

**Minutes of the Regular Meeting of the Board of Trustees  
San Mateo County Community College District  
August 12, 2015, San Mateo, CA**

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

**Board Members Present:** Vice President Dave Mandelkern, Trustees Richard Holoher, Thomas Mohr and Karen Schwarz, Student Trustee Rupinder Bajwa  
Vice President Mandelkern announced that President Miljanich was unable to attend the meeting.

**Others Present:** Chancellor Ron Galatolo, Executive Vice Chancellor Kathy Blackwood, Skyline College President Regina Stanback Stroud, College of San Mateo President Michael Claire, Cañada College President Larry Buckley, District Academic Senate President Diana Bennett

**Pledge of Allegiance**

**DISCUSSION OF THE ORDER OF THE AGENDA**

Vice President Mandelkern asked that the meeting be adjourned in honor of Trustee Emerita Helen Hausman who passed away recently. The Board agreed to do so.

**MINUTES**

It was moved by Trustee Holoher and seconded by Trustee Schwarz to approve the minutes of the regular meeting of July 22, 2015. Trustee Holoher said the section on the discussion of a Project Labor Stabilization Agreement accurately reflects comments of Board members and Chancellor Galatolo regarding the unsettled status of whether, and the degree to which, there will be a PLA. However, toward the end of the discussion, there is a statement attributed to Chancellor Galatolo indicating that there will be a PLA. Trustee Holoher said this statement stands apart from and in conflict with other remarks since a position on a PLA has not been reached. Chancellor Galatolo recalled that the comment was focused on a discussion about projects that were not included in the former PLA and his intent was to clarify that all of the projects in the \$388 million bond list would be included in a PLA if one is approved. After this discussion, the motion carried, all members present voting "Aye."

**STATEMENTS FROM EXECUTIVES**

Chancellor Galatolo said he attended the memorial service for Trustee Emerita Hausman which was a celebration of her life. He said her combined service on school boards spanned three and one-half decades. Chancellor Galatolo said President Miljanich, who has served on the SMCCCD Board for two decades, is not running for reelection. He said the contributions of Trustees Hausman and Miljanich will impact the District for many years to come.

Skyline College President Stanback Stroud said that, after years of effort and commitment from the College and the Board, Skyline College welcomed its first class of Middle College students today. Trustee Schwarz said she would appreciate the Board being given a tour of the new Middle College when it is convenient. President Stanback Stroud said Skyline College faculty listened to an excellent presentation on how students learn by Dr. Mark Milliron, Co-Founder and Chief Learning Officer of Civitas Learning; the presentation was sponsored by the Center for Transformative Teaching and Learning. The Success Summit will be held at Skyline College on the morning of September 25.

College of San Mateo President Claire said the College is looking forward to hosting the Districtwide Opening Day event tomorrow. He complimented José Nuñez, Vice Chancellor of Facilities Planning, Maintenance and Operations, and Michele Rudovsky, Facilities Manager at the College, for making sure the campus is always kept clean and beautiful. President Claire said College of San Mateo launched the Mana Program with 45 students participating. The program is led by Fi Tovo. While open to all students, it is specifically targeted to the Polynesian community. President Claire introduced Laura Demsetz, Interim Dean of Creative Arts and Social Science.

Cañada College President Buckley said 37 incoming students participated in the COLTS Academy in July. The New Employee Orientation was held today, organized by Michelle Marquez, Vice President of Administrative Services. President Buckley said there has been a massive increase in the number of international students coming to Cañada College. There were 64 international students at the College at this time last year; there are currently 112 and more are expected. Noel Chavez, College Recruiter, will be leaving Cañada College in two weeks to serve as the new Education Director for the San Mateo County South County Puente Program.

Executive Vice Chancellor Blackwood said the books have been closed for the 2014-15 fiscal year. She said the accounting staff at the District Office and Colleges worked well together and the closing went smoothly. The District, through the Association of Chief Business Officials (ACBO) and the State Chancellor's Office, hosted a workshop on enrollment management last week. The workshop was held in the Bayview Dining Room at College of San Mateo and Executive Vice Chancellor Blackwood said she heard many comments about the beautiful campus. She said Pacific Dining and the ITS staff provided excellent service.

#### **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 (15-8-1A)**

It was moved by Trustee Mohr and seconded by Trustee Holober to approve the actions in Board Report No. 15-8-1A. The motion carried, all members present voting "Aye."

##### **LOCAL 829, COUNCIL 57, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), AFL-CIO INITIAL CONTRACT PROPOSAL TO THE DISTRICT (15-8-2A)**

It was moved by Trustee Mohr and seconded by Trustee Holober to accept the initial proposal as detailed in the report. The motion carried, all members present voting "Aye."

##### **APPROVAL OF CONSENT AGENDA**

Vice President Mandelkern said the consent agenda consists of Board Reports 15-8-1CA through 15-8-4CA as listed on the printed agenda. It was moved by Trustee Schwarz and seconded by Trustee Mohr to approve the items on the consent agenda. Trustee Mohr asked if it is expected that all of the classes listed in Board Report No. 15-9-3CA, Approval of Community Services Classes, Fall/Winter 2015, will be offered. Jonathan Bissell, Director of Community, Continuing and Corporate Education, said the courses listed in the board report reflect all of the courses listed in the new catalog. He said registrations are being accepted and the courses to be offered will be determined soon. After this discussion, the motion carried, all members present voting "Aye."

#### **Other Recommendations**

##### **APPROVAL OF THE USE OF THE FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES PIGGYBACK AGREEMENT FOR THE LEASE OR PURCHASE OF MULTI-FUNCTIONAL COPIERS AND RELATED SOFTWARE AND SERVICES (15-8-100B)**

It was moved by Trustee Holober and seconded by Trustee Schwarz to approve the use of the piggyback agreement as detailed in the report. The motion carried, all members present voting "Aye."

#### **INFORMATION REPORT**

##### **REPORT ON CONSTRUCTION PROJECT DELIVERY METHOD FOR CAPITAL PROJECTS (15-8-1C)**

Karen Powell, Executive Director of Facilities Planning and Operations, said a report on the Lease-Leaseback construction project delivery method was presented to the Board at a previous meeting. An appellate court ruling in Fresno v. Davis has put the use of that method in question at this time. Working with General Counsel Eugene Whitlock and sister colleges around the State, staff has determined that there is too much risk associated with using the lease-leaseback method until the courts issue clarifications. Ms. Powell said the presentation tonight will introduce the Construction Management at Risk (CMAR) delivery method as an appropriate alternative.

Chris Strugar-Fritsch, Director of Capital Projects, said that in the CMAR project delivery method, the District hires the CMAR to manage the construction of the facility. The CMAR is brought on board early during the design phase for pre-construction services. Trade contractor bid packages are open and competitively bid. CMAR projects may have a PLA if approved by the Board. Mr. Strugar-Fritsch said CMAR:

- Allows the District to select the construction manager through the best value evaluation process based upon qualifications and pricing

- Will be a “B” licensed general contractor selected from the District’s prequalified contractors list
- Carries “Not-to-Exceed” (NTX) cost as part of its contract
- Requires prevailing wages to be paid on the project

Mr. Strugar-Fritsch discussed CMAR contracts, NTX, process and best practices, as well as a comparison between CMAR and the design-build method. He summarized the benefits of CMAR as follows:

- Qualifications based, best value selection
- Greater control over the design when the District holds the architect’s contract directly
- Greater budget control throughout the design phase
- Value-engineering and constructability reviews are optimized during the design phase
- Open and District-controlled trade contractor bidding approach creates transparency and compliance with statutory competitive bidding requirements
- Legal risks are reduced when project team works in a collaborative atmosphere from project inception
- NTX contract reduces potential for future change orders as CMAR assumes some risk

Trustee Holober asked if there is any case against the CMAR method. Mr. Strugar-Fritsch said there is a question of when to lock in the NTX price. He said some CMAR agreements establish a NTX when the documents are only 80% complete and the CMAR will include allowances and contingencies to protect their risk. He said the District is looking at receiving trade contract bids first in order to help determine what the NTX should be and reducing the risk of excessive allowances and contingencies in the contract manager’s bid packages.

Trustee Holober said he spent some time reflecting on the last Board meeting, most of which dealt with specific details regarding construction plans for the future. He said he believes the Board and the District should be consistent in their thinking and approach to things. He said that at the last meeting, the question of a Project Labor Agreement (PLA) was discussed at great length. He said one or two Board members asked why this item was on the agenda; the Board President’s response was that there is a new Board which has never taken a position on a PLA. Trustee Holober said he believes that was appropriate. He said there will be another new Board in November, with at least one new trustee. He said that, being consistent with what he heard expressed at the last meeting, he does not believe this Board should be making decisions on important issues that will bind future boards for many years to come.

Trustee Holober said that when the Board had a discussion regarding a PLA and Local Hire at the last meeting, he heard many remarks that he does not believe were grounded in data, e.g. the very difficult environment in which the District is operating and skyrocketing construction costs. Comments were made by Board members at the last meeting that the Board must be extremely mindful about not venturing into areas that are outside of the District’s core competency which is education. Trustee Holober said he believes this is a good principle to which he will adhere in the future.

Trustee Holober said the discussion at the last meeting caused him to question why the Board was not informed about rising costs and current market conditions when asked to issue over \$100 million in bond debt a couple of months ago. He said that, had he been aware of these difficult conditions and skyrocketing costs, it is possible that he would have reached a different conclusion regarding issuing bonded indebtedness in this environment. Now that the bonds have been issued, Trustee Holober said the Board is being told that the clock is ticking and they must rush to make decisions. He said he has a fundamental philosophical problem with that approach. He said he believes there should be a comprehensive review regarding all things related to construction, including delivery methods. He said this is not a timely matter for him.

Trustee Mohr said he does not believe that the composition of the Board is the essential question. He said he believes the question is the cost to taxpayers and the impact on the District’s ability to serve students at the highest level. He said he believes that examining that question is the role and responsibility of every Board member, regardless of when they assumed the role of trustee. Trustee Mohr said that is why he believes it is essential to determine what the costs of construction will be, with or without a PLA.

Trustee Mohr asked what the elements and parameters are in determining the NTX, e.g. market environment, competition or lack of competition, etc. Mr. Strugar-Fritsch said the District is working with Leland Saylor Associates who provide construction cost estimates. The firm applies historic and current cost data to the District’s projects and also applies costs for construction manager fees and general conditions. The estimates are based on the mid-point of

construction and use current market escalation rates. Based on the estimates, the District has a good idea of what the cost of projects should be. Ms. Powell said that during the pre-construction phase, the District seeks competitive pricing from CMARs for their overhead, profit, fees and general conditions; this is generally fixed as a percentage of the estimated trade contract value. When staff brings a recommendation to the Board to award a final contract, the actual sub-trade pricing, with the pre-determined NTX percentage applied, will be included in the bid results.

Vice President Mandelkern asked if cost estimating has been done for the various projects listed in the bond project list. Vice Chancellor Nuñez said the intent is to bring a report at the September 9<sup>th</sup> Study Session on all CIP3 projects. Ms. Powell said staff began with conceptual cost estimates based on historic data. She said Leland Saylor was initially brought in to do a validation of those numbers and this provided a first glimpse into the escalation impact. She said that more detailed cost estimates will be provided as the schematic designs are completed. Vice President Mandelkern said concerns were expressed at the last Board meeting about construction budgets running over the amount of funding available. He said the Board discussed the need to prioritize the order of construction, focusing on buildings that will provide the most educational benefit to students. He said he is concerned about the planning moving forward before the prioritization is done. Vice Chancellor Nuñez said he has had conversations with the three College Presidents regarding priorities at the campuses based on educational needs. He said this issue will be included in the discussion at the September 9<sup>th</sup> Study Session.

Trustee Schwarz said she is pleased that the Lease-Leaseback method has been removed from consideration because of the legal issues. She said the District has used the Design-Build method which has worked well. She said she is concerned that the CMAR method is subject to change orders which can take over a project; she said contingencies that would be put into a contract hopefully would cover unforeseen circumstances. Ms. Powell said a benefit of a CMAR is that the contractor is brought into the process early and can identify potential issues of constructability. She said she believes that exposure to change orders with a CMAR is less than with the traditional Design-Bid-Build method and perhaps less than with the Design-Build method as well.

Trustee Schwarz asked if there is flexibility to use different delivery methods for different projects based on construction costs. Ms. Powell said the initial assumption by staff is that CMAR would be used for the majority of projects. She said this will be discussed further at the upcoming Study Session. Vice Chancellor Nuñez said consideration is being given to using the Design-Build method for two of the first wave projects – the Social Science and Creative Arts Building at Skyline College and the Engineering/Emerging Technologies Building at College of San Mateo.

Trustee Schwarz said she supports moving forward with planning while taking all factors, including economic, into consideration. She said she looks forward to the continued discussion in September.

Student Trustee Bajwa asked if the CMAR method would increase efficiency in terms of providing for student learning. Ms. Powell said that having early logistic and site staging input from the general contractor is a critical component that may identify and mitigate potential challenges and issues, especially in the areas of potential interruption of the academic mission and safety.

Trustee Holober said the presentation has been interesting. He noted that the Board has not provided direction on a delivery method. He said he would strongly prefer using the Design-Bid-Build method in the current economic environment. He noted that the Board has not looked at comparative costs of the various delivery methods. Chancellor Galatolo said there are potential risks with the traditional Design-Bid-Build delivery method which can be discussed further at the upcoming Study Session. Vice President Mandelkern said he appreciates being informed about the various delivery methods before the Board is asked to make a decision on a delivery method or a specific project.

Vice President Mandelkern asked if any school districts are moving forward using the Lease-Leaseback delivery method. Ms. Powell said she is aware of one or two districts that are proceeding with this method. Vice President Mandelkern asked if other school districts or community college districts are using the CMAR method. Ms. Powell said Santa Rosa Junior College has used the CMAR method extensively in the last several years to great effect. Southwestern College and others have also used CMAR. Vice Chancellor Whitlock said the Hillsborough City School District has used CMAR as well.

Vice President Mandelkern said a significant difference in delivery methods appears to be in how subcontractor bids are awarded. He said subcontractors are selected based on the lowest responsive bid in the CMAR method. He asked if this would pose the same problems encountered with the Design-Bid-Build method in which the lowest responsive bidder

must be selected even if the District believes that subcontractor will not provide the best quality work. Ms. Powell said staff is seeking to mitigate that risk by building the prequalification of subcontractors into the proposed implementation of CMAR. She added that all construction delivery methods entail some risk.

Vice President Mandelkern said the District has had success with the Design-Build method in CIP1 and CIP2. He asked why this method is not being discussed as an option for CIP3. Chancellor Galatolo said that with the Design-Build method, an immediate relationship is formed with the owner, designer and architect. He said that, unfortunately, the owner begins to lose control over the design once the bid is awarded and the Design-Builder makes changes due to cost pressures. Chancellor Galatolo said that by using the CMAR method, in which the contractor bids on what has already been designed, the District would be able to maintain design elements that it wants in certain buildings. Ms. Powell said another benefit is the transparency of the subcontractor bidding process which has not been present in the Design-Build method.

Vice President Mandelkern said the presentation on the CMAR model was informative. He said he hopes the Board will be provided a comparison of the various delivery methods, including strengths and weaknesses and when it would be appropriate to use the different methods.

### **COMMUNICATIONS**

None

### **STATEMENTS FROM BOARD MEMBERS**

Trustee Schwarz said she attended the CSEA Conference and thanked the leadership for their hospitality. Trustee Schwarz said she attended the luncheon for new full-time faculty at College of San Mateo and was delighted to meet a number of those who were previously adjunct faculty members. Trustee Schwarz said Trustee Emerita Hausman's name will come up for many years to come and she will never be forgotten for all of the work she did for the District.

Trustee Holober said it was a privilege for him to serve on the Board with Helen Hausman. He said she was a delightful person and a true ambassador for the District. He said her heart was truly with the District and its students. He said Trustee Emerita Hausman was opinionated and at the same time willing to engage with others and respect many points of view. Trustee Holober said Trustee Emerita Hausman was a role model to emulate.

Regarding the quarterly report on Auxiliary Operations that was presented at the last Board meeting, Trustee Holober said he would like some clarification on an issue he has raised in the past. He said that for the San Mateo Athletic Club and Aquatic Center, the report shows an SMCCCD payroll expense of \$1.253 million along with \$300,000 for payroll taxes and benefits. He said he would appreciate receiving redacted data on what those jobs were and the hours worked.

Trustee Mohr said he enjoyed the CSEA Conference in Las Vegas. He said he learned a lot about the attacks on pensions and on the rights of unions around the country as well as in California. He said he talked with Van Ton-Quinlivan, Vice Chancellor of Workforce and Economic Development in the State Chancellor's Office. Vice Chancellor Ton-Quinlivan supervised the task force on workforce creation and Trustee Mohr said its report includes good data and ideas that pertain to the District's Strategic Plan. Trustee Mohr said he will be in Costa Mesa tomorrow in his role as member of the Community College League of California's Advisory Committee on Education Services. The committee's purpose is to assess and evaluate the need for Board and CEO organizational development services. Trustee Mohr said he attended the memorial service for Helen Hausman. He said she was an extraordinary woman who was very student centered and also very compassionate. He said Trustee Emerita Hausman was the kind of person trustees look to. He said she was and is a star to steer by.

Student Trustee Bajwa said he had the pleasure of attending the CSEA Conference. He said students start classes on Monday and the student governments are working tirelessly to help students with the transition to the coming year. Student Trustee Bajwa said he did not have the pleasure of working with Trustee Emerita Hausman but has heard from others, including past student trustees, about her amazing service.

Vice President Mandelkern said it is hard to imagine a time in the District and in the County without Helen Hausman. He said he believes she was the longest-serving elected official in the history of San Mateo County. He said she was completely dedicated to the District and its students and she made a significant contribution to the District. He said her activities on behalf of the American Red Cross were also impressive, particularly her efforts on behalf of refugees internationally. Vice President Mandelkern said Trustee Emerita Hausman's husband, Arthur, is also a very

accomplished gentleman and together they were an incredible team. Vice President Mandelkern said he was out of town and unable to attend the memorial service but sent a note to Mr. Hausman noting that Trustee Emerita Hausman's legacy will live on for many years to come.

Vice President Mandelkern said he was surprised and saddened to learn that President Miljanich has decided not to run for reelection to the Board. He said he first met Trustees Miljanich and Schwarz when they ran for the Board in 1995 and later had the privilege of serving with them. He said it is hard to imagine board meetings going forward without President Miljanich being a part of them.

Vice President Mandelkern said he is pleased that the Middle College is now open at Skyline College. He said it presents an incredible opportunity for students in the North County and he is confident it will be successful as are the Middle Colleges at Cañada College and College of San Mateo. He said he will look forward to visiting the new Middle College at a future time, as mentioned earlier. Vice President Mandelkern said he attended the luncheon for new full-time faculty at College of San Mateo. He said it was a pleasure to see many who were adjunct faculty members and now have been given permanent positions. Vice President Mandelkern welcomed all new faculty, staff and administrators at the three Colleges. He said he is looking forward to the Districtwide Opening Day event tomorrow.

### **RECESS TO CLOSED SESSION**

Vice President Mandelkern announced that during Closed Session, the Board will:

1. consider the personnel item listed as (1) on the printed agenda
2. hold a conference with agency labor negotiator Eugene Whitlock; the employee organizations are AFT and AFSCME
3. hold a conference with legal counsel regarding one case of potential litigation as listed on the printed agenda

Vice President Mandelkern said the next meeting of the Board will be a Study Session on September 9 at 6:00 p.m. in the District Board Room.

The Board recessed to Closed Session at 7:45 p.m. and reconvened to Open Session at 9:00 p.m.

### **CLOSED SESSION ACTIONS TAKEN**

Vice President Mandelkern reported that at the Closed Session just concluded, the Board took no actions.

### **ADJOURNMENT**

It was moved by Trustee Schwarz and seconded by Trustee Mohr to adjourn the meeting. The motion carried, all members present voting "Aye." The meeting was adjourned at 9:01 p.m. in memory of Trustee Emerita Helen Hausman.

Submitted by

Ron Galatolo, Secretary

Approved and entered into the proceedings of the September 9, 2015 meeting.

Dave Mandelkern, Vice President-Clerk