

# METROPOLITAN EDUCATION DISTRICT

Governing Board Meeting Minutes  
September 14, 2011

## I. CALL TO ORDER/ROLL CALL CLOSED SESSION

The meeting of the Governing Board of the Metropolitan Education District was called to order by President Canova at 6:30 p.m., in CCOC Room 810, San Jose, California and adjourned to closed session in CCOC Room 819.

All Members present, except when noted "absent:

Frank Biehl	East Side Union High School District
Daniel Bobay	Milpitas Unified School District
Jim Canova	Santa Clara Unified School District
Cynthia Chang	Los Gatos-Saratoga Union High School District
Richard Garcia	San Jose Unified School District
Diane Gordon	Campbell Union High School District

## II. CALL TO ORDER/ROLL CALL REGULAR MEETING

The meeting of the Governing Board of the Metropolitan Education District was called to order by President Canova at 7:00 p.m., in CCOC Room 810, San Jose, California.

## III. REPORT OF CLOSED SESSION ACTIONS

President Canova reported no action was taken in closed session regarding the Superintendent's Evaluation; Pursuant to Government Code: 54957.

## IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Member Garcia.

## V. ADOPT AGENDA

**MOTION:** It was moved to adopt the agenda with Item # 13 removed from consent for action and a presentation and Information Item # 15 to an action item. M/Chang, S/Bobay; Vote: 6 Ayes, 0 No

## VI. RECOGNITIONS

### A. Acknowledgement of Visitors:

Superintendent Hay recognized Bob Mistele, Interim Superintendent Los Gatos-Saratoga JUHSD; Cari Vaeth, East Side UHSD.

### B. Recognition of Individuals who have "Raised the Bar!:

Superintendent Hay recognized Nathan Chukes, Auto Body Painting instructor, as CCOC's September Teacher of the Month and for his work with AutoYES which included working on a \$50,000 Ultimate Collision Education Makeover Grant during the summer.

Superintendent Hay recognized Scott Hall, Electrical Maintenance instructor, for supervising summer help to assist with the moving of 58 classrooms and administrative offices. Scott and his crew were instrumental in providing a smooth transition over the summer in preparation for the new school year.

## VII. STUDENT REPORTS

A. CCOC Student – None

B. MAEP Student – Assistant Principal Suzi Glass introduced Danielle Smith, MAEP's first graduate of 2012.

Danielle shared she is 21 years old and she had dropped out of high school and the hardships she faced growing up including involvement with drugs and being homeless. She said her aunt came to her rescue and she now has a good home, family and a job. She decided to get her high school diplomas and completed the program in one year. MAEP was an important part of turning her life around.

## VIII. SPECIAL ORDER OF BUSINESS

Superintendent Hay requested Action Items 23, 24, 25, and 26 be moved up on the agenda to allow Bartos Architecture to answer any questions by the Governing Board.

**MOTION:** It was moved to hear Action Items 23, 24, 25, and 26 under Special Order of Business. M/Chang, S/Biehl; Vote: 6 Ayes, 0 No

## IX. PUBLIC COMMENTS

President Canova: He read the disclosure relative to hearing comments from the public on items not on the agenda and said Superintendent Hay wished to make a few comments prior to receiving public comment.

Superintendent Hay: He said there were a number of emails sent to Board Members and the Superintendent from parents of students in the CCOC Law Enforcement program and he wanted to clear up some misunderstandings in what the parents had been told. He said that the Governing Board has not eliminated the TAC program. He said that he, as Superintendent, had initiated a temporary district-wide suspension of the use of volunteers pending a full review by his cabinet. He said the administration is working on procedures for assuring that volunteers have passed the criminal background check, TB test, and the volunteers have received the required orientation. He said administration is also working with the CSEA bargaining unit to make sure that the use of volunteers in the classroom does not crossover into work that falls within their contract or conflict with provisions of the California Educational Code. He said as a District, we support the use of volunteers in the classrooms, but student safety was priority.

Rico Sciaky: He said he was the Law Enforcement instructor and he was speaking on behalf of CTA and he has been here for 12 years. He shared information on his class and he said there has been a lot of miscommunication regarding volunteers. He said he spoke with Superintendent Hay yesterday and he wanted to commend him for giving him the opportunity to speak with him. He said a major concern he had was the minimum age being referred to relative to volunteers. He said his program needs the volunteers, who are composed primarily of students who have completed his program and want to come back and volunteer in the classroom. He shared information on how a person becomes a law enforcement officer and the importance of knowing people to get a position. He shared information on the students who have been in his classroom as well as the conference he held last year in Orange County.

Kevin Halverson: He has prior Marine Corps ROTC experience, 4 ½ years in the Los Gatos Saratoga Police Explorer Program, and is currently an advisor for the CCOC and Evergreen Academy Explorer Post. He said last year, the program was started by combining the two with the assistance of Mr. Sciaky. He said they go out and do security at events, to help the cadets to see what law enforcement is all about. He said he will be starting the police academy this month at Evergreen College and said he did volunteer at CCOC last year, and had been fingerprinted and TB tested. He said at the beginning of this year there was not good communication as Mr. Sciaky said. He said he

started to volunteer but then was asked to leave and he is not allowed to volunteer anymore. He said he is a security guard at Oakridge Mall and said it hurts that he can't give back. He said he wants to be able to help mentor and share with the cadets on campus. He said he is younger and closer to their age group and he believed it helps in communicating with the students. He said he just wanted to opportunity to help and mentor the students.

Misty Ortiz: She said she completed Mr. Sciaky's program last year with honors and is currently employed at JC Penney doing loss prevention. She said it as been stated that there were a lot of issues besides being the enrollment issue why they could not be in class. She said she can only speak from her experience, they (volunteers) do not touch the academics, they are there to counsel, assisting and they all went through the class and they know what needs to be done. She said concerning age, she felt who better to help then someone who is closer to the students in age. She said they could relate to them more, they know what they are talking about, we are there to help, we are giving back what we were taught and what we were trained. She said it is a community and a community school and she said she did not understand why they were being shut down for just giving back. She said were just giving back what they were taught.

Member Gordon: She asked the superintendent what the timeframe on the process. She said based on the classrooms it is urgent and that it is sorted out and we are meeting the criteria. She asked if there was a rough idea when we were going to be able to get this done.

Superintendent Hay: He said he was working on amendments to Administrative Regulation (AR) 1240 with procedures in place for the October meeting.

Member Gordon: She said, if the Board agrees to the procedures, administration would be able to move forward immediately with volunteers. The superintendent said it was correct. She said she recognized we should not be stepping on the toes of bargaining units and there are distinct lines of what everyone is suppose to be doing; but her only comment was to move as quickly as possible.

Vice President Chang: She said we would need to wait another month until the next meeting. She said she was open if the Superintendent needed to call a special board meeting to address this item only.

Superintendent Hay: He said the process the District is going through will include review with our attorney and it will include CSBA as some of the things we are looking at differ from what they recommend, and be sure all the bases are covered before it is brought to the Board for approval and adoption as policy and administrative regulations. He said there will be a process in place, from a number of perspectives that will cover a number of areas where the District has concerns. It will include the Human Resources Department on how we track volunteers relative to the criminal history check and TB testing. He said it should not slow down the process for getting the adoption of the AR.

Member Biehl: He asked if the action of the AR could be done by the Superintendent without the action of the Board.

Superintendent Hay: He said it can be; however, it has not been the practice of the District.

Member Biehl: He said the Board was constrained at this time because it was a non-agendized item in terms of what the Board could discuss but we can ask that it be placed on the agenda. He said he would like it to be placed on the next agenda which sets a timeframe for this item so things are hopefully concluded by the next agenda. He said this would give the opportunity for board members to express their opinions on this. He asked what generated this, he asked if a grievance had been filed or something else.

Superintendent Hay: He said there was no grievance. He said there were a number of things that went into the decision to do this. He said part of it had to do with the Instructional Council. He said the Instructional Council is comprised of the instructional representatives from the six participating districts who meet and provide input to administration on the programs here at CCOC. He said there

were concerns regarding the qualifications of some of the volunteers. He said we are talking about the entire District and not just Law Enforcement. He said he did not need to be sued or have a grievance filed against the District to make a decision to make improvements on an issue where there needs to be improvements to protect the organization and primarily to protect the students of this organization. He said he is making sure it doesn't happen.

Member Garcia: He said he had heard from the students and from Mr. Sciaky that the students make a big difference in his classroom and he is sure the volunteers do the same in other programs on campus. He said one of the concerns he has is it sounds as though the two students that spoke that administration doesn't understand the importance of them being in the classroom to them and to the other students and I think before next month, we need these students to know we value their volunteering and we do value the expertise they bring to the other students and it is not about not appreciating them but other issues that have to do with background checks. He said he is sure the law enforcement people understand the importance of background checks as the people in the medical program know the importance of everyone having their TB test. He said it would be important that all of the volunteers understand it is not about them.

Cody LeBeau: She said she is a cadet in Mr. Sciaky's morning class and decided to come speak on her own. She said she wrote a petition to get TO's back in the classroom. She said the two men and one woman in the back of the classroom are TAC officers. She said it stands for Training, Advising, and Counseling. She said in three short weeks the cadets grew close to the TAC officers and they are role models. She said by taking the TAC officers out of the classroom, the Board has not only taken away their role models but have taken away their family. She was motivated after the first day of class to become a TAC officer and to come back and give back as they have done. She said by taking them out of the classroom, it has made it difficult to go through some things like the driving simulators. She said it would take months for Mr. Sciaky to teach them everything and the TAC officers make things go faster. She said she believes the TAC officers do have their TB tests and have the experience to be in the classroom.

Collette Better: She said many people have spoken to the urgency of time and she felt if it waits until the October meeting, then more than half the semester is already gone and the students will not have the benefit of the volunteers. She said Mr. Garcia said we really want to make them feel valued in the classroom one way to do that is to follow the current board policy. She said the current board policy supports Mr. Sciaky having volunteers in the classroom now. She said she believes Superintendent Hay has the power to reverse the suspension until a new board policy is done.

President Canova: He said he wanted to remind the Board this item is not agendized and we need to remember the Brown Act and we have expressed a lot of our feelings about this; however, we will need to look to the Superintendent for direction on this.

Collette Better: She said maybe there could be a temporary exception because it is time sensitive.

President Canova: He said there were eloquent speakers and he asked if the Superintendent wished to speak.

Christine LeBaeu-Eberle: She said she wanted to know if you were just getting rid of student help or if it was for parents as well as adults.

Member Biehl: He said this is not an agenda item and we cannot violate the Brown Act and there should not be dialogue at this time.

Superintendent Hay: He said there is a memo that outlines the suspension and she should feel free to call him tomorrow.

Kathy Jasper: She said there are volunteers in adult education and there was a volunteer in adult basic skills for 20 years as well as teachers who were laid off last year and they would like to

volunteer. She said there are no volunteers being allowed including in adult education. She said she would like to see this policy changed as soon as possible.

Member Biehl: He said this is a decision made by the administration, it has not been reviewed by the Board, and the fact that it has been made by the administration, it can be changed by administration as rapidly as they made the decision, modify, and review or whatever they need to do. He said at the meeting in October he would like to know more about what generated this, who on the instructional council and from which district but the issue up and they should have the opportunity to come and talk to the Board if they wish. He said it seems to be a bit of an overreaction and it can be corrected and he said he thought it would be corrected very shortly.

President Canova: He asked if there were any more comments from the Board.

Vice President Chang: She said the Board was not supposed to make comments at this time as Member Biehl stated earlier.

President Canova: He said he would like to hear from Superintendent Hay.

Superintendent Hay: He said he had direction from the Board to bring the item back to the October meeting. He said he would not make any decisions that were hasty and without careful thought, and there were very good reasons which he will not go into this evening publicly tonight that had to do with why some of this was done and he wanted to make sure those concerns are addressed on behalf of the organization, this Board, and the students in the classrooms.

Member Biehl: He asked if there were legal issues or contract issues or both. He said it is a legitimate closed session item and he would request that the Board have a special session on this within the next week. He said that would be his request. He said these are items that are appropriately discussed in closed session and he is not going to wait until October 12. He said he was ready to have a closed session meeting on this next week and the Board can be properly informed on what is going on in the proper forum.

President Canova: He asked the Superintendent if the timeline would work for him.

Member Biehl: He said he was just asking for information and he was not asking for a decision. He said if there is information that is out there that he cannot have because it is appropriate closed session information; he was saying he was willing to agendaize that for a closed session item and have a special closed session meeting to hear it.

President Canova: He said no decision would be made at the meeting; it would simply be a closed session meeting to hear information.

Member Biehl: He said that is the only legal place to discuss this at this point.

Vice President Chang: She said she would make herself available for any meeting if needed. She said she felt the time was of essence.

Superintendent Hay: He said if the Board chose to do a special meeting, staff would be there to make a presentation.

Member Gordon: She suggested when the Board gets to the end of the meeting this evening where items can be agendaized; it can be dealt with at that time.

President Canova: He said that was a great recommendation and it will be done at the appropriate time at the end of the meeting. He said that concluded public comments and he thanked everyone for speaking.

## X. APPROVAL OF MINUTES

1. **Action Item: Approval of Minutes of Regular Board Meeting of August 17, 2011.**

**MOTION:** It was moved to approve the Minutes of the Regular Board Meeting of August 17, 2011. M/Garcia, S/Biehl, Votes: 6 Ayes, 0 No

## XI. CONSENT CALENDAR

**Member Garcia:** He requested Item # 11, Appointment of CCOC Employer Advisory Boards be removed from the Consent Calendar as well as the request from Superintendent Hay to remove Item # 13.

**MOTION:** It was moved to approve consent items # 2 through # 12 with the removal of item # 11 and 13. M/Garcia, S/Bobay; Vote: 6 Ayes, 0 No

## BUSINESS AND FINANCIAL FUNCTIONS

- \*2. **Action Item: Approve Monthly Warrant Approval List**

The Governing Board approved warrant registers #62011089-#62011099, dated August 2, 2011; #62011100-#62011116, dated August 3, 2011; #62011117, dated August 5, 2011; #62011118-#62011135, dated August 8, 2011; #62011136-#62011161, dated August 10, 2011; #62011162-#62011177, dated August 15, 2011; #62011178-#62011192, dated August 17, 2011; #62011193-#62011213, dated August 22, 2011; #62011214-#62011240, dated August 24, 2011; #62011241-#62011261, dated August 29, 2011; #62011262-#62011289, dated August 31, 2011.

- \*3. **Action Item: Surplus Items**

The Governing Board approved the surplus of the automobiles listed in the Board packet.

- \*4. **Action Item: Approve Contracts with School Services of California: Search & Recruitment Services for Chief Business Officer (CBO) and Director of Human Resources**

The Governing Board approved the Agreement for Search & Recruitment Services with School Services of California.

## PERSONNEL FUNCTIONS

- \*5. **Action Item: Revised Administrative Job Description: Chief Business Officer-Revised**

The Governing Board approved the revised Administrative Job Description for the position of Chief Business Officer.

- \*6. **Action Item: Administrative Job Description: Director-Human Resources-Revised**

The Governing Board approved the revised Administrative Job Description for the position of Director-Human Resources

- \*7. **Action Item: Certificated Personnel**

The Governing Board approved hiring one AFT teacher and one new CTA teacher.

**\*8. Action Item: Classified Personnel**

The Governing Board approved the four-short-term Maintenance and Operations (M&O) positions.

**\*9. Approve New Monthly Campus Assistants and Instructional Assistants Classified Salary Schedule**

The Governing Board approved the new monthly campus assistants and instruction assistants classified salary schedule.

**INSTRUCTIONAL AND STUDENT FUNCTIONS**

**\*10. Action Item: Community Classroom Agreements**

The Governing Board approved the agreements to provide on-the-job clinical training to CCOC medical students.

**11. Action Item: Appointment of CCOC Employer Advisory Boards**

Member Garcia: He said in reviewing the background material, it states the committee is to meet at least once for the purpose of providing information and to confirm courses to meet the needs of employers. He said he visited some of the meetings last year and it appeared the process is different for each area. He asked if there was a template for how the advisory committees are to give recommendations to the particular program and what the process followed so the information is consistent.

Superintendent Hay: He said there is a process and there is a district-wide process for CCOC and all of the members of the Employer Advisory Boards are invited to a general meeting and then they break off into their industry pathway. In those meetings, there is a specific agenda that is recommended by the California Department of Education (CDE) to follow which has been suspended; however, our District continues to follow the procedures.

Member Garcia: He asked who gets the information back from the individual industry pathway meetings.

Superintendent Hay: He said the information comes back to the CCOC administration and minutes are prepared.

Member Garcia: He said when the minutes come back, how will that impact whether we make changes to the program and what happens to a recommendation that is made by the advisory boards.

Superintendent Hay: He said the instructors will adjust their curriculum to meet the new demands in that particular industry.

Assistant Principal Sylvia Evans: She said minutes come back from each meeting and each year she goes to the CDE website and updates when the meeting was held, what was done at the meetings, and if there is a big change to the curriculum, we file a new curriculum and get it approved by the CDE. She said it is a formalized process that is described in the ROP handbook. She said there is an EAB website that has the curriculum, the minutes, and other information by industry pathway.

Member Garcia: He asked where the instructor comes in regarding changes to the curriculum.

Sylvia Evans: She said the instructor rewrites the curriculum and it can be very minor changes.

**MOTION:** It was moved the Governing Board establish the 2011-12 Employer Advisory Boards (EAB) per Education Code Section 52302.2, appointed the persons named in the Board packet, and authorized the Superintendent or his designee to appoint additional EAB members as they are identified. M/Garcia, S/Chang; Vote: 6 Ayes, 0 No

**\*12. Action Item: ROCP Course Review**

The Governing Board approved the following ROCP courses: Accounting Level 1 & 2; Animation; Automotive Services, Level 1-6; Commercial Photography; Computer Accounting; Computer Applications; Computer Programming Level 1 & 2; Culinary, Hospitality & Management Preparation; Fashion Design & Production, Levels 1-3; Graphic Design; Marketing; Media Productions; Metals Fabrication; Multimedia Design 1, 2, 3; Retail Sales & Merchandising; and Video Production.

**13. Action Item: Common Core State Standards, Application for CTE**

Superintendent Hay: He introduced Sylvia Evans to make a presentation with James Walker, Automotive Careers instructor.

Sylvia Evans: She said this summer they attended a three day conference at the Santa Clara Office of Education on common core state standards to understand the process and timeline and how to integrate it at CCOC. She said there are standards that go with the high school exit examination and later the pathway standards came forward for CTE. She said there is a three-year compliance plan to understand the common core standards and integrate it into the curriculum. The CCSS will eventually replace the CAHSEE. She said there are only three states who have not adopted the common core state standards. She shared the standards will be streamlined across the United States to allow students to be competitive on a global basis.

James Walker: He said it would be like an articulation agreement with all the high schools across the United States that will allow students the ability to know what will be taught, no matter where they may be attending. He explained how CCOC is meeting many of the standards that are already in place and he showed how he has been working to get his students excited about the program. He asked his students in groups of four to do a video resume of what they know how to do in the program that they can use when they apply for jobs.

Sylvia Evans: She said they are working on getting resources and interest in the common core state standards.

**MOTION:** It was moved the Governing Board approve the request to have the Common Core State Standards be a part of CCOC's CTE curriculum. M/Garcia, S/Blehl; Vote: 6 Ayes, 0 No

## **XII. INFORMATION ITEMS**

**14. Information Item: First Reading: Board Policies and Administrative Regulations; Tri-Annual Update**

CBO Daniel Gilbertson: He said this is the first reading of updates to the Board policies.

Vice President Chang: She asked on BP 5145.11(a) regarding Questioning and Apprehension by Law Enforcement, it says the Director or designee shall notify the parent/guardian as soon as applicable after the law enforcement officer has interviewed the student on campus. She said the District is only required to notify parents after the questioning.

CBO Gilbertson: He said he didn't have expertise in this area; however, he thought it had to do with legal regulations.



Superintendent Hay: He said he wasn't sure if there were any changes relative to the legal requirements and asked Assistant Principal Evans if she had additional information.

Vice President Chang: She said it appears it is up to the school district to allow law enforcement to come in and it is up to them to let the student know if they want legal representation or a parent present.

Sylvia Evans: She said when she was Dean of Students; the principal said they could stand in lieu of the parent and advise the students of their rights. She said it was an informal practice and they tried to protect the rights of the students.

Member Biehl: He said normally the procedure is for Board Members who have suggestions or changes in the language to contact the Superintendent before the next meeting, if the Superintendent accepts that, he brings it back, if not, he brings back a suggested change for the Board to review and adopt.

The Governing Board reviewed the Board Policies and Administrative Regulations and recommended that they go to the October Board meeting for a final reading and adoption.

**15. Action Item: Monthly Budget Update**

**MOTION:** It was moved the Governing Board approve the budget changes included in the Monthly Budget Update for the period ended 8/31/11. M/Gordon, S/Chang; Vote: 6 Ayes, 0 No

**16. Information Item: MetroED Staffing Report**

CBO Gilbertson: He reviewed the staffing report with the Board. As part of staffing, it includes the employee benefits for CCOC and MAEP. He said 54.4% of the general fund is for employee benefits and salaries and 84% for MAEP. He said the programs differ and the funding is different which accounts for the difference. He shared District staff is down from 395 full and part-time employees from the base year for flexibility (2007-08) to 178 current full and part-time employees. He shared 16.5% of employees have served for 20 years or more and over 60% of the staff is over 50 years of age. He shared the diversity of staff in comparison to 2004-05 and 2007-2008 to 2011-2012. He shared the accomplishments of staff as well as the new reality is significantly fewer employees with the work load not decreasing. He also noted there have been no salary increases since 2007-08; however, health insurance premiums have increased from \$160 to \$243 per month. He said there are reasons for optimism with everyone being on one campus to improve communication and professional development opportunities and the District will be switching to CalPERS for medical insurance on January 1, 2012 which will save employees up to \$2,000 or more annually on medical premiums.

Member Bobay: He asked if the District had looked at the aggregate population of the participating districts that send their students to MetroED. He said in Milpitas USD, he is 9%.

CBO Gilbertson: He said the District has looked at that in the past; however, it has been several years and it could be done again.

Vice President Chang: She said it was a very thorough report.

Member Bobay: He said populations have changed significantly and it could be good information on the students the District is serving or not serving.

Member Biehl: He asked if the District had found with the decrease in staff if there had been an increase in the number of volunteers.

CBO Gilbertson: He said there was no data relative to volunteers.

Member Bobay: He asked if there had been any consideration of starting a PTSA, a Parent Teacher Student Association.

Sylvia Evans: She said as part of WASC, three years ago, the WASC Chair Sara Crowder started a parent advisory committee to be part of the WASC. She said parents are also part of the Employer Advisory Boards. She said it hasn't been done due to the logistics of parents attempting to get to the campus from various distances. She said the events for parents are usually back-to-school, open house, and some teachers did orientation prior to school beginning this year.

Member Biehl: He said the information this evening was excellent to take a step back and look at employees. He said he is curious about the use of volunteers on campus and you do not have data and he would like the District to collect data as he has a sense we have had volunteers on campus for a very long time in different roles and we believe in that. He said there may not have been an increase with the cutbacks; however, it is an important part of our program. He said all of the advisory boards and councils are all served by volunteers and he said when they become volunteers they become a part of the program. He said they will support the program and they will put money up and it is one of our strengths.

Vice President Chang: She said earlier she heard teachers who had been laid off want to come back and volunteer. She said it should not be too difficult to get the data on the number of volunteers by asking teachers the number of volunteers they have in the classroom.

The Governing Board received the current MetroED Staffing Report.

President Canova: He noted it was coming up to 9:00 PM and there are a number of other reports this evening and he asked if the Board would be willing to entertain a motion to table the remaining information items to the next meeting.

Member Gordon: She asked if there was any guarantee that we would not be in the same position at the next meeting if these items were tabled.

Superintendent Hay: He said it would probably be the same and staff is prepared to make the presentations this evening. He said he would like to request Item # 17 be tabled until the next meeting when Director Fox would be in attendance.

Member Biehl: He said he believed the Board should wait on the legislative update as we will know more about what the Governor has signed or not signed; however, he said the budget items needed to be reviewed this evening.

**MOTION:** It was moved to table Information Items # 17, 18, and 19. M/Garcia, S/Bobay; Votes: 6 Ayes

**17. Information Item: CCOC 2011-12 Program Quality Assessment Report**

The Governing Board tabled the Program Quality Assessment (PQA) report to the meeting of October 12, 2011.

**18. Information Item: Update on ROP Enrollment & Attendance Automation**

The Governing Board tabled the information on ROP Enrollment and Attendance Automation to the meeting of October 12, 2011.

**19. Information Item: Legislative Update**

The Governing Board tabled the Legislative Update to the meeting of October 12, 2011.

### XIII. ACTION ITEMS AND REPORTS

#### BOARD AND ADMINISTRATIVE FUNCTIONS

20. **Action Item: Organization of Administrative Staff for 2011-12, Revisions**

Superintendent Hay: He said as the Board is aware, CBO Gilbertson will be retiring at the end of this calendar year and it necessitates a reorganization of the staff structure approved in June by the Board. He said the changes are shown in yellow on the attachments.

**MOTION**: It was moved to ratify the MetroED organizational structure for the period January 1, 2012 to June 20, 2012. M/Garcia, S/Gordon; Vote: 6 Ayes, 0 No

21. **Action Item: CSBA Nomination for Directors-at-Large: American Indian, Black and County**

Superintendent Hay: He said this is a Board item and the Board may wish to make one or more nominations or take no action.

Member Biehl: He said he had written a letter of recommendation for Charles Ramsey, West Contra Costa School Board, for the Black Director-at-Large and he had no additional nominations.

President Canova noted there were no nominations and no motion was needed.

#### BUSINESS AND FINANCIAL FUNCTIONS

22. **Action Item: 2010-11 Unaudited Actual Financial Reports**

Fiscal Services Director Keiko Mizuno: She shared a PowerPoint presentation as well as the state required format for the unaudited actual for 2010-11.

Vice President Chang: She said the Board has the very comprehensive and thorough report which was received prior to the meeting and she was very impressed. She suggested the report include the outlook for the future and not all of the details.

Keiko Mizuno: She reviewed the highlights of the presentation and the conservative stance the District continues to take relative to the budget due to uncertainty of the economy in the state.

**MOTION**: It was moved the Governing Board approve all 2010-11 interfund transfers; approve all fund balance designations, and authorize the Superintendent to file the 2010-11 Unaudited Actual Financial Report with the Santa Clara County Superintendent of Schools. M/Biehl, S/Chang; Vote: 6 Ayes, 0 No

*The following action items were discussed and acted on under Special Order of Business.*

23. **Action Item: Change Order #001, Hillsdale Campus Gas Line Replacement-Lewis & Tibbits, Inc., \$12,792.04**

Superintendent Hay: He said the change order was related to identifying and repairing gas leaks on all CCOC buildings and the details of the change order are included in the Change Order Summary in the Board packet. All change orders combined represented 7.6% of the original contract, which is less than the 10% construction contingency allowed in the overall project budget and representatives from Bartos Architecture were present to answer any questions.

**MOTION:** It was moved that the Governing Board approve Change Order #001 for the gas line replacement project in the amount of \$12,792.04 between MetroED and Lewis & Tibbits, Inc. M/Biehl, S/Chang; Vote: 6 Ayes, 0 No

24. **Action Item: Change Order #001, MAEP Relocatable Annex-Guerra Construction Group \$17,689.88**

Superintendent Hay: He said this was change order #001 for the MAEP Relocatable Annex in the amount of \$17,689.88 bringing the total contract price up to \$221,689.88 which represents less than 8.7% of the original contract, which is less than the 10% construction contingency allowed in the overall project budget.

Member Garcia: He said one of the items stated that the driveway leading to the administrative lot had to be widened for a fire access requirement. He asked why the dimensions were not done when the work was initially proposed.

Mark Bartos: He said he believed the project was out to bid while we were waiting for DSA approval.

Member Garcia: He said that DSA said this driveway had to be widened with the addition of the new portables.

Member Biehl: He asked under the truncated dome substitution; what a truncated dome was.

Mark Bartos: He said it was half of a dome that you would see in the yellow squares at shopping centers.

Member Biehl: He asked if it was in the areas for people that are blind and the substitution is for something different than the plastic.

Mark Bartos: He said it was an upgraded product recommended to the District.

Superintendent Hay: He said it is more durable and it will last longer.

Member Biehl: He said he had objections and concerns regarding this project when it was first proposed and it has gone up in cost.

**MOTION:** It was moved the Governing Board approve Change Order #001 for the MAEP Annex project in the amount of \$17,689.88 between MetroED and the Guerra Construction Group. M/Garcia, S/Chang; Vote: 5 Ayes, 1 No (Biehl)

Member Biehl: He asked if the Governing Board would reconsider the motion as he did not realize they were not on the paving project.

**MOTION:** It was moved to reconsider the motion. M/Gordon, S/Chang; Vote: 6 Ayes, 0 No

**MOTION:** It was moved to approve Change Order # 001 per staff recommendation. M/Gordon, S/Chang; Vote: 6 Ayes, 0 No

25. **Action Item: Change Order #001, Hillsdale Parking Lot Reconfiguration-Galedrige Construction-\$17,223.70**

Superintendent Hay: He said this was change order #001 for the Hillsdale parking lot reconfiguration in the amount of \$17,223.70 which brings the new contract up to \$196,191.70. This change order represents 9.6% of the original contract, which is less than the 10% construction contingency allowed in the overall project budget.

Member Garcia: He asked about the addition of rebar; he said that he thought it was standard when bidding a project and he asked why we added a number four.

Mark Bartos: He said it should have been included in the document; however, his civil engineer did not include them. He said that most cities don't include rebar in their city sidewalks because it is easier to repair them. He said that he asked the District to approve the addition of rebar for greater durability.

Member Garcia: He said it was an addition at the District's request and not the contractor and Mr. Bartos confirmed this was correct.

**MOTION**: It was moved the Governing Board approve Change Order #001 for the parking lot reconfiguration project in the amount of \$17,223.70 between MetroED and Galedrige Construction. M/Garcia, S/Chang; Vote: 5 Ayes, 1 No (Biehl)

26. **Action Item: Change Order #002, CCOC Buildings 700 & 800 Modernization–Swenson & Associates, Building 800-\$44,395 and Building 700-\$4,192**

Superintendent Hay: He said there is a member of the audience who wishes to speak to this item. He said this is change order #002 for \$44,395 for building 800 and \$4,192 for building 700. These were separate Proposition 1D projects that were bid together. The total comes to 9.6% of the original contract which is less than the 10% construction contingency allowed in the overall project budget.

Vice President Chang: She asked what happens if the change order is over the 10% allowed.

Superintendent Hay: He said it would depend on the circumstances. The District has a legal opinion that indicates that as long as the individual change order itself is not 10% or more, the cumulative amount of the change orders can exceed 10%.

Member Biehl: He asked if that would mean state law would require the District to go back out to bid.

Superintendent Hay: He said that is what the legal opinion is referring to and you would not have to go out to bid again. If the particular change order was 10% or more, the District would need to rebid.

Member Biehl: He said it was a liberal interpretation. He said the intent of the law was to make sure that you don't have a contractor that gets a special deal and then goes out and does a series of change orders after a public bid. He said he is not an expert in this area; however, he does know the intent regarding bidding and change orders.

Member Gordon: She said the only thing that bothers her regarding change orders except for items that are unforeseen, and she does not believe it is the case in this project, and she wanted to make that very clear, you can package jobs in such a way certain contractors can bid them better than other contractors. She said when you start getting a lot of additional items (change orders) after the fact, it starts people thinking. She said she does not think that is the case with these projects; however, in this we have six requested district add-ons and approximately the same number of unforeseen requests. She said she would support the change orders but as a cautionary note that we need to take a look at these changes and how they are being done before starting projects.

Member Biehl: He said he believes the drinking fountain was a reasonable add-on; however, we spent \$15,000. He said he shares Member Gordon's comments and he will be voting to approve the change orders but he said we need to be cautious because you never get the advantage of a bid with change orders. He said if it was included in the bid, you will get a better price unless the architect could challenge the statement.

Mark Bartos: He said in this environment, the prices have been coming in good relative to change orders; however, in the case of a change order prices could come in higher versus the bid. He said usually the general contractor will get 10% on the change order which would be \$1,500 on the \$15,000 fountain. He said most general contractors do not want to deal with them. He said subcontractors might deceive them to make money. He said the drinking fountain was not something that could be foreseen at all because the law came up during the project.

Superintendent Hay: He said the District became aware of the requirement of the law which was passed this last January.

Vice President Chang: She said this was approximately one-third of the total change order.

Mark Bartos: He said there could be interpretations on how to handle the drinking fountain; however, the District's interpretation was to have the drinking fountain where it would be accessible.

Member Biehl: He said he is reliving some of his personal experiences where he put in very expensive landscape in a project at his own home when he first purchased it and after living there for 22 years, and he said there were a lot of change orders he approved in the excitement of doing the building that now he doesn't really appreciate. He said when he makes these comments it is based on his own personal experience and it might be exciting at the time but may not be as important as you were thinking. He said as a board member he needs to send that message out so that we are always thinking about that when putting together bids and we are not adding a lot of things later. He said he will support this project.

Fiscal Services Director Mizung: She said it became law that all school districts needed to provide drinking fountains in cafeteria settings and why it was not part of the bid.

Member Biehl: He asked what the breakdown in expense was between the alcove and the drinking fountain.

Mark Bartos: He said the location of the drinking fountain necessitated trenching to access the water as well as trenching for drainage.

Vice President Chang: She said the \$12,000 for the security cameras was requested by the District.

Superintendent Hay: He said it was a request by the District and an opportunity to include this in a DSA approved project and leverage the costs with the Prop 1 D grant. This is a project we would be doing anyway and it saved the District 50% of the cost by including it in the project.

Collette Betters: She said she was representing CTA and she requested the Board withhold their vote on this item or remove one change order on security cameras until there was clarification of the definition of the model restaurant. She asked where the model restaurant was located and said it had been changed from the original plans.

Mark Bartos: He said the model restaurant was going to be the area outside of Room 810; however, as the project progressed prior to bidding, the alcove was incorporated into the cafeteria area.

Collette Betters: She said it was disingenuous to call the whole cafeteria area the model restaurant. She said it is really the cafeteria where the security cameras will be installed. She said the reason CTA is concerned is because the area is considered classroom space and the contract states you cannot have security cameras into classroom space. She said this was discussed with administration and it was made clear that this would not happen. She said this

was a cause of concern for CTA. She said it is not only the laboratory space for the cooking classes but it is considered our educational time when the students come into break and it was made clear it was part of our classroom time. She said it was considered an educational break or recess. She asked if that item could be withheld.

President Canova: He asked the superintendent to respond.

Superintendent Hay: He said there are three cameras and they are not focused on the instructional areas which are the kitchen and of course the classrooms. It is in the cafeteria from one side to the other and one over the cashier for security purposes. He said the actual classroom as the District defines it, is the kitchen and the two classrooms on the side. The other area is where the students come and meet and it is related to security of the students in the open public area of the cafeteria itself.

Collette Betters: She said the issue has been brought up at several meetings and the cafeteria is probably the most heavily monitored classroom on the campus with three or four teachers present. She said the cashier is also considered part of the classroom where students are learning customer service skills.

President Canova: He said he understands the request is to pull this item for another meeting and if there was time needed to sort out the issues presented.

Superintendent Hay: He said he would withdraw the one item on the security cameras and it appears there needed to be discussions between CTA and CCOC administration in terms of where cameras were going. He noted that he was under the impression that the conversations had been held and there had been concurrence by CTA. Apparently there is some confusion here, and the matter can be brought back for Board approval at a subsequent meeting.

Vice President Chang: She asked if the District could still take advantage of the 50% match by waiting until the next meeting and the superintendent said yes.

**MOTION**: It was moved to approve Change Order #001 with the deletion of the security cameras. M/Biehl, S/Gordon; Vote: 6 Ayes, 0 No

Member Biehl: He said administration would work out this issue and it would be brought back at a later date.

Vice President Chang: She said she wanted to thank Mark Bartos and his architectural team and CCOC staff. She said the Board toured earlier and it was very impressive.

## **XVI. EXECUTIVE REPORT/ADMINISTRATIVE REPORTS**

MAEP Director Karp:

- She deferred her report to the next Governing Board meeting.

CCOC Asst. Principal Evans:

- She said teachers are collaborating and the programs are moving forward.

CBO Gilbertson

- He wanted to commend Keiko Mizuno and her staff for the process and completing the closing of the books for the previous year.
- He said there was a major accomplishment of archiving student records by Martha Larson and the IT staff to protect records for the future.

Superintendent Hay:

- He provided a copy of a direct mailer sent out to 137,000 homes and apartments in the San Jose area with the focus on the CCOC evening programs and the adult education programs.
- He provided invitations to the Teacher Recognition Ceremony to be held at the Heritage Theatre in Campbell and recognized Collette Betters, MetroED Teacher of the Year.

## XVII. BOARD COMMENTS

### Board Member Gordon

- She said Campbell Union HSD's solar project is moving forward.
- She said all six of their comprehensive high schools went up double digit as reported in the paper on the API test scores.
- She apologized to the audience when the Board went a little off track on an item earlier in the evening. She said there was frustration by the Board that they were not able to ask questions due to the Brown Act and the frustration of not being able to get back on track. She said it might have come across as harsh and she did not want the audience or members of the community to think their comments were not appreciated, necessary, and wanted.

### Board Member Garcia

- He said all 3,000 employees were brought together at the beginning of the year and the San Jose USD, as part of their mission statement, want the students to be ready for a 21<sup>st</sup> century global economy and in the process there will be community meetings to discuss with parents, students, staff, and community members to discuss what are we preparing students for. He said there are times we may not be in touch with what is happening in the community and he will be asking the Superintendent and administration from CCOC and MAEP to participate in what we want to see to prepare students.

### Board Member Biehl

- He said he wanted to thank everyone for being at the meeting and he hoped the comments earlier were not directed at him. He said he tends to be direct, likes structure, and to follow the rules and the Brown Act is serious and something the Board should follow; however, people in the audience may not be familiar with the Brown Act. He said there are other things that he has remembered from being in the scouts and he wants to be sure there is nothing that is done to discriminate volunteers based on age. He said that is not how people are measured. He said people are measured by what they do, what they can do, and he said he hopes that everyone understands you can't have a back and forth interchange like occurred earlier in the evening. He said it was not the right way to do things; however, he was prepared to have a special session on volunteers next week or at the Board's earliest convenience as there appears to be information that cannot be shared with the Board in an open, public meeting and he would like to have that shared with him. He said he does not like to make decisions without knowing all the information.

President Canova asked if the discussion on a special meeting could be done after all the Board members have made their comments.

- He said scores are up at the East Side as well both for Star testing and API. He said they have been able to maintain their momentum in these challenging budget times through the hard efforts of their staff at their schools to work in the best interest of their students and he wanted to thank them for doing that.

### Board Clerk Bobay

- He said Milpitas USD started off the school year well with their 10,000 students, two high schools, two middle schools, and elementary schools. He said their API scores are up as well.
- He said MUSD has a decent budget, a great staff, and things were moving along fine.

### Vice President Chang

- She said tonight's meeting started with the student report which put tears into her eyes and shows the reason why we are here and what we can do. She said it was followed by the public



comments of teachers, students, and volunteers and she can feel the passion, pride, and dedication they have not only for themselves but for others.

- She thanked the Superintendent for the great report on the budget and how business-like things are handled here at MetroED under Superintendent Hay's leadership. She said this is an environment where you feel welcome and respected to express your opinions and try to come together for the best solutions. She said this organization is really good under Mr. Hay's leadership and she feels very good about the direction the District is moving.
- She said her home Board will be interviewing superintendent candidates this weekend.

#### President Canova

- He thanked the speakers for being so eloquent this evening and he said each member of the Board appreciates what you are doing for the District and you are an inspiration to all of us and are very proud of all of you. He said as a Board we are here to listen to the community and public and welcome your comments.
- He said the Brown Act can be difficult to understand and he wanted to share with the public it was enacted by the state; however, the state elected officials do not need to adhere to the Brown Act. He said if you are not aware of the Brown Act, you may wonder why there is not response if you are not told about the tenants of the Brown Act.

### **XVIII. OTHER MEETINGS**

President Canova: He said as discussed earlier, this would be the time to decide if there should be a special closed session to discuss information relative to volunteers to resolve this as quickly as possible or did the Superintendent feel there would be another way to resolve this without a special meeting.

Vice President Chang: She understood the Superintendent could make a decision and bring it back to the Board at the next meeting.

President Canova: He said this was brought up by Member Biehl earlier this evening.

Member Bobay: He said this is not agendized and it is not an issue to be discussed and we should move on with the agenda.

Member Biehl: He said we cannot discuss the issue; however, we can discuss whether we will have a meeting or not. He said we cannot discuss the merits of the issue. He said the Brown Act states the public's business must be conducted in public and the public needs to be notified of the business you are going to be discussing.

President Canova: He said if we are going to discuss a special closed session, he has a small business and he would not be able to meet before 8:00 PM on any evening you choose.

Member Gordon: She said the Board does have questions, which is obvious, but since we can't take action of any kind, is it easier on the Superintendent to have a closed session or is it easier for us to call him as Board members and ask him the questions.

Member Garcia: He said once he received the emails, he immediately had some questions and the Superintendent immediately responded and explained what was going on and what the process and his perspective was on this. He said this evening he heard from the students and he was pleased the Superintendent and Mr. Sciaky had the opportunity to have a discussion. He said he would prefer the Superintendent works it out and he trusts the Superintendent, staff, and administration will be able to work this problem out and if any Board member has any concerns, we should contact you directly to give us any information or answer our questions. He said he was not inclined to come to a closed session just to hear a report from the Superintendent.

Superintendent Hay: He said if it was the Board's desire to have a closed session, there is information that is not appropriate for discussion in public and he was more than happy to sit down

with a Board member one on one and have that discussion in detail and if the Board wants to have a meeting, he is more than happy to do that as well. He said he did not believe it would change the speed in which the District is moving forward on volunteer procedures that will be a solution to bring to the Board at the October meeting. He said it could be implemented earlier unless Board members wish to wait for a meeting. He said he heard the students as well and the District wants to move quickly and there are a lot of volunteers who want to get back in the classroom and we want them to be able to do that as well.

President Canova: He asked if the Superintendent felt the process would be expedited if there was a special meeting.

Superintendent Hay: He said it would not expedite the process. He said it would enhance the ability of staff and the Board to have a discussion of things that are legitimately discussed in closed session.

Vice President Chang: She asked if individual Board members could schedule a meeting with the Superintendent and he responded affirmatively.

Member Biehl: He said what he had heard earlier was that administrative regulations as a matter of practice are brought before the Board for approval. He said in his home district, the practice is for administrative regulations to be acted upon by the superintendent and later shown to the Board as a matter of information but administration makes it very clear they write the administrative regulations and not the Board.

Superintendent Hay: He said that was true about East Side UHSD and many districts and then many districts do it the same way as this District.

Member Biehl: He said his point was that an administrative regulation can be tossed aside without any consultation with the Board but if you are going to make a change, which is a significant change without consultation of the Board, and it seems inconsistent to him. He said his initial suggestion was to agendaize volunteers for the October meeting which allows the public and the Board the opportunity to have open, public discussion of the item, October 12, and if the Superintendent believes there is closed session item to be heard on this, it can be agendaized for October 12. He said the Superintendent has the power to bring some volunteers back just as carte blanche as was done in stopping the volunteer program and there must be some serious reason for that. He said he did not receive any e-mails from any parents and he has not been in the loop and he has not received anything except the one letter presented this evening from the Superintendent. He said he is willing to go along with the Board and the intent is to get it resolved as appropriately and quickly as possible.

Member Bobay: He said he did receive the e-mails and forwarded them to the Superintendent as they were not a Board issue, it was an issue for the Superintendent.

President Canova: He said he forwarded the e-mails as well to the Superintendent. He said it appears there is a consensus.

Member Biehl: He said he favors a special closed session next week on the issue; however, it doesn't appear that anyone else on the Board does.

Member Bobay: He said if that is necessary, the Superintendent and the President of this Board can call a special board meeting.

**MOTION:** It was moved to adjourn the meeting at 9:30 PM. M/Garcia, S/Gordon

There was discussion on placing another motion on the table; however, a motion to adjourn was already on the table for action.

Member Gordon: She withdrew her second of the motion to adjourn and it was withdrawn from the table.

President Canova: He said the motion to adjourn has been withdrawn and Member Biehl has a motion to place before the Board.

**MOTION:** It was moved to hold a special board meeting with closed session the week of September 19 to discuss the item that was brought up to the Board in public session to be held in both open and public session at 8:00 PM. M/Biehl, S/Chang; Vote: 3 Ayes, 3 No (Gordon, Garcia, Bobay) - *Motion failed.*


President Canova: He said at the suggestion of Member Bobay, the Board President and Superintendent can have a discussion tomorrow whether or not a special board meeting will be called. He called for the question.

**MOTION:** It was moved to adjourn the meeting at 9:30 PM. M/Bobay, S/Gordon; Vote: 5 Ayes, 1 No (Biehl)

The next regular meeting is scheduled for October 12, 2011 at 7:00 PM.

#### XIX. ADJOURNMENT

President Canova adjourned the meeting at 9:30 PM.

  
Daniel Bobay, Clerk of the Board