

**Minutes of the Study Session of the Board of Trustees  
San Mateo County Community College District  
June 10, 2015, San Mateo, CA**

**The meeting was called to order at 6:05 p.m.**

**Board Members Present:** President Patricia Miljanich, Vice President Dave Mandelkern, Trustees Richard Holober, Tom Mohr and Karen Schwarz, Student Trustee Rupinder Bajwa

**Others Present:** Chancellor Ron Galatolo, Skyline College President Regina Stanback Stroud, College of San Mateo President Michael Claire, Cañada College Vice President of Instruction Gregory Anderson

**Pledge of Allegiance**

**DISCUSSION OF THE ORDER OF THE AGENDA**

None

**MINUTES**

It was moved by Trustee Holober and seconded by Vice President Mandelkern to approve the minutes of the Board meeting of May 13, 2015. The motion carried, all members voting "Aye."

**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 (15-6-1A)**

It was moved by Trustee Schwarz and seconded by Trustee Holober to approve the actions in Board Report No. 15-6-1A. The motion carried, all members voting "Aye."

**ADOPTION OF RESOLUTION NO. 15-11, ADDING THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) GROUP UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT (15-6-2A)**

It was moved by Trustee Holober and seconded by Trustee Mohr to adopt Resolution No. 15-11. Eugene Whitlock, Vice Chancellor of Human Resources and Employee Relations, said this resolution will establish AFSCME as a new group within the CalPERS Health Plan System; AFSCME employees are currently included with the Non Represented/Classified group. The motion carried, all members voting "Aye."

**ADOPTION OF RESOLUTION NOS. 15-12, 15-13, 15-14, 15-15, 15-16, 15-17, 15-18, 15-19 AND 15-20, ESTABLISHING HEALTH VESTING REQUIREMENTS FOR FUTURE ANNUITANTS UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT (15-6-3A)**

It was moved by Trustee Holober and seconded by Trustee Mohr to adopt Resolutions Nos. 15-12 through 15-20. Vice Chancellor Whitlock said the resolutions are required by CalPERS to officially establish the health vesting requirements set forth in the collective bargaining agreements. Through the resolutions, the District informs CalPERS of the benefits retirees are entitled to, in accordance with the negotiated collective bargaining agreements, when they choose to continue coverage with the CalPERS health plan; therefore, the District will no longer be required to make monthly contributions toward medical plan premiums for future annuitants who do not qualify for negotiated retiree benefits.

Juanita Celaya, CSEA 2<sup>nd</sup> Vice President, CSM/District, requested that the Board table this item until a future date. She said CSEA has been requesting information from Human Resources on employer share for the past several months. She said that on June 2, Vice Chancellor Whitlock informed CSEA that the District intends to enforce the bargaining unit contracts for future retirees. She said Vice Chancellor Whitlock also said that the

District would be getting attorneys involved regarding retirees who are currently receiving benefits but did not complete the terms of their contracts regarding eligibility for benefits. Ms. Celaya said CSEA did not see the board report and resolutions until the board packet was published on June 5; she said this did not leave time for CSEA to adequately review the resolutions. Ms. Celaya said that vesting resolutions were discussed with then Vice Chancellor Harry Joel approximately two years ago. She it was discovered at that time that all employees hired to date and all past retirees were hired under the CalPERS contract and were all told that they would receive this benefit. She said that any changes to benefits subsequent to initial employment should be brought to the bargaining table, even if the collective bargaining agreement is in conflict with the CalPERS contract. Ms. Celaya said CSEA is still in the process of gathering information and researching the history of this issue and would like time to prepare a complete presentation to the Board.

Trustee Mohr said the board report makes clear that the resolutions will not affect retirees who chose to continue with the CalPERS medical plan and for whom the District is currently making contributions toward medical plan premiums. He said the resolutions affect current employees and will honor the negotiated agreements the District has with its employees. Vice Chancellor Whitlock confirmed that the resolutions in no way affect the 79 retirees currently receiving benefits for which they are not eligible according to the collective bargaining agreements. He said the District is being billed by CalPERS for medical plan premiums for these 79 individuals at an annual cost of \$473,117. David Feune, Interim Director of Human Resources, said retirees will continue to be covered under the CalPERS medical plan unless CalPERS is notified that they wish to discontinue coverage. The 79 retirees are individuals who retired and were not eligible for retirement benefits but chose to continue medical coverage with CalPERS. Vice Chancellor Whitlock added that the majority of these 79 retirees worked for the District for less than 15 years and 19 of the 29 who were CSEA members worked for the District for ten years or less. He said the District is having discussions with CalPERS about getting these employees classified correctly. He stressed that this is an issue separate from the resolutions being brought to the Board at this meeting.

Vice President Mandelkern asked if Human Resources staff have informed employees that they are eligible for post-retirement health care benefits in excess of those stipulated in the collective bargaining agreements. Vice Chancellor Whitlock said this is not the case. He added that when employees retire, they are asked to sign an acknowledgment explaining that, while they will receive some benefits, the benefits will cease when the Board adopts a vesting resolution. Ms. Celaya said CSEA was not aware of that document until January of this year. She said she believes this is asking employees to sign away their rights as they understand them and should have been brought to the bargaining table instead.

Trustee Holoher asked if new employees are provided with a handbook that includes an explanation of the benefits to which they are entitled. Vice Chancellor Whitlock said there is a handbook and any information would be consistent with the collective bargaining agreements.

Trustee Holoher said the statement by Ms. Celaya had two elements: (1) a request for information on the cost impact, and (2) the statement for the need to have the issue collectively bargained. Vice Chancellor Whitlock said that, to his knowledge, all information requested by CSEA has been provided. He also said that medical benefits have already been bargained and are included in the collective bargaining agreements. Ms. Celaya said CSEA has requested information about the length of service of the 79 retirees and has not received a response. Vice Chancellor Whitlock said staff will respond to the request but that it is not relevant to the resolutions being brought to the Board tonight since these retirees' benefits are in no way affected by the resolutions.

Trustee Schwarz asked how it transpired that the 79 retirees are receiving benefits they are not eligible for according to the contracts. Vice Chancellor Whitlock said that CalPERS assumes retirees are eligible for benefits unless vesting resolutions are adopted by the Board and presented to CalPERS. The resolutions will inform CalPERS of the terms of the collective bargaining agreements that are in force.

Vice President Mandelkern said the terms for retiree health benefits have always been explicitly agreed to during each bargaining cycle. He asked Ms. Celaya if she was arguing that employees should receive retiree health benefits in excess of what has been bargained. Ms. Celaya replied that this is her belief because this is what employees were told by Carol Green, who was Director of Human Resources, when the District moved from JTP to CalPERS in 1989. She also referred to an email from Harry Joel dated September 2013 which she said

corroborates CSEA's position. She said that, should these resolutions be adopted, CSEA believes that every employee who was hired prior to their passage should be eligible for the benefits in question. Those hired after passage of the resolutions would be bound instead by the terms of the collective bargaining agreements because the vesting resolutions would be in place.

President Miljanich said it does not make common sense to her that all current employees should be eligible for benefits which are not included in their collective bargaining agreements. She said she believes an employee's retirement date should be the consideration once the resolutions are adopted rather than the date of hire. Mr. Feune said he worked with CalPERS in putting together the resolutions; he said CalPERS confirmed that the relevant date is the date of retirement.

President Miljanich said that, regardless of the interpretation of the email from Mr. Joel, she does not believe that any staff member has the authority to grant employees benefits to which they are not entitled. Vice Chancellor Whitlock concurred that agreements about benefits are authorized by the Board and no individual may legally make another agreement.

President Miljanich asked if the District or individual employees have contracts with CalPERS. Vice Chancellor Whitlock said there are no contracts with CalPERS; rather, the District enters into resolutions with CalPERS. He said the only contracts that pertain to retiree medical benefits are the collective bargaining agreements.

Trustee Holober said he philosophically believes that collective bargaining agreements should govern employment practices and that they supersede other considerations. He said he does not have concerns about a need to gather more information or get responses to questions as long as this does not create an expectation that anything outside of the collective bargaining agreements will be honored. Vice Chancellor Whitlock said the only information requested concerns the 79 retirees referred to earlier and this is a separate issue not related to the resolutions being presented tonight.

Vice President Mandelkern said he agrees that the negotiated benefits packages should be honored and understands that the benefits for the 79 retirees in question are not addressed in the resolutions. However, he said he believes it would be courteous to grant the request by CSEA for more time to research the issue and he would also like to have time to further study the email from Mr. Joel. He asked if there is a deadline for submission of the resolutions to CalPERS. Mr. Feune said the resolutions must be submitted by the 10<sup>th</sup> of the month in order to be effective for the following month. Vice President Mandelkern said he is in favor of tabling adoption of the resolutions and considering them at the July Board meeting.

Trustee Schwarz said she treasures the Board's relationship with CSEA and is in favor of granting them time to complete their investigation. Therefore, she said she would prefer to table the item for one more month.

Trustee Mohr said he feels the Board is duty-bound to honor the negotiated agreements. He said that passing the resolutions will protect the District from a substantial loss over time and delaying passage would leave less money for programs for students and other employees. He said he understands the need to discuss and clarify the other issue regarding the 79 retirees in question but believes that the resolutions pertaining to current employees should be adopted tonight.

President Miljanich said the resolutions are honoring the collective bargaining agreements and she believes it is important to adopt them now.

Charles Jones, a current retiree, said any change or intent to change anything relative to health and welfare benefits or labor conditions must be negotiated. He also said the District is not permitted to negotiate with individual employees, which he alleged occurs when employees are asked to sign the acknowledgment that they are aware the employer share could discontinue. Trustee Mohr noted that the resolutions pertain only to current employees and do not modify anything in the collective bargaining agreements.

Trustee Holober asked that the Board recess to closed session for ten minutes to discuss the legal question of whether this is a matter for collective bargaining. The Board agreed unanimously to add this closed session item to the agenda as an issue that arose after the agenda was posted and that required immediate action.

The Board recessed to closed session at 7:10 p.m. and reconvened to open session at 7:17 p.m.

It was moved by Vice President Mandelkern and seconded by Trustee Schwarz to table adoption of Resolutions 12 through 20 until the next meeting of the Board. The motion failed, with Vice President Mandelkern and Trustee Schwarz voting "Aye" and President Miljanich, Trustee Holober and Trustee Mohr voting "No."

President Miljanich called for a vote on the original motion to adopt Resolutions 12 through 20. The motion carried, all members voting "Aye."

### **Other Recommendations**

#### **ADOPTION OF RESOLUTION NO. 15-21 REGARDING DECLARATION OF SURPLUS FUNDS AND APPROVAL OF BOND INVESTMENT STRATEGY (15-6-100B)**

It was moved by Trustee Schwarz and seconded by Trustee Holober declare surplus funds and adopt a resolution approving a bond investment strategy. Chancellor Galatolo recommended using the phrase "\$109 million of bond funds not required for immediate use" in place of "surplus funds." He said the District successfully sold \$127 million of bonds on May 26. Approximately \$18 million will be used for current needs and \$109 million can be invested long term. Education Code Section 15146(g) requires that the proceeds from the sale be deposited in the County Treasury's building fund for the District. Currently, the County's policy is that no more than 12.5% of the funds can be withdrawn at any one time. However, the County Treasurer has agreed to waive this limit and allow the District to withdraw \$109 million and redirect it to the District's custodial account at Bank of New York. The custodian will invest the funds in a Guaranteed Investment Contract (GIC) or a managed portfolio as directed by the District. If the Board opts to invest in a GIC, it is required by law to adopt a resolution.

There was extensive discussion regarding the investment strategy. Key points included:

- A GIC which is collateralized by the federal government is more secure than a managed portfolio. The yield would be reduced because of the collateralization requirement and would likely return a lower yield than that of the County Pool.
- GICs have specified time periods and can be shorter or longer term depending on cash flow needs. Nevertheless, by law, the District must reasonably expect to expend 85% of the bond funds within the next 36 months.
- A managed portfolio is more flexible and provides greater leverage around liquidity. However, a managed portfolio contains a combination of investments, not all of which would be federal investments.
- If the Board opts for a managed portfolio, Board members would like to revise the District's current investment policy regarding diversification, concentration of investments with issuers, and maturity duration.

Vice President Mandelkern said he reviewed the District's investment policy and would recommend modifications, particularly in the following areas:

1. The policy states that up to 40% of the portfolio may be invested in banker's acceptances. Vice President Mandelkern said this is higher than is currently recommended. For example, the County's investment policy states that 15% of the portfolio may be invested in domestic banker's acceptances and 15% in international banker's acceptances, for a total of 30%.
2. The policy does not place limitations on individual issuers. Vice President Mandelkern recommends a limit of 3% to 5% per individual issuer within each class of investment.
3. The policy does not place limitations on maturity dates. Vice President Mandelkern recommends adding appropriate maturity dates, not to exceed one year, for each class of investment.
4. Vice President Mandelkern recommends that the investment policy stipulate that the primary responsibility is for preservation of capital rather than seeking maximum yield.

Chancellor Galatolo said staff is now seeking guidance on how to proceed with investing the \$109 million in bond proceeds that are not needed immediately for construction. The Board discussed options including:

1. Place the funds in a short-term GIC while the District's investment policy is being revised and then consider moving the funds to a managed portfolio. However, there was concern by staff that a short-term collateralized GIC would have a very low yield.
2. Place the funds in a managed portfolio using the guidance expressed by the Board at this meeting, while at the same time revising the District's investment policy; after the policy is revised and approved by the Board, review how well it is aligned with the managed portfolio and make modifications accordingly.
3. Place the funds in the County Pool, which might produce a greater yield than a short-term GIC, until a revised investment policy is in place. This was the method preferred by staff.

Vice President Mandelkern asked that staff review the District's investment policy and bring suggested revisions back to be the Board. He said that, until that time, he would not be comfortable with investing the bond funds in a managed portfolio. After further discussion, the Board agreed that they will adopt a resolution authorizing the execution of a GIC, amending the resolution to specify that the GIC will be fully federally collateralized. Staff will issue a call for competitive bids; if the response indicates that the yield from a GIC will be considerably lower than that from the County Pool, the Board grants staff the latitude to temporarily invest the proceeds with the County, pending revision of the District's investment policy. Trustee Holoher asked that the understanding with the County, stating that the District will be allowed to withdraw the funds at any time, be put in writing. Chancellor Galatolo said he will make certain this is done.

President Miljanich called for a vote to adopt Resolution No. 15-21, declaring that \$109 million of the bond funds will not be needed prior to July 1, 2016 and authorizing the negotiation, execution and deliverance of a Guaranteed Investment Contract collateralized with only treasury and agency notes. The motion carried, all members voting "Aye."

## **INFORMATION REPORTS**

### **UPDATE ON SAN MATEO ATHLETIC CLUB (SMAC) (15-6-1C)**

Vice Chancellor Whitlock said comprehensive information is contained in the board report. He said he and Karen Powell, Executive Director of Facilities Maintenance and Operations, will answer questions that the Board or others may have.

Tina Acree, AFSCME Business Agent, said she would like to have time to discuss an agreement with Vice Chancellor Whitlock that would be agreeable to everyone, based on the options provided.

Trustee Holoher asked for additional information about the components of the janitorial work, i.e. the third party contractors who do thorough cleaning at night and MediFit employees who do some janitorial work even though it is not their full-time work assignment. Vice Chancellor Whitlock said there are three components: (1) the contractors who do deep cleaning; (2) two full-time and one part-time MediFit employees who are hired exclusively to perform housekeeping functions; and (3) courtesy desk staff who spend approximately 32% of their time on cleaning functions.

Trustee Schwarz asked who holds insurance on the third party contractor. Vice Chancellor Whitlock said the contractor holds a policy which includes automobile, liability and Workers Compensation. Tom Bauer, Vice Chancellor of Auxiliary Services and Enterprise Operations, said both MediFit and the third party contractor are required to provide proof of insurance to the District. He added that SMAC members are required to sign a liability waiver when they register.

Trustee Mohr asked if the discussions between Vice Chancellor Whitlock and Ms. Acree would involve advantages or remuneration to AFSCME employees already employed, or if they would involve changing the way SMAC is operated. Vice Chancellor Whitlock said all of the options presented would be open for discussion along with any new suggestions that might occur during the dialogue.

Vice President Mandelkern asked if the cost for the third party contractor's employees can be reduced to an hourly equivalent and be compared to the cost of AFSCME members performing the same function. Vice Chancellor Whitlock said employees who are hired directly by MediFit as housekeeping staff currently earn \$13.50 per hour and have the option to enroll in benefits if they work more than 20 hours per week. Workers who are hired the by the third party contractor to clean at night earn \$11.50 to \$14.50 per hour; they are all part-time workers and do not receive benefits. The District's AFSCME daytime custodians have a starting wage of \$26 per hour plus benefits. Vice Chancellor Bauer clarified that prevailing wage does not exist for custodial services but said the wages provided by the third party contractor are within the standard for the industry.

Vice President Mandelkern addressed MediFit's desire to be able to supervise and manage employees in order to control service levels and the operations within their model. He pointed out that SMAC is a District facility and it is the District that provides service to the community. He said a somewhat similar situation exists in the ITS area, where Strata Information Group provides management services and supervises District employees who are represented by a bargaining unit; he said this seems to work well. Vice Chancellor Bauer said that, subsequent to the preparation of the board report, he learned from MediFit attorneys that they would not take on the liability of supervising employees who are not their own.

Vice President Mandelkern said he is encouraged to hear of the interest in continuing communication. He said his desired outcome would be a mutually acceptable solution that involves having some AFCME employees performing janitorial services at SMAC.

Trustee Holober said he would like to offer an opportunity for discussions on scenarios that would allow District employees to perform some or all of the custodial work at SMAC. He suggested that discussions include looking at the various cost components, recognizing that it does not necessarily have to be "all or nothing." He also said that, given the success of SMAC, there might be room to offset potential greater costs with potential greater revenues by raising the rates for community members without affecting membership.

Trustee Holober asked when the District's contract with MediFit expires. Vice Chancellor Bauer said it expires on June 30 of this year. Trustee Holober asked if the contract could be extended for a limited amount of time to allow for the opportunity for discussions with AFSCME. Vice Chancellor Whitlock said that if the Board approves a contract renewal at the June 24<sup>th</sup> meeting, negotiations would be initiated. He said negotiations will take some time and conversations with AFSCME could occur simultaneously.

Trustee Mohr said he believes it is desirable to meet with AFSCME and he is pleased to hear that discussions will take place. He said he believes that Board discussions over time should address the nature and meaning of enterprise. He said discussions should include the original intent which he believes was to serve the community well; serve students at the academic level; allow for training to take place; and, because it is an enterprise, provide money that could be reinvested in the District. Trustee Mohr said he believes one of the reasons the Board considered entering into enterprise endeavors was to maximize revenues in order to invest more deeply in the needs of faculty, staff and students. He said surrendering some of the funds would mean investing less in important areas such as student access, success and completion as well as pedagogy. Trustee Mohr said the enterprise concept will be in the District's strategic plan and it is important that the Board determine its meaning.

Trustee Schwarz said there is an opportunity to look at the various scenarios after five successful years of operation. She said she is encouraged by the desire for continued dialogue.

President Miljanich said she is pleased that there will be continuing discussions. She said SMAC has been a spectacular success and the Board should be cautious about tweaking the operation and counting on it being as successful as it has been because changes may cause intended or unintended consequences. President Miljanich said she believes the Board should continue to have conversations and express opinions as mutually beneficial solutions are being sought, but should also keep in mind that Board members are not experts in this industry.

Vice Chancellor Bauer said there is an entrepreneurial goal associated with his area of operations. He said revenue has gone from \$6 million to \$15 million and has generated significant surpluses. He said the best part of his job is providing funds to programs that help students. Vice Chancellor Bauer said it is important that he understand what

the Board believes his responsibilities are and what they expect from enterprise operations; he said this is not always clear to him. Trustee Schwarz said Vice Chancellor Bauer has guided Enterprise Operations in a wonderful direction. She said it is also important to make sure that District employees are treated fairly and respectfully. She said she hopes that opening the door for discussions will help everyone come to a mutually acceptable resolution.

Chancellor Galatolo asked for clarification regarding whether the Board will be asked to approve a contract with MediFit on June 24<sup>th</sup> or whether the current contract is to be extended for a period of time while discussions with AFSCME are ongoing. Vice Chancellor Bauer said contract recommendations typically ask the Board to authorize the Executive Vice Chancellor to enter into a contract. The Board discussed the difficulty of authorizing the execution of a contract while some items in the contract are pending due to discussions with AFSCME. Trustee Holober said he has a great deal of confidence in Vice Chancellor Bauer and knows he understands and will be mindful of the wishes of the Board. Vice Chancellor Bauer said the recommendation will be to authorize the Executive Vice Chancellor to enter into a contract with MediFit for five years with the option for a five-year extension. He added that the Board has the authority to abrogate a contract with a 90 day notice.

**PRESENTATION OF ACTUAL COST INFORMATION FOR SALE OF SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT 2015 GENERAL OBLIGATION BONDS (ELECTION OF 2014), SERIES A (15-6-2C)**

Chancellor Galatolo said there is a legal requirement to present the cost information at a Board meeting. He focused on pages 1 and 2 of the document regarding:

1. Par Amount of bond proceeds. Chancellor Galatolo said the District issued \$127 million in bond proceeds but has an authorization of \$388 million, leaving \$261 million of authorized but unissued bond capacity.
2. Use of mechanism to issue coupons at a premium. Chancellor Galatolo said there is almost \$12 million in premium which helps offset the requirements for the debt service fund as well as expenses for cost of issuance and underwriter's discount.
3. The All-in TIC (True Interest Cost). Chancellor Galatolo said this is 3.875% over the life of issuance; he said this is relatively inexpensive.

**STATEMENTS FROM BOARD MEMBERS**

Trustee Mohr said he attended two of the Colleges' commencement ceremonies and they were well done. He discussed two legislative bills. AB 770 provides grant funds of \$60 million for community college districts to study various measures of increasing student success in classes beyond remediation and to accelerate remediation. SB 359 requires school district with eighth and/or ninth grades to develop a mathematics placement policy that moves underrepresented students in particular as rapidly as possible through math requirements. Trustee Mohr said this will impact the District's placement process considerably. Trustee Mohr said he attended the Conference on Education, Equity and Race which was organized by the San Mateo County School Boards Association and held at Skyline College. He said President Stanback Stroud presented an outstanding keynote address along with an excellent presentation by a guest speaker. Trustee Mohr said he attended the Honors presentation at College of San Mateo and noted that the presentations were outstanding.

Trustee Schwarz said she attended the Conference on Education, Equity and Race along with Trustee Mohr and received a copy of SB 359 at that meeting. She provided a copy of the bill which staff will forward to all Board members.

President Miljanich said she regretted not be able to attend College commencement ceremonies this year. Vice President Mandelkern said he also would have liked to attend.

**RECESS TO CLOSED SESSION**

President Miljanich said that during Closed Session, the Board will:

1. consider the personnel items listed on the printed agenda
2. hold a conference with District Labor Negotiator Eugene Whitlock; the employee organization is AFT
3. discuss two cases of anticipated litigation as listed on the printed agenda

The Board recessed to Closed Session at 9:05 p.m.  
The Board reconvened to Open Session at 10:10 p.m.

**CLOSED SESSION ACTIONS TAKEN**

President Miljanich announced that at the Closed Session just concluded, the Board voted 5-0 to approve the personnel items listed as Public Employee Discipline/Dismissal/Release on the printed agenda.

**ADJOURNMENT**

It was moved by Trustee Schwarz and seconded by Trustee Holober to adjourn the meeting. The motion carried, all members voting "Aye." The meeting was adjourned at 10:11 p.m.

Submitted by

Ron Galatolo, Secretary

Approved and entered into the proceedings of the June 24, 2015 meeting.

Dave Mandelkern, Vice President-Clerk