

BERKELEY UNIFIED SCHOOL DISTRICT

ADOPTED MINUTES

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MINUTES, REGULAR MEETING

Wednesday, October 15, 2003

District Administrative Offices

Board Meeting Room

2134 Martin Luther King Jr. Way

Berkeley, CA 94704-1180

**CALL TO ORDER**

President Joaquin J. Rivera called the Board of Education Meeting of October 15, 2003 to order at 6:00 p.m.

**BOARD ROLL CALL**

**MEMBERS PRESENT:** President Joaquin J. Rivera  
Vice President John T. Selawsky  
Director Terry S. Doran  
Director Shirley Issel  
Director Nancy Riddle  
Student Director Bradley Johnson\*

Administration: Superintendent Michele Lawrence, Secretary

Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 459567

No one addressed the Board at this time.

Recess to Closed Session (Government Code Sections 3459.1(d), 54956.9(a) and 54957) and Education Code Section 49818(c)—Board Conference Room

- a) Conference with Legal Counsel—Existing Litigation
- b) Consideration of Student Expulsion
- c) Collective Bargaining
- d) Public Employee Discipline/Dismissal/Release
- e) Public Employment Appointments
  - 1) Superintendent's Evaluation
- f) Liability claims
- g) Property Acquisition

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\*The Student Director does not attend Closed Session.

The Board recessed to Closed Session at 6:00 p.m. and reconvened in Public Session at 7:36 p.m.

Report Closed Session Action

President Rivera stated that in Closed Session the Board discussed the following items:

- c) Collective Bargaining
- h) Property Acquisition

No action was taken.

Approve Agenda

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

That the agenda is approved as amended. The amendments are to pull, for further clarification, item 4.5-C. That items 2.2-A, 2.3-A and 2.4-A are to be acted on as Consent Items.

Approve Minutes

The Board agreed, by consensus, to table the minutes.

**PUBLIC TESTIMONY**

Seven speakers, including Councilmember Linda Maio, addressed the Board.

**REPORTS**

Union Representatives' Reports

No one addressed the Board at this time.

Superintendent's Report

Superintendent Lawrence said Staff Development Day which was held Monday, October 13, 2003, was very productive. She congratulated staff on a job well done.

### Board Members' Report

Student Director Johnson said the Berkeley High School student body is becoming more and more active. He reported that the homecoming plans have been finalized. Student Director Johnson complimented Principal Jim Slemp for "doing an excellent job." Director Issel said she attended the afternoon session of Staff Development Day on October 13, 2003 and "it was very positive. It was a good afternoon." Director Riddle said she enjoyed attending Staff Development Day. Director Doran said he, too, attended and enjoyed Staff Development Day. He said he would like staff to investigate the possibility of starting the school year with all employees coming together as a team with common goals. He congratulated staff for "putting together a good Staff Development Day." Vice President Selawsky commended both sides of the negotiations team for "coming together and bargaining in good faith." President Rivera said he is glad that Propositions 53 and 54 were soundly defeated on October 7, 2003.

### **CONSENT ITEMS**

Motion: Directors Selawsky/Issel and approved unanimously on voice vote:

That the Consent Items are approved as amended. The amendments are that item 4.5-C is pulled for further discussion. That items 2.2-A and 2.4-A are to be acted on as Consent Items.

- 1.1-C: Acceptance of Gifts/Donations
- 1.2-C: Change of Date for the Petition to Abolish the Merit System
- 2.1-C: Acceptance of Personnel Report
- 3.1-C: Overnight Field Trip Requests
- 3.2-C: Overnight Travel Request
- 3.3-C: Out-of-State Travel Request
- 4.1-C: Approval of Contracts/Purchase Orders for Services and Contracts
- 4.2-C: Approve Listing of Warrants issued in September 2003
- 4.3-C: Approval of Payroll Warrants issued in August and September 2003
- 4.4-C: Resolution 03-15: Authorization to Accept the King Modernization Project

**CONSENT ITEMS** (continued)

4.5-C: Resolution 03-16: Authorization to Accept the Bid of the Lowest Responsive Responsible Bidder for the Franklin Adult School Project

Please see below and page 5 of these minutes for action on this item.

4.6-C: Resolution 03-17: Authorization to Accept Completion of the Willard Middle School Walkway Roof Project

4.7-C: Resolution 03-18: Authorization to Accept Change Order #1 for Dead and Diseased Tree Removal and Tree Pruning Services at various sites

4.8-C: Resolution 03-19: Authorization to Accept completion of the Grounds Renovation Project at Cragmont Elementary School Playground

4.9-C: Resolution 03-20: Authorization to Accept completion of the dead and diseased tree removal and tree pruning services at various sites

4.10-C: Review and accept Treasurer's Quarterly Investment Report

2.2-A: Reclassification of Account Clerk Positions to Account Technician in Business and Operations

2.4-A: Establishment of new position: Driver Trainer/Supervisor

4.5-C:

Resolution 03-16: Authorization to Accept the Bid of the Lowest Responsive Responsible Bidder for the Franklin Adult School Project

Director Terry Doran addressed some of the concerns that were expressed during Public Testimony. He said a timeline was set in August 2003, by District staff to be able to complete the project and move the Adult School into a facility that works for them next school year. He said a site committee is in place and functioning. In fact, the site committee will be meeting Monday evening, October 20, 2003, and more detailed information regarding the Franklin Adult School Project will be provided at that meeting. He gave a brief history of the Franklin Adult School Project.

4.5-C

Resolution 03-16: Authorization to Accept the Bid of the Lowest Responsive Responsible Bidder for the Franklin Adult School Project (continued)

Mr. Lew Jones, Director of Facilities, said he is scheduled to meet with Cal Trans representatives on Monday before the site committee meeting. He said Cal Trans requested that we make the driveway wider. He reported that staff has finished compiling the list of items that Cal Trans requested.

Vice President Selawsky clarified that Mr. Jones said the Alternate #6 would include the San Pablo driveway—the curb cut at a cost of \$28,000. It is included in the bid and will be approved as part of the bid. Vice President Selawsky also noted that change orders are important parts of any project.

Director Riddle requested that the entire Board receive updates after the Franklin Adult School Site Committee meetings.

Director Issel inquired about the timeline for awarding this bid. She said she will support this recommendation and accept the bid because she believes that it is in District's best interest.

President Rivera said one of the issues that the neighbors raised was why we did not make sure that we incorporated the changes into the plan before awarding the bid as opposed to treating them as change orders. Is the nature of these changes so substantial that it would change the scope of the work or is it the type of thing that is better dealt with by change order?

Mr. Jones explained that the major changes that are being looked at include a reorientation toward the San Pablo side so that there is more of a main entrance. It does not involve changing the building but it involves changing the focus so that rather than having the prime pedestrian entry be near Kain Street it would be on San Pablo. It also involves a reorientation of some of the parking particularly on the San Pablo side. There is an increase of 18 spaces on the East lot.

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

Approval of Resolution 03-16: Authorization to accept the bid of the lowest responsive responsible bidder for the Franklin Adult School Project—West Coast Contractors.

2.1-A

Declaration of Need for Fully Qualified 2003-2004 Educators

Director Doran wanted to know why the District does not have internally, enough CLAD licensed teachers.

Superintendent Lawrence said she will submit to the Board a more extensive view of how many of our teachers are CLAD certified.

Motion: Directors Selawsky/Issel and approved unanimously on voice vote:

Approval of the Declaration of Need for Fully Qualified 2003-2004 Educators.

**AGENDA REORDER**

2.3-A

Reclassification of three classified positions to Administrative Coordinator

Director Riddle said "I have a great deal of difficulty with this recommendation. In a financial crisis like we are currently in, 'parity' and 'equity' are things we cannot always address. That rationale disturbed me a great deal when I approached this item. If what this is, is restructuring a department with the right people to do the current work, I am more comfortable with that than trying to be on parity with other people. I will vote for this item but not because of the parity argument but rather because I do not think it is my responsibility to micromanage at a level when we are talking about going from one clerical level to another. We need to recognize that there are a lot of areas where we are not going to make things fair in the next year or two because we do not have the resources."

Superintendent Lawrence acknowledged Director Riddle's comments and said: "I understand and appreciate your position. These individuals will be required to be tested and go through the regular placement process."

Motion: Directors Selawsky/Issel and approved 4-0-1(1)-0 on voice vote:

Approval of the Reclassification of three classified positions to Administrative Coordinator.

AYES: Directors Doran, Issel, Riddle, Selawsky  
NOES: None  
ABSTAIN: Director Rivera, (Student Director Johnson)  
ABSENT: None

## **INFORMATION**

### 3.1-I

#### Presentation on the Performing Arts Programs in the District

Ms. Suzanne McCulloch, Coordinator, Visual & Performing Arts, said that all Berkeley Unified School District third, fourth and fifth grade students are receiving music instruction. Teachers of elementary students are participating in Orff techniques and methodology workshops and are adapting the curriculum accordingly. Pitched percussion instruments have been delivered to the elementary schools. Six elementary schools have included grades 1 and 2 in the Music Program funded by release time or BSEP. Successful collaborations with Cal Performances, Berkeley Symphony Orchestra, the Jewish Music Festival and Cazadero Performing Arts Camp are enhancing music and performing arts experiences for District students. Three Arts Works Grants have been awarded to the District for 2003-04 (\$72,000) with funding for the District Arts Team, the California Arts Assessment Network and curriculum development for sixth grade core teachers districtwide.

## **AGENDA REORDER**

### 4.1-A

#### Modifications of Property Management Guidelines

Superintendent Lawrence and Deputy Superintendent Eric D. Smith presented this item. Superintendent Lawrence said during the last fiscal year, analysis has been done on the various aspects in which the District may inadvertently be losing revenue and not capitalizing on its opportunity to enhance revenue. The use of District property and facilities use is a component of our operations which has needed study and modification.

Some comments and suggestions from Board members included the following:

- Director Doran requested that the most recent Non-Discrimination Policy be included the Modifications of Property Management Guidelines document.
- Director Issel said she would like to see more defined guidelines of what defines an acceptable charitable purpose and who will be making these decisions. She said there should be some examples for staff to follow. In conjunction with these guidelines, Director Doran requested that there be a clear description of an appeals process to be used by those people who are denied the use of District facilities.

4.1-A

Modifications of Property Management Guidelines (continued)

- Director Issel said under Fee Waivers for Facilities Use—the section needs to be rewritten and Longfellow and King Auditoriums should be added.
- Director Riddle said all groups should be treated consistently. She said it is important for her to know who is using the District’s facilities. The language on page 147 regarding non-profits needs to be tightened up. There needs to be a clear definition of “community organizations.” The language “residents of Berkeley or Berkeley groups” is not appropriate because many community organizations are blended. There should be a specific section dealing with after school programs. Programs such as the BSEP Program should also be included. Page 53 is a form and should not be in this section. It probably should be an addendum.
- Vice President Selawsky said he does not want to limit or restrict our own students from using our facilities. He requested that the fifth paragraph, second sentence on page 150 read as follows:

The “HOLD” remains in effect for **10 working days** and will automatically be removed at the close of the **10<sup>th</sup> day** without a deposit.

- President Rivera requested that the last paragraph on page 155, last sentence on page 156, be rewritten for clarity. He said he is concerned about the language on page 152, #3. President Rivera said we need to be very careful with the language and how we apply it. Director Issel said what we are concerned about is not politics but the issue is public safety.

Motion: Directors Doran/Issel and approved unanimously on voice vote:

That this item is tabled until staff brings it back to the Board incorporating the comments that were made tonight both by staff and the Board.

## **PUBLIC HEARING**

### 4.2-A

#### Public Hearing and Acceptance of Modifications to the 2003-2004 Budget, including fund transfers

President Rivera declared the Public Hearing and Acceptance of Modifications to the 2003-2004 Budget, including fund transfers, open at 10:11 pm.

No one addressed the Board at this time.

Mr. Eric D. Smith, Deputy Superintendent, Business and Operations, said staff has made current year budget revisions in order to reduce the number of transactions that have to be presented at the First Interim Financial Report. Additionally, the State Budget Act enables school districts to transfer fiscal year 2002-2003 restricted ending balances from select categorical programs to the unrestricted General Fund.

Mr. Smith reported that there was an add on in our favor of \$289,940 adjustment as a result of the Berkeley Alternative High School receiving Continuation High School approval last year. If the Continuation High School certification results in a significant add to the revenue limit which is unrestricted dollars the add-on is effective the fiscal year after the approval letter. In our case, the 2003-04 is when it is effective.

Director Doran wanted to know if we can redirect these funds to the Berkeley Alternative High School.

Mr. Smith replied that the expenses were already built into the budget.

Director Riddle requested that when staff submits the First Interim Budget to the Board, that the Board be given an update on how payroll expenditures are reconciled.

President Rivera said that since we now have position control in place we should not find 25-26 extra people that are not in the budget.

President Rivera declared the Public Hearing and Acceptance of Modifications to the 2003-2004 Budget, including fund transfers, closed at 10:43 p.m.

Motion: Directors Riddle/Doran and approved unanimously on voice vote:

Acceptance of Modifications to the 2003-2004 Budget, including fund transfers.

## **CONFERENCE**

### 1.1-CF

#### First Reading: Board Policy on Fraud

Mr. Eric D. Smith, Deputy Superintendent, Business and Operations, said in order to prevent fraud, the District should adopt a comprehensive policy dealing with employees as well as consultants, vendors, or any other parties with a business relationship with the District. The proposed policy defines what constitutes fraud and prescribes the method of investigating allegations of fraud should they occur.

Motion: Directors Riddle/Doran and approved unanimously on voice vote:

To accept, at First Reading, the proposed Board Policy on Fraud.

### 1.2-CF

#### First Reading: Board Policy 3530, Self Insurance

Mr. Eric D. Smith, Deputy Superintendent, Business and Operations, said that on September 3, 2003, the District applied to the State Department of Industrial Relations to become self insured for workers compensation. At that time, the Board requested that a policy be developed to ensure that the program is fully funded and that the fiscal solvency of the District is protected. The proposed policy guarantees a ninety percent confidence level. Incorporating such a requirement in policy prevents adjustments in reserve levels without modification of policy and adds an additional safeguard in budgeting practices.

Motion: Directors Selawsky/Riddle and approved unanimously on voice vote:

Acceptance, at First Reading, Board Policy 3530, Self Insurance.

## **EXTENDED PUBLIC TESTIMONY**

No one addressed the Board at this time.

**ADJOURNMENT**

President Rivera declared the Regular Meeting of October 15, 2003, adjourned at 10:47 p.m.

**APPROVED:**

**ATTEST:**

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President, Board of Education  
Berkeley Unified School District

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Secretary, Board of Education  
Berkeley Unified School District

