

Mt. Diablo Unified School District

Board Meeting – September 8, 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.

1. **CALL TO ORDER:** Gary Eberhart called the meeting to order at 6:00 p.m. in the Board room at the MDUSD Dent Center.

**PUBLIC COMMENT:** None

**CLOSED SESSION:** The Board adjourned to Closed Session at 6:02 p.m. in Room 6 at the Dent Center. Topics discussed included: negotiations, 10 requests for readmission; existing litigation (N.V. Heathorn v. Mt. Diablo Unified School District); one case of anticipated litigation; and public employee discipline/dismissal/release/complaint (two classified employees and two certificated employees)

Negotiations

Whitmarsh moved, Strange seconded and the Board voted 4-1-0 (Allen, no) to direct staff regarding the interpretation of the MDEA contract.

Readmissions

Strange moved, Allen seconded, and the Board voted 5-0-0 to approve staff's recommendation to admit four students who met the conditions of their rehabilitation plan, and the denial of six who did not.

Existing Litigation

Strange moved, Whitmarsh seconded and the Board voted 5-0-0 to direct staff in the N.V. Heathorn v. Mt. Diablo Unified School District matter.

Public Employee Discipline/Dismissal/Release/Complaint

Strange moved, Mayo seconded and the Board voted 5-0-0 to reject the resignation of certificated employee #12256 at this time and reconsider the resignation request when a suitable replacement is found.

2. **RECONVENE OPEN SESSION:**

The Board returned to Open Session in the Board Room at the Dent Center at 7:32 p.m. President Eberhart led the Pledge Allegiance of the Flag and reported action taken in Closed Session.

Expulsion

Student 06-10: Mayo moved, Allen seconded and the Board voted 4-0-1 (abstain – Eberhart) that Student 06-10 be expelled from all schools and programs of the Mt. Diablo Unified School District and that Student 06-10 may apply for readmission after June 14, 2010. It is required that Student 06-10 participate in individual counseling; community service, the COPS program, drug testing, and show evidence of a successful school experience, prior to applying for readmission.

3. **CONSENT AGENDA**

Mayo moved, Strange seconded and the Board voted 5-0-0 to adopt the Consent Agenda, thereby approving the following:

3.1 Minutes of the meeting of August 25, 2009.

3.2 Certificated Personnel

3.2.1 Leaves of Absence, Resignations, Retirements, Employment

3.2.2 Resolution 09/10-11 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 notice of intent to employ the named applicant in the identified position has been made public.

3.2.3 Resolution 09/10-12 Variable Term Waiver Requests

Variable term waivers provide applicants with additional time to complete certain requirements for the credential that authorizes the service. The waiver request is made when there is not a properly credentialed person available for the position.

3.2.4 Annual Agreement between Mt. Diablo Unified School District and the Alameda County Office of Education

This agreement is established with the Alameda County Office of Education to release a certificated employee to serve as an Educator-On-Loan on a full-time basis.

3.2.5 Distribution of FTE for the CARES After School Program Teacher Leader Positions for the 2009-2010 School Year

The Executive Committee and Leadership Team of the CARES After School Program are requesting a change in the distribution of FTE for the Teacher Leader positions. This action will result in a savings of \$25,524 to the CARES After School Program.

3.3 Classified Personnel

3.3.1 Leaves of Absence, Resignations, Retirements, Employment

3.3.2 Request to Increase and Decrease Various Positions Funded by Categorical or Outside Sources

Request to increase and decrease various positions funded by Categorical or outside sources. Fiscal Impact: Total amount decreased is \$200,169.15; total amount increased is \$374,438.98. Funding Source: Reimbursement Outside Sources; Title I – Parent Involvement; EIA-LEP; Title I; Part B-Local Assistance; and Partnership Academy

3.4 Monthly Budget Transfers and/or Budget Increases/Decreases for June 2009 End of Year

3.5 Fiscal Transactions for June and July 2009

3.6 Request for Replacement of Outdated Warrant

County warrant issued to Jason Holloway for extra compensation was not presented to the County Treasurer for payment within six months of date of issue and is consequently void. Per Government Code 29802 the Board must direct reissuance of the warrant.

3.7 Final Change Order, Bid 1552, Harry L. Murphy, Inc.

Approve final change order, bid 1552 to Harry L. Murphy, Inc. in the amount of \$4,800 for flooring improvements at Sequoia and Wren Avenue elementary schools and Mt. Diablo High School. Funding Source: Deferred Maintenance

3.8 Notice of Completion to Contract C-889, Bid 1544

Approve notice of completion to contract C-889, bid 1544 in the amount of \$107,740 to Precision Tile and Granite, Inc. who provided the kitchen floor replacement at Cambridge, Fair Oaks, and Rio Vista elementary schools, and Riverview Middle School. Funding Source: Deferred Maintenance

3.9 Notice of Completion to Purchase Order 54896, Bid 1552

Approve notice of completion to purchase order 54896, bid 1552 in the amount of \$44,800 to Harry Murphy, Inc. who provided the flooring improvements at Sequoia and Wren Avenue elementary schools, and Mt. Diablo High School. Funding Source: Deferred Maintenance

3.10 Grant Application Acceptance – California School Administrator (ACSA) Region 6 Grant for Ayers Elementary School

Request permission to accept funding from ACSA Region 6 in the amount \$1,000. There is no impact to the General Fund.

**4. RECOGNITIONS - None**

**5. PUBLIC COMMENT**

Theresa Torbett, parent, welcomed everyone to a new year of school. She encouraged everyone who supported Measure D, to donate to the Giving Campaign. She thanked Ms. Mayo, Mr. Strange, and Mr. Eberhart for meeting with her over the summer regarding a future parcel tax. She hopes that an Education Foundation for Mt. Diablo Unified School District can be formed.

**6. COMMUNICATIONS**

6.1 District Organizations

Connie Warner, CAC, informed the Board that changes and updates to the CAC bylaws were made this summer. She believes that many positive changes have taken place due to the Consent Decree and thanked Dr. Browne for all she has done. She urged the Board to consider the future of Special Education should there be any additional budget reductions.

**7. REPORTS/INFORMATION - none**

**8. SUPERINTENDENT'S REPORT**

Interim Superintendent Nicoll announced that this would be the last agenda done on paper. He explained the new Electronic School Board system and said it will be more accessible to everyone. He announced that there will be a Superintendent search input meeting on September 23 at 7:00 p.m. at the Dent Center.

**9. BUSINESS**

Action 9.1 Appointment of Behaviorist Program Manager

Whitmarsh moved, Strange seconded and the Board voted 5-0-0 to appoint Lisa Pippin to the position of Behaviorist Program Manager.

Action 9.2 Resolution 09/10-10 Hispanic Heritage Month

Mayo moved, Strange seconded and the Board voted 5-0-0 to adopt resolution 09/10-10 Hispanic Heritage Month, September 14 – October 14, 2009, acknowledging the many contributions made by the Hispanic people to the growth and development of California's heritage.

Action 9.3 Resolution 09/10-13 Ovarian Cancer Awareness Month – September 2009

Whitmarsh moved, Mayo seconded and the Board voted 5-0-0 to adopt resolution 09/10-13 designating September 2009 as Ovarian Cancer Awareness Month.

Action 9.4 Declaration of Need for Fully Qualified Educators Revision

Strange moved, Allen seconded, and the Board voted 5-0-0 to approve the declaration of need for fully qualified educators revision as presented. Regulations from the Commission on Teacher Credentialing require the district to submit an annual Declaration of Need form indicating the number of teachers we anticipate hiring under emergency permits for the 2009-10 school year. The Declaration of Need form is revised to allow the District to apply for the new Limited Assignment permit for Special Education. There is no impact to the General Fund. All positions which would be filled by individuals holding an emergency permit are within position control and the budget.

Action 9.5 Request Budget for the Construction of Five (5) Additional Classrooms to Replace Leased Facilities at Concord and College Park High Schools

Strange moved, Allen seconded, and the Board voted 5-0-0 to approve the request for the creation of a comprehensive budget of \$2,293,850 which is the estimated, fully inclusive cost to replace five (5) temporary leased buildings with permanent facilities. Funding Source: Proposition 55 funds A Project Labor Agreement will be used.

Information 9.6 Adoption of *Ender's Game* by Orson Scott Card for the 9<sup>th</sup> Grade Extended Core Literature List

A Site Literature Committee from Clayton Valley High School worked with a Curriculum Specialist to read and evaluate *Ender's Game* and recommend it for adoption for the 9<sup>th</sup> grade Extended Literature List. Presented as information at this time, it will be returned for action at a subsequent meeting.

**10. BOARD FORUM**

This item is here for the Board of Education to discuss any issues of concern.

10.1 Committee Minutes

10.2 Board Reports (time limit – 3 minutes)

Ms. Mayo thanked Pete Pedersen and the Maintenance and Operations staff for the activity report they prepared. She encouraged others to read the report.

Mr. Allen asked staff to provide numbers on enrollment and staffing at the next meeting.

Mr. Eberhart asked for feedback on the Electronic School Board after its implementation. He asked that anyone interested, take advantage of the Superintendent Search input meeting on September 23.

10.3 Issues of Concern

**11. ADJOURNMENT**

The meeting was adjourned at 8:02 p.m.

---

Richard Nicoll, Interim Superintendent