

Agenda Item

16.06 Approve Minutes of October 8, 2009, Regular Board Meeting

Meeting: 11/19/2009 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
Category: 16. 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, Acting Superintendent
SUBJECT: Approve Minutes of October 8, 2009, Regular Board Meeting

Attached are the minutes of the October 8, 2009, 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 October 8, 2009, 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 08/10/2009 at 09:46 AM by Mary Guillen. Last update on 11/12/2009 by Mary Guillen.

East Side Union High School District
Approved
Board of Trustees
November 19, 2009 



**EAST SIDE UNION HIGH SCHOOL DISTRICT
MINUTES OF THE REGULAR BOARD MEETING OF THE BOARD OF TRUSTEES
Meeting Held at the Education Center
October 8, 2009
4:00 p.m.**

1. CALL TO ORDER/ROLL CALL

1.01 Roll Call

The Regular Meeting of the Board of Trustees was called to order at 4:01 p.m. by President Martinez-Roach. Vice President Herrera, Clerk Biehl and Member Garcia were present. Member Nguyen arrived at 4:10 p.m.

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

President Martinez-Roach 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 in the Board Room at approximately 6:00 p.m.) See item 2 on agenda (Closed Session).

The Board of Trustees recessed to Closed Session.

2. CLOSED SESSION

2.01 Expulsions - NONE

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

2.03 Conference with Labor Negotiators (Government Code Section 54957.6)

Agency Designated Representatives:

Dan Moser, Acting 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)

2.04a Conference with Legal Counsel – EXISTING LITIGATION

Subdivision (b) of Section 54956.9 of the Government Code:

Kinetics Mechanical Services, Inc. vs. East Side Union High School District,
 Santa Clara County Superior Court

2.04b 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

2.05 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, Acting 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 and Party To Be Determined</i>
<i>Under Negotiation:</i>	<i>Price and Terms</i>

2.06 Public Employee Performance Evaluation (Government Code Section 54957)

- *Title: Superintendent*

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

3. OPEN SESSION 6:00 P.M. – EDUCATION CENTER BOARD ROOM

3.01 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 Board Room.

President Martinez-Roach 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.

Acting Superintendent Moser requested that the following items be pulled from the agenda:

- *Item 10.01*
- *Item 13.08 : #1*
- *Item 14.01*

Motion by Member Nguyen, second by Clerk Biehl to pull items 10.01, 13.08 #1 and 14.01 and approve the agenda as amended.

Vote: 5/0

6. BOARD SPECIAL RECOGNITION(S)

6.01 Dedication of the Sand Volleyball Court at Independence High School

6.02 2010 National Merit Scholarship Program Semi-Finalists

Andrew Hill High School

- *James Tran*

Evergreen Valley High School

- *Tsu-Hsien (Jeff) Chan*
- *Josh W. Chen*
- *Akash A. Gupta*
- *Lichen Han*
- *Lucia Y. Huang*
- *Katie J. Kim*
- *Neha Palacherla*

Independence High School

- *Abby Wang*

Oak Grove High School

- *Jeannie N. Tran*

Piedmont Hills High School

- Alan Chang
- Jefferson Lai
- Benjamin Le
- Cathy C. Wu

Santa Teresa High School

- James H. Leet

7. STUDENT BOARD LIAISONS

7.01 Gabriel Valdez, Student Representative – Foothill High School

7.02 Sandy Moreno, ASB Vice President – Andrew Hill High School

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 Board Room.

Speaker:

- Blanca Bosquez – Violation of California Education Code

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

9.01 Summary Report of Student Achievement 2008-2009 and Program Improvement - Dan Moser, Acting Superintendent and Kirsten King, Coordinator of Testing, Evaluation and Research

Presentation by Kirsten King, Coordinator of Testing, Evaluation and Resarch.

9.02 Hold Public Hearing at 6:30 p.m. to Adopt Resolution Regarding Sufficiency of Textbooks and Instructional Materials per Education Code 60119 - Dan Moser, Acting Superintendent and Robert Ibarra, Coordinator of Professional Development/Migrant Education

Public Hearing Held

Speaker:

- Mark Tafolla Young

9.03 Adopt Resolution #2009/2010-10 Regarding the Sufficiency of Textbooks and Instructional Materials - Dan Moser, Acting Superintendent and Robert Ibarra, Coordinator of Professional Development/Migrant Education

Motion by Vice President Herrera, second by Member Nguyen to adopt Resolution #2009/2010-10 regarding the sufficiency of textbooks and instructional materials.

Vote: 5/0

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

10.01 **Report of Hanson Bridgett Law Firm regarding Investigation concerning Citizen Complaints to Santa Clara County Office of Education – Patricia Martinez-Roach, Board President**

Item pulled.

10.02 **Approve Second Reading and Adopt Board Policy #3350 Travel Expenses - Patricia Martinez-Roach, Board President**

Board Policy #3350 to be brought back for third reading and adoption.

10.03 **Receive First Reading of Board Policy #9250 Remuneration, Reimbursement and Other Benefits – Dan Moser, Acting Superintendent**

Patricia Martinez-Roach, Board President

I would like to state for the record that I do have concerns on page 2, "Benefits for Retired Board Members."

"Retired Board Members may participate in the health and welfare benefit program provided for District employees under conditions specified below. Option 1: District that pay health and welfare benefits for former Board Members before January 1994..."

Are you saying that we have former Board Members that are getting benefits? Is that what that states?

Dan Moser, Acting Superintendent

I will need some assistance with this one here because this one was adopted in the last series by the Board. My research in this particular area is that there is some Code section that is involved with this particular area.

Patricia Martinez-Roach, Board President

I am not questioning the Code section. Then the paragraph states because the District paid for health and welfare benefits for former Board Members before January 1, 1994, any former Board Member may continue to participate in the District's health and welfare benefits at the District's expense so long as the member satisfies all of the following conditions: 1) He/she served in office after January 1, 1981; 2) His/her term began before January 1, 1995; and, 3) He/she has served for twelve or more years. These payments shall be made under the same terms as made for former Board Members before January 1, 1994. I am just having a hard time...First of all, I did not know any former Board Members were getting benefits.

Frank Biehl, Board Clerk

Well, that is a question to ask. Are there any former Board Members who are in fact getting benefits? Are there any?

Patricia Martinez-Roach, Board President

Why are we allowing this? I don't think... If you retire, you are gone.

Frank Biehl, Board Clerk

The answer is no?

Dan Moser, Acting Superintendent

To my knowledge, there are none.

Frank Biehl, Board Clerk

There are none. Okay, then it is a moot issue then.

Patricia Martinez-Roach, Board President

Well then, why have it there? I don't agree that if this Board adopted this policy that Board Members that retire from public service should get lifetime benefits. I think it is an outrage.

Frank Biehl, Board Clerk

Madam President, I don't think that is what is says at all and I think it was based on the Code. As far as I can see, it does not apply to anyone. Does it apply to anyone? I am not aware of that.

Patricia Martinez-Roach, Board President

Well, no. What this is saying is that if I retire from this Board tomorrow, I can get benefits from this District until I die.

J. Manuel Herrera, Board Vice President

If you serve twelve or more years.

Patricia Martinez-Roach, Board President

Twelve or more years if your term began 1981 and I was elected in 1994. Then I left in '96 and then I came back. I don't know... I am just having a hard time with that. I need to hear what is the intent of this...

Eddie Garcia, Board Member

I think before we jump to any conclusions, what does it mean here? What does it say because I think we are making a whole lot of conclusions without knowing the facts here because it is kind of convoluted.

Dan Moser, Acting Superintendent

I as mentioned before, I was asking for assistance on this particular topic. As I came across this as I was doing research on the other section, I started going into it and part of it is referenced back to in Code and so my thoughts at that time were that I would need a legal opinion.

Rogelio Ruiz, Legal Counsel

The Government Code does allow for a district to elect to provide health benefits for retired board members who meet certain criteria and that is what this is intended to address. The "option 1" language on this draft that is carryover language. It looks like there is an incomplete deletion from the CSBA form of Board Policy or Board By Law, rather, because there are several options presented within the CSBA form By Law. What we could do is go back and answer the question as to whether former Board Members who retired before January 1, 1994, were paid health and welfare benefits and then, secondly, we could bring back a full policy or the correct language from the entire CSBA Board By Law.

Patricia Martinez-Roach, Board President

Yes, but I do understand that this Board did adopt a policy allowing Board Members who retire from this District to receive benefits. There is a policy, currently.

Rogelio Ruiz, Legal Counsel

When the Board adopted the 9000 series of By Laws, it was presented in red line format and what I am saying is that it looks like there might have been some incorrect deletion as part of whatever this document is because that language is simply from a form that should have been stricken. I can go back and we can pull the agenda item from when it was adopted and come back with full information

Frank Biehl, Board Clerk

Madam President, I just wanted to add one organization to the list. It is the Santa Clara County School Boards Association on page 2 of 4 of Board Policy 9250.

Patricia Martinez-Roach, Board President

Okay, under the red under organizations.

Board Policy #9250 Remuneration, Reimbursement and Other Benefits was received for first reading.

10.04 Discuss/Recommend Action on Potential Solar/Renewable Energy Project - Jerry Kurr, Associate Superintendent of Administration and Business Services, Alan Garofalo, Associate Superintendent of Student Services and Facilities, and Rogelio Ruiz, Legal Counsel

Speakers:

- *Marisa Hanson, ESTA President*
- *Roy Schwartz*
- *Evergreen Valley High School Forever Green Club*
- *Mark Laubach*
- *Neil Struthers*
- *Sal Ventura*
- *David Baer*
- *Mark Emerson*
- *Josue Garcia*
- *Eddie Reyes*

Motion #1

Motion by Member Garcia, second by Clerk Biehl to authorize staff to work with Legal Counsel to finalize a contract with Chevron for solar project phase 1 not to exceed the amount of \$24.1 million to be brought back to the Board for a Special Board Meeting/Public Hearing on October 20, 2009, at 6:00 p.m. and to direct staff to utilize financial option 2, which is outlined in this model.

Vote: 5/0

10.05 First Reading: Proposed Audit Committee Charter and Related Board Policy Amendments – Member Frank Biehl and Board Secretary J. Manuel Herrera, Ad Hoc Audit Committee

Frank Biehl, Board Clerk

We have held a total of three meetings. We have gone through three revisions on a proposed charter, including a legal review as well. We are bringing to you for a first reading tonight a proposed charter for an audit committee. In addition, there are some changes to some Board policies that would be in conformance with the recommended charter. We are recommending that the Ad Hoc Board Audit Committee hold a public hearing at 7:30 p.m. at the Villa C Commons at Independence High School on October 15 to get any additional comments from the public. We would hope to come back to you with a second reading in November at our November 19th meeting. We are making progress and the documents have been posted on our website for anyone to review, including all the revisions we have made and including the minutes of our meetings. We are just trying to keep everything open and public and aboveboard. We will do a public hearing and bring it back to you on the 19th.

Item to be brought back to Board for second reading and adoption.

10.06 Discuss, Consider and Approve Response to Santa Clara County Civil Grand Jury Report re: Board Compensation, Superintendent Compensation and Legal Expenses – Dan Moser, Acting Superintendent

Motion by Clerk Biehl, second by Member Garcia to approve the amended response to the Santa Clara County Civil Grand Jury report regarding Board Compensation, Superintendent Compensation and Legal Expenses. Amendment to letter is on page 1, fourth line from the bottom, change word from reserve to receive.

Vote: 4/0/1, Board President Patricia Martinez-Roach Abstaining

For the record, Board President Martinez-Roach is abstaining because she does not agree with some of the recommendations in the response letter to the Santa Clara County Civil Grand Jury.

10.07 California Latino School Boards Association (CLSBA) Candidate Nomination for At-Large Board of Director – Dan Moser, Acting Superintendent

Motion by Vice President Herrera, second by Member Nguyen to submit President Martinez-Roach as a candidate nomination for at-large Board of Director to the California Latino School Boards Association (CLSBA).

Vote: 5/0

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

11.01 Update on Sports/Athletics Program - Alan Garofalo, Associate Superintendent of Student Services and Facilities

Speaker:

- *Patricia Carrillo presented the East Side Union High School District Board of Trustees an installment donation in the amount of \$1,000 from Technology Credit Union for the Ducky Derby.*

Presentation/update by Alan Garofalo, Associate Superintendent of Student Services and Facilities.

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

12.01 Ratify and Approve the Tentative California School Employees Association (CSEA) Successor Agreement July 1, 2009-June 30, 2010; Disclosure of Major Provisions and Costs per AB1200 - Jerry Kurr, Associate Superintendent of Administration and Business Services and Vida Branner-Siders, Director of Compensation/ Classified Employee Relations

Motion by Vice President Herrera, second by Clerk Biehl to ratify and approve the tentative California School Employees Association (CSEA) Successor Agreement of July 1, 2009 – June 30, 2009 which includes the disclosure of major provisions and costs per AB1200.

Vote: 5/0

12.02 Approve Classified Job Description and Salary Range for Pupil Transportation Driver for Special Needs Students – Jerry Kurr, Associate Superintendent of Administration and Business Services and Vida Branner-Siders, Director of Compensation/Classified Employee Relations

Motion by Clerk Biehl, second by Member Nguyen to approve the classified job description and salary range for Pupil Transportation Driver and Special Needs Students.

Vote: 5/0

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

13.01 Adopt Resolution #2009/2010-11 an Itemized List of Surplus/ Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546 – Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Garcia, second by Clerk Biehl to adopt Resolution #2009/2010-11 an Itemized List of Surplus/Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546.

Vote: 5/0

13.02 Adopt Resolution 2009/2010-12 Providing for the Issuance and Sale of GOB, 2008 Election, Series B, in the Aggregate Principal Amount of not to Exceed \$25,000,000 in Connection with Qualified School Construction Bond - Jerry Kurr, Associate Supt of Administration and Business Services

Motion by Member Garcia, second by Clerk Biehl to adopt Resolution #2009/2010-12 Providing for the Issuance and Sale of GOB, 2008 Election, Series B, in the Aggregate Principal Amount of not to Exceed \$25,000,000 in Connection with Qualified School Construction Bond.

Vote: 5/0

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

Motion by Vice President Herrera, second by Clerk Biehl for the acceptance of donations, grants and awards.

Vote: 5/0

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

Motion by Clerk Biehl, second by Member Nguyen to accept the warrant register for the month of September 2009.

Vote: 5/0

13.05 Approve Budget Transfers Presented October 8, 2009 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Nguyen, second by Vice President Herrera to approve the budget transfers presented on October 8, 2009.

Vote: 5/0

13.06 Approve Purchase Orders Presented on October 8, 2009 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Vice President Herrera, second by Member Nguyen to approve the purchase orders presented on October 8, 2009.

Vote: 5/0

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

Motion by Member Nguyen, second by Member Garcia to approve the contracts for professional services at or below \$50,000.

Vote: 5/0

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

Motion by Member Garcia, second by Clerk Biehl to approve the contracts for professional services over \$50,001 as amended: Approve Items 2 - 6; Item #1 pulled.

Vote: 5/0

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

Motion by Clerk Biehl, second by Member Nguyen to approve the memoranda of understanding.

Vote: 5/0

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

14.01 Adopt Resolution #2009/2010-13 San Jose Conservation Corps Charter School Rehabilitation Funding - Alan Garofalo, Associate Superintendent of Student Services and Facilities

Item pulled.

14.02 Approve Recommendation for New Plan and Use of State Modernization Funding Grant for Mt. Pleasant High School - Alan Garofalo, Associate Superintendent of Student Services and Facilities, and June Francis Rono, Ph.D., Director of Facilities and Planning

Motion by Member Nguyen, second by Vice President Herrera to approve as amended:

Approve the new plan and use of State Modernization Funding Grant for Mt. Pleasant High School and that the project go forward as quickly as possible. The funds will be advanced from the Board's contingency funds (unallocated \$74.4 million) until the District receives the State's modernization funds. When the District receives the project monies from the State, the monies will be returned to the contingency funds. This allocation will be held against Mt. Pleasant High School for any future allocation of monies out of the unallocated \$74.4 million.

Vote: 5/0

14.03 Approve Purchase Orders for Professional Services as Specified for the Measures G and E Bond Building Projects - Alan Garofalo, Associate Superintendent of Student Services and Facilities, and June Francis Rono, Ph.D., Director of Facilities and Planning

Motion by Member Nguyen, second by Vice President Herrera to approve purchase orders for professional services specified for the Measure G and E Bond Building Projects:

- *Blach Construction, Inc.*
- *Facilities Management Planning and Operations, Inc.*
- *ERT, Inc.*

Vote: 4/0 Member Garcia out of room.

15. ADULT EDUCATION - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

15.01 Adult Education Program - Assessment and Accountability Presentation – Alan Garofalo, Associate Superintendent of Student Services and Facilities, and Cari Vaeth, Director of Adult Education

Presentation by Cari Vaeth, Director of Adult Education and Career Services

16. CONSENT CALENDAR ITEMS - ATTACHMENT A

Motion to approve the entire consent calendar made by Vice President Herrera, second by Member Garcia.

Vote: 5/0

16.01 Ratify/Approve Classified Personnel Actions Presented October 8, 2009

16.02 Ratify/Approve Certificated Personnel Actions Presented October 8, 2009

16.03 Ratify/Approve Student Aide Personnel Actions Presented October 8, 2009

16.04 Approve School Field Trips

16.05 Approve Notice of Completion for Oak Grove High School, Building Q Kiln Room Project (Rodan Builders, Inc.)

16.06 Approve Minutes of August 20, 2009, Regular Board Meeting

16.07 Approve Minutes of September 17, 2009, Special Board Meeting

16.08 Approve Notice of Completion for Evergreen Valley High School, Building B Kiln Room Project (Rodan Builders, Inc.)

17. WRITTEN REPORTS/RECOMMENDATIONS

None

18. BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS

18.01 Board of Trustees

▪ Frank Biehl, Member

MetroED is meeting next week. There is no report tonight.

• Patricia Martinez- Roach, President

I have one quick comment on the Student Committee. As you know, we meet monthly and it is always a pleasure. We broke into sessions this last time and it was very educational. I had Marisa Hanson as our guest speaker. It was wonderful to hear her personal story. I want to thank you publicly for coming. One of the common topics of the students was that they are concerned about drug and alcohol abuse. I think it is really important that, as a Board, we take a leadership in bringing some program that will be funded that will help our youngster to have an education regarding drug and alcohol abuse. They are asking for our help and I think we need t listen to them.

18.02 Acting Superintendent

I would like to congratulate the 83 teachers that have advanced from probationary status to permanent status. Secondly, we have College Night tonight at Independence High School. I would like to thank the Independence staff and administration that were there to support the students. Typically, we get from 2000-3000 students there.

Future Special Board Meetings:

October 20, 2009 at 6:00 p.m. – Education Center Board Room

October 24, 2009 at 9:00 a.m. – Education Center Board Room

19. REPORT CLOSED SESSION ACTION(S)

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

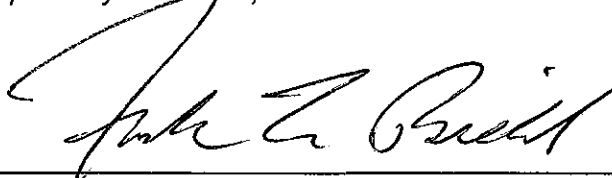
There were no items reported out of Closed Session.

20. ADJOURNMENT

President adjourns the meeting.

Motion by Member Garcia, second by Clerk Biehl to adjourn the meeting. Meeting adjourned at 10:38 p.m. by President Martinez-Roach.

Respectfully submitted,



Board Clerk