

**Approved**  
**Board of Trustees**  
**December 8, 2011** *W. G. ...*

**Agenda Item Details**

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Meeting Dec 08, 2011 - ESUHSD ANNUAL ORGANIZATIONAL & REGULAR BOARD MEETING - 4:00 P.M., DISTRICT OFFICE - BOARD ROOM, 830 N. CAPITOL AVENUE, SAN JOSE, CA 95133

Category 15. ATTACHMENT A - CONSENT CALENDAR

Subject 15.14 Approve Minutes of November 17, 2011, Regular Board Meeting

Access Public

Type Action (Consent)

Recommended Action It is recommended that the Board of Trustees approve the November 17, 2011, Regular Board Meeting minutes as presented.

**Public Content**

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**EAST SIDE UNION HIGH SCHOOL DISTRICT****Item: 15.14**

**TO:** Board of Trustees

**FROM:** Dan Moser, Superintendent

**SUBJECT:** Approve Minutes of November 17, 2011, Regular Board Meeting

Attached are the minutes of the November 17, 2011, Regular Board Meeting for review and approval by the Board of Trustees.

**FISCAL IMPACT:**

None

**FUNDING SOURCE:**

None

**RECOMMENDATION:**

It is recommended that the Board of Trustees approve the November 17, 2011, Regular Board Meeting minutes as presented.

**Executive Content**

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*Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Most of the items listed under the consent agenda have gone through Board subcommittee review and recommendation. Documentation concerning these items has been provided to all Board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.*

**EAST SIDE UNION HIGH SCHOOL DISTRICT  
REGULAR MEETING  
OF THE  
BOARD OF TRUSTEES  
Meeting Held at Education Center  
November 17, 2011  
4:00 p.m.**

**1. CALL TO ORDER/ROLL CALL**

**1.01 Roll Call**

*The Regular Meeting of the Board of Trustees was called to order at 4:01 p.m. by President Nguyen. Vice President Biehl, Clerk Le and Member Martinez-Roach were present. Member Herrera arrived at 4:15 PM*

**1.02 Announcement and Public Comment regarding Items to be discussed in Closed Session (Government Code 54957.7)**

*President Nguyen extended a welcome to everyone, explained the format of the meeting, noted that all Board Meetings are recorded and offered the public to comment on item(s) to be discussed in Closed Session.*

*There were no public speakers.*

**1.03 Recess to Closed Session in the Superintendent's Conference Room (Open Session will resume at the end of Closed Session at approximately 6:00 p.m.) See item 2 on agenda (Closed Session).**

*The Board of Trustees recessed to Closed Session in the Superintendent's Conference Room.*

**2. CLOSED SESSION**

**2.01 Expulsion(s): A- B**

*Student A:*

*Motion by Member Martinez-Roach, second by Clerk Le, to approve the expulsion of Student A.*

*Vote: 4/0, Member Herrera was absent*

*Student B:*

*Motion by Member Herrera, second by Vice President Biehl, to approve the expulsion of Student B.*

*Vote: 5/0*

**2.02 Public Employee Performance Evaluation (Government Code Section 54957)**

**2.03 Public Employment/Public Employee Appointment (Government Code Section 54957)**

- *Director III – Information Technology (1)*

**2.04 Public Employee Discipline/Dismissal/Release (Government Code Section 54957)**

**2.05 Conference with Labor Negotiators (Government Code Section 54957.6)**

*Agency Designated Representatives:*

*Dan Moser, Superintendent*

*Cathy Giammona, Associate Superintendent of Human Resources and Instruction*

*Marcus Battle, Associate Superintendent of Business Services*

*Vida Branner, Director of Compensation and Classified Employee Relations*

*Employee Organizations:*

*American Federation of Teachers (AFT)*

*California School Employees Association (CSEA)*

*East Side Teachers Association (ESTA)*

**2.06 Conference with Legal Counsel – Existing Litigation  
Subdivision (b) of Section 54956.9 of the Government Code**

- *South Bay Industry Labor Management Trust vs. East Side Union High School District*

**2.07 Conference with Legal Counsel – Anticipated Litigation  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9  
of the Government Code**

- *Four (4) Potential Cases*

**2.08 Conference with Real Property Negotiators**

<i>Property:</i>	<i>ESUHSD Educational Center, or portion thereof 830 N. Capitol Avenue San Jose, CA 95133</i>
<i>District Negotiators:</i>	<i>Dan Moser, Superintendent Marcus Battle, Associate Superintendent of Business Services Rogelio Ruiz, Legal Counsel Real Estate Representatives Sam Swan, Bob Hunt and Andre Hunt</i>
<i>Negotiating Parties:</i>	<i>ESUHSD, Santa Clara Development Company, and Other Parties To Be Determined</i>
<i>Under Negotiation:</i>	<i>Price and Terms</i>

**OPEN SESSION AT APPROXIMATELY 6:00 P.M. – EDUCATION CENTER BOARD ROOM**

**3. PLEDGE OF ALLEGIANCE**

**4. WELCOME AND EXPLANATION TO AUDIENCE**

**Information explaining Board meeting procedures and how citizens can address the Board will be read. Written information is located near the entrance to the Board Room.**

*President Nguyen extended a welcome to everyone, explained the format of the meeting and noted that all Board Meetings are recorded.*

**5. CONSIDERATION OF PROPOSED AMENDMENTS TO AGENDA**

**For consideration by the Board of Trustees.**

*Superintendent Moser requested that item 13.03 be heard after item 10.03.*

*Motion by Member Martinez-Roach, second by Clerk Le, to hear item 13.03 after item 10.03.*

*Vote: 5/0*

**6. BOARD SPECIAL RECOGNITION(s)**

**6.01 Paul Kick – 2011 Outstanding Teacher of America (Carlston Family Foundation)**

**6.02 Dean Renfrow – President – 180 Degrees Program**

7. **STUDENT BOARD LIAISONS**

7.01 **Melani Cabanayan, ASB President – Piedmont Hills High School**

7.02 **Marisol Zaragoza, ASB President – Yerba Buena High School High School**

8. **PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD OF TRUSTEES**

**Persons wishing to address the Board must fill out a gold request form, which is located at the entrance of the Board Room.**

*Public speakers:*

- *Marisa Hanson – ESTA Criteria for Superintendent*
- *Hai Pham – Vietnamese Counselor for Andrew Hill*
- *Lien Vu - Vietnamese Counselor for Andrew Hill*
- *Trinh Tran - Vietnamese Counselor for Andrew Hill*

9. **BOARD OF TRUSTEES/SUPERINTENDENT - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**

9.01 **Consideration of Petition for Proposed ACE Charter High School - Cathy Giammona, Associate Superintendent, Human Resources and Instruction, and Kirsten King, Director of Instructional Services**

*Public speakers:*

- *Susan Hammer*
- *Lourdes Cortes*
- *Greg Lippman*
- *Reverend April Lussier*

*Motion by Member Herrera, second by Vice President Biehl, to approve the proposed petition for ACE Charter High School,*

*Vote: 4/1, Member Martinez-Roach voted No*

9.02 **Presentation of District Life Insurance Plan Changes - Marcus Battle, Associate Superintendent of Business Services**

*Public speaker:*

- *Marisa Hanson*

*Presentation item only.*

9.03 **Presentation on Child Nutrition Services - Marcus Battle, Associate Superintendent of Business Services, Julie Kasberger, Director of General Services, and Dan Moser, Superintendent**

*Presentation item only.*

**9.04 Discussion and/or Action regarding FCMAT Close-Out Letter from the Santa Clara County Office of Education - Patricia Martinez-Roach, Board Member**

*Motion by Member Martinez-Roach, second by Clerk Le, to accept the FCMAT Close-Out Letter from the Santa Clara County Office of Education.*

*Vote: 5/0*

**9.05 Discussion and/or Action regarding Spirit and Fundraising Event - Van Le, Board Clerk, and Patricia Martinez-Roach, Board Member**

*Discussion item; no action taken*

**9.06 Board Audit Committee Update, Discussion and/or Action - Frank Biehl, Audit Committee Chair, and Patricia Martinez-Roach, Audit Committee Vice Chair**

*The Audit Committee is scheduled to meet this Saturday at 9 AM. We have an extensive agenda. I forwarded you a copy of the link. It is posted on the website. It is a public agenda, a public meeting.*

**9.07 Discussion and/or Action to Adopt the Amended Board Audit Committee Charter – Frank Biehl, Audit Committee Chair, and Patricia Martinez-Roach, Audit Committee Vice Chair**

*Motion by Vice President Biehl, second by Member Herrera, to adopt the amended Board Audit Committee Charter.*

*Vote: 5/0*

**9.08 Receive Second Reading and Adopt Amendment to Board Policy #1330 Use of School Facilities - Dan Moser, Superintendent**

*Motion by Member Martinez-Roach, second by Vice President Biehl, to receive the second reading and adopt amendment to Board Policy #1330 Use of School Facilities.*

*Vote: 5/0*

**9.09 Adopt Resolution #2011/2012-12 in Support of Senate Constitutional Amendment (SCA) 5 - Dan Moser, Superintendent**

*Motion by Member Martinez-Roach, second by Member Herrera, to adopt Resolution #2011/2012-12 in Support of Senate Constitutional Amendment (SCA) 5.*

*Vote: 5/0*

**9.10 Consideration and Authorization of Hearing Concerning D.L. Falk Construction, Inc. Re: Violation of Public Contract Code Sections 4104 and 4106 and Possible Imposition of Remedies as Allowed by Law - Dan Moser, Superintendent**

*Public speakers:*

- Neil Struthers
- Mike Lacy

*Motion by Member Martinez-Roach, second by Vice President Biehl, to adopt Resolution #2011/2012-15: (i) authorizing and directing Administration to proceed with an public administrative hearing under Public Contract Code section 4110, (ii) appointing Associate Superintendent Marcus Battle or his designee to serve as the hearing officer for the matter, (iii) directing Mr. Battle to hold the hearing and provide D.L. Falk Construction, Inc. notice of the hearing as required by law, (iv) directing that Mr. Battle, after hearing the evidence, render a decision including but not limited to the appropriate remedy to be imposed, if any, under Public Contract Code section 4110, and (v) directing that Mr. Battle's decision be presented to the Board for approval and adoption at the next Regular Board Meeting, or next available Board meeting.*

*Vote: 5/0*

**10. INSTRUCTIONAL SERVICES/STUDENT SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**

**10.01 Update, Discussion and/or Action regarding Chinese Language as an Elective - Cathy Giammona, Associate Principal, Human Resources and Instruction, and Kirsten King, Director of Instructional Services**

*Discussion item; no action taken*

**10.02 Receive Second Reading and Adopt Board Policy #5120.1 Assignment of Credit – Cathy Giammona, Associate Superintendent, Human Resources and Instruction, and Kirsten King, Director of Instructional Services**

*Motion by Member Martinez-Roach, second by Clerk Le, to receive the second reading and adopt Board Policy #5120.1 Assignment of Credit.*

*Vote: 5/0*

**10.03 Receive Second Reading and Adopt Board Policy #5120.3 Assignment of Grades – Cathy Giammona, Associate Superintendent, Human Resources and Instruction, and Kirsten King, Director of Instructional Services**

*Motion by Vice President Biehl, second by Member Herrera, to receive the second reading and adopt Board Policy #5120.3 Assignment of Grades.*

*Vote: 4/1, Member Martinez-Roach voted No because of the inconsistency of grades*

- 10.04 Approve the Work Experience Education (WEE) Program and Application – Cathy Giammona, Associate Superintendent, Human Resources and Instruction, and Cari Vaeth, Director of Adult Education and Career Services**

*Motion by Member Martinez-Roach, second by Clerk Le, to approve the Work Experience (WEE) Program and Application.*

*Vote: 5/0*

- 10.05 Receive/Discussion/Action SCCOE 2011 Williams Settlement Annual Report – Cathy Giammona, Associate Superintendent, Human Resources and Instruction**

*Report received*

- 10.06 Approve Inter-District Attendance Agreement with Lodi Unified School District – Cathy Giammona, Associate Superintendent, Human Resources and Instruction, and George Sanchez, Coordinator of Student Services**

*Motion by Member Herrera, second by Member Martinez-Roach, to approve the inter-district attendance agreement with Lodi Unified School District.*

*Vote: 5/0*

**11. HUMAN RESOURCES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**

- 11.01 Hold Public Hearing at Approximately 6:45 p.m. - Regarding Tentative Agreement and Memorandum of Understanding Re: Furlough Days (“MOU”) with the California School Employees Association, Chapter 187, July 1, 2011 – June 30, 2012; and Memorandum of Understanding with the California School Employees Association (CSEA), Chapter 187, Effective July 1, 2011 (the “Transportation MOU”) – Dan Moser, Superintendent; Cathy Giammona, Associate Superintendent, Human Resources and Instruction; and Vida Branner, Director of Compensation and Classified Employee Relations**

*Public hearing held; there were no public speakers.*

- 11.02 Ratify and Approve Tentative Agreement and Memorandum of Understanding Re: Furlough Days (“MOU”) with the California School Employees Association, Chapter 187, July 1, 2011 – June 30, 2012; Ratify and Approve Memorandum of Understanding with the California School Employees Association (CSEA), Chapter 187, Effective July 1, 2011 (the “Transportation MOU”) – Dan Moser, Superintendent; Cathy Giammona, Associate Superintendent, Human Resources and Instruction; and Vida Branner, Director of Compensation and Classified Employee Relations**

*Motion by Member Martinez-Roach, second by Clerk Le, to:*

- *Ratify and approve the tentative agreement and memorandum of understanding regarding Furlough Days (“MOU”) with the California School Employees Association, Chapter 187, effective July 1, 2011 – June 30, 2012;*



- Ratify and approve memorandum of understanding with the California School Employees Association (CSEA), Chapter 187, effective July 1, 2011 (the "Transportation MOU")

Vote: 5/0

**11.03 Approve Job Description and Salary Range for Classified Management Position of District Architect - Dan Moser, Superintendent; Cathy Giammona, Associate Superintendent, Human Resources and Instruction**

*Motion by Member Martinez-Roach, second by Vice President Biehl, to approve the job description and salary range for classified management position of District Architect.*

Vote: 5/0

**12. BUSINESS SERVICES/STUDENT SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**

**12.01 Adopt Resolution #2011/2012-13 an Itemized List of Surplus/Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546 - Marcus Battle, Associate Superintendent of Business Services, Donna Bertrand, C.P.M., Contracts Administration Coordinator**

*Motion by Member Martinez-Roach, second by Vice President Biehl, to adopt Resolution #2011/2012-13 an Itemized List of Surplus/Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546.*

Vote: 5/0

**12.02 Approve Request of Allowance of Attendance Due to Emergency Conditions – Marcus Battle, Associate Superintendent of Business Services**

*Motion by Clerk Le, second by President Nguyen, to approve request for allowance of attendance due to emergency conditions.*

Vote: 5/0

**12.03 Approve Contracts for Professional Services over \$50,000 - Marcus Battle, Associate Superintendent of Business Services, and Donna Bertrand, C.P.M., Contracts Administration Coordinator**

*Motion by Member Herrera, second by Member Martinez-Roach, to approve contracts for professional services over \$50,000 (attached).*

Vote: 5/0

**12.04 Receive First Reading and Adopt Amendment to Board Policy 3105 Fund Balance (GASB 54) - Marcus Battle, Associate Superintendent of Business Services**

*Motion by Member Martinez-Roach, second by Vice President Biehl, to receive the first reading and adopt amendment to Board Policy 3105 Fund Balance (GASB 54).*

*Vote: 5/0*

**12.05 Adopt Resolution #2011/2012-14 Committing Fund Balance in Accordance with GASB 54 - Marcus Battle, Associate Superintendent of Business Services, and Karen Poon, Director of Finance**

*Motion by Member Martinez-Roach, second by Member Herrera, to adopt Resolution #2011/2012-14 Committing Fund Balance in Accordance with GASB 54.*

*Vote: 5/0*

**13. FACILITIES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**

**13.01 Presentation/Update on the General Obligation Bond Program Funding Review – Marcus Battle, Associate Superintendent of Business Services**

*Presentation item; no action taken*

**13.02 Approve Measure E Forecast and Spending Plan - Marcus Battle, Associate Superintendent of Business Services in Consultation with SGI**

*Motion by Vice President Biehl, second by President Nguyen, to adopt Alternative A and that the District not utilize any Capitol Appreciation Bonds, but, instead, use up to \$15 million from Fund 35 and another \$5 million from Measure G and unallocated funds the District is able to locate.*

***Motion revised (see below)***

*Revised motion:*

*Motion by Vice President Biehl to have Administration come back in December with its assessment and recommendation to include a modified Measure A that utilizes unallocated Measure G and Fund 35 monies instead of the Capitol Appreciation Bond.*

***Motion withdrawn***

*Item to be brought back in December by Administration*

**13.03 Approve Measure G Site Improvement/Deferred Maintenance Plan - Marcus Battle, Associate Superintendent of Business Services in Consultation with SGI**

*Public speakers:*

- *Hilda Keller*
- *Susan Williams*

*Motion by Member Martinez-Roach, second by Vice President Biehl, to approve a single initiative merging the previously approved "Deferred Maintenance" projects with the proposed immediate "Site Improvement" scope; 2) Authorize staff to proceed with the general approach illustrated in the Preliminary Master Schedule; and, 3) Approve additional funding of \$4.6 million from available Measure G funds to be applied to the "Site Improvement Initiative"; for a combined budget of \$32.5 million.*

*Vote: 5/0*

**14. ATTACHMENT A – CONSENT CALENDAR ITEMS**

*Motion by Member Herrera, second by Member Martinez-Roach, to approve the entire consent calendar as presented.*

*Vote: 5/0*

- 14.01 Ratify/Approve Classified Personnel Actions Presented November 17, 2011**
- 14.02 Ratify/Approve Certificated Personnel Actions Presented November 17, 2011**
- 14.03 Ratify/Approve Student Aide Personnel Actions Presented November 17, 2011**
- 14.04 Approve School Field Trips**
- 14.05 Approve Contracts for Professional Services at or Below \$50,000 *(copy attached)***
- 14.06 Approve Memoranda of Understanding**
- 14.07 Approve Budget Transfers Presented November 17, 2011**
- 14.08 Approve Purchase Orders Presented November 17, 2011**
- 14.09 Approve Change Orders to Purchase Orders Presented November 17, 2011**
- 14.10 Accept Warrant Register for the Month of October 2011**
- 14.11 Approve Change Order #1 for James Lick High School, Title IX Field Improvements Project (Jensen Corporation Landscape Contractors, Inc.)**
- 14.12 Approve Minutes of October 20, 2011, Regular Board Meeting**

15. **WRITTEN REPORTS/RECOMMENDATIONS**

15.01 **Receive District Technology Plan**

*Public speakers:*

- *Hilda Keller*
- *Susan Williams*

*Item received*

15.02 **Receive Update to Previously Approved Change Orders for Current Bond Projects which Exceed the 10% Allowance**

*Item received*

16. **FUTURE AGENDA ITEMS**

16.01 **Requests for Future Agenda Items**

*District Technology Plan Presentation – February 2012*

17. **BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS**

17.01 **Board of Trustees**

**Frank Biehl, Board Vice President**

**MetroED:**

*We are completing our Superintendent evaluation and we are in the process of advertising and hiring a new Business Officer at MetroED. They did a complete review of their volunteer policy to make sure all the students there are safe and that they are appropriately fingerprinted.*

*I've been visiting schools. I continue to be impressed with the quality of our staff, Principals, APEDs, APA and certificated staff. I have had different conversations with persons at the sites. Under these difficult circumstances, we have a lot of people pulling through out there. It is not sustainable in the long run. I have to commend those who are out there doing the work.*

**Van Le, Board Clerk**

*Last week I attended the Oak Grove Marching Band event. It was a fantastic performance and I am very proud of the Oak Grove students. Frank and I attended the event, along with Superintendent Dan Moser.*

*I visited Mt. Pleasant, KIPP and ACE schools. I am going to different sites and learning a lot. It has helped me to broaden my knowledge about school culture. Anything we can do for homeless students, such as an idea that I have for providing a reception for Christmas. I cook for homeless people, visit senior centers and nursing homes.*

*At the last meeting we talked about homeless students. If there is something we can do for sharing and giving for Christmas – that is my idea.*

**Patricia Martinez-Roach, Board Member**

*I want to wish everyone a Happy Thanksgiving. It is the season for giving. I do concur and have talked to Member Van Le about our homeless students in this District. We wanted to do something special and do not know how many homeless student there are, but we are willing to cook for them and do something like a Christmas celebration or a holiday celebration. We are going to find out if it is legal to request that information.*

**J. Manuel Herrera, Board Member**

*I am feeling concerned about our timeline with the Superintendent search. Public comment earlier by our ESTA President was pointing out realistically that if we are going to have someone on board at the end of April, beginning of May, we need to be making a selection in February or March, which is a very tight timeline. I am wondering if the Board is going to at any point make a decision to not use an executive search firm and instead guide its own process or...I know we authorized an RFP to go out. It is just expressing a concern that we keep eye on it.*

**Lan Nguyen**

*Superintendent and Principals, good job at the last Board session. Thank you very much for coming out on your Saturday morning to present to the Board your school information. It was very helpful. We are looking to have another update/presentation sometime in March or April.*

*I have the same concern as Mr. Herrera that we need to get moving. I do not think that the April deadline is realistic.*

**17.02 Dan Moser, Superintendent**

*We had indicated to the Board that at the December Board meeting we would be bringing a recommendation for a search firm.*

*Last night I attended an event in town where there were hundreds of start-up companies in the area of green technology, energy and sustainability. The reason I mention this is because East Side Union High School District was mentioned in one of the key addresses by Chevron. They are one of the major sponsors at this activity. Congratulations to East Side for that acknowledgement!*

**18. REPORT CLOSED SESSION ACTION(S)**

**Attorney will report on Closed Session action item(s).**

*See section 2.0 for reporting out of Closed Session items.*

19. **ADJOURNMENT**

**President adjourns the meeting.**

*President Nguyen adjourned the meeting in at 10:42 p.m.*

*Respectfully submitted,*

A handwritten signature in cursive script, appearing to read "Wauke", written in black ink. The signature is positioned above a horizontal line.

*Board Clerk*