

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of the Special Meeting of the Board of Trustees
Meeting Held at Education Center
April 5, 2007

APPROVED *as*
Board of Trustees
4-26-07 *Amended*
16

1) The Special Meeting of the Board of Trustees was called to order at 6:02 p.m. by President Shirakawa. Vice President Nguyen, Clerk Herrera, Member Biehl and Member Garcia were present.

CALL TO ORDER

2) **PLEDGE OF ALLEGIANCE**

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3) **CONSIDERATION OF PROPOSED AMENDMENTS TO THE AGENDA**
Amendments here.

**CONSIDERATION
OF PROPOSED
AMENDMENTS
TO THE AGENDA**

4) **MEMBERS OF THE PUBLIC WHO WISH TO ADDRESS THE BOARD**

**MEMBERS OF THE PUBLIC
WHO WISH TO ADDRESS THE
BOARD**

- Jim Zito, Notice of Special Meeting
- Lisa Blaylock, Boundary Changes
- Steven Blaylock, Boundary Changes
- Anne Blaylock, Boundary Changes
- Michael Gabler, Boundary Changes
- Kim Beckwell, Boundary Changes
- Isabel Gonzales, Boundary Changes
- Juvenal Matos, Boundary Changes
- Jeanne Dittman, Boundary Changes
- Mike Ivey, Boundary Changes
- Christine Van Osdol, Boundary Changes
- Jim Zito, Boundary Changes
- Oscar Fildiz, Bay Area Technology School Proposal
- Paul Hay, Superintendent of Metro

5) **OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION**
5.1 School Attendance Boundaries; Academic Master Plan; Review and Approval of Proposed Attendance Boundary Changes – Bob Nuñez, Superintendent

**OPERATIONAL ITEMS/
BOARD DISCUSSION
AND/OR ACTION**

Superintendent Nuñez

There are really three points we are asking the Board to consider. One is to adopt the boundary changes that are reflected in the maps that you have before you. These are the recommendations that were shared with the public on Saturday, March 31, 2007. Over 100 persons were present. I believe this is stage one of the boundary changes. Our belief is this is "phase 1." We will come back to see how the grand parenting and city land use is used.

The second point is Board Policy 5117. Room renting is not acceptable for purposes of establishing residency for school attendance. I recommend we continue to follow this policy.

Thirdly, there are changes to that same policy, and first, currently we provide a junior and senior privilege. This means that if you move during your junior year you can continue to attend that school, as well as if you moved in your senior year. Our recommendation for the "first reading", we not allow for the junior privilege.

Member Biehl

Mr. Superintendent, you indicated this is "phase one." Do you have a time frame for phase two?

Superintendent Nuñez

We would hope between 18 to 24 months. We need to finish with the grand parenting. Number two, we do believe the city is going to take considerable amount of time to determine what changes may or may not be made with regards to residential and industrial properties.

Vice President Nguyen

I have a concern regarding the issue of no renting or renting at Evergreen High School. There are many people who rent a room, for economical reasons. We might need a better way to look or to screen rather than just saying that no renting period. The current policy is not acceptable.

Member Garcia

I think Vice President Nguyen has a very valid point, especially in the area we are in. Some families do rent a room to live and survive. This question is to counsel, with the way it is worded now would we be able to protect these families?

Rogelio Ruiz, Counsel

The answer is "yes." It would protect those families because the key here is truly were the parents reside.

Vice President Nguyen

We may need to have a more transparent, vigorous strategy in the screening?

Member Biehl

I am pleased that the policy has been interrupted in such a way, that if a family is living in a room or sharing a house, there be an exception.

Superintendent Nuñez

*I am sensitive to the YB area.
I am looking for the number of students from that area. (Alvin area)
We are trying to establish the attendance boundary so the APED can start with the master schedule at our schools. The recommendation is that this will take effect 07-08. The Board wants to give flexibility to incoming Freshman.*

Vice President Nguyen

I have the same concern about the Alvin area because students will have to cross the 101. I'm going to wait for Tom's estimate of number to look at the impact.

Superintendent Nuñez

On Saturday Board members were able to look at these location and sites.

Dan Moser

I've measured this distance many times because of parent request. The area we are speaking of is right in the middle of both schools. There is a challenge with crossing the freeway.

Frank Biehl

My understanding is that the range we are talking about is only around two blocks. Is this correct? If am correct this was to keep the feeder school students together.

Superintendent Nuñez

I don't believe it was to keep the feeder school students together; it was to keep the neighborhood students together. The power line seemed to be a natural divider of where children play together, and not go to school together.

Mr. Garcia

Tom, I just want to be absolutely crystal clear, that 90 per cent of this orange area in question for 15 plus years has been in the YB area for better or for worse. The change you are proposing is a sliver, rather than this whole scale of change. My biggest concern is the freeway. I think a budget time we need to look at the possibility of bussing. My concern is safety.

Superintendent Nuñez

I think we can come back with alternatives to address the safety issues. But as I see it now, would it help us to utilize our facilities better?

George Shirakwawa

Thank you for the tour. It help us to really see the exact streets that are related to the changes in the boundaries. Some made no sense.

We need to decide tonight on these changes for the upcoming school year.

Clerk Herrera

I was surprised about the number of positive comments. I am appreciative about the concern. There will be always someone who has an issue. Why not pass this at a regular meeting with more notice?

Superintendent Nuñez

I believe the longer we wait, the longer we provide the schools opportunities to do the master schedule.

Clerk Herrera

I am concerned about the community expectation of adequate notice. Perhaps the though waiting until the April 27th meeting. The community is entitled to have more notice for something that is going to be adopted by the Board.

President Shirakawa

Member Herrera I wish you had gone on the tour. If you would have seen it you would have wanted to make changes yesterday.

Member Biehl

I would like to move with the staff recommendation for the boundary changes and direct staff to look at the bussing situations and any other area where student would have to cross major freeways or express ways.

Lan Nguyen

10 percent of the OB Whiley section that was added to go to YB ,can this be reconsidered, even though we approve this plan tonight? Not only busing, they actually live a lot closer to Silver Creek than to YB. Can we take a look at that 10% area again?

George Shirakawa

Yeah, I think looking at that section for one time ability of chose, but now I think we need to draw the line somewhere. It just seemed like a good idea. When we went outside and looked at it, it seemed like a good idea.

Superintendent Nuñez

I think you can add that as a consideration. And we will look at that between now and the next Board meeting. For that one section.

Frank Biehl

I just need to check, Mr. President, would you like us to take that section out of this motion or leave it the way it is? It's a very small

section it only fits 28 houses, we can just take it out of this motion, and then have that come back at the next meeting on ~~March~~ 26th.. I don't mind changing the motion to amend all of the proposed boundary changes, except for this one small section, near Alvin, and that section will be brought back to us for consideration at the next meeting. And this also includes that the staff will look into the busing.

George Shirakawa

My only concern is another three weeks of not knowing for that particular group where they are going to school. We want to make sure we come back on ~~March~~ the 26th with something.

Superintendent Nuñez

For those students we could say they have the option of going to either school right now.

George Shirakawa

Maybe we really need to clarify it more. (To Lan Nguyen) Are you interested more in a permanent thing or only for this year?

Vice President Lan Nguyen

I am interested in a permanent boundary.

Frank Biehl

Mr. President the reason why I wanted to take it out is it seems we have agreement on everything ~~but~~ else except this one issue. It affects 28 ~~people~~ houses. I think the easiest thing ~~is~~ for us would be ~~is~~ just ~~is~~ to bring that back at the next meeting. Make it staff time to examine it ~~one more time~~. once again.

√ *Motion was amended to Approve Proposed Attendance Boundary Changes except for the small section, near Alvin area, and this section will be brought to the Board in the March 26, 2007 Meeting, was made by Member Biehl seconded by Vice President Lan Nguyen.*

Vote: 5/0

- 5.1.a Proposed Modifications to Board Policy 5117 and Administrative Regulation 155.1, First Reading
– Bob Nuñez, Superintendent

Superintendent Nuñez

We are taking the current Board policy now, the first reading, which is removing the junior privilege.

√ *No Motion required, first reading.*

- 5.2 Board Action re: Bay Area Technology Charter School Proposal –
Bob Nuñez, Superintendent

It was recommended that the Board not approve the petition. The reasons for that can be found on page 2 of the attachment.

(Attachment 1)

The Board of Trustees gave careful consideration to this Petition and the concern raised by the Administration. After careful consideration, the Board of Trustees voted to deny the petition and adopt the District's findings for the proposed Bay Area Technology Charter School.

√ *Motion to ~~deny the recommendation~~ accept the findings of the administration and ~~the findings by~~ deny the petition of the Bay Area Technology Charter School Proposal was made by Member Garcia seconded by Member Biehl.*

Vote: 5/0

- 5.3 Discussion on Career Technical Vocation Education – Bob Nuñez,
Superintendent

Superintendent Nuñez

I was asked to have a discussion on where East Side is going.... This year East Side has been looking at the number of students it sends to CCOC, as well as facilities that this district has that use to be used for vocational career education. Looking at where the State is going with regards to bringing those types of programs on to high school campuses. So what East Side is doing now is looking at its options, with regards to the offering of career vocational education.

We are looking to have a better connection with regards to what goes on in our high schools with regards to academics and opportunities for students to look for careers. The idea of bringing a labor college into this area of San Jose is very enticing to us, and we want to make sure we are a part of that. And that's our thanks to the South Bay Labor Council. I have heard that it is our goal to pull out of CCOC and that is not correct. They will be one of our partners. We need to look at what types of programs are good for East Side to have on its campuses so we are not in competition with other agencies. We are going to have a number of partners, and those partners will be looking different.

At this point, I see the process taking about three to four years. We need to take assessments of facilities and programs. We have been having discussions with Metro Ed., CCOC, as well as Evergreen Valley College.

Clerk Herrera

I am the new liaison to Metro Ed. I appreciate we are starting a public discussion. I know Superintendent Nuñez is looking to update and revisit all the assumptions that drive the district's participation. That is exactly the right thing to do. He actively characterizes this as a changing field. My basic concern from the very general side is that we work as strong as possible in the partnership we have. Rather than anything that starts to look like self interest in exclusion to another. So I was happy to hear Superintendent Nuñez characterize any evolving changes as in a frame work of 3 to 5 years. I hope there is clarity in the program level and everywhere in between.

President Shirakawa

I am a little concerned with the kind of posturing that somehow our District is making decisions for our benefit and at the expense of others. We as a Board, as a District, make the right policy to decisions, when it comes to our students. I am only going to give my perspective of what I believe it is best for our students right now. We don't have time to make decisions that are delayed or deferred, base on someone else's perspectives or ideas. We are in charge of the job of doing the best thing we can for our students, today. I don't look at East Side and CCOC as a separate entity. We are all together. I will come and visit CCOC.

Clerk Herrera

There has been a misunderstanding in the last ninety days. It's important to me the Board take on the issues of Metro Ed. and CCOC. That it be in a strong dialogue with administration and staff. I as just one Board Member would not feel comfortable without much more analysis with anything that would say we are going to suddenly reduce by several hundred students. Without the Board having discussions other feel free to interrupt somehow the District potential moving in that kind sudden direction. I would like the organization to know, that until the Board speaks on this issue there is going to be no sudden movement.

President Shirakawa

I really think it is dangerous to articulate that I wouldn't support two hundred students or any kind of number like that Manuel. If we find we have the capacity and it's in the best interest of our students to do that.

Clerk Herrera

It's a fact there is a perception out there.

President Shirakawa

I think the fact that you're there as a Board Member and the Superintendent has "hands on" himself, has gone to meeting, and

how that perception was created, I'm not sure where it comes from. I'm going to start going to meetings also as the Board President to observe.

Superintendent Nuñez

The plan for 3 to 5 years is not the first time it has been mentioned tonight. I think this one issue has been driven by rumor. We are 1/6 of the CCOC Board. And I am going to take care of this relationship. Will the change be difficult, yes it will, because we are both asking each other to change. Last meeting we had we were talking about all sorts of alternatives. The reason it was on the agenda tonight is because it gives us an opportunity to speak about this issue.

Clerk Herrera

What is the framework for proceeding?

Superintendent Nuñez

I think it will come back when we have to renegotiate the contract with CCOC. There are meeting we are starting now.

6) **CLOSED SESSION**

CLOSED SESSION

6.1 Public Employee Discipline/Dismissal/Release
(Government Code §Section 54957)

√ *The Board adopted Resolution No. 2006/2007-29 Accept the Resignations and Revocation of Non-Reelection of District Interns.*
Vote: 5/0

√ *The Board adopted Resolution No. 2006/2007-30 Accept the Resignations and Revocation of Non-Reelection of Probationary Certificated Employees.*
Vote: 5/0

6.2 CONFERENCE WITH LEGAL COUNSEL –
ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of section 54956.9 of the Government Code: *one potential case*

6.3 Public Employment/Public Employee Appointment (Government Code §Section 54957)

√ *Approve the appointment of Glen Vander Zee as Principal of James Lick High School, effected July 1, 2007.*
Vote: 5/0

7) REPORT CLOSED SESSION ACTION (s)

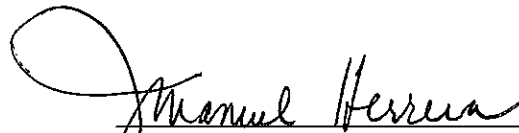
REPORT CLOSED SESSION

8) ADJOURNMENT

ADJOURNMENT

- √ Motion to adjourn by Member Biehl, seconded Clerk Herrera,
meeting was adjourned by President Shirakawa at 7:50 p.m.

Respectfully submitted,


Clerk of the Board of Trustees

EAST SIDE UNION HIGH SCHOOL DISTRICT

PROPOSED FINDINGS FOR

BAY AREA TECHNOLOGY CHARTER SCHOOL PETITION

I. BACKGROUND

On January 11, 2007, the District received a charter school petition from Willow Education, a non-profit charter school management organization. Since 2004, Willow Education has been operating the "Bay Area Technology School," a charter school in Oakland, California, that emphasizes a math, science, and technology curriculum. The Bay Area Technology School in Oakland serves 6th through 8th grade students. The Petition from Willow Education proposes to establish a Bay Area Technology School in San Jose serving students in the 4th through 7th grades. The Petition proposes to gradually expand the curriculum at its San Jose campus, with the goal of establishing a full K-12 program in 2012.

The District held a public hearing on the Petition during the public session portion of the Board of Trustees' meeting on February 15, 2007.

At the public hearing the BAT representative, Dr. Suleyman Bahceci, made a presentation to the Board about the Bay Area Technology School in Oakland and its proposed campus in San Jose.

After the public hearing, members of the District's management team closely reviewed the Petition and met with representatives from Willow Education at regular weekly meetings to discuss the charter provisions. Santa Clara County Office of Education representative Sexton Porter also attended the meetings between the District's management team and Willow Education representatives.

Pursuant to Education Code Section 47605(b), the Board of Trustees must either grant or deny the Petition. The District may grant the charter, "if it is satisfied that granting the charter is consistent with sound educational practice." The District may not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

- (1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school;
- (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;

- (3) The petition does not contain the required number of signatures;
- (4) The petition does not contain an affirmation of each of the required conditions set forth in Section 47605(d); or
- (5) The petition does not contain reasonably comprehensive descriptions of the 15 required elements of a charter school set forth in Education Code Section 47605(b).

A school district may deny a charter if it does not serve all of the grade levels served by that district. Pursuant to Education Code Section 47605(a)(6), a high school district may not approve a petition to establish a charter school that serves elementary or middle school students, “unless the petition proposes to serve pupils in all of the grade levels served by that [high] school district.”

II. FINDINGS

Proposed Finding #1: The Charter Fails To Comply With Statutory Mandate To Serve All Grade Levels Of Sponsoring School District.

Education Code Section 47605(a)(6) prohibits a high school district from approving a charter petition for an elementary or middle school, unless the charter school also offers a full high school program. Specifically, Education Code Section 47605(a)(6) provides the following:

“Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve the pupils in all of the grade levels served by that school district.”

Petitioner proposes opening its school with a 4th through 7th grade curriculum only. Petitioner does not intend to offer a 9th grade curriculum until 2009 and will not offer a full high school program until 2012. Given that Petitioner is not prepared to offer a full high school program for at least five years, the District cannot approve the Petition because it fails to comply with Education Code Section 47605(a)(6).

Proposed Finding #2: Petitioner Is Demonstrably Unlikely To Successfully Implement The Program Set Forth In the Petition.

A. Petitioner’s Lack Adequate Community Support

Pursuant to Education Code Section 47605(b), the District held a public hearing on the Charter Petition on February 15, 2007, to assess the level of support for the Petition from District teachers, other District employees, and parents. Notably, only six parents from the San Jose community spoke in support of the Petition at the public hearing. Further, no District teachers or any other District employees supported the

Petition at the hearing, or have otherwise expressed support for Petitioner's program. The apparent lack of support for this Petition from District employees and parents indicates that Petitioner is unlikely to meet their estimated enrollment figures and may have difficulty recruiting a qualified teaching staff for their school.

B. Petitioner Has No Demonstrable Experience Operating A High School

Petitioner presents a good faith effort toward developing a comprehensive K-12 school, but Petitioner has no experience operating a high school and is not prepared to offer a comprehensive high school program for at least another five years. Petitioner proposes to initially offer a 4th through 7th grade curriculum and to gradually phase in a high school program over the next five years. Petitioner proposes that in 2012 they will offer a full 9th through 12th grade high school program. Petitioner's plan to implement a high school program, however, is largely contingent upon the successful enrollment of students in grades 4 through 7 who will then progress into high school. Given the lack of community support for enrollment, however, Petitioner is unlikely to successfully implement their plan to expand their curriculum and to offer a comprehensive high school program. Moreover, Petitioner does not have a successful track record for expanding their curriculum into a high school program. For the last three years Petitioner has been operating a charter school in Oakland with a 6th through 8th grade curriculum, but Petitioner has not yet begun to phase in a high school program. Although the school's website promises that a high school program will become available, there is no proposed date for the commencement of such a program.

C. Petitioner Proposes Extended Teacher Workdays With Salaries That Are Lower Than Standard

The Petition may be based on unrealistic teacher requirements and teacher salary assumptions. Petitioner's average annual teacher salary for their proposed San Jose campus is \$43,000, which is approximately \$15,000 lower than the average teacher salary at East Side Union High School District. In addition, Petitioner informed the District management team that the teaching staff at their proposed school will be required to work extended hours each day to provide one-on-one and small group tutoring sessions to students after school. Given the statewide shortage of qualified teachers, and the severe shortage of qualified math and science teachers, Petitioner will likely encounter significant difficulty recruiting and retaining qualified teachers for their science and technology focused curriculum. Petitioner's plan to recruit a qualified teaching staff who will work an extended workday without extra compensation, and for lower than standard salaries is unrealistic.

D. Petition Fails To Include An Adequate Description of School Facilities

The Petition fails to include a description of the facilities to be used and to specify where the charter school intends to locate as required under Education Code Sections 47605(a) and (g). The Petition includes only a general statement that, "BayTech-SJ has retained a Real Estate Agent to assist its facilities search. BayTech-SJ intends to

locate the school in areas where students will have easy access to public transportation. It is also BayTech-SJ's intention to locate its campus in an area where students have access to athletic fields and recreational facilities. . .”

The lack of a sufficiently detailed description of the proposed facilities makes it difficult, if not impossible, for the District to determine whether Petitioner's facilities will be appropriate for their proposed program.

Finally, the Petition budgets costs for facilities at \$249,000 in the first year, \$322,920 in the second year, and \$407,160 for the third year. Because the Petition states only that the school will be located in an area where students will have easy access to public transportation, athletic fields and recreational facilities, there is no description of the basis upon which the amounts budgeted were determined. Consequently, it is difficult to determine whether the budget reflects reasonable costs for the acquisition or leasing of facilities to house the school.

Based on our concerns noted above, the District believes that Petitioner has presented an unrealistic operational plan for the proposed charter school and are demonstrably unlikely to successfully implement the program proposed in the Petition.

Finding #3: Petition May Not Contain The Number of Required Signatures.

Education Code Section 47605(a) requires that prior to submitting a charter school petition to the Governing Board, the petition must be signed by either: (1) “the number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation;” or (2) “a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.” Further, Education Code Section 47605(a) requires that the parents/guardians who sign the petition must be “meaningfully interested” in having their child attend the charter school, and teachers signing the petition must be “meaningfully interested” in teaching at the charter school.

A. Parent Signatures

Petitioner estimates an enrollment of 250 pupils for its first year of operation. Consequently, the Petition must include a minimum of 125 signatures from parents who are “meaningfully interested” in having their child attend the charter school. (Education Code Section 47605(a)). The Petition includes a total of 266 parent signatures, however, 62 of these parents live outside of the jurisdictional boundaries of the District including Turlock, Campbell, Fremont, San Leandro, Pescadero and Redwood City. The Petition fails to satisfy the requirements of Section 47605(a)(1)(A) and 47605(a)(3) because many of purported Letters of Intent are illegible, do not include any contact information, contain incomplete addresses and/or phone numbers, and/or are not signed by parents of high school students or parents of students qualified to enter high school in the 2007/2008 school year. Although there is no specific statutory requirement

that parents signing the Petition must be District residents, the clear intent of Education Code Section 47605(a)(1) and the charter school statutory scheme is to provide alternatives for parents living within the District's boundaries, and for the Board to consider the level of support from parents who are most likely to enroll their students in the charter school. The District is concerned that the lack of signatures from parents most likely to enroll their students in the charter school reflects a lack of community support for this program.

B. Teacher Signatures

Based on Petitioner's projected enrollment of 250 students during its first year of operation, and Petitioner's projected maximum student-to-teacher ratio of 25:1, Petitioner must employ at least 10 teachers during its first year of operation. The Petition must therefore include a minimum of 5 teacher signatures. Six teachers signed the Petition; however, four of these signatures are invalid because these teachers are already employed at Petitioner's charter school in Oakland, California. The California Attorney General has ruled that Petitioner may not submit signatures from teachers who are employed at an already existing charter school because the purpose of the teacher signature requirement under Education Code Section 46705(a)(1) is to require teachers at traditional schools to demonstrate support for the establishment of a charter school. (78 Ops.Cal.Atty.Gen. 298.) No teachers from traditional schools signed the Petition in support of the charter school. Consequently, Petitioner has not demonstrated that a sufficient number of teachers are meaningfully interested in teaching at the proposed school.

III. CONCLUSION

The Petitioner is to be commended for their desire and efforts to reach underachieving students and to increase the numbers of minority students who pursue careers in math, science and technology.

However, based on the above findings, the District concludes that it has sufficient justification to deny the Petitioner's charter.