

# EAST SIDE UNION HIGH SCHOOL DISTRICT

## Minutes of Meeting

**Approved**

**Board Audit Committee**

June 11, 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 9:03 a.m. Present were Vice Chair Martinez-Roach, Member Berg, Member Neighbors, Member Juchau, and Alternate Member Gonzalez.*

*Staff members in attendance were:*

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

*Presenters:*

- *Ian Marsh, Internal Auditor*
- *Ahmad Gharaibeh, External Auditor*

*Members of the public in attendance were:*

- *Solomon Gebala*

### 2. Introductions

*Persons present at the meeting introduced themselves.*

### 3. Adopt Agenda

*There were no changes to the agenda.*

**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. Approval of Minutes**

**Action:** Minutes from the April 16, 2011, meeting will be presented for approval.

*Motion by Member Juchau, second by Member Berg, to approve the minutes as presented.*

*Vote: 5/0*

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

Ian Marsh will review all actions taken by the Board and the Administration in response to the recommendations included in the FCMAT Report including #14, a review of Administrative Regulations related to adequate billing documentation.

*Internal Auditor Marsh provided an update regarding the status and actions taken in response to the FCMAT report recommendations.*

*He discussed the "Education Code 1241.5(b) Extraordinary" document, which was prepared by the Santa Clara County Office of Education (SCCOE), with the Committee. It was explained that the green boxes signify fully compliant and yellow are items the SCCOE considers have not been corrected or have been partially corrected. In anticipation of a meeting scheduled for May 4 with the SCCOE, Internal Auditor Marsh addressed only the items highlighted in yellow.*

East Side Union High School District  
Board Audit Committee Meeting  
Minutes of June 11, 2011

Page 3

*The document titled “FCMAT Extraordinary Audit – EC 1241.5(b), Follow-Up of Open Items” was presented to the Committee for discussion. Internal Auditor Marsh provided the Committee the following responses to the SCCOE’s findings:*

*Number 2 - Finding 2*

*The District is fully compliant with this finding. The District has an Administrative Regulation in place that includes language regarding professional services. A copy of the Administrative Regulation was provided to the SCCOE.*

*Number 5 - Finding 5*

*The District is fully compliant with this finding. A Conflict of Interest Statement was prepared by District’s General Counsel for implementation/use by the District. All consultants will be required to sign and have on file with the District a Conflict of Interest Statement. (Reference Board Policy 3600)*

*Internal Auditor Marsh will independently pull consultant files to audit that each have a Conflict of Interest Statement on file. He will report his findings at the next Audit Committee Meeting.*

*Member Juchau asked who is responsible for looking at contracts and if they each have a Conflict of Interest Statement on file?*

*Superintendent Moser indicated that it starts in Purchasing where it is put into a file and then it would be by the auditor.*

*Alternate Member Gonzalez asked if the District has a list off contractors and if there is a check box next to their name that is either checked or unchecked that indicates whether or not they have a Conflict of Interest Statement on file.*

*Superintendent Moser indicated that the District does not have a checklist document.*

*Internal Auditor Marsh and Superintendent Moser will look into the details as to how the process to track consultant requirements is implemented. This item will be placed on the next agenda for further discussion.*

*Number 8 -Finding 1*

*Contracts extensions are covered in Administrative Regulation 3311.*

Number 13 - Finding 6

*The FCMAT report does not specify individuals or vendors. The report comments on exceptions or weaknesses, but does not identify instance. The Auditor, who worked on the audit, is no longer with FCMAT. The District was not able to adequately respond because the name of the vendor was not known. Internal Auditor Marsh contacted FCMAT and FCMAT researched their work papers. The name of the consultant and sub-consultant was provided: consultant SGI; sub-consultant Community Development Resources, Inc.*

*Internal Auditor Marsh feels that this issue has been adequately addressed by the District.*

Number 14 - Finding 1

*FCMAT believes that the vendor should provide detailed invoices that include specific dates, hours worked, billing rates, detail by person providing the service with the underlying facility project as identified in each charge.*

*This item is related to construction management billings by Blach Construction. Blach, in their billings, showed separate charges for pre-construction, construction and close-out. In reviewing the contract signed with Blach, it states very clearly that consultant services are billed based on a percentage of the total contract. Internal Auditor Marsh feels that the way Blach billed the District was compliant with the contract between Blach and the district.*

*There was some discussion by the Committee that the policy be reviewed by the Board, specifically in the area of billing.*

*Vice Chair Martinez-Roach indicated that the Board gave direction to Administration with the FCMAT report, in a public meeting, that they need to have corrective action on all the issues. At some point, what has been done needs to be presented to make sure the issues have been addressed.*

*Chair Biehl indicated that the District is looking to have the County Office sign off that the District has complied with the recommendations of the FCMAT Report; that is an important factor.*

*There was some discussion on "fixed fee orders" and how some may result in change orders.*

*Member Neighbors indicates that for contracts that are time and materials, the public does not want charges to be ongoing, there should be a cap, which results in a fixed fee. The public wants transparency.*

*Member Juchau indicated that there are change orders that take the purchase orders out of the fixed fee model.*

*Vice Chair Martinez-Roach indicated that change orders is a huge issue and an issue the District needs to address.*

*Chair Biehl feels that this issue is worthy of further investigation. Internal Auditor Marsh will look further into this issue and come back with recommendations if needed. Change orders will be on the agenda for future discussion, unless covered under the Internal Auditor's Work Plan.*

*Number 15 - Finding 2*

*Vavrinek, Trine, Day & Co (VTD) has spent quite some time looking at this. In their June 30, 2010, Audit Report, they concluded that overall project costs were properly allocated to each Bond Program. No material audit exceptions were noted.*

*Number 21 - Finding 5*

*This item was not specific to any individual. The District's response was that there have been no subsequent payouts since the FCMAT audit. Future payouts will be reviewed by the CBO and approved by the Board of Trustees.*

*Internal Auditor Marsh will review the contract of the Superintendent and Associate Superintendents to review the vacation and vacation payouts process.*

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

Ahmad Gharaibeh, External Auditor, presented this audit's findings at the April 16, 2011 meeting. The Board at its April 21, 2011 meeting accepted the audit. Superintendent Dan Moser will update the committee as to how the audit's findings are being addressed by the administration.

*External Auditor Gharaibeh discussed the audit findings of the Measure G and E General Obligation Bond Performance Audit Reports for fiscal year ended June 30, 2010, specifically the findings of the contracts on what could and could not be charged from a contractor's perspective. The language in the contracts reviewed was general, not specific. A couple of the contracts have been renewed with the contractor and the attorney is reviewing the language of the contract and making it more specific on the new contract. VTD has not seen the new contract, but they will come back in September or October to review the language to make sure that what can and cannot be charged to the District is included in the contract.*

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

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

*Internal Auditor Marsh reported on the status of projects included in the Board approved Work Plan. Items discussed were as follows:*

1) Facilities Development; Measure E & G Bonds

*Due to other work commitments, he has not done much work in this area since the previous Audit Committee meeting. During the summer, there will be more focus on this area.*

*As a follow up to the FCMAT Audit Report discussed earlier in the meeting, documentation supporting billings of the sub-consultant CDR was requested. CDR provides construction management services. The invoices provided only show the hours worked at \$120/hour and no supporting detail on actual services performed and for what project. Bob Bush of SGI did provide some information, but it was not specific on the services provided.*

*The contract between the sub-consultant and SGI was reviewed. The language in the contract is vague as to what services are to be performed. The invoices show that the sub-consultant has billed SGI and the District over \$500,000. The monthly billing has been averaging \$20,000. This area will continued to be researched and an update and recommendation will be provided at the next meeting.*

*Issues relative to change orders and exceeding the 10% were discussed. Superintendent Moser stated that the District does monitor the exceeding of the 10%. In his two years as Superintendent, the District has only had one project that exceeded the 10% and the District recently dealt with that matter, requiring that the excess come out and the District go out to bid because that is the law. When there is an excess of 10%, a process must be followed to mitigate the issue.*

2) School Site Cash Handling

*Since the April 16 meeting, Internal Auditor Marsh has reviewed the school site cash handling at Piedmont Hills High School. For Andrew Hill, Evergreen Valley, Santa Teresa and Silver Creek High Schools he has reports in draft format, which he shall be reviewing with the Principals and will include their response in the audit findings. At the last Audit Committee meeting, he mentioned major internal control issues.*

*At a few sites, bank reconciliations were not being prepared monthly. There was one site where the last bank reconciliation had been prepared on June 30, 2010. Trial balances, income statements and balances sheets are not always prepared monthly. At a few sites, there are long-outstanding deposits, which should clear with a bank within one to two business days. In some, they went back several months. One had the deposit made to the wrong account. The other one, we do not have a good explanation; there will be follow-up on that issue.*

*At a few sites there are non-compliant food sales. As a District, we are committed to following State law, the Education Code and District policy.*

3) Attendance Reporting

*Additional work on this item has not been done. This will be looked into with more detail in the Fall.*

4) E-Rate

*There have been ongoing issues in trying to get reimbursement under the E-Rate Program. There are two major claims pending, which total over \$3 million for years 2008 and 2010. The FCC received confidential information on allegations against the District. As a result, a major investigation was started. The District has been trying for two years to get a resolution on the 2008 claim. The 2010 claim has not been paid because the 2008 claim has not been resolved.*

*Internal Auditor Marsh met with various staff that were involved in the filing of the claims and also responsible for responding to the questions from USAC. He also has been in communication with Fred Brakeman from Infinity Communications who the District has hired to help with the expediting of the claims. Mr. Brakeman concluded that the District has sometimes done a poor job of ensuring the claims are accurate and complete. Mr. Brakeman feels that the District has responded appropriately to all the documents requests by USAC. He is doing everything he can to get resolution on the claims.*

*Internal Auditor Marsh shared with the Committee that, just this past Friday, an e-mail was received from USAC which stated they have completed their review of the District's 2011 claim and the documentation appears complete.*

*Vice Chair Martinez-Roach asked if the District was receiving the correct reimbursement based on the percentage of free and reduced lunches in the District. Mr. Moser will research the question.*

*E-Rate will remain on the agenda under the District receives it reimbursement.*

5) FCMAT Special Audit

*Item discussed under section seven of the agenda.*

6) Procurement

*What has been done on this item has been based on the FCMAT audit.*

7) Legal

*A number of items have been reviewed, such as legal expenses, to identify whether the District has any documented procedures in this area, procedures to review and approve invoices.*

*Chair Biehl indicate that this item will be covered under item ten on the agenda.*

8) Independent Accountants

*Internal Auditor has spoken to this item in a previous Audit Committee Meeting.*

9) Special Projects

*Personnel matters cannot be discussed with the Committee, but there is one significant matter in this area involving accounting for District funds.*

*Under E-Rate, it was noticed that the District was receiving a number of charges for third-party billings through AT&T for items such as personal voicemail. It was found that a number of the charges went back to 2007 or 2005 and range from \$13-\$15 a month, which is a recurring charge. A block of ten charges were questioned with AT&T. They said it was 24/7 personal voicemail. It was asked who ordered the service and when. The information was provided by AT&T. AT&T was informed that the charges were not authorized. In most cases, a partial credit was issued. One charge was over \$800. A few indicated that District was too late for a full credit, but would offer a two to three month credit.*

*Chair Biehl asked Internal Auditor Marsh to identify what is allowing these unauthorized charges to take place and what can be done to prevent unauthorized charges.*

*Internal Auditor Marsh will give a more detailed report at the next meeting. He has confirmed with AT&T who is authorized to order services.*



*Two weeks ago there were two fraudulent transfers out of the Bank of America payroll account into a PayPal account; they were pennies. Payroll and Accounts Payable use a system called "positive pay." When the District goes to disburse the funds, a Microsoft Word file is sent to the bank. The file lists the checks issued and, if a check does not appear on the list, the Bank is not authorized to pay it. These two checks were electronic transfers. While the dollar amounts were small, this may have been a test of internal controls as a prelude to trying to make a larger transfer, but the transactions were caught. The District was able to get a name of an individual, but the individual is not a District employee. The District has been in contact with Bank of America and Wells Fargo to implement additional procedures with positive pay and that electronic transfers are not authorized.*

*10) Redevelopment Income*

*No work has been done in this area.*

*11) Staff Training*

*On April 20, there was mandatory student body training for Finance Clerks. The training was given by FCMAT and was done jointly with San Jose Unified School District staff. There were two or three staff members that did not attend the training, but they had an explanation for not being able to attend. There were also a few Activities Directors and Principals that attended the training.*

*On May 11, additional cash handling training was given to Finance Clerks by Internal Auditor Marsh.*

**10. Discussion/Action: Legal Expenditures**

Ian Marsh will report on his work-to-date regarding the following:

- A. Legal costs, any duplication of services
- B. Policies and Administrative Regulations for authorization of legal expenditures
- C. The relationship between attorneys appointed by the self-insurance Joint Powers Agreement (JPA) and our District Counsel.

*Internal Auditor Marsh performed a limited review of legal expenses. Some detail information was pulled from the general ledger system of QSS, including a comparison of expenditures of last year versus this year to-date. He also checked if there were documented procedures on the review and approval of legal invoices. The Committee had an interest as to how the District coordinates legal services between General Counsel and GPAs.*

East Side Union High School District  
Board Audit Committee Meeting  
Minutes of June 11, 2011

Page 10

*Last year, the District spent slightly more than \$1 million on legal services, which were mostly with Rehon & Roberts and Garcia, Calderon and Ruiz. This year, up to the end of April, we spent about \$1.2 million. The major part of the expenses was on the KMS litigation. The second and third major categories were general personnel matters and Board matters.*

*As a District, we do not have documented procedures concerning legal expenses. On the coordination of services questioned, following the elimination of the District's risk management position, the Superintendent keeps General Counsel informed of any new claims, which mostly relate to the area of personal injury or property damage. General Counsel has asked the attorney appointed by JPA to keep him informed about matters which may have policy implications for the District.*

*Overall, the District is taking reasonable steps that any work that is being done by outside legal counsel is coordinated with our General Counsel.*

*Superintendent Moser indicated that the District's General Counsel is being informed if there is a pending case so that someone is aware of the legal matters that are taking place. So, that when the insurance group reaches settlement, the District is in the loop on what is taking place. In the area of personnel matters, General Counsel works mainly on matters related to sexual harassment or if a crime has been allegedly committed.*

*Vice Chair Martinez-Roach would like to know if there are policies in place that deal with the use of attorneys and in what instances are they used.*

*Internal Auditor Marsh will research existing policy and will work with administration on this matter. At the upcoming Board meeting, there will also be further discussion on this item.*

*This item will remain on the agenda for further discussion by the Committee.*

- 11. Discussion/Action: Possible Recommended Addition to Internal Auditor's Work Plan**  
Possible recommendation from the Audit Committee to the Board to include in the Internal Auditor's work plan a review of policies and administrative regulations that relate to cash handling; specifically, fundraising and field trips.

*The Board approves the Auditor's Work Plan, but the Audit Committee can make recommendations to the Board.*

*Internal Auditor Marsh reported that he inquired as to what documented procedures the District has in the area of cash handling. His findings resulted in there being very few procedures; there are two that are not very comprehensive. With the concurrence of the Audit Committee, he proposed the development of a comprehensive Administrative Regulation on the area of cash handling, which would address not only student body, but also revolving funds, petty cash and food services. The goal would be no later than the end of September to have a new regulation/policy.*

*Motion by Member Neighbors, second by Member Juchau, to include a section on cash handling in the Internal Auditor's Work Plan.*

*Vote: 5/0*

**12. Discussion/Action: Carnival Policies and Related Issues**

Superintendent Dan Moser will report on the current Board policy related to authority to authorize a "Carnival" and the development of an administrative regulation that includes certificate of insurance requirements for liability and workers compensation.

*Superintendent Moser provided a report on the current Board policy as it relates to carnivals. Keenan provided him information that should be in the contract relative to assurances. A certificate of insurance must be provided as an endorsement.*

*The issue is, "At what level is authority given to authorize a carnival?" The District's current practice is through the Use of Facilities Forms, which is delegated at the school level. There is a desire from a couple of Board Members to change that process as to the same method as how fireworks are handled. He is working towards that and will be bringing to the Board such discussion at a future date.*

*Vice Chair Martinez-Roach indicated that the issue is the liability and the damage to the facilities.*

*Chair Biehl indicated that the Board needs to decide where they want the approval level to be: Principal, Superintendent or Board.*

*This item will remain on the agenda for further discussion by the Committee.*

*Member Neighbors was excused to leave the meeting. Alternate Member Gonzalez became a voting member for the remainder of this meeting.*

**13. 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 Gharaibeh presented items 13 and 16 together. He reported that the audit is done in three phases. At the end of the audit, there is emphasis put on the prior year findings, 2009/2010, as well as the current year just in case VTD needs to alert the District, to allow them to make corrections prior to the finalization of the audit report.*

*The 2009/2010 audit had three findings: student body, special education IEPs, and Title I eligibility findings. For the eligibility findings for Title I, money is given for eligible students and the school site files an application to become a school wide Title I school, which would make all student eligible. As such, this finding has been cleared. As it relates to the student body, the finding will be repeated again this year. One school was found to be collecting lease of facilities revenues and it was a significant amount of money. It is believed that this has been ongoing between many other sites, as well. This is something that the District needs to follow up on. At one particular site, it was noticed that an estimated \$100,000 of revenues that belong back to the District Office is actually located in the student body account. The school is Evergreen Valley High School. They are collecting fees, such as leasing the use of the field or a gymnasium, and the check is being deposited in the student body fund. This has been going on for quite some time.*

*Chair Biehl would like the Internal Auditor to review the policy and administrative regulation on lease of facilities to determine if a change in the language is needed. He also indicated that the Superintendent will look at the need for training. "Lease of facilities" will remain on the agenda for further discussion by the Committee.*

*External Auditor Gharaibeh stated that the next item, IEPs, had a significant number of students that did not have an IEP or it was outdated. This will be a repeated finding. If a District has a repeated finding several times for several consecutive years when it comes to Federal findings, the Feds will follow-up. They will ask the auditing agency to change it from an audit perspective from a full risk to a high risk type of district where they have to audit more Federal programs so that there is more work on the auditing agency's behalf. The Special Education Program receives ARRA funding and ARRA funding has a separate website called Recovery.Gov where these findings are reported. The report would be available to the public and they will be able to download the report. It was stated by the Federal agencies that the OIG will be following-up on findings related to ARRA funds.*

*VTD is also asking the District to collect all missing PAR forms. Karen Poon will follow-up on the missing forms. This item will not be on the audit finding.*

*The last is the School Accountability Report Card. There are elements with SARC that require the District to tell the public if they have any issues with instructional materials, teacher assignment(s), and facilities. Within the District, there is an evaluation specifically on facilities which is required to be conducted. Some is required to be conducted by the Santa Clara County Office of Education for decile 1, 2, 3 schools. The remaining school sites are required to be evaluated by District staff. There is a specific form that is required to be used by OPSC who sends the form to districts and tells them to use that particular form. When VTD reviewed the SARC, they were unable to know whether facilities problems were or were not reported on the SARC because the form was not completed. The form was unable to be located. The word of mouth received was the individuals responsible for reporting the SARC were touring the facilities and taking notes and the notes were transitioned to the SARC, but there was no evidence of exactly what evaluation was done. This will be a finding on the Audit Report. It is a State compliance finding. It has no impact on funding, but the District will be asked to correct the finding, which is the usage of the form.*

**14. Discussion/Action: Report on GASB 54 Accounting Requirements**

Ahmad Gharaibeh, External Auditor, will report on GASB 54 requirements.

*External Auditor Gharaibeh recently read the policy. It will be coming to the Board on June 16 for a first reading and June 28 for a second reading. It is fully compliant.*

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

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

*This item was covered under item 8: Audit Work Plan Report, E-Rate section.*

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

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

*Presented under item 13.*

**17. Discussion/Action: Annual Review of Audit Committee Charter**

Section V, Self-Assessment, requires the annual review of the Charter. The Committee will determine the means and timeline to conduct such a review.

*The Charter calls for an annual review to determine if there is a need for changes to the Charter. Chair Biehl asked Member Juchau to review the Charter for any possible changes and to report back at the next Audit Committee Meeting.*

**18. Informational: Brown Act Instruction**

Under Section IV, Duties and Responsibilities, the Charter requires that Audit Committee Members receive training and comply with the Brown Act.

*The Charter calls from Brown Action instruction. It was confirmed that all Members have had Brown Action instruction.*

**19. Discussion/Action: Establish Next Two Meeting Dates**

*It was suggested that the next two meetings be held in September and after mid November. After some discussion, September 10 was the proposed date for the first meeting and November 19 was the proposed date for the second meeting.*

**20. Superintendent Communications/Comments**

*There were no comments under this section.*

**21. Audit Committee Member Comments**

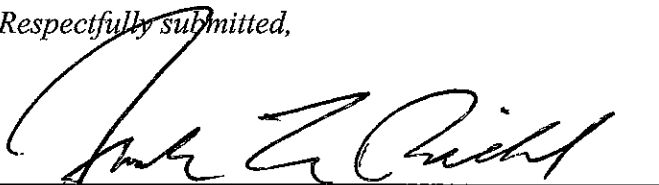
Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

*Member Juchau mentioned that it is great to have Ian on board, but to be reminded that the more that is added to his work, the less that things will get done. It is an encouragement to the Board not to overfill his plate so that he can focus on the most important issues.*

**22. Adjournment**

*Chair Biehl adjourned the meeting at 12:11 p.m.*

*Respectfully submitted,*



---

*Frank Biehl, Board Audit Committee Chair*