

Agenda Item

15.07 Approve Minutes of February 9, 2010, Special Board Meeting

Meeting: 03/18/2010 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
Category: 15. 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, Interim Superintendent
SUBJECT: Approve Minutes of February 9, 2010, Special Board Meeting

Attached are the minutes of the February 9, 2010, Special 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 February 9, 2010, 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 03/05/2010 at 02:13 PM by Mary Guillen. Last update on 03/12/2010 by Mary Guillen.

East Side Union High School District

Approved

Board of Trustees

March 18, 2010

Handwritten signature of Dan Moser, Interim Superintendent.



**EAST SIDE UNION HIGH SCHOOL DISTRICT
SPECIAL MEETING
OF THE
BOARD OF TRUSTEES**
Meeting Held at the Education Center -- Board Room
February 9, 2010
7:30 p.m.

1. CALL TO ORDER/ROLL CALL

1.01 Roll Call

The Special Meeting of the Board of Trustees was called to order at 7:30 p.m. by President Garcia. Clerk Martinez-Roach, Member Herrera and Member Biehl were present. Vice President Nguyen was absent.

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

President Garcia 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 7:45 p.m.) See item 2 on agenda (Closed Session).

The Board of Trustees recessed to Closed Session.

2. CLOSED SESSION

**2.01 Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (c) of Section 54956.9 of the
Government Code: One (1) potential case**

Nothing reported out from Closed Session.

OPEN SESSION AT APPROXIMATELY 7:45 P.M. – EDUCATION CENTER BOARD ROOM

3. 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 Garcia 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.

There were no amendments to the agenda.

6. 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:

- *Omar Gutierrez*

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

7.01 **Discussion/Action regarding Fiscal Crisis and Management Assistance Team (FCMAT) Extraordinary Audit of the East Side Union High School District – Eddie Garcia, Board President and Dan Moser, Interim Superintendent**

Speakers:

- *Bob Nuñez*
- *Wendy Stegeman (relinquished time to Bob Nuñez)*
- *Marisa Hanson (relinquished time to Bob Nuñez)*

Dr. Charles Weis, Santa Clara County Superintendent of Schools, was present at the meeting. His presence at the meeting is to assist with any questions that the Board may have. Pursuant to Code, the County Superintendent will be at the regularly scheduled Board Meeting next week in order to provide the County report formally.

Legal Counsel Ruiz

With respect to contracted services in the first three or four recommendations, I believe, just to be clear, two issues I want to point out. Those relate to informal bid practices by the District. There was no finding that the District was in violation of the minimum bid requirements under the Public Contracting Code. This, I believe, a fair reading and interpretation of the FCMAT report is that the application of the informal bid regulations was inconsistent by the District. I believe that the recommendations are really geared towards establishing more clarity and more consistency with regards to the informal bidding practices.

The last thing I would point out is with respect to the recommended response by administration, to the extent the recommendations relate to the Administrative Regulations, then, that is within the purview of the Superintendent to cure or fix or change immediately as part of his duties as Superintendent.

President Garcia

Mr. Counsel, do we take any action tonight or no?

Legal Counsel Ruiz

The action would be to approve administration's recommended course of action, authorize, and direct administration to notify the County Superintendent of the District's proposed action in response to each of the recommendations.

The Education Code says that the Board has to respond to the County Superintendent recommendations within fourteen days of receiving the report. The District received the report on, I believe, January 29.

Member Biehl

I would like to move the staff recommendation with one addition. That we ask that the administration include alternatives for the full restoration of the internal audit function. I am not saying position. I am saying function and that the recommendation be reviewed by the Board's Audit Committee and presented to the Board within the next 60-90 days.

Member Herrera

I would like to ask for clarification before I second. Are we doing this in the right sequence by taking action tonight? I am sharing some of Board Clerk Martinez-Roach's query on that because we have it on the agenda for a regular meeting, which we are going to have the County Superintendent presenting and engaging with us. Would we be making a formal then? That is what I am a little puzzled about; are we supposed to have a response before that?

President Garcia

Mr. Ruiz?

Member Herrera

Or are we supposed to have a response before that?

Legal Counsel Ruiz

The statutory requirement is that the Board approve the proposed responses to each of these and actions to each of the recommendations. The way it works in practice is that this will be an ongoing dialogue with the County Superintendent's Office. If they are approved tonight, administration would notify the County Superintendent of that. The County Superintendent then could provide further comments either at the February 18 meeting, before that or even after that, but it would continue to come back to this Board for update, approval and revision as necessary.

Member Herrera

I am hearing the continuing process and that does not answer my question as to why we wouldn't adopted at the February 18 when there is a give and take and further understanding of any County perspectives and any further public comment. Why would it be tonight?

Legal Counsel Ruiz

The statute says within fourteen days of receiving the report.

President Garcia

It responds to the County, but I think what it does is leaves it open for more discussion. This is the initial response to the County.

Member Herrera

We are on a fourteen-day statute to require for a response?

President Garcia

Yes.

Member Herrera

That is what I needed to understand. I will second the motion.

Clerk Martinez-Roach

There are some issues that I would like to have included in the response. If you are going to adopt the response the way it was presented by administration, I can't support it because I think there are some issues here that should be addressed, which were not addressed in the quick review that I did in ten minutes when I got here. I want to give it the attention and I think that it is premature. We should wait until next week. Why not wait until next week.

Member Herrera

Fourteen-day statute.

President Garcia

Let me ask the attorney. Does the law require us to respond?

Clerk Martinez-Roach

Didn't you say that we can do a proposed? That the motion should be a proposed response instead of a response?

Legal Counsel Ruiz

That is actually what the statute says. I am trying to find the exact language here, but it's the District's Governing Board that has to provide a response. In any event, it is a proposed response by the District. I am not sure if you want to amend the administration's recommendation here or if you would still have the option to include additional actions on the 18th, as well.

President Garcia

That's fine.

Member Biehl

Certainly, my intent was proposed response and I don't have any problem with receiving additional input at our next meeting.

Clerk Martinez-Roach

Okay, proposed response I can live with. That way I can add more comments.

Member Biehl

I would certainly think this is going to be an ongoing process. I would suspect that we need to meet the statutory requirement tonight. We are going to have a presentation from the County on the 18th. Certainly, there will be additional information that will be gathered and I see it as sort of a moving target. This is a good start.

President Garcia

So, Madame, the language...

Clerk Martinez-Roach

Proposed.

President Garcia

Yes.

Clerk Martinez-Roach

Just for clarification, you will have it at the next agenda and I can include comments?

President Garcia

Absolutely. We can propose comments. Absolutely, but this Board will take final action on the final product.

Motion by Member Biehl, second by Member Herrera, to approve administration's proposed recommended course of action, authorize and direct administration to notify the County Superintendent of the District's proposed action in response to each of the recommendations, administration include alternatives for the full restoration of the internal audit function and that the recommendations be reviewed by the Board's Audit Committee and presented to the Board within the next 60-90 days.

Vote: 4/0, Vice President Nguyen absent

President Garcia

I just want to make some final comments before I let everyone go. First, I want to thank Dr. Weis for joining us tonight. We appreciate it and we will see you next week.

Here's what I heard on the dais tonight. I heard that every single member of this Board is committed to resolving these issues. We are not going to let this linger on anymore. We are going to resolve these once and for all. That's a good thing. There might be some tweaks here and there about how it is resolved, but at the end of the day, this Board is committed to resolving these issues so that we can get back to the business of what we are supposed to be doing here, supporting our teachers, supporting our support staff, supporting our employees and supporting our students to make sure they have got a bright future ahead of them. That's what I would like the Board to get back to the business of doing. I think we are taking the right step tonight for doing that.

8. **REPORT CLOSED SESSION ACTION(S)**

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

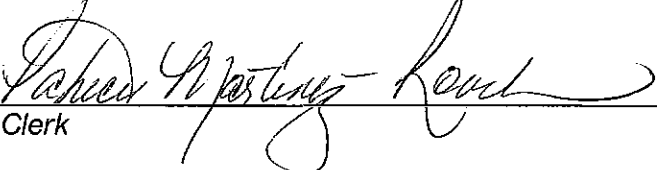
See section 2.0 for reporting out of Closed Session items.

9. **ADJOURNMENT**

President adjourns the meeting.

Motion to adjourned meeting by Clerk Martinez-Roach, second by Member Biehl. Meeting adjourned at 8:38 p.m. by President Garcia.

Respectfully submitted,


Board Clerk