department*

*and they will be following up on the matter -- language in future contracts be clarified and be specific as to what is and what is not reimbursable.*

*The scope of the audit is not to review internal controls, how they do their bidding, or what type of polices they have. The scope of the audit is to ensure that the expenses are in compliance with Proposition 39. The draft audit report was provided to the District a couple of weeks ago. A copy will be provided to the Audit Committee Chair and Vice Chair.*

*Superintendent Moser indicated that the item would be placed on the April 21 Board meeting agenda.*

*This item will be remain on the agenda for the Internal Auditor to review the internal controls and is part of the Internal Auditor's Work Plan.*

*Member Neighbors left the meeting due to another commitment.*

*Note: The Audit Committee meeting still has a quorum.*

**11. Discussion/Action: Audit Work Plan Report**

Ian Marsh will report on the status of projects included in the Audit Work Plan.

*Internal Auditor Marsh discussed the narrative of his Work Plan with the Committee.*

*Facilities Development*

*He has had separate meetings with Legal Counsel, Jon Reinke and the Facilities Department staff. Discussions covered procedures and internal control issues. Mr. Marsh has read several audit reports from the last few years, including a report by Total School Solutions. In the Facilities area, at the request of Legal Counsel, an area of billing by one vendor was reviewed.*

*School Site Cash Handling*

*Four sites were visited: Andrew Hill, Evergreen Valley, Santa Teresa and Silver Creek. The focus was ASB cash handling at athletic events, Principals' discretionary accounts, petty cash, facilities rentals, authority of sites to open bank accounts, bank reconciliation procedures.*

*The significant controls issues identified are:*

- *Some sites are not completing their bank reconciliation monthly; one site had not been completing monthly bank reconciliations since June 30, 2010.*
- *Staff at some sites are not using Blue Bear software to its potential.*
- *A couple of sites have long outstanding deposits. One site has \$18,000 in deposits from November 2009 which have not yet cleared. That is a concern which may indicate a cash shortage. At one site, multiple requests for documentation have been made. The Principal has now given an ultimatum to provide the information. At another site, staff indicated they made a deposit, but there is no record. The District is getting ready to file a police report.*

*Next week, there is cash handling training for all Finance Clerks and Activities Directors. Attendance is mandatory at this training. Training will be provided at San Jose Unified by FCMAT.*

*Chair Biehl requested that Internal Auditor Marsh add to his Work Plan the review of policies and administrative regulations the District has in relation to bank accounts, including authorized signers, and to bring back recommended changes to the policy at the next Audit Committee Meeting.*

*Vice Chair Martinez-Roach would like the issue of debit cards included in Board Policy.*

*Internal Auditor Marsh indicated he has some level of discomfort with debit cards being used at school sites.*

*Attendance Reporting*

*Three sites were visited. Some internal control issues have been listed and they are being addressed at those sites. When the next site visit is made, it will be checked if corrective action was taken.*

*In the conversion from SASI to Infinite Campus, there has been some difficulty in the conversion of data. Administration feels that Infinite Campus does not have the feel of ease of use that SASI had. Contact has been made with a representative of Infinite Campus and these issues will be addressed.*



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*Internal Auditor Marsh spoke with a representative from VTD who was involved in a conversion of data from SASI to Infinite Campus. The conversion was difficult, but most of the conversion issues were resolved.*

*This item will be left on the agenda for further discussion, as well as part of the Work Plan.*

*E-Rate*

*Staff continues to work on e-rate. Internal Auditor Marsh is going to give staff time to resolve the e-rate issues.*

*Procurement*

*Nothing has been done in this area yet.*

*Legal*

*Internal Auditor Marsh speaks frequently to Legal Counsel. Most of the issues involve facility development and a number of confidential matters.*

*Vice Chair Martinez-Roach mentioned that millions of dollars have been spent on legal fees and the Audit Committee should be concerned. Someone needs to check if the right charges are being made and that services are not being duplicated.*

*Chair Biehl indicated that this concern is related to procedures and policies in place for the approval of legal work. He would like to make sure that policies are in place about who authorizes, when is the Board authorized, and what authority does the Superintendent have for the use of legal services. He is specifically interested in the relationship between the JPA on insurance and the attorney that is involved in the JPA when a claim is filed against the District.*

*Chair Biehl will place this item on the next agenda for further discussion.*

*Independent Accountants*

*Internal Auditor Marsh values the relationship and support with VTD.*

*Redevelopment Income*

*This item is a future project.*

Staff Training

- *January 2011: Met with Finance Clerks – Student Body Procedures were discussed*
- *April 19, 2011: Wells Fargo Bank will be at District Office to provided training on electronic banking*
- *April 20, 2011: Additional training for Finance Clerks and Activities Directors to be provided by FCMAT*

Andrew Hill Carnival

*This was looked into and there is a certificate of insurance on file. The carnival is being sponsored by a Booster Group, but it is the Principal who signed the contract. In the future, Legal Counsel should be asked to provide a one page summary for the benefit of District staff as to the scope of their authority in contracts, in particular with Principals.*

*Superintendent Moser indicated that insurance documents are issued one year at a time. They were using the insurance document that was currently in effect, but were notified that the document was going to lapse. They provided a new insurance certificate that goes for another year.*

*Vice Chair Martinez-Roach indicated that a policy dealing with carnivals needs to be developed, including language that includes authorization by the Board for carnivals. She feels that carnivals are a liability to the District.*

*Superintendent Moser indicated that he is going to find a Board Policy from where he can develop an Administrative Regulation on this particular subject.*

*It was also requested that the Worker's Compensation policy be updated to include language for such events.*

*Chair Biehl will place this item on the next Audit Committee agenda for further discussion.*

**12. Discussion/Action: 2009/10 East Side Union High School District Audit**

Ahmad Gharaibeh, External Auditor, will report on the status of the 2009/10 external audit.

*External Auditor Ahmad Gharaibeh shared with the Committee that VTD is out at the sites looking at attendance and student body funds. There is a concern regarding the deposits for use of facilities monies into the student body accounts. Those monies should go to the District Office and has been noted in the audit report.*

*They have received calls from the Department of Education regarding Title I and Special Education funding. He does see item #14 on the agenda as a discussion regarding Special Education. It looks as if the District is following up on the Special Education and Title I eligibility questions.*

*This year is a year for implementation of GASB54, which is related to fund balance, the biggest of which is designated for economic uncertainty. A policy needs to be in place for monies to be put into that line item, otherwise it will go as unrestricted. It will impact negotiations because people are not going to understand that a 3% reserve is required in that account. External Auditor Gharaibeh is scheduled to come back in May and provide a presentation as to what the Board needs to do in terms of policy adoption. There are procedures that the Board will need to follow in order to present the money.*

**13. Discussion/Action: E-RATE Reimbursement for 2008**

Superintendent Dan Moser will brief the Committee on the current status of the E-RATE reimbursement.

*E-rate has been placed back in for final review. Director Cage has been in contact with the special compliance section of the agency that deals with e-rate. They thanked Director Cage for submitting the information and informed him that the information provided is under review.*

*Chair Biehl will leave this item on the agenda for further discussion at the next meeting.*

**14. Discussion/Action: Status of Special Education IEP's**

Superintendent Moser will report on the status of the District's efforts to comply with Individual Education Plan (IEP) requirements for Special Education students.

*Superintendent Moser provided the status of Special Education IEPs.*

• *Audit of IEPs*

➤ *There is an ongoing inability to stay current with IEPs (due: approximately 3,000/year; 300-400/month). The California Department of Education (CDE) has reviewed the District's IEPs several times since 2007 and the District has failed the test each time. Progress was made initially when the audit was made and there were an excess of 800 IEPs overdue. That amount was reduced to 500-600 overdue IEPs. CDE has requested the District to make a report to the Board of Trustees relative to the issue, including the corrective action.*

- *CDE has come in and has started auditing the content of IEPs. They have specific recommendations for professional development that has been mandated of staff, which will be executed immediately. As a consequence, the Superintendent has weekly Monday morning meeting with the Special Education Administration relative to the number of IEPs that are overdue. He is looking at IEPs that are 6 and 8 months overdue.*

*Compliance of IEPs is regulated at the Federal level; there is a zero tolerance. An average IEP can be 20+ pages. All information in the IEP must be accurate. When CDE comes to review the files, they look at everything and anything that is incorrect in the files. The State has a system in place called CASEMIS. They can monitor on a live basis whether or not our IEPs have been entered in the statewide system. This is how the State monitors for the Feds the compliance of having an IEP.*

*It is going to end up being a very strict accountability at the site level with the Principal because the Superintendent is being held responsible by the State of, "Have you reviewed every IEP that has come forward?" It is an intense management problem.*

*External Auditor Gharaibeh indicated that the issue with IEPs is chronic with high schools. This is a finding that VTD comes up with often; it is not just East Side.*

**15. Discussion/Action: Establish Next Meeting Date**

*The next meeting of the Audit Committee will be June 11, 2011.*

**16. Superintendent Communications/Comments**

- Interim Associate Superintendent of Business Services, Hardy Childers
- Superintendent, Dan Moser

*There were no comments under this section.*

**17. Audit Committee Member Comments**

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

*There were no comments under this section.*

**18. Adjournment**

*Chair Biehl adjourned the meeting at 11:56 a.m.*

*Respectfully submitted,*



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*Frank Biehl, Board Audit Committee Chair*