

MINUTES, REGULAR MEETING  
Wednesday, April 21, 2004  
District Administrative Offices  
2134 Martin Luther King Jr. Way  
Berkeley, CA 94704-1180

**CALL TO ORDER**

President John T. Selawsky called the meeting to order at 6:05 p.m. and the Board recessed to Closed Session.

**ROLL CALL**

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

Administration: Superintendent Michele Lawrence, Secretary

Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 54957

No one addressed the Board at this time.

Recess to Closed Session (Government Code Sections 35491.(d), 54956.9(a) and 54957) and Education code Section 49818(c)

- 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:
  - Superintendent's Evaluation
- f) Liability Claims
- g) Property Acquisition

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\*The Student Director does not attend Closed Session.

Report Closed Session Action

The Board reconvened in Public Session at 7:30 p.m. President Selawsky reported that the Board discussed the following items in Closed Session:

- a) Conference with Legal Counsel—Existing Litigation
- f) Liability Claims

No action was taken.

Approve Agenda

Directors Rivera/Riddle and approved unanimously on voice vote:

That the Regular Meeting Agenda of April 21, 2004 is approved as amended. The amendments are that Item 3.2-C is to be pulled for further clarification and item 3.1-A is to be acted on as a Consent Item.

**PUBLIC TESTIMONY**

Seven speakers addressed the Board including Mr. Dan Lindheim, Co-Chair, BSEP (Berkeley School Excellence Project) Planning and Oversight Committee; Mr. Jay Nitschke, *Berkeley Schools Now* and Ms. Suzanne McCulloch, Coordinator, Visual & Performing Arts.

**REPORTS**

Union Representatives' Reports

Ms. Ann Graybeal, Berkeley Council of Classified Employees (BCCE), Local 6192, addressed the Board regarding Resolution 03-51: Elimination of Specified Classified Positions.

Superintendent's Report

Superintendent Lawrence congratulated Ms. Nancy D. Waters, Principal, John Muir Elementary School and the John Muir staff for being selected to receive California's 2004 Title I Academic Achievement Award. Superintendent Lawrence said she will attend the Reception on Thursday, April 29, 2004, in San Francisco, to receive the award. Ms. Lawrence responded to comments made by Ms. Ann Graybeal, Local 6102, regarding classified layoffs. She said we must follow contractual language and the Education Code and see that our employees are treated fairly and that we do not use layoff to circumvent evaluation.

**REPORTS** (continued)

Board Members' Reports

Student Director Johnson encouraged everyone to attend the Berkeley High Open House which will be held on Sunday, April 25, 2004. He announced that the Berkeley High School pool has reopened. He expressed his support for the crosswalk on Allston Way for the safety of Berkeley High School students. Student Director Johnson appointed Ms. Yolanda Huang to the Facilities Safety and Maintenance Oversight Committee (SMOC).

Director Rivera announced that he has been re-elected to the CSBA (California School Boards Association) Delegate Assembly. He noted the number of Americans who are losing their lives in Iraq and that Government officials are talking about reinstating the draft.

Director Doran said he supports the crosswalk mid-block across Allston Way. In fact, the District has requested that the Milvia and Martin Luther King Jr. Way streets be closed at the time the students are off campus.

Vice President Riddle expressed her pleasure with the re-opening of the new pool at Berkeley High School. She said that yesterday's headlines confirmed what many Berkeley High School seniors already know, that the State of California has broken a forty year promise to accept all eligible applicants to the University of California system. Over 8,700 were turned away. There was also a marked decline in the acceptance of underrepresented minority students. Vice President Riddle said: "I have heard that Berkeley High School students applying to the University of California, Santa Cruz have been particularly hard hit. UCSC is historically one of our most popular choices. UCSC is the only university that had a significant increase in applications this year, and therefore, had a much higher percentage of rejections of eligible students. They rejected over 7,000 freshman and about half of those were eligible. Yesterday's headlines focused on the UC system but admissions to our state colleges have suffered a similar fate and the community college system is struggling under massive budget cuts."

"Last week I received a notice from Senator Don Perata's office about a series of 'town hall meetings' on this issue throughout the state. Unfortunately, the closest one is in San Jose and it's in the middle of our school day. I spoke at length yesterday with Amy Pierce-Costa, District Director for Senator Perata. They would very much like to receive written testimonials (e-mails are fine) from students who have been caught up in this mess. Class of 2004, your individual stories are powerful. I encourage you to bear witness. The Board would appreciate receiving your stories as well."

President Selawsky reported that he attended a Schools Library Conference on April 1 and 2, 2004, in Fresno. He plans to attend an Arts in Education Conference in Sacramento on May 20, 21, and 22, 2004.

### **CONSENT ITEMS**

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

That the Consent Items are approved as amended. The amendments are that item 3.2-C was tabled. Item 4.4-C was approved as corrected. The correction is on page 28, last paragraph. It now reads:

#### FINANCIAL IMPLICATIONS

Project will be funded from Measure BB Fund.

Item 3.1-A was voted on as a Consent Item.

- 1.1-C: Acceptance of Gifts/Donations
- 2-1-C: Acceptance of Personnel Report
- 3.1-C: Overnight Field Trips
- 3.2-C: Mural Project on the D Building at Berkeley High School

This item was tabled.

- 3.3-C: Overnight Travel Request for LEAF (Linking Education, Activity, and Food) Leadership Team
- 4.1-C: Approval of Contracts/Purchase Orders for Services and Contracts
- 4.2-C: Approve Listing of Warrants issued in March 2004
- 4.3-C: Approve Payroll Warrants issued in March 2004
- 4.4-C: Resolution 03-50: Award of the King Irrigation Repair and Placement
- 4.5-C: Resolution 03-52: Award of the Oxford Landscape Project
- 4.6-C: Liability Claims Submitted to the District

## **ACTION ITEMS**

### 1.1-A

#### Resolution Requesting the Berkeley City Council to include School Board Elections in any Public Financing Ballot Initiatives going to the Voters of Berkeley

Director Doran said the Berkeley City Council will soon discuss and vote on whether to place on the ballot an initiative to have public financing for City elections.

Motion: Directors Doran/Rivera and approved 4(1)-0-1-0 on voice vote:

Approval of the Resolution Requesting the Berkeley City Council to include School Board Elections in any Public Financing Ballot Initiatives going to the voters in Berkeley.

AYES: Directors Doran, Issel, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: Director Riddle

ABSENT: None

### 2.1-A

#### Resolution 03-51: Elimination of Specified Classified Positions

Superintendent Lawrence said due to reductions in revenues in categorical or restricted funds and the tenuous nature of State funding of several grants, several positions in the District will be reduced in hours or potentially eliminated if State funding does not materialize. She said despite the hardship this places on employees and the uncertainty of their future employment status, we, nevertheless, must guard against encroachments into the General Fund due to the loss of categorical dollars.

Director Rivera noted that these employees have 39-month re-hire rights.

2.1-A

Resolution 03-51: Elimination of Specified Classified Positions (continued)

Motion: Directors Rivera/Riddle and approved 5-0-(1)-0 on voice vote:

Approval of Resolution 03-51: Elimination of Specified Classified Positions for 2004-2005.

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

**AGENDA REORDER**

4.1-A

Budget Addendum to Financial Recovery Plan

Superintendent Lawrence presented the addendum to the third phase of the Financial Recovery Plan. She said the second interim report indicated an \$867,000 deficit for the 2004-2005 projected budget. In order to establish the conditions to request a “qualified” status at third interim and an approval budget for 2004-2005 fiscal year, additional one-time and ongoing reductions or enhancements to the General Fund need to be made.

Mr. Eric D. Smith, Deputy Superintendent, noted the following corrections to the Addendum to the Third Phase of Financial Recovery Plan:

Page 46: Item #5:  
The total is \$69,000 (one time)

Item #6:  
The total is \$29,000 (ongoing)

4.1-A

Budget Addendum to Financial Recovery Plan (continued)

Page 46: Item #8:

Director Issel acknowledged and thanked Mr. Peter Bloomsburgh, Director, Research and Evaluation, for obtaining \$321,809, a one time refund from the State Employment Development Department. The California Development Department (EDD) has notified us that we will be receiving a refund of overpaid taxes for the calendar years 1989, 1993, 1997 and 1999, respectively. We have filed the appropriate paperwork to have the funds released to us and are awaiting final approval from EDD.

Item #9:

The first sentence should read:

Transfer personnel expense to Title I – The process of enrolling students into the District Title I programs requires that District personnel spend time checking addresses and calling parents/guardians to ensure that students are properly enrolled.

Page 48: Item #6:

The item should read as follows:

Thirty-five (35%) percent of Senior Accountant who handles funds and accounting for AA shall be charged to AA Funds (\$25,000 ongoing)

Item #7:

\$36,000--(ongoing)

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

Approval of the Budget Addendum for the Third Phase of the Fiscal Recovery Plan.

4.2-A

Second Reading of Board Policy 3410: Audit Committee

President Selawsky requested said that when Board Policies are presented to the Board, the existing policies should also be included in the Board packet as part of the backup documents supporting the item. He also inquired as to whether or not this is Brown Act Committee. Superintendent Lawrence responded that yes, this is a Brown Act Committee.

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

To adopt, at Second Reading, Board Policy 3410: Audit Committee, as amended. The amendments are:

Page 50: STAFF RECOMMENDATION should read as follows:

Adopt, at Second Reading, Board Policy 3410: Audit Committee.

Page 52: Item #5 should read as follows:

Review with the independent auditors any significant transactions which are not a normal part of the District's findings, any changes in accounting principles and practices, all significant proposed audit adjustments, and any recommendations that they may have for improving internal controls, choice of accounting principles or management systems.

Page 52: Add the following as #8:

Engage in an exit interview with independent auditors who elect not to provide service to the District.

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

Adopt, at Second Reading, Board Policy 3410: Audit Committee, as amended.



## **INFORMATION**

### 4.1-I

#### Measure BB Financial Update

Superintendent Lawrence said this report is an update of the Maintenance Yearly Plan and BB expenditures from July 1, 2003 through March 31, 2004. Ms. Rhonda Bacot, Director of Maintenance, responded to questions and comments from the Board.

Director Issel requested an update regarding earthquake supplies. Superintendent Lawrence said next week she will be meeting with all parties involved and she will report back to the Board.

The Board received the Measure BB Financial Update for information.

### 4.2-I

#### Maintenance and BB Updates

Superintendent Lawrence said this report is the second update of the October 1, 2003 Board-approved Maintenance and Grounds Departments Measure BB Annual Plan.

Director Issel commended Ms. Rhonda Bacot, Director, Maintenance, on the Maintenance and BB report. She said it is a good report. Director Issel also commended Ms. Bacot on the positive improvements at the school sites since Ms. Bacot's tenure in the District.

The Board received the Maintenance and BB Update for information.

### 4.3-I

#### Handicapped Accessibility Quarterly Report

The Board received the report for information.

4.4-I  
Facilities Construction Plan Financial Update

Mr. Lew Jones, Director, Facilities Planning, said this report is an update of the Facilities Construction Plan approved by the Board on March 10, 2004. It includes all expenditures and income recorded as of April 5, 2004. Expenses recorded after that date are not included. Mr. Jones noted a correction on page 94 under TOTAL EXPENDITURES. That section now reads as follows:

The total expenditures have increased by \$84,767.

The Board received the report for information.

4.5-I  
Facilities Plan Update

The Board received the report for information.

**AGENDA REORDER**

1.1-CF  
BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite

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

That this be a discussion item.

Director Issel made the following statement:

Today we learned in the *Chronicle*, that 7,600 eligible students were turned away by the University of California. Why? We can't afford to educate them. I read about a Berkeley High School student with 1210 on her SAT's and a GPA of 3.9. And I learned that she was not unusual. That tells me more cuts are on the way from Sacramento.

Last night our Deputy Superintendent showed us budget projections that forecast continuing shortfalls; which means continuing cuts. And contrary to the views expressed by Barry Fike, I agree with Eric that the assumptions he used were highly optimistic.

1.1-CF

BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite (continued)

Director Issel's comments (continued)

Thanks to heroic efforts by this administration I now have a much higher level of confidence in the numbers we are using. I'm not worried any longer about fiscal stability and being taken over by the State. I worry about kids right now who feel the effects of high class size. And I worry about what happens next, when we have to cut Librarians, Counselors and Safety Officers; when we have to close after school programs, cut athletics, share principals and close schools. I do not want to go there.

It is clear to me that we cannot look to outsiders for help. We have to help ourselves. I think that's part of our job as Board members—to let our community know that we need their help. In fact, I think they already know it. It's in the newspaper every week.

It is, therefore, my position that we declare our intentions to move forward decisively and aggressively to place a parcel tax on the November 2004 ballot.

I am in favor of placing a parcel tax measure on the ballot in November of this year and because the calls for additional study and redesign of the measure are persuasive, I believe that a Bridge measure is in our best interest. We can meet urgent immediate needs while we undertake the important work of designing a measure to take us through the next ten years.

A bridge Measure will help us enhance or sustain funding in the following areas:

- a. class size reduction
- b. librarians, school safety officers, counselors
- c. music and athletics

1.1-CF

BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite (continued)

Director Issel's comments (continued)

Why go Bridge:

1. There are voices calling for changes in the design of the measure. This will require an extended and complex discussion.
2. The Superintendent has called for a holistic look at our budget as have the Unions. This cannot be accomplished by November.
3. There are concerns with the current governance model, especially at the site level. Some feel, as do I, that the BSEP site committees could be more effective if folded into a single school site governance committee. The governance model needs review. This is not a conversation that can be rushed.
4. New priorities have emerged such as proposals to fund school nurses, mentors and tutors, translation, parent support and more. These proposals deserve review.
5. Because the calls for additional study and redesign of the measure are persuasive, I believe that a Bridge Measure is in our best interests.

In conclusion, I am in favor of placing a parcel tax measure on the ballot in November of this year I the amount of 12 million dollars.

Director Rivera

I feel very strongly that we need to go out in November to the voters to ask for help in support of our schools. I think to wait is unacceptable to me. I am still open to discuss in terms of what the measure should be. I want to make sure that whatever we go out for passes and make sure that as we craft the new measure we should not forget some of the needs that other groups might have that traditionally do not come out to these types of forums.

1.1-CF

BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite (continued)

Director Doran read the following statement:

“We have been facing a crisis in this district of preserving equality education for our children for several years and people are really stepping up to the plate and seeing this as an opportunity to do things differently. I am requesting that the Superintendent make public, during a Board meeting, some of the ideas and concepts that were presented last night to the Planning & Oversight Committee. One of the major things is this idea of a bridge initiative, an initiative that we can take to the voters that is far much shorter period of time than the present measure or a full blown measure. Using that idea of a bridge by having some stabilized funding that is more than we presently have for that period of time gives this community time to breathe and deliberately look at how the integration of local and state funding impacts our community and what we may want for a longer term funding model for the future. I move for a November ballot measure. The concepts I would like to see incorporated in the measure are as follows:

- \* Provide more flexibility in the way money is spent over the time of this Bridge Measure for the next four years.
- \* Suggest that there be a change in the percentages that are in the present BSEP measure but with the knowledge that I would not suggest any decrease in present funding for any of the present things that we fund.
- \* Double what we currently have approximately \$20 million for the next four years.
- \* Class size: This may be used exclusively to pay for certificated, non-administrative staff (not classroom teachers and not just to lower class size). The purpose would be to lower class sizes and this would carve enough money to lower the class sizes to the goals that are put in the present measure but it would also include the ability to also use the money for counselors, early literacy teachers, release time teachers or other certificated staff—non administrative.
- \* Site-based school enrichment: Change to 8%. It would raise the same amount of money for this portion of the concept of allowing that kind of site-based engagement but it would also leave \$1.6 million for other programs.
- \* Music: Keep at 4%

1.1-CF

BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite (continued)

Director Terry S. Doran (continued)

- \* Classroom materials and support staff: Instead of the 12% presently I would make it 6% it would be same amount of money but it would release 6% for other things.
  
- \* Facilities and improvement: 4%

President John T. Selawsky:

We need to place this on the ballot in November 2004. I do not believe we need to go out for a Bridge. We should write a new measure for \$16 1/2 -20 million. My priorities are:

- \* Small class size
- \* Music and art
- \* Library and technology
- \* Professional development and staff training
- \* Public Information Officer
- \* Grant writer

Superintendent Lawrence:

The Board must determine what our voters will approve. She then distributed a one-page proposed BSEP Timeline and a two-page memorandum: Information about the timelines and costs for a survey about a tax measure on the November, 2004 ballot.

At 11 p.m. the Board took the following action:

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

To extend the Board of Education until 11:30 p.m.

Vice President Riddle

“Regarding the survey, I suggest that the Superintendent form a Superintendent Task Force/Committee and include one or two members from the Communication Committee that would help write the survey. I second the issue regarding athletics in the Bridge Measure in the flexibility category.”

1.1-CF

BSEP (Berkeley Schools Excellence Project) Renewal and/or rewrite (continued)

Director Joaquin J. Rivera

If we go for a Bridge Measure, I was thinking of having a Bridge Measure that would allow us to have a new election for the entire thing in March 2006. I think that if, for any reason, we fail in March 2006 in which we have a primary election then we can always go back in November 2006 with the new revised measure and regroup. I think strategic planning is a critical part but I do not want to string this along for a few more years. I want to have a tighter schedule.

Director Shirley Issel

“I am very intrigued by Director Riddle’s idea of two measures on the ballot that would allow us to extend the current BSEP and I also find Director Rivera’s proposal of going out in March 2006 has a lot of merit. But at this current time, I believe we need the strategic planning process and a longer extension of the current BSEP measure. So, I am favorably inclined to adjust the timeline to March 2006 which does give us a chance to regroup and go out again the following November. I would like the Superintendent’s committee to discuss this possibility.”

President Selawsky said he is not convinced that the Bridge Measure is the way to go.

Superintendent Lawrence

“I need to give directions to the survey firm. I will ask them to design the survey with some flexibility as to the amount of the measure. I applaud the Planning and Oversight Committee but it needs to be noted that they do not have the staff to think through the financial implications and the connections to all of these issues. It is very complicated so the more complex you make the measure, and the larger you make the measure, the more difficult it is to do the analysis to make certain that we safeguard our organization.”

3.1-I  
Monthly Enrollment and ADA reports

Director Rivera said projections higher than enrollment—historical perspectives.

The Board received the Monthly Enrollment and ADA reports for information.

**ADJOURNMENT**

President Selawsky declared the Regular Meeting of April 21, 2004, adjourned at 11:15 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