

**Minutes of the Regular Meeting of the Board of Trustees
San Mateo County Community College District
October 28, 2020 – San Mateo, CA**

This was conducted remotely via Zoom. A video recording of the meeting can be accessed at: <https://smccd.edu/boardoftrustees/meetings.php>.

The meeting was called to order at 5:00 p.m.

Board Members Present: President Karen Schwarz, Vice President Thomas A. Nuris, Trustee Maurice Goodman, Trustee Richard Holober, Trustee Dave Mandelkern

ANNOUNCEMENT OF CLOSED SESSION ITEMS FOR DISCUSSION

President Schwarz said that during closed session, the Board will take up items as listed on the printed agenda, including: (1) Hold Conference with Labor Negotiators for Employee Organizations: AFT and CSEA; (2) Hold Conference with Labor Negotiator for Unrepresented Employees: Provost - International Education, Vice Chancellor - Chief of Staff, Vice Chancellor - Education Services & Planning, Vice Chancellor – Facilities, Vice Chancellor - Auxiliary Services & Enterprise Operations; (3) Consider Public Employee Appointment/Employment: Titles: Provost, International Education, Vice Chancellor/Chief of Staff, Vice Chancellor of Educational Services and Planning, Vice Chancellor of Facilities, Vice Chancellor - Auxiliary Services & Enterprise Operations; (4) Hold a Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to Gov. Code, § 54956.9, subd. (d)(2): Two cases; and (5) Consideration of Ratification of May and June 2020 Confidential District Warrants.

STATEMENTS FROM THE PUBLIC ON CLOSED SESSION ITEMS ONLY

None.

RECESS TO CLOSED SESSION

The Board recessed to closed session at 5:02 p.m.

RECONVENE TO OPEN SESSION

The Board reconvened to open session at 6:31 p.m.

Board Members Present: President Karen Schwarz, Vice President Thomas A. Nuris, Trustee Maurice Goodman, Trustee Richard Holober, Trustee Dave Mandelkern; Student Trustee Jade Shonette

Others Present: Chancellor Michael Claire, Chief Financial Officer Bernata Slater, Skyline College Interim President Melissa Moreno, College of San Mateo Interim President Kim Lopez, Cañada College President Jamillah Moore, District Academic Senate President Jeramy Wallace

ANNOUNCEMENT OF REPORTABLE ACTION TAKEN IN CLOSED SESSION

[\(Time Stamp: 1:33:30; Correction at 01:38:10\)](#)

President Schwarz reported that the Board ratified the confidential District warrants.

DISCUSSION OF THE ORDER OF THE AGENDA

[\(Time Stamp: 1:33:37\)](#)

The Board agreed to move Informational Report 20-10-3C and Item 20-10-106B up in the agenda to be presented immediately prior to Item 20-10-103B.

STATEMENTS FROM EXECUTIVES AND STUDENT REPRESENTATIVES

[\(Time Stamp: 1:34:56\)](#)

Chancellor Claire congratulated Daman Grewal on his appointment as new District Chief Technology Officer and Jose Nunez for receiving the Community Colleges Facilities Coalition Paul Holmes Leadership Award.

STATEMENTS FROM OTHER REPRESENTATIVE GROUPS

[\(Time Stamp: 01:38:18\)](#)

- Eric Brenner from AFT discussed inequities in conditions of adjunct faculty, including adjunct pay.

STATEMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

[\(Time Stamp: 01:42:10\)](#)

- Sam Chuang spoke about SMAC and EXOS management issues.
- Diana Thomas spoke about response to swimming program concerns.
- Jennifer Diehn spoke about SMAC Bulldog Swim Team youth swimming issues during COVID.
- John Pimentel encouraged the Board to agendaize items he outlined in his letter to them including tuition-free college, doubling the size of Promise Scholars, retraining for displaced workers and expanding financial aid.
- Melissa Mason spoke about the Bulldog Swim Club during COVID and encouraged approving plans to allow for pool time for youth swimmers.
- Andrea (Last Name not provided) a dance instructor spoke about one of her classes being cancelled and encouraged permissibility of dance and physical classes to meet in-person outside.

NEW BUSINESS

Approval of Personnel Items: Changes in Assignment, Compensation, Placement, Leaves, Staff Allocations and Classification of Academic and Classified Personnel (20-10-2A)

[\(Time Stamp: 1:59:19\)](#)

Motion to Approve by: Trustee Holober

Second by: Trustee Mandelkern

Action: Approved unanimously, all members voting Aye

Summary of Discussion: None.

Public Comment: None.

Approval of Consent Agenda

[\(Time Stamp: 2:00:00\)](#)

Acceptance of Grant Funds from the National Science Foundation's Improving Undergraduate STEM Education (IUSE) Grant for the Datapath: Creating a Data-Driven

Pathway to STEM (20-10-6CA)**Acceptance of Gifts and Donations by the District: Soccer and Baseball Scoreboards Donated by International Brotherhood of Electrical Workers (IEBW) Local 617 (20-10-7CA)****Acceptance of San Mateo County Child Care Relief Grant Funds for Skyline College Child Development Learning Center (20-10-8CA)****Acceptance of Grant from Peninsula Clean Energy to Support “Energize College Program” at San Mateo County Community College District (20-10-9CA)****Ratification of July and August 2020 District Warrants (20-10-10CA)****Ratification of Community College League of California and California Community College Athletic Association 2020-2021 Membership Dues (20-10-11CA)****Adoption of the 2021-2022 Academic Calendar (20-10-12CA)****Approval of Curricular Additions, Deletions and Modifications – Cañada College, College of San Mateo and Skyline College (20-10-13CA)****Approval of Correction to Board Report No. 19-6-6CA, Approval of Contract Award for Athletic Sports Uniforms Purchase for College of San Mateo (20-10-14CA)***Motion to Approve by:* Trustee Nuris*Second by:* Trustee Holoher*Action:* Approved unanimously, all members voting Aye**INFORMATION REPORTS****Comparative Staffing Analysis of San Mateo Athletic Club by Harvey M. Rose Associates, LLC (20-10-3C)***(Time Stamp: 2:02:00)****Summary of Discussion:*** Chancellor Claire explained the District had retained the services of Harvey Rose Associates to conduct a comparative study of SMAC costs per the Board’s direction.

Fred Broussau from Harvey Rose explained that his firm conducted a study that compared cost and revenues with the District’s current arrangement with EXOS and compared EXOS positions with District classifications that best match them to come up with an analysis of cost. He noted that the study was a cost comparison, not a performance assessment of EXOS.

Linden Bairey from Harvey Rose presented a comparative staffing analysis, which included the following items: a review of the study’s methodology, which included (1) a revenue and expense review of SMAC, where it was noted that the largest vendor expense is payroll/bonus/benefits and that the District’s largest expense was also salary and benefits, and (2) utilization of existing source documentation, including SMAC profit and loss; EXOS job descriptions, salary ranges, and March 2020 staffing model; existing District job descriptions and salary schedules; collective bargaining agreements. Ms. Bairey also reviewed personnel cost estimates that included that (1) the most significant cost increases associated with a transition of SMAC

to a District operation would be incurred for employee salaries and benefits; (2) identification of multiple positions for which the closest matching District classifications do not appear to be entirely appropriate for the current contractor positions, (3) recommendation that the District consider creating new, more appropriate classifications if it chooses to pursue the transition to an in-house operation, and (4) conclusion that the total estimated costs would range from \$5.4 million to \$7.5 million. She further concluded that based on Harvey Rose's analysis, reductions in expenditures are not enough to offset increases in expenditures that the District would incur from running SMAC with District employees, assuming existing District classifications are used. Additionally, she explained that (1) increases in expenditures are primarily due to the District's established salary schedules and benefits rates for its current classifications, (2) the District could reduce some of these costs by creating new job classifications for SMAC positions and negotiate lower rates with the relevant labor union organizations, (3) the District would incur overhead charges to pay for human resources, accounting, payroll, and other functions, as well as other expenses for software expenditures, (4) the District would also incur one-time transition costs and HR needs, and (5) maintaining possible ongoing SMAC profitability would require some combination of the creation of new District positions, successful labor union negotiations, and potential increases in membership dues or other revenue increases.

Trustee Holober asked for clarification of the 30% administrative overhead rate that was referenced. Kathy Blackwood, Vice President for Special Projects and former Executive Vice Chancellor, explained that the rate was the federally-approved rate to cover costs relating to functions such as accounts payable, insurance, legal, human resources and that that rate was determined after review and analysis of District expenses. Trustee Holober noted that he was skeptical of the numbers. Trustee Mandelkern also questioned the application of the 30% expense and noted that the functions were currently being done by the vendor and he could not reconcile why the expense would be significantly greater if performed by the District. Ms. Blackwood noted those expenses are currently being covered by the EXOS management fee.

Trustee Holober also asked about administrative salaries and benefits as listed. Ms. Bairey noted that those expenses related to District employees who have responsibility for oversight and management of SMAC, along with District employees who support operations. Trustee Holober also noted that he does not believe that transitioned positions would be certificated but would be classified personnel work, which would impact the costs.

Trustee Mandelkern noted that he agrees with Trustee Holober that coaches and instructors are not faculty positions but instead classified positions. He sought clarification relating to the managerial positions that are currently not within the District positions that would need to be hired and the cost of those positions, which may be included in current EXOS salaries or management fee. Ms. Bairey noted that the cost for those positions would be roughly \$644,000 plus the management fee.

Trustee Holober noted that there have been questions surfaced during the discussion that need further analysis, including options for a hybrid approach to management and operation.

Vice President Nuris noted that he believes the report concludes that the District could not run the operation at the same or better rate and does not believe the District should be running such an enterprise operation in-house and that that the District should contract out for such services.

Chancellor Claire said that the bottom financial line is that the direct revenues minus the direct expenses is about \$1.3 million, which backfills positions covered under Fund 1 dollars, supports strategic initiatives such as the Promise Scholars program and items such as equipment. He also noted that he believes a hybrid could be a possible operating model.

NEW BUSINESS: Other Recommendations

Approval of Contract Award for Cañada College Building 22 Swing Space Project (20-10-106B)
(Time Stamp: 2:59:05)

Motion to Approve by: Trustee Mandelkern

Second by: Trustee Holoher

Action: Approved unanimously, all members voting Aye

Summary of Discussion: Trustee Mandelkern noted the reason he asked to have this item moved up on the agenda is because it is a well-done example of how a bid process is conducted and recommendation presented to the Board. He said he was pleased to see the number of pre-bid interest and number of actual bidders to get the best value. Vice Chancellor Nunez noted that this was a hard-bid project, not a best value project.

Public Comment: None.

Approval of Contract Award for Operation of the San Mateo Athletic Club in Partnership with the District (20-10-103B)
(Time Stamp: 3:02:59)

Motion to Approve by: Vice President Nuris

Second by: President Schwarz

Action: Amended motion approved. Ayes: President Schwarz, Vice President Nuris, Trustee Mandelkern. Nays: Trustee Goodman, Trustee Holoher.

Summary of Discussion: Chancellor Claire explained the bid process and the composition of the bid-review committee membership. Interim General Services Director Yanelly Pulido provided an overview of the procurement process, including planning, solicitation and evaluation and post-procurement, and explained that as this was a best value bid, where proposals were sought that were most advantageous to the District and that price was not the sole factor. She reviewed the scope, requirements and timeline of the RFP, and highlighted that in order to garner maximum interest, the District issued three public notices of the bid opportunity. Ms. Pulido also provided an overview of the selection committee membership and advisors, which included an ad-hoc Board committee comprised of President Schwarz and Trustee Mandelkern. She noted that for this bid opportunity, two proposals were received by the deadline. The evaluation committee reviewed the proposals, conducted virtual interviews and references checks were conducted. Vice Chancellor Tom Bauer noted that there was information that the committee requested from Power Wellness relating to marketing expenses that were unclear in their bid but that information was not adequately provided. Ms. Pulido noted that next steps would be an issuance of Notice of Award, authorizing the Chancellor (or designee to negotiate a contract) and contract ratification at a future Board meeting.

Trustee Mandelkern inquired about the bidder outreach efforts to qualified firms and noted his surprise that there were only two ultimate bidders. Ms. Pulido noted the District followed its legal requirements of notification and noted bidders also have a responsibility to be aware of bids through Planet Bids. Vice Chancellor Bauer commented that the level of integration of academic and athletic club programs is such a unique arrangement that it limits the pool of potential bidders. Trustee Mandelkern noted that he did not find these efforts to be an effective way of reaching potential bidders.

Trustee Nuris ask how many potential bidders did receive the bid information. Ms. Pulido noted that the District provided information to 15 firms, contacted 11 firms, seven of which showed initial interest, six of which attended the pre-bid conference, and two submitted. Vice President Nuris commented that he could not find fault in the outreach for this process, noting the number of public notices, use of Planet Bids and the firm outreach.

Trustee Goodman concern that SMAC employees are seen as employees of the District because SMAC is seen as an extension of the District. He said he believes that the District must make sure that any type of business operation on the campuses have a standard to treat their employees at least the level of District employees. He said he does not feel comfortable moving forward at this time.

Trustee Holober expressed concern relating to the competitive responsiveness to the RFP that deserve further evaluation. Trustee Holober moved to reject all bids and to re-do the RFP process.

Vice President Nuris said that as it relates to issues of employee and member satisfaction, those matters can be addressed in the writing of the contract. He said he believes the process has been thorough and fair. President Schwarz concurred with Vice President Nuris.

Trustee Mandelkern explained that he was concerned with the lack of financial transparency in the recommendation being presented to the Board and has voted against such matters in the past. He also noted he believes there is a discrepancy in the recommendation contained in the motion on the floor versus that presented in the staff presentation, specifically the issue of having the Board ratify a contract rather than approve a contract. He suggested moving in a more limited fashion, with a one-year contract.

Vice President Nuris amended his motion to become: The Board of Trustees authorize the Chancellor, or his designee, to negotiate and, with the approval of the Board, execute a contract with EXOS to operate the San Mateo Athletic Club per RFP #86826, for a period of one year beginning January 1, 2021, with an option to renew for two (2) additional one-year terms. Renewal will be at the sole discretion of the District.

Public Comment:

- Frank Elliott expressed concern with only having two bidders and believes there were scoring elements missing, including member satisfaction, vendor reception to feedback and employee satisfaction, and that there should be greater transparency in fees.
- Nancy Littlefield expressed concern with the culture within the facility and encourage that be addressed with the vendor.
- Paul Prather, a representative of Power Wellness, commented that he believed the Board was making a decision based on limited information and does not feel a fair assessment is being made between the two bidders, and believes Power Wellness was misquoted in many areas or provided information that was not included in the scoring.
- Lane Poms said she attended the pre-bid process and followed along with the requests for information but was not permitted to participate as an observer in interviews.
- Sam Chuang commented on the uniqueness of SMAC.
- Jim Stretch noted he was a former employee and commented he was dissatisfied with his experience as a SMAC employee and that he does not believe college facilities should be built for use by the public.

Approval of Institute of Human and Social Development (IHSD) Early Head Start Childcare Partnership (20-10-104B)

[\(Time Stamp: 4:51:11\)](#)

Motion to Approve by: Trustee Goodman

Second by: Vice President Nuris

Action: Approved unanimously, all members voting Aye

Summary of Discussion: None.

Public Comment: None.

Approval of Construction Consultants (20-10-105B)

[\(Time Stamp: 4:52:01\)](#)

Motion to Approve by: Vice President Nuris

Second by: Trustee Goodman

Action: Approved unanimously, all members voting Aye

Summary of Discussion: Trustee Goodman asked about issues in regards to equity and access by minority vendors. Vice Chancellor Nunez noted that there were two processes: one for general and sub-contractors and one for architects and engineers. For contractors, he noted that outreach is done to minority-owned and veteran-owned businesses throughout the Bay Area and for architects and engineers, there is an open submission process annually.

Public Comment: None.

Approval of the Suspension of Board Policy 8.74: Exemptions and Waivers of Fees (20-10-107B)

[\(Time Stamp: 4:54:16\)](#)

Motion to Approve by: Trustee Goodman

Second by: Trustee Nuris

Action: Approved unanimously, all members voting Aye

Summary of Discussion: None.

Public Comment: None.

Approval of Revisions to Board Policies: 1.01 District Mission; 3.35 Payroll Deductions (Certificated Personnel); 4.35 Payroll Deductions (Classified Personnel); 6.01 Philosophy and Purpose; and 6.45 Field Trips and Excursions (20-10-108B)

[\(Time Stamp: 4:55:05\)](#)

Motion to Approve by: Vice President Nuris

Second by: Trustee Mandelkern

Action: Amended motion to approve revisions to Policies 3.35, 4.35 and 6.45. Approved unanimously, all members voting Aye

Summary of Discussion: Trustees agreed to hold Policies 1.01 and 6.01 to allow for further review and potentially consolidate or align with other similar statements.

Public Comment: None.

COMMUNICATIONS*(Time Stamp: 5:01:31)*

President Schwarz reported that the Board, along with the governing bodies of the other public agencies, school districts and independent special districts in the County, received notice from the San Mateo Civil Grand Jury to respond to a recently released report regarding “Ransomware: It Is Not Enough To Think You Are Protected.” They have asked that all governing bodies respond by January 5, 2021. Staff will review the report and prepare a draft response for the Board’s consideration at our December meeting.

STATEMENTS FROM BOARD MEMBERS*(Time Stamp: 5:02:11)*

President Schwarz: Noted her admiration and pride of staff and what they do and in taking criticism in stride.

Vice President Nuris: None.

Trustee Goodman: Reminded Trustees that we went the whole meeting without saying Black Lives Matter, anti-Blackness or having the standing agenda item on race, class, gender and equity. He noted that October is Filipino American History Month.

Trustee Holober: None.

Trustee Mandelkern: Noted that San Mateo County has moved to Orange level and hoped to get an update on what services might be available to offer to students in-person. He also congratulated Vice Chancellor Nunez on his award from CCFC and mentioned that he attended the Cañada College President’s Virtual Luncheon.

Student Trustee Shonette: None.

President Schwarz announced that the next meeting of the Board of Trustees would be on November 18, 2020, conducted via Zoom.

ADJOURNMENT

The meeting adjourned by consent at 10:06 p.m. in memory of Kathleen Feinblum, an English professor at Skyline College and David McCargar, a utility engineer based at Skyline College.

Submitted by

Michael Claire, Secretary