

MINUTES, REGULAR MEETING
Wednesday, February 18, 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 5:30 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 3549.1(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
- 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 7:23 p.m. President Selawsky reported that the Board discussed the following items in Closed Session.

c) Collective Bargaining

The Board discussed Collective Bargaining but no action was taken.

d) Public Employee Discipline/Dismissal/Release

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

In Closed Session, Pursuant to the requirements of Education Code Section 44929.21(b), the Board took action to non-reelect nine certificated employees—8.16 FTEs.

Approve Agenda

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

That the Regular Meeting Agenda of February 18, 2004, is approved as modified. The modification is that item 1.3-A, page 68 of the Board packet, section A now reads as follows:

That the following particular kinds of services be reduced or eliminated commencing the 2004-05 school year:

Counseling reduced by 7.0 FTE positions
Art teacher reduced by 1.0 FTE position
Vocational Education teacher—Good Food Café reduced by 1.0 FTE position
Administrator reduced by 1.0 FTE position

BUDGET REDUCTION COMMUNITY INPUT SESSION

Four speakers addressed the Board regarding the District's budget.

The Budget Reduction Community Input Session ended at 7:35 p.m. The Board took a five-minute recess and reconvened to Public Session at 7:40 p.m.

PUBLIC TESTIMONY

No one addressed the Board at this time.

REPORTS

Union Representatives' Reports

Ms. Ann Graybeal, President, Local 6192, Berkeley Council of Classified Employees, read a statement regarding the budget cuts and its impact on the Local 6192 membership.

Superintendent's Report

Superintendent Lawrence expressed sympathy to the family and friends of Nicholas (Nick) Sid Rotolo.

2X2 Committee Report

President Selawsky and Vice President Riddle reported on the City/District 2X2 Committee. President Selawsky said the Committee discussed the charge and authority of the Committee. He recommended a limit of three or four items for each agenda. Vice President Riddle said the enabling legislation for the 2X2 Committee did not establish a charge and that is probably the reason the Committee has not always been constructive or focused. She said the 2X2 members spent some time outlining five areas that will probably be in a mission statement or charge to the Committee. Individual Committee members are to bring back to the entire Committee suggested language to be used in the mission and charge. There was also some discussion on the differences in resources the City has vs. the District. The City has departments and commissions to follow up on projects whereas the District has limited resources. Therefore, it should be acknowledged that there is a difference in resources between the two government entities and even though a lot of the issues are important we do not have a lot of employees to do the work. The shelter issue came to us as a concept. During the heavy rains, more beds are needed and the City is investigating possible locations such as churches, city building and District buildings. The Committee members also discussed the Grand Opening of the Berkeley High School plans for opening of the new building. They had a brief discussion regarding the District's new BSEP (Berkeley Schools Excellence Project) process and the City's parcel and library special tax.

Board Members' Report

Student Director Johnson expressed condolences to the family and friends of Nicholas (Nick) Sid Rotolo. He urged the public to support the Berkeley High School *Jacket* newspaper. He reported that things are going good at Berkeley High School. Student Director Johnson said he supports Proposition A and urged everyone to vote for it. He said he opposes Proposition 57 and urged everyone to vote "no" on Proposition 57.

Director Rivera said the reason he did not attend the February 4, 2004 Board of Education Meeting was because he was in Washington, D. C. He was appointed by the President of the California School Boards Association (CSBA), to the Federal Issues Council. The Federal Issues Council is a 12-Member Board, composed of representatives throughout the State who were selected to go to Washington, D.C. to talk to officials from President Bush's administration and Congress on issues that affect California children. Director Rivera said it was a very interesting and enlightening trip. They discussed issues such as the *No Child Left Behind Act*, which has been a big issue throughout this country. Director Rivera said even though he did not attend the last Board Meeting, he supports the new desegregation plan that this Board approved. He said: "I am very proud of the action taken by this Board. If I had been here I would have supported the plan. I want the community to know that I was 100% behind the plan and I think it was the right thing to do and I think it will take us a step further toward making sure that our schools will remain desegregated."

Vice President Riddle said she attended the PTSA meeting last night which celebrated African American History Month. She expressed sympathy to the Rotolo and Stevenson families. She announced that there will be a Berkeley High School student production of the *Vagina Monologues*, which will be held Friday, at 8 p.m., in the Florence Schimley Little Theater. The production is directed by Joanna Lee, a Berkeley High School senior. It is a benefit for BAWAR (Bay Area Women Against Rape).

Director Selawsky expressed Board and staff sympathy to the Rotolo and Stevenson families. He announced that the Grand Opening of the Berkeley High School new building will be held on Sunday, April 25, 2004, 1-5 p.m. He welcomed back Director Rivera. President Selawsky said Director Issel distributed some information to the Board regarding the *No Child Left Behind Legislation*. According to this information, \$1.4 billion was the estimated cost to implement the *No child Left Behind Act* Legislation in the State of Utah.

CONSENT ITEMS

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

That the Consent Items are approved as submitted.

- 1.1-C: Acceptance of Gifts/Donations
- 1.2-C: Proclamation Declaring February 2004 African American History Month
- 1.3-C: 2004 CSBA Delegate Assembly Election Ballot
- 2.1-C: Acceptance of Personnel Report
- 2.2-C: Professional Growth Advisory Assignment
- 3.1-C: Overnight Field Trip Requests
- 3.2-C: Approve the Workforce Investment Act, Title II: Adult Education and Family Literacy Act, Section 225/231 Grant
- 3.3-C: Resolution 03-33: Allocation for instructional materials and supplies for the Child Development Program
- 3.4-C: Resolution 03-34: State Preschool Contract Amendment
- 4.1-C: Approval of Contracts/Purchase Orders for Services and Contracts
- 4.2-C: Approve Listing of Warrants issued in January 2004
- 4.3-C: Approve Payroll Warrants Issued in January 2004
- 4.4-C: Resolution 03-36: Emergency Approval of Remediation Work at Malcolm X School due to flooding

President Selawsky noted that as part of the Consent Items, the Board approved the Proclamation Declaring February 2004 as African American History Month.

ACTION ITEMS

1.1-A

Third Phase of the Financial Recovery Plan

Superintendent Lawrence said on page 45, the amount should be 3.24 million dollars. She said the plan is very similar to the plan that was presented to the Board at the last Board Meeting with the exception of modifications made relative to the unfunded liability management study under Measure AA funds; the funding sources for the high school vice principal, our middle school librarians, and further study on the Vera Casey Center. Superintendent Lawrence said we have had four public hearings for the community to give us input regarding the recovery plan. She said the approval of this recovery plan is based on the assumption that the Board is declaring a fiscal emergency. The action to approve the recovery plan is simultaneously taking action to declare a fiscal emergency which is tied to our BSEP measure and a recommendation of the Board to sustain the class sizes at their present level. Deputy Superintendent Eric D. Smith indicated that there remained outstanding issues with retiree benefits and special education that could impact the current year's budget.

Director Rivera inquired about the accountability and authorization for overtime. He requested that staff provide an update to the Board regarding overtime. He further requested clarification regarding the improvement of the Payroll System and the difference between what is currently in place and what is proposed in the Recovery Plan.

Student Director Johnson asked if there is a State law that requires an ASB (Associate Student Body) technician position to be funded out of the ASB funds or can it be done by outsourcing.

Mr. Eric D. Smith, Deputy Superintendent, responded that regarding the ASB accountant/bookkeeper position the industry standard across California is to have ASB pay for that position. If it is outsourced, the position/functions would be subject to District controls. Any kind of fund-raising that is done under the auspices of the District would have to meet our District's criteria. If the function is outsourced, it would still be under the auspices of the District.

Student Director Johnson requested that staff bring back to the Board, during the June assessment of the budget, a plan for how we are going to deal with the Associated Student Body Fund.

ACTION ITEMS (continued)

1.1-A
Third Phase of the Financial Recovery Plan (continued)

Director Issel said because she shares Student Director Johnson's concerns, she would like to amend the motion as follows:

The Board would like significant adverse consequences that have unanticipated effects that are harmful to students to be brought back to the Board for reconsideration.

Superintendent Lawrence said if there is some unanticipated effects that are harmful to students in this District because of recommendations that we have made, the Board has the commitment that staff will bring those items back to the Board for their review. She said this is a legal mandate and her personal commitment.

Director Rivera wanted to know, based on the Financial Recovery Plan, what the financial consequences would be to the ASB accounts.

Director Doran reiterated that this is the end of a three-year recovery plan. We have tremendous savings in health and welfare benefits. We are not raising class sizes. We are not releasing any teachers in order to increase class sizes and save money. The teachers who are being released are determined by a decline in enrollment. We are not decreasing librarians at the middle school. We are shifting the funding of the middle school librarians. Director Doran reminded staff to bring back to the Board recommendations for the use of the Hillside site and the Berkeley High School tennis courts for possible revenue for the District.

Deputy Superintendent Eric D. Smith said per the Board's request we brought the items related to Measure BB that are contained in the Financial Recovery Plan to the Facilities Safety and Maintenance Oversight Committee which met last night. The Committee members discussed separate items that relate to the use of BB in the Financial Recovery Plan:

1. Pay 5% differential to custodians to perform maintenance work.
2. The supervision of the maintenance personnel at the High School, carried out by the Vice Principal. An allocation of 37% (\$3700).
3. A proposal to move the communication technician back into Measure BB where it was previously funded a few years ago at a net cost of \$76,000.
4. The proposal that Measure BB funds be used to pay for a proportionate share of the FCMAT comprehensive assessment at \$25,000.

ACTION ITEMS (continued)

1.1-A

Third Phase of the Financial Recovery Plan (continued)

The Facilities Safety and Maintenance Oversight Committee supported all of the items.

President Selawsky said his main concern is the Vera Casey Program. It was one of the first programs of its kind in the United States. He wanted to know what will happen to our teen parents if that program closes entirely. He expressed concern that those students will drop out of high school. Also, the District will lose Average Daily Attendance (ADA). He reminded the Board that if the Board passes the Recovery Plan tonight, which includes elimination of the Vera Casey Center, the CalSafe Grant deadline is in March. President Selawsky recommended that the Vera Casey Center item be separated out from the Financial Recovery Plan and acted on in two weeks. He also said he has concerns regarding voting for the fiscal emergency as part of the Financial Recovery Plan. He recommended that the fiscal emergency item be pulled out and voted on as a separate item. Vice President Riddle stated that she could not vote for the recovery plan without more detailed information on the underlying assumptions leading to the class size item.

Motion: Directors Doran/Rivera and approved unanimously on Roll Call vote:

To declare a fiscal emergency.

Motion: Directors Doran/Rivera and approved 3(1)-1-1-0 on Roll Call vote:

Approval of the Third Phase of the Financial Recovery Plan and that the Board would like significant adverse consequences that have unanticipated affects that are harmful to students will be brought back to the Board for reconsideration.

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

NOES: Director Selawsky

ABSTAIN: Director Riddle

ABSENT: None

1.2-A

Resolution 03-31: Elimination of Specified Classified Positions

Superintendent Lawrence explained this item.

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

Approval of Resolution 03-31.

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

1.3-A

Resolution 03-37: Reducing Particular Kinds of Services

Superintendent Lawrence recommended that this Resolution be approved as modified. The modification is in section A which now reads as follows:

That the following particular kinds of services be reduced or eliminated commencing the 2004-05 school year:

- Counseling reduced by 7.0 FTE positions
- Art teacher reduced by 1.0 FTE position
- Vocational Education teacher—Good Food Café reduced by 1.0 FTE position
- Administrator reduced by 1.0 FTE position

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

Approval of Resolution 03-37 as modified.

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

CONFERENCE

1.1-CF

Adopt, at First Reading, the Berkeley Unified School District Facilities Safety and Maintenance Oversight Committee Bylaws

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

That this item be moved to Action.

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

The Adoption, at First Reading, the Berkeley Unified School District Facilities Safety and Maintenance Oversight Committee Bylaws, as amended. The amendments are as follows:

On page 74, #4 now reads:

4. Election of Chairperson. As defined by School Board Policy 9130.5, unless otherwise acted upon by the Board, the Committee shall appoint a chairperson. The chairperson shall be elected by majority vote for a term coinciding with the appointment year. The chairperson shall be an appointed member of the Committee, a Berkeley resident and non-employee of the District.

On page 75, under Amendment of Bylaws, now reads:

Facilities Safety and Maintenance Oversight Committee Bylaws may be amended by a majority vote of either the Board or the Committee members. Notice of proposed amendments to the Bylaws shall be included for discussion on the agenda of the meeting just prior to the meeting in which these amendments will be voted. Amendments approved by the Committee will then be submitted for approval to the Board of Education. No amendment to the Bylaws will take effect until approved by the Board.

Vice President Riddle suggested that at the Board's annual organizational meeting, bylaw changes for the various committees be brought forward for review and approval.

CONFERENCE

1.1-CF

Adopt, at First Reading, the Berkeley Unified School District Facilities Safety and Maintenance Oversight Committee (continued)

Director Issel noted that in the charge to the Facilities Safety and Maintenance Oversight Committee, the audit part was not included and it needs to be revised to include the audit. In addition, Director Issel suggested that the Quorum section to the other committees be changed to be consistent with the Quorum section of the Facilities Safety and Maintenance Oversight Committee's.

Director Rivera expressed concern that these bylaws are not aligned with the Committee's Master Policy.

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

INFORMATION

3.1-I

Monthly Enrollment and ADA report

Director Rivera requested that staff share this information with the principals. He also asked staff to provide the Board with comparative enrollment and ADA data with current and previous years.

4.1-I

Maintenance and BB Update

Superintendent Lawrence said this report is the first update of the October 1, 2003 Board-approved Maintenance and Grounds Department Measure BB Annual Plan. Superintendent Lawrence and Ms. Rhonda Bacot, Director, Maintenance, responded to Board questions and comments.

4.2-I

Measure BB Financial Update

Superintendent Lawrence said this is an update of the Maintenance Yearly Plan and BB expenditures from July 1, 2003 through January 31, 2004. Expenses recorded after this date is not included. This report does not detail encumbered (obligated) expenses separately from other planned expenses. Superintendent Lawrence and Ms. Rhonda Bacot, Maintenance, responded to questions and comments from the Board.

At 10:55 p.m., the Board recessed to Closed Session. The Board returned to Public Session at 11:15 p.m. President Selawsky said there was nothing to report from Closed Session.

ADJOURNMENT

President Selawsky declared the Regular Meeting of February 18, 2004, adjourned at 11:15 p.m.

APPROVED:

ATTEST:

President, Board of Education
Berkeley Unified School District

Secretary, Board of Education
Berkeley Unified School District

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