

County Board of Education
Ronald L. Stewart Center
77 Santa Barbara Road, Pleasant Hill, California
January 11, 2012

ROLL CALL: Pamela Mirabella, Area 1 Trustee; Daniel Gomes, Area 3 Trustee; Richard Asadoorian, Area 4 Trustee; and Cynthia Ruehlig, Area 5 Trustee

Absent: Ellen Elster, Area 2 Trustee (due to illness)

Others: Joseph Ovick, Karen Sakata, Pamela Comfort, Bill Clark, Peggy Marshburn, Mac Carey, Jane Shamieh, Pam Tyson, Jonathan Lance, Terry Foley, and Laura Dorsey Huerta, County Office staff; Joseph Partansky; Willie Mims, ECNAACP/BPA; Neil McChesney, Petitioner; Pat Middendorf; Petitioner; Marshall Mayotte, Clayton; MDUSD Superintendent Steven Lawrence; Deborah Cooksey, counsel for MDUSD; MDUSD CFO Bryan Richards; MDUSD Trustee Linda Mayo; MDUSD Trustee Sherry Whitmarsh; Satinder Malhi, Office of Senator Mark DeSaulnier; Kathryn Carlson; Gabriela Rowland; Emily Rowland; Veronica Guerrero; Dan Bacigalupo; Ilana Samuels; Angie DeBoer; Dorothy Weisenberger; Dick Ellis; Dennis Bledsoe; Les Garaventa, Jr.; Casey Henggeler; Wendy Henggeler; Nadine Peyrucain; Lorrie Davis; John Wright; Frank De Motti; Megan Kommer; Alison Bacigalupo; Mary Gray; Matt Lovett; Ray Triana; Pam Hall; Gregory Hille; Chris Gasparro; Bryce Sampson; Austin Arter; Jacob Saudar; Alex Hu; Nick Kies; Marcia Eaton; Cate Sundling; Maureen Allan; David Shuey; Councilmember, City of Clayton; Carol and Ben Shuey; Ryan Dugan; Jimmy Young; Kevin Young; Harrish Sheikh; Richard Ahlgren; Dave Katsrelsan; Rick Ortega; Tom Fester; Sam Myers; Kevin King; A. J. Chippero; Kat Marzel; Leigh Klock; Aaron Pascucci; Kelly St. Germain; Marcia Mason; Kiara Mason; Brandon Enriquez; Lyndy Enriquez; David DiQuattro; James Gee; Deb Heinzmann; Cathy Myers; Kirsten Owen; Sarah Owen; Christine Reimer; Ben Shuey; Amber Lineweaver; Bonni Hendricks; Maria Bekakis; Mike Tabor; Jordan Deely; Jared Deely; Dana Deely; Austin Cannedy; Nellie Duncan; Hope Boone; Michelle Ortiz; Grant Bazán; Nancy Kahl; John Gray; Carol Gray; Maria Carvalho; Jamie Vincent; Diane Newberry; Jackie Foust; Kelly Hickerson; Deborah Meylan; Jill Scheidel; Laura Hoffmeister; Councilmember, City of Concord; Jared Brown; Autumn Boone; Dominic Rigoli; Kiana Parham; Leigh Kirmsse; Matt Lovett; Steven Accatino; Ted Hall; Charlotte Owen; Clarice Adams; Ray, Isabella, Raimundo, and Tomas Triana; Paul Minney, Esq., Law Offices of Middleton, Young & Minney, LLP; John McMorris; Bill Morones; Mason D. Case; Sara Kommer; Denise Lambert; Laurie Arbour; Rebecca Jensen; Joan Miller; Dylan Perreira; April, Bruce, and Kendall Winship; Luke Middendorf; Chase Davenport; Carlyn Obringer; Brenden Eddy; Isaac Middendorf; Gretchen De La O; Kendra Phair; Margaret Ljepava; Julie Pierce, Councilmember, City of Clayton; Hank Stratford, Councilmember, City of Clayton; Joe Medrano, Vice Mayor, City of Clayton; Howard Geller, Mayor, City of Clayton; Judy Schmalenbach; Mark Herbert, Office of Assemblywoman Susan Bonilla; Jon Adams; Debi Branich; Michelle Latson; and Trevor Frey. A partial list of attendees is on file at the County Office of Education.

Presiding: Cynthia Ruehlig Board President

The regular meeting of the Contra Costa County Board of Education was called to order at 5:34 p.m. at Pleasant Hill Elementary School, 2097 Oak Park Boulevard, Pleasant Hill, California, with the recitation of the Pledge of Allegiance. Mrs. Ruehlig informed the attendees that following Item 7.2.3, the Board meeting would recess and reconvene at the Contra Costa County Office of Education, 77 Santa Barbara Road, Pleasant Hill, California. In addition, she announced that, as Ellen Elster is unable to serve as Clerk due to illness, Daniel Gomes shall serve as Clerk for the remainder of the year, as was directed by the Board when it voted on this matter on December 7, 2011.

**AGENDA REVIEW AND
ADOPTION**

The Board adopted the agenda as presented (M/S: Mirabella/Gomes; Elster absent).

PUBLIC COMMENT

Joseph Partansky addressed the Board, stating that he would like to renew his concern with the agenda so that the public is encouraged to participate. He noted that he has received a letter from the County Superintendent dated yesterday regarding his concerns and of the Board's legal counsel's opinion regarding them, and he stated that he would have liked to give some feedback on the minutes to the Board secretary, but he was unable find the phone number on the agenda, nor an e-mail, the fax number, or Website of the Board. He requested that future agendas contain the Board's phone number, fax number, e-mail address, and Website. He then expressed concern that there is not adequate notice on the agenda regarding the public's ability to receive copies of all documents received by the Board for a meeting if they are received more than 72 hours prior to a meeting (not just less than 72 hours prior), nor does the agenda mention whether the Board has exhibits or reports on the agenda; and he requested that the Board heed the advice of its legal counsel. Willie Mims, ECNAACP/BPA, addressed the Board, stating that he hopes that decisions are made this evening based upon sound thought and not upon outside political influences, especially the influence of politicians that he believes should have stayed on the sidelines rather than attempt to impose their will upon the Board. He also stated that when important items come before the Board and a large crowd is anticipated, the Board should arrange for a larger venue to accommodate all of the people who wish to attend. He also agreed with the previous speaker that the agenda should include contact information.

CLOSED SESSION

None.

RECOGNITIONS

None.

ADMINISTRATIVE ITEMS

**SUPERINTENDENT
Report**

Dr. Joseph Ovick, County Superintendent of Schools, distributed copies of the legal opinion that was received after the December 11, 2011, meeting regarding the Board's agenda wording. He noted that legal counsel recommended a small change; however, it was the opinion of legal counsel that the Board is in full compliance with the Brown Act (California Open Meeting Act); also, he pointed out that the phone number of the Board clerk can be found on the front page of the agenda. He then reported that after the last meeting of the Contra Costa Council, which is comprised of 400 businesses in the county, the Council voted to support a resolution to bring his campaign, Choosing Civility, into our schools and community. He noted that teachers, administrators at school sites, and parents all serve as wonderful role models for our children with regard to civility and that, by bringing this need for civility to the attention of the entire community, he hopes that schools, as well as businesses, civil leaders, and community at large, will recognize the importance of civility. He reported that a sample resolution was sent to every city council in Contra Costa County, and responses are beginning to come in as well as invitations from City Councils for him to attend their meetings at which they will be considering adoption of the resolution. Lastly, he reported that the sample resolution would be sent shortly to all of the school districts in the county for their school boards to consider adopting, as well, and that the County Board of Education would be placing it on its next agenda for consideration.

**BUSINESS SERVICES
2010-11 Single Audit Annual
Financial Report for the County
School Service Fund**

Associate Superintendent Bill Clark introduced Heather Daud of Christy White Accountancy, the firm that completed the annual audit for the Contra Costa County Office of Education (CCCOE). Ms. Daud reviewed the results of the 2010-11 Single Audit Annual Financial Report for the County School Service Fund. She noted that, while the auditing firm did not identify any material weaknesses, it did identify one significant deficiency that she would describe after reviewing the summary. After reviewing the findings, she described the one significant deficiency, which was found in the payroll clearing account; and she noted that it is her understanding that the deficiency was a result of a change or reduction in staffing and that staff are working on resolving it. Mrs. Mirabella asked if there is a timeline for staff to clear up the deficiency in the payroll clearing account, and Ms. Daud stated that when her firm performs an audit in a subsequent year, it will check to ensure that the prior-year audit findings have been resolved. Mr. Asadoorian inquired about the CCCOE's reserves, and Ms. Daud stated that, while the CCCOE must maintain a 3% minimum, it currently has close to an 8% reserve. Mrs. Ruehlig asked Mr. Clark if the deficiency noted in the payroll clearing account may have occurred as a result of the transition from the old payroll system to the new one, and

**Petition to Establish the Clayton
Valley Charter High School**

Mr. Clark responded that the CCCOE is in the process of implementing a new financial system and that this indeed did have a bearing on the reconciliation; and he noted that another factor that contributed to the deficiency is that the procedures involving the County Treasurer's fund, such as the way transactions move through the fund, were changed. Mrs. Ruehlig asked if the causes of the deficiency would be resolved in the near future, and Mr. Clark stated that the CCCOE is required to have it resolved quickly. Ms. Daud thanked Mr. Clark and his staff for making this such a smooth process.

Board President Ruehlig stated that a public hearing on the provisions of the charter petition was held on December 7, 2011, and that the Board would deliberate regarding the petition to Establish the Clayton Valley Charter High School following comments from the Petitioners, Mt. Diablo USD, the public, and the presentation of staff's report on the petition. Mr. Clark reminded the Board that staff has worked through the matrix and processes defined by state law as far as the criteria that was used to evaluate the charter, a committee was formed representing all of the different disciplines at the CCCOE (e.g., special education, instructional programs, human resources, and fiscal areas), and the staff's findings are based on this work. He noted that there are also several areas of concern that have been raised and that he would like to discuss them prior to the Board receiving comments. He reported that concerns have been raised with regard to student ethnic balance and whether the petition is in compliance with the provisions of state law related to this issue. He assured the Board that he can speak with confidence that, after reviewing this matter thoroughly with legal counsel, it is the opinion of legal counsel and staff that this is not a concern that would impact the charter, that the petition is on firm ground with respect to ethnic balance, and that the issue has to do with the interpretation of the law. He also addressed the impact of funding considerations, stating that the CCCOE is in possession of a letter that has been drafted by legal counsel addressing the funding issue and the intent of state law that has some bearing on how the allocations happen with respect to a conversion charter; and, after reviewing the legal analysis, it is clear that the district has a waiver opportunity and that the legislation was not intended to address the situation with respect to a conversion charter, but, rather, was intended more to address a unified school district that planned to convert its high schools for the purpose of maximizing or increasing revenue to its high schools. Mr. Clark reminded the Board that funding concerns cannot be considered a criterion or condition in arriving at its decision about whether it should approve or deny the charter, and he stated that there is currently a great deal of legislative attention and support with regard to this matter and that he hopes the concerns can be resolved in an effective, satisfactory way with respect to the technical issues regarding funding and how the charter's general purpose funding is calculated. He noted that Dr. Jane Shamieh would be addressing these issues in more detail during her presentation of the CCCOE's findings. Mrs. Ruehlig informed Board members that they are welcome to ask questions at any time during the presentations, and she then invited the Petitioners to give their five-minute presentation. Neil McChesney introduced himself and Co-Petitioner Pat Middendorf and then thanked the CCCOE staff for their hard work in reviewing the charter petition, which is nearly 900 pages in length, and for their professional diligence. He particularly recognized Dr. Jane Shamieh as the point of communication between the Petitioners and the CCCOE for her helpfulness, thoroughness, and being a pleasure to work with, and he also expressed gratitude to the Board for its commitment to this process. Mr. McChesney noted that the CCCOE staff has recommended approval of the Clayton Valley Charter High School and that the Charter Student Committee and the charter's professional partners have discussed the 12 conditions suggested in the CCCOE's staff findings; and he informed the Board that they find the 12 conditions to be completely acceptable. He stated that they are looking forward to collaborating with the CCCOE, especially in light of the many impressive resources that the CCCOE has to offer that were unknown to the Petitioners until recently, which will help expedite the charter school's innovative changes. He also applauded the community at large for engaging in this process and noted that asking questions and demanding answers is essential for the continued evolution of education. He emphasized that they look forward to reconnecting with the Mt. Diablo Unified School District (MDUSD) and especially with sharing and learning with the other high schools in the district as their charter moves forward. Ms. Middendorf stated that Clayton Valley High School has experienced years of excellence, years of mediocrity, and now only failure in the last few years. She noted that during the years of 2004-2006, the teachers came to realize the downside in academics, student behavior, and overall school standards, and campus facilities worsened each year despite all of the efforts undertaken by them to change the situation; however, their voiced concerns expressed year

after year fell on deaf ears at the site and at the district office. Ms. Middendorf described how at a staff meeting in the fall of 2007 a group of eleven teachers and three classified staff members voted to attempt to improve the school's standards; however, after the group spent two years to effect positive changes, their efforts were to no avail because either no one was listening or no one had the power or desire to make changes to reverse the downward trend; and last year the group joined with the City of Clayton and a faculty club to implement an initiative to improve the culture of the school. She also described how Club 800 was formed to raise the school's API scores, and by the end of the year 1,000 students had taken a "character" oath to improve their campus character; however, there was still very little improvement. She attributed the school's API scores, which subsequently sank by one point, to the lack of academic vigor and the district requirements. Ms. Mittendorf then recognized the teachers and staff in the room, the parents and community members who had joined them, the professionals who had helped them create the charter petition, and the students from Clayton Valley HS who support the charter. She then described the charter school process.

Mrs. Ruehlig asked if there were any questions from the Board, and Mr. Gomes stated that he would ask a question of the Petitioners later in the proceedings after the Board has listened to the CCCOE staff's report on the petition. Mrs. Ruehlig asked for a representative from the California Charter Schools Association to come forward, and Chase Davenport complied. She asked Mr. Davenport for the percentage of charter school conversion approval at the state level, and Paul Minney, Esq., approached the Board to receive clarification on Mrs. Ruehlig's question, asking if she was referring to the percentage of charter schools that are appealed to the State Board of Education. Mrs. Ruehlig clarified that she was seeking to know what percent of conversion charter schools that are appealed to the State Board are approved and what percent are denied. Mr. Minney responded that there has only been one conversion charter school appealed to the State Board, and it was approved at that level; and all the other conversation charter schools in the state have been approved either by their local district or their county board of education.

Mrs. Ruehlig then invited representatives of the MDUSD to give their five-minute presentation. MDUSD Superintendent Steven Lawrence thanked the Board and CCCOE staff for their time and analysis of this matter, and he thanked the members of the community who examined and weighed in on this issue since they all took the time and effort to consider this matter with the goal of improving the lives of the children in the MDUSD. He noted that he was invited to Sacramento to be a witness in support of Assembly Bill 1172 sponsored by Assembly Member Mendoza and Assembly Woman Bonilla during a hearing and vote in the Assembly Education Committee. He described how this bill recognizes the difficult financial situations of the districts throughout the state and the importance of allowing local school districts to consider the potential negative financial impacts of a charter school on the remaining students in the district, and he noted that, during the brief amount of time in which he was allowed to comment on the bill, he addressed the funding issues that impact a unified school district under Senate Bill 191, which changed the conversion high school funding formula. He also noted that, while a lobbyist representing the California Charter Schools Association spoke against the bill, he did agree that there is a funding disparity around unified school districts and conversion high school charters and stated that it needs to be addressed. He pointed out that the Assembly Education Committee recognized the importance of AB 1172 and passed it with enough votes to take it directly to the floor of the Assembly. He stated that he appreciates that the CCCOE has gotten a legal opinion on the issue of obtaining a waiver on the funding matter and that he would like to receive a copy of it, and he noted that the MDUSD had performed its due diligence by contacting School Services to request their interpretation, as well as the California Department of Education (CDE), and according to the information that the MDUSD received, Education Code 42238(h)(7) explicitly states that the charter school general purpose block grant is subtracted from the unified school district revenue limit; and apportionment is a non-waivable section pursuant to Education Code 33050(a)(8)(D). He stated that he would, therefore, appreciate receiving any pertinent information from the CCCOE as well as a copy of the legal opinion. Dr. Lawrence stated that, as MDUSD superintendent, it is his responsibility to consider financial impact on all the children in the school district; and although he understands the importance of advocating for your children and their particular school, he also understands the importance for advocating for all MDUSD children and not creating harm to any children in the district; therefore, based on the current information that the MDUSD has received from the CDE that the funding issue is

non-waivable, the MDUSD believes that there is currently a negative financial impact on the children at its remaining schools; and, therefore, he requested that the Board consider denying the charter petition.

Mrs. Mirabella asked Dr. Lawrence if the MDUSD is suggesting that it will lose \$1.7 million for its remaining schools if the petition is approved, since she is confused by several figures mentioned by the MDUSD, including a figure as high as \$3 million. Dr. Lawrence stated that County Board Trustee Dan Gomes recommended at the last meeting that the MDUSD get together with the charter school Petitioners to put together a Memorandum of Understanding (MOU) to address these funding discrepancies, and he understands that there is support for seeking a waiver. He added that the district expects to know all of the financial impacts of the charter school by the end of the first year, since there are financial impacts through the revenue limit and the funding for the revenue limit represents a \$1.7 million to \$1.8 million loss. Dr. Lawrence also noted that charter schools are still not held responsible under the Education Code for the special education students in their attendance areas; rather, school districts under FRPA still have the legal obligation for the educational opportunities for students receiving special education. He clarified that charter schools may not deny special education students entrance to their charter school, but they are still are not required to be financially responsible for them. He reiterated that he would be happy to work with the Petitioners on working on an MOU and bringing in FCMAT at the end of the charter's first year to perform a complete analysis of the financial loss to the MDUSD. He also stated that, based on the MOU, he would expect that the rest of the children in the district would be held harmless through the charter's sharing those funds with the MDUSD. Mr. Gomes inquired as to the result of Dr. Lawrence's discussion with the Petitioners about whether or not they would accept the regular ADA rather than the enhanced ADA, and Dr. Lawrence stated that, while the Petitioners have voiced support for a waiver, there have been no specific meetings to address putting together an MOU around the funding issue; however, there has been no support expressed with regard to backfilling the funds from the funds the charter would receive. Mr. Asadoorian informed Dr. Lawrence that he has spoken with Assembly Woman Bonilla's field representative regarding AB 1172, and he understands that the Board cannot consider the financial impact on the MDUSD as part of its decision in approving or denying the charter petition. Dr. Lawrence agreed that the Board can only follow what is currently in the law but that the Assembly Education Committee does recognize the funding issue is a problem and is attempting to rectify the situation.

As there were no other questions by the County Board, Mrs. Ruehlig then invited members of the public to speak in support of, or in opposition to, the petition. She informed everyone that all who wished to speak should fill out and submit a speaker's card to the Board clerk and asked that all speakers keep their comments to two minutes or less so that the Board could accommodate all who wished to speak.

The following members of the public spoke in favor of the petition to establish the CVCHS: Leigh Kirmsse, Ted Hall, Gregory Hile, Charlotte Owen, Paul Minney; Mason D. Case, Sara Kommer, Cate Sundling, Carol Shuey, Ben Shuey, Maureen Allan, David Shuey, Laurie Arbour, Dylan Perreira, April Winship, Bruce Winship, Kendall Winship, Marshall Mayotte, Dr. Grant Bazan, Luke Middendorf, Amber Lineweaver, Neil McChesney, Pat Middendorf, Chase Davenport, Carlyn Obringer, Kevin King, Brenden Eddy, Les Garavena Jr., Megan Kommer, Isaac Middendorf, Margaret Ljepana, Julie Pierce, Hank Stratford, Joe Medrano, City of Clayton Mayor Howard Geller, Laura Hoffmeister, Mark Herbert (Office of Assembly Woman Susan Bonilla), Debi Branich, Trevor Frey, and Kiana Parham. Supporters of the petition spoke to the following topics: Clayton Valley HS has reached complete crisis and failure, and a positive change is necessary; after so much sacrifice and commitment by so many people, this charter deserves a chance; there has been a history of schools in the district not being technologically ready to meet the needs of the students at the beginning of each school year, but the charter school organizers are committed to having the school up and running on the first day of each school every year and to remain up and running throughout the entire school year; the MDUSD's filtering system currently blocks the internet access needed to provide innovative instruction for some classes; the district has largely blacklisted streaming media in the classrooms and refuses to allow teachers to use it; the charter school would allow the use of 21st century technology in its 21st century classrooms; several students emphasized that they are not receiving extra credit for attending this evening's Board meeting; the Charter

Schools Act of 1992 holds schools accountable for meeting measurable pupil outcomes and provides the schools with a method to change from rule-based to accountability-based performance measures and outcomes; the Board should be guided by the intent of the Legislature that charter schools are, and should become, an integral part of the California educational landscape and that the establishment of charter schools is to be encouraged; keeping this specific language in mind, in a recent decision, the First District Court of Appeals stated, "Local districts are, therefore, mandated to approve charters that meet the statutory requirements and that are consistent with sound educational practices"; conversion charter schools historically have some of the highest performance gains of all new charter schools in the state of California and some of the most stable fiscal track records; there is more than enough evidence to support the conclusion that CVCHS would be academically and financially successful and may become one of the highest performing schools in the county; a student noted that if he had had the opportunity to attend a Freshman Training Academy proposed by the charter, he would have had more of his personal learning needs met and could have advanced through the algebra program more quickly; even though change is scary, change is definitely needed, and solutions cannot be found without trying new things; all that is needed for success of the charter are committed and intelligent leaders and stakeholders who will explore, adopt, implement, and assess best practices; Clayton Valley HS is not the same high-caliber school that it used to be, and the community overwhelmingly wants CVCHS approved; experience has shown that collaboration, passion, and the ability to put that passion into action results in a dynamic, empowering education for students; local control is what is necessary and needed; CVCHS will continue to work with the MDUSD to ensure that the school becomes a beacon and leader to improve the education in the entire district; regarding the CVCHS's intentions to join the El Dorado SELPA, it was alleged that the MDUSD never invited the Petitioners to join its SELPA; the Petitioners are anchored in the commitment to provide a good education to all of its special education students; the Petitioners received many glowing remarks from schools currently using the El Dorado SELPA; the charter concept arose from teachers questioning the possible barriers to making Clayton Valley HS a better school, and they discovered that they could achieve substantive, meaningful change through creating a conversion high school rather than continuously applying superficial fixes; local governance would result in personally invested and connected stakeholders running the school, streamlined decision-making, and faster implementation of innovative ideas; a conversion high school would operate as a less hierarchical and more collaborative/ownership model; the community is ready and willing to meet the challenges and take the responsibility for CVCHS; schools in El Salvadore, Guatemala, Honduras, and Panama are better than the schools operated by the MDUSD in Clayton; high school students are fleeing Clayton Valley HS to attend private high schools, which has resulted in a "brain drain" from the MDUSD; the CVCHS has just been given a \$2.25 million line of credit, so the charter school would now be completely fiscally solvent; the CVCHS's faculty plans to teach its students in the manner that they think would best address the wide learning disparities at Clayton Valley HS, and, with this approach, CVCHS could then document where the school is now and adopt new classes and curricula to fulfill these educational needs; CVCHS has plans to adopt instruction through electronic tablets in the classroom and to enact a paperless classroom; a student stated that there is a huge difference in the quality of education between private and public schools; with charter school conversions, there may now be hope for public education in California; the attack launched on the Petitioners by a woman in the audience occurred as result of misinformation that was distributed by the MDUSD and that was promoted by the principals at Northgate HS and Ygnacio Valley HS, the MDUSD administration, and several MDUSD board members, and this misinformation has poisoned the community against the Petitioners; there is no such thing as the term "bumping," and no Clayton Valley teacher will bump another teacher; regarding comments that the new principal should be given a chance to turn Clayton Valley HS around, it was contended that a principal is not a fix-all for the problems in education and cannot provide the systemic change that this charter proposes; establishment of the charter would avoid the essential fossilization that large districts like the MDUSD are experiencing; the MDUSD is not a completely healthy academic institution, and change is needed; because the teachers at Clayton Valley HS are so excellent and have worked so hard to turn the school around, it is obvious that the problems at the school are not the result of an onsite situation; this charter school will be the best thing for the special education students at Clayton Valley HS, and CVCHS will encourage special education students to enroll and will embrace every special education student that comes to their charter high school; CVCHS is being encouraged to remain in the athletic foundation, because it is well known that the Clayton Valley commu-

nity is the rock of that foundation and is a community that fights for funds for every high school in the district; conversion charter schools have had a positive impact on communities they serve, and there is plenty of evidence to back this up; autonomous conversion charter schools have outperformed the traditional schools with regard to API growth in ELA and math proficiency rates over the span of their conversions, and this holds true for schoolwide API growth over time as well as for subgroups, including Hispanic, Limited English Proficient, and Socioeconomically Disadvantaged students; contrary to the concerns of some regarding exclusivity and diversity, over the course of their conversions, a majority of autonomous conversion charter schools have countered state trends by losing fewer of their African-American students and have seen an increase in low-income students and students with disabilities at a rate outpacing traditional schools open during the same period of time; the charter petition has been found to be comprehensive and meets all legal and regulatory requirements for approval; as demonstrated by their tenacity and commitment during the lengthy petition process, the Petitioners have the capacity to implement a highly successful program; the proponents of CVCHS represent a highly motivated and deeply committed teaching staff who are putting students ahead of their own job security; there is tremendous support for the charter school from parents, students, local representatives, and even Congressman George Miller; athletics have nothing to do with the charter petition, and comments made by some people demonstrate that there has been misinformation circulated regarding this matter; rather than being selfish, as has been contended by some members of the public, that is the last thing that the supporters are, as they are trying to improve their students' education and lead the way for the rest of the district; the athletic foundation was formed with the support of Pat Middendorf, and without that foundation, the entire district could have ended up with no sports; Clayton Valley HS has been rated a "1" out of schools with comparable socioeconomic status on a scale of 1 to 10, and this is indicative of a need for change; over time, the teachers have lost their passion and excitement at Clayton Valley HS, and there has been much talk that the high school is in decline, so this charter school proposal is an opportunity to turn this situation around; the CVCHS movement is and has been a dream of the community, and the community now wants the opportunity to realize the possibilities that this dream holds; the MDUSD is broken and is not meeting the needs of the students; it was emphasized that the entire Clayton City Council and the community stands united in support of the charter school; the law requires that if the petition is found to be sufficient—and it, in fact, has been deemed sufficient by CCCOE staff—the Board has no other option than to approve it; with regard to the sports program, it is self-funded through the foundation, and band has become largely supported by booster programs, with the music educational instruction moving in that direction, as well, with the help of the music foundation, and, therefore, the charter school would not take away from those programs; AB 1172 has been introduced by Assembly Woman Susan Bonilla to ensure that funding of a charter conversion does not create funding inequity for other students within the school district; this charter is the light at the end of the tunnel for the school's special education students, because the site administration will recognize which special education assistants work well with which teachers and will make the right decisions; the special education students and English Language Learner students will finally get the education they deserve; the charter school will treat students as more than names on a piece of paper and more as individuals with different needs; some Clayton Valley HS teachers currently feel no passion for teaching their students, and some excellent teachers have received pink slips, and the charter would encourage the passionate, good teachers to remain there.

The following members of the public spoke in opposition to the petition to establish the CVCHS: MDUSD Trustee Linda Mayo, Matt Lovett, Steven Accatino, Ilana Israel Samuels, Deb Heinzmann, MDUSD Trustee Sherry Whitmarsh, Mary Gray, Clarice Adams, Ray Triana, John McMorris, Bill Morones, Marcia Eaton, Isabella Triana, Raimundo Triana, Tomas Triana, Denise Lambert, Rebecca Jensen, Joan Miller, Dorothy Weisenberger, Angie DeBoer, Gretchen De La O, Kendra Phair, Willie Mims (ECNAACP/BPA), Jill Scheidel, Judy Schmalenbach, Jon Adams, and Michelle Latson. Opponents of the petition spoke to the following concerns: there is concern over the charter's financial projection if the Governor's November ballot initiative should fail; concerns remain over whether there will be adequate services to special education and English Language Learner students; athletics appear to be a high priority for the charter; there is concern about the increased high school funding that will be available to CVCHS; district parents and staff outside of Clayton have been treated with a lack of civility and respect; students will suffer negatively due to a quirk in the law that

permits a detrimental financial encroachment, and yet no charter proponent has offered to support the district in seeking a legislative remedy for this egregious fiscal encroachment, which will harm the 31,000 remaining students in the MDUSD; fairness is very important, and fairness is the last thing that this charter proposal brings to the table since it will take at least \$1.7 million per year away from the rest of the district; the charter proponents had previously refused to admit that there would be a loss to the rest of the district and then tried to duck the issue entirely at the last County Board meeting by discussing how the district currently allocates funding to its high schools; if the charter proponents believe in fairness, they should support proposed legislation that would fund conversion charter high schools at the same rate as other high schools within their districts; what might be good for the Clayton Valley community is not good for the rest of the MDUSD community because the charter would mean more drastic cuts to the rest of the students in the district on top of the already drastic cuts that have been endured, which would potentially ensure that the restoration of programs such as secondary libraries and elementary instrumental music will not happen; it seems disingenuous to take monies from schools such as Ygnacio Valley High School where over 60% of the students are on free or reduced lunch and give those funds to a school in one of the most affluent areas in the MDUSD; approval of the charter would cause Ygnacio Valley High School to lose at least two-and-one-half teaching positions; most of the dissatisfaction with Clayton Valley High School seems to have stemmed from a previous administration, but there is now a new administration in place at Clayton Valley HS that appears to be doing a great job with turning the school around; the Board's decision should be based upon what is in the best interest of all the district's schools and students rather than upon which group yells the loudest; the charter school supporters from Clayton Valley have been disrespectful and nasty at times as evidenced by one Petitioner's tactics in an e-mail; the charter proposal is about creating inequity so that Clayton Valley High School can have a better athletic program and better opportunities than the other high schools; it was alleged that the presence of many Clayton Valley HS students in attendance this evening is due to the fact that they are receiving extra credit from their teachers; the rationale for opening this charter has no grounds in educational best practices, nor does it target a population of students whose needs are not being met by the current educational model; CVCHS would not provide an equal educational opportunity to all students in the district, since it would create an educational enclave of middle-to-upper-class students; before Proposition 13, students were encouraged to be and do everything and were offered an array of interesting classes for eight periods a day, and it may be that that generation is the last publicly well educated one due to cuts in funding, but charter schools are not the answer; the Charter School Act has been loosely written so that charter schools are favored and denies local school boards the ability to financially vet petitions; there is a lot of money involved with the charter school movement (e.g., attorneys, consultants, etc.) and a lot of political contributions being made; the law at the state level needs to be revised, and this charter school should be fought at the state level where it belongs; charter schools should supplement, not supplant, public education, and the establishment of this charter would create an unequal system in the district; the charter school may be financially sound for the 2012-13 school year, but potential budget cuts at the state level may cause financial problems in future years; when the charter ends up not being able to make it financially, it will hurt the other students in the MDUSD because of the number of lay-offs and necessary program cuts to allow the charter to continue; the charter should receive the revenue and pay all the costs for special education students within its attendance area, including those special education students that currently may be in nonpublic school placements or other district schools; rather than being cost neutral, current projections estimate that the charter conversion high school would cost the MDUSD \$1.8 million to \$4.2 million; negative consequences of the proposed charter conversion include placing other schools in financial hardship and the inability of CVCHS to become an ethnically diverse school as the law requires; teachers with less seniority in the district could get bumped by more senior teachers who opt out of the charter school, and this impact would probably be most felt at the high school level; the teachers are an integral part of the MDUSD family, and their casual replacement would have a very disruptive impact on the curriculum development process and could cause an adverse emotional impact on students, parents, and staff; establishment of the charter school would cause a talent drain of younger, less senior teachers who will leave the MDUSD because of job insecurity; this charter school is about a school community that is unhappy about cuts to its sports programs and not about innovation; the system provides every incentive to dump the most difficult students on the MDUSD since they would be "costs" to the charter school and the MDUSD must accept everyone; if the County Board votes to approve the charter, it is saying that the

MDUSD cannot provide the education for the Clayton Valley HS students, when, in fact, the MDUSD is quite capable of doing so; this charter proposal is dividing the district and its ability to provide an equal education to all students; more than 60% of the students at Ygnacio Valley High School live at or below the poverty level and 65% of its students are English Language Learners, and the money that will be cut from Ygnacio Valley HS's budget as a result of the charter's approval would represent a loss of approximately \$180,000 per year, which is equal to two to three teacher positions and/or programs; opponents to the charter are not convinced that a new, innovative learning setting is being proposed; the intent of the charter is to serve only Clayton Valley residents and not students throughout the entire MDUSD; all students in the district deserve a quality education, and the quality of education will go down at the other high schools because funds will need to be cut in order to support CVCHS at a higher rate; there is a concern that bullying with regard to special education students be addressed in the charter petition so that their safety can be ensured; students currently attending Clayton Valley HS who choose to remain with the MDUSD will have to travel farther to reach their new home schools; new IEPs will have to be performed for the school's special education students if a new SELPA is used, and it is suspected that the Petitioners may be hoping that many of the special education students will stay with the MDUSD so that they can avoid this responsibility; MDUSD students deserve the music programs from which they are currently benefiting, and there is concern for the potential for reduced funding of existing music programs; if less funding results from the approval of CVCHS, it is possible that the elementary instrumental music program will become nonexistent in the future; one high school leaving the district would disrupt efforts to unite all attendance areas to provide music education for all students; one speaker corrected a statement made previously that the MDUSD SELPA did not wish to provide services to the charter, alleging that it was a misstatement and that initially the MDUSD developed an MOU to the charter to provide special education services; however, the charter decided to go with the El Dorado SELPA, stating that it was less expensive; the Petitioners should have been forthright and stated that the purpose of the charter school petition was about sports and that if the Petitioners had created a freestanding charter based on sports, rather than a conversion charter, it would have been inspiring and in the spirit of charter schools; approval of this charter will set a precedence for all of the other schools in the district to stand in line and apply to become charter schools, too; it is not right to disadvantage children at other schools in order to make your own children better off; the needs of the few should not be placed ahead of the needs of the majority; far from being a bad high school, Clayton Valley HS is attractive to many students outside of its enrollment area and offers classes that are not available at other high schools; approving this charter proposal would further divide the district into more entrenched "haves" and "have nots" and would only make the job of equitably educating all of the students in the MDUSD more difficult; the Petitioners are opening a Pandora's Box that will cause a flood of other charter school petitions; the fact that the CCCOE's staff has attached 12 conditions to their recommendation to approve the petition indicates that something is wrong with the "sound educational program," which indicates that the staff's report is flawed and contradictory; the act by the Petitioners to shift funds from the other schools to their charter school is akin to a parent taking one child's ice cream cone and giving it to another and thinking there's nothing wrong with doing that; the charter would be a catastrophe for the rest of the district on multiple levels; even the proponents of the charter do not know what the financial impact will be on the other schools in the district; for more than a decade, the quality of public education has been in decline, and this charter would leave the majority of students in the district behind.

Mrs. Ruehlig then invited staff to present information on the charter petition process and criteria as well as their findings of fact, and Dr. Jane Shamieh, CCCOE Controller, addressed the Board. She first responded to two questions that were submitted by Board members with regard to the petition. Regarding the requirement that the petition describe the means by which the charter school will achieve a racial and ethnic balance that is reflective of the general population residing within the territory of the school district, Dr. Shamieh stated that she received a question from the Board asking if there is any validity to the argument that this particular requirement in the petition cannot be met because the Clayton Valley HS has such different demographics than the MDUSD (for example, Clayton Valley HS is 63% white, and the MDUSD is 43% white). She then explained that there is no validity to this argument for the following three reasons: first, the description of how the Petitioners are going to meet this requirement is sufficient and meets the legal requirements and the staff cannot deem that this

requirement has not been met based on speculation or upon something that may or may not happen in the future, especially when there is no evidence in the petition that indicates otherwise, such as there is no evidence that they are recruiting one particular group over another; second, when you look at the law, it actually states that the racial and ethnic balance should be reflective of the general population residing within the territorial jurisdiction of the school district rather than of the student enrollment attending schools in the school district, and she described the process staff followed to determine the demographics of the general population of the territorial jurisdiction defined by law, which indicated that the population is comprised of 70% white (Clayton Valley HS is 62-63%), 3.7% African-American (Clayton Valley HS is 3.4%), and 22% Hispanic (Clayton Valley HS is 20%); therefore, there is the likelihood that CVCHS could achieve a racial and ethnic balance that is reflective of the territorial jurisdiction of the general population residing within it; third, Education Code section 47606(d) requires that a conversion charter give preference to the students who reside in the attendance area and that, when the State Board of Education reviews the ethnic and racial issue in charter petitions, they actually state that there are "permissible limitations" in complying with this requirement when the petition involves a conversion charter, because the charter must, by law, allow and give preference to students in the immediate attendance area. Therefore, Dr. Shamieh emphasized that there is no validity to the argument that this part of the petition is noncompliant. She stated that the second question she received from the Board was whether or not CVCHS would be required to return equipment, and she explained that there is a requirement in the law that a district has to provide the facilities if the charter school requests it. Further, she noted that that requirement includes equipment but only equipment that has been purchased from general unrestricted funds; therefore, if there is equipment at the facility that has not been purchased with general funds, it would probably have to be returned to the MDUSD if the district so requests. Dr. Shamieh stated, however, that if the MDUSD should request that such equipment be returned, the Petitioners have indicated that they will replace the equipment by any means necessary. She then shared with the Board that shortly after the petition was received by the CCCOE, the midyear trigger cuts that were imposed by the State were greatly reduced from \$300 per ADA to \$11 per ADA, and this had a significant impact on the budget in the charter petition, actually resulting in the financial component of the petition meeting the legal requirements and being considered sufficient. Additionally, she noted that the program component in the petition is thorough, sufficient, and, in some areas, strong, and she stated that it has met the legal requirements. Dr. Shamieh informed the Board that staff's recommendation is that the Board approve the charter with conditions for a three-year term, and she explained that they are recommending a three-year term rather than a five-year term because they want to see what the charter school is going to do that is new and different than what the school is currently doing as well as the positive improvement for students. She noted that staff believes that the March 1 deadline for the conditions is reasonable, since they involve requests for more information, some elaborations of particular areas, or confirmation of information that has already been claimed in the petition. She stated that staff requests that the Board approve the charter as well as the MOU that staff has provided within the findings. She invited questions from the Board on the conditions and closed by commenting that she would like to make the following statement: There has been a great deal of discussion about the possible negative impact that the approval of this charter may have on the MDUSD; and although this issue may not be considered when reviewing the charter petition, it has received a great deal of attention from the public and our locally elected legislators and officials. It is clear that these elected officials do not want to see the charter negatively impact public school children. It is staff's understanding that the district has the opportunity to apply for a waiver that was mentioned earlier, and she hoped that this issue is further explored. Additionally, it is staff's understanding that the base revenue limit funding issue will be resolved in a manner that does not negatively impact students in the MDUSD. She reminded the Board that this issue cannot be considered as part of the criteria for approval or denial of the petition; rather, it must be set aside in reaching a decision about whether to approve or deny this petition. Lastly, she stated that, on behalf of the CCCOE staff, whatever the decision of the Board is, she hopes that everyone takes steps to work together cooperatively to serve students.

Mr. Asadoorian mentioned that a statement was made earlier by a member of the public that, under the SELPA, all new IEPs would have to be reinstated, and he asked if that was a true statement or if the students' current IEPs would remain in effect. Dr. Shamieh responded that while SELPAs may use different forms, when students move from one area to another, their

IEPs should remain in effect. Mr. Gomes asked for additional information on the waiver and what the results would be if it is successful, and Dr. Shamieh emphasized that she has limited information on the waiver and that the staff committee that reviewed the petition considered the legal requirements, since it was not allowed to consider or speculate on the impact of a waiver possibility. Mrs. Mirabella asked if the Board could decide to change some language in the conditions and perhaps even add one or more conditions, and Mr. Clark responded that that would be within the Board's authority. Mrs. Mirabella stated that she would like to make two or three recommendations. She referenced the date of July 1 in Condition No. 8 by which the Petitioners have to provide proof that they are a member of a SELPA, and she recommended that the date be changed to June 1 so that the Board would receive this information at least three months before school starts. Mrs. Mirabella also recommended that a condition be added whereby a review by FCMAT must take place next year if such wording is not already contained in the petition. Dr. Shamieh asked if Mrs. Mirabella meant that FCMAT should review the charter, and Mrs. Mirabella clarified that she would like to have FCMAT review the fiscal impact of the charter on the MDUSD. Mr. Clark stated that he sees no problem with adding a condition to contract with FCMAT to provide a comprehensive review of the fiscal implications concerning the charter. Mrs. Mirabella stated that she still has a concern about the charter having a good racial and ethnic balance, and that while she understands the law, she is concerned about diversity and about the random selection process that the charter school would be following for applying to enroll in CVCHS. She mentioned that in an e-mail to staff, she had suggested an alternative process that would increase the racial and ethnic diversity of the charter school. Dr. Ovick informed Mrs. Mirabella that what she is proposing exceeds the scope of the current law and that he does not believe that she can legally do so. He pointed out that the Clayton Valley HS's current enrollment is already very close to the racial and ethnic balance in the territorial jurisdiction of the charter. Dr. Shamieh added that a random public lottery is required by law and that the charter school is also required to give preference to students in the attendance area. Mrs. Ruehlig noted that when applications are separated by minorities and non-minorities and then applicants are selected specifically from the minority applications, then preferential treatment is being given to one group while disadvantaging others; therefore, placing all of the applications in one pile serves to make the process truly random. Mr. Asadoorian stated that he understands the well-meaning reasoning behind Mrs. Mirabella's suggestion but that he also understands that it would not be legal under the law. Dr. Shamieh pointed out that the random lottery only comes into play once the school has reached capacity; however, since the school is currently not at capacity, the recruitment efforts to seek racial and ethnic balance can be implemented. Mr. McChesney then stated that the Steering Committee and charter's board would be willing to meet with the Board on an annual basis in order to evaluate the charter school's outreach program to ensure that the pool of random selection is representative of the territorial jurisdiction. Mr. Gomes stated that it is his understanding from comments made previously by the MDUSD that the Petitioners and the MDUSD had met and conversed about the possibility of accepting basic ADA at the same rate as that received throughout the district, subject to backfilling the difference in funds that the charter would need otherwise from other sources of income other than ADA and that the charter would receive its administrative services from the MDUSD or the CCCOE. He asked if the Petitioners would be agreeable to a modification to the MOU, and Ms. Middendorf stated that they have never met with the MDUSD. Mr. Gomes asked if the Petitioners would agree to such a modification, and Ms. Middendorf asked for further clarification of his suggested modification. Mr. Gomes asked the Petitioners if they would be willing to accept the basic ADA level received throughout the district as funding for the charter's students, and in order to backfill the difference, the charter would use funds from all other sources of income except ADA; also, in order to reduce expenses, he would suggest that all administrative services be provided by either the MDUSD or the CCCOE. Mr. Clark responded that he understands Mr. Gomes' wish to offer a solution to bridge an area of conflict that has emerged during the petition process but that the staff and Board are required to operate within the confines of the laws as they currently exist, and he pointed to the legislative support and the opportunity for a waiver process. He suggested that a condition be added to the MOU to address Mr. Gomes' concerns, such as wording to the effect that there would be effort put forth toward a legal, legislative, or waiver process to address or resolve some of these funding issues that have been raised as part of the charter petition process. Mr. Gomes stated that the MOU would be the governing agreement between the Board and the charter school and that wording can be included as long as the parties agree to it and it is legal. Ms. Middendorf noted that since the petition has already been signed by all of the Petitioners,

she does not know if anything in the petition can be rightfully changed. Mr. McChesney added that the Board should keep in mind that it is a fallacy that all schools in the district are funded at the same rate, that while they receive the same base revenue limit, there is also a variety of different revenues involved. He noted that, since Ms. Middendorf and he are just two representatives of the large group of individuals seeking to establish the charter school, it would be irresponsible for them to make a decision without consulting with rest of their board and Steering Committee; however, he agreed with Mr. Clark that the Petitioners would be willing to be part of an ongoing conversation to find a solution if there is an issue with the funding. Mr. Minney informed the Board that the MDUSD funds Clayton Valley HS at a higher rate than it has indicated, so there really is no net loss to the MDUSD to have them continue to fund the charter school at the rate Clayton Valley HS is currently receiving, which is, in fact, an average of what high schools receive throughout the state of California. He clarified that the block grant funding rate for charter schools is supposed to represent the average of what 9-12 students receive in the state, and he clarified that the petition process is like an initiative in that it has been signed by teachers and submitted; therefore, the Co-Petitioners do not have the authority to unilaterally change that. In addition, he noted that the Board would be asking the Petitioners to change a statutory funding mechanism for funding their students, and he is unsure if the parties have the legal right to do so. He reiterated that if the County Board approves the charter, the Petitioners do not believe the revenue funding concerns raised by the MDUSD are applicable, and he clarified that that statute was intended to prevent districts from profiting by merely converting their high schools to charter schools; however, if the petition is approved by the County Board or the State Board, he does not believe that the MDUSD would suffer a negative fiscal impact, but if they do, there is the waiver process available to the parties. Mr. Minney mentioned that he had submitted a letter regarding the waiver to the MDUSD's legal counsel, so he is surprised to hear that they claim to not have received it; also, besides the possible waiver remedy, their group and possibly the California Charter Schools Association representatives would be willing to put some energy behind supporting legislation to remedy the funding issue. He reminded the Board that the MDUSD is speculating that there would be a negative fiscal impact if the Board approves the charter, and their speculations have been all over the map. Mrs. Ruehlig asked Dr. Shamieh if it is a common practice to approve a charter school for only a three-year term, and Dr. Shamieh responded that she does not know what the common practice is, but the law provides that the Board may grant a term of up to five years and that the suggestion of the staff is a three-year term. Mrs. Ruehlig asked if it is possible to vote on both the petition and the MOU at the same time or whether the Board should vote only on the petition. Mr. Gomes pointed out that the MOU is an attachment to the staff's findings, and those findings are an attachment to the resolution on which the Board would be voting. Dr. Shamieh clarified that it would be a conditional approval of the petition; therefore, the conditions must be included. Dr. Ovick agreed that if the Board votes and adopts the resolution, the MOU must be part of that action. Mr. Gomes added that the Board is required to adopt the staff's findings as its own. Mrs. Ruehlig asked how one or more of Mrs. Mirabella's suggested conditions might be included in the MOU when the Board votes, and Dr. Ovick responded that the Board's motion could include an amendment to the conditions. Mrs. Ruehlig asked if there would be any negative fiscal impact on the CCCOE if it is to provide the oversight for the charter school, and Mr. Clark responded that there would be no negative fiscal impact on the CCCOE for any oversight. Mrs. Ruehlig asked the MDUSD to address the waiver, and MDUSD's Associate General Counsel Deborah Cooksey acknowledged that, early in the process when the funding disparity was discussed, Mr. Minney did send her a letter about the possibility of waiving the funding disparity; however, the MDUSD did its own due diligence in that regard by contacting people from the California Department of Education (CDE); and the CDE stated that this particular apportionment statute was not waivable under the Education Code. She added that, because the MDUSD hoped their CDE contact was wrong, it contacted that person's boss, Karen Moore, who assured them that the previous staff member had been correct and that this could not be waived. She also stated that, from her past experience working for San Francisco USD when they tried to waive the apportionment portion of the Education Code, she learned that this provision was not waivable. She further stated that she does not understand how the CCCOE and Mr. Minney have determined that the provision is waivable and that if they have a legal opinion on this matter, the MDUSD would like to see it because it, according to the CDE and the explicit terms of the Education Code, the apportionment provision is not waivable. Mr. Minney stated that he might be able to clarify why there is a debate on this issue at this point and clarified that the letter he had sent to Ms. Cooksey was sent right after January 1,

2012, and he believes that the MDUSD's communications with the CDE might have occurred earlier, because he has been in contact with the Waivers Office at the CDE and the sections that Dr. Lawrence discussed this evening are, in fact, not waivable; however, there is another section [Education Code section 47660(b)] that creates the negative fiscal impact claimed by the district, and that section is specifically waivable. He further clarified that, based on his conversations with the CDE, what needs to occur is to treat the charter school as though it were a start-up charter school where it would receive the same level of funding, but the CVCHS's ADA would not be counted as the MDUSD's ADA; therefore, there would be no revenue loss as the MDUSD is claiming. He stated that he would like to have the opportunity to work with the MDUSD and have them talk with the same people in the CDE's Waiver Office about the sections of the law. Ms. Cooksey responded that the MDUSD did speak with School Services of California about the sections quoted by Mr. Minney, and they assured the MDUSD that they are indeed not waivable; however, if Mr. Minney is assured that the sections are waivable, she proposed that perhaps one of the conditions the Board might consider is, in order to approve the charter, the parties must work to secure the waiver and that approval is contingent upon the provisions being waived by the CDE. Mr. Gomes noted that he has always understood the MOU to be a flexible document and that perhaps the Board should consider incorporating the district's suggestion into the MOU; and if this cannot be done, he would like to know why. Mr. Minney reminded Mr. Gomes that the Board would then be making the fiscal effect of this charter a condition of its approval, which is not allowed in the law, and he described the only bases on which the Board may approve or deny the charter petition. Mr. Gomes stated that, from Mr. Minney's comments, it appears that the Board would be breaking the law if such a condition were included in the MOU. Mr. Minney stated that doing so is not even remotely what is prescribed by law and that a waiver process could go on for months and might become very political. However, he reiterated that they are committed to helping the MDUSD get that waiver, to working with the CDE to conclude that if the Board approves this charter, that section of law is not even applicable, and to demonstrating that there will not be a significant negative fiscal impact that the MDUSD is claiming because they have funded the Clayton Valley HS at more than the money they have received in the past. Mrs. Mirabella asked if a condition could be placed in the MOU that the charter school would be committed to doing those things so that, when the Board reviews the charter in three years, it would be able to see how well that commitment has been fulfilled. Dr. Ovick stated that he would be opposed to such a condition because, as a board, it would be masking the fact that it is considering the finances, and currently it is illegal for the Board to consider that as a criterion when evaluating the worthiness of a charter school petition.

Action to Either Approve the Petition To Establish the Clayton Valley Charter high School and to Adopt Resolution No. 8-11/12 or to Deny the petition

Mr. Asadoorian stated that he and the other Board members have been elected to make tough decisions, and this has been a highly emotional process; he assured the public that the Board has spent many hours individually, as the Brown Act does not allow them to compare notes, thoroughly examining the issue, has heard both sides of the matter, and has visited the campus. He reminded everyone that the legal requirement that the governing board must grant a petition if it is satisfied that granting the charter is consistent with sound educational practice and can only deny a petition for establishment of a charter school if it finds that the particular petition fails to meet certain enumerated statutory criteria and adopts written findings in support of its decision. Mr. Asadoorian stated that CCCOE staff have more than scratched the surface in their review of the petition, and their recommendation is to approve the charter with conditions. He then moved that the Board approve the Petition to Establish the Clayton Valley Charter High School and to Adopt Resolution No. 8-11/12 reflecting approval with conditions of the Petition, which shall be met by March 1, 2012, and which shall now include changing Condition No. 8 so that the date of July 1, 2012, is changed to June 1, 2012, with regard to the charter school's furnishing evidence of acceptance as a member of a SELPA and adding Condition No. 13 that CVCHS shall contract next year with the Fiscal Crisis and Management Assistant Team (FCMAT) to complete a fiscal review to determine if the MDUSD was required to transfer a part of its base revenue limit funding to the CVCHS, and related factual findings; the motion was seconded by Mr. Gomes. Mrs. Ruehlig thanked staff for their work, and she described that there are two discussions occurring: first, the approval of the petition, and second, the brewing discussion on whether charter schools are good for the community and for public schools or not. She stated that the second discussion is not for this venue; rather, that issue is one that should be addressed with state legislators. Mrs. Ruehlig emphasized that tonight's focus is only on the charter school petition, and, with the passage of AB 544, approval is the default decision when considering a charter school petition; and, unless any one

of the requirements is not met, the Board must approve a charter school petition. She noted that it was in January 2011 when the Board denied the Synergy School petition, though she had cast the sole vote for approval; however, when Synergy School appealed the County Board's decision to the State Board of Education, it was overwhelmingly approved at the state level. As a result, what now exists is a charter school that will be overseen by the State without the input of the district and the CCCOE, and she encouraged the Board to use this example as a benchmark for its decision this evening. She pointed out that this charter petition does not face the same challenges as Synergy School's charter petition faced, since it has the facility, the student enrollment, the staff, and the programs, and she believes that this charter school conversion would be approved at the state level if the County Board does not approve it. She added that the result would be that Clayton Valley Charter High School would then exist without any input from the MDUSD or the CCCOE, and she emphasized to the opponents of the charter petition that they would not be able to stop the petition or stop the conversion; rather, they would simply be causing a postponement and a division of the community. Mrs. Mirabella thanked the Petitioners for allowing her the time to meet with them, and she thanked Dr. Lawrence for accommodating her visit with the Clayton Valley HS principal. She stated that she is very impressed with the school right now, because there are many programs offered there that are not offered at the West Contra Costa USD, and that she would like to see those programs maintained. She then thanked staff for their diligence in reviewing this petition and noted that it made a big difference to her that Mr. Clark, who is very fiscally conservative, has sanctioned the stability of the petition's financial plan. She commended staff for adding that a detailed plan be provided as to how the charter school is going to support students not meeting pupil outcomes and adding to the current assessment plan to reflect on the examination of student assessment results. Mrs. Mirabella mentioned the importance of the new summer transition program the charter wishes to offer, which will help freshman students entering high school, and she is pleased to see that the Petitioners want a plan that has specifically targeted instruction for English Learners. As a parent of a special education child, she noted that she has been asking many questions about the El Dorado SELPA, and she has received positive feedback about the program and what it has to offer. She also stated that she is glad to see that the charter school has verified its \$2.25 million line of credit, since the Board has received stacks of e-mails from the members of the public where they have expressed concerns about borrowing money. She emphasized that the State is not giving public schools their funding and that there are major deferrals, which have caused districts to have to borrow money in the form of TRANs in order to maintain their budgets, so the charter school having to take out a loan is similar to how the public schools are already functioning. She expressed confidence in the CCCOE staff to review the 12 conditions by March 1, 2012, and will either accept the conditions as met or inform the Board of conditions that have not been met. Mrs. Mirabella expressed concern about the possibility of many more charter petitions being submitted; however, because the Board is restricted to considering what is good for all students, she must look at the statutes in the law, and this petition meets all the requirements for sanctioning a charter. Mr. Gomes stated that if the Board approves the charter, he would like to see CVCHS serve as a model for other conversion high schools and for the district as a whole, because everyone would be able to learn what is successful, which would in turn make the district more successful in all areas. As there were no more comments, the Board voted by the following roll call vote to approve the Petition to Establish the Clayton Valley Charter High School and to Adopt Resolution No. 8-11/12 reflecting approval with conditions of the Petition, which shall be met by March 1, 2012, and which shall now include changing Condition No. 8 so that the date of July 1, 2012, is changed to June 1, 2012, with regard to the charter school's furnishing evidence of acceptance as a member of a SELPA and adding Condition No. 13 that CVCHS shall contract next year with the Fiscal Crisis and Management Assistant Team (FCMAT) to complete a fiscal review to determine if the MDUSD was required to transfer a part of its base revenue limit funding to the CVCHS, and related factual findings: Mirabella, aye; Elster, absent; Gomes, aye; Asadoorian, aye; and Ruehlig, aye.

Mrs. Ruehlig announced that the Board would now recess and reconvene its meeting at the Contra Costa County Office of Education Board Room, 77 Santa Barbara Road, Pleasant Hill, California.

RECESS

The Board recessed from 9:08 p.m. to 9:53 p.m., when the regular meeting was reconvened at the Contra Costa County Office of Education, 77 Santa Barbara Rd., Pleasant Hill, California.

**Resolution No. 9-11/12 to Verify
Amended Certificate of Signatures**

Associate Superintendent Bill Clark informed the Board that an Amended Certificate of Signatures needs to be adopted due to a change in Board member officers, since Daniel Gomes would be serving in the capacity of Clerk for the remainder of the year as directed by the Board in its vote on December 7, 2011. The Board voted by the following roll call vote to adopt Resolution No. 9-11/12 to verify Amended Certificate of Signatures of person or persons authorized to sign orders drawn on the funds of the county office and Notice of Employment as defined on the Certificate: Mirabella, aye; Gomes, aye; Asadoorian, aye; and Ruehlig, aye (M/S: Mirabella/Asadoorian; Elster absent).

**Amendment #1 to Communication
Site Lease Agreement with Clear
Wireless LLC**

Associate Superintendent Bill Clark informed the Board that this amendment would provide the flexibility for the CCCOE to charge Clear Wireless LLC either a flat rate of \$200.00 per month for electricity consumed for their communication equipment or calculate the charges based on a sub meter. Mrs. Ruehlig inquired as to why the effective date is November 2011 and, yet, the payment of the fee begins January 6, 2011. Mr. Clark stated that the retroactive term was negotiated and is correct. The Board voted to approve Amendment #1 to Communication Site Lease Agreement with Clear Wireless LLC (M/S: Mirabella/Gomes; Elster absent).

Staff Report

Bill Clark, Associate Superintendent, Business Services, provided to Mrs. Mirabella, in response to her previous request, a copy of the new Tyler Munis financial summaries showing the Board's adopted budget expenditures to date, encumbrances, and available balance, as well as a similar report that addresses legal expenses across the agency, membership dues, and travel and conference expenses for all programs across the agency. He noted that if Mrs. Mirabella approves of the format of the financial summaries, he could make additional copies for the rest of the Board.

EDUCATIONAL SERVICES

Staff Report

Dr. Pamela Comfort, Associate Superintendent, Educational Services, reported that she had no report. Mrs. Mirabella asked if the CCCOE oversees the Quality Education Investment Act (QEIA) activities, and Dr. Comfort responded that the CCCOE does some of the monitoring. Districts submit data and information relative to meeting the requirements, and the Communications Office does the actual monitoring and submits the reports to the State; also, in the past, there was someone on staff who provided the regional technical assistance; however, funds for those positions were eliminated, and now the technical assistance for those schools comes from a Northern California center. Mrs. Mirabella asked if the CCCOE caught the errors that the districts are finding that they had, and Dr. Ovick responded that the CCCOE simply receives the report from the districts and sends the information from all the reports to the State, and it is not the CCCOE's responsibility to audit them. Communications Officer Peggy Marshburn clarified further that the data that is submitted to the CCCOE is summarized on sheets for each one of the sets of goals for QEIA, so the school districts themselves are the ones that have informed the CCCOE that they did not meet their requirements. Mrs. Marshburn, Dr. Ovick, and Dr. Comfort explained to the Board how the program works, the process that is followed, and the number of schools involved.

HUMAN RESOURCES

Staff Report

None.

COMMUNICATIONS

Staff Report

None.

TECHNOLOGY SYSTEMS

Staff Report

None.

BOARD

Legislative Update

Mr. Gomes brought two items to the attention of the Board and staff: first, there has been an amendment to Education Code section 15286, which requires school districts, community college districts, and county offices of education to perform annual independent fiscal and performance audits to ensure that Proposition 39 bond proceeds are expended on specifically listed items; second, in accordance with the requirements of the Public Contract Code, the State Superintendent of Public Instruction has raised the bid limit that governs competitive bid contracts, raising it by 2.72 percent, or \$2,100, to \$81,000, effective January 1, 2012.

CONSENT ACTIONS
Minutes of December 7, 2011; and
Applications for Temporary County

The Board voted unanimously to approve the following Consent Actions: the minutes of the December 7, 2011, Board meeting and applications for Temporary Certificates (M/S: Mirabella/Asadoorian; Elster absent).

**CORRESPONDENCE/
EVENTS CALENDAR**

Correspondence: Correspondence was received from the following members of the public regarding the Clayton Valley Charter High School: April Winship, Anna Rikkelman, Jacqueline Thompson Maillet, Jessica Moraes, Jane Enloe, Matt Lovett, Mike Morrissey, Lois Shaw, Kathleen Jensen, Michelle Campbell, Andrew and Julie Rosen, Catherine Myers, Dana Deely, Laurie Arbour, Maureen Allan, Christine Reimer, Neil McChesney, Mary P. Gray, Kirsten Owen, Brian Corbett, Stacey Wickware, Brin and Kirsten Owen, Courtney Mizutani, Scott and Christina Lagrave, Keena Armstrong, Regula Weigelt, Nancy Hill, Kris Harwood, Gloria Keller, Bruce Kemp, Ed Deely, Shelly Shuey, Tammy Brown, David DeBoer, Deanne Carlson, Greg Jecker, Jennifer Holthaus, Angie DeBoer, David Brown, Rob Kinnard, Tina Rafallo, Alica Nuchols, Steven Geraldine Hackett, Allen Blatter, Mary Rodigou, Kathleen Strange, Christine Banducci, Dr. Pamela Hiltunen-Hall, Sara and Eric Skow, Lynn and Don Valdez, Juliet Lompa, Marie Hetheron, Gloria Bertolozzi, David T. Shuey, Tracey B. Garber, Matt and Michele Hill, Vicki Sexton, Audrey and Michael Slaughter, Kendra Phair, Lisa and Al Lampo, Marco Bertolozzi, Rick Ortiz, Kris Cropper, Sherry Whitmarsh, Nia Jusuf, Howard Geller, Lynnette Giacobazzi, Roger Blumer, Heidi Hastings, Michelle Ortiz, Mary Akli, Gregory Hile, Deborah Heinzmann, Mike and Denyse Metz, Marcia Mason, Steven Accatino, L. J. Truesdell, Gina V. Carbone, Rita Sozzi, Marie C. Matson, Michael H. Matson, Amy Callaghan, Chase Davenport, Yasmin Llamas-Morales, and John Phillips.

Calendar of Events: **Jan. 18** – CSBA Forecast Webcast, 10:00 a.m. to noon; **May 17** – Teacher of the Year Reception and Photo Session, 3:00-5:30 p.m., CCCOE Board Room; **Sept. 20** – Teacher of the Year Dinner Celebration, 6:00-9:30 p.m., Concord Hilton.

**BOARD REPORTS OF
ACTIVITIES**

No written reports of activities were submitted by Board members; however, Mr. Asadoorian stated that he would provide his report in writing later. In addition, the following oral reports were provided: Mrs. Mirabella reported that she attended the Dozier-Libbey Medical High School celebration on December 8; visited Clayton Valley HS on January 6; provided to Mrs. Ruehlig a copy of the final report from the CCBE Charter School Task Force, the policy and administrative regulation that are recommended for charter schools, and the matrix, and she recommended that Mrs. Ruehlig place this matter on a future agenda so that the material can be reviewed by the Board and staff; she also reported that had informed Dr. Ovick and Mrs. Ruehlig that she needs to schedule a knee surgery, and a brief discussion took place on when the best time would be for her to be absent from a Board meeting, since there are currently only four Board members, and she questioned how the vacancy on the Board might be resolved. Mrs. Ruehlig suggested that Mrs. Mirabella submit this matter as a future agenda item for discussion by the Board, and Dr. Ovick reminded Mrs. Mirabella that there currently is no vacancy on the Board and that the Board can function in the interim with only three members since there would still be a quorum. Mrs. Mirabella indicated that she would then go ahead and schedule her surgery. Mr. Gomes thanked staff for their good work on the charter school matter, and he felt that Dr. Shamieh explained everything quite well. Mrs. Ruehlig also thanked staff, and Dr. Ovick noted that the staff members who participated in the review of the petition included Dr. Pamela Comfort, Dr. Pam Tyson, Bill Clark, Karen Sakata, Peggy Marshburn, Dr. Jane Shamieh, Char Ford, Jean Wells, Kandi Gravenmier, Katie Gaines, and himself. Mrs. Ruehlig referred to the 2010-11 Single Audit Annual Financial Report reviewed earlier and stated that she was pleased to see that the CCCOE has an 8% reserve. Mr. Clark clarified that, with this most recent Financial Report, the new GASB-54 accounting was implemented on fund balances, which drove up the reserve number because the fund balances for post-retirement benefits and deferred maintenance were taken out and included in the Unrestricted General Fund balance, pushing up the reserve amount. Mrs. Ruehlig reported that she also attended the Dozier-Libbey Medical High School celebration, she judged a poetry contest at Deer Valley High School, and attended a Christmas instrumental performance at Antioch High School. Mrs. Mirabella asked if the Board would like to request an agenda item to discuss the financial summaries provided to her by Mr. Clark, and Board members agreed that it should be placed on a future agenda. Dr. Ovick distributed copies of the two legal opinions received from the County Counsel's Office that had been requested by the Board.

ADJOURNMENT

There being no further business, the Board adjourned at 10:27 p.m.

Joseph A. Ovick, Ed.D., Ex Officio Secretary

County Board of Education
January 11, 2012

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.

These unadopted minutes are summaries and excerpts from the regular meeting of January 11, 2012, and are subject to amendments and/or correction prior to the approval of the County Board of Education.