

MT. DIABLO UNIFIED SCHOOL DISTRICT

Board Meeting - August 11, 2009

Approved

AUG 25 2009

ATTENDANCE:

Board: Gary Eberhart, Paul Strange, Linda Mayo, Sherry Whitmarsh,
Dick Allen

Administrative Staff: Interim Superintendent Dick Nicoll; Associate Superintendent Alan Young; Assistant Superintendents Gail Isserman, Rose Lock and Pete Pedersen; General Counsel Greg Rolan.

Board of Education

MDUSD

1. **CALL TO ORDER**

President Eberhart called the meeting to order at 6:00 p.m., in the Board room, at the MDUSD Dent Center.

PUBLIC COMMENT:

Christine Shannon, a part-time teacher, requested that the Board consider her immediate release so that she would be able to accept a position with another district.

CLOSED SESSION: The Board adjourned to Closed Session at 6.05 p.m., in Room 6 at the Dent Center. Topics discussed included negotiations; Expulsions/Readmissions; Existing Litigation; Anticipated Litigation; Public Employee Discipline/Dismissal/Release/Complaint; Superintendent's Evaluation

Readmissions

Strange moved, Sherry seconded, and the Board voted 5-0-0 to approve staff's recommendation to readmit two students who have completed their rehabilitation plan.

Existing Litigation

Strange moved, Mayo seconded, and the Board voted 5-0-0 to direct staff to accept a settlement as presented in the A.W. v. Mt. Diablo Unified School District case.

2. **RECONVENE OPEN SESSION:** The Board returned to Open Session at 7:30 p.m. Eberhart led the Pledge of Allegiance to the Flag and reported the action taken in Closed Session including the readmission of two students, denial of readmission of seven students, and direction to staff regarding existing litigation in the case of A.W. v. Mt. Diablo Unified School District.

Expulsions:

Student #01-10: Allen moved, Mayo seconded, and the Board voted 5-0-0 that Student #01-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student #01-10 may apply for readmission after January 29, 2010. It is required that Student #01-10 participate in individual counseling, community service, the COPS program, the MDUSD Teen Anger Management Program, and show evidence of a successful school experience, prior to applying for readmission.

Student #02-10: Mayo moved, Whitmarsh seconded, and the Board voted 5-0-0 that Student #02-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student #02-10 may apply for readmission after January 29, 2010. It is required that Student #02-10 participate individual counseling, community service, the COPS program, the MDUSD Teen Anger Management Program and show evidence of a successful school experience, prior to applying for readmission.

Student #03-10: Whitmarsh moved, Allen seconded, and the Board voted 5-0-0 that Student #03-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student #03-10 may apply for readmission after January 29, 2010. It is required that Student #03-10 participate in individual counseling, community service, the COPS program, the MDUSD Teen Anger Management Program, and show evidence of a successful school experience, prior to applying for readmission.

Student #04-10: Mayo moved, Whitmarsh seconded, and the Board voted 5-0-0 that Student #04-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student #04-10 may apply for readmission after January 29, 2010. It is required that Student #04-10 participate in individual counseling, community service, the COPS program, and show evidence of a successful school experience, prior to applying for readmission.

Student #05-10: Allen moved, Mayo seconded, and the Board voted 5-0-0 that Student #05-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student #05-10 may apply for readmission after January 29, 2010. It is required that Student #05-10 participate in individual counseling, community service, the COPS program, the MDUSD Teen Anger Management Program, and show evidence of a successful school experience, prior to applying for readmission.

3. **CONSENT AGENDA**

President Eberbart requested that Item 3.14 be pulled and brought back for further consideration at a subsequent meeting.

Mayo moved, Allen seconded, and the Board voted 5-0-0 to approve the consent agenda items as presented with the exception of item 3.14.

3.1 Minutes of the meeting of June 30, 2009.

3.2 Certificated Personnel

3.2.1 Leaves of Absence, Resignations, Retirements, Employment

3.2.2 Resolution 09/10-01 Provisional Internship Permit (PIP) Request

All requests for a PIP must be presented to the Governing Board of a public school district for approval. Every PIP request that is submitted to the Commission on Teacher Credentialing must also include verification that a notice of intent to employ the named applicant in the identified position has been made public.

3.2.3 Reduction of Full-Time Equivalent Positions (FTE) for the 2009-10 School Year

Reduction of (1.0) FTE to be eliminated from Categorical Funds. This action will result in a decrease in the expenditure budget of Categorical Funds in the amount of \$63,684. Funding Source: Foster Youth Program

3.2.4 Increase in Full-Time Equivalent Position (FTE) for the 2009-10 School Year

Increase 1.0 FTE to Categorical Funds for 2009-10. This action will result in an increase in the expenditure budget of Categorical Funds in the amount of \$63,684. Funding Source: Special Education Teacher Professional Development Grant

3.2.5 Increase in Full-Time Equivalent Position (FTE) for the 2009-10 School Year

Increase 5.50 FTE to Categorical Funds for 2009-10. This action will result in an increase in the expenditure budget of Categorical Funds in the amount of \$350,263. Funding Source: Economic Impact Aid/Limited English Proficient - \$324,789; Title I \$25,474

3.2.6 Staffing Modification to Eliminate One Behaviorist Health Specialist I Position and Create One Additional Behaviorist Health Specialist II Position at Sunrise

Due to program necessity, it is being requested that one Behaviorist Health Specialist I position be changed to a Behaviorist Health Specialist II position. This modification represents an increased cost of \$29,319. Funding Source: County Mental Health Medi-Cal Funding.

3.2.7 School Psychology Internship Agreement with California State University Fresno for the term of August 12, 2009 through August 11, 2014

This agreement would allow students from the University's approved School Psychology Program in the College of Science and Mathematics to supplement their learning experience by working with District staff.

3.2.8 Memorandum of Understanding with the University of San Francisco for the Term of July 28, 2009 through July 28, 2014

Cooperating teachers who have a student teacher receive a stipend for their services. In order for colleges or universities to pay this stipend, there must be a signed agreement or memorandum of understanding on file between the District and the institution providing the student teaching program.

3.2.9 Student Placement Agreement with Saint Mary's College for the Term of August 15, 2009 through August 15, 2010

This agreement is to provide practice teaching to students enrolled in the teacher education program at Saint Mary's College to help them acquire the skills and knowledge needed to become professional teachers.

3.3 Classified Personnel

3.3.1 Leaves of Absence, Resignations, Retirements, Employment

3.3.2 Eliminate Part-Time Instructional Assistant Position and Create (2) Instructional Assistant Positions at Strandwood Elementary School

Strandwood Elementary School requests the elimination of a part-time, 19 hour/week, school day only, Instructional Assistant position and the creation of one (1) part-time Instructional Assistant position and one (1) part-time Instructional Assistant-Computer position. The savings to Strandwood Elementary PTA for fiscal year 2009-10 will be \$3,264. Funding Source: Strandwood Elementary PTA

3.3.3 Creation of a Part-Time, Senior Instructional Assistant Position at Crossroads Necessary Small High School

Crossroads requests the creation of a 19.75 hour/week, school day only, Senior Instructional Assistant position. There is no impact to the General Fund. The annual cost for fiscal year 2009-10 will be \$12,240. Funding Source: Family and Children's Trust Committee (FACT) grant

3.4 Resolution 09/10-03 Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF) for Account Number 75-07-008

There are two separate LAIF accounts for Mt. Diablo Unified School District. This resolution is for the account for all other district funds, 75-07-008.

3.5 Resolution 09/10-04 Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF) for Account Number 11-07-023

There are two separate LAIF accounts for Mt. Diablo Unified School District. This resolution is for the TRAN account 11-07-023.

3.6 Request for Replacement of Outdated Warrants

County warrants issued to Elaine San Juan for extra compensation were not presented to the County Treasurer for payment within six months of date of issues and consequently void. Per Government Code 2980, the Board must direct reissuance of the warrant.

3.7 Department of Justice – Open Purchase Order

In order to efficiently process fingerprinting costs for all new employees and volunteers, the Personnel Services Office is requesting an open purchase order in the amount of \$73,000 to facilitate payment of the billings from the Department of Justice. Fiscal Impact: A General Fund expenditure of \$73,000 has already been budgeted. This open purchase order is the same as was approved for 2008-09. Funding Source: General Fund/new employee and volunteer reimbursement

3.8 Award of Contract of Architectural/Engineering Services for the Renovation of the Aquatic Facilities at Mt. Diablo and College Park High Schools

Recommend award of contract to Arch Pac, Inc. in the not to exceed amount of \$206,000 for all architectural and engineering services necessary for the complete renovation for both Mt. Diablo and College Park high schools aquatic facilities. Funding Source: Proposition 55 funds

3.9 Rescind Award of Bid 1549 – CCS Presentation Systems, Inc.

Due to budgetary constraints, we are no longer able to enter into a contract with CCS Presentation Systems, Inc.

3.10 Final Deductive Change Order Bid 1543 Kel-Tec Builders, Inc.

Final deductive change order to bid 1543, Kel-Tec Builders, Inc. in the amount of \$955 for path of travel improvements at Gregory Gardens Elementary School. Funding Source: Measure C

3.11 Notice of Completion – Purchase Order 54061, Bid 1543 – Kel-Tec Builders, Inc.

Notice of completion to purchase order 54061, bid 1543 to Kel-Tec Builders, Inc. in the amount of \$35,045 who provided the path of travel corrections at Gregory Gardens Elementary School. Funding Source: Measure C

3.12 Resolution 09/10-02 – Community Facilities District #1 (Measure A)

A resolution is necessary to approve the annual Community Facilities District #1 tax report and to levy and apportion the special (Measure A) tax for fiscal year 2009-10.

- 3.13 Diablo Valley Athletic League Dues 2009-10
Request approval to pay dues to Diablo Valley Athletic League in the amount of \$5,500 per school for Concord, Clayton Valley, College Park, Mt. Diablo, Northgate, and Ygnacio Valley high schools for a total of \$33,000. Funding Source: Athletic Contributions (3500)

- Pulled 3.14 Approval of Exploring New Horizons Service Agreement for Strandwood Elementary School
Students at Strandwood Elementary will participate in the District's Outdoor Education Program at Exploring New Horizons during the week of November 16, 2009. An initial fee of \$21,789 is required by November 7, 2009. A final payment of approximately \$7,801 will be due upon receipt of the final invoice. Funding Source: Parent Donations

- 3.15 Increase Contract Value between Mt. Diablo Unified School District and Non Public Agencies for Special Education Students Receiving Services for the 2008-09 School Year
Due to the frequent changes in level of services that each student requires by the IEPs, administrative placements and new placements, the services are changed or added. As a result, contracted amounts will need to be increased by \$21,385. Funding Source: General Purpose/Special Education Program Code 1661

- 3.16 Increase Contract Value between Mt. Diablo Unified School District and Non Public Schools for Special Education Student Placements during the 2008-09 School Year
Due to graduation, discharges, transfers, administrative placements, and new placements, a number of students have been added to, cancelled or increased. As a result, contracted amounts will need to be increased by \$12,812.26. Funding Source: General Purpose/Special Education Program Code 1660

- 3.17 Extend Contract Service Period and Increase Value of Contract between Mt. Diablo Unified School District and Pawar Transportation LLC to Provide Transportation for Special Education Students during the Extended School Year (ESY) 2009 and Regular School Year 2009-10
The two (2) Pawar ESY 2009 contracts will need to be extended and amount increased to cover the transportation of the special education students until the start of the new contract. The fiscal impact is \$98,400 and is included in the 2009-10 budget. Funding Source: Unrestricted General Fund General Purpose/Special Education Program Codes: 1680 - \$38,400; 1663 - \$60,000

- 3.18 Approve Independent Services Contract between Mt. Diablo Unified School District and Ginger Nicolay-Davis for Speech and Language Services at Westwood Elementary and Eagle Peak Montessori School for the 2009-10 School Year
Due to existing vacancies for Speech-Language Pathologists, the Special Education Department continues to use Independent Contractors to meet student Individualized Education Program requirements. The contract amount for the 2009-10 school year is \$48,640. Funding Source: General Purpose/Special Education Budget Code 1219

- 3.19 Memorandum of Understanding – John Muir Behavioral Health Center
Staff requests renewal of a Memorandum of Understanding with John Muir Behavioral Health Center to provide Home and Hospital Services to students receiving services at the Center. There is no impact to the General Fund.

- 3.20 Ratification of Award of Bids
At the meeting of June 30, 2009, the Board of Education authorized resolution 08/09-82 for the timely award of bids. They are now being returned for ratification.

4. **RECOGNITIONS**

Superintendent Nicoll introduced Cheryl Kolano, the new Principal assigned to Gregory Gardens Elementary School. Cheryl's position was approved at the June 30, 2009 Board meeting.

5. **PUBLIC COMMENT**

Norman Barry, a parent of a student at Clayton Valley High school, requested that the Board respond to a letter he sent dated June 9, 2009 regarding an incident involving his son last October.

6. **COMMUNICATIONS**

7. **REPORTS/INFORMATION**

8. **SUPERINTENDENT'S REPORT**

9. BUSINESS

- 9.1 Relocation of Nueva Vista Necessary Small High School (NSHS) and Related Budget Impact
Request approval to relocate Nueva Vista to Concord High School and become part of the Summit/Transitional Learning Center (TLC) community. The schools and the TLC program would be united under the supervision of one (1) single administrator, who currently oversees the Summit and TLC programs. Fiscal Impact: There is a net savings of \$55,426 to the General Fund (Alternative Education Program).

Whitmarsh moved, Mayo seconded, and the Board voted 5-0-0 to approve the relocation of Nueva Vista Necessary Small High School to Concord High School as presented.

- Pulled 9.2 Request Budget for the Construction of Five (5) Additional Classrooms to Replace Leased Facilities at Concord and College Park High Schools
Request budget for the construction of five (5) additional classrooms to replace leased facilities at Concord and College Park high schools. This budget includes all design, testing, construction, inspection, DSA, interim housing and construction management costs. Fiscal Impact: \$2,220,349
Funding Source: Proposition 55 Funds

President Eberhart requested that this item be pulled for further review and brought back at a subsequent meeting.

- 9.3 Approve Agreement between Mt. Diablo Unified School District and the Contra Costa County Office of Education (CCCOE) to Provide Transportation with Durham School Services for Special Education Students during the 2009-10 School Year
The CCCOE agreement assumes that in the 2009-10 school year, the county office will receive 80% of its special education apportionment from the state. Should the apportionment be reduced or eliminated, the projected cost for the District will increase. The fiscal impact will be no more than \$1,430,000 and is included in the 2009-10 budget. Funding Source: Unrestricted General Fund. General Purpose/Special Education Program Code 1680

Mayo moved, Allen seconded, and the Board voted 5-0-0 to approve the agreement between MDUSD and the CCCOE to provide transportation with Durham School Services for Special Education Students during the 2009-10 school year as presented.

- 9.4 Increase in Full-Time Equivalent Position (FTE) for the 2009-10 School Year
Request 15.56 full-time equivalent position for the 2009-10 school year. This action will result in an increase in the expenditure budget of the General Purpose Funds in the amount of \$990,923.

Allen moved, Strange seconded, and the Board voted 5-0-0 to increase the full-time equivalent position (FTE) for the 2009-10 school year as presented.

- Pulled 9.5 Approval of Bid for RFP 1553 – Special Education and Section 504 Study
Approval of Bid for RFP 1553 to MGT of America, Inc. in the amount of \$99,520 to provide a thorough operations analysis of the delivery of all special education services throughout the district. Funding Source: ARRA-IDEA Funds

President Eberhart requested that this item be pulled for further discussion and brought back to a subsequent meeting.

- 9.6 Legal Services Contract
Contract for legal services to be provided by Fagen Friedman & Fulfroost LLP. The firm's billable hourly rates range between \$250 for partners and \$190 for associates. Funding Source: General Fund

Mayo requested that the declaration of insurance as stated in item 13 of the legal services contract be provided prior to signing the agreement.

Strange moved, Whitmarsh seconded, and the Board voted 5-0-0 to approve the contract as presented with the caveat that the declaration of insurance as indicated in item 13 of the contract be provided before the agreement is signed.

9.7 Legal Services Contracts

Contracts for legal services to be provided by the Law Offices of Matt Juhl-Darlington, Ruiz & Sperow, LLP, Law Offices of Peter H. Bonis, Crosby & Rowell LLP, Attorneys at Law and Edrington Schirmer & Murphy LLP, Attorneys at Law. The terms and conditions of each contract are identical and each firm shall adhere to the district's billing standard. The billable hourly rate is being increased to \$185 per hour. Funding Source: General Fund

Strange moved, Mayo seconded, and the Board voted 5-0-0 to approve the contracts as presented with the caveat that the declarations of insurance as indicated in item 13 of each of the contracts be provided before the agreements are signed.

9.8 Legal Bill Audit Service Agreement with Hall Enterprises, Inc.

Legal bill audit service agreement with Hall Enterprises, Inc., in the estimated amount of \$35,000 to \$55,000 to identify billing irregularities and provide legal authority for recommended reductions. Funding Source: General Fund

Mayo requested the evidence of insurance. Strange moved, Whitmarsh seconded, and the Board voted 5-0-0 to approve the agreement as presented.

9.9 Adoption of Health Course of Study

A team of teachers from Oak Grove and Diablo View middle schools, a Curriculum Coordinator from the Contra Costa County TeenAge Program (TAP), and two Health Education coordinators from Bay Area Communities for Health Education (BACHE) met with the Curriculum Specialist to write a Course of Study for 7th and 8th Grade Health Education.

Whitmarsh moved, Strange seconded, and the Board voted 5-0-0 to approve the adoption of Health Course of Study as presented. This item was presented for information at the June 30 meeting.

9.10 Request Approval to Adopt Materials for 7th and 8th Grade Health Education Course

A Curriculum Specialist working with teachers and a Curriculum Coordinator from Contra Costa County TeenAge Program (TAP) went through the District adoption process to recommend textbook and materials; *Teen Health Course 2*, for approval.

Strange moved, Whitmarsh seconded, and the Board voted 5-0-0 to approve the adoption of materials for 7th and 8th Grade Health Education Course as presented. This item was presented for information at the June 30 meeting.

9.11 Request to Adopt Applied Principles of Art and Design I Course of Study

Art and Humanities I is a course that needs to be updated to align with Career and Technical Education Standards. The new course title will be Applied Principles of Art and Design I.

Allen moved, May seconded, and the Board voted 5-0-0 to approve the adopt Applied Principles of Art and Design I Course of Study as presented. This item was presented for information at the June 30 meeting and is now being returned for action.

9.12 Request to Adopt Applied Principles of Art and Design II Course of Study

Art and Humanities II is a course that needs to be updated to align with Career and Technical Education Standards. The new course title will be Applied Principles of Art and Design II.

Mayo moved, Allen seconded, and the Board voted 5-0-0 to adopt Applied Principles of Art and Design II Course of Study as presented. This item was presented for information at the June 30 meeting.

9.13 Request to Adopt Applied Principles of Art and Design III Course of Study

Art and Humanities III is a course that needs to be updated to align with Career and Technical Education Standards. The new course title will be Applied Principles of Art and Design III.

Strange moved, Whitmarsh seconded, and the Board voted 5-0-0 to adopt Applied Principles of Art and Design III Course of Study as presented. This item was presented for information at the June 30 meeting.

9.14 Williams Quarterly Summary Report – July 30, 2009

Quarterly reports reflect complaints regarding textbooks and instructional materials, teacher vacancies or misassignments, facilities conditions and Valenzuela/CAHSEE support. This quarter's report includes the months of May through July 2009.

Strange moved, Mayo seconded, and the Board voted 5-0-0 to ratify the Williams Quarterly Summary Report, July 30, 2009 as presented.

10. **BOARD FORUM**

10.1 Committee Minutes

10.2 Board Reports


Mayo shared that she had participated in the Leadership Institute and pleased with the interest and response to high school intervention by staff, parents, and community members. Mayo then asked that the Board meeting be closed in honor of Eloise Honett who passed away on July 10, 2009. Ms. Honett was a Principal at MDH when she retired from the District. Ms. Honett broke the glass ceiling for being among the first female principals in our district.

Allen shared that he had visited summer school sites and was very impressed. He also attended the Leadership Conference and appreciated the information shared.

Eberhart shared that he had attended the leadership conference this morning. He stated that he noticed that a board meeting had been scheduled during Thanksgiving week and that it needed to be changed. He also shared that he had received several emails regarding the fundraising policy. He wanted to assure the public that the Board was not making any changes to the policy regarding fundraising at school sites. He requested that the Board meeting be closed in honor of Cheryl Harmon who had passed away. Ms. Harmon was as a librarian at Clayton Valley when she retired from the District.

10.3 Issues of Concern

11. **ADJOURNMENT** Eberhart adjourned the meeting at 8:15 p.m.



Richard Nicoll, Secretary