

**County Board of Education  
Ronald L. Stewart Center  
77 Santa Barbara Road, Pleasant Hill, California  
February 5, 2014**

**ROLL CALL:** Pamela Mirabella, Area 1 Trustee (arrived at 5:14 p.m.); Ellen Elster, Area 2 Trustee; Daniel Gomes, Area 3 Trustee, Richard Asadoorian, Area 4 Trustee; and Cynthia Ruehlig, Area 5 Trustee

**Absent:** None

**Others:** Karen Sakata, Pamela Comfort, Bill Clark, Peggy Marshburn, Mac Carey, Loreen Joseph, and County Office staff. A partial list of attendees is on file at the CCCOE.

**Presiding:** The regular meeting of the Contra Costa County Board of Education was called to order by President Elster at 5:02 p.m. with the recitation of the Pledge of Allegiance.

**AGENDA REVIEW AND ADOPTION** Gomes moved, Asadoorian seconded and the Board voted 4-1 to approve the agenda as presented.

Ayes: Gomes, Asadoorian, Elster, Ruehlig  
Noes: None  
Absent: Mirabella  
Abstain: None

**PUBLIC COMMENT**  
Items on the Agenda None

Items of Interest to the Public Martin Kovach, retired Severely Handicapped (SH) teacher and former union executive board member, said that the three year contract that was settled this past year does not include all teachers that worked during those times. The effected teachers were those that retired after 2011-12.

**RECOGNITIONS**  
**Consider granting of a Contra Costa County High School Diploma to high school student GGCS 1-02/05/14** Ruehlig moved, Gomes seconded and the Board voted 4-1 to approve granting a diploma to high school student GGCS 1-02/05/14

Ayes: Ruehlig, Gomes, Elster, Asadoorian  
Noes: None  
Absent: Mirabella  
Abstain: None

Principal Rebecca Corrigan shared that the student plans to attend both a beauty school and Diablo Valley College. Her teacher said that she has been a superb student who provided help as a student aid and was role model student.

**PUBLIC HEARINGS** None

**ADMINISTRATIVE ITEMS**

**SUPERINTENDENT’S REPORT** No report. Joseph Ovick, Ed.D. was absent.

## **BUSINESS SERVICES**

**Consider Adoption of Board Resolution No. 10-13/14 In the Matter of the Contra Costa County Board of Education authorizing approval of an agreement (#29167) between the Department of Rehabilitation and the CCCOE and Authorizing Bill Clark, Associate Superintendent to sign said agreement**

Catherine Giacalone, Project Manger, Youth Development Services explained that this program has been in existence for the past three years. The renewal is for the next three years.

Gomes moved, Asadoorian seconded, and the Board voted 4-1 (Ruehlig abstained) to adopt resolution 10-13/14.

Ayes: Gomes, Asadoorian, Elster, Mirabella  
Noes: None  
Absent: None  
Abstain: Ruehlig

Ms. Ruehlig explained that she abstained because her husband works with the Department of Rehabilitation.

## **Staff Report**

Bill Clark, Associate Superintendent, Business Services, gave the Board legal opinion having to do with Making Waves Charter and the substantial material changes to the charter. He said there were a number of questions regarding their non-profit status and also concerns about a statutory member on the board. In the document it explains board removal and terms. Ms. Ruehlig said the legal opinion does cover statutory membership structure, but does not cover sole statutory membership structure. It is her understanding they have complete control over the board and that none of the members will be selected on the desire of the public. She asked to hear the opinions of the Secretary of State, IRS, and California Franchise Board when the bylaw changes are submitted. Ms. Ruehlig also asked if there were overlapping board members between Making Waves Foundation and Making Waves Academy. Mr. Clark said he will follow up with the information. Mr. Clark also gave the Board members the proposed changes to the Summit MOU. The plan is to agendize it for the February 19 Board meeting for review. Ms. Mirabella asked how the MOU will address and monitor the concerns that only El Cerrito students may be served? Mr. Clark said the only information he was able to get at this time was that they have 140 students enrolled at this point and are making good progress with respect to the enrollment plan. He will follow up on the questions around the lottery process. Mr. Clark shared a write up with information on the Clayton Valley Charter High School on a look back to determine if there was fiscal impact on the Mt. Diablo USD as a result of the charter conversion. The write up explains that the COE agrees that the Mt. Diablo USD needs to fund at the charter funding rate, which is higher than the unified rate because high school students cost more. The state sets the higher rate. There should have been a cancellation of cost similar to a revenue transfer. Under the new LCFF funding model, the transfer from the school district to the charter is eliminated making it a one year situation that occurred. The feeling is that the expenditures that should have been offset as a result of transferring those costs largely mitigated the impact on the school district. He asked that the Board consider not moving forward with the expense of a separate FCMAT study. Ms. Mirabella asked that it be agendized so the Board can vote on it. Ms. Ruehlig asked for information on the New Jerusalem Charter. She said it is her understanding that they are serving high school students but the charter school was authorized by an elementary school district. Mr. Clark will follow up.

## **EDUCATIONAL SERVICES**

**Presentation on the New and Improved Digital Common Core Tool**

Rovina Salinas, Technology and Curriculum Integration Manager, Eileen Walters, Instructional Technology Specialist and Steve Bateman, Web Projects Specialist gave a PowerPoint presentation on the new and improved digital Common Core Tool. They shared some of the new features of the Tool.

## **Staff Report**

Pamela Comfort, Associate Superintendent, Educational Services shared that Friday, February 7 is the third Annual San Francisco Bay Area STEAM Colloquium sponsored by the County Office of Education which is taking place at the San Ramon Conference Center. The event has become more successful each year and in fact is sold out. They expect 350 attendees.

## **HUMAN RESOURCES**

### **Staff Report**

Karen Sakata, Deputy Superintendent shared information on the Supplemental Early Retirement Program (SERP). She explained that it is a voluntary program and that the eligibility is for employees that are 55 years or older and who have been with the Agency at least five years or more by June 30. The program will move forward only if there is cost savings. Group meetings and individual meetings have been held already. At the request of Local 1, additional meetings will be held. She shared her responses to the questions Mr. Gomes had submitted earlier.

## **COMMUNICATIONS**

### **Staff Report**

Peggy Marshburn, Chief Communications Officer, left earlier to attend the Academic Decathlon Awards.

## **TECHNOLOGY SYSTEMS**

### **Staff Report**

Mac Carey, Chief Technology Officer, reported that this is the 17<sup>th</sup> year of applying for E-rates. There are currently multi-year contracts that are presently receiving E-rated discounts. These contracts don't have to apply again until they expire. Heritage High School and Liberty High School Special Education have been added.

## **BOARD**

### **Legislative Update**

Ms. Mirabella asked staff to share the list of local legislation bills when they come out. She researched and found that there are none at the present time.

**Board Member Gomes is presenting to the Contra Costa County Board of Education (CCCBOE) a resolution ordering an election that would give the voters of Contra Costa County the opportunity to vote on whether the CCCBOE should appoint the county superintendent of schools or the electorate should continue to elect the superintendent of schools, and requesting that the County Costa County Board of Supervisors place the item on the general election ballot in November 2014**

Mr. Gomes read an email he sent to Dr. Ovick and copied members of the Board. The email summarized what the resolution is about. He said his resolution is based on existing law. He said he was confused by Mr. Clark's memo that contained past legal analysis and asked when new legal analysis can be expected. Mr. Clark said that the memorandum summarizes the legal analysis and believes it addresses the legal characteristics with respect to the proposed measure. Mr. Clark shared that the legal analysis questions whether the Board has the authority to call for an election. The Board has the authority to call for an advisory election, but that would provide no affect as far as changing the election of the Superintendent. He shared that the attorneys raised the point in their evaluation that seeking to overturn the will of the people to persuade voters to change their position with respect to electing a Superintendent has consistently failed. The estimate of cost of having this on the ballot would be \$655,000. If the Superintendent and Board Member positions are uncontested, the County Office of Education (COE) is still locked into the cost of having the item on the ballot. Ms. Elster expressed that she does not support this item. Mr. Gomes said that he has doubts about the estimated cost. He cited Constitutional Article 9, Section 3 which says that this process is available each and every year whether or not it has been successful in the past. He said that every school district in California has a CEO or Superintendent that is appointed by the Board. Those Boards have the ultimate authority over that Superintendent and that is what he would like to see for all County Offices of Education. Ms. Elster remarked that she can see no greater waste of money for a strapped agency than to spend over \$600,000 on this issue. In answer to a question from Mr. Asadoorian as to why the elections office said this is a stand alone item, Mr. Clark explained that it is foreseeable that the superintendent and Board Member positions would be uncontested. Therefore, the County Office of Education would be committed to a share of the election cost which is calculated at \$655,000, but only this item moved forward.

Ms. Mirabella said that many counties put this on the ballot in the 1980's. Although, none were successful they were still able to put it on the ballot. Even if the Board decides not to pursue it, she would like to know how it can be done.

Ms. Ruehlig asked Mr. Gomes if his constituents or anyone from other areas were asking for this change. Mr. Gomes responded that he doesn't believe there are people clamoring for this change. He shared that he is bringing it forward because of his dissatisfaction with the performance of the Superintendent, particularly in 2010 when raises were given to three associate superintendents. He said he also feels that by removing his "action" item from the January 5, 2014 meeting and substituting it with an "information only" item violates his right to have the Board vote on this particular item as well as any item that might come up in the future where there is conflict assumed. Mr. Asadoorian suggested putting it on the agenda, voting on it, and then if it's legal, move it onto the November ballot. Ms. Mirabella said that because she does not have answers to all her questions, she suggested that the Board hire their own law firm. She would also like a non-partial person to review the memorandum that was sent to Dr. Ovick in August 2010. She said she thinks the strongest argument for an appointed County Superintendent of Schools is based on the grand jury report of 1983-84. She requested that her January 7, 1994 letter to all county board members throughout the state be available for her colleagues and the public. Also, that the grand jury report be available as a resource. Ms. Mirabella suggested a call should be made to CCBE and CSBA to get a list of available attorneys.

Mr. Gomes suggested placing the resolution on the agenda for approval, sending it to the Board of Supervisors for their approval, so far as space is concerned, then onto the County Counsel for their analysis of existing law as it applies to the resolution.

Ms. Ruehlig commented that there are other avenues to address performance or actions. She stressed the importance of the Board having a good relationship with the County Superintendent. She said the action that the Superintendent took in 2010 is a small issue in comparison to the Board moving forward with such a drastic change to the whole structure. Ms. Mirabella said that the Board's role is very limited and there is always a gray area. The biggest gray area for her is approving the budget. Mr. Asadoorian stated that when he ran for the Board in 2010 he said he didn't want to take away the public's opportunity to vote. Since that time his attitude has changed and he now supports doing a superintendent search. Ms. Elster stated that one of her fears is that the Board will be politicized. Board members may want just who they want to represent their areas. She said that when the entire county endorses someone, it's not politicized because it's not just one Board member campaigning hard for one person. She asked Bill Clark to look at the Board budget and see how much has already been spent in legal fees on this matter.

Mr. Gomes asked what authority the Superintendent and staff used to remove, without his permission, his action item and substitute an information item. Ms. Elster said that she believed they thought, as she did, that when she received his letter there wasn't enough information about the item to vote on it. Mr. Gomes said that enough is now known to put this on the next agenda without interruption. Mr. Clark said it was his understanding that there wasn't any intention to disrupt the process and if the Board directs to have the item agendaized for the next Board meeting, he doesn't see any reason not to do so. The Board agreed that it should be an agenda item. Mr. Clark asked Mr. Gomes for clarification regarding his statement that the Board has legislative authority. He said there is legal opinion that this is not the case. He commented that it would be prudent to have some other form of legal opinion to establish if that authority exists.

Mary Ann Mason, County Counsel shared that the County Board of Education has the legal authority to order an election on an advisory measure basis on whether the county superintendent should be an elected or appointed position. She said that it is not known if there is legal authority for the Board of Education to order a straight out, flat election that would actually convert the position from elected to appointed and would require that the Board of Supervisors place it on the ballot. There is question about whether the Board of Education has any legal authority whatsoever to even make that a request of the Board of Supervisors. In 1978, there was special legislation passed by the Legislature requiring each and every county that had not yet held an election on whether or not the county superintendent should be elected or appointed, to hold an election. Ms. Mason said there are many open legal questions right now and suggested the Board obtain legal opinion that specifically addresses whether or not this Board, in and of itself, can order an election that the Board of Supervisors is compelled to place before the voters.

Mr. Gomes stated that he believes the Board of Supervisors has only one function so far as any ballot that comes to them. Not to judge the legality of it, but to judge whether or not there is space or will be space in the general election that the sponsor wishes to place on the ballot. He said County Counsel is supposed to provide, free of direct charge to any agency, a legal analysis as to the legality of the whole situation. Ms. Mason explained that the analysis the County Counsel provides is what the item will do if the item passes or not. It is her understanding that the County Clerk/Recorder will not put a measure on the ballot for consideration that does not meet the confines of the law.

Ms. Mirabella suggested holding a special meeting because the timeline is short. The Board agreed to hold a special meeting on February 26. Mr. Asadoorian asked if this would be an action item. Mr. Clark confirmed that it would. Ms. Mirabella said that the action item with the information they have will allow the Board to be able to go forward on the 26<sup>th</sup> to see if they can move the resolution forward or not with that second opinion.

**PUBLIC COMMENT**

None

**CONSENT AGENDA**

Ruehlig moved, Gomes seconded and the Board voted 5-0 to approve the Consent Agenda as follows: Minutes of the meeting of January 15, 2014; granting of high school diplomas to students MM 1-02/05/14 and MM 2-02/05/14.

Ayes: Mirabella, Elster, Asadoorian, Gomes, Ruehlig

Noes: None

Absent: None

Abstain: None

**CORRESPONDENCE/EVENTS  
CALENDAR**

*Correspondence:* None

*Calendar of Events:*

**Academic Decathlon Schedule**

**Subjective tests – speech and interview**, January 25, 9:00 a.m.–12:30 p.m., Cal State East Bay Concord Campus

**Subjective tests and superquiz**, February 1, 8:00 a.m.–5:00 p.m., Los Medanos College

**Academic Decathlon Awards**, February 5, 6:00 p.m., location TBD

**Mock Trial Schedule**

**Preliminary Rounds**, February 4, 6, 11 and 14, 5:00–8:30 p.m., Bray Bldg. courthouse and annex, Martinez

**Quarter Finals**, February 18, 5:00–8:30 p.m., Bray Bldg. courthouse and annex, Martinez

**Semi Finals**, February 20, 5:00–8:30 p.m., Bray Bldg. courthouse and annex, Martinez

**Finals**, February 25, 5:00–8:30 p.m., Bray Bldg. courthouse and annex, Martinez

**Mock Trial Awards**, February 27, 6:00–8:00 p.m., CCCOE Board Room

**BOARD REPORTS OF ACTIVITIES**

Mr. Asadoorian shared that Clayton Valley Charter High School student Xavier Crawford will be attending Oregon State next year on a football scholarship. He shared that students from Excelsior Middle School in Knightsen have put together an anti-bullying presentation. He asked that the Board allow them to give their presentation at the February 19 Board meeting. The Board agreed. In response to a question from Mr. Asadoorian, Ms. Sakata explained that school district boards are not required to attend SB 1234 training. Ms. Mirabella asked for an agenda item on a time for the Board to set their goals and objectives for next year. On January 16 she attended the budget workshop put on by Capital Advisors. She announced that the next CCCSBA event will be Legislators Dialogue Roundtable on Thursday, March 20 at Serendipity, Mt. Diablo High. Ms. Ruehlig asked for an update on the Pittsburg school district lawsuit.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 7:48 p.m.

Joseph A. Ovick, Ed.D., Ex Officio Secretary  
County Board of Education

Copies of all resolutions adopted by the Board are on file in the Office of the Superintendent, Ex Officio Secretary of the Board of Education.

County Board of Education  
February 5, 2014

These unadopted minutes are summaries and excerpts from the regular meeting of February 5, 2014, and are subject to amendments and/or correction prior to the approval of the County Board of Education.

For further information, contact Loreen Joseph, 925/942-3380, [ljoseph@cccoe.k12.ca.us](mailto:ljoseph@cccoe.k12.ca.us).