

Agenda Item

15.06 Approve Minutes of January 21, 2010, Regular Board Meeting

Meeting: 03/18/2010 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
Category: 15. Consent Calendar Items - ATTACHMENT A
Agenda Type: Action (Consent)
Public Access: Yes

Agenda Item Content



EAST SIDE UNION HIGH SCHOOL DISTRICT

TO: Board of Trustees
FROM: Dan Moser, Interim Superintendent
SUBJECT: Approve Minutes of January 21, 2010, Regular Board Meeting

Attached are the minutes of the January 21, 2010, 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 January 21, 2010, Board meeting minutes as presented.

Additional Executive Content

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.

Created on 01/17/2010 at 09:15 PM by Mary Guillen. Last Update on 03/12/2010 by Mary Guillen.

East Side Union High School District

Approved

Board of Trustees

March 18, 2010



**EAST SIDE UNION HIGH SCHOOL DISTRICT
REGULAR MEETING
OF THE
BOARD OF TRUSTEES**
Meeting Held at James Lick High School – Multipurpose Room
January 21, 2010
4:00 p.m.

2010 STATE OF THE DISTRICT ADDRESS
BOARD PRESIDENT EDDIE GARCIA
6:00 P.M.
JAMES LICK HIGH SCHOOL
MULTIPURPOSE ROOM

1. CALL TO ORDER/ROLL CALL

1.01 Roll Call

The Regular Meeting of the Board of Trustees was called to order at 4:03 p.m. by President Garcia. Clerk Martinez-Roach, Member Biehl and Member Herrera were present. Vice President Nguyen arrived at 4:19 p.m.

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

President Garcia 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 regarding Closed Session items.

1.03 Recess to Closed Session (Open Session will resume at the end of Closed Session and the 2010 State of the District in the Multipurpose Room at approximately 6:30 p.m.) See item 2 on agenda (Closed Session).

The Board of Trustees recessed to Closed Session.

2. CLOSED SESSION

2.01 Expulsions: A

Student A:

Motion by Member Biehl, second by Clerk Martinez-Roach, the Board approved the expulsion of Student A.

Vote: 4/0, Vice President Nguyen absent

2.02 Public Employee/Discipline/Dismissal/Release/Complaints/Administrative Leave/Discipline (Government Code Section 54957)

2.03 Public Employee Performance Evaluation (Government Code Section 54957)

2.04 Public Employment/Public Employee Appointment (Government Code Section 54957)

- *Interim Superintendent*
- *Interim Associate Superintendent of Instruction and Human Relations*
- *Interim Director 2 – Instructional Services*
- *Interim Principal (1)*
- *Interim Associate Superintendent Principal (1)*

Motion by Member Herrera, second by Vice President Nguyen, to appoint Cathy Giammona as Interim Associate Superintendent of Instruction and Human Resources, subject to administration entering into an acceptable contract with Cathy Giammona to be approved by the Board at the next Board Meeting.

Vote: 5/0

Motion by Member Herrera, second by Member Biehl, to appoint Martha Brazil as Interim Principal at Oak Grove High School.

Vote: 4/0, Clerk Martinez-Roach Abstained from the Vote

2.05 Conference with Labor Negotiators (Government Code Section 54957.6)

Agency Designated Representatives:

Dan Moser, Interim Superintendent

Jerry Kurr, Associate Superintendent of Administration and Business Services

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)

2.06a Conference with Legal Counsel – Existing Litigation
Subdivision (b) of Section 54956.9 of the Government Code: Two (2) Cases

- Office of Administrative Hearings Case No. N2009080462

Motion by Clerk Martinez-Roach, second by Member Biehl, approved the settlement agreement in the Office of Administrative Hearing Matter #N2009080462 with student Chase Baccus. A copy of the settlement agreement is available at the District Office upon request.
Vote: 5/0

- Kinetics Mechanical Services, Inc. vs. East Side Union High School District, Santa Clara County Superior Court, Case No. 109CV141312

2.06b Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code: One (1) potential case

2.07 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, Interim Superintendent Jerry Kurr, Associate Superintendent of Administration and 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 Valley Water District, and Other Parties To Be Determined</i>
<i>Under Negotiation:</i>	<i>Price and Terms</i>

OPEN SESSION AT APPROXIMATELY 6:30 P.M. – JAMES LICK HIGH SCHOOL MULTIPURPOSE 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 Multipurpose Room.

President Garcia 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.

There were no amendments to the agenda.

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

6.01 **Fall Sports**

- **Andrew Hill High School**
 - **Football, Santa Teresa Division**

- **Evergreen Valley High School**
 - **Girls' Cross Country, Mt. Hamilton Division**
 - **Girls' Volleyball, Mt. Hamilton Division**

- **Independence High School**
 - **Girls' Tennis, Santa Teresa Division**

- **James Lick High School**
 - **Boys' Cross Country, West Valley Division**

- **Mt. Pleasant High School**
 - **Football, West Valley Division**
 - **Boys' Water Polo, Santa Teresa Division**

6.02 **Staff Sergeant David Gutierrez, Graduate of Santa Teresa High School:
Posthumous Honor for Commitment and Duty to Nation and Community**

7. **STUDENT BOARD LIAISONS**

None

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 Multipurpose Room.

Speaker:

- *Roland Smith*

9. INSTRUCTIONAL SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

- 9.01 Receive the Fourth Valenzuela/CAHSEE and Williams Settlement Uniform Complaints Quarterly Report for Period Covering October 1 through December 31, 2009 as required by EC 35186 (Williams Settlement Legislation SB550 and AB2727) - Dan Moser, Interim Superintendent and Robert Ibarra, Coordinator of Professional Development/Migrant Education**

Motion by Clerk Martinez-Roach, second by Member Herrera, to receive the fourth Valenzuela/CAHSEE and Williams Settlement Uniform Complaints Quarterly Report for the period covering October 1 through December 31, 2009, as required per Education Code 35186 (Williams Settlement Legislation SB550 and AB2727).

Vote: 5/0

- 9.02 Approve 2010 Incoming 9th Grade and Special Education Summer School – Dan Moser, Interim Superintendent and Tim Nguyen, Coordinator of English Language Learners Supplementary Education**

Motion by Member Herrera, second by Vice President Nguyen, to approve the 2010 Incoming 9th Grade and Special Education Summer School Program.

Vote: 5/0

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

- 10.01 Ratify the Memorandum of Understanding (MOU) Entered into By and Between the State of California and East Side Union High School District - Dan Moser, Interim Superintendent**

Motion by Member Herrera, second Member Biehl, to ratify the Memorandum of Understanding (MOU), which is entered into by and between the State of California and East Side Union High School District.

Vote: 5/0

- 10.02 Selection/Appointment of Members to Audit Committee - Frank Biehl, Audit Committee Chair, and Lan Nguyen, Audit Committee Vice Chair**

Speakers:

- Wm. Derek Grasty*
- David J. Neighbors*

Member Biehl

I would like everyone to know the process that we followed. We advertised. We sent out a couple of press releases. We had six very qualified applicants apply to become members of the Audit Committee. Mr. Nguyen and myself were appointed in December to be the Chair and the Vice Chair of the Committee. We met and decided it was best to conduct interviews of all six candidates. We did that Saturday, a week ago. Each candidate did come in and

spend 20 minutes with us. Their resumes and applications have been included in the packet for this evening. Mr. Nguyen and myself have some recommendations for the Board, but we do recognize that it is the Board's decision as to who they wish to appoint.

I would first like to ask are there any requests to speak tonight?

President Garcia

Yes, we do. Once you are done, Mr. Biehl, we will call speakers to come up.

Member Biehl

I think that maybe the appropriate thing is to indicate that there were two applicants who contacted me and said they would not be able to make it tonight to speak. Dan Juchau indicated that he would not be able to make it and Andy Aganad indicated he didn't think he would be able to make it. However, all applicants were notified of tonight's meeting and with an e-mail said they certainly would be given the opportunity to speak before the Board for three minutes if they wished. So, at that point, I think it would be appropriate to hear whoever is here tonight and then I will have comments.

Vice President Nguyen

After the interviews, Board Member Biehl and I met and talked about the process. We have a couple of candidates we would like recommend to the Board to be appointed to the Committee. Let me know if you want to listen to the recommendations before we listen to the candidates?

President Garcia

We should listen to the candidates.

Speakers:

- William Derek Grasty
- David Neighbors

President Garcia

There are no other speakers.

Member Biehl

We were very blessed to have six qualified candidates who each individually bring different aspects to the Committee. I think there are places for each of the candidates to serve within the District, but tonight we only have three positions on the Committee and one position as an alternate to appoint. Our charge from the Charter is to make sure that the collective Committee has the collective expertise that is necessary to address the issues that will come before the Committee. I think that our recommendation is not a reflection of any one individual, but rather is a combination of individuals that Mr. Nguyen and myself, just as two Board Members, believe would be a combination that would best serve the needs of the District and so I would say to anyone who is not selected to not take it personally, but to understand that I've got your name in a Rolodex and we are going to be asking you to do something else very soon. Some of those opportunities might involve work on our budget as we move forward in those issues if the Board President and the Board decide to set up some kind of budget review committee. There's also opportunities on our Citizens' Bond Oversight Committee, as well. As we move through the year, we are going to be looking at a lot of instructional issues and we are going to involve more community members in those

discussions. With that all said, I would like to provide the recommendations that are based on the interviews that we conducted last weekend and the resumes that we read.

Our first recommendation and these are not in any particular order, these are just three people, would be Dan Juchau who is a CPA. He is currently inactive because he works for a private firm. He does not currently have an active license as a CPA, but he has been licensed as a CPA. He was very active in the drafting of the Charter. He worked with us on the Ad Hoc Committee. In addition to that, he is a School Site Council President at Silver Creek. It is a very nice combination of accounting expertise, auditing expertise. He works as a tax auditor with a private firm. He has a very big stake in the East Side Union High School District and I think that is very important.

Mr. David Neighbors already has described to you his credentials. We were impressed, once again, that he is from the East Side and very proud of that and has demonstrated in his public career a commitment to education through his work in the Berryessa Elementary School District chairing their Bond Citizens' Oversight Committee, which we actually think is very good training for this activity. He assisted with the drafting of our Charter, as well, and attended several of the meetings of the Ad Hoc Committee, testified and assisted in that area. He also works with students on the Advisory Board at Independence High's Academy of Finance and as a mentor for the Academy of Finance over at Oak Grove, as well. We think that is a very important part of the puzzle here that we would like to bring together.

We would also like to recommend Mr. Bruce Berg. He was not present tonight, but did participate in the Ad Hoc meetings and who did participate in the interviews over the weekend. He currently serves as Executive Director for the Mt. Hamilton UniServ/CTA. He previously, however, was a Villa Principal at Independence and a former APED at Independence. He has a long history with this District. He is a recognized expert in school finance and every summer he teaches school finance at UCLA. School finance has been pointed out to us and, as Board Members, know is very different in many ways and aspects than what you might typically find at a business. We think he brings that part of expertise into the picture.

Our recommendation, I would like to put this into the form of a motion and then either allow Lan to either second it and make a brief comment, would be to nominate Dan Juchau, David Neighbors and Bruce Berg to be public members of the Audit Committee and then we would recommend after that motion that we deal with a separate motion on the alternate.

President Garcia

Do I have a second?

Vice President Nguyen

Second the motion.

President Garcia

Madame Clerk do you have a question?

Clerk Martinez-Roach

I do. There is a gender imbalance in the recommendations and I wanted to find out whatever happened to... Were there any women candidates at all? I am a little concerned about that. I think that we need to aggressively solicit again more candidates. I just think it

is important to have a balance. I just wanted to understand what happened with... How many women?

Vice President Nguyen
One.

Clerk Martinez-Roach
What was the reason for not selecting?

Member Biehl
Well, actually, I believe we are going to be making a recommendation that she be selected as the alternate and I would like to describe that when we get to that motion.

Vice President Nguyen
We opened the process for some time and, in fact, several candidates did not submit their application until very near the deadline of the process. In the end, we had six very qualified candidates that applied and, out of the six candidates, there was one candidate that was a female. Just as Mr. Biehl indicated, our next step is to recommend an alternate member to serve on the Committee. That was going to be my next recommendation for an alternate and that is Ms. Renee Resch, which I will have a chance to talk more about later. Does that answer your question?

Clerk Martinez-Roach
No. I want to know why the woman was not selected as the top three choices.

Member Biehl
I can speak to that. I will tell you why. Let me pull her resume up.

Vice President Nguyen
I don't think we have to go into the pros and cons or the strengths and weaknesses.

President Garcia
I am a little concerned about doing that as well. So, if we can give a brief summary, Mr. Biehl.

Member Biehl
Okay. I think she brings a lot to the table. She has a Bachelors of Science in Accounting. She is familiar with fund accounting because she works for the City of Santa Clara. She has been active in the Oak Grove Site Council, where she was a newly appointed member. She has worked on a booster club. She has a lot of enthusiasm and excitement, but she, herself, within the interview indicated that she, in fact, new very little about these areas, but was very excited to learn more. Lan and I both felt that this would be an excellent place to put her as the alternate. She would have the opportunity to attend all the meetings. Of course, anyone can attend all the meetings if they wish. She would have the opportunity to vote if someone was not there and she would be a very likely candidate in the future should a vacancy occur. We thought this would be a very good place. She is not a CPA. We have two people that are CPAs and another person who is an expert in school finance and we thought that was the best combination to start with, but we did recognize that with her enthusiasm and we did recognize the gender imbalance, which was caused by the fact that we only had one female applicant. We wanted to recognize that and build for the future.

Clerk Martinez-Roach

I would like to debate this because I believe the fact that you don't have a long list in accounting and business finance, etc., which this person happens to have. I just happened to read it right now. She has been working for very reputable companies. My concern is that, we as Board Members, when we run, we don't have necessarily the qualifications when we get elected and then we learn. I am a little troubled by just selecting people who are extremely qualified, which is good, but I also feel that we have to have a balance, with typically called soccer mom. This individual happens to be a parent in one of our schools and I wish you would have selected her to be in the top three.

President Garcia

Let me see if we can close this issue out. When Mr. Biehl was describing Ms. Resch's intent to serve on this Committee, I saw her shaking her head, "Yes." Did I miss something? Do you pretty much agree with that recommendation?

Clerk Martinez-Roach

Oh, she is here?

President Garcia

Yes, she is here and she agrees with the recommendation.

Clerk Martinez-Roach

I am fighting for you and I don't even know who you are.

President Garcia

I think, on that note, we do have a motion and a second. I would like to entertain the question.

Motion #1

Motion by Member Biehl, second by Vice President Nguyen to nominate Dan Juchau, David Neighbors and Bruce Berg to be public members of the Audit Committee

Vote: 4/0, Patricia Martinez-Roach Abstained from Vote because she believes there is a gender imbalance

Vice President Nguyen

I would like to nominate Ms. Resch to be the alternate member on the Audit Committee. Ms. Resch brings in a wealth of experience as far as community service. She is on the Site Council at Oak Grove High School and also a parent there. She was the Past PTA President and very involved. She currently works for the City of Santa Clara. I believe that she can bring a wealth of experience, not only from the community perspective, but also an active member of the Site Council, PTA and her background in finance and in accounting. Just in case you are wondering what is the difference between the alternate member and an active member, it is when it comes to voting. The sitting member can vote. However, if either I or Mr. Biehl is not present in the meeting, Ms. Resch can vote as any other member.

Motion #2

Motion by Vice President Nguyen, second by Frank Biehl, to nominate Renee Resch to serve as the alternate member on the Audit Committee.

Vote: 5/0

President Garcia

As I said when I made my opening comment, it is critical that we are transparent. It is critical that the community know that we are spending these dollars wisely. I am very excited and feel privileged that we are going to have such a group help us work through that. Thank you very much.

Member Biehl

Mr. President, there is one small item of business that we need to do here. The Charter calls for us staggering the terms and the method for staggering the terms of the public members the first time they are appointed to a two-year term, except for one member the first time. That way the terms are already staggered. So, we put the three names into a jar here and we need someone to pick the name that gets the short-term – gets the term for one year. Marisa, you want to pick the name out of here.

The person that has the term that ends January 30, 2011, is Dan Juchau. The other two have been appointed to a two-year term. The alternate is appointed to a one-year term. Board Members are appointed to one-year terms.

10.03 Proposed Contract and Compensation for Interim Superintendent Position

President Garcia

Colleagues, we have a draft document in front of us. We have had an opportunity to discuss it. One item I do want to add on is a recommendation for compensation. Mr. Counsel, I believe that needs to be done in open session as well?

Legal Counsel Ruiz

That's correct.

President Garcia

My recommendation is that the Interim Superintendent be paid an annual salary of \$205,000. At the end of the day, I think we've got a great opportunity here, a great deal. As I mentioned in my public comments earlier, Mr. Moser has been a steady hand during some very difficult times. I think the fact that the salary I am recommending and he agrees to is very generous for us. A Superintendent of this size is a little bit more generous and we thank him for his leadership and his commitment to the East Side and I would like to entertain a motion for approval.

Clerk Martinez-Roach

I have a comment for the record. I am going to vote no against this contract because I believe that the terms and agreement are not in the best interest of the District. Specifically, the clause that states this is effective through December of this year. In the event that this Board chooses another Superintendent, this Board would be obligated to pay the current salary or the proposed salary to the Interim Superintendent, which I believe is not in the best interest of this District. I don't agree with having such a long-term contract. This is giving the impression that it is this Board's intention not to do a national search or fully engage and do the search like we had indicated. So, I am voting against it. I don't think this is monetarily the right language and I am a little bit troubled that we are getting into another situation that we just got out of. It cost a lot of money to this District. I don't think it is right and I think people should be outraged.

President Garcia

Thank you Madame Clerk. Let me respond as the representative of the Board that did negotiate this as the President. I am going to respectfully disagree with that analysis. I think this is an absolute prudent decision, financially and fiscally. In fact, I take it a step further and say that the very fact that we intend to do a thorough search, we are not going to do it in a short period of time if we are going to do this search correctly. I asked this Board in my opening comments to look high and low for the best and most qualified person for this job. We don't want to rush it. From a purely economic standpoint, this is an excellent deal for this school District, in the best interest of this school District, and it provides us with the breathing room to do the search we need to do. In the meantime, we've got someone who, and I will say it again, is a steady hand. I think this is a good deal.

Member Biehl

I think it is a very good contract. I would like to thank the Board President for the work that he did in negotiating it. I think that he listened to the comments of the Board. I would also like to thank Mr. Moser for being flexible and agreeing to the issues that we brought forward. I also think it is a transitional time for the District and we need to do things right and I think it is the right thing to do. I am fully in support of this. That is why I second the motion. Thank you.

Motion by Vice President Nguyen, second by Member Biehl, to approve the contract and compensation in the amount of \$205,000/year for Interim Superintendent Dan Moser.

Vote: 4/1, Clerk Martinez-Roach Voting No

10.04 Adopt Resolution #2009/2010-23 Recognition of February 2010 as National African American History Month – Dan Moser, Interim Superintendent

Motion by Member Herrera, second by Clerk Martinez-Roach, to adopt Resolution #2009/2010-23 Recognition of February 2010 as National African American History Month.

Vote: 5/0

10.05 Adopt Resolution #2009/2010-24 Bill of Rights for Children and Youth – Patricia Martinez-Roach, Board Clerk

Motion by Clerk Martinez-Roach, second by Vice President Nguyen, to adopt Resolution #2009/2010-24 Bill of Rights for Children and Youth.

Vote: 5/0

10.06 Potential Process(es) for conducting a Superintendent Search – Eddie Garcia, Board President, and Dan Moser, Interim Superintendent

Speaker:

- *Marisa Hanson, ESTA President*

Motion by Member Biehl, second by Clerk Martinez-Roach, to place on the February 2010 Board meeting agenda the Superintendent search, significant time be reserved for discussion on this item and staff be directed to prepare recommendations for RFQ that would be ready to send out that same evening after the Board meeting. That would provide the commitment that the Board is moving on the Superintendent search.

Vote: 5/0

10.07 Approve Board Members Attendance and Lawful Expenses to the 2010 Community Breakfast/State of the City Address by Mayor Chuck Reed and Charter Summit 2010 – Dan Moser, Interim Superintendent

Motion by Member Biehl, second by Vice President Nguyen, to approve Board Members attendance and lawful expenses to the 2010 Community Breakfast/State of the City Address by Mayor Chuck Reed and Charter Summit 2010.

Vote: 4/0, Clerk Martinez-Roach Abstained from Vote

11. STUDENT SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

None

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

12.01 Approve Variable Term Waiver Request for Certificated Employee - Dan Moser, Interim Superintendent and Cathy Giammona, Director, Human Resources

Motion by Clerk Martinez-Roach, second by Member Herrera, to approve the variable term waiver request for certificated employee.

Vote: 5/0

13. BUSINESS SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

13.01 Approve Retainer Agreement with McArthur and Levin, LLP, for Special Education Legal Services - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Vice President Nguyen, second by Member Biehl, to approve the retainer agreement with McArthur and Levin, LLP, for special education legal services.

Vote: 5/0

13.02 Acceptance of Donations, Grants and Awards - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Biehl, second by Member Herrera, to accept the donations, grants and awards.

Vote: 5/0

13.03 Accept Warrant Register for the Month of December 2009 - Jerry Kurr, Associate Superintendent of Administration and Business Services

President Garcia requested that, for further transparency, a column be added to the report to list the reason for payment.

Frank Biehl requested that this item be referred to the Audit Committee and they would work with administration on the best way to be sure that it is transparent.

Motion by Member Biehl, second by Vice President Nguyen, to accept the warrant register for the month of December 2009.

Vote: 5/0

13.04 Approve Budget Transfers Presented January 21, 2010 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Clerk Martinez-Roach, second by Vice President Nguyen, to approve the budget transfers presented on January 21, 2010.

Vote: 5/0

13.05 Approve Purchase Orders Presented on January 21, 2010 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Herrera, second by Member Biehl, to approve the purchase orders presented on January 21, 2010.

Vote: 5/0

13.06 Approve Contracts for Professional Services at or below \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Clerk Martinez-Roach, second by Member Herrera, to approve the Contracts for Professional Services at or below \$50,000. (Copy attached – Attachment A)

Vote: 5/0

13.07 Approve Contracts for Professional Services over \$50,001 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Biehl, second by Member Herrera, to approve the Contracts for Professional Services over \$50,001. (Copy attached – Attachment B)

Vote: 5/0

13.08 Approve Memoranda of Understanding - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Vice President Nguyen, second by Member Herrera, to approve the Memoranda of Understanding.

Vote: 5/0

13.09 Adopt Resolution #2009/2010-25 Intention to Lease District Property for Cellular and Wireless Communication Antenna Purposes - Jerry Kurr, Associate Superintendent of Administration and Business Services

Legal Counsel Ruiz

For clarification, this Resolution of Intention is a necessary condition or precondition to entering into a lease with any third party for these types of facilities and it has to be approved by the Board by a four-fifths majority. I am sorry, a two-thirds majority or four out of five Board Members. Three of the conditions for a joint use occupancy of any operating school facility are that the joint occupancy doesn't interfere with the educational program or activities of the school, that it doesn't unduly disrupt the residents in the surrounding neighborhood and that it does not jeopardize the safety of the children of the school. If this Resolution is passed, it will allow the administration to move forward with the bidding process with the understanding that any bids would come back to the Board at the time of the February meeting. At that time, the Board will also be able to have a greater discussion regarding information as to the cell towers and how all of those three criteria are or are not met. In any event, the Board would have to make a determination and that those three criteria are met to move forward in awarding the lease agreements.

Motion by Member Biehl, second by Vice President Nguyen, to adopt Resolution #2009/2010-25 Intention to Lease District Property for Cellular and Wireless Communication Antenna Purposes with the understanding that the contractors will come back with something similar to the Environmental Impact Report so that the Board can look at and address the health concern issues.

Vote: 4/1, Clerk Martinez-Roach Voting No

Board Member Biehl requested that Counsel review the advertising Board Policy and bring back to the Board to either reaffirm it or change it if necessary.

14. FACILITIES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

14.01 Approve the Update to the District Facility Design Guidelines - Alan Garofalo, Associate Superintendent of Student Services and Facilities, and June Francis Rono, Ph.D., Director of Facilities and Planning

Motion by Member Blehl, second by Vice President Nguyen, to approve the update to the District Facility Design Guidelines and as modified to direct administration to begin conversations with ESTA dealing with these standards and within the next 60 days bring back the Board any recommended changes that have been agreed upon.

Vote: 5/0

14.02 Adopt Resolution # 2009/2010-22 To Certify for Purposes of Mandated Cost Eligibility that the Availability and Configurations of Science Facilities were Analyzed by the District and It Was Determined that to Provide the Mandated Science Classes, the District Should Remodel or Build Additional Science Classrooms - Alan Garofalo, Associate Superintendent of Student Services and Facilities

Speaker:

- *Marisa Hanson, ESTA President*

Motion by Clerk Martinez-Roach, second by Member Herrera, to adopt Resolution #2009/2010-22 to certify for purpose of mandated cost eligibility that the availability and configurations of science facilities were analyzed by the District and it was determined that to provide mandated science classes, the District should remodel or build additional science classroom.

Vote: 5/0

15. CONSENT CALENDAR ITEMS - ATTACHMENT A

Item 15.05 was pulled from the consent calendar for discussion/consideration. Motion to approve the remainder of the consent calendar made by Member Herrera, second by Member Biehl.

Vote: 5/0

15.01 Ratify/Approve Classified Personnel Actions Presented January 21, 2010

15.02 Ratify/Approve Certificated Personnel Actions Presented January 21, 2010

15.03 Ratify/Approve Student Aide Personnel Actions Presented January 21, 2010

15.04 Approve School Field Trips

15.06 Approve Change Order #1 for Foothill High School Science Building Project (Dolan Concrete)

15.07 Approve Change Order #1 for Foothill High School Science Building Project (El Camino Paving)

- 15.08 Approve Change Order #1 for Foothill High School Science Building Project (Environmental Systems, Inc.)
- 15.09 Approve Change Order #1 for Foothill High School Science Building Project (Gonsalves & Stronck)
- 15.10 Approve Change Order #1 for Foothill High School Science Building Project (Lonestar Landscape)
- 15.11 Approve Change Order #1 for Foothill High School Science Building Project (Mastria Painting)
- 15.12 Approve Change Order #1 for Foothill High School Science Building Project (Radiant Electric)
- 15.13 Approve Change Order #1 for Santa Teresa High School Modernization of Auditorium and Music Labs Project (Cal Pacific Construction, Inc.)
- 15.14 Approve Minutes of November 14, 2009, Special Board Meeting
- 15.15 Approve Minutes of November 19, 2009, Regular Board Meeting

Item pulled for discussion/consideration:

15.05 Award of Bids

Motion by Clerk Martinez-Roach, second by Vice President Nguyen, to approve the award of bids.

Vote: 5/0

16. WRITTEN REPORTS/RECOMMENDATIONS

None.

17. BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS

17.01 Board of Trustees

Lan Nguyen, Vice President

Earlier this afternoon we had a chance to not only listen to the Board President's State of the District address, but also a chance to celebrate the first high school built within the District. We had a lot of community members that attended; not only community members, but also District graduates. That was not only a meaningful event, but also a touching event. Kudos to Mr. President. You did a lot of work in order to invite those, not only distinguished elected officials who were former East Side graduates, but community members that represent the faces of the school district and the community. You did a great job in pulling everyone in the community together.

Also, on a similar note, you had three priorities that were simple, but big. Simple enough in a way that we understand those priorities and they are big enough that we know that they are challenging tasks to accomplish. Speaking for myself, we are behind you in trying to help you accomplish those goals that you set for the District.

Patricia Martinez- Roach, Clerk

I just wanted to express my dissatisfaction on the issue that I tried to have on the agenda, resolution by Siren Immigration Advocacy Group. I believe very strongly that all Board Members, not only have the legal right, but also have the obligation to represent their communities. By the Board President not allowing me to have this resolution, which is simply asking this Board to either support or not support immigration reforms was very straightforward. There was no political agenda on my part. I had no idea. When I found out, President Garcia, that you had issues with this organization and that was the reason why it was not on the agenda, I became very upset and, of course, I e-mailed the entire Board. So, I just want to go on record saying that I am very disappointed that this happened because no one should ever be denied the right to have something on the agenda that is legitimate. We just adopted two Resolutions this evening as an example. If the Board does not want to support it, it needs to be done in the public arena. It should not be done at the discretion of the Board President or the Superintendent or any Board Member. We all need to make that decision. I think it is real important that we establish a very clear understanding about that. If a member of the community wants to come and ask us to have something on the agenda, we should listen to see if it is legitimate and do it. We should not be at it in a way of, "We will put it on three months from now." I think we have a legal obligation to do so and, again, I want to reiterate that I was very upset and continue to be very upset. I have been in contact with Siren and we are all baffled by this issue and I hope it is on the agenda for February because I would really like to hear this Board's position on immigration rights.

Eddie Garcia, President

Madame Clerk, I appreciate your comments. I would like, for the record, to clarify a couple of issues. Issue number one is I really wanted this Board agenda today to really focus on our students. That is our number one priority. The State of the District focused on our students and employees. So, my recommendation was not to keep something off the agenda. My recommendation was to focus on our very difficult task ahead. Number two, and I think I did clarify this in an e-mail...I am a little surprised that you mentioned it, but in no way shape or form, am I opposed to this resolution because, quite frankly, I have not read it. I have no issue with Siren. I don't know where that came from. For the record, for the public, I don't have an issue against any organization or any resolution. I clearly wanted today to be a celebration of who we are. That is the reason why I made the recommendation. As I mentioned in the e-mail, I look forward to discussing this resolution in public.

J. Manuel Herrera, Member

I think by practice and protocol there has always been some element of discretion in formulating an agenda on the part of the Board President in working with the Superintendent, but it is not an absolute power. I am kind of in the middle of where Member Martinez-Roach is saying and what I hear Board President Eddie Garcia say. I think we ought to be responsive to Board Member requests and, at the same time, when a judgment call is being made by a Board President in terms of an agenda, I think that ought to be significant. If it needs it, it can come to the full Board for a call on how we do an agenda or how we proceed.

Just looking forward to continuing all the work we do together in every way.

Frank Biehl, Member

MetroED:

At last night's MetroED meeting, I was elected President of MetroED's Board. Jim Canova from Santa Clara was elected as Vice President. Cynthia Chang from Los Gatos was elected Clerk.

It has been confirmed that Campbell has made the decision to leave the Adult Education Program. The issues that are related to that are being worked out. Campbell has assured us that every effort will be made to hire the teachers that were previously teaching in Campbell through MetroED in their program, but they have not made any guarantee. There are some organizational issues, etc. They did point out that East Side did this, I think, in 1987. However, I think East Side gave a little over a year's notice and worked everything out. Every employee was taken straight across from MetroED to East Side. Campbell has done this in a more hastily manner, but at the meeting last night, we had a discussion with their Superintendent and it was made clear to our employees that it was certainly not our decision, but we will do everything we can to cooperate and to assist them in the transition.

State budget cuts at this point are only future State budget cuts in the next budget, the current budget for the next fiscal year State budget. This only has a minor effect on MetroED. They are being affected with a .38 negative COLA. However, everything can change as the budget moves through the Legislature, but that's the current status of that. So, that is basically what is happening at MetroED.

I have a brief report on some activities I have been involved in. Since November, I have taken the time, because I have the glorious gift of time, to visit each of our high schools and I finished up in December Foothill and then, in January, at James Lick. I can tell you that I am very impressed with the way that our staff and our administrators have managed to cope with a very difficult fiscal situation that we are in. However, I can tell you that increasing class size by three is definitely stressful and it is not a long-term sustainable way to operate our schools. I am hopeful that we can find other methods of generating local revenue to alleviate those issues. I can tell you the same is true with the libraries. That same is true with the way that we now distribute books, etc. We found clever ways to do things. People have stepped up to the plate to do things. I am very impressed with our employees, but we cannot continue this in the long run as we face another set of cuts from the State. It is going to be very difficult.

I did attend last week the San Jose 2020 strategic workshop where Dr. Robert Marzano spoke. He is very interesting. He spoke about instructional strategies and assessment and the affect assessment has on instructional strategies. I hope this conversation can be brought into some of the work we are doing about closing the achievement gap and instructional issues within our District.

I also attended a Silicon Valley Faces Martin Luther King, Jr., event at Evergreen High School. That was just excellent. They just did an incredibly good job and set a very high standard for the way that public presentations are done honoring our students and I hope we can do some work on some of our presentations to live up to those standards.

I have one issue that I would like to ask our Board President to consider to bring forward at a future Board meeting. I was at a basketball game a week ago and there was a student injured at the end of the game with very likely a possible concussion. He was on the floor for four or five minutes and, when he got up, he was obviously dazed and then I watched a coach put him back in the game in about two minutes later, which I think was very unfortunate. There was no paperwork filled out. The child was just basically sent home with his parent that evening without any instructions what to watch for. I called the Superintendent and advised him and he contacted the Principal of the school to follow-up and check. What I would like to ask is that we get a requested report from our administration as to what our policies and procedures are relating to concussion injuries and what our coaches training currently are relating to concussion injuries. I know all of us have read the stories that have been in the paper with the young man that was injured at a Football game at San Jose Unified and I think it is an issue we need to pay attention to. My son, about two years ago, came in after what I thought was a minor bicycle accident. He was dazed, couldn't remember what happened and I did the wrong thing. I did not immediately take him to the doctor. We were lucky; we took him the next day. My wife is much more sensible than I am and we did determine that he did have a rather severe concussion. So, I just think we need to pay attention to this and I would like to ask that we bring this forward.

Eddie Garcia, President

Thank you Mr. Vice President. I feel truly blessed by your comments and truly appreciate them.

I want to thank Mr. VanderZee again and Mr. Esparza, and I see Mr. Monges in the back, for hosting us tonight. It not only meant a lot to the District, but the community, that we had this kick-off to this historic year right here in this facility. John Lawrence and your team, thank you very much for all the work you did. I know it is extra work to go out in the field like this, but I am glad we did it. If I could just comment on the comments I made earlier, I meant every word about it. I am extremely proud to be a product of this school district. I am extremely proud of the people who are in this room who are going to be at this Board meeting next month, the month after, and who make this engine run. I think that by tonight, by the size of the crowd and the quality of the crowd, which means people from every sector of our community, we have a base of support in this school District and it is strong. We've been through our battles and we are going to be through a whole bunch of battles before this year is over again with each other, but I think the message we saw together today, that we are going to be able to lift ourselves out of this budgetary issue by doing it together and setting aside the fights for a few minutes to win the bigger fights and then we can go back and with each other again when there is more money and have something to really fight for. I hope to bring to this Board, with the Board's concurrence, a resolution to put a parcel tax on the ballot some time this year and do some work on doing that. I think we are going to get there. I am excited about it. I am going to be right on the frontlines doing whatever I have to do to make it happen.

Thank you all for coming out a little early, especially in this rain. I am really excited as we move forward.

17.02 Dan Moser, Interim Superintendent

I would like to join the comments made by Member Biehl with regards to Silicon Valley Faces and the presentation. It is just amazing that they have supported us in our efforts to remember the lessons, the teachings of Dr. Martin Luther King, Jr., for the last twenty-one years. It is truly a community effort. The youngsters will be featured in February through their writings, the multimedia art, and the art itself. We are very grateful for their efforts and Silicon Valley Faces.

Also, I would like to compliment Board President Garcia. I considered it inspirational to just get us all together and to give us clear direction as to where we would like to move forward. We join in the effort and we are there together. Thank you.

18. REPORT CLOSED SESSION ACTION(S)

Attorney will report on closed session action item(s).

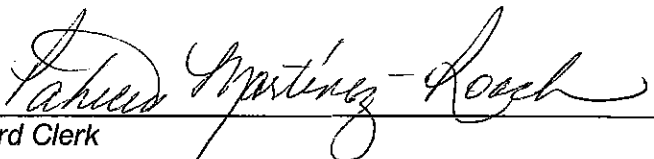
See section 2.0 for reporting out of Closed Session items.

19. ADJOURNMENT

President adjourns the meeting.

Meeting adjourned at 9:15 p.m. by President Garcia.

Respectfully submitted,


Board Clerk

Agenda Item

13.06 Approve Contracts for Professional Services at or below \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Meeting: 01/21/2010 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
 Category: 13. Business Services - Operational Items/Board Discussion and/or Action
 Agenda Type: Action
 Public Access: Yes

Agenda Item Content



EAST SIDE UNION HIGH SCHOOL DISTRICT

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services

SUBJECT: Approve Contracts for Professional Services at or below \$50,000

The following Contracts for Professional Services are recommended for Board approval.

A. Education Center/School Sites

No	Contractor Name	Reviewed by	Contract Period	Cost/Funding Source	School/ Dept. Manager	Purpose
1	The Fairmont, San Jose	J. Rehrig C. Hersom D. Moser D. Bertrand	January 22, 2010 – May 21, 2010	\$8,500.00 (estimate only) Site Miscellaneous Funds/ Donations	Special Education Carole Hersom	Contractor will provide Catering and Convention services for approximately 250 people for the Academy of Life and Eunice Kennedy Shriver Academies 11th Annual Very Special Prom (Department fund raises the majority of the funds for this event)
2	Silicon Valley Center for Entrepreneurial Dev.	R. Marquez Castro-Stanley C. Vaeth D. Moser D. Bertrand	January 22, 2010 – June 30, 2010	\$2,000.00 Perkins/ Vocational Ed	Independence High School Grettel Castro-Stanley Cari Vaeth	Contractor to provide implementation of the NextGen program and preparation of ESUHSD students for the SAGE Competition (Students for the Advancement of Global Entrepreneurship)
3	The Teen and Family Counseling Center, Inc.	T. Marquez A. Garofalo D. Bertrand	January 22, 2010 – June 10, 2010	\$2500.00 MAA	Mt. Pleasant High School Teresa Marquez	To provide weekly individual and support group counseling for 18 weeks, will meet / confer with parents, teachers and staff when appropriate, provide in-service training to teachers and administrators regarding program

East Side Union High School District

Approved

Board of Trustees

January 21, 2010

4	California Department of Education	D. Moser D. Bertrand	July 1, 2009 – June 30, 2010 (no change)	NO CHANGE Child Development	Education Center/Child Development Dan Moser	Amendment #1 is issued to incorporate new Funding Terms and Conditions (FT&C). There are no changes to the Maximum Reimbursable Amount payable to ESUHSD which is \$995,483.00; the Maximum per child day of enrollment of \$34.3. And the minimum Child Days of Enrollment (CDE) Requirements of 28,955.3 and Minimum Days of Operations requirements of 246 remain unchanged
5	Kleinfelder	J. Lawrence J. Kurr D. Bertrand	January 22, 2010 – January 21, 2011	\$13,800.00 (\$76/hr technician; \$100/hr geotechnical professional)	Andrew Hill Evergreen Valley Foothill Independence Santa Teresa W. C. Overfelt	Contractor to provide Geotechnical Observation and consultation during construction of solar panels drilled pier foundations at the six listed high schools and other related services as needed.
6	Notre Dame De Namur University	C. Giammona D. Moser D. Bertrand	August 25, 2009 – June 30, 2012	\$120.00 per semester/ per teacher Revenue Contract	School Facilities District Wide C. Giammona	The Agreement establishes the formal relationship whereby ESUHSD will provide teaching experience to University students. ESUHSD's teachers who participate will be compensated at the rate of \$120 per student per semester (normally four units at \$30 per unit, per semester per student)
7	California Alliance of African American Educators (CAAEE)	D. Moser D. Bertrand	July 1, 2009 through June 30, 2010	\$48,845.98 Project Word	Oak Grove High School Dan Moser	Provide an after-school intervention program designed to improve academic achievement, targeting 9 th and 10 th graders at Oak Grove High School where the GPA is 1.9 for the African-American students.

B. FACILITIES

1	Aedis, Inc.	A. Garofalo	April 10, 2009 – October 31, 2012 (no change)	\$13,874 (increase amount) Measure E	Education Center/Facilities/ Silver Creek High School Thelma Boac Alan Garofalo	Change Order #1 to Purchase Order #905242 is issued to add additional services for electrical design and coordination of documents resulting from existing electrical service interfering with new building foundation.
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FISCAL IMPACT: As listed above

FUNDING SOURCE: As listed above

RECOMMENDATION: Recommend approval and ratification of contract for professional services as listed above.

Additional Executive Content

Action Agenda Details

Motion:

Created on Today at 09:44 AM by Betty Banderas. Last update on 01/16/2010 by Mary Guillen.

ATTACHMENT B

13.07

Agenda Item

13.07 Approve Contract for Professional Services over \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Meeting: 01/21/2010 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
Category: 13. Business Services - Operational Items/Board Discussion and/or Action
Agenda Type: Action
Public Access: Yes

Agenda Item Content



EAST SIDE UNION HIGH SCHOOL DISTRICT

TO: Board of Trustees
FROM: Dan Moser, Interim Superintendent
PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services
SUBJECT: Approve Contract for Professional Services over \$50,000

The following Contract for Professional Services are recommended for Board approval.

A. Education Center/School Sites

No	Contractor Name	Reviewed by	Contract Period	Cost/Funding Source	School/ Dept. Manager	Purpose
1	Kleinfelder	J. Lawrence J. Kurr D. Bertrand	January 22, 2010 - January 21, 2011	\$52,975.00 (\$76/hr technician; \$100/hr geotechnical professional)	Andrew Hill Evergreen Valley Foothill Independence Santa Teresa W. C. Overfelt	Contractor to provide special inspection and materials testing services related to the installation of photovoltaic systems at the six listed high schools and other related services as needed.
				School Facilities		

FISCAL IMPACT: As listed above
FUNDING SOURCE: As listed above
RECOMMENDATION: Recommend approval and ratification of contract for professional services as listed above.

Additional Executive Content

Created on Today at 09:20 AM by Betty Banderas. Last update on 01/19/2010

East Side Union High School District

Approved

Board of Trustees

January 21, 2010