

SAN LEANDRO UNIFIED SCHOOL DISTRICT  
SAN LEANDRO, CALIFORNIA  
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**REGULAR MEETING OF THE BOARD OF EDUCATION - MINUTES**

November 16, 2004

The Board of Education of the San Leandro Unified School District met in regular session on November 16, 2004, in the San Leandro City Council Chambers, 835 East 14th Street, San Leandro, California.

The meeting was called to order at 5:34 p.m. by President Linda Perry.

**BOARD MEMBERS PRESENT**

Mr. Louis Heystek  
Mr. Ken Pon  
Mr. T. W. "Rick" Richards  
Ms. Kimberly Wilson (arrived at 6:26)  
Mrs. Pauline Cutter, Clerk  
Ms. Linda Perry, President

**DISTRICT STAFF PRESENT**

Christine Lim, Superintendent  
Leon Glaster, Assistant Superintendent  
Michael Martinez, Assistant Superintendent  
Henrietta Sakamaki, Assistant Superintendent  
Linda Pollard, Administrative Assistant

**PUBLIC COMMENTS REGARDING CLOSED SESSION AGENDA**

There were no public comments concerning items on the closed session agenda.

**CLOSED SESSION**

At 5:36 p.m., the Board went into closed session for Public Employee Performance Evaluation, Title: Superintendent; Public Employee Discipline/Dismissal/Release; Conference with Labor Negotiator; and Public Employee Appointment – Title: Business Manager pursuant to Government Code Sections 54957, 54957.6, 54956.9, and 54956.9(b). It was determined there was no need for the closed session on Student Expulsions. The closed session was adjourned at 6:50 p.m.

The Board returned to open session at 7:00 p.m. with the Pledge of Allegiance to the Flag led by San Leandro High School student representative Sharon Ma. President Perry said the Board had been in closed session and on a motion made by Mrs. Cutter and seconded by Mr. Richards the Board appointed Bruce Colby as Business Manager by a 6-0 vote. Ms. Wilson was absent.

### **APPROVAL OF AGENDA**

On a motion made by Mr. Heystek and seconded by Mr. Thompson, the Board unanimously approved the agenda for the regular meeting of November 16, 2004 by a 7-0 vote.

**REPORTS** Student Representatives' Reports – San Leandro High School representative Sharon Ma updated the Board on student activities including Homecoming Game against San Lorenzo with a 57-0 win; girls' NCS Girls' Golf Tournament winner, Christina Corpus; winter sports are beginning, Fall Sports' Award; Great American Smoke and Peer Educator Lunch activities; DECA will be attending the Western Regional Competition in Phoenix; "What About Guns" assembly sponsored by the City of San Leandro; Spirit Week results: Seniors won overall and Juniors won the float and decorations competition; Homecoming Results; Senior Skate Night; and the California exit exam will be on November 16 and 17 for juniors who have not passed.

Ms. Perry said that Mr. Heystek, Mr. Richards and her attended the Spirit Week activities and had a great time. She added that Sharon gave her a petition from a student regarding Block Scheduling and she will pass on copies to the Board.

### **PRESENTATION**

- \* President Perry presented Certificates of Appreciation to teachers Dale Lew, Alameda County Teacher of the Year, and Jack Nelson, P.E. teacher, for all their contributions they have made to the San Leandro Unified School District. Jack Nelson was unable to attend, so his certificate will be sent to him.
  
- \* Assistant Superintendents, Henrietta Sakamaki and Leon Glaster highlighted the 2004-05 District Strategic Plan action steps.

Ms. Sakamaki presented Strategies 1-4 of the 2004-05 Strategic Plan:

- Strategy #1 – Curriculum,
- Strategy #2 – Assessment,
- Strategy #3 – Staff Development,
- Strategy #4 – Family and Community Development

She said that integrated into the Strategic Plan are the LEAP Goals and the “No Child Left Behind” requirements. Ms. Sakamaki noted that it was important to know that for the past two years the Superintendent and the Board have made a commitment to closing the achievement gap not only between our low performing students and reaching what our high achieving students are accomplishing but to challenge our proficient and advanced students so that they are successful.

Ms. Wilson asked what were the anticipated outcomes as a result of the training for teachers and principals in Math skills and strategies. Ms. Sakamaki said under the District’s 4-year Math REAP grant the training includes concept development of Math, and cooperative learning. In response to Ms Wilson’s question regarding how to address parent participation with homework when there are language barriers, Ms. Sakamaki said she would research that with the school principals.

Mr. Pon appreciated Ms. Sakamaki addressing closing the achievement gap issue. Ms. Sakamaki added that all communications with community groups/parents are not only in English but also in Spanish and in some cases Chinese. Mr. Pon asked about the kindergarten parent orientation. Ms. Sakamaki explained that this is a parent meeting that the schools have either at the beginning of the school year, or in the springtime when the new parents have registered their children and the sites inform the parents of what school is all about, what they are going to be learning, and how the parents can help.

Ms. Perry said this was a very important presentation and commended the Ed. Services Division for all the services they are providing. She said she was pleased with the parent involvement, the outreach with our parent groups through trainings and dialogues, and teaching the parents how to assist their child. She said that this was one of the most powerful pieces, along with the amount of grants the District is receiving.

Assistant Leon Glaster reviewed Strategies 5-7:

- Strategy #5 - Facilities Plan
- Strategy #6 – Funding and Resources, and
- Strategy #7 – Technology

Highlights from Mr. Glaster presentation included the establishment of a Bond Election Committee to place a facilities bond on the March 2006 election ballot; develop and maintain school attendance reporting process to ensure FTE ratios are maintained at the most cost efficient levels; and increase technology network and infrastructure support with minimum impact to the General Fund.

Mr. Thompson thanked the Assistant Superintendents and their staff for all their work. He added that the presentation was quite comprehensive and

detailed. He said that it is very important that the Board take an active roll in the implementation of the Strategic Plan and would like to see language that reflects the Board's role as governance to the policy makers. He also said that because we have been concerned about overcrowding at the high school it is important to think about how small initiatives or other options can help our high school and reflect that in the plan.

In response to Mr. Thompson's comment regarding small schools, Mr. Pon said that this community wants small local schools and it is an overriding priority of this District, but the question is how to get it done. It was Mr. Pon's opinion that as a minimum, each should have the latest in technology with the new Jefferson facility being the baseline. Mr. Pon said that the strategy behind the Honeywell contract was to put in a newer heating system and with the energy savings, the District would be able to pay off the equipment. He wanted to know if that was happening. Mr. Glaster said he felt that Honeywell didn't come through with their energy performance agreements. Mr. Glaster added that one of the District's strategies is energy efficiency. In response to Mr. Pon's question about "tech use and training system on available software and equipment at sites", Mr. Glaster said this was about the whole district needing to be connected.

Mr. Richards said he would send some information to Mr. Glaster regarding a contact (Symantec) that might help get copies of software for the District. In regards to waste energy, he asked if the District was looking to bring in an agency to look at our current energy usage and come up with a recommended plan to conserve energy and if so, he also had a contact for a company that might be able to help.

Ms. Perry thanked Mr. Glaster all his efforts.

#### **PUBLIC TESTIMONY ON NON-AGENDA ITEMS**

- Mr. Campbell addressed the Board regarding the flying of a flag and being a distraction in the classroom and in front of the school site.
- Mr. Filipovich addressed the Board on the special election that was held May 2<sup>nd</sup> and on non-partisan and partisan issues.
- Ray Davis addressed the Board on a Fiber Optic Master Plan that was developed when he was a Transportation Administrator with the City, which provided a ring around the entire city specifically designed to have easy connectivity at each of the school locations. He encouraged Mr. Glaster to contact the Director of Engineering for an update on the status of that plan. Ms. Perry asked Mr. Glaster to report back to the Board with the information.

## **PUBLIC HEARING**

On a motion made by Mr. Thompson and seconded by Mrs. Cutter, the Board opened the public hearing concerning the California School Employees' Association (CSEA) initial proposal to the San Leandro Unified School District by a 7-0 vote.

No comments were received from the audience.

On a motion made by Mrs. Cutter and seconded by Mr. Thompson, the Board closed the public hearing by a 7-0 vote.

## **REPORTS**

- 1) Correspondence – Clerk Cutter acknowledged receipt of an invitation to the 50<sup>th</sup> year anniversary celebration of the Floresta Homeowners Association from president Barbara Tierney; a letter from Brenda Granger and Tyrone McGhee concerning the policy on students' right to privacy regarding photos; and from Jennifer Engler regarding the Block Schedule at San Leandro High School.
  
- 2) Superintendent's Report – Superintendent Chris Lim was pleased to announce that all the administrative staff has completed their goals and she has been meeting with the principals. She said that their goals are aligned with hers and they have chosen four goals: closing the achievement gap; managing the District's financial resources; development of an organizational culture of accountability, customer services, and work ethnic that supports student achievement; and how are they going to maintain a balanced life. Ms. Lim said that "Lunch with the Supe" at each site was part of her goals. She has already met with Roosevelt, Monroe, and McKinley. She announced the "Kick off" with San Lorenzo for the school safety grant and that this was a great opportunity for the two districts to work together along with the City of San Leandro. This is a \$250,000 grant that will put San Leandro on the mark to be prepared for a disaster.

Ms. Lim announced that there would be a Board Orientation Workshop, not just for new members but any Board member, on November 29 at 6:00 p.m. at the District Office and Board members will receive binders filled with information needed to prepare for the job; there will be a reception for the two outgoing Board members, Ken Pon and Gary Thompson on November 30 from 6-7 at the Helen Lawrence South Offices; please come and give credit to the wonderful service that these two Board members have contributed to San Leandro Unified School District. She also said that she would be attending the CSBA orientation for new Board members along with Stephen Cassidy and Ray Davis December 1.

3) Board Committee Reports

- Facilities/Technology – Mrs. Cutter reported that the committee met on November 5 and discussed four items. (1) Madison Improvement Project (Playground, Roofing, Window and Technology), which is on this agenda; (2) Jefferson New School Budget Adjustment Request to replace the mural that will be destroyed when the old school is torn down; (3) Request for Qualification – Architectural Services; (4) Update on Jefferson New School Construction with the plan to have the teachers begin to move in on December 15; and bringing to the Board on December 7 a Preliminary Environmental Assessment (PEA), and (5) Update on San Leandro High School Security cameras. Future agenda items include traffic at Wilson Garfield.
- Policy – Ms. Cutter reported (Ms. Wilson, Chair was absent) that the committee met on November 8 and discussed revisions of BB 9100, Organization and AR 5123, Promotion/Acceleration/ Intervention/Retention that are on the agenda for approval.

7) Board Representatives' Reports

- Eden Area Regional Occupational Program – Mr. Richards reported that the committee recognized three San Leandro High School Students of Month. He would like to have the Board present those students with certificates at the next Board meeting, so he will send the names of the students to the Superintendent. Also he said that this was the last meeting after 20 year for Barbara Sidari, and they accepted the resignation of Pat Yamada, the financial person, who is moving on to the County.
- Drug, Alcohol, Tobacco Education – Ms. Perry reported that they had their first meeting on November 4 and everyone shared their input as to what they saw happening this school year including anticipated cuts in the DATE grant; they had a presentation from nurses on the results of the Healthy Kids Survey which will be coming to the Board. The next meeting will be in January. She said that TANF referrals are happening once again and San Leandro Counseling are handling those referral services.

## **PRESENTATION**

- \* Mike Murphy, Director of Facilities and Operations updated the Board on the status of current projects throughout the District. He said this was more like
- \* a “wrap up” of the District’s projects as most are substantially completed. Highlights included the Health and Safety Retrofit Program at San Leandro High School, Muir and Bancroft Middle Schools, Roosevelt, Washington, Wilson, Monroe Elementary Schools; McKinley Elementary library modernization; Interim Housing status at Bancroft and John Muir Middle Schools; completion of the growth housing project at two sites; and the progress of the New Jefferson Elementary School K-5 facility.

At the request of Mrs. Cutter, Mr. Murphy said that he would see that the ceiling tiles at Bancroft would be replaced.

Ms. Perry thanked Mr. Murphy for the presentation.

## **FACILITIES/CONSTRUCTION ITEMS**

### **Action Items**

- 4.1-F/A      Change Order #8, Jefferson Elementary School – Increment II  
On a motion made by Mr. Pon and seconded by Ms. Wilson, the Board approved Change Order #8, for Fedcon General Contractors, Inc. for Jefferson Elementary School Increment II; bid Package #03-01 by a 7-0 vote.
- 4.2-F/A      Change Order #11, Elementary Schools Modernization  
On a motion made by Mr. Thompson and seconded by Mrs. Cutter, the Board approved Change Order #11 for Arntz Builders for the Elementary Schools Modernization Project; Bid Package #03-05 by a 7-0 vote.
- 4.3-F/A      Change Order #12, Bancroft and Muir Middle Schools Modernization  
On a motion made by Mr. Heystek and seconded by Mrs. Cutter, the Board approved Changed Order #12 for Arntz Builders for Bancroft and Muir Middle Schools Modernization Project; Bid Package #03-04 by a 7-0 vote.
- 4.4-F/A      Notice of Completion Interim Housing Removal Project at Four (4) Sites  
On a motion made by Mr. Heystek and seconded by Mr. Thompson, the Board approved to accept the Notice of Completion for the Interim Housing Removal Project at Monroe Elementary, Bancroft Middle School, John Muir Middle School, and San Leandro High School by a 7-0 vote.

- 4.5-F/A Notice of Completion, San Leandro High School Reroofing and Repaving Summer Project  
On a motion made by Ms. Wilson and seconded by Mrs. Cutter, the Board approved to accept the Notice of Completion for the San Leandro High School Reroofing and Repaving Summer Project, #04-02 by a 7-0 vote.

### **Conference**

- 4.1-F/CF Madison Roofing, Asphalt, & Technology Project  
The Board discussed and considered approving the Madison Roofing, Asphalt, & Technology project as presented.
- On a motion by Mr. Pon and seconded by Mr. Richards, the Board approved the Madison Roofing, Asphalt, & Technology project as presented by a 7-0 vote.

### **CONSENT ITEMS**

Mr. Richards asked that Consent Item #4.3-C, Liability Claims Submitted to the San Leandro Unified School District be removed.

### General Services

- 1.1-C Approval of Board Minutes – October 19, 2004  
1.2-C Approval of Board Minutes – November 1, 2004  
1.3-C Resolution #04-48, Board Member Compensation

### Human Resources

- 2.1-C Acceptance of Personnel Report  
2.2-C Resolution #04-49, Variable Term Waiver Request for CBEST Requirement  
2.3-C Resolution #04-50, Variable Term Waiver Request to Meet Credential Requirement

### Educational Services

- 3.1-C Acceptance of Donations  
3.2-C Non-Public School Contracts  
3.3-C San Leandro Adult Education Carl Perkins Renewal Application  
3.4-C San Leandro High School Carl Perkins Renewal Application

### Business, Operations and Facilities

- 4.1-C Ratification of Payroll – October 2004  
4.2-C Approval of Warrants  
4.4-C Resolution #04-51 to Declare Certain Equipment Surplus and/or Obsolete at John Muir Middle School



On a motion made by Mrs. Cutter and seconded by Mr. Thompson, the Board approved the remaining consent items by a 7-0 vote.

4.3-C Liability Claims Submitted to San Leandro Unified School District

Mr. Richards noted that the three liability claims all had to do with vehicles being damaged on campus, one of which one was a school employee. He asked if this occurred during the employee's workday or after hours. Mr. Glaster said he believed it was during the school day but that he would research it.

On a motion made by Mr. Richards and seconded by Mrs. Cutter, the Board approved to table this item until the November 30 Board meeting pending additional information by a 7-0 vote.

**ACTION ITEMS**

Human Resources

2.1-A San Leandro Unified School District Initial Proposal

On a motion made by Mr. Heystek and seconded by Mr. Thompson, the Board acknowledged receipt of the San Leandro Unified School District's initial proposal to the California School Employees' Association (CSEA) Initial Proposal by a 7-0 vote.

2.2-A In-School Suspension Teacher Job Description

On a motion made by Mr. Thompson and seconded by Mr. Richards, the Board approved the job description for the in-school suspension teacher by a 7-0 vote.

Educational Services

3.1-A Recommendation from the Administrative Panel for Expulsion

On a motion made by Mr. Richards and seconded by Mrs. Cutter, the Board approved the Administrative Panel's recommendation for expulsion for student E03-04/05 by a 7-0 vote.

3.2-A Recommendation from the Administrative Panel for Expulsion

On a motion made by Mr. Pon and seconded by Mr. Richards, the Board approved the Administrative Panel's recommendation for expulsion for student E04-04/05 by a 7-0 vote.

3.3-A Recommendation from the Administrative Panel for Stipulated Expulsion

On a motion made by Mr. Pon and seconded by Mr. Richards, the Board approve the Administrative Panel's recommendation for stipulated expulsion for student E05-04/05 by 7-0 vote.

## **CONFERENCE ITEMS**

### Business, Operations and Facilities

#### 1.1-CF Adult School Facility at Muir Middle School

The Board discussed and considered approving the Adult School funding proposal at the Muir Middle School site.

Mrs. Cutter said that Susanne Wong has been in touch with the site to be sure everything was in place.

Ms. Perry added that there had been a tremendous amount of outreach to the site regarding any questions or concerns and all those issues had been addressed.

On a motion made by Mrs. Cutter and seconded by Mr. Pon, the Board approved the Adult School funding proposal at the Muir Middle School site by a 7-0 vote.

#### 1.2-CF Port of Oakland Noise Abatement Addendum to the 1998 Settlement Agreement

The Board discussed and considered approving the Port of Oakland "Addendum to the 1998 Settlement Agreement."

Ms. Perry said that Assistant Superintendent Glaster has been negotiating with the Port of Oakland to make sure that the intent of the original 1998 agreement regarding who controls the money and how it gets implemented was put into the contract.

Mr. Glaster said that he has been working with San Lorenzo regarding an escrow fund with a local bank for the District's \$4.8 million. He also said that he has been working with Lowell Shira of San Lorenzo Unified to combine those two funds although they will be separated by fund amounts.

Mr. Richard asked if, with a joint account, would there be some monitoring established for the interest income.

Mr. Glaster explained that the way the settlement was written initially the District would receive no interest. Mr. Richards also wanted to know if the Board had any authority or control over which banking institute would be selected because if it was the one that he worked for there may be some potential conflict. Mr. Glaster said that if that were the case, the District would let Mr. Richards know.

On a motion by Mr. Richards and seconded by Mrs. Cutter, the Board approved the Port of Oakland "Addendum to the 1998

Settlement Agreement” by a 7-0 vote.

- 1.3-CF Voluntary Vision Plan: PacifiCare Vision 480  
The Board discussed and considered approving the implementation of PacifiCare’s Vision 480 Plan.

On a motion by Mr. Heystek and seconded by Ms. Wilson, the Board approved the implementation of PacificCare Vision 480 Plan by a 7-0 vote.

- 1.4-CF Emergency Response & Crisis Management Contract Proposal  
The Board discussed and considered approving the Emergency Response & Crisis Management contract from Dimensions Unlimited, Inc.

Prior to the vote Ms. Perry indicated that this was part of the District’s Disaster grant.

On a motion by Mr. Thompson and seconded by Mrs. Cutter, the Board approved the Emergency Response & Crisis Management contract from Dimensions Unlimited, Inc. by a 7-0 vote.

#### General Services

- 2.1-CF BB 9100, Organization  
The Board discussed and considered approving the revised Board Bylaws 9100, Organization as presented.

#### **PUBLIC COMMENT**

Newly elected Trustee Stephen Cassidy, in a joint written statement with newly elected Trustee Ray Davis, addressed the Board in opposition to the revision of Board Bylaws 9100, stating that before serving as president of the Board, the trustee be required to take a one-day workshop by the California School Board Association (CSBA). Both Cassidy and Davis agreed that training helps with development skills, but the daylong workshop is no indication of a person’s leadership ability. They perceived this proposal as highly divisive because it signals that the Board does not respect their judgment and ability to choose who will best serve the interest of the District and the children as school board president. He suggested not having this requirement mandatory until 2006 and for next year the requirement should be permissive, thus allowing the Board to work collaboratively and for the best interest of the District and the children.

Mr. Richards and Ms. Wilson felt that this was not a fair process because training for the next workshop is scheduled for February, precluding them and trustee-elects Stephen Cassidy and Ray Davis from becoming Board president until at least December 2005.

Mr. Richards added that this is a political way to control the presidency of this Board.

Mrs. Cutter said there has been a lot of discussion regarding this issue and everyone thinks it's a good idea but the timing is wrong. She said that when she thought about being Board president, she took the workshop so that she could to gain knowledge and be informed. She knows that the presidency is an important job and she wants the person to have the qualifications to be president. She wants a spokesman who is knowledgeable in what they can and cannot say, and to be collaborative. She added that she supports this policy because it is in the best interest of the District.

Mr. Thompson said he also supports the policy because other districts have this policy in place. He concurred with Trustee Cutter because he strongly believes that the person who desires to become president should have this training to become a more effective president. He said this has nothing to do with politics but doing the right thing for this District.

Mr. Heystek said this had been discussed many times including the Policy Committee who announced this proposed revision at the October 19 Board meeting and said this would be coming forward to the Board tonight. He added that this was not a surprise, as it had been discussed with the proper committees.

Mr. Pon said that he liked this change and it is a very good idea because "it raises the bar for the Board because it says that you can be elected by the public, but in order to be president you need to come with more." He added that it gives everybody the awareness of what is expected.

Ms. Perry said that this is not a personality fight; this is not what this policy is about. She said that other districts require a trustee to complete a complete Masters of Governance program before being considered an officer, let alone the president.

On a motion by Mrs. Cutter and seconded by Mr. Thompson, the Board approved the revision of BB 9100, Organization as presented

by a 5-2 vote. Mr. Richards and Ms. Wilson voting no.

2.2-CF BP 5123, Promotion/Acceleration/Intervention/Retention  
The Board discussed and considered approving the revised BP 5123, Promotion/Acceleration/Intervention/Retention as presented.

On a motion by Mr. Heystek and seconded by Mr. Pon, the Board approved the revised BP 5123, Promotion/Acceleration/Intervention/Retention as presented by a 7-0 vote.

2.3-CF Superintendent's Evaluation Form  
The Board discussed and considered approving the Superintendent's Evaluation form as presented by the Superintendent's Evaluation Ad Hoc Committee.

Mr. Heystek reported that the committee was presenting two forms to be considered and noted that Mr. Richards' proposal #1 had been updated further and everyone should have an updated version.

Mr. Richards' proposal #1 includes evaluations on both the overall goal area and individual action steps featuring a drop down menu with three selections ("exceeded", "met", or "did not meet" with a numeric value) that is forwarded over to the ranking column. The only input required would be putting your name, indicating rating, and any comments and a completed summary evaluation.

Ms. Perry asked about the numeric value and only having three categories and the ranking given to each. Mr. Richards said that values and assignments would need to be determined.

Mr. Heystek explained that proposal #2 was from a county school board in the state of Virginia and features included a rating of each goal or action step on a scale of 1 ("well below expectations") to 4 ("exceeds expectations"); ratings of 1 and 4 must be supported by comment and a narrative section would be added on the last page.

Overall the Board preferred Mr. Richards' proposal #1.

Mrs. Cutter said that proposal #1 was more objective than subjective.

Mr. Richards explained that he is looking for a simple form. If the Board likes the rankings from the second proposal they can be transferred into his proposal. It is whatever the Board decides.

Mr. Thompson said he would like to recommend that the Board make some modification so that it incorporates both *quantitative* and *qualitative* components.

Mr. Richards explained that there are predefined comments based on the numbers and once the Board defines what they want, no one can change it in an excel spreadsheet.

Mr. Pon asked if each of the goal and action steps were equal. Mr. Heystek added that our system now already gives equal weight to the seven areas. The challenge for the committee was that the goals were already made and they were trying to choose a system to fit the goals.

Ms. Perry would prefer a 1-5 ranking rather than just three and she does like having all the goal areas listed so that we know what we are evaluating.

Ms. Perry asked that since this needs to be mutually agreeable with the Superintendent, could the committee take proposal #1, refine it and bring it back to the November 30 meeting.

It was the consensus of the Board to consider the 1-5 range and Mr. Heystek would set up a meeting with the Policy Committee members to refine proposal #1 and bring it back to the November 30 meeting.

2.4-CF      Resolution #04-52, Declaring Vacancy on Board for Trustee Area 6  
The Board discussed and considered adopting Resolution #04-52, Declaring Vacancy on Board for Trustee Area 6.

Before the discussion began Mr. Pon asked for an update on some outstanding issues from the October 19 Board meeting.

District counsel, Celia Ruiz and Marion McWilliams, from Ruiz and Sperow said that additional information had been obtained from the last meeting, that they had been in contact with Ms. Wilson's attorney and had received clarification on the two items from the prior resolution.

Marion McWilliams recapped that the resolution presented at the October 19 Board meeting was tabled for further fact finding and clarification of the facts that Ms. Wilson noted were inaccurate, and to give Ms. Wilson time to obtain legal counsel.

Ms. McWilliams met with Ms. Wilson's counsel, Mr. Finley, on Nov. 9 and was informed that he believed that there was a legal issue as to whether or not the Board bylaw could properly require Ms. Wilson to be a resident of her trustee area as opposed to the District at large. Mr. Finley believed there was a legal issue of validity of the Board bylaw and he interpreted the Education Code to say it was sufficient for Ms. Wilson to reside in the District as a whole, rather than in her trustee area.

Ms. McWilliams said that Ms. Wilson's attorney recommended that the Board proceed and file a petition with the Attorney General for permission to file a *quo warranto* action to determine whether Ms. Wilson was properly still holding office or whether she still resided in the District was sufficient to qualify her to be on the Board. Ms. McWilliams said they discussed two specific facts #11, "*Ms. Wilson has not searched for or obtained alternative rental property within Trustee Area 6*" and Mr. Finley indicated that she had rental property available to her that met her personal preference regarding rent and safety issues. Ms. McWilliams said that she asked Ms. Wilson's attorney when those actions took place, but he was not sure and she confirmed that Ms. Wilson was still living outside the trustee area. Regarding fact #12, "*Ms. Wilson has no specific time frame within which she intends to return to Trustee Area 6*". The attorney indicated that Ms. Wilson contended that when she originally spoke with the Board on June 1st stating that she would be moving out of her trustee area, the move would be no longer than 6 months.

Ms. Wilson attorney did not state there were any other concerns with the other facts of the original resolution and the new resolution restates those facts.

Ms. Wilson indicated that once again there was a resolution with some false statements. As requested by her attorney, because he was not present (she couldn't afford to have him present), she shared some statements from the resolution that were not true and then allowing the Board to make a decision with that information.

Ms. Wilson said on the cover sheet of this agenda item, it stated that her attorney, Mr. Finley, had informed Ruiz and Sperow that she had not moved back into the trustee area, and had obtained an opportunity for a rental that she elected not to enter into a lease agreement. She said that was not true and from October 19 until now she has made no promises, no agreements, and had no conversations with anyone in Trustee Area 6. She said, that on

behalf of Mr. Finley, if there was some confusion he was sorry because that's not what he shared with Ruiz and Sperow at the time of the meeting. She clarified for the Board that from October 19 to now, her responsibility was to go back to her attorney and have him review the resolution to see if there were other issues and legal issues that needed to be addressed. Ms. Wilson said the agreement of the six-month term was not from date to date i.e. June 1-December 1 but that she did promise the Board to move back in six months.

In reference to the *quo warranto*, she said that her attorney did not state that they would file a *quo warranto* action if the Board adopted the resolution. She added that she would not file with the Attorney General but she would file suit against the District. She said that her concern was that the information placed in the resolution was not accurate, the fact finding process had been tainted because an attorney has been involved, and the resolution being brought forth tonight did not support or address the original discussions that the Board had regarding her move prior to her moving outside her area boundaries. This resolution just states basic facts and she has never had any problems acknowledging the residency issue.

Ms. Perry asked counsel if they had direct conversations with Ms. Wilson since she was being represented by legal counsel. Ms. Ruiz said that they had requested that Ms. Wilson meet with them along with her attorney, but she was not available.

In regards to the rental property, Ms. Ruiz said that when Ms. McWilliams spoke with Mr. Finley, she was led to believe that there was suitable rental property available to Ms. Wilson if she chose to move back. Ms. Ruiz said that it's not a material fact; the fact is that Ms. Wilson has set up legal residency outside of her trustee area.

Ms. Perry asked if language should be stricken from page 3 of the resolution. Ms. Ruiz said it was not necessary to strike any language but that the District could include or acknowledge "*Ms. Wilson has indicated that there is no rental property available*" and add that to the resolution.

In regards to the *quo warranto* (page 5 of the resolution), "Ms. Wilson's comment "*that she has no intention of filing quo warranto action*" should be added.

Ms. Wilson agreed that those were the two changes to the



resolution.

The meeting became tense when the Board discussed their recollection of the events leading up this issue.

Mr. Richards said that it was his recollection that when Ms. Wilson brought this to the Board in June no one objected to the six month time period so he assumed that it would be effective July 1<sup>st</sup>, allowing Ms. Wilson until January 2005 to fulfill the six month time frame to adjust her residency back into the respective District.

Ms. Perry said that her recollection was entirely different from Mr. Richards. She stated that Ms. Wilson was given the opportunity to address the Board about a situation that would result in her possibly moving out of her district. She continued that the "six months" came from Ms. Wilson and that the Board did not give a time frame, but gave her the legal advice on what criteria was needed to qualify as temporary versus a permanent move. The Board never agreed to the six months.

Mr. Richards said that by not objecting to the six-month request, it was the assumption that the six month period of time was granted.

Ms. Perry wanted to know by whom, since the Board doesn't have the authority to grant the request.

Mr. Thompson asked legal counsel if it was in the Board's purview to make that decision. Ms. Ruiz said that it was not in the Board's purview. She thought that in October, assuming that Ms. Wilson was operating under a mistaken assumption, it was made abundantly clear that legally Trustee Wilson may have abandoned her position by undertaking legal residency outside her trustee area. Ms. Ruiz added that as of October when this issue came up and was discussed, Ms. Wilson had ample opportunity to move back the trustee area yet there still hasn't been any affirmative action taken. Ms. Ruiz did think the fact that there may have been some misunderstanding by the Board that temporary could mean as long as six months and could include establishing legal residency by registering to vote and all the other indicia of changing permanent residency as discussed at the previous meeting, could be waived and that it is just not allowable.

Mr. Heystek said that not only did he not recollect this "so called" agreement by the Board for the six-month window, he never

consented to an agreement that we are now being told is illegal and not within our legal purview. He said that he is seeing a lot of “trickery” happening tonight and that the Board knows where he stands on this resolution and he would like to move on.

Mr. Pon stated that when it he was made aware that Ms. Wilson was going be out of her trustee area, he did not agree to the six month time frame, and told her that she needed to move back into her trustee area ASAP. He reminded the Board that when Mr. Heystek was forced out of his area, in less than a month there was outrage in the community, “led by your wife, by the way”, referring to Trustee Richards’ spouse. Mr. Richards angrily responded to Mr. Pon for verbally attacking his wife with “tough shit”. Mr. Pon said he was only stating how it happened.

Ms. Wilson interjected that what Mr. Pon was saying was “a lie.”

Mr. Pon added that tonight the Board is aware that she has voluntarily moved out, has no plans to move back in, has not made an effort to move back in to your trustee area, and it’s been at least six months since this occurred.

Mr. Thompson emphatically stated that the Board all took the oath of office to serve this District and when an individual Board member takes actions that are in conflict with the oath of office, we as individuals have to take full responsibility for what we do. He said that he was appalled by the fact that District had to go through a process like this. It’s divisive and the Board has been put in this situation because of the actions of one individual and that individual has to take responsibility for what they have done. He added that he thought there had been ample time for this individual to do the right thing. He said that he was very concerned about the legal costs that the District has incurred and “a person who breaks the oath must suffer the consequences of his or her actions.”

Ms. Cutter said that as a Board trustee it is her duty to serve the District and based on the attorney’s advice that its the Board’s duty to declare the seat vacant because of the parameters and because nothing had been rectified since the October notification, she was prepared to declare a vacancy on the Board for Trustee Area 6.

Ms. Wilson shared with the Board and the community that they had been poorly served by the District’s legal counsel on this very serious matter. She said that in researching the matter, her

attorney did share with District counsel that there were state legal statutes that override the Education Code provisions and Board policies cited in the resolution. For example her attorney informed the District counsel that Ed Code 35017(a), as amended in 1991, raises a legal question regarding whether the Board Bylaws can properly require Ms. Wilson to reside in Trustee Area 6, yet the District counsel cites an Ed Code provision adopted in 1978 and then further cites an attorney general's opinion Ed Code 5030 which makes no reference to a Ed Code 3501, as she stated earlier, relevant to Board trustees residing. Ms. Wilson said that she was gravely concerned and expressed to the Board and the community that this had not been a truly objective formal process, and that the resolution states, as she cited earlier, "false and inaccurate information."

She reiterated that at the October 19 Board meeting she had stated that the Board met on June 1, discussed in closed session her living arrangements, agreed about the temporary time period, and never reported out in public session the discussion and the agreement made in closed session. The Board and the District were fully aware of the circumstances before the actual relocation took place. She said that the matter on the table tonight could have been prevented and what is more disgraceful than removing the first African-American woman elected to this body is to know that all considerations were not evaluated, information that could have diverted this situation was not shared with the Board, including all legal statutes that override the existing policies were not considered. "I believe that I've served on this Board and I've carried out my fiduciary responsibilities and beyond that my moral and ethical character has been served by this community."

Ms. Perry had a follow up question on an Ed. Code cited that does not apply to San Leandro Unified. It was Ms. Perry's understanding that San Leandro is unique in the Education Code with the way our trustee areas are and that is cited in Education Code 5203.6. Ms. Ruiz concurred and added that in 2001, subsequent to the 1991 statutory amendment to the Education Code relied upon Ms Wilson and her counsel, the Attorney General issued an opinion that "Education Code section 5030 requires a trustee to maintain his or her residence within the trustee area for the duration of the term" and this is stated in the resolution.

Mr. Richards apologized to the community and Board for his use of inappropriate language, but added that it was inappropriate for anyone to attack or to say anything about any Board member's

spouses in this type of forum.

On a motion made by Mr. Pon and seconded by Mr. Heystek, the Board adopted Resolution #04-52, Declaring Vacancy on Board for Trustee Area 6 as amended by a 5-2 vote. Mr. Richards and Ms. Wilson voting no.

Ms. Perry acknowledged Ms. Wilson's service to the Board and said that this was not personal; it was legal.

## **INFORMATION ITEMS**

### General Services

- 1.1-I AR 5123 and Proposed Revision of Exhibits 5123 (a-g), Promotion/Acceleration/Intervention/Retention as presented.  
The Board received for information the revised AR 5123 and discussed and considered approving the proposed revision of Exhibits 5123 (a-g), Promotion/Acceleration/Intervention/Retention as presented.

Mr. Pon asked for clarification in regards to Exhibit 5123, where i.e in grades 6-7 under Language Arts and Math there were references to "D and/or F" and in some cases it is stricken and replaced with the number "1", but there are cases where the "D" is not stricken. He said it is not consistent and wanted to know if this was intentional or was it a clerical error.

Ms. Sakamaki explained that when this was first discussed with the Policy Committee, the first section is "At Risk Criteria" for the first report period, so the "D" or "F" was left; the second section is for "Retention Criteria" and the Board committee members felt that the "D" was a little severe and that the "F" would be used for retention purposes.

Mr. Pon suggested that the explanation on how a student is considered to be "at risk", should say any "two of the four" (which would indicate how many criteria there were) and the explanations needed to be revised to fit the criteria.

Ms. Sakamaki said that when these changes were proposed, it was primarily for the K-5 standards based report card and aligning them with the rubric of the numerical symbols rather than the letter grades and that the committee noted that some of the criteria needed to be revised. She said that they will be looking at different assessments for grades 6-8 and plan to come back with those revisions updating the criteria.

## **ADDITIONAL SUGGESTIONS AND COMMENTS FROM BOARD MEMBERS**

Ms. Wilson said that although she didn't agree with the Board's decision, she did respect it. She felt that she was a very trust worthy and forthright individual and has enjoyed her time on the Board and will take the necessary actions towards the District later.

Ms. Cutter was wondering about the program for Pregnant School-Age Mothers that was taken over by Hayward and if the girls from our area were dropping out or attending the Hayward program. She would like an update to be sure that the District is serving that population.

Mr. Thompson said that this has been one of the most difficult decisions that he has had to make. He said he was heartened by the sizable representation from the African-American community in support of Ms. Wilson at the October 19 Board meeting, but also troubled because he felt that this was not an issue about a persons' gender, ethnicity, or race but about the oath that the Board took to serve the community and District in its best interest. He said that he is also very troubled on what this has caused this Board and how it could potential taint how we do our business in the future. Mr. Thompson felt that the decision made tonight was an appropriate, correct and legal decision that needed to be made. It was not personal, but it will personally affect many people, including him, and he hoped that the District could begin the healing process and take this as a lesson to move forward, collectively and collaboratively. "We owe it to the people we represent and if we allow this to fester and create more problems we are not doing our job as leaders."

Ms. Perry agreed with Mr. Thompson's comments and was also very saddened by the whole situation. She also reminded the Board that the Alameda County School Boards Association would be meeting on Thursday, Nov. 18 from 7:00-8:30 at the County Office with a presentation on *Parliamentary Procedures* by School and Colleges Legal Services. She reported on the success of Spirit Day at the high school and the San Leandro High School musical cabaret that featured current and past talents.

## **ANNOUNCEMENT**

### **Future Board of Education Meetings**

- Regular Meeting – November 30, 2004
- Regular Meeting – December 7, 2004
- Regular Meeting – December 14, 2004
- Regular Meeting – January 11, 2005
- Regular Meeting – January 25, 2005
- Regular Meeting – February 1, 2005
- Regular Meeting – February 16, 2005
- Regular Meeting – March 1, 2005
- Regular Meeting – March 15, 2005
- Regular Meeting – April 5, 2005
- Regular Meeting – April 19, 2005
- Regular Meeting – May 3, 2005
- Regular Meeting – May 17, 2005
- Regular Meeting – June 7, 2005
- Regular Meeting – June 21, 2005

## **ADJOURNMENT**

On a motion made by Mr. Heystek and seconded by Mrs. Cutter, the Board adjourned the meeting at 10:18 p.m. by a 6-0 vote. Ms. Wilson was absent for the vote.

Respectfully submitted,

Pauline Cutter, Clerk