

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of the Regular Meeting of the Board of Trustees
Meeting Held at Education Center
September 28, 2006

1) The Regular Meeting of the Board of Trustees was called to order at 4:05 p.m. by Vice President Nguyen. Clerk Mann and Member Martinez-Roach, Member Shirakawa and Clerk Mann were present. President Herrera arrived at 4:10 p.m.

CALL TO ORDER

2) **PLEDGE OF ALLEGIANCE**

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3) **WELCOME AND EXPLANATION TO AUDIENCE**

Vice President Nguyen 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

1. A presentation was made by Filberto Zamora, President of California School Employees Association (CSEA). Margaret Kentish was honored for publishing the "Sounder." The *Sounder* was honored as the most outstanding newsletter in California.
2. Mark Okuda was honored as Santa Clara County Teacher of the Year 2006. Traci Williams and Don McKell commended Mark Okuda for his outstanding teaching of science and dedication to the students and staff of East Side Union High School District.
3. Superintendent Nuñez thanked the East Side Teacher Association for their donation of \$5,000. to help restore Foothill High School's library, which was damaged to a fire.

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

CONSIDERATION OF AMENDMENTS

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

ORAL COMMUNICATIONS

- Don McKell, method of reimbursing teacher of "out of pocket" expenses
- Ed Wong, Parent, Evergreen East Hills Vision Project Task Force
- Tom Huff, Parent, Evergreen East Hills Vision Project Task Force
- Bill Brockmeyer, Parent, Evergreen East Hills Vision Project Task Force

7) **STUDENT BOARD LIAISONS**

STUDENT BOARD LIAISONS

1. Presentation was made by Andrew Mam, ASB President of Evergreen Valley High School
2. Presentation was made by Hanh Nguyen, ASB President of Yerba Buena

High School. Their Homecoming Game is October 20, 2006. API scores have increased by 45 points.

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

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

- 8.1 Appointments, Extensions, and Reappointments of Measure G Citizens Bond Oversight Committee – Alan Garofalo, Assistant Superintendent of Operations

This is to consider extending the dates, so we may have the opportunity to submit names.

√ *Motion to approve Appointments, Extensions, and Reappointments of Measure G Citizens Bond Oversight Committee was made Clerk Mann, seconded by Vice President Nguyen.*

Vote: 5/0

- 8.2 Nomination of Candidate for New Term as California School Board Association Hispanic Director At-Large – J. Manuel Herrera, Board President

√ *Motion to nominate Candidate Dr. Susan Heredia for New Term as California School Board Association Hispanic Director At-Large was made Member Martinez-Roach, seconded by Vice President Nguyen.*

Vote: 5/0

- 8.3 Approve Resolution #2006/2007–02 Territory Transfer – Alan Garofalo, Assistant Superintendent of Operations

√ *Approve Resolution #2006/2007–02 Territory Transfer was made by Clerk Mann, seconded by Vice President Nguyen.*

Vote: 4/0 Member Shirakawa recusing.

Member Martinez-Roach

Don't we need to have a resolution?

Rogelio Ruiz, Legal Counsel

The Board will not make a final decision. Santa Clara County will make the final decision.

- 8.4 Expected Board Vacancy in Light of Impending Resignation of Board Member Mann; Provisional Appointment Process and Other Options for Filling Board Vacancy

√ *Motion to approve the Process of Appointment for Filling Board Vacancy was made by Clerk Mann, seconded by Member Shirakawa.*

Vote: 5/0

A timeline will be presented at the October 26, 2006, Board Meeting. The new Board Member will be appointed at a December Special Board Meeting.

Rogelio Ruiz, Legal Counsel

Clerk Mann will be sworn in at the County Office of Education as a Board Member on December 13, 2006. Until this date Clerk Mann will be able to legally hold his current position on this Board.

Member Shirakawa

I would like a draft of the timeline with enough time to review and comment.

- 8.5 Report of Hanson Bridgett Law Firm Regarding Investigation of May 25, 2006, Special Board Meeting

√ *No action required.*

The question that was asked – “Did a violation with the Board Policy occur?”

Member Shirakawa

I have a problem with the report itself. I disagree with the report. I am not a lawyer, but I have to ask questions regarding the report that was submitted by Hanson Bridgett Law Firm. Is there a reason why President Herrera was not on the list to be interviewed?

Steve Miller, Hanson Bridgett Law Firm

Our witness list was put together by Mr. Mann and individuals who would be most helpful to us.

Member Shirakawa

A number of witnesses stepped up, and at great risk to them, told the truth. A number of statements that came up tell the story. You did not have a chance to interview Member Martinez-Roach. Is there a reason for that?

Steve Miller, Hanson Bridgett Law Firm

We went to considerable efforts trying to contact Member Martinez-Roach. Member Martinez-Roach did not wish to speak with us directly.

Clerk Mann

I did not appreciate the way Mr. Ruben Dominguez was pictured in your report. Mr. Dominguez has done a lot of work in this district. There was no mention of the June 22, 2006, incident, where Member

Martinez-Roach denied anything happened. Also, the email from Member Martinez-Roach to the Board that was part of the public record. Staff members were not placed on the record. There were staff members who stood tall and went on the record. I am concerned how they will be treated.

Member Shirakawa

I want to say this to Member Martinez-Roach. I want to make my comments in the most respectful manner I possibly can. I want to make my statements read as part of the record. I am not happy with this report. These statements alone are enough for me. People that were here, saw it. I believe them. I am disappointed. Member Martinez-Roach, I don't know if I can ever support you on any position representing the school district. I will not support you on anything in the future.

We need to move on as a district, for the employees of our district.

Clerk Mann

There was a note... the Board did not respond initially to the statement. The reason is we were stunned, speechless. This was an incorrect assumption.

Clerk Mann read into the record a Board Resolution #2006/2007 Censure of Board Member Patricia Martinez-Roach

**BOARD RESOLUTION #2006/2007-06
CENSURE OF BOARD MEMBER PATRICIA MARTINEZ-
ROACH**

WHEREAS, East Side Union High School District Board Bylaw 9005 states that the Board Members are expected to govern responsibly, to recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community, to act with dignity and understand the implications of demeanor and behavior, and to govern in a dignified and professional manner, treating everyone with civility; and

WHEREAS, during and immediately after the May 25, 2006, Board Meeting, Board Member Patricia Martinez-Roach made offensive comments and gestures to Board Vice-President Lan Nguyen in the presence of Board Members, district staff and members of the community, that included singling out Board Vice-President Nguyen on the basis of his heritage and his English language skills to admonish him to change his vote on a matter of district business, and she further accosted Board Vice-President Nguyen in a physical and aggressive manner in the presence of members of the community and district staff; and

WHEREAS, members of the community and other persons present consider Board Member Patricia Martinez-Roach's statements and conduct to be

inappropriate, disrespectful, hateful and offensive to members of the East Side community; and

WHEREAS, East Side Union High School District's core values are respect, patience and fairness; commitment to excellence; communication; responsibility; partnerships; innovation; diversity; equity; and

WHEREAS, the Board of Trustees finds that Board Member Patricia Martinez-Roach statements and actions were not consistent with the spirit or words of Board Bylaw 9005 or the District's core values and are a poor example to the students of this District on positive, effective and responsible leadership.

THEREFORE BE IT RESOLVED, that the Board of Trustees hereby censures Board Member Patricia Martinez-Roach for her inappropriate conduct at the May 25, 2006, Board Meeting, and directs that a copy of the September 22, 2006 Independent Investigation Report prepared by Hanson, Bridgett, Marcus, Vlahos & Rudy LLP and a copy of this Resolution shall be placed immediately on the District's website for a period of 45 calendar days.

PASSED AND ADOPTED by the Board of Trustees of the East Side Union High School District, this 3rd day of October, 2006, by the following vote:

AYES	—
NOES	—
ABSENT	—
ABSTAIN	—

Clerk Mann requested this to be placed on the October 3, 2006, Board Agenda for open discussion and action.

President Herrera

President Herrera wanted to apologize to the community for this public display by the Board. We have not taken a problem solving approach.

Member Shirakawa

I want it noted for the record I do not believe this is a public display.

- 8.6 Approve Variable Term Waiver Request for Certificated Employee — Jerry Kurr, Interim Assistant Superintendent of Business Services and Cathy Giammona, Director of Human Resources

√ *Motion to Adopt and Approve Variable Term Waiver Request for Certificated Employee was made by Clerk Mann, seconded by Member Shirakawa.*

Vote: 4/0 Member Martinez-Roach out of the room.

- 8.7 Approve Provisional Internship Permit Requests for Certificated Employees – Jerry Kurr, Interim Assistant Superintendent of Business Services and Cathy Giammona, Director of Human Resources

√ *Motion to approve Provisional Internship Permit Request for Certificated Employees was made by Clerk Mann seconded by Member Shirakawa.*

Vote: 4/0 Member Martinez-Roach out of the room.

- 8.8 Contracts for Professional Services dated September 28, 2006 – Jerry Kurr, Interim Assistant Superintendent of Business Services – **Attachment B**

√ *Motion to approve Contracts for Professional Services dated September 28, 2006, was made by Clerk Mann seconded by Member Shirakawa.*

Vote: 4/0 Member Martinez-Roach out of the room.

- 8.9 Memoranda of Understandings dated September 28, 2006 – Jerry Kurr, Interim Assistant Superintendent of Business Services – **Attachment C**

√ *Motion to Approve Memoranda of Understanding dated September 28, 2006, was made by Clerk Mann, seconded by Member Shirakawa.*

Vote: 4/0 Member Martinez-Roach out of the room.

- 8.10 Evergreen East Hills Vision Project Task Force Update – J. Manuel Herrera, Board President

√ *No action item required.*

President Herrera

On Monday there was a formal vote taken to set aside land within the Evergreen area. I abstained from this. I did not vote.

The District does not feel a new high school is needed now or in the Evergreen area. We believe it is needed south of the Evergreen area. The overcrowding that does exist can be resolved in an integrated process, including boundary changes.

Vice President Nguyen

We had meeting at the school sites. The response we received was that we should bank land. Is there a way to bank or come up with a sufficient plan, based on prediction of enrollment?

Bob Nuñez, Superintendent

I do believe we need an overall plan and we will be building towards this.

9) ATTACHMENT A/CONSENT CALENDAR APPROVAL OF AGENDA

ATTACHMENT A

✓ *Motion to approve the entire Consent Calendar was made by Clerk Mann, seconded by Vice President Nguyen.*

Vote: 5/0

(Agenda items in parentheses)

Ratify/Approve Classified Personnel Actions Presented September 28, 2006 (9.1)

Ratify/Approve Certificated Personnel Actions Presented September 28, 2006 (9.2)

Ratify/Approve Student Aide Personnel Actions Presented September 28, 2006 (9.3)

Purchase Orders Presented September 28, 2006 (9.4)

Budget Transfers Presented September 28, 2006 (9.5)

Award of Bids (9.6)

Approve School Field Trips (9.7)

Approve Change Order #1 for the Foothill High School Exterior Painting Project (Fix Painting Co) (9.8)

Approve Change Order #1 for the James Lick High School Students Services/Streetscape Project (Allied Environmental) (9.9)

Approve Change Order #1 for the Andrew Hill High School Gym Floor Replacement Project (HY Floor & Gameline Painting) (9.10)

Approve Change Order #1 for the Mt. Pleasant High School Exterior Painting Project (KED Construction Co.) (9.11)

Approve Notice of Completion for the Andrew Hill High School Gym Floor Replacement Project (HY Floor & Gameline Painting) (9.12)

Approve Notice of Completion for the Mt. Pleasant High School Exterior Painting Project (KED Construction Co.) (9.13)

Approve Notice of Completion for the Foothill Exterior Painting Project (Fix Painting Co.) (9.14)

Approve Minutes of Special Board Meeting Dated August 24, 2006 (9.15)

10) WRITTEN REPORTS

WRITTEN REPORTS

10.1 Unaudited Actuals 2005-2006

Member Martinez-Roach asked this item to be agendized at our October 26, 2006, Board Meeting for discussion.

10.2 Safeguarding Associated Student Body Funds – Checking on Balances – Bob Nuñez, Superintendent and Bill Jakel, Internal Auditor

Report was received.

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

11.1 Board of Trustees

Member Martinez-Roach

The Student Board Relations meeting was good. The student did have a lot of complaints. The biggest complaint was bathrooms. The food lunch lines are long.

No Child Left Behind received an "F." The achievement gap got wider. In the year 2008, Special Education students will have to pass the California High School Exit Exam (CAHSEE).

Classified employees are required to take 60 units in classes and no compensation is being offered. Employees should be compensated for their education. I have been visiting schools. I visited Independence High School's Open House. I have concerns that the "M" wing shingles are falling off the roof. I have concerns with Adult Education and their accreditation. I'm not sure where the status is with a new Director.

Vice President Nguyen

Over the weekend, I had the chance to attend the first Annual Mayor/Parent Summit. East Side Union High School District's staff, principals and teachers made me feel very proud to be at the event. Also, the Board needs to pay more attention to Charter Schools.

President Herrera

For the record, I would like to review teachers supplies on the October 26, 2006, Board Meeting. This Board has to justify the responsibility of the Adult Education Program. It's critical the Board carry out its role. I would like to bring back to our next meeting a proposal to appoint two member of the Board as liaisons as a way to give Adult Education priority. We should also plan on a work session to address Adult Education issues.

The Board is scheduling two Special Board Meetings, one on October 3, 2006, at 5:30 p.m. and another Special Board Meeting on October 19, 2006.

11.2 Superintendent Nuñez

We need to look at Adult Ed., charter schools, and alternative education. I look forward to this. I want to thank the staff, teachers, and administration at the school sites. APED's are the ones that put together the master schedules. With the help of their schools sites, they did an exceptional job. We had the opportunity to open up the Aquatics Program at William C. Overfelt High School.

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

The district needs to take a look at vocation education. We are currently in a partnership with CCOC. We are looking at our participation to making sure students take these classes and be sure that are cost effective. We will come back to the Board in the next three months. It is our intent to stay with CCOC throughout our contact that expires in 2008.

Member Martinez-Roach

I wanted to wish Mr. Jay Totter farewell. He will be leaving us and I wanted to wish him well.

12) **CLOSED SESSION**

12.1 Expulsions – None

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

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

Agency Designated Representative: Bob Nuñez, Superintendent and Linda Gubman, Interim Assistant Superintendent of Instructional Services and Employee Services

Employee Organizations:

American Federation of Teachers (AFT)

California School Employees Association (CSEA)

East Side Teachers Association (ESTA)

12.4 CONFERENCE WITH LEGAL COUNSEL –ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of section 54956.9 of the Government Code: 3 potential cases

12.5 PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code §Section 54957)

- Superintendent

12.6 Public Employment/Public Employee Appointment (Government Code §Section 54957)

- *Approved Interim Director of Special Education*

√ *Motion to approve the appointment and employment of Donna DeMartini as Interim Director of Special Education was made by Clerk Mann and seconded by Vice President Nguyen.*

CLOSED SESSION

Vote: 5/0

•Principal

√ *Motion to approve the appointment of Bruce Shimizu as Principal of Piedmont Hills High School was made by Clerk Mann seconded by Member Shirakawa.*

Vote: 4/0 Member Martinez-Roach abstaining.

•Principal

√ *Motion to approve the appointment of John Najac as Principal of Foothill High School was made by Clerk Mann, seconded by Vice President Nguyen.*

Vote: 5/0

Dan Moser has been moved to Andrew Hill High School in the capacity of Principal.

13) ADJOURNMENT

Motion by Clerk Mann, seconded by Member Shirakawa, the Board Meeting was adjourned by President Herrera at 8:07 p.m.

ADJOURNMENT

Respectfully submitted,


Clerk of the Board of Trustees