

BERKELEY UNIFIED SCHOOL DISTRICT

ADOPTED MINUTES

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MINUTES, REGULAR MEETING
Wednesday, September 3, 2003
District Administrative Offices
2134 Martin Luther King Jr. Way
Berkeley, CA 94704-1180

CALL TO ORDER

President Joaquin J. Rivera called the meeting to order at 6:00 p.m. and the Board recessed to Closed Session.

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

Recess to Closed Session (Government Code Sections 3549.1(d), 54956.9, 54956.9(a), 54957 and Education Code Section 459567

- a) Conference with Legal Counsel—Existing Litigation
- b) Consideration of Student Expulsion
- c) Collective Bargaining
- d) Public Employee Discipline/Dismissal/Release
 - 1) Benefits Specialist
 - 2) School Secretary
 - 3) Custodian
- e) Public Employment Appointments
- f) Liability Claims
- g) Property Acquisition

*The Student Director does not attend Closed Session.

Report Closed Session Action

The Board reconvened in Public Session at 7:36 p.m. President Rivera reported that the Board discussed and took the following action in Closed Session:

a) Conference with Legal Counsel—Existing Litigation

No action was taken.

d) Public Employee Discipline/Dismissal/Release

1) Benefits Specialist

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

That the Benefits Specialist is dismissed.

2) School Secretary

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

That the School Secretary is dismissed.

3) Custodian

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

That the Custodian is dismissed.

Approve Agenda

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

That the Regular Meeting Agenda of September 3, 2003, is approved as amended. The amendments are that items 1.3-C; 1.4-C; 2.1-C are pulled for further clarification.

PUBLIC TESTIMONY

Five speakers addressed the Board.

REPORTS

Union Representatives' Report

Mr. Barry Fike, President, Berkeley Federation of Teachers and Ms. Ann Graybeal, BCCE, addressed the Board.

Superintendent's Report

Superintendent Lawrence congratulated staff members for a smooth opening of school.

Board Members' Reports

Student Director Johnson congratulated the Berkeley High School community on a successful clean up day. He said morale at the high school is improving. Director Issel said she has been hearing from parents that this was "the best opening of school in eleven years." She welcomed Mr. Jim Slem, the new Berkeley High School Principal and thanked staff for all they did to make this opening of school a success. Director Riddle said things are going very good at Berkeley High School. She thanked the PTSA and administrative staff at Berkeley High School for putting on a good orientation for the freshmen and their parents. Director Doran said the opening of school went smoothly. Vice President Selawsky thanked and congratulated students, teachers, parents and staff for a very calm and successful opening of school. Vice President Selawsky said he is committed to working with the Franklin neighbors regarding the Adult School move to the Franklin site. Regarding the enrollment data, he said he is concerned about the combination classes and said there is some disparity in the numbers. He expressed concern about teachers being trained to teach combination classes. President Rivera said we had a wonderful opening of school. The King Middle School reopening was fantastic. He thanked the Berkeley community for passing the bond and making the renovation at King possible.

CONSENT ITEMS

The Board pulled, for further clarification, Items 1.3-C; 1.4-C; and 4.3-C.

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

That the remainder of the Consent Items are approved.

- 1.1-C: Acceptance of Gifts/Donations
- 1.2-C: Change of Date: Petition to Abolish the Merit System
- 1.3-C: Resolution in Support of the Budget Accountability Act

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

- 1.4-C: Resolution in Opposition to Proposition 54: The Classification by Race, Ethnicity, Color, or National Origin, Initiative Constitutional Amendment

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

- 1.5-C: 2003-2004 Designation of California Interscholastic Federation Representatives
- 1.6-C: Application for Multi-School Teams Status for 2003-2004
- 2.1-C: Acceptance of Personnel Report
- 3.1-C: Overnight Field Trip Requests
- 4.1-C: Approval of Contract Purchase Orders for Services and Contracts
- 4.2-C: Second Reading of Board Policy 3320 regarding claims and Actions against the District
- 4.3-C: Approve a Change Order for the Project to Improve the Grounds at Jefferson School

Please see page 6 of these minutes for action on this item.

1.3-C

Resolution in Support of the Budget Accountability Act

Director Doran explained that “The Budget Accountability Act,” is a comprehensive reform package designed to end State budget gridlock, stop the annual political posturing in Sacramento, and deliver a timely and responsible State budget. He said this initiative is endorsed by the California League of Women Voters, California State PTA, Service Employees International Union, California Federation of Teachers, and the Congress of California Seniors.

Director Riddle requested, in the future, when this type of resolution is submitted for Board approval, the actual language of the legislation be attached.

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

Approval of the Resolution Endorsing the “Budget Accountability Act” for the March 2004 Primary Ballot.

1.4-C

Resolution in Opposition to Proposition 54: The Classification by Race, Ethnicity, Color, or National Origin, Initiative Constitutional Amendment

Student Director Johnson discussed this item. He said Proposition 54 would limit California school districts, health agencies, and other public agencies from collecting and utilizing prohibited data other than data that is mandated by or allows for federal funding and compliance and according to the Legislative Analyst’s Office would have impacts on certain local agencies collecting and utilizing this type of data as well as unknown impacts on these agencies depending on court and legislative interpretation of permissible collectable and usable data.

Motion: Directors (Johnson)/Doran and approved unanimously on voice vote:

Approval of Resolution opposing Proposition 54: The Classification by Race, Ethnicity, Color, or National Origin, Initiative Constitutional Amendment.

4.3-C

Approve a Change Order for the Project to Improve the Grounds at Jefferson School

Motion: Directors Issel/Doran and approve 4(1)-0-0-1-0 on voice vote:

Approval of the Change Order for the Project to Improve the Grounds at Jefferson School.

AYES:	Directors Doran, Issel, Rivera, Selawsky, (Johnson)
NOES:	None
ABSTAIN:	None
NOT SEATED:	Director Riddle
ABSENT:	None

ACTION ITEMS

3.1-A

Berkeley High School Communication Arts & Sciences (CAS) Small School Proposal

Mr. Neil Smith, Director, Curriculum and Instruction; Mr. Jim Slemple, Principal, Berkeley High School and Mr. Rick Ayes, CAS, presented this item. Mr. Smith said in an effort to improve the culture and learning environment for the entire Berkeley High School student body, the Board, in 2000, approved a resolution affirming the formation and establishment of small schools at Berkeley High School. At that time, the Board approved a planning grant that paved the way for a task force to study and formulate a viable small school model to serve approximately half of the high school's population by 2005. The Task Force's study recommended to the Board the adoption of Guiding Principles for developing a Request for Authorization (RFA) Application for a Small School at Berkeley High School.

Staff is putting forth Communication Arts and Sciences (CAS), the first small school proposal, per RFA guidelines, for Board approval.

3.1-A

Berkeley High School Communication Arts & Sciences (CAS) Small School Proposal (continued)

Principal Slempp said he is pleased to be a part of developing small schools at Berkeley High School. He believes small schools are an excellent choice and provides support for students. Director Issel said: "I am pleased to see us here in a spirit of collegiality. She asked if AP classes would be offered in CAS stating, "I would like to know that all students are comfortable in CAS." Student Director Johnson asked that it be made clear to students that there are alternative courses that students can take. Director Riddle expressed her concern about special education students because their needs are different. She requested further clarification regarding the assessment section of the RFA. President Rivera said in the future, he would like to see the assessment section stronger and expanded.

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

Approval of the Guiding Principles for developing a Request for Authorization (RFA) Application for a Small School at Berkeley High School.

AGENDA REORDER

4.3-A

Approve Request for Short Term Loan from the Alameda County Board of Supervisor's, County Auditor and County Treasurer's Office

Mr. Eric D. Smith, Deputy Superintendent of Business and Operations (CBO), explained that the District is experiencing significant cash flow deficits in several funds due to the fact that expenditures have not been aligned with revenues and the District no longer has reserves for economic uncertainties. The District could not issue Tax and Revenue Anticipation Notes (TRANS) due to its negative budgetary status under Assembly Bill 1200. The District will need to borrow approximately \$10,000,000.00 through January of 2004 when property taxes are posted. At that time, the amount will be paid back in full to the county Treasurer.

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

Approval of the Request for a Short Term Loan from the Alameda County Board of Supervisors, County Auditor and County Treasurer's Office.

AGENDA REORDER

INFORMATION

4.1-I

Presentation Regarding progress on the Fiscal Year Audit

Superintendent Lawrence made introductory comments. She said on January 24, 2003, the District's independent auditor, Gilbert Associates, Inc., issued an audit report for the fiscal year 2001-02. In it, there were several significant findings in the areas of internal controls and Federal program compliance. Staff requested that this audit firm provide progress reports of findings from fiscal year 2001-02 before finishing the audit process for fiscal year 2002-03.

Mr. Thomas M. Gilbert, Certified Public Accountant, GILBERT ASSOCIATES, INC., CPAs and Advisors, gave a detailed status report of prior year findings and recommendations and current year findings and recommendations. He said: "It is worth noting our observance of significant improvements in business office operations, since the last audit, many of the changes coming after mid-year 2002-03 (January 1, 2003). This is reflective of a change in Board and management emphasis on doing things correctly and in accordance with good business practices. We commend the Board and administration for this emphasis." He gave a detailed report regarding the status of prior year findings and recommendations. In addition, he elaborated on the current year findings and recommendations for the following: Employee vacation; Personnel files and authorization; Cafeteria Cash receipts; Attendance; Alternative & Continuation Education; Adult Education Attendance; Independent Study Attendance; Internal Control—Child Nutrition Cluster; Multiple Programs—Time Documentation; and 21st Century Community Learning Centers After School Program.

Mr. Gilbert summarized:

- Internal Controls—Reportable conditions considered to be material weaknesses
- Internal Controls—Reportable conditions
- Staff Compliance Findings
- Federal Compliance Findings

AGENDA REORDER

ACTION ITEMS (continued)

4.1-A

Approve Proposal and Pricing Structure from Xerox Corporation to lease digital copiers and establish a Print Shop

Mr. Eric D. Smith, Deputy Superintendent of Business and Operations, reported that Xerox Corporation has performed an exhaustive evaluation of the District's existing copier fleet and outside printing needs. Based on the results of that study, Xerox identified that there were forty analog Xerox copiers, and several analog Mita copiers, many of them are District owned. In almost all cases, the copiers are in poor repair and staff spends an inordinate amount of time standing in line at copier machines.

Xerox proposes a five-year lease agreement with the cost of maintenance included. The lease is adjusted for inflation each year and would be \$43,643.00 per month in the final year of the agreement. Based on our current lease expenditures for photocopiers of \$35,325.00 per month, and outside printing cost of \$10,083.00 per month, the Xerox proposal would result in an annual savings of \$21,184.00.

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

Approve the pricing structure for a comprehensive change of District copiers and to authorize the Deputy Superintendent to negotiate the final terms and conditions of the agreement.

4.2-A

Accept Actuarial Report on Workers' Compensation and Approve Resolution 03-12, Certificate of Consent to Self Insure

Mr. Eric D. Smith, Deputy Superintendent of Business and Operations, said Workers' Compensation benefits are currently provided to District employees through the State Fund. The State Fund is costly, and for the majority of school districts is considered the provider of last resort. Over the last two years, the District's workers' compensation experience has improved dramatically. As a result, the District should apply to self insure, rather than renew with the State Fund at the close of this calendar year.

4.2-A

Accept Actuarial Report on Workers' Compensation and Approve Resolution 03-12 Certificate of Consent to Self Insure (continued)

President Rivera summarized Board Members' requests and comments as follows: "What we are approving is asking for a permit to self-insure. Staff will come back to the Board with the details and amount. Staff will submit to the Board a process for the Board to monitor it, including but not limited to making sure that we get the numbers and type of claims that we may have an actual study done every year. Staff will bring back to the Board a proposed self-insured policy that will specify a confidence level under which the Board will not go under."

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

Accept Actuarial Report on Workers' Compensation and Approve Resolution 03-12, Certificate of Consent to Self Insure.

CONFERENCE

1.1-CF

Board Response to FCMAT (Fiscal Crisis Management Assistance Team)

Director Issel said she would like for the Board to review the FCMAT document for discussion and for the Board President to appoint a Board subcommittee of two members to submit their recommendation to the entire Board.

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

Approval of a motion for the Board President to appoint a subcommittee of the Board of Education to review the FCMAT Assessment and Improvement Plan of July 2003 and develop a work plan to be brought back to the Board for consideration no later than the October 15, 2003 Board meeting.

President Rivera appointed Vice President John Selawsky and Director Shirley Issel as the Board subcommittee to review the FCMAT Assessment and Improvement Plan.

4.1-CF

First Reading: Board Policy 3420, Investment Policy

Mr. Eric D. Smith, Deputy Superintendent of Business and Operations, said the proposed investment policy establishes criteria for the investing of short and long term cash and prescribes that an investment report be provided to the Board on a quarterly basis.

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

To accept for First Reading, Board Policy 3420: Investment Policy, in accordance with Government Code Section 53646 and FCMAT Financial Management Standard.

EXTENDED PUBLIC TESTIMONY

No one addressed the Board at this time.

ADJOURNMENT

President Rivera declared the Regular Meeting of September 3, 2003 adjourned at 10:16 p.m.

APPROVE

ATTEST:

President, Board of Education
Berkeley Unified School District

Secretary, Board of Education
Berkeley Unified School District