

**Minutes of the Regular Meeting of the Board of Trustees
San Mateo County Community College District
July 28, 2010, San Mateo, CA**

The meeting was called to order at 6:04 p.m.

Board Members Present: President Patricia Miljanich, Vice President-Clerk Dave Mandelkern, Trustees Richard Holober and Karen Schwarz, and Student Trustee Indar (Father Jay) Maharaj
Trustee Hausman was out of town and unable to attend the meeting.

Others Present: Chancellor Ron Galatolo, Executive Vice Chancellor Jim Keller, Skyline College
President Victoria Morrow, College of San Mateo Vice President, Student Services
Jennifer Hughes, Cañada College President Tom Mohr and District Academic Senate
President Patty Dilko

Pledge of Allegiance

DISCUSSION OF THE ORDER OF THE AGENDA

President Miljanich said that in order to accommodate guests who will participate in the discussion, there is a request to place item 10-7-5C, Discussion of Time, Place and Manner, immediately after Presentations to the Board by Persons or Delegations. There were no objections.

MINUTES

It was moved by Vice President Mandelkern and seconded by Trustee Schwarz to approve the minutes of the meeting of July 14, 2010. The motion carried, all members present voting "Aye."

SPECIAL PRESENTATION – PRESENTATION OF PLAQUE TO OUTGOING DISTRICT ACADEMIC SENATE PRESIDENT PATTY DILKO

President Miljanich said that Professor Dilko was always prepared and thoughtful in her remarks, and that she always had the interests of students at heart. She added that Professor Dilko is a team player who is willing to engage in conversation and that the Board will miss her.

Trustee Holober said he enjoyed serving with Professor Dilko. He said she is articulate and makes sure the Board hears the faculty viewpoint on issues. He said she represents faculty in a way that is forceful, diplomatic and effective.

Trustee Schwarz said Professor Dilko's tenure has been impeccable. She appreciates the way Professor Dilko has effectively shared communications between the Board and the Academic Senate in a way that allowed the Board to better understand the needs and concerns of faculty. Trustee Schwarz said she looks forward to working with Professor Ray Hernandez, the incoming Academic Senate president.

Vice President Mandelkern agreed with his colleagues' remarks and said he also has observed how well Professor Dilko works with her colleagues on the campuses. He thanked Professor Dilko for clearly presenting and explaining information to the Board.

Student Trustee Maharaj said he respects Professor Dilko for her dedicated work in the field of education.

Professor Dilko introduced her partner, Ken Hall, and said he has been supportive of all of the work she has done in the District. Professor Dilko said she has heard many stories of Boards of Trustees who do not keep the interests of students, faculty and the community at heart. She said she is grateful to have worked with a functional Board that is thoughtful in their deliberations and open to hearing anything that is brought to them. She noted that the Board dealt with the struggles of the past year or two with integrity.

PRESENTATIONS TO THE BOARD BY PERSONS OR DELEGATIONS

PRESENTATION OF ABOVE AND BEYOND AWARDS TO VICE CHANCELLOR JOSÉ NUÑEZ, PATTY DELLA BONA, SILVIA MARTINEZ, RICHARD INOKUCHI AND BRAD WITHAM (10-7-3C)

President Miljanich said Above and Beyond Awards are presented to faculty or staff who go beyond the duties of their jobs without being required to. Tonight's award is presented to staff who were instrumental in creating the Veterans

Resource Center at Skyline College. She presented certificates to Vice Chancellor Nuñez, Ms. Della Bona and Ms. Martinez. Chuck La Mere, IT Support Technician, accepted the award on behalf of Mr. Witham. Mr. Inokuchi's award will be delivered to him.

Vice Chancellor José Nuñez said former Skyline College Vice President of Student Services Lori Adrian was the impetus behind this project. He showed slides of the Center and said its successful creation was the result of teamwork by Patty Della Bona, Project Manager; Silvia Martinez, Admissions and Records Assistant and Certifying Official for Veterans Benefits; Richard Inokuchi, Facilities Manager; and Brad Witham, IT Support Manager, among others. Ms. Martinez said she takes pride in certifying veterans and thanked Vice Chancellor Nuñez for his leadership.

Ben Nievera, a Skyline student and veteran, said he served in the army for almost 20 years and was deployed overseas three times. He said it is not easy to transition to civilian life, but Ms. Martinez helps make the transition from soldier to student easy; he thanked her and other staff who helped with the creation of the Veterans Resource Center.

Jarom Vahai, also a Skyline student and veteran, said he was medically retired from the military. He said veterans returning home from deployment have some fear about how they will be received and how they will transition to civilian life. The help he received from Ms. Martinez, Vice Chancellor Nuñez and others has been a wonderful surprise. Mr. Vahai said there is a saying in the military that "we never leave anyone behind" and he found that this was also the mantra of the District. He said that up until now, he thought warriors only served in the military, but it seems that there are many warriors in the District who are fighting for what is right.

Trustee Schwarz said she is proud to be a part of this recognition and to have employees who make an effort to help. She noted that the first Above and Beyond Award was presented to Mario Mihelcic, the Certifying Official for Veterans Benefits at College of San Mateo. President Miljanich said it is fitting that tonight's awards are presented to people who help others who have gone above and beyond for their country.

DISCUSSION – TIME, PLACE AND MANNER (10-7-5C)

Chancellor Galatolo said this matter recently has been receiving attention Statewide. Knowing that the District soon will be looking at a policy through the shared governance process, he indicated that the Board would like to have an open dialogue among themselves and allow faculty and staff to better understand what the Board's expectations are as a policy is developed. Chancellor Galatolo introduced Attorney Larry Schoenke, a community college expert and a Constitutional expert in the area of time, place and manner. Mr. Schoenke provided the Board with copies of a memorandum on Free Speech on Community College Campuses, prepared by him and Gregory Dannis.

Mr. Schoenke said that over the last 30-40 years, there has been a great deal of litigation and controversy and an effort to find a middle ground regarding free expression of ideas in public places so that institutions can maintain the ability to complete their core mission of teaching, learning and research without disruption, while at the same time fostering freedom of speech. The legislature has given college governing boards the authority to manage and regulate their facilities so that the core mission can be accomplished. The courts have also recognized that colleges and universities must provide avenues of free expression. In 1981, the United States Supreme Court ruled that college governing boards are in charge of determining reasonable time, place and manner restrictions. He said there is no open forum unless the Board has designated it as such. Mr. Schoenke said the Board will hear many different viewpoints as a policy is developed and he urged the Board to consider the importance of maintaining a free, effective and safe place for learning.

President Miljanich asked if there were comments from the public on this issue; there were none.

Vice President Mandelkern said it is his understanding that a proposed policy is now going through the shared governance process and the Board is trying to provide input on what it believes might be acceptable and not acceptable in a policy. The Board's input will be communicated to the shared governance process and the Board will receive a policy to act on at some time in the future. Chancellor Galatolo clarified that a proposed policy will be introduced shortly to the shared governance process. He said it is important that the Board frame its general ideas and then allow the shared governance process to proceed. It is hoped that a policy will be brought to the Board which has refinement and input from all interested stakeholders. Professor Dilko said it was her understanding, as Co-Chair of the District Shared Governance Council, that the Council began discussion of time, place and manner and then AFT requested that it be taken off the agenda for consideration during negotiations. Consequently, the Council moved away from the topic

and has not discussed it at length. Vice President Mandelkern said there is a question as to whether this is a matter of policy or whether it is subject to negotiations between a bargaining unit and administration. Trustee Holober said he believes the governing board is the policy maker, informed by the shared governance process; however, a bargaining unit has the right to negotiate over the effects of a policy on the working conditions of its members. Mr. Schoenke said he would recommend that the general policy go through the shared governance process and then be discussed with the bargaining units in regard to what the effects might be.

President Miljanich said that Board members are looking at balancing the two concerns of free speech and the mission of the District to educate students and provide a welcoming environment to everyone. She said it would not be possible to write into a policy every protocol that would be acceptable and not acceptable; therefore, it is important to have an understanding of the process rather than content. Vice President Mandelkern agreed that discussion should be held in a content neutral manner. He said that, while Board members all agree with freedom of speech, they may have differing opinions on how it applies and how it should be interpreted. He said it would be worthwhile for the Board to discuss their individual opinions to see if there is common ground to help define the limits and boundaries of the policy.

Trustee Holober said the reason he asked for a discussion of time, place and manner was that he heard remarks that the draft policy represented the Board's viewpoint when, in fact, the Board had never seen the draft until it appeared in a board report and never had even a preliminary discussion of the draft.

Trustee Holober said his bias is toward the First Amendment as the cornerstone of what Trustees do, noting that Trustees take an oath to protect and defend the Constitution of the United States. He added that Trustees, administration and employees are stewards of the colleges and not owners.

Trustee Holober asked for clarification on the terms "Closed Forum," "Limited Open Forum," and "Open Forum." Mr. Schoenke provided the following clarification:

Traditional Open Forums are areas such as public parks and sidewalks that traditionally have been open to all members of the public to express any view or opinion. Mr. Schoenke said his view is that community colleges are not open forums.

Proprietary or Closed Forums are the areas of the colleges that may be closed because they are essential to carrying out the mission of the institution, and any open or even limited presence of non-authorized persons would impair or jeopardize the ability to perform its core functions. Mr. Schoenke said these areas would include classrooms during regularly scheduled classes, the campus library and support facilities that are closed for safety or security reasons, and other areas on campus that are used for teaching and learning.

Designated Open Forums are areas that have been designated as open to free expression, such as a student quad area.

Limited Open Forums are a subset of Designated Open Forums and are dedicated for a limited, specific purpose. An example is Board of Trustee meetings, which are open for public comment but have the specific purpose of conducting District business.

Mr. Schoenke said most litigation has concerned Designated Open Forums. He advised the Board to be as receptive to free expression as they can, but to always look at preserving the core mission first; for example, campus libraries are reserved primarily for teachers and students to conduct teaching and research and, therefore, these areas should be closed forums.

Trustee Holober asked if the Board has discretion in defining areas as designated open forums or limited open forums. Mr. Schoenke said it does. Trustee Holober asked if a classroom or auditorium which is vacant and rentable by a community group can be limited. Mr. Schoenke said it may be limited. The Civic Center Act gives the public the right to use facilities when they are not needed for educational or research purposes and, after the Board has designated an area as an open forum, it can adopt rules and regulations for that area.

President Miljanich asked if the Board must allow everyone access to facilities, even if it is for a purpose with which they disagree, such as group that denies the Holocaust. Mr. Schoenke said space would probably have to be provided. He said he has found over time that if there is a way to allow everyone's viewpoint to be expressed, there will be less

chance of violence. President Miljanich asked if people must be allowed to bring signs with graphic and violent representations. Mr. Schoenke said this could be denied only if the argument can be made that it is an incitement to violent action or would create the likelihood of disruption on campus.

Student Trustee Maharaj asked if a permit is required and who gives approval for the permit. Mr. Schoenke said there should be a policy in place determining when permits are needed. He said there is an issue of prior restraint with permits and they are generally related to things such as using roads and blocking traffic. Student Trustee Maharaj asked if there are waiver rights to protect the District from liability. Mr. Schoenke said conditioning civil liberties on requirements for waivers of liability is not permitted.

Vice President Mandelkern said he would strongly side with freedom of speech and the First Amendment. He does not agree with policies that are excessively limited, e.g. forcing demonstrators into a fenced area a mile away from a speaker or event. He also does not support excessive regulation or permitting processes. Vice President Mandelkern said it is interesting that it is permissible to distinguish between students, faculty and District employees vs. members of the general public, and he said this should be kept in mind as a policy is developed. He said it is clear that there are some areas that need to be off-limits for safety reasons. There are also certain facilities that are core to the academic mission, such as classrooms and libraries, that should be restricted to faculty, staff and students. Under the Civic Center Act, the Board can also designate certain facilities which will be made available to the public, such as theaters and athletic fields. The Board could then broadly define other areas, such as quads, pathways and open space areas, as long as they don't interfere with the operation of the institution's mission. Vice President Mandelkern said areas such as bulletin boards can be discussed further, i.e. whether they are open to only faculty, staff and students or whether the public also has a right to post things on them, and whether rights can be differentiated depending on the location of the bulletin board. In summary, Vice President Mandelkern said it is important from his viewpoint to have a policy that does not require permits, fees or advance permission to come to the campuses. He said that, as repulsive as some speech might be, the policy must be content neutral except for the limited cases in which there is incitement to violence, obscenity or defamation. President Miljanich clarified that she was not advocating limiting such speech, but raised the issue to foster communication about an issue that people are talking about.

President Miljanich said that she infrequently encounters situations in which she has to make decisions in this area. She said she finds comfort knowing that the issue will go through the shared governance process, during which people who deal with situations on a day-to-day basis can have input and can share their wisdom. She said that experience may show, for instance, that permits are needed for large groups in order to prevent disruption.

Trustee Schwarz said the policy could be stated rather simply, i.e., people will be allowed to use certain areas, with guidelines and some restrictions to preserve the facilities and ensure safety. She said that a policy cannot capture every situation so, in some respects, "less is more." Mr. Schoenke agreed, saying that he recommends starting with the core mission and identifying areas that are not available. He said permitting can be used but is fraught with difficulties and must be narrowly drawn.

Trustee Holober said he believes that having people express their views in non-violent ways, such as setting up tables and booths, makes the colleges experience more exciting for students. He said he would not want to regulate these activities as long as there is no threat of harm and he would not want to move people to areas in which they could not reach students. Trustee Schwarz said this message can be captured in the beginning of the policy, welcoming people to come onto campus but noting the guidelines and restrictions. She said it is important that people know ahead of time what the guidelines are. President Miljanich said it might be helpful to have a check-in for large groups as they come onto campus in order to alert those in charge of managing the campus and those in charge of security. Vice President Mandelkern asked if it is legally permissible to limit access based on the size of the group. Mr. Schoenke said it is allowed. Vice President Mandelkern said it is reasonable to place limits on things that are inherently disruptive, such as amplification devices.

Trustee Holober asked if activity on a political issue sponsored by a student group must be balanced or open to both sides, or if the District must invite a group from the other side if no student group comes forward. Mr. Schoenke said there is no requirement.

Trustee Holober asked if there are issues regarding faculty members or other employees putting political posters on the windows or doors of their offices that can be seen from the outside. Mr. Schoenke said these areas are not restricted, as

long as the expression does not violate State and federal laws against hate violence. Barbara Christensen, Director of Community/Government Relations, said that during last year's election, a faculty member put a political poster about a ballot measure in an office facing outwards which could be seen from the public corridor used by students and staff. The District received a complaint about the poster, asking that it be removed. No action ultimately was taken because it was election day and the next day it was no longer a "ballot measure." Ms. Christensen asked if the presence of the poster violated the law against advocating for or against a ballot measure or for or against a candidate on the ballot. Mr. Schoenke said that, generally, the prohibition in the Education Code relates to the use of District resources such as email. He believes that the presence of the poster probably did not violate the statute if the faculty member did not use District resources to copy or print the poster. Vice President Mandelkern asked if placing information in faculty mailboxes would be considered use of District resources. Mr. Schoenke said this would probably be allowed, but would depend in part on whether there traditionally have been restrictions on the use of mailboxes. Vice President Mandelkern asked if the District can restrict access to groups that openly practice discrimination. Mr. Schoenke said that free speech cannot be regulated based on content of the message; however, the District is not required to support such groups with public funds.

Chancellor Galatolo said he would like clarification on the varying viewpoints of the Board. He said that as the issue is re-introduced to the shared governing process, it is important that there be a firm understanding of any position the Board has taken. He said all Board members are clearly supportive of free speech. However, because it is important to have orderly practices and guidelines he is concerned about opposition to advance warning of a group coming onto campus. Vice President Mandelkern said his personal bias is to impose as little regulation as possible but, based on tonight's discussion, he agreed that there might be a need to impose restrictions based on the size and location of a group. He believes that clear ground rules can be set that ban obstructing access to facilities and incitement to violence. President Miljanich cited the case of a student who stood up during a Board meeting and potentially seemed to be encouraging other students to take inappropriate action. Vice President Mandelkern agreed that the incident was close to crossing to the line of incitement to violence and resulted in public safety presence at meetings. Trustee Holober said he does not believe that the people involved in incidents of that nature would be controlled through a permit requirement. He said he does not believe that a group that wants to reach students in a peaceful way, such as a group attempting to gather signatures, should be required to get a permit. Mr. Schaefer said the original procedure at College of San Mateo required people to call ahead of time if they were coming onto campus and this has caused problems. He said he now approaches people who come onto the campus and explains the procedure; as a result, there are no longer confrontations.

Chancellor Galatolo said the Board will be dealing with the issue at the policy level, but it would be helpful for them to understand the procedures relative to the policy. He said that throughout the shared governance process, there should be recognition that, as stated by Mr. Schoenke, there is no open forum unless the Board has designated it as such. Mr. Schoenke added that the Board may delegate the designation to the College presidents, subject to review by the Board.

President Miljanich said it is clear that there should be collaboration and input from those involved in these issues on the campuses.

STATEMENTS FROM EXECUTIVES AND STUDENT REPRESENTATIVES

Executive Reports were presented by Chancellor Galatolo, Skyline College President Morrow, College of San Mateo Vice President Hughes, Cañada College President Mohr and District Academic Senate President Dilko. Copies of the Presidents' Executive Reports were available for distribution at the meeting and are attached to the official minutes of record.

Chancellor Galatolo said Mr. Schaefer asked if he could make a presentation the Board. He gave each Board member a t-shirt commemorating the 2010 student leadership retreat.

Chancellor Galatolo said Mr. Nievera and Mr. Vahai are honorable heroes and he thanked staff who worked to create the Veterans Resource Center.

President Morrow said that Skyline's Honors Transfer Program includes an alliance with UCLA and its Transfer Alliance Program (TAP). Two former Skyline students who transferred to UCLA have been awarded TAP scholarships for the forthcoming year. Each of the students will receive a \$5,000 scholarship, renewable if they meet the defined criteria.

Vice President Hughes said the Associated Students retreat was held over the past weekend. It was coordinated by Aaron Schaefer and Margie Carrington, Interim Dean of Student Services at Cañada College, and was attended by students from both CSM and Cañada. Student Trustee Maharaj also was in attendance. Vice President Hughes, President Claire and President Mohr attended parts of the retreat. The theme was Change Through Leadership and focused on the social change model. Vice President Hughes said excellent teaching and learning took place. She said it is an opportunity for increased collaboration for students in the entire District and she hopes Skyline students will participate next year.

President Mohr introduced Robin Richards, Vice President of Student Services, who brings a great deal of experience, having served at the College of Siskiyous as Vice President of Student Services and the Yosemite Community College District as Director of Research and Planning. President Mohr said Cañada is in the process of hiring a Coordinator of Student Activities; in the meantime, Aaron Schaefer volunteered to step in and his leadership has been outstanding. President Mohr said the California Nurses Association rally at Cañada went smoothly and commended the coordination between Mike Celeste, Director of Public Safety, and Gary Hoss, Chief Public Safety Officer at Cañada. Chancellor Galatolo also recognized Vice Chancellor Nuñez and his staff for their role in coordinating the event.

Executive Vice Chancellor Keller said that he, Chancellor Galatolo and Chief Financial Officer Kathy Blackwood went to Sacramento this morning to meet with California Community Colleges Chancellor Jack Scott and Vice Chancellor Erik Skinner. They discussed issues concerning the District's parcel tax, property tax issues, passage of the State budget and the upcoming retirement of Walt Reno, a facilities specialist in the Chancellor's Office.

Professor Dilko said faculty are actively engaged in planning at the three Colleges. In addition, a group of District Academic Senate leaders is working on a plan for revision of evaluations and has been meeting over the summer. This week, faculty senate leaders have been meeting at the Colleges and will meet at the District tomorrow, under the leadership of incoming District Academic Senate President Ray Hernandez, to engage in conversation about the direction of the Colleges and District. Professors Dilko and Hernandez presented a perpetual plaque listing past Academic Senate presidents. President Dilko said that, with Chancellor Galatolo's permission, the plaque will be placed in the District Office lobby as a way to acknowledge the work done by faculty. Chancellor Galatolo said the plaque will be proudly displayed in the lobby. He added that the award presented to Professor Dilko tonight is a small token of appreciation for the work she has done as Academic Senate president. He said Professor Hernandez is ready and able to take the helm and the transition will be smooth.

BOARD SERIES PRESENTATION – INNOVATIONS IN TEACHING, LEARNING AND SUPPORT SERVICES: MATH JAM AT CAÑADA COLLEGE (10-7-4C)

Vice Chancellor Jing Luan said Math Jam is an innovative program at Cañada College. He introduced Janet Stringer, Dean of Science and Technology.

Dr. Stringer said Math Jam has four major goals:

- help students progress faster through Cañada's math sequence to enable them to transfer to a four-year university or complete an associate's degree earlier
- recruit as many students as possible into STEM majors
- increase students' awareness of the tools and skills they need to be successful college students
- develop a community of learners among program participants

Math Jam uses MyMath Test, an online system developed by Pearson Education for developing math placement tests and short math refresher programs. Individual study plans are customized based on results of a practice test. Math Jam utilizes four instructors along with approximately one tutor for every five students.

Three Math Jams have been held: summer 2009, January 2010 and June 2010. Participation has grown with each session and completion rates were high. Results indicate that:

- Math Jam is working to get students to progress faster through Cañada's math sequence
- Math Jam increases students' awareness of college success resources, tool and skills
- Math Jam graduates performed better than non-Math Jam students in subsequent math courses
- Early evidence suggests that Math Jam can improve retention and success
- Math Jam has not been able to recruit more students into STEM majors

In addition to progressing faster and consequently saving time, students who have advanced to the next level of math (generally five units) have saved \$14,720 in tuition and books. In addition, Math Jam students emphasize that the program had a significant impact on their comfort at Cañada and feel that they are supported by other students, tutors and faculty; this social support makes them more likely to continue at Cañada. The average persistence rates of first-time students who attended Math Jam in summer 2009 are significantly higher than those of first-time students who did not attend Math Jam.

Growth of Math Jam will be limited by the number of computers available for students; the current estimate is an upper limit of 225 students. The cost for Math Jam is approximately \$38,000 per week of instruction. The program is currently supported by grants and staff continues to pursue external funding sources for the program.

Vice President Mandelkern asked if there are plans for similar programs at College of San Mateo and Skyline College. Dr. Stringer said it is her understanding that a session was held at CSM in June of this year. Skyline Vice President of Instruction Regina Stanback Stroud said Skyline's October 2009 Basic Skills Plan includes plans to present a similar program using the Pearson MyMath Test.

STATEMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

None

NEW BUSINESS

APPROVAL OF PERSONNEL ACTIONS: CHANGES IN ASSIGNMENT, COMPENSATION, PLACEMENT, LEAVES, STAFF ALLOCATIONS AND CLASSIFICATION OF ACADEMIC AND CLASSIFIED PERSONNEL (10-7-4A)

It was moved by Vice President Mandelkern and seconded by Trustee Holoher to approve the actions in Board Report No. 10-7-4A. The motion carried, all members present voting "Aye."

APPROVAL OF CONSENT AGENDA

President Miljanich said the Consent Agenda consists of Board Reports 10-7-1CA through 10-7-6CA:

10-7-1CA	Acceptance of Gifts by the District
10-7-2CA	Approval of Service Agreement with Goodman Marketing Partners for Membership Services, 2010-2011 – KCSM
10-7-3CA	Renewal of Contract with Thomas F. Casey for Legal Services
10-7-4CA	Disposition of District Records
10-7-5CA	Approval of Budgetary Transfers for the Period Ending May 31, 2010 and Adoption of Resolution No. 10-10 Authorizing Budget Transfers for 2009-10
10-7-6CA	Approval of Updated Cooperative Work Experience Education Local Program Plan for Title 5 Permissive Changes

It was moved by Vice President Mandelkern and seconded by Trustee Holoher to approve the consent agenda. The motion carried, all members present voting "Aye."

Other Recommendations

ADOPTION OF RESOLUTION NO. 10-11 ESTABLISHING PARCEL TAX RATE AND AUTHORIZATION FOR COLLECTION (10-7-100B)

It was moved by Vice President Mandelkern and seconded by Trustee Holoher to adopt Resolution 10-11. The motion carried, all members present voting "Aye."

APPROVAL OF TRANSFER OF FUNDS INTO POST-RETIREMENT TRUST (10-7-101B)

It was moved by Trustee Schwarz and seconded by Trustee Holoher to approve the transfer of funds as detailed in the report. Vice President Mandelkern noted that a draft investment policy was created and asked if the Board will be asked to review and approve the policy or if the Retirement Board of Authority has its own approval process. CFO Blackwood said the Retirement Board of Authority has its own approval process. She said the investment policy closely mirrors the District's policy, with the exception that it is not limited by government code. CFO Blackwood said

that for fiduciary liability purposes, the investment advisor is not told what to invest in; rather, he is given direction as to what return is desired. After this discussion, the motion carried, all members present voting “Aye.”

APPROVAL TO EXECUTE AN AGREEMENT WITH A THIRD PARTY SUPPLIER FOR PURCHASE OF NATURAL GAS – DISTRICTWIDE (10-7-102B)

It was moved by Trustee Holober and seconded by Vice President Mandelkern to approve the agreement as detailed in the report. The motion carried, all members present voting “Aye.”

APPROVAL OF REVISION TO DISTRICT RULES AND REGULATIONS, POLICY 8.14, BOND OVERSIGHT COMMITTEE AND ACCOUNTABILITY MEASURES (10-7-103B)

President Miljanich said that Board members had in front of them copies of the proposed revised policy, with the addition of the following language in item number 4: “The District shall not remove any member of the Committee, except for cause, i.e., illegal activity or violation of District or State regulations.” This addition is a result of a recommendation by the Civil Grand Jury and was noted after the board packet was distributed. It was moved by Trustee Holober and seconded by Trustee Schwarz to approve the revised policy, as amended. The motion carried, all members present voting “Aye.”

CONTRACT AWARD FOR DISTRICTWIDE INTERIOR AND EXTERIOR UNIT PRICE PAINTING (10-7-104B)

It was moved by Trustee Holober and seconded by Vice President Mandelkern to approve the contract award as detailed in the report. Trustee Schwarz said it is refreshing to see the long list of painting contractors who submitted bids. She said she was glad to see A & B Painting, Inc., a union contractor, on the list and noted that its bid was quite close to the lowest responsive bidder, with only a \$28,000 difference. She asked her Board colleagues if they would be willing to consider awarding the bid to A & B Painting, Inc. Rick Bennett, Executive Director, Construction Planning Department, said the District is obligated to select the lowest responsive bid because this is a public bid.

Trustee Holober noted that funding would come from various sources and asked if it could be subject to a Project Labor Agreement (PLA). Mr. Bennett said he believes this would fall outside of a PLA. He noted that with unit pricing, there is not a specific project, but rather the contractor is used on an as-needed basis. Trustee Holober said he would like further study on whether it could be subject to a PLA.

Trustee Holober asked if it is permissible to reject all bids without providing a rationale. Chancellor Galatolo and Mr. Bennett confirmed that this would be allowed, but questioned whether a new request for bids would yield different results. President Miljanich said she shares Trustee Schwarz’ desire to get to the milestone of being able to hire a union contractor; however, setting a precedent by rejecting all bids and then reopening the bidding process concerns her.

Vice President Mandelkern asked if all of the bidders provide health insurance and retirement benefits to their employees. Mr. Bennett said they do. Vice President Mandelkern asked if the District specifies a particular paint to be used. Mr. Bennett said the District does specify the brand, based on District standards and practicality.

Trustee Holober said he is inclined to vote to not accept the recommendation and to reopen the bidding process. Vice President Mandelkern said he also would like to consider the union contractor because the bid is very close, but he is concerned that reopening the bidding could yield fewer and/or not as good responses. He said he is not sure there is a reasonable basis to say this should be subject to a PLA since it is not based on a specific project.

Chancellor Galatolo said he would caution the Board to seek guidance from legal counsel and would recommend that, at a minimum, the Board defer consideration of the recommendation rather than rejecting it. President Miljanich suggested that the recommendation be tabled until the August 18 meeting; in the interim, staff will research options regarding a PLA and public bidding contracts.

Trustee Holober withdrew his motion to approve the recommendation. Vice President Mandelkern moved and Trustee Schwarz seconded to table approval of a contract award for Districtwide interior and exterior unit price painting to the August 18 meeting. The motion carried, all members present voting “Aye.”

APPROVAL OF AGREEMENT FOR COMPENSATION WITH THE SOUTH BAY REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM FOR THE 2009-2010 AND 2010-2011 PEACE OFFICERS TRAINING ACADEMY – COLLEGE OF SAN MATEO (10-7-105B)

It was moved by Trustee Schwarz and seconded by Vice President Mandelkern to approve the agreement as detailed in the report. The motion carried, all members present voting “Aye.”

INFORMATION REPORTS (continued)

UTILIZATION OF MEASURE G FUNDS (10-7-6C)

Chancellor Galatolo said this will be a standing agenda item, based on the Board’s desire to have a forum whereby it can hear requests for emergency monies for certain programs or needs. There have been no requests to date. Chancellor Galatolo anticipates that requests will be submitted in the fall; he noted that there are 12,400 students on waitlists and the number will increase before start of the new term. He said there is agreement to be cautious in approving expenditures in light of constituencies not being here during the summer to discuss these matters.

Trustee Schwarz asked Presidents Morrow and Mohr to comment on reductions in summer school at Skyline and Cañada. President Morrow said Skyline’s summer program was reduced by approximately 20 percent and fall sections are reduced by 11.2%. President Mohr said Cañada’s summer program was reduced by approximately 25 percent. He recalled that when reductions were presented to the Board some months ago, Cañada had reduced the budget for adjunct faculty by 40 percent and for full-time faculty by 20 percent.

Vice President Mandelkern asked if there is any further thought about ways to borrow money or get an advance against Measure G money without increasing the risk of exposure unnecessarily, as discussed at the last Board meeting. Chancellor Galatolo said the District has reserves that can be tapped into until it receives property tax monies. He said the main concern is expending Measure G funds without having received the money, having a claim against the money, and either waiting a long time to get the money or never getting it at all. Executive Vice Chancellor Keller said the District can deal with the cash flow problem without issuing another Tax and Revenue Anticipation Note. He said the issue with Measure G funds is committing to expenditures with money that might never be received.

Vice President Mandelkern said he received the Community Education brochure and, based on earlier discussions, was surprised that more classes had not been transferred to Community Education. Chancellor Galatolo said some classes have been transferred. For example, Coastsides classes have been almost fully transitioned. Executive Vice Chancellor Keller said the District entered into a short-term extension of the Coastsides lease while waiting to see if there are challenges to Measure G. Susan Estes, Vice President of Instruction at College of San Mateo, said that while most Coastsides classes have been transferred to Community Education, two or three sections have been identified that would be offered as general education transfer courses this fall based on the availability of Measure G funding; however, it was important to make sure a lease was signed before advertising the classes.

Vice President Mandelkern asked if there has been progress in discussions with the Cabrillo Unified School District about using their facilities for classes. Vice President Estes said she has had discussions with Cabrillo District leadership and the high school principal and they are reluctant to commit sharing their facilities at this time and deciding what kind of courses would be best for them. She said she will continue the discussions. Executive Vice Chancellor Keller said staff intends to pursue other opportunities as well, such as use of the Half Moon Bay Library. Vice President Mandelkern said that he and Trustee Schwarz attended the initial meeting with members of the Cabrillo District Board and would be willing to help get things moving again.

President Mohr said that an agreement is being finalized to move the Redwood Symphony Orchestra program to Community Education. Cañada College Vice President of Instruction Sarah Perkins said the Symphony’s transition, along with that of Peninsula Cantare, will happen in January.

Chancellor Galatolo said that Jan Roecks, under Executive Vice Chancellor Keller’s leadership, is vigorously pursuing all Community Education opportunities. He said Community Education is a viable outlet for many classes, including Physical Education. He said a foundation is being built that will provide a mechanism for shifting classes and it will pay off in due time.

DISCUSSION OF STATE PROPOSITIONS FOR THE NOVEMBER 2010 BALLOT (10-7-7C)

Vice President Mandelkern said he believes the Board should support propositions which would have a positive effect on the State general fund and, therefore, on Proposition 98 funding.

President Miljanich suggested that the Board begin by discussing Proposition 25, which she said would have a direct impact on the District. Trustee Holober said that Proposition 25 is indirectly tied to Proposition 24. Proposition 25 does not change the legislative vote requirement for taxes; as a result, even if a budget can be passed with a simple majority vote, the legislature's hands are still tied if more revenue cannot be raised. Trustee Holober said that under current rules, non-budget related items that cannot win in the legislature are often held as "ransom demands" to secure the last two or three votes to reach the two-thirds vote threshold needed to pass a budget. Last year, corporate tax breaks were the "ransom demands." Proposition 24 would repeal the legislation which granted these tax breaks and would result in an increase in the General Fund of an estimated \$1.7 billion to \$2 billion. Proposition 25, by changing the legislative vote requirement to pass a budget, will not produce new money but will help prevent attacks on money that already exists. Vice President Mandelkern said he believes the Board should support Propositions 24 and 25. He believes the Board should also support Proposition 21 because it would create a new source of funding for parks outside of the general fund. An estimated \$150 million to \$160 million currently used for parks from the general fund would go back into the general fund.

Trustee Holober said more information is needed about Proposition 22 and why the California Teachers Association is opposing it. He suggested that the Board take no action on this proposition.

Vice President Mandelkern said he believes the Board should oppose Proposition 26 because it would eliminate anticipated revenues from the general fund. Trustee Holober said a policy issue is also involved as the proposition would reclassify mitigation fees as taxes and thus require approval by two-thirds of the legislature. Under current law, a simple majority approval is required to impose mitigation fees specific to business activities, such as fees on paint manufacturers to test children for exposure to lead paint. Trustee Holober said that some of the business activities on which mitigation fees are imposed impact children and, therefore, impact people that the District serves or will serve in the future.

President Miljanich suggested that at its August 18 meeting, the Board consider adopting resolutions in favor of Propositions 21, 24 and 25 and in opposition to Proposition 26. The Board agreed and staff will prepare the resolutions.

STATEMENTS FROM BOARD MEMBERS

Student Trustee Maharaj said he is looking forward to attending the Student Trustees Workshop in August and learning more about his role. He attended the Student Leadership Retreat and thanked Mr. Schaefer, Dean Carrington, President Claire and Vice President Hughes for their help. He will arrange for the student reports at Board meetings and help solicit a student member for the Bond Oversight Committee.

Vice President Mandelkern thanked Professor Dilko once again for her service and welcomed Professor Hernandez.

Trustee Schwarz attended the Budget Challenge at College of San Mateo, an exchange of ideas with Assemblymember Jerry Hill about how District employees would reduce California's budget deficit. She also attended the Foundation meeting and reported that the annual campaign surpassed its goal and work is already starting on next year's campaign. She also reported that there has been an increase in student donations through the Tuition Assistance Program.

Trustee Holober said the Board received correspondence from a Half Moon Bay resident regarding continuation of a class. The writer stated, "I have heard that CSM feels no need to serve the needs of continuing ed students in tough economic times." Trustee Holober said it is important that the Board respond to such correspondence with a statement of the Board's core values. Trustee Schwarz said that last year, as Board president, she included the core values statement in her responses. Chancellor Galatolo said staff will provide a response for President Miljanich's review.

Trustee Holober said he read a newspaper article about other Districts which specified certain vendors, in this case for roofing materials, that were twice the price of their competitors. He said he would like a report in the future about the District's practices in choosing vendors. Chancellor Galatolo said a report will be provided.

Trustee Holober suggested that the Board award Resolutions of Honor to Jon Miller, who was recently inducted into the Baseball Hall of Fame, and John Madden, who was very helpful to the District during the Measure G campaign. All Board members agreed. Staff will provide the resolutions and help determine times for the presentations.

COMMUNICATIONS

None

RECESS TO CLOSED SESSION

President Miljanich said that during Closed Session, the Board will consider the personnel items listed as 1A and 1B on the printed agenda. The Board will also hold a conference with agency labor negotiator Harry Joel; the employee organizations are AFT, AFSCME and CSEA.

The Board recessed to Closed Session at 9:44 p.m.
The Board reconvened to Open Session at 11:18 p.m.

CLOSED SESSION ACTIONS TAKEN

President Miljanich reported that at the Closed Session just concluded, the Board voted 4-0 to approve the items listed as 1A and 1B on the printed agenda.

ADJOURNMENT

It was moved by Trustee Holober and seconded by Trustee Schwarz to adjourn the meeting. The motion carried, all members present voting "Aye." The meeting was adjourned at 11:20 p.m.

Submitted by



Ron Galatolo, Secretary

Approved and entered into the proceedings of the August 18, 2010 meeting.



Dave Mandelkern, Vice President-Clerk