

Wednesday, May 5, 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 6:10 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) Liability Claims
- f) Property Acquisition

*The Student Director does not attend Closed Session.

Report Closed Session Action

The Board reconvened in Public Session at 8:00 p.m. President Selawsky reported that the Board discussed the following items in Closed Session:

d) Public Employee Discipline/Dismissal/Release

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

That a three-day suspension without pay be imposed on a classified employee, Pursuant to Education Code Section 45302.

The Board also heard a certificated grievance. President Selawsky said a written decision will be forthcoming.

Approve Agenda

Directors Rivera/Riddle and approved unanimously on voice vote:

That the Regular Meeting Agenda of May 5, 2004 is approved as amended. The amendments are as follows:

Item 1.3-C: Resolution Honoring the 20th Anniversary of Domestic Partners, is revised. The second paragraph now reads as follows:

“WHEREAS, the concept of Domestic Partners benefits for Lesbian and Gay couples and the term “Domestic Partners” was originally thought of by Tom Brougham, a city of Berkeley employee whose five-year struggle for equality resulted in the creation of the Domestic Partners Task Force of the city of Berkeley’s Human Relations and Welfare Commission which, with the help of pro bono attorney Matt Coles, authored the policy; and...”

Item 2.2-C: Reinstate Computer Operator position from .67 to 1.0 FTE, was pulled for further consideration.

Item 3.3-C: Small Learning Communities Grant for Berkeley High School, was tabled.

Item. 1.2-C: Resolution Honoring The 50th Anniversary of the Landmark case of *Brown v. Board of Education*, was pulled so that special attention could be devoted to this landmark case.

Approval of Minutes

Approval of the Board of Education Minutes of March 24, 2004, April 14 and 21, 2004.

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

That the Minutes of March 24, 2004; April 14, 2004 and April 21, 2004, are approved.

PUBLIC TESTIMONY

Two speakers addressed the Board.

REPORTS

Union Representatives' Reports

Ms. Stephanie Allan, Business Representative, International Union of Operating Engineers, Local 39, addressed the Board regarding the proposed new BSEP (Berkeley Schools Excellence Project) measure.

BSEP Planning and Oversight Committee Report

Ms. Susan Henderson and Mr. Dan Lindheim, Co-Chairs, Berkeley Schools Excellence Project Planning and Oversight Committee, read a prepared three-page memorandum regarding the Special Tax Measure. Mr. Lindheim said after considering a wide range of alternatives, from short-term bridge measures to full-blown rewrites for the original BSEP measure, the P&O recommends:

1. Support for the Superintendent's proposal to conduct an eighteen-month district-wide planning process with the objective of developing a plan for maximizing student achievement to take to the voters in 2006 as part of the BSEP renewal process.
2. Placing a two-year special tax measure on the November 2004 ballot with the following minimum provisions:
 - (a) Reduce class sizes to 20:1 @ K-3, 26:1 @ 4-6, 28:1 @ 7-12, and maintain the current ten "enhancement" FTEs at the middle and high school (\$3.1 to \$3.99 million)

REPORTS (continued)

BSEP Planning and Oversight Committee Report (continued)

Planning and Oversight recommendations (continued)

Mr. Lindheim said “we estimate that this would require an increase of approximately 31 to 40 FTEs at a cost of \$3.1 to \$3.99 million. The variation depends on enrollment assumptions for FY06 and FY07. This estimate explicitly assumes the continuation of the \$2.0+million in K-3 state class size reduction monies. If these were to disappear, there would be an additional cost to BUSD of this amount.

- (b) Support the objective of the BSEP Music Committee’s recommendation for improving music instruction (\$970,000 addition to current BSEP contribution of approximately \$400,000).

This proposal would:

- Increase repairs and supplies by \$25,000
- Restore middle school Band and Orchestra to five days a week
- Restore teacher at 4th grade and fund additional teacher at 4-5 grades, students choose between band, Orchestra, Music Literacy and Chorus
- Fully fund coordinator and Music library tech.
- Fund one section of Chorus at each middle school
- Fund one section of Dance or Theatre/Drama at each middle school
- Fund sixth grade Band at each middle school
- Fund K-3 grade Music once a week district-wide

- (c) Support the objectives set forth by *The Friends of BUSD Libraries*. (\$1.3 million incremental funding to the current \$490,000):

This includes funds to provide the following:

Elementary School Libraries:

- a. Half-time Library Media Teacher
- b. Increase of Library Media Technician time to .80 FTE from .40 FTE

Middle School Libraries

- Full-time Library Media Teacher
- Half-time Library Media Technician

REPORTS (continued)

BSEP Planning and Oversight Committee Report (continued)

Berkeley High School

- Add one full-time Library Media Teacher (for a total of two Library Media Teachers)
- Add 1.5 FTE Library Media Technicians

Berkeley Alternative High School and Independent Study

- Half-time Library Media Teacher
- Half-time Library Media Technician

(d) Include funds to provide translation, interpreters and outreach to ensure access to all families (\$100,000 estimate)

(e) Provide funds for the District to conduct research and evaluation of its programs during its eighteen-month planning. (Cost TBD)

“The total cost of the measure depends on the precise costing of each program plus the cost of indirect and direct support costs, which might be applied to each program.

“A two-year bridge measure means that both BSEP and the bridge measure will expire at the end of FY07. This will necessitate voter approval for a new comprehensive measure in November 2006.

“The P&O believes strongly that the Board must make it clear to the community on our intention to move forward on a 2006 measure when considering its support for the measure proposed for 2004.

“P&O support for a two-year bridge measure was strongly influenced by the Superintendent’s argument of the need for a wide-ranging community discussion and planning process and the need for the results of that process to be incorporated into the new measure. The P&O also agreed that the community momentum resulting from that discussion and process would be an important factor in moving forward in 2006.

“The P&O also strongly urges the Board to make sure it provides sufficient funding to comply with the terms of the new measure, as well as the BSEP measure.

REPORTS (continued)

BSEP Planning and Oversight Committee Report (continued)

BSEP recommendation (continued)

“In addition, the Committee strongly recommends that the Board refrain from calling a fiscal emergency as described under the BSEP measure during the tenure of this measure. To do so would undermine the credibility of the District to manage its resources effectively, resulting in a skeptical electorate in 2006.”

CONSENT ITEMS

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

That the Consent Items are approved as amended. The amendments are: Item 1.3-C is revised; Item 2.2-C is pulled for further clarification; Item 3.3-C is tabled.

1.1-C: Acceptance of Gifts/Donations

1.2-C: Resolution Honoring The 50th Anniversary of the Landmark case of *Brown v. Board of Education*

Student Director Johnson and Director Rivera noted this monumental event.

1-3-C: Resolution Honoring the 20th Anniversary of Domestic Partners

Director Rivera noted a correction in the second paragraph which now reads as follows:

WHEREAS, the concept of Domestic Partners benefits for Lesbian and Gay couples and the term “Domestic Partners” was originally thought of by Tom Brougham, a city of Berkeley employee whose five-year struggle for equality resulted in the creation of the Domestic Partners Task Force of the city of Berkeley’s Human Relations and Welfare Commission which, with the help of pro bono attorney Matt Coles, authored the policy; and...”

CONSENT ITEMS (continued)

- 1.4-C: Resolution for “Cover the Uninsured Week”
- 2.1-C: Acceptance of Personnel Report
- 2.2-C: Reinstate Computer Operator position from .67 to 1.0 FTE

See page 14 of these minutes for action on this item.

- 2.3-C: Approval of CalSTRS Waivers for two people placed in hard-to-fill teaching positions
- 2.4-C: Approval of 2004-2005 Calendars: K-12, Adult School, and Early Childhood Education
- 3.1-C: Overnight Travel Requests
- 3.2-C: Second Reading of Board Policies
- 3.3-C: Small Learning Communities Grant for Berkeley High School

This item was tabled.

- 3.4-C: New Non-public School Placements
- 3.5-C: Art Project – Berkeley High School
- 3.6-C: Community-Based English Tutoring (CBET) Program
- 3.7-C: 2004-2005 Designation of California Interscholastic Federation (CIF) Representatives to the League
- 4.1-C: Approval of Contracts/Purchase Orders for Services and Contracts
- 4.2-C: Resolution 03-53: Authorization to Accept the Berkeley High School New Building Project
- 4.3-C: Rescission of Board Policy 3301: Budget Amendments

AGENDA REORDER

CONFERENCE

1.1-CF
Discussion and direction for a tax measure

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

To designate this item as a discussion item.

CONFERENCE (continued)

1.1-CF

Discussion and direction for a tax measure (continued)

Superintendent Lawrence made opening comments and then deferred to Mr. Neil Smith, Director, Curriculum and Instruction; Mr. Jason Lustig, Principal, Cragmont Elementary School; Ms. Suzanne McCulloch, Coordinator, Visual & Performing Arts; and Ms. Janet Levenson, Teacher on Special Assignment, Technology, who gave their perceptions and support for a two-year bridge measure. Mr. Smith said: "The idea of the two-year measure is important because it gives us an impetus to really look at setting priorities for the District and looking at funding District-wide to support what we list as our priorities. The items we see as being most important for the bridge measure are: Class Size; Professional Development for our teachers; Libraries; the Music Program; and Parent Liaison for outreach." Mr. Jason Lustig said: "The idea of a bridge measure is very attractive to me because I feel it provides the District with what it needs and it honors a responsible relationship with the community."

Vice President Riddle:

Vice President Riddle said: "We need to be really clear on what we need to do for the next two years and sell the measure on its merits. The language of the measure should clearly reflect our expectations."

Director Terry S. Doran

Director Doran noted the BFT (Berkeley Federation of Teachers) Executive Officers Committee's positions in relation to options that the Board of Education is currently considering. For the record, the BFT recommendations are listed below:

1. The BFT Executive Officers will recommend to the BFT Executive Board that the Berkeley Federation of Teachers officially support, publicly and financially, a fully rewritten, reauthorized BSEP measure provided that the measure is written in such a way as to ensure that the BUSD General Fund pays for class size at the standard ratios of 35 to 1, secondary; and 32 to 1, elementary. In this way, BSEP class size reduction dollars would, as intended, reduce class sizes in Berkeley schools well below the statewide standard.

CONFERENCE (continued)

1.1-CF

Discussion and direction for a tax measure (continued)

2. The BFT Executive Officers will recommend to the BFT Executive Board that the Berkeley Federation of Teachers officially support, publicly and financially, a temporary “bridge” BSEP measure provided that the measure is no more than a two-year emergency measure and provided that the measure ensures class size levels significantly below the statewide standard of 35 to 1 secondary; and 32 to 1 elementary.

Director Doran said he supports the Bridge Measure and is committed to the process outlined in the development of a re-authorization for the long-term. However, based on the information given to the Board, is it the intent of the suggestions presented, particularly regarding class sizes, that if this were to go forward and pass, there should be enough money so that given the District being in the same financial situation as it is today, with a balanced budget, after declaring a fiscal emergency, that we could meet these goals without declaring a fiscal emergency? In other words, are we designing a Bridge Measure that will supplement the present BSEP measure so that the General Fund will not have to pay for more teachers?

Superintendent Lawrence said the Bridge Measure is based on the premise that the existing BSEP dollars coupled with the Bridge Measure could get us down to these numbers using those funds and the General Fund.

Director Joaquin J. Rivera

Director Rivera said he would like to see if we can expedite our master plan developing process and instead of targeting November 2006 for a full rewrite of the new BSEP Measure to see if we can go March 2006 in case something happens. He said he is very pleased that the parent outreach and translation items are on the priority listed.

President John T. Selawsky

President Selawsky said he likes the list of priorities presented by the Superintendent and the Planning and Oversight Committee. He said, however, the idea of two campaigns so closely together do not appeal to him but that he will defer to the collective wisdom of those who believe it is a good idea.

CONFERENCE (continued)

1.1-CF

Discussion and direction for a tax measure (continued)

Director Shirley Issel

Director Issel said: "I do not have any disagreements with what has been said. My concerns are regarding the BSEP recommendation of \$100,000 earmarked for Parent Access. This would enhance our Public Information function and would allow us to do translation and information programs but it would not give us the ability to do a lot of outreach." Director Issel said it is important to recognize that when we are doing work with parents that there is a broad range of services that we are going to need from education, home visits, support for student study teams and the ability to both translate and do outreach for all of our students. For parent outreach to work there needs to be someone overseeing the office of parent outreach who can coordinate, address our outreach workers, and set a professional vision.

Superintendent Lawrence said we need to be able to communicate information about the proposed measure to the public and make certain that the language is clear.

INFORMATION

3.1-I

Presentation regarding Small School Progress Report

Please see Item 3.2-I. Items 3.1-I and 3.2-I were discussed together.

INFORMATION (continued)

3.2-I

Presentation regarding Communication, Arts and Science (CAS) Progress Report and Future Course of Action

Superintendent Lawrence made opening comments and then deferred to Berkeley High School representatives: Mr. Jim Slemm, Principal, Berkeley High School; Mr. Matt Huxley, Vice Principal, Berkeley High School; and Mr. Rick Ayres, English Department/CAS Head.

Mr. Jim Slemm reviewed the history of CAS and the Small School Program. He said that Communication, Arts, and Sciences (CAS) was approved as Berkeley High School's first small school on September 7, 2003. As part of the approval process, the CAS Leadership Team agreed to make an annual presentation to update the Board on its progress as well as provide its action plan for the upcoming years.

Mr. Matt Huxley made a CAS Data slide presentation. He said despite some successes in student achievement, CAS students outperformed students from the large school in almost all of the categories that were measured. However, there is still a lot of work to be done regarding eliminating the achievement gap, which CAS teachers will continue to focus on this summer using a data cycle of inquiry. He said although the data is not conclusive, it provides us with baseline data; and it provides us with questions to explore more deeply. It also helps us make data-informed decisions so that we can continually assess how our program is meeting student (and the rest of our community) needs and it allows for CAS to be accountable to the larger Berkeley High School community. Some of the areas that Mr. Huxley reviewed included: attendance at CAS and the large school; the large school & CAS School Demographics; CAS mean GPA by ethnicity; the large school mean GPA by ethnicity; CAS students below 2.0 GPA by ethnicity; the large school students below 2.0 GPA by ethnicity; and CAS CST English-Language scores by ethnicity. CAS is in the process of creating more data measures including a student, staff, and parent perception survey in order to identify areas of strength and areas in which to focus on.

Mr. Rick Ayres, English Department/CAS Head, read the Communication, Arts, and Sciences Small School's Vision Statement, which includes the following excerpt:

INFORMATION (continued)

3.2-I

Presentation regarding Communication, Arts and Science (CAS) Progress Report and Future Course of Action (continued)

“We believe that choice is essential for this community, that students should be in the small school because they want to and should be free to leave it if their goals and interests change. And we also believe that students should be held accountable to a contract that defines their commitment to the small school and their willingness to complete projects and portfolios at the end of each year.”

Mr. Ayres said the CAS media program is the top in the country.

Ms. Kalima Rose, CAS parent, reported on the Leadership Council, student involvement and major decisions made by the Council.

3.1-A

BayCES Reform Agreement

Mr. Jim Slempp, Principal, Berkeley High School, introduced Mr. Victor Carey, BayCES, who has been working with the staff at Berkeley High School. Mr. Slempp explained what has been happening between BayCES and Berkeley High School. He said in 2003 the BUSD Small Schools Advisory Committee completed its deliberation and drafted a Small Schools Policy. In the course of its work, the Task Force submitted the policy to BayCES for review and feedback. BayCES applauded the progress and because of their experience in creating more than twenty small schools in the Bay Area, provided valuable feedback. BayCES agreed to provide some support for developing small schools at Berkeley High School during the 2003-2004 school years. This agreement was a verbal, “good faith” arrangement to support the Board’s mandate to transform at least 50% of Berkeley High School from a large comprehensive high school into small schools co-located on the Berkeley campus.

Mr. Slempp and Mr. Carey responded to comments and questions from the Board.

Director Issel requested a copy of the Memorandum of Understanding between the District and BayCES.

At 11:05 p.m., the Board took the following action:

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

To extend the meeting until completion.

3.1-A
BayCES Reform Agreement (continued)

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

Approval of the partnership agreements between BayCES and Berkeley Unified School District.

AGENDA REORDER

Board Members' Reports

Vice President Riddle congratulated staff on a successful Berkeley High School Open House. Director Doran also congratulated staff on a "fantastic" Berkeley High School Open House. President Selawsky congratulated the principals and staff at John Muir and Emerson elementary schools for receiving the Honorable Mention Award for 2004 under the California Schools Recognition Program. He announced that May 12, 2004 is *Day of the Teacher*.

Superintendent's Report

Superintendent Lawrence thanked staff for a successful Berkeley High School Open House. She noted that tonight is Mr. Eric D. Smith's, Deputy Superintendent, last board meeting. Superintendent Lawrence thanked Mr. Smith for his tenure in the District. She gave an update regarding the chickenpox situation at the Berkeley Arts Magnet Elementary School.

AGENDA REORDER

2.2-C

Reinstate Computer Operator position from .67 to 1.0 FTE

Director Rivera explained why he cannot support this recommendation and said staff's rationale is not clear to him.

Motion: Directors Doran/Riddle and approved 3-1-1(1)-0 on voice vote:

Approval of the reinstatement of the Computer Operator position from .67 to 1.0 FTE.

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

1.1-A

Resolution for Expanded, Multi-Purpose Playing Field on the Derby Street Property

Vice President Riddle inquired about the timeframe and funds for the project.

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

Approval of Resolution for Expanded, Multi-purpose Playing Field on the Derby Street Property.

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

1.2-A

Resolution Opposing the permit application of the Berkeley Community Resource Center at 2880 Sacramento Street, Berkeley, California

Director Doran presented an amendment to the Resolution.

President Selawsky said he has some reservations about this resolution. He said this is over 1000 feet away from our school. President Selawsky said this is clearly a neighborhood and permit issue.

Motion: Directors Issel/Riddle and approved 3(1)-0-2-0 on voice vote:

Approval of the Resolution opposing the permit application of the Berkeley Community Resource Center at 2880 Sacramento Street, Berkeley, California, as amended. The amended resolution now reads as follows:

WHEREAS, the services of the Berkeley Community Resource Center, which is an umbrella organization for the Berkeley Cannabis Buyers Collective, a needle exchange program, and a sex workers outreach organization, serves a unique community of adults; and

WHEREAS, it has come to the attention of the Berkeley Board of Education that the Berkeley Community Resource Center is applying for a permit to locate its place of business at 2880 Sacramento Street, at the corner of Russell Street and Sacramento Street; and

WHEREAS, the campus of Longfellow Middle School, with a population of 475 students ages 11 through 14, is in close proximity (three city blocks or 1100 feet from the School); and

WHEREAS, many of the students of Longfellow Middle School cross this site either when walking to or from home, to and from the bus stop, or to and from San Pablo Park where some school activities are held; and

1.2-A

Resolution Opposing the Permit Application of the Berkeley Community Resource Center at 2880 Sacramento Street, Berkeley, California (continued)

WHEREAS, a use and occupancy permit of the Berkeley Community Resource Center at 2880 Sacramento Street would, in the opinion of the Berkeley Board of Education, constitute poor public planning on the part of the City because this unique organization and the people it serves would be inappropriate so close to a public school.

THEREFORE, BE IT RESOLVED, that the Berkeley Board of Education publicly opposes the use and occupancy permit of the Berkeley Community Resource Center at 2880 Sacramento Street, Berkeley; and further authorizes and directs the Superintendent's office to send copies of this resolution to the Berkeley Permit Department, the Berkeley City Council, and the Berkeley City Manager's office.

PASSED AND ADOPTED this 5th day of May, 2004.

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

AGENDA REORDER

1.2-CF

First Reading of Controversial Issues Policy BP6144 and Administrative Regulation AR6144

Director Doran asked for a summary of what the current practice is at Berkeley High School regarding controversial issues. He requested that a copy of this proposed Policy and Administrative Regulation be sent to the Berkeley High School Shared Governance Committee for their input.

Superintendent Lawrence said middle school principals have provided their input.

AGENDA REORDER

1.2-CF

First Reading of Controversial Issues Policy BP 6144 and Administrative Regulation AR 6144 (continued)

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

Approval, at First Reading, Controversial Issues Policy BP 6144 and Administrative Regulation AR 6144, as amended. The amendments are as follows:

The first paragraph now reads as follows:

The Governing Board believes that students should have opportunities to discuss controversial issues which have political, religious, social, historical, or economic significance and which the students are mature enough to investigate and address. The study of a controversial issue should help students learn how to gather and organize pertinent facts, discriminate between fact and fiction, draw intelligent conclusions and respect the opinions of others.

The fourth paragraph now reads as follows:

The Board also expects teachers to ensure that all sides of a controversial issue are impartially presented, with adequate and appropriate factual information. Without promoting any political, religious, social, historical, or economic point of view, the teacher should help students separate fact from opinion and warn them against drawing conclusions from insufficient data.

The fifth paragraph now reads as follows:

The teacher may not use his/her position to forward his/her own historical, religious, political, economic or social bias. The teacher may express a personal opinion if he/she identifies it as such and does not express the opinion for the purpose of persuading students to his/her point of view. The teacher shall not suppress any student's view on the issue as long as its expression is not malicious or abusive toward others.

1.2-CF

First Reading of Controversial Issues Policy BP 6144 and Administrative Regulation AR 6144 (continued)

The sixth paragraph now reads as follows:

Teachers should sponsor guest speakers not to proselytize, but educate students regarding controversial issues. Teachers sponsoring guest speakers shall either ask them not to use their position or influence on students to forward their own religious, historical, political, economic or social views or shall take active steps to identify or neutralize whatever bias has been presented by countering arguments or bringing in a speaker with an opposing point of view.

1.3-CF

Second Reading of Revision to Board Policy on Public Art in/on Buildings: Board Policy 7120

Director Doran explained the proposed revisions to the Board Policy on Public Art in/on Buildings: Board Policy 7120.

Motion: Directors Doran/Selawsky and defeated 2-3(1)-0-0 on voice vote:

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

At 12:40 a.m., the Board recessed to Closed Session. The Board reconvened in Public Session at 1:05 a.m. President Selawsky stated that there was nothing to report from Closed Session.

ADJOURNMENT

President Selawsky declared the Regular Meeting of May 5, 2004, adjourned on Thursday, May 6, 2004 at 1:05 a.m.

APPROVED:

ATTEST:

President, Board of Education
Berkeley Unified School District
qeg

Secretary, Board of Education
Berkeley Unified School District