

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of the Annual Organizational Meeting of the Board of Trustees
Meeting Held at Education Center
December 2, 2004

The Regular Meeting of the Board of Trustees was called to order at 4:16 p.m. by Member Shirakawa.

Member Herrera, Member Martinez-Roach, Member Mann and Member Nguyen were present.

The Board adjourned to Closed Session to hear Update On Existing Litigation, Potential Litigation (Education Section 54856.9), Update on ESTA Grievance, Personnel Assignments-Performance Audit, Public Employee Employment/Appointments/Contracts/Release/Suspension/Dismissal/Termination of Certificated Employees, Suspension/Dismissal/Termination of Classified Employees, Employee Negotiations - ESTA, CSEA, Confidential, Administration, Superintendent's Report on Anticipated Litigation/Business Contract.

1) **BOARD RECONVENED FROM CLOSED SESSION**

Called to order at 6:30 p.m. All members were present.

The swearing ceremony of the following Board Members was performed:

- Member Craig Mann
- Member Lan Nguyen

2) **PLEDGE OF ALLEGIANCE**

3) **WELCOME AND EXPLANATION TO AUDIENCE**

Member Shirakawa extended a welcome to the audience, explained the format of the meeting, and noted that all Board Meetings are recorded.

3.1 **Annual Organizational Meeting – Election of Officers**

The following elections were made to fill the open seats:

- President

Motion by Member Shirakawa, second by Member Mann to nominate Member Herrera for Board President, Vote: 3/1, Member Martinez-Roach Voting No, 1 Abstention

3.1.2 Vice President

Motion by Member Herrera, second by Member Nguyen to nominate Member Shirakawa for Board Vice-President, Vote: 4/1, Member Martinez-Roach Voting No

3.1.3 Clerk

Motion by Member Mann, second by Member Shirakawa to nominate Member Martinez Roach for Board Clerk Vote: 5/0

CALL TO ORDER

**ADJOURNED TO
CLOSED SESSION**

**RECONVENED FROM
CLOSED SESSION**

PLEDGE OF ALLEGIANCE

**WELCOME AND
EXPLANATION**

Member Herrera indicated that at every annual meeting a new MetroEd Representative is elected, but it was not listed on the amended agenda.

Member Martinez-Roach indicated that it is a two-year term.

Member Herrera once again indicated that it is an annual designation by the Board.

Member Shirakawa indicated that the item would need to be brought back at the next meeting.

Member Herrera indicated that action would be taken at the next meeting and also asked Legal Counsel for an opinion.

Legal Counsel indicated that he was not aware of what the Board policy states, but that if it was normally part of the annual meeting, there was no harm waiting until the next meeting.

Member Martinez-Roach indicated that the Board took action last year to appoint her for a two-year term. Member Roach checked with Metro Ed and stated that is the way it has been done. It is part of the JPA and the JPA has precedence over the Board.

Member Shirakawa stated that the appointment needs to be taken to the next Board Meeting.

Member Herrera indicated that every year action has been taken on MetroEd. It has never been made a two-year appointment. The agency that has the overriding responsibility is not the JPA in terms of the East Side Representative, but is the Board.

3.2 Nominate Representative to CSBA Delegate Assembly

Motion by Member Shirakawa, second by Member Mann to nominate Member Lan Nguyen to be the Representative to the CSBA Delegate Assembly, Vote: 5/0

4) BOARD SPECIAL RECOGNITIONS

4.1 JROTC – Oak Grove High School

4.2 Student Holiday Art Contest

- David Gerlinger – First Place Winner
- Bryant Nguyen – Second Place Winner
- Jerad Rood – Third Place Winner
- Jessica Plumeau – Honorable Mention
- Asam Sato - Honorable Mention
- Julie Anderson - Honorable Mention
- Jordan Casto – Honorable Mention
- Vi Tran – Honorable Mention
- Hang Khuu – Honorable Mention
- Pritpaul Badwal – Honorable Mention
- Diane Britton-Keller, Teacher – Honorable Mention
- Patricia Giorgianni , Teacher – Honorable Mention
- Grace Starr , Teacher – Honorable Mention
- June Chen, Teacher – Honorable Mention
- William Cavada, Teacher – Honorable Mention

SPECIAL RECOGNITIONS

5) CONSIDERATION OF PROPOSED AMENDMENTS TO THE AGENDA (No amendments to the agenda.)

APPROVAL OF PROPOSED AMENDMENTS TO THE AGENDA

6) PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD OF TRUSTEES

- Julio Pardo - Jose Valdes Program
- Dave Castro – Partnership between CSEA and Board
- Lou Kvittek – District Office Site Land Use
- Rufus H. White – A community initiated partnership.
- Molly Uzoh – A community initiated partnership.
- Dennis Umphress – Reports posted on District’s website & Measure G monies spending.
- Kim Singh – Programs for Gay & Lesbian Students, AIDS & Safer Sex Programs, Pepsi Revenue.
- Dennis Umphress – Purchase Orders
- Dennis Umphress – Budget Transfers
- Dennis Umphress Contracts
- Dennis Umphress – Bid Awards
- Dennis Umphress – Cell Phone Policy

7) STUDENT ACHIEVEMENT/BOARD DISCUSSION AND/OR ACTION

Teachers and classes were very involved last month in raising school spirit for Homecoming Week. It was a very memorable moment. The Districtwide Student-District Conference (previously known as District Lock-In) was recently held. Over three hundred students participated and were housed at Independence High School for this event. Students went back to their schools with great ideas.

8) OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

- 8.1 Approve Variable Term Waiver Requests for Certificated Employees
Motion to approve by Clerk Martinez-Roach, second by Member Mann Vote: 5/0
- 8.2 Policy for Board Organization and Officers – Patricia Martinez-Roach
Clerk Martinez Roach feels that it is important that the Board bring back its own Board policy regarding the election of officers. There has been a past practice that officers were rotated, President, Vice President, Clerk, etc. Clerk Martinez Roach is concerned that there seems to be conversations amongst Board members as to who is going to be President, Vice President and Clerk, which she believes is in violation of the Brown Act. In order to avoid any misunderstandings, it needs to be very transparent and clear and should not be for any others reasons except just serving the District in a fair and equitable manner.

CONSIDERATION OF AMENDMENTS

APPROVAL OF AMENDMENTS

ORAL COMMUNICATIONS

STUDENT ACHIEVEMENT

OPERATIONAL ITEMS/
BOARD DISCUSSION
AND/OR ACTION

President Herrera has no objection to the policies being revisited. At a new future meeting it could be added to the agenda.

Member Mann supports Clerk Martínez-Roach's concern. He suggested that someone take a look at best practices at neighboring districts and that maybe CSBA could offer some wisdom on this. He understands her concern and shares it.

President Herrera indicated that it is a legitimate discussion to have.

Vice President Shirakawa does not mind looking at the policies, but does mind the Board getting into some kind of structured rotation. Teams change from year-to-year. The Board should have flexibility. He does not feel it is necessary to be locked in. He is willing to look at the policy, but not lock into something.

Member Mann has an NSBA publication that suggests not being lock into a rotation, but it should be based on leadership skills and ability. He will bring in the publication and share it with the Board.

Clerk Martinez Roach asked Legal Counsel if it is legal for Members to call or solicit each other on the telephone or e-mail a vote prior to a public meeting.

Legal Counsel indicated that it depends on the nature and content of the conversation or the communication. Legal Counsel indicated that the issue Member Martinez Roach was speaking about was the issue of serial communications. Even though only two people may be involved, they are serial in nature in that there is an understanding or an expressed representation that a third person will be contacted. Those such communications are prohibited by the Brown Act to the extent they involve the exchange of information that would be deliberative in nature in terms of a decision that this Board is going to make. The analysis under the Brown Act on those types of issues always beings with the substance and nature, actual substance of the communication itself. The answer is that it depends on what is actually said or what is actually being communications. Clerk Martinez Roach gave a scenario where one Board Member called another and then the second Board Member sends an e-mail to another. Is that a quorum?

Legal Counsel indicated that it was no necessarily a quorum. It depends what is in the second communication in term of are they articulating or communicating decisions, comments or impressions shared by other people.

Clerk Martinez Roach stated that there had to be specific language.

Legal Counsel said, "Yes."

President Herrera would like to see this come back possibly in May after the budget and other items are handled at upcoming Board meetings.

Clerk Martinez Roach indicated that she did not want to wait until May.

President Herrera felt that since they were not going to vote on this again until December, there was no urgency to bring it back prior to May.

Clerk Martinez Roach felt that waiting until May would lead further postponements beyond the month of May.

Vice President Shirakawa felt there was no urgency, as long as it was brought back for discussion.

Member Nguyen indicated that each Board Member is here to do their work for the District and students. Regarding the Board's own elections, everyone has someone they feel comfortable with in leading them. The Board should not be making this issue such an important issue that is overshadowing other important issues that are present at hand.

Item to be brought back at a later date for discussion.

9) ATTACHMENT A/CONSENT CALENDAR APPROVAL OF AGENDA

ATTACHMENT A

Items: (9.1), (9.2), (9.7), (9.8), (9.9) and (9.15) were pulled for discussion/approval.

Motion to approve by Member Mann, second by Vice President Shirakawa to approve the remainder of the Consent Items as amended.

Vote: 5/0

(Agenda items in parentheses)

- Approve Classified Personnel Actions Dated December 2, 2004 (9.3)
- Approve Certificated Personnel Actions Dated December 2, 2004 (9.4)
- Approve Minutes of Board Meeting Dated November 4, 2004 (9.5)
- Acceptance of Gifts/Donations (9.6)
- Approve School Field Trips (9.10)
- Adopt Resolution #2004/2005-19 An Itemized List of Surplus/Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546 (9.11)
- Approve 2004-2005 Community Education Teacher Hourly Salary Schedule for the Adult Education Program (9.12)
- Adopt Resolution #2004/2005-20 to Reduce Classified Management Workforce (9.13)
- Adopt Resolution #2004/2005-21 – Approving Contract FIMS-4655 in the Amount of \$3,851 for Child Development Program Materials and Supplies (9.14)
- Approve Change Order #1 for Piedmont Hills High School Modernization Project, Wings C, D and E (9.16)
- Approve Job Description and Salary Range for Executive Assistant (9.17)

✓ Motion to approve item (9.1) by Clerk Martinez-Roach, second by Member Mann Vote: 5/0

✓ Motion to approve item (9.2) by Vice President Shirakawa, second Member Mann Vote: 5/0

✓ Motion to approve item (9.7) by Member Mann, second by Vice President Shirakawa,

Vote: 4/1 Clerk Martinez-Roach Voting No

- ✓ *Motion to approve item (9.8) by Member Mann, second by Vice President Shirakawa. Vote: 5/0*
- ✓ *Motion to approve item (9.9) by Member Mann, second by Vice President Shirakawa. Vote: 5/0*
- ✓ *Item (9.15) to be carried.*

10) **WRITTEN REPORTS**

- 10.1 Quarterly Report on Santa Clara Treasury Investment Portfolio Status
Presentation made by Chief Financial Officer Jack Mahrt

11) **BOARD OF TRUSTEES/SUPERINTENDENT'S COMMENTS**

11.1 Clerk Martinez-Roach

- MetroEd: No report at this time.
- Student Board Relations Committee:

The students are extremely positive and are talking about all the good things going on at the schools. Students are still concerned about smoking in the restrooms. Jack Mahrt was thanked for his budget presentation to the students. Bob Nuñez is scheduled to meet with the students. Dr. Aurora Qeuvodo will also be making a presentation to the students. The students are really learning how the District works. The Board was welcome to any of the meetings. Clerk Martinez asked when would they know what is being proposed; what are the cuts going to be. When will they have the information?

President Herrera

They have underway a very ambitious budget task force process. It is at a scale of outreach and openness that has not been seen since his time on the Board. The Superintendent, members of Cabinet and the Administration are to be commended for the exceptional support and responsiveness that has been forthcoming on this budget task force process, including the organizations and community that have been attending these sessions. An upcoming session is scheduled for December 6 from 4:00 p.m. to 8:00 p.m. at Santa Teresa High School Theater. An abbreviated repeat session is scheduled for December 7 at the Yerba Buena High School Library. Materials are accessible on the District's website. The public is encourage to complete a Budget Task Force Registration Form in order to be notified and receive any level of information they may be seeking that would be available to anyone else in this process. In January the presentations by stakeholders will be scheduled.

On the proposals by the District, three or four scenarios of how immediate budget decisions might be implemented to bring into balance the 2004/2005 school year. As the task force process unfolds, they will be engaged in the 2005/2006 budget issues.

President Herrera asked that MetroEd be added to the December 14 agenda and inquiries be done to clarify any aspect of the matter. On

WRITTEN REPORTS

**BOARD/
SUPERINTENDENT'S
COMMENTS**

December 14, the Board should be in a position to discuss and act on it at the Special Board meeting on December 14.

Member Nguyen

Information on the budget task force should be announced in the District's area and have press releases in the ethnic communities.

11.2 Superintendent Zendejas

Cabinet and administration is putting together budget reductions proposals. On December 14, there will be a Special Board meeting for the Board to approve the interim report. The Committee has asked that the District come back with a model of proposals. Prior to the public being provided the proposals, the Board will be provided the information first.

A note of best wishes and congratulations to the Oak Grove football team. They are playing this Saturday at San Jose City College against Hollister.

Dr. Zendejas is still working on the advanced placement issues in the District. She is looking at raising the standards of curriculum.

12) CLOSED SESSION

12.1 Expulsions – A-Q

Student A: Suspended expulsion.

Vote: 5/0

Student B: Expulsion for one academic year.

Vote: 5/0

Student C: Expulsion for one academic year.

Vote: 5/0

Student D: Expulsion for one academic year.

Vote: 5/0

Student E: Expulsion for one academic year.

Vote: 5/0

Student F: Expulsion for one academic year.

Vote: 5/0

Student G: Expulsion for one academic year.

Vote: 5/0

Student H: Expulsion for one academic year.

Vote: 5/0

Student I: Expulsion for one academic year.

Vote: 5/0

Student J: Suspended expulsion.

Vote: 4/1, Member Martinez Roach Voting No.

Student K: Expulsion for one academic year.

Vote: 5/0

Student L: Expulsion for one academic year.

Vote: 5/0

CLOSED SESSION

- Student M: Expulsion for one academic year.
Vote: 5/0
- Student N: Expulsion for one academic year.
Vote: 5/0
- Student O: Expulsion for one academic year.
Vote: 5/0
- Student P: Expulsion for one academic year.
Vote: 5/0
- Student Q: Suspended expulsion.
Vote: 5/0

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

12.3 Conference with Labor Negotiators (Government Code §Section 54957.6)

Agency Designated Representatives:

Superintendent Esperanza Zendejas, Ed.D.
Chief Human Resources Officer Bob Nuñez

Employee Organizations:

East Side Teachers Association (ESTA)
California School Employees Association (CSEA)
American Federation of Teachers (AFT)

12.4 Anticipated Litigation (Government Code §Section 54956.9)
Conference with Legal Counsel – ANTICIPATED LITIGATION,
Significant exposure to litigation pursuant to subdivision (b) of
§Section 54569.9 statement threatening litigation.

12.5 Public Employee Performance Evaluation (Government Code §Section 54957)

12.6 Public Employment/Transfer (Government Code §Section 54957)

- Director of Special Services (1)
Appointment of Joseph Jay Totter, Vote: 5.0

ADJOURNMENT

On motion by Clerk Mann, second by Member Herrera the meeting
was adjourned at 8:25 p.m.

ADJOURNMENT

Respectfully submitted,


Clerk of the Board of Trustees