

**EAST SIDE UNION HIGH SCHOOL DISTRICT**  
**Minutes of the Regular Meeting of the Board of Trustees**  
**Meeting Held at Education Center**  
**October 20, 2005**

**APPROVED**  
Board of Trustees  
*[Signature]*  
12-8-05

1) The Regular Meeting of the Board of Trustees was called to order at 4:07 p.m. by President Herrera. Clerk Martinez-Roach, and, Member Mann were present.  
Member Nguyen arrived at 4:15 p.m. Vice President Shirakawa was absent.  
Member Nguyen left at 9:50 p.m.

**CALL TO ORDER**

2) **PLEDGE OF ALLEGIANCE**

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3) **WELCOME AND EXPLANATION TO AUDIENCE**

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

**WELCOME AND EXPLANATION**

4) **BOARD SPECIAL RECOGNITION(S)**

**BOARD SPECIAL RECOGNITIONS**

4.1 Esau Ruiz Herrera was recognized for his outstanding public service to the East Side Community. Has completed 20 years of service to public education. 5 years serving as a Board of Trustees with East Side Union High School District, and 15 years servicing on the Alum Rock School Board of Trustees. Esau Herrera is the state wide President for the California Latino Association of School Board Members. Esau Herrera was instrumental in receiving a donation of \$14,000. for a score board at James Lick High School.

4.2 2005 Parent Empowerment Planning Committee

•Ruben A. Dominguez, Committee Chair

•Dr. Aurora M. Quevedo, Ed.D., Committee Co-Chair

Parent Empowerment Conference was held on October 1, 2005, at Oak Grove. Parent came to get information on how to get their students enrolled in college. Presentation was presented in three languages. Individual who helped make this event successful were recognized.

5) **CONSIDERATION OF PROPOSED AMENDMENTS TO THE AGENDA**

none

**CONSIDERATION OF AMENDMENTS**

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

•Ernest Bermea, Andrew Hill Baseball Field

•Kenneth Svrclin, Andrew Hill Baseball

- Susan Cassens, Independence High School
- Brian Uhler, Administrative decisions at HIS
- Brian Uhler, Andrew Hill Charter Petition
- Annette Gonzales, Andrew Hill Charter Petition
- Sandy Sherman, Andrew Hill Charter Petition
- Thuan Nguyen, Andrew Hill Charter Petition
- Nari Narendrnath, Andrew Hill Charter Petition
- Jerry Simmons, Andrew Hill Charter Petition
- Lannie Nguyen, Andrew Hill Charter Petition
- Jonathan Ho, Andrew Hill Charter Petition
- Jeffrey Chruch, Andrew Hill Charter Petition
- Julie Pratico, Andrew Hill Charter Petition
- Adrienne Golden-Stone, Andrew Hill Charter Petition
- B.J. Eckold, Andrew Hill Charter Petition
- Ralph Kearns, Andrew Hill Charter Petition
- Huyen Pham, Andrew Hill Charter Petition
- Michelle Pelayo, Andrew Hill Charter Petition
- Victor Herrera, Andrew Hill Charter Petition
- Mai Doan, Andrew Hill Charter Petition
- Ralph Giannini, Prop 74
- Ralph Giannini, Prop 75
- Ralph Giannini, Prop 76
- Fil Zamora, Prop 74, 75, 76

7) **STUDENT ACHIEVEMENT/BOARD DISCUSSION AND/OR ACTION**

1. Presentation by Marya Knight, senior from William C. Overfelt High School.  
Homecoming Assembly will be next week, October 28, 2005. Over 150 students are involved in student's activities. Band will performing in a concert, on October 27, 2005. Cross Country Team is undefeated. Prom will be at Hayes Mansion, May 20, 2006. Student and staff are planning ahead for graduation.

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

- 8.1 Student Academic Achievement
  - A. Presentation on Student Health & Nutrition by the –  
Local Wellness Policy Group
    - Ana Lomas, Principal on Special Assignment
    - Julie Kasberger, Director of Child Nutrition Services
    - Alecia Myers, Subject Area CoordinatorMrs. Kasberger stated we have a responsibility as a school district to address child nutrition. Overweight and obesity children have double in the past 20 years. Studies have found overweight children in the future become overweight adults and have chronic diseases. Overweight children perform lower academically then students with healthier eating habits. District needs to establish a plan and policy. This committee

***STUDENT ACHIEVEMENT***

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

will be looking at all foods on campus, including fund raising events.

The committee needs to access what is going on in the schools. Draft and adoption of this policy needs to be presented to the Board by July 1, 2006. The committee is looking at other districts on what they are doing and what we can follow. This committee needs to have a meeting to appoint a chairperson and get to work on this policy.

Discussion:

*Member Mann*

*When do you estimate the machine will be stocked with healthy foods?*

*Julie Kasberger*

*Children centers will no longer have carbonated beverages served. We will set a timeline for the schools.*

*Clerk Martinez-Roach*

*How is this committee going to tie in with the work students have done and researched on in the past.*

*Julie Kasberger*

*The committee will take the policy that we currently have in place and augment them. Competitive food sales need to be tied in.*

*Clerk Martinez-Roach*

*We have already implemented milk and juice at some of our schools. We need to be aware there are issues regarding vending machine contract.*

*President Herrera*

*What can the administration/board do to better support this committee? President Herrera indicated Clerk Martinez-Roach will be the designated Board Member to serve on this committee.*

*Member Nguyen*

*Thanked Dr. Ana Lomas for helping student health become an important issue. Thanked Member Mann for his participation. Member Nguyen noted, though we have a contract with Pepsi, we have a say on what can be sold on these machines.*

- 8.1B Presentation of Academic Performance Index (API) and Adequate Yearly Progress (AYP)

•Presentation by Lynda Remley, Coordinator of Testing & Evaluation, GATE, and Grants

API (state) Measures school growth. These measures are conducted on an annual basis. The three tests used to measure are Required California Standards Test, CAPA, and the California High School Exit Exam. Schools need to meet 80 percent of school goal.

AYP (federal) is credited on a 95 percent participation rate on math and English Language Arts Assessments. California High School Exit Exam and California Alternate Assessment are used to measure the AYP. Many schools are not meeting the API and AYP and the state is letting the schools combine scores made in two years. Every school district needs to meet the same target.

Our schools have met significant continual progress on API and AYP. Foothill uses an alternative assessment.

8.2 Andrew Hill Charter School Petition – Board Review and Board Action Re: Approval or Denial

Presentation by district/administration. Mr. Darren Kameya, Attorney with Law firm, Burke, Williams and Sorensen, LLP, spoke on behalf of the Andrew P. Hill Charter School Petition on the analyzes the administration has conducted about this issue. The board has the obligation as of tonight to approve or deny this petition. The board needs to do so on the basis of one or more of five findings.

- The charter school provides a unsound educational program for pupils to be enrolled in the charter school.
- Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- Petition does not contain the required number of signatures.
- Petition does not contain affirmation of each of the required conditions set forth in section 47605d of the Educational Code.
- Petition does not contain reasonably comprehensive descriptions of a number of factors that are required to be in the petition.

The district/administration has reviewed this petition. The district/administration understands there is several ways to look at the charter school process. Under the five measures on which there could be a denial, the district/administration finds there are three that are not met.

- 1) The charter school provides an unsound educational program for pupils to be enrolled in the charter school.
- 2) Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- 3) Petition does not contain reasonably comprehensive descriptions of required elements under The Charter School Act.

Mr. Darren Kameya described the bases upon which the district/administration has reach these conclusions. - Regarding the soundness of the educational program. There are key operational aspects of the proposed charter school that are not sufficiently described in the petition to lend confidence that the educational program is a sound one. For example, the petition is lacking indication of the proposed charter school calendar, it is missing attendance requirements that are going to be imposed on the charter school students; the hours of plan operations for the charter school and minimal instructional time for the charter school. These elements are important to access the soundness of the educational program. Without this information it is difficult to affirm that there is a sound program. It does not provide a comprehensive listing of its Core and Non-Core Classes and other offering intended for the proposed charter school. There is a discussion in the petition of an expanded course offerings and the creation of "Curriculum of Enquiry", but the position does not set forth what it will constitute in these course offering and new curriculum. For this reason the petition is viewed to be not specific enough and presenting a unsound education program.

The district/administration has reviewed the petition, which is proposing a much larger charter school then the district has ever faced before. There are a number of aspects missing. First, the administration/district observes petitioner have not demonstrated significant support for the complete conversion of Andrew P. Hill High School to a viable charter school program from twenty-one hundred to twenty-four hundred students. Petitioner have not stated a current plan to inform existing students, their parent or their community of the student's choice to attend the proposed charter school or their alternatives for attendance. Educational Code Section 47605 sub F prohibits the governing board from acquiring any people to enroll in a charter school. There is a need to provide that option and then accommodate the students according. Without specific procedures or timetables to do this, the charter school does not provide a transition that is viable as one from district school to charter school.

During the two board meetings where there was public hearing on this charter school petition. There were very few parents or community members who were interest in the charter school petition. The district has received very little correspondence from community members, employees, and parents in support of this petition. Petitioners have changed their proposed enrollment to twenty-one hundred.

There are a number of memorandums of understanding that need to be negotiated with the district. The provisions and specifics of those memorandum are so critical to the operations of the charter school and a school of this size that without further concrete proposals, plans or ideas of how those memorandums will be set forth led the district and administration to find the provisions of the petitioner to be to vague and not certain enough for a successful transaction. Petitioners do not provide for any additional funding sources other than what they will be receiving. There is no position of a development officer or fund raising person. With no dollars or infusion of revenue expected for the first three years of operation and without any additional funding from the State it is not likely that the ambitious proposals that is presented in the position and will be in the implemented time period. There is a strong sense in the petition that the charter school will have control over the human resources and personnel functions of the charter school. While having the charter school in place remains district employees who will retain seniority and bumping rights such as lay offs.

Special Education Section of the petition is now in accordance with the law. The district/administration informed the petitioner there were quite a few problems with the first submission. It raises significant concerns. It does not lay down a clear plan. Clarification of pupil outcomes is lacking. The graduation requirements and grade specific standards should be included in this petition, but are not.

There are significant concerns regarding the governing board. There is a five member in the voting boards, which are selected by the parents, community members, classified staff and teachers. There is no allocation amongst the five positions for three stakeholder communities. It is possible that parents could elect five members or teacher could have five. There is a provision that is lacking and needs to be including in the proposal.

Under the Educational Code East Side Union High School Governing Board would have a right to sit on the charter school governing board. There is a description of three standing committees; two would be selection by the stakeholder groups. There is no description on who or how they are selected.

District/administration noted that in the business plan there were two committees that were not included in the plan. The Audit Committee and the Finance Committee. There are no limits that are stated to these committees. Without guidelines it makes this area very vague.

With regards to the Ad Hawk Committee, that would supplement the

sub committees. How will they be created and selected, or dissolved. This leaves this provision very vague.

Under the Management Team in the petition, no mention of what the Director of Student Service will do, or who will support the Director of Student Services and, whom he supervises. There are two senior management positions that were not budgeted for, someone called "Business Manager" and someone called "HR".

District/administration believes it is a requirement that the charter school comply with certain laws that are not specific to school districts in general, one being the Public Contract Code and Competitive Bidding Requirements. This is being contradictory in the petition. The propose charter school should have equable access to Measure A and Measure G funds. If facility is being used it will get renovated with these funds.

Health and safety of pupils and staff. The petition includes a one-paragraph statement that the school will comply with all state and federal laws. This statement mentions nothing about the safety to pupils and staff.

District/administration notes this school and its finances will not be a small operation. With large purchases, large revenues, etc., no description of qualifications, to be employed by an Auditor, such as county methods and standards are not stated in this proposal and creates problems, which the district/administration.

With regards to pupil discipline, suspension, and expulsion the petition expressly incorporates the disciplinary standards set forth in the Educational Code, which this district uses. There are several mandatory causes for discipline that would require expulsion or at least the consideration for expulsion. There are further reservations of rights, which seem to conflict with the educational code sections that are incorporated in the petition that would violate education rights of the students.

Right of return and leave rights. Employees who currently work for the district and will go or stay at the charter school. There are a number of statements that have not been resolved yet or agreed upon with bargaining unit representatives.

Resolution process for disputes with the district. The district notes that the resolution process is described and provides for informal process of "meet and confirm". In the district/administration experience there are many disputes, some minor with charter schools that don't raise to the level of revoking a charter school, however if

there is a dispute that exist that cannot be resolved the only solution would be is to revoke the charter school. The charter petition should include description of other disputes that would be handled.

Who would be the public school employer for purposes of era? There are contradictory statements regarding employee rights that are not consistent and will require further negotiations and are not workable as proposed.

With regards to the assets of the charter school when the charter school closes. District/administration have difficulties with the provision in the petition saying, "All assets upon closer of the charter school will remain the sole property of the charter school and shall be distributed to another governmental entity engaged in public education". This is problematic because the petitioners in September 28, 2005, requested for facilities and asked for, quote, "All facilities currently housing at Andrew P. Hill High School". Which includes, all equipment held by the school, including, but not limited to, desks, chairs, textbooks, information systems and telecommunications. Under the petition prevision as presented to the board all desks, chairs, textbooks, information systems and telecommunications equipment, this would also include athletic equipment, could and would be given to another government entity engaged in public education. These facilities are rightfully the property of the district. This is problematic.

*Interim Superintendent Nunez*

*We have been meeting with the members of the governing group for this petitioner. We have identified four areas we need to be working on those being personnel, business, instruction, and student support services. We have had ongoing discussions regarding these areas.*

*Both parties have been working cooperatively to get where we are right now. More meetings will be continue no matter what the outcome of this meeting is. The issues are more then two attorneys working out the details. We need to have the details worked out and determined before we vote on. My recommendation will be to deny the charter school. I would like the parties to continue to work on the deficiencies.*

*Craig Mann*

*There have been many successful programs and staff that have come from Andrew P. Hill High School. Member Mann supports all these programs. He believes the proposal could pass if done right. Member Mann believes this proposal in inadequate. There is not enough parent participation. This charter school proposal will not work without parent participation.*



*Member Nguyen*

*Member Nguyen indicated he could see in at least the last five years Andrew P. Hill High School has been improving. The API scores have improved. This shows how the teachers have making incredible progress. Member Nguyen has concerns about certain areas. Member Nguyen noted he did not see parent participant in this charter school proposal. Great job getting media attention Member Nguyen is not denying this proposal completely, but hopes there will be revisions to this petition.*

*President Herrera*

*When this was first submitted he could have denied the petition. President Herrera recognized the commitment. He has always been impressed by Andrew P. Hill High School staff and community. When President Herrera read the administration report, he believed it was valid, the analyzes was complete, point-by-point. President Herrera stated, "law compels in an accelerated process". President Herrera is willing to go the next step, before a final decision is made. If it means that petition must be denied but the board has the option of conveying a receptivity for re-submittal with the intent to problem solve, President Herrera believe he could support the petition. President Herrera would like to see the staff "re-polled". Would like to know where the staff was in the Fall of 2005 with regards to the charter school. Would like to know the level of support where the families are effected. Parental support has been expressed. More work needs to be done to engage families in the charter school petition of Andrew P. Hill High School.*

*Clerk Martinez-Roach*

*Thank you to all the teachers and staff members who have spent an enormous amount of time preparing this petition. Clerk Martinez-Roach interviewed parents who knew nothing about the charter school petition. The Spanish translation gave the impression it had to do with money. Clerk Martinez-Roach could not help notice how many parents were not at this meeting. Millions of dollars have gone to Andrew P. Hill High School. "We are trying to make this school better". I am not going to support the charter school. I believe it discrimination against students. This takes away vital funds from other students.*

*Motion to approve by Member Mann, to deny charter school and further dialogue by the parties, seconded by Member Nguyen. Member Mann modified motion to counsel's clarity.*

*Vote: 4/0 (Vice President Shirakawa absent)*

- 8.3 Evergreen East Hills Vision Project
- Alan Garfalo, Assistant Superintendent of Operations
  - J. Manuel Herrera, Board President

*President Herrera*

*This is a process that has been under way with the City Task Force that is looking at the mid to long-term development possibilities on this side of town, taking in a lot of the Evergreen and somewhat beyond the Evergreen area. The city has confirm President Herrera as a member of the board and a member of this committee.*

*Alan Garofalo, Assistant Superintendent of Operations*

*This project started in August 2003-June 2005. These meetings are very well attended. Committee Chair Dave Cortese, is suggesting we initiate a process, to take to this committee. Member Mann will also participate in the committee. There is a growth in these areas, which is part of our district. In future we may be address with the need to address additional growth. The administration may have to keep in mind this district is very important, and we need to "bank" land. The city has confirm President Herrera as a member of this task force and a member of this committee.*

*Member Martinez-Roach*

*Wants to understand why we are looking at the possibilities of building another school. Member Martinez-Roach would like to hear the demographics study report and then talk about where we go from here.*

*Member Nguyen*

*Are we attending these meetings as attendees or are we part of the voting committee?*

*President Herrera*

*I am a voting member.*

- 8.4 Adoption of Resolution #2005/2006-13 Re: Resolutions of Propositions 74
- Public Schools Teachers. Waiting Period for Permanent Status. Dismissal. Initiative Statute.

*Motion to approve Clerk Martinez-Roach, seconded by Member Mann.*

*Vote: 3/0*

*(Vice President Shirakawa and Member Nguyen left at 9:50 p.m.)*

- 8.5 Adoption of Resolution #2005/2006-14 Re: Resolutions of Propositions 75
- Public Employee Union Dues. Restrictions on Political Contributions. Employee Consent Requirements. Initiative Statute.

*Motion to approve Clerk Martinez-Roach, seconded by Member Mann.*

*Vote: 3/0*

*(Vice President Shirakawa and Member Nguyen absent.)*

- 8.6 Adoption of Resolution #2005/2006-15 Re: Resolutions of Propositions 76

•State Spending and School Funding Limits. Initiative Constitutional Amendment

*Motion to approve Clerk Martinez-Roach, seconded by Member Mann.*

*Vote: 3/0*

*(Vice President Shirakawa and Member Nguyen absent.)*

9) **ATTACHMENT A/CONSENT CALENDAR APPROVAL OF AGENDA**

**ATTACHMENT A**

*Item (9.9), (9.10), (9.13), (9.14), and (9.15) were pulled for discussion.*

*Motion to approve the balance of the Consent Calendar by Member Mann, second by Member Nguyen to approve the remainder of the Consent Items as amended.*

*Vote: 3/0*

*Items: (9.3), (9.4), carried to November 10, 2005 Board Meeting.*

*(Agenda items in parentheses)*

- Approve Purchase Orders Presented October 20, 2005 (9.1)
- Approve Budget Transfers Dated October 20, 2005 (9.2)
- Approve Student Aide Personnel Actions Presented October 20, 2005 (9.5)
- Approve Acceptance of Gifts/Grants/Donations (9.6)
- Approve Contract for Professional Services (9.7)
- Approve Award of Bids (9.8)
- Approve Board Resolution # 2005/2006 – 11 Cooperative Program Agreement with the State of California, Department of Rehabilitation.(9.11)
- Annual Application and Local Plan for Carl D. Perkins Vocational and Applied Technology Act funding for 2005-2006 (9.12)

✓ *Motion to approve item (9.9) pulling item number 6, as amended by Clerk Martinez-Roach seconded by Member Craig Mann.*

*Vote: 3/0 (Vice President Shirakawa and Member Nguyen absent.)*

✓ *Motion to approve item (9.10) as amended to bring back Oak Grove High School trip to Costa Rica at November 10, 2005, Board Meeting, by Member Mann seconded by Clerk Martinez-Roach.*

*Vote: 3/0 (Vice President Shirakawa and Member Nguyen absent.)*

- ✓ *Motion to approve item (9.13) based on further information that needs answers by Member Mann, seconded by President Herrera.*

*Vote: 3/0 (Vice President Shirakawa and Member Nguyen absent.)*

- ✓ *Motion to approve item (9.14) as amended by Clerk Martinez-Roach seconded by Member Mann.*

*Vote: 3/0 (Vice President Shirakawa and Member Nguyen absent.)*

- ✓ *Motion to approve item (9.15) as amended by Member Mann seconded by Clerk Martinez-Roach.*

*Vote: 3/0 (Vice President Shirakawa and Member Nguyen absent.)*

10) **WRITTEN REPORTS**

- 10.1 Received Developer Fee Report
- 10.2 Quarterly Safety Report
- 10.3 Copier Study (Under separate cover.)
- 10.4 Compliance with 10/8/04 Stipulated Arbitrator's Award
- 10.5 Status Report on the Evaluation of Alternative Student Information Systems

Let the records show the transmittal of these reports.

Quarterly Safety Report will be brought back for review.

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

- 11.1 Board of Trustees

**Member Mann**

*Chicago White Socks made the World Series. Kenny Williams is the General Manager of the White Socks and is a East Side Union High School graduate.*

*Dr. T.J. Owens brother of Felton Owens, passed away a couple of days ago. I would like to offer that we close the Board Meeting in his memory.*

**President Herrera**

*Building and Trade Council of Santa Clara and San Bernardino Counties provided ESUHSD with a \$40, 275. , for our district's Construction Career Academy.*

*President Herrera acknowledge Interim Bob Nunez with regards to assignments at the school sites. Interim Superintendent went back to*

**WRITTEN REPORTS**

**BOARD/  
SUPERINTENDENT'S  
COMMUNICATIONS/  
COMMENTS**

*the school site, after recommending moves and spoke with staff about moves. After receiving recommendations from the board, Interim Superintendent retracted some of his decisions.*

**Clerk Martinez-Roach**

*Clerk Martinez-Roach hope we are going to improve our website.*

12) **CLOSED SESSION**

12.1 Expulsion - A

*Approve motion for expulsion.*

*Vote: 3/0 (Member Nguyen and Vice President Shirakawa absent.)*

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

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

Agency Designated Representatives:

Interim Superintendent Bob Nuñez

Employee Organizations:

East Side Teachers Association (ESTA)

California School Employees Association (CSEA)

American Federation of Teachers (AFT)

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

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

12.5.1 *Associate Principal (2)*

*Ron Smith, Associate Principal Oak Grove High School*

*Jennie Mestaz, Associate Principal Oak Grove High School*

*Motion to approve*

*Vote: 4/0 (Vice President Shirakawa absent)*

12.5.2 *Interim Principal (1)*

*Rich Frias*

*Motion to approve by President Herrera, Member Nguyen and Member Mann. Clerk Martinez-Roach voted no.*

*Vote: 3/1 (Vice President Shirakawa absent)*

12.5.3 *Interim Associate Principal (1)*

***CLOSED SESSION***

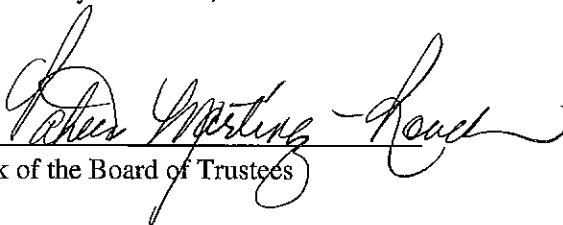
**ADJOURNMENT**

***ADJOURNMENT***

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On a motion that was seconded by a Member Mann of the Board, the meeting was adjourned in memory of Dr. T.J. Owens, by President Herrera.

Respectfully submitted,



*Peter Martinez-Road*

Clerk of the Board of Trustees