

**ADOPTED MINUTES**

MINUTES, REGULAR MEETING  
Wednesday, April 06, 2005  
District Administrative Offices  
2134 Martin Luther King Jr. Way  
Berkeley, CA 94704-1180

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**CALL TO ORDER**

Vice President Terry Doran called the meeting to order at 5:30 p.m. and the Board recessed to Closed Session.

**ROLL CALL**

**MEMBERS PRESENT:** President Nancy Riddle  
Vice President Terry Doran  
Director John T. Selawsky  
Director Shirley Issel  
Director Joaquin J. Rivera  
Student Director Lily Dorman-Colby\*

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 49819(c))

- Conference with Legal Counsel – Existing Litigation
- Consideration of Student Expulsion  
Case no. 0405-2  
Case no. 0405-3
- Collective Bargaining
- Public Employee Discipline/Dismissal/Release
- Public Employment Appointment
- Liability Claims
- Property Acquisition

**Reconvene in Public Session**

The Board reconvened in Public Session at 7:40 pm.

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\* The Student Director does not attend Closed Session.

### **Report Closed Session Action**

President Riddle reported that the Board discussed the following items in closed session:

- Collective bargaining – No action was taken
- Consideration of Student Expulsion #04052- It was decided unanimously that the student would be expelled for one semester
- Consideration of Student Expulsion #04053- It was decided unanimously that the student would be expelled for the remainder of the semester and for the Fall semester 2005
- Public Employee Discipline/Dismissal/ Release

### **Approve Agenda**

**Motion:** Directors Selawsky/Rivera and approved unanimously on voice vote: That the Regular Meeting Agenda of April 06, 2005 is approved as amended. The amendments are:

- That the Teaching and Learning Presentation be given prior to the Special Presentation
- That the approval of minutes be moved to the end of the agenda
- That Item 3.2-C Adult Education Grant: Workforce Investment Act, Adult Education and Family Literacy Funds is tabled until the April 20, 2005 Board meeting
- That Item 1.3-CF Board Bylaws is tabled until the April 20, 2005 Board meeting

## **TEACHING AND LEARNING PRESENTATION**

**Academics and Arts Integration Presented by Cheryl Chinn, Malcolm X Principal and Jai Waggoner, Malcolm X Teacher**

Development on the unit started after working with second grade teachers on how to integrate what they were doing in art with what they were studying in class. Since they were finishing a science unit on sound and beginning a new unit on food production, they decided to tie the two together by making ceramic rattles in shapes based on forms from nature. A number of objects were brought in, including some rattles made from gourds. Building on that, they made paintings of fruits and vegetables, using beautiful teaching materials that were brought in by the California Nutrition Network and their gardening teacher. The cards have the names of the fruits and vegetables in both English and Spanish to support their English learners. They reviewed what they already knew about adjectives, then, using the GLAD model, made a chart of all the adjectives they could think of that described color, size, shape, texture, or taste. Then, with a review of comma usage, students wrote their three descriptive adjectives on their paintings. This way, they were able to reinforce their classroom learning while making it a part of their art experience.

### **SPECIAL PRESENTATION**

Presented By Alameda County Office of Education Business Representatives  
Alameda County Superintendent of Schools, Sheila Jordan  
Alameda County Associate Superintendent, Carlene Naylor  
Vice President of the Alameda County Board of Education, Jacki Fox-Ruby

Superintendent Jordan stated that the first time she came before the BUSD Board was August of 2001 – there was no system in place and no accurate numbers for a budget. Further, she stated, that as discovery on numbers was done it was uncovered that the District was in crisis and a great deal of work had to be done to balance the budget and get a positive approval. This year she wanted to alert the Board and community to the first interim report. She said the attendance assumptions that the budget was based on did not live up to projections. She pointed out that it wasn't only public schools that were experiencing budget problems, the Catholic schools are closing, too. She expressed that it is not acceptable that the Governor is not protecting Prop 98. She added that there is virtually no district in the state that is doing well and most of the fiscal problems have to do with Sacramento.

Jacki Fox-Ruby stated that as legislative policy chair she has seen a lot of good bills going forward, but that they are not being signed, and bills that were signed, are being overturned by executive decree. She would like to see BUSD and the teachers get together and use their energy to go to Sacramento. She believes President Bush and Governor Schwarzenegger are trying to privatize the schools and outsource the classified workers positions. She encouraged everyone to put May 25 on their calendars for a rally being held in Sacramento.

Associate Superintendent Naylor reviewed the First Interim letter from the Alameda County Office of Education to the BUSD Board President, Nancy Riddle. She reported that the original report was certified as positive by the District Board on December 08, 2004. After the District and the County Office reviewed and discussed updated Average Daily Attendance (ADA) data that became available in early January, she stated, the District staff revised the First Interim Report. The Board certified the Revised First Interim Report as qualified on February 16, 2005. A qualified certification indicates that the District may not be able to meet its financial obligations for the current and subsequent two fiscal years.

Based on their review and analysis, Alameda County concurred with the District's qualified certification. They were concerned with the following items:

- Salaries budgeted vs. what was being expended on salaries
- Deficit spending patterns
- Reserve shortfalls need to be addressed
- Operating deficits need to be eliminated

- Cash concerns – negative cash balance can lead to detrimental credit rating

Associate Superintendent Naylor stressed the importance of an aggressive approach in addressing the financial recovery and stability of the District. She stated that the County Office would continue to monitor the District's progress.

## **PUBLIC TESTIMONY**

Community members Iona Wilson and Cathryn Bruno expressed their gratitude for Kids Village at Rosa Parks Elementary.

Marcia Montgomery and Lindsay Schachinger spoke against laying off classified employees.

Alex Naftulin voiced his discontent about the assistant principal of BAS.

Roia Ferrazares reminded the Board and others that it is the obligation of the PTA to stay neutral during negotiations. She stated the official position of the PTA is pro-child. Their new website is [www.berkeleypta.com](http://www.berkeleypta.com). They have down-loaded information that shows both sides of the issues. She would like to see the union stay positive and refrain from personal insults.

Sharon Arthur, Vikki Davis, Betty Spillman, Maria Graf and Cynthia Allman – expressed their support for the BUSD teachers and voiced dissatisfaction with the Board's position at the negotiation table.

## **REPORTS**

### **Union Representatives' Report**

#### BCCE – Ann Graybeal

Ms. Graybeal voiced her support for the BUSD teachers.

#### Local 39 - Bob Tapinelli

Mr. Tapinelli voiced his support for the BUSD teachers and their contract dispute.

#### BTE - Barry Fike

Mr. Fike voiced his support for the BUSD teachers. He also mentioned that the union had reviewed the BUSD budget and found 2 million dollars that could be used to give raises to the teachers. He went on to challenge the Board to give teachers increases in their compensation.

### **Superintendent's Report**

Superintendent Lawrence stated that she hopes her regard for the employees of this District isn't taken lightly. She stated that the District does not have the finances to do all the things we want to do and that cuts are inevitable whether we give raises or not. She pointed out, that if the union and public question District figures, they should consult the five independent reviews of the District's finances,

e.g., FCMAT, BUSD independent audit, Alameda County, State of California. All sources reach the same conclusion. She made it clear that the Board is dedicated to keeping BUSD from going under receivership while trying to find ways to compensate employees.

She announced that she had appointed David Cobb to the Citizens Construction Advisory Committee. She also congratulated Naomi Densler, winner of the 9<sup>th</sup> Congressional District Art Project. Her art will be hung in the office of Congresswoman Barbara Lee. She noted that this is the third year in a row that a BHS student has won this honor. She thanked the Castro Valley superintendent for assembling the rally today to get behind Prop 98. She also announced the process for filling the principal vacancies was starting. She reported that she a model for hiring the new principals will be forthcoming.

### **Board Members Report**

Student Director Lily Dorman-Colby stated that it is not in the best interest of the students to have work to rule and she doesn't think it is appropriate. She also believes that threatening to strike is unacceptable and the way the teachers are treating the students is unacceptable. She noted, "We're all fighting over money that isn't there. The Governor has sent out a mixed message that says there is money when there isn't". She said that she finds it upsetting that her teachers would walk out of the Board meeting and not listen to the other side of the issue when they have taught her to listen to both sides of the issue. She also stated that only mentioning things that need to be increased is unacceptable, that there needs to be a conversation that talks about what can be cut.

Director Shirley Issel criticized the teachers for "staying outside and chanting while we're being told the fiscal situation of the District. You don't seem to want to know the facts. We're being portrayed as a bad guy in a movie, but there aren't any bad guys here. It's just a bad situation."

Director Terry Doran stated that any cuts the Board makes will not be born by the teachers. He pointed out that there are two union CFT teachers on the Board because he wanted everyone to know that the situation is not as simple as it was presented this evening. He believes it is a complex situation and that the union and the District need to put their heads together on this. He made a commitment to do everything possible and will do whatever necessary, but noted that if BUSD and the union continue to give ultimatums then negotiating will be difficult.

He also announced that Karen Candito, Food Service Coordinator, is moving on to a new job and he wanted to wish her the best. She helped with the breakfast program at LeConte Elementary, which starts this week. This is a program that feeds every child breakfast at the school.

Director Joaquin Rivera stated that this Board has been working extremely hard to come up with an agreement; that the District has been making cuts for the past five years and we are at the brink of being taken over by the State if we cannot balance the budget. He stated the District is working hard to balance the budget so it can maintain local control. He was happy to hear that the teachers found \$2 million for the raises and he wants to see where they found it.

Director John Selawsky shared his appreciation for his fellow Board members comments. He also thanked Roia Ferrazares for her comments and for her attempts to keep communication open. He stated that there is a disconnect for him when he hears insults and threats and that it is difficult to expect that negotiating can take place in good faith in this type of environment. He said he was baffled when he heard BFT's Barry Fike say that the union had found \$2 million for raises. He wondered if they were looking at the same budget? He commented that the budget he's been looking at shows a deficit of over \$250,000. He noted that there seems to be a difference of language, or interpretation, that needs to be addressed.

President Nancy Riddle stated that she appreciates the comments from the teachers, unions, and the Board. She believes that we need to get to the root of the problem and in this situation that is at the state level. She noted that the Board remains fully committed to implementing the small class sizes. She does believe we are working hard and in earnest in the negotiations and she pledged to continue to do so. She reiterated that communicating data from the Board and the union is vital.

## **CONSENT CALENDAR**

**Motion:** Directors Selawsky/Doran and approved unanimously on voice vote: That the Consent Calendar be approved as a block except for Item 3.2 –C Adult Education Grant: Workforce Investment Act, Adult Education and Family Literacy Funds be tabled until the April 20, 2005 meeting.

### **General Services**

**1.1-C** Acceptance of Gifts/Donations  
Accept the Donations/Gifts to the District

### **Personnel Services**

**2.1-C** Acceptance of Human Resources Report 05-07  
Accept the Human Resources Report 05-07

### **Educational Services**

**3.1-C** Overnight Field Trip

Approve the Overnight Field Trip for Students Consistent with the District Policies and Instructional Programs

**3.2-C Adult Education Grant: Workforce Investment Act, Adult Education and Family Literacy Fund**

Table the Adult School's Application for the 2005-2006 Adult Education Workforce Investment Act Grant until the April 20, 2005 Meeting

**Business Services**

**4.1-C Approval of Contracts/Purchase Orders**

Authorize the Purchasing Manager and Deputy Superintendent to execute the following contracts and purchase orders

**4.2-C Liability Claims Submitted to BUSD**

Deny all claims presented

**4.3-C Approval to Advertise to Solicit Bids for the Construction of a Garden at the Franklin Adult School**

Approve the advertisement to solicit bids for the construction of a garden at Franklin Adult School

**4.4-C Approval to Advertise to Solicit Bids for the LeConte Grounds Renovation Project**

Approve the advertisement to solicit bids for the LeConte grounds renovation project

**4.5-C Approval to Advertise to Solicit Bids for the Demolition of the Buildings at East Campus**

Approve the advertisement to solicit bids for the demolition of the buildings at East Campus

**4.6-C Approval to Advertise to Solicit Bids for the Modernization of the Two Buildings at Willard Middle School**

Approve the advertisement to solicit bids for the modernization of the two buildings at Willard Middle School

**4.7-C Approval to Advertise to Solicit Bids for the Modernization of the King Science Building**

Approve the Advertisement to solicit bids for the modernization of the King Science Building

**4.8-C Approval to Advertise to Solicit Bids for the Washington Grounds Renovation Project**

Approve the advertisement to solicit bids for the Washington grounds renovation project

**4.9-C** Resolution 04-34A: COLA Increases for BSEP  
Adopt authorized COLA increase for BSEP tax collection

**4.10-C** Mileage Reimbursement Rate for 2005  
Approve mileage reimbursement rate for calendar year 2005

## **ACTION ITEMS**

### **General Services**

**1.1-A** Revised BSEP Bylaws to Incorporate Measure B of 2004  
**Motion:** Directors Selawsky/Issel and approved unanimously on voice vote:  
To Approve the revised bylaws to incorporate Measure B of 2004.  
Ayes: 5  
Abstain: Student Director Dorman-Colby

### **Personnel Services**

**2.1-A** Resolution No. 04-35 for Elimination of Specified Classified Positions  
**Motion:** Directors Issel/Selawsky and approved unanimously on voice vote: To Approve Resolution No. 04-35 Elimination of Specified Classified Positions

**2.2-A** Resolution No. 04-36 for Elimination of Specified Classified Positions  
**Motion:** Directors Rivera/Selawsky and approved unanimously on voice vote: To Approve Resolution No. 04-36 Elimination of Specified Classified Positions

**2.3-A** Request for Classification Study  
**Motion:** Directors Rivera/Selawsky and approved unanimously on voice vote: To Direct the Director of Classified Personnel to draft, distribute and facilitate the process relating to hiring a consultant for a Classification Study in accordance with the given information

**4.1-A** Approval of Contract with MPR Associates for Building District Capacity for Data-Driven Decision-Making  
**Motion:** Directors Rivera/Selawsky and approved unanimously on voice vote: To Approve the Contract with MPR Associates for Services through June 30, 2005

## **CONFERENCE**

**General Services**

**1.1-CF** Conflict of Interest Policy/Board Bylaw 9270

**Motion:** Directors Doran/Selawsky and approved unanimously on voice vote: To Approve the first Reading of the Conflict of Interest Policy/Board Bylaw 9270 with President Riddle's Change Added and Request a Second Reading

Director Doran pointed out that the Board has a committee working with a consultant to write these policies. He thanked the committee for all of their hard work.

President Riddle requested that the 500 feet close rule be worded specifically because it is something that is often dealt within the Berkeley community.

**1.2-CF** First Reading of Charter School Policy and Administrative Regulations

**Motion:** Directors Selawsky/Issel and approved unanimously on voice vote: To Request a Second Reading of the Charter School Policy and Administrative Regulations

Director Doran pointed out that the committee worked on this and he believes they have included everything needed.

Director Rivera asked that the committee add "sexual orientation" to the list of groups in the non-discrimination clause.

Director Selawsky voiced his appreciation for the detail on this policy and said that it was interesting reading. He noted that on page 112, item 8 should read 'English language learners'. He believes BUSD should set the standard for all of our schools and to also keep it in the charter schools.

Director Issel asked if the language regarding diversity was legal? And, had the consultant discussed the language with Superintendent Lawrence?

Superintendent Lawrence advised to move forward with it and to make revisions if the language is challenged. She noted that the BUSD diversity program stands the test of legality because it is lottery driven. She stated that in a charter school the District may have a different issue to consider.

**1.3-CF** Board Bylaws

**Motion:** Tabled until the April 20, 2005 Meeting

**Educational Services**

**3.1-CF** Board Policy and Administrative Regulations on Grades/Evaluation and Student Achievement

**Motion:** Directors Rivera/Selawsky and approved unanimously on voice vote: To Approve the Board Policy and Administrative Regulations on Grades/Evaluation of Student Achievement

**4.1-CF** Financial Planning

**Motion:** Directors Rivera/Selawsky and approved unanimously on voice vote: To Discuss anticipated Budget Reduction in Order to Balance the District Budget

Director Issel said she was reluctant to reduce the funding to the high school athletic program. Instead, she suggested, possibly charging fees for participation and creating an allowance for those needing scholarships.

She would like to see the Community Theatre stay open until expenses can be determined. Only after that has happened, she stated, would she be able to make a sound decision based on accurate information.

She also noted that she thought Measure B could cover several of the items on this list.

Student Director Dorman-Colby pointed out that high school athletics are very strong and that one-third of the students participate in them. Plus, she said, there are students getting scholarships through athletics. She expressed that she doesn't think this would be a good cut. She asked if BUSD was making any money off of the community theatre? She was under the impression that there was fee charged for using the theatre. The Superintendent told her that we don't charge enough to make revenue. The Student Director stated that she thinks it is important not to drop bus routes to after school programs. She also was not in favor of reducing special education help, but agreed that reducing safety officers on high school campus would be a costs savings. Plus, she said, she's heard several complaints about the security officers. She wanted to know how to find items to add to the list and how can we could encourage the teachers to help add to the list. She supports cutting some of the lunch options at BHS to help save money. Of all of the proposals, she commented, cutting counselors is her least favorite, especially at a time when students need more counselors.

Director Doran pointed out that last year when this Board passed the budget it was approved by the County and that for the first time in four years we had a balanced budget. He stated that by passing the budget also meant that the District would have a balanced budget this year and next year. But now, he reminded the Board, the Governor is not going to honor Prop 98 and fully fund public education. He noted that the District is now looking at the present budget and is forced to back off a positive certification and can no longer say that the budget was a positive

budget. He cautioned the public that these are suggestions being put forth and nothing has been decided.

Director Joaquin Rivera expressed that most of the cuts that we will have to make are going to be extremely painful. The things on this list are not very appealing, but we may have to cut them to remain solvent, he stated. He thinks the District should look into adjusting bus schedules to make transportation more efficient and that paving a lot for the District's vehicles, rather than paying rent to park them, is another way to save money. He also approved of the idea of reduction via classified employee subs.

Director John Selawsky stated that it would be more helpful if there were numbers attached to the listed cuts. As for the athletics, he expressed that he was not as attached to these programs as many of the Board members and community members. He believes that some of the athletic programs can pay for themselves through (possibly) fundraisers. He stated that he thinks the Community Theatre is an asset to the community. However, he added, I do think a study is in order as soon as it can be done. He suggested that maybe fee increases were in order. He stated that he was not convinced BUSD should move some of the custodial, etc. items to Measure BB funds. He thought the Board needed to look at efficiencies in transportation as well as have all facilities do simple things like turn off the lights. In conclusion, he said that he would be willing to look at a closed campus at BHS so that students would be purchasing their lunches from the school.

President Riddle noted that Measure B funds do have flexibility. She also stated that high school athletics has been looked at before in the cuts and should be looked at again. She thinks charging for transportation to after school private programs may be an option for cost reduction. She added, "The small things do add up and, community, we would love to hear your suggestions."

## **INFORMATION**

### **Business Services**

#### **4.1-I** Facilities Construction Plan Financial Update

Received and Accepted the Facilities Construction Plan Financial Update information

#### **4.2-I** Facilities Plan Update

Received and Accepted the Facilities Construction Update information

#### **4.3-I** Facilities Accessibility Report

Received and Accepted the Facilities Accessibility Report information

**EXTENDED PUBLIC TESTIMONY**

None to report

**ANNOUNCEMENTS**

**Schedule of Board of Education Meetings for 2005:**

April 20  
May 11  
May 25  
June 8  
June 22  
June 29  
August 24  
September 7  
September 14  
September 21  
October 5  
October 19  
November 2  
November 16  
December 7- **organizational meeting**  
December 14 - **tentative**

**ADJOURNMENT**

President Riddle declared the Regular Meeting of April 06, 2005 adjourned at 11:26p.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