

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of the Regular Meeting of the Board of Trustees
Meeting Held at Education Center
June 26, 2008

AMENDED

1) CALL TO ORDER/ROLL CALL

The Regular Meeting of the Board of Trustees was called to order at 5:04 p.m. by President Nguyen. Vice President Garcia, Clerk Shirakawa and Member Biehl were present. Member Herrera arrived at 5:10 p.m.

CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

PLEDGE OF ALLEGIANCE

3) WELCOME AND EXPLANATION TO AUDIENCE

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

WELCOME AND EXPLANATION

4) BOARD SPECIAL RECOGNITION(S)

None

BOARD SPECIAL RECOGNITION

5) CONSIDERATION OF PROPOSED AMENDMENTS TO AGENDA

None

CONSIDERATION OF AMENDMENTS

6) PUBLIC MEMBERS WHO WISH TO ADDRESS BOARD OF TRUSTEES

ORAL COMMUNICATIONS

- *Vicki Winsted – Loss of FHS Community Specialist*
- *Cindy Bega, Budget*
- *Dolores Young – Budget / Liaisons*
- *Mary Ann Andrade – Budget / Liaison*
- *Angelica Coronado Garcia - Budget*
- *Maria Vargas – Budgets*
- *Cecilia Garcia – Budget (Cutting Paraeducators)*
- *Valli Sharpe-Geisler- Budget (Adult Ed Paraeducator Cuts)*
- *Tin Ly – Budget (Adult Education Paraeducator Cuts)*
- *Bob Bell – Budget (Adult Education Paraeducator Cuts)*
- *Linda Todd - Budget (Adult Education Paraeducator Cuts)*
- *Ron Appleby - Budget (Adult Education Paraeducator Cuts)*
- *Karen Levine - Budget (Adult Education Paraeducator Cuts)*
- *Carol Thompson - Budget (Adult Education Paraeducator Cuts)*
- *Marie Rosland - Budget (Adult Education Paraeducator Cuts)*
- *John Sellarole – CBOC*
- *Blanca Espinosa - Bond*

7) STUDENT ACHIEVEMENT/BOARD DISCUSSIONS
AND/OR ACTION

None

*STUDENT ACHIEVEMENT /
BOARD DISCUSSION
AND/OR ACTION*

8) OPERATIONAL ITEMS/BOARD DISCUSSION
AND/OR ACTION

*OPERATIONAL ITEMS/BOARD
DISCUSSION AND/OR ACTION*

8.01 2008-2009 Budget Adoption

Superintendent Nuñez

It is important that the point before the Board tonight is adopting the budget and that allows us to show we have the dollars to meet our expenses for next year, as well as the reserves. That is what the County Office will be looking at. I agree with every person that was up there, every Paraeducator, every Liaison every Secretary, there needs to be dollars to bring them back. For those persons that did not get up there, the Librarians, persons that took another position within a school, because their position was eliminated. As I look at it, first with Adult Ed, even though it is a much smaller budget, the dollars that come in for Adult Ed are solely for Adult Ed. Adult Ed needs to live within its budget or else it encroaches on the general fund. In Early Childhood Education I believe there was someone that spoke about how many dollars are coming in. Last year, the District had to subsidize the Early Childhood Education Program and it was at \$400,000. Going into next year it is going to be \$100,000. The goal is to have every program, if you bring in your own dollars, is to cover your own expenses. I believe that every position that was eliminated is a priority, not only the Liaisons, but the Librarians. At this point, the budget that is being presented is the same as last week's. It includes, after it is all said and done additional dollars of just over \$300,000 and what I think we are going to continue to do is look to the State to actually pass a budget. My understanding is that Adult Ed looks much better than the general fund does with regard to the dollars that have been going there, but that is today's truth. Who knows what the Legislators will do next week. From all we hear is that we will not know until the middle or end of August with regard to what the State budget will be, but once that has been determined, I think we need to come back and look at how many positions can come back and what that really is based on is where the dollars come to. It could be very well that it comes back to the general fund which makes it much easier for us to look at to find those dollars. It could be very well that they come back to categorical dollars. There are certain programs in this district that we have to allow to encroach on our budget. One of those is Special Ed. Our goal is to make sure we meet all the requirements of IEPs so that we are not found out of compliance.

The budget that is being proposed tonight for adoption will meet the requirements of the County Office to be approved. At the same time, we don't want persons to forget those positions Cindy talked about were brought back with one-time dollars and if you look at the next two years of our budget, you will see that we are in fact out of balance. Based on what the Legislators do, we will have to take a look to see if we have to make reduction again if they don't give us enough money. This is really a one-year budget. We have brought back all of the positions that we could. My hope is that in August or earlier we can take a look at what positions can really come back. I believe all of them have the same level of priority. The question is where do those dollars to allow us to bring those positions back. Vida and Cathy are available to take about plans and processes to look at what we could do going on from this point on. The budget is a document that we need to pass by the 30th. I would have hope that the Legislators would pass a budget so that we would not be where we are today. It is my understanding that there are 13 persons that will not be in positions sometime in July. Our goal is to find as many of those persons placement in this organization. Our agreement is to open up positions internally first. This budget allows us to move forward while we continue to look for additional dollars.

Associate Superintendent Kurr

The budget as presented is a balanced budget. It does meet the States required reserve level, which is the test that the County Superintendent would review in discussion with the oversight staff at the County Office. The County Superintendent has three options when reviewing a budget and that is to disapprove the budget, approve the budget or conditionally approve the budget. The budget is balanced and does meet the reserve level, but also indicates significant levels of deficit spending beyond revenues we have in this year and the subsequent two years. We can expect that their comment on the approval of our budget would be that the district develop a plan for first interim and how we would address the deficit spending and how we do address not meeting the requirements in 2009-2010 and 2010/2011. At first interim, we will have to have a plan that goes along with our first interim that expresses how we would make reductions that would fall within the revenue. This is a one-year budget. We are using one-time funds to fund staff salaries and such. I recommend the Board approve the budget.

Vice President Garcia

Cindy mentioned deferring the moves. What was that again?

CSEA President Bega

Sixty days or August Board meeting, whichever came first.

Vice President Garcia

Thanks, Cindy. The question I have for the Superintendent, one was how would this impact operations if we made this recommendation and, two, is it legal? I always think it is a great idea that we sit and try to figure things out, but if we did it in terms of passing the budget tonight and then deferring the actual movements for sixty days, essentially what you are saying is because we haven't moved anybody we will pay these employees as they deserve to get paid and so we will immediately be over budget and out of compliance with the budget we just passed. Is that what?

Superintendent Nuñez

Yes, that is.

Vice President Garcia

I don't know if I am ready to make a motion, but I am ready to make a couple of comments, Mr. President. This is pretty difficult for me personally. I think I can speak for everybody up here, there is not doubt about it, we are speaking about human beings; that is what makes it difficult. What also makes it difficult as I mentioned it at our budget meeting back in March, my mom who passed away in '03 was a retired CSEA member. She was a paraeducator at James Lick High School in Special Ed Department. What I said that night and I will say it again Is that she used to come home and talk about her kids and she meant her students, not the teachers' kids, not the families' kids, her kids. So, I've got something deep down in my craw about paraeducators. It is very important to me. The second piece is that some of you may know that I was the Basketball Coach at James Lick High School in the late '80's. I served as a Teacher's Aide when I first met Cindy. So I spent a couple of years as a CSEA Member. So, it is a very difficult thing, but I also know we've got Less money this year than last year and we've got to cut somewhere. You can't do the same thing with less money. My dad taught me that very well. I also know that if we said, "You are right paraeducators are more important than X, than X would be sitting up here tonight we are more important and guess what, they would be right. Every single employee is important. Unfortunately, tonight it is you. The bottom line is that we have "X" number of dollars, which is less than last year and we've got to do something. Mr. President, that was a long way to say that I am not going to make a motion yet unless someone else makes one, but I am going to ultimately support this budget.

President Nguyen

Is that a motion or a comment?

Member Herrera

I will make a comment and then I will make a motion. There is no member of our education team that deserves to be looking at a layoff. Anyone who spends anytime with our

schools, with our staff, knows that it takes everyone one of us and we need more. We need more resources. We need more paraeducators and more liaisons and more librarians, resources, and more everything. It is just just unpleasant as it can be and painful. I have seen the Superintendent, this administration, make every effort to try to figure out how to manage this dilemma, but ultimately we are here down to the point where we have to comply with the law and the money isn't there. No matter where we turn, if we restore paraeducators, we restore liaisons, we have got to cut somewhere else and then they will be in this room saying they should not be cut. At the end of the day, I think what is going to happen here is that we are going to stay on top of the situation to see what is happening at the State level because that funding formula has got to get clarified and we've got to know what we are dealing with and what our possibilities are. We may know more by the August 21 meeting. We may know more by the time school starts. Hopefully, we will and can begin reversing some of these Decisions or not. Maybe it will get worse. All I can tell you is this is a preview of what is going to be a horrible year for the next budget cycle in '09-'10. This has been a picnic because it's grim after we use these one-time funds that we bailed ourselves out with. This room is going to be full of folks saying they should not be cut and the Board is going to agree with them that they should not be cut and the law is going to compel us to balance this budget. So, I am going to move for the adoption of this budget. I do believe there has been a lot of diligence, a lot of effort. It is not what we want to do. It is what we are compelled to do and we are going to stay on top of the situation. Hopefully, we will restore these positions. So, I move to approve the budget.

Clerk Shirakawa

Well said Eddie and Manuel. Bob, short of a suspension I would like a process up to that point that you can describe to the Board that you will start tomorrow with working with Cindy and her leadership as a President and other Representatives from the unit.

Superintendent Nuñez

All along we have been trying to meet with the Associations and administrators because there is not an administrator that has indicated they can do without the positions. I think we continue to do that, but as a larger group. The ESTA President would stand up and talk about the real impact on the librarians. The plan I would call is having Cathy and Vida start calling meetings that administrators and the Associations would attend to try and see, when in fact, there is additional dollars or what we are hearing from the State from our different Associations. As those dollars come back, we should have a plan to bring back to the Board. For example, the discussions in Adult Ed is separate and distinct from the general fund. It could be that any program that gets fewer dollars, the question

to the Board could be do you want to subsidize that program, which we do for Special Ed. I am committed to meeting everyday if that is what it takes. There has not been a member of the Board that has not spoken for one of these positions. We need to get our Assemblypersons to come and talk to us to let them know we are still interested in the funding of education.

Member Biehl

I think it is fair to say that there isn't any member of the Board here who likes what is happening and I think it is also honest to say that every member of the Board has been in contact with people in Sacramento, has visited Sacramento, has been on the street with teachers and paraeducators with picket signs and will continue to do that. Last year, when there wasn't this fiscal crisis, this Board supported all of these positions. We did not cut any of these positions because that is not our intent. We believe they are all important and we want to see them all restored. I am pleased to hear that the Superintendent will continue to do what he can to bring that about. We are all hopeful that our continued pressure will bring about some change in Sacramento. I don't think it is going to happen quickly, but maybe the middle of August, maybe September before we finally get a budget, but I think the pressure needs to be kept on and if we get more money I would hope that we would be able to restore the positions of the people that are sitting here today. I am particularly concerned about the community liaisons because I think that is a position where in fact we may have a net reduction in revenue if their work is no longer completed by anyone. I do believe there is a significant amount of ADA that they do generate. I think that was the purpose of the creation of those positions initially. Let me say that I am very sympathetic. This is a traumatic situation for anyone who has worked for our district for so many years and has put in so much time and I want to make sure that no one believes that this is a reflection on the type of work they do or the value of the work they provide our district. It is a situation where we are locked in by the law. There are certain fiscal requirements we have to meet and that is the reason why I will be reluctantly supporting the budget as it is presented here today.

President Nguyen

I think that everything that has to be said has been said by all the Board Members. So, reluctantly I will call the vote. As Mr. Nuñez said we cannot defer this budget later than June 30. By law, we have to decide whether we are going to approve this or not.

Vice President Garcia

I have a quick question and I don't know if we need to do this, Mr. Counsel, but Mr. Shirakawa mentioned the additional issue of ensuring that the Superintendent engages right away. Does that have to be included in the motion or not?

Legal Counsel Ruiz

No.

Motion made by Member Herrera, second by Clerk Shirakawa.

Vote: 5/0

8.02 Tentative Proposed Agreement with California School Employees Association (CSEA), July 1, 2008 – June 30, 2009; Ratify/Approve Tentative Agreement

Motion to approve made by Member Herrera, second by Member Biehl.

Vote: 5/0

8.03 Approve Proposed Meal Rates for 2008/2009 School Year

Presentation by Director Julie Kasberger.

Vice President Garcia

Is the increase revenue neutral or will we be making money.

Director Kasberger

No, it is to just get us to be revenue neutral.

Motion to approve made by Member Herrera, second by Member Biehl.

Vote: 5/0

8.04 Total School Solutions Presentation/Facilities Program Management Review

Presentation made by Henry Petrino, Director of Planning and Operations of Total School Solutions, Inc.

Member Herrera

I am interpreting that we have fairly run construction program in the district. It is a massive program and is going to get even bigger. This is a day for kudos to our administration and to our department.

Vice President Garcia

Thank you for the presentation. It was good. I did have an opportunity to read the report itself. To spend \$127 and have something to use common this clean is pretty impressive. Mr. Garofalo, kudos to you and your team. Mr. Flores, you and your team thank you. I can't express more how the voters should thank you too.

Member Biehl

I read the report, as well, and I agree with the comments that Vice President Garcia just shared with you. I got an overall theme from it. You stress that there is a great deal of value in careful planning and that the more time that you spend on the planning, the more money you save in the long run by investing in the time in the beginning. Am I correct?

Mr. Petrino

You are correct and I will expand it. It is not just about the money. It is also about realistic expectations on the part of your stakeholders, everything from your students to your taxpaying community, your staff. A transparency of what you are planning to do, when you change it, why you are changing it and what that change is and what the consequences to the rest of that program are critical. You've done well so far and the proof of it is the passage of Measure E, but I think to maintain that you need to do a little work with your master plan and how you keep it updated and change it.

Member Biehl

Do you have any idea on the timeframes of that typical type of work are.

Mr. Petrino

When you start from scratch, a master plan can easily take a year to a year and a half to do. In your case, I think you have the framework essentially in place. I think what you need is a good solid review and update of it and I would imagine that could be done in a period of a few months.

8.05 Recommendation regarding Program Management Services for Measure E for General Obligation Schools Facilities Bond Program

Motion to approve made by Vice President Garcia, second by Member Herrera.

Vote: 5/0

8.06 Information to assist in Establishing Priorities under Measure E, which includes School Site Capacity Report

Presentation made by Julio Hernandez, SGI, and Eric Hall, Eric Hall and Associates.

President Nguyen

Regarding the program capacity that you were using for criteria in assessing capacity, do you take into consideration about the portables can be replaced at those campuses and what would happen when we are not using those portables anymore?

Mr. Hall

The portables have often been used in district more to solve more of an interim problem while the district is looking at designing and building facilities or potentially looking at putting portables on a site in advance of purchasing land. There isn't a magic formula that would tell us how many portables are too many, but I think the staff certainly knows what works on their campus. Many campuses have space where portables can be added.

President Nguyen

I am just asking if you take into assessment when doing your assessment of capacity?

Mr. Hall

Yes, they are in the count.

Vice President Garcia

I have a question on your slide called example of site capacity where you pull out Evergreen Valley. What is the difference between program capacity and State capacity?

Mr. Hall

The State capacity does not include the 85% utilization factor. The State requires to load your room at 100%.

Vice President Garcia

Would your recommendation be to go with program capacity to better serve our students?

Mr. Hall

Yes.

Member Biehl

Did SGI do most of the work on this? You had to literally go out to all the sites to look at everything. Is that how it was conducted.

Mr. Hall

Yes, we did. Hats off to SGI. Actually, David and I worked closely together on this. Portables have a life of 30 years, 25 some people say. They can be moved. The older they are, the more difficult it becomes, but they are expensive to move by the time you look at underground utilities, the ramps, the skirts.

Member Biehl

What was the reasoning on not calculating PE capacity? Does it make the number look too big? There are some issues relating to PE capacity that we will be facing because of changes in the State law for students having to pass a certain fiscal requirements in order to only have to take PE for two years and currently 21% of our freshmen students didn't pass that. They've got another

year during their sophomore year to pass that, but it will have an affect on PE capacity in our district at some point.

Mr. Hall

Physical education teaching space is a more subjective definition than a classroom space. How many kids can you get in a softball field? How many can you get in a gym? How many can you put on swim PE? It does become a little more subjective. We did not go down that road because we were looking at specific classroom buildings here. We can certainly do that if that is the Board's pleasure. It is going to be different for each of your sites and then loading that with a certain number of kids based on the master schedule.

Member Biehl

Was there any consideration given to capacity at a certain Site?

Associate Superintendent Garofalo

It was taken into consideration and that is where you get the program capacity versus the State capacity. We looked at the infrastructure of the site itself: walkways, restrooms, overall layout of safety and security of the campuses. We were looking at it more as what is best for our educational program and safety. That is why you see those two figures; the program optimal and the State optimal.

Member Biehl

I did not see a difference between campuses. You are saying that was done?

Associate Superintendent Garofalo

Yes. Some campuses, in the interest of time here, Mr. Hall just chose certain campuses to point out, but if you would look at Overfelt and at Yerba Buena's, I believe we used a 75% factor on those particular sites.

Member Biehl

That is something to look at. Different schools and different communities have different issues. There is something about scale of problems that when you get to a certain size, it dramatically magnifies the safety issues that we have on campus. That is something that they will need to take into consideration when we finalize these capacities for our sites. Thank you for the work that has been done.

Member Herrera

The concern that I have when we look at it primarily from facilities capacity perspective, that we are not adequately weighing program values. If we are going to move towards a policy framework, it seems that we might have a range that we adopt that says the ideal is this for program purposes and that strictly for facilities capacity if we have

a load issue across the district. So that we always know where we are on that scale on the value of program versus facility capacity.

President Nguyen

No more questions? Thank you Mr. Hall. Thank you Mr. Hernandez.

Member Biehl

I have one comment for the Board. In terms of our planning, I think it would be useful, at some point, now that we have input from all the school sites for the Board in a public session to have about what our overall values are and what we think the overall look of the Measure E building projects should be. There is some basic issues as to how much is to charters, how much to regular schools and how much is to alternative education, what's fair in terms of allocation to sites and maybe we could have those conversations in a general way and that could be married with administrations' recommendation and comes back to us as a recommendation as to where to go. Just a suggestion.

President Nguyen

Is that in your plan Mr. Superintendent in August?

Superintendent Nuñez

Yes. What we are going to do in August is bring back the school sites, the Academic Master Plan and how Measure E fits into that, have the discussions at the Board level. It is important for the Board to have a general review of what is in existence for G, what is there for E and also what are some of the priorities that you would like to see go across the district, technology and some other things and see those all fit together because this Board has to approve/set the priorities. I see us starting this process in August. I see this taking more than one Board meeting.

8.07 Adopt and Approve Recommendations and Course of Action, and Authorize Administration to Proceed with Recommendations in "Asset Utilization and Re-Use Plan" Prepared by The Staubach Company; Approve Detailed Agreement for Brokerage Services with Staubach Company in Connection with Future Real Property Exchange/Dispositions in Connection with Asset Utilization and Re-Use Plan

Superintendent Nuñez

At the last Board meeting we had a presentation by Staubach with regard to the recommendation with where we go with regard to this property. It was asked that we bring back for your approval the next step. What I have for you is two things, and also that we bring back to you a definitive fee schedule for Staubach. What I have is a recommendation for you to approve the plan that was contained in our report last week and language dealing with the contract services with Staubach.

Legal Counsel Ruiz

When the Board approved the RFP in December, using the RFP the staff prepared business services contract that at the time focused mostly on steps 1, 2 and 3 of the Staubach RFP, which was the preparation of the asset utilization and re-use plan that was submitted and presented to the Board last week and there was a very general term regarding the commission structure. If the Board is prepared to approve the recommendation in the Staubach report and move forward on that basis, what we have done is prepare an amendment to the contract services agreement that lays out the commission schedule in connection with the proposed land exchange transaction that is consistent with the RFP and it states that it would be 2.5% of the total value of the land exchange transaction for this property payable at the close of escrow of an exchanged transaction and that any additional compensation or commission in connection with the other transactions to occur as part of the exchange would be paid by the sellers of the exchange properties at the time at the close of escrow of those transactions.

Superintendent Nuñez

With regard to the plan the Board would be approving, it would be to start the process for the selection of the exchange partner and start identifying properties for consideration. We would bring back the selection of the exchange partner for the Board's approval.

Vice President Garcia

I have a question Mr. Counsel. Exhibit A, just looking at the language, specifically the amount equal to 2.5% of the exchange value. There is not going to be a cash exchange there right?

Legal Counsel Ruiz

There would be a cash exchange at the close of escrow. The way an exchange transaction would be structured is that there would be several different transactions involved. The first transaction would be with the exchange partner that is identified and approved by the Board. The district and the exchange partner enter into an exchange agreement. That is one transaction. As part of that transaction, in connection with it, the district would identify suitable exchange properties that would eventually be acquired by the exchange partner. The district would negotiate price and terms with Staubach for each of those transactions, but the exchange partner would ultimately purchase them.

Member Biehl

This is strictly a commissioned arrangement? They are at risk if we end up not going through with the transaction? Are we liable for any expenses? Does the contract include any liability for any expenses? Strictly they get paid for performance if they are successful? They get 2.5% of the transaction and if the transaction isn't successful, they get zip?

Legal Counsel Ruiz

That is correct. The agreement specifies that nothing in here is intended to bind or commit the district to actually close on the land exchange transaction.

Member Biehl

What if another transaction comes our way that does not relate to this piece of property here? How does this relationship where you establish them as our exclusive realtors? How would this be handled?

Legal Counsel Ruiz

The exclusivity in this amendment to the contract services agreement applies solely and exclusively to the land exchange transaction for this property. If there is a different real estate opportunity that is not connected to this exchange transaction, then per this agreement, administration would have to come back to the Board and authorize using Staubach to represent the district in connection with that transaction. This agreement says that in that transaction, if the district approved it, using Staubach's brokerage services, then it would be a 2.5% commission. But again, that would have to come back to the Board for approval first.

Member Herrera

I don't have a lot of experience with these types of agreements, it looks very professional and my question is because of my inexperience is this usual, reasonable and customary in these type of business arrangements. Are we on the high side, the low side, kind of at standard level for these types of agreements.

Legal Counsel Ruiz

In my experience with exchange transactions, the commission is typically a bit higher to 3% - 3 ½%. There is also the provision for some basic fee to the broker providing these services in connection with the exchange transaction, but again in connection with this agreement, the risk that somehow the transaction cannot be put together has been transferred to Staubach essentially. I will say this is a very complex transaction to bring an exchange partner with the capability of putting together a transaction like this. I view the transfer of the risk to Staubach as a pretty significant benefit to the district under these circumstances.

Member Herrera

The transfer risk is based on no basic fee other than commission based on finalization.

Legal Counsel Ruiz

That's right.

Member Herrera

*We are even at an advantage by a ½ point or point in
What might otherwise be a typical arrangement.*

Legal Counsel Ruiz

That's right.

President Nguyen

*I am looking at Exhibit A, section B, it says for all
appropriate acquisitions which are not part of an
exchange of 830 North Capitol Avenue , which is this
facility, and for which the district desires and
authorizes someone to act as agent or representative.
Staubach shall receive a commission equal to 2.5%
for the final sale price. Anything that is not related to this
particular facility, the district will pay a commission of
2.5%, however, whatever use of the services by the district
utilizing Staubach that will need to be brought back here
for us to look at.*

Legal Counsel Ruiz

That is correct.

Member Biehl

*In the context of that, it gets back to an issue that I rased
last week on the difference where I would consider
a commissionable sale where they are at risk, where
they've gone out and located the and property or when
you are using them for consulting services on a
transaction that was, in fact, brought to us. I am concerned
a little about the language that locks us into a percent
commission by essentially defining anything else
that comes to us as a commissionable sale. Is there a
way to adjust that language so that it deals with if we
decide to use them in a consulting relationship, we would
negotiate a fee for their consulting services on a
particular project. In the last one, the argument that my
fellow Board Members used when we paid just 1% on
Calero that was a pretty good deal. This year is specifying
2.5% on a situation that might have been similar to that.*

Legal Counsel Ruiz

*Ultimately, it would have to come back to the Board for
approval, but the point is well taken and what I can
do is include, if the Board is inclined to approve this I
can include language in Exhibit A, paragraph B, that in
connection with any other consulting services requested
by the district and approved by the Board, the parties
will negotiate in advance an appropriate fee.*

Member Biehl

That would certainly satisfy my need in the contract.

Legal Counsel Ruiz

*Just to be clear, there ought to be two separate motions
here. One to approve the recommendation to authorize
administration to move forward on that basis and the*

second motion to approve the amendment to contract services.

Member Biehl

The only comment I would have is that this is a very big transaction. A very complicated transaction and we have receive the opinion tonight from Counsel that this is a good rate. This is a good percentage. We have been told that the real estate company, Staubach, is solely at risk for this transaction and we are not under any obligation to proceed with it if we decide at some point in the future that it does not quite work for us correctly or if they are unable to put this together for us. We could as a Board send this out for an RFP at this point and get proposals from a variety of real estate firms. I think it's a lot different than what we went out for initially. Initially, we were looking for someone to do a study of the possibility of going on to the next step. At this point, in fact, there might be other people who were very interested in this particular project, however, you made a strong argument today, Mr. Counsel, that indicates this is actually in your judgment a pretty good deal for us and minimizes our risk and exposure on this particular deal. Am I correct in what I have just said, Mr. Counsel?

Legal Counsel Ruiz

That is correct. That is my opinion as well.

Member Biehl

If we were to go out for another RFP or RFQ, I am not sure what the proper term would be here, that would take us another six to eight weeks for something to do that appropriately.

Legal Counsel Ruiz

At a minimum, I would think more eight to twelve weeks probably.

Member Biehl

That is the choice that we are facing when we are voting on This today and I assume it is the administration's recommendation that we enter into contract with Staubach?

Superintendent Nuñez

Yes, it is. Jerry just informed me that at Oak Grove School District they just took a vote on Calero. The vote was 3/1, with 1 absent. It was approved.

Motion #1:

Motion to adopt and approve the Recommendations and Course of Action, and Authorize Administration to Proceed with Recommendations in "Asset Utilization and Re-Use Plan" Prepared by The Staubach Company made by Member Herrera, second by Vice President Garcia.
Vote: 5/0

Motion #2:

Motion to approve the brokerage agreement with added language to be included in Exhibit A, paragraph B, that in connection with any other consulting services requested by the district and approved by the Board, the parties will negotiate, in advance, an appropriate fee was made by Member Herrera, second by Vice President Garcia.

Vote: 5/0

8.08 Adopt Resolution #2007/2008-45 Filling Modernization and New Construction Applications for Funding of Career Technical Education

Motion to approve made by Vice President Garcia, second by Member Biehl.

Vote: 5/0

8.09 Approve the No Child Left Behind/Program Improvement: Revised LEA Addendum Action Plan

Motion to approve made by Member Herrera, second by Vice President Garcia.

Vote: 5/0

8.10 Second Reading and Adoption of Draft Policy BP 4040 For E-Mail, Internet and Telecommunications for Staff

Motion to approve made by Member Biehl, second by Member Herrera.

Vote: 5/0

9) ATTACHMENT A – CONSENT CALENDAR ITEMS

Item 9.11 was pulled, Motion to approve the remainder of the consent calendar by Member Herrera, second by Member Biehl.
Vote: 5/0

ATTACHMENT A

(Agenda items in parentheses)

- Ratify/Approve Classified Personnel Actions Presented June 26, 2008 **(9.01)**
- Ratify/Approve Certificated Personnel Actions Presented June 26, 2008 **(9.02)**
- Ratify/Approve Student Aide Personnel Actions Presented June 26, 2008 **(9.03)**
- Approve Updated Course Outline: Construction 1, 2 and 3 **(9.04)**
- Final Course Approval: American Sign Language 2, Biology for Biotechnology, English 1 Support, Multimedia III **(9.05)**
- Final Textbook Approval: American Sign Language Levels 1 & 2, Genial A1 and A2, Nuevas Vista, Intro, Nuevas Vistas Curso Dos **(9.06)**

- Approval of Consolidated Program Application (CADS) Part I for 2008-2009 (9.07)
- Name Change and Updated Course Outline: Intro to Hospitality and Tourism, Marketing Hospitality & Tourism (9.08)
Notice of Completion for the James Lick High School Kitchen Renovation (Shellco Inc) (9.09)
Notice of Completion for the Mount Pleasant High School Performing Arts Theater (S.J. Amoroso) (9.10)
- *Motion to approve #8.09 of item 9.11 of the Minutes of the June 19, 2008, Regular Board Meeting and the remainder of the minutes to be carried to the August 21, 2008, Regular Board meeting made by Member Biehl, second by Member Herrera.
Vote: 5/0*

10) WRITTEN REPORTS/RECOMMENDATIONS

WRITTEN REPORTS

- 10.01** Report on 2008-2009 Single School Plans for Student Achievement
Report received

11) BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS

BOARD/SUPERINTENDENT COMMENTS

11.1 Board of Trustees

Member Biehl

- *MetroEd Update
Four students from MetroEd at the CCOC site who graduated from the Fire Program were hired by CalFire to fight in the Morgan Hill / Watsonville fire. Three of those students were from East Side. We ought to think about CCOC as one of our schools and work to make sure it is effective as one of our schools.*

11.2 Superintendent

12) CLOSED SESSION

CLOSED SESSION

- 12.01** EXPULSIONS - *None*
- 12.02** PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code Section 54957)

*Motion made by Vice President Garcia, second By Member Biehl to sustain in part and to deny the appeal made by employee Bob Arellano.
Vote: 5/0*

Motion by Member Biehl, second by Vice President Shirakawa to approve Resolution No. 2007-2008-42, Acceptance of Resignations and Revocations of Non-Reelection of Probationary Certificated Employees
Vote: 5/0

**12.03 CONFERENCE WITH LABOR NEGOTIATORS
(Government Code Section 54957.6)**

Agency Designated Representatives:
Bob Nuñez, Superintendent
Jerry Kurr, Associate Superintendent of
Administration and Business Services
Dan Moser, Associate Superintendent of
Instructional Services and Human Relations
Cathy Giammona, Director of Human Resources
Vida Branner-Siders, Director of Compensation and
Classified Employee Relations

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

12.04 CONFERENCE WITH LEGAL COUNSEL

**CONFERENCE WITH LEGAL COUNSEL –
EXISTING LITIGATION**
Subdivision (a) of Section 54956.9 of the
Government Code

Tessa Cavazos v. East Side Union High School
District, et al.
(Santa Clara County Superior Court Case
No. 107CV085424)

**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

**12.05 CONFERENCE WITH REAL PROPERTY
NEGOTIATORS**

**12.06 PUBLIC EMPLOYEE PERFORMANCE
EVALUATION (Government Code Section 54957)**

**12.07 PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE
APPOINTMENT (Government Code Section 54957)**

• **Principals (2)**

*Motion by Member Herrera, second by
Member Biehl to appoint Teresa Marquez
as Principal of Mt. Pleasant High School,
effective July 1, 2008.*

Vote: 5/0

*Superintendent Nuñez announced that
Principal Grettel Castro-Stanley will be the
Principal of Independence High School.*

13) REPORT CLOSED SESSION ACTION(S)

***REPORT CLOSED
ACTION(S)***

14) ADJOURNMENT

ADJOURNMENT

Meeting was adjourned at 9:16 p.m. by President Nguyen.

Respectfully submitted,



George Shirakawa
Board Clerk

East Side Union High School District
APPROVED
Board of Trustees

Aguller 8/21/08