

MINUTES  
SPECIAL MEETING OF THE BOARD OF EDUCATION  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
Friday, December 21, 2012 (4:00 PM)

Board Members: Cheryl Hansen, Barbara Oaks, Linda Mayo, Lynne Dennler, and Brian Lawrence

Administrative Staff: Superintendent Steven Lawrence, Assistant Superintendents Julie Braun Martin, Rose Lock, General Counsel Gregory Rolen, and Chief Financial Officer Bryan Richards

**CALL TO ORDER**

The Meeting of the Board of Education of the Mt. Diablo Unified School District was called to order by President Hansen at 4:02 p.m. at the Dent Center. Ms. Hansen asked for a moment of silence for student Montreal Blakeley and the students of the Sandy Hook tragedy.

**PUBLIC COMMENT**

Wendy Lack read a portion of a letter from Alicia Minyen addressed to the Board regarding Brown Act Violations she believes occurred on April 23, 2012 regarding the approval of Council contract extensions.

Ernie DeTrinidad said he is troubled by the allegations, but he is heartened that the Board is in the process of taking steps to rectify the allegations.

Linda Mayo read a statement encouraging the Board to work on building trust with one another.

President Hansen said the hope is to build trust through the process.

**CLOSED SESSION #1**

The Board adjourned to Closed Session at 4:17 p.m.

**Anticipated Litigation**

The board will receive information and advice from outside counsel (Fagen, Friedman & Fulfroost) on the following matters:

- Anticipated litigation regarding Wendy Lack's charge of alleged Brown Act violation.
  
- Anticipated litigation by five (5) District administrators (Superintendent, General Counsel, Chief Financial Officer, Assistant Superintendent-Personnel, Assistant Superintendent-Student Support) for potential breach of employment contract.

**RECONVENE OPEN SESSION**

The Board reconvened Open Session at 5:50 p.m.

**REPORT OUT ACTION TAKEN IN CLOSED SESSION #1**

President Hansen reported that the Board discussed anticipated litigation and received information and advice from outside counsel, Fagen Friedman & Fulfroost.

**PUBLIC COMMENT**

Greg Enholm, Contra Costa Community College trustee, said he is interested in coordinating with the school districts, particularly on remedial education.

Wendy Lack read a statement on behalf of Alicia Minyen, regarding the Award of Taber Lease-Leaseback Agreement agenda item. The letter said she hopes the Board will reject the contract.

**BUSINESS/ACTION ITEMS**

Award of Lease-Leaseback Agreement to Taber Construction, Inc. for The Construction of Twenty-four (24) New Classrooms at Eight (8) Sites and Five (5) General Science Buildings at Five (5) Middle School Sites

On November 7, 2012 the District issued Requests for Qualifications (RFQ's) soliciting submissions from qualified firms interested in entering into lease-leaseback agreements for the construction of twenty-four (24) new classrooms at eight (8) sites and five (5) new general science buildings at five (5) middle school sites. As a result of this RFQ process staff is recommending that the District enter into a lease-leaseback agreement with Taber Construction, Inc. for a Guaranteed Maximum Cost of \$17,612,149.00 for the construction of all specified buildings per approved plans and specifications. The lease-leaseback project delivery method is authorized by California Education Code 17406, and authorizes the governing board, without advertising for bids, to enter into a lease with a builder for the purpose of construction, including remodeling and permanent improvements, upon property. Under a lease-leaseback, the District leases property under a "site lease" to a builder for \$1. That builder constructs the facility and then leases the facility back to the District under a "facilities lease". The District makes "tenant improvement payments" during construction and "lease payments" after construction. Title to the facility vests in the District as lease payments are made. The District has the option to make an early, balloon payment to the builder to buy out the facilities lease. In addition, the District determines all plans and specifications and uses its own Architect of Record to submit the project to the Division of the State Architect (DSA) for approval.

Pete Pedersen shared a PowerPoint presentation and went over cost analysis and bid analysis. Tim Cody presented detailed analysis of bids.

Mayo moved, Dennler seconded, and the Board voted 5-0-0 to award the Lease-Leaseback agreement with Taber Construction, Inc. as presented.

#### **CLOSED SESSION #2**

The Board adjourned to Closed Session at 6:29 p.m. in memory of Katy Hicks, Food Services employee and Bay Point resident.

#### **Superintendent's Performance Evaluation**

In order to meet the terms of the Superintendent's written contract, the Board will conduct his formal performance evaluation. The Superintendent's contract requires that the Board conduct two evaluations annually. "A formal evaluation, assessing the Superintendent's performance, shall be held on December 15, or at the Board's discretion, within two (2) weeks thereof. An interim evaluation shall be conducted by the Board of the Superintendent's performance on July 15 of each year, or within two (2) weeks thereof."

#### **RECONVENE OPEN SESSION**

Open Session reconvened at 7:56 p.m.

#### **REPORT OUT ACTION TAKEN IN CLOSED SESSION #2**

President Hansen reported that in Closed Session the Board discussed the Superintendent's performance evaluation.

Dennler moved, Oaks seconded, and the Board voted 5-0-0 to amend Section 4 of the Superintendent's contract to read that the interim evaluation will begin January 7 and be completed within the month of January 2013, with the final evaluation currently set to be held in June 2013, for this evaluation period only.

Ms. Hansen announced that the Board will hold a Closed Session on January 7 at 4:00 p.m. on the first piece of the interim evaluation, and will continue on January 14 in Closed Session beginning at 5:00 p.m.

Meeting adjourned at 7:59 p.m.