

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD

UNADOPTED MINUTES
June 25, 2008

1. CALL TO ORDER

A special meeting of the Solano Community College District Governing Board was called to order at 7:00 p.m., on Wednesday, June 25, 2008, in the Administration Building, Room 626, Solano Community College, 4000 Suisun Valley Road, Fairfield, California 94534-3197, by Phil McCaffrey, Governing Board President.

2. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

At the request of Board President McCaffrey, CTA President Tom Grube led those present in the pledge of allegiance to the flag of the United States of America.

3. ROLL CALL

Members Present:

Phil McCaffrey, President
A. C. "Tony" Ubalde, Jr., Rel.D., Vice President
James M. Claffey
Denis Honeychurch, J.D.
Pam Keith
Stephen Murphy, J.D.
A. Marie Young
David R. Brannen, Student Trustee
Gerald F. Fisher, Secretary

Members Absent:

None

Others Present:

Ross Beck, Director of Public Relations, Marketing and Communications
Mazie L. Brewington, Vice President, Administrative and Business Services
Richard Christensen, Ed.D., Director, Human Resources
Jay Field, Vice President, Technology and Learning Resources
Lisa J. Waits, Ed.D., Vice President, Student Services
Judy Spencer, Executive Coordinator, Superintendent/President and Governing Board

4. APPROVAL OF AGENDA

Moved by Vice President Ubalde and seconded by Trustee Keith for approval of the agenda. The motion carried unanimously.

5. COMMENTS FROM MEMBERS OF THE PUBLIC

Tom Grube, CTA President, requested to speak on agenda item 7.(a), Tentative Budgets and Proposed Time and Place for the Public Hearing and Adoption of the Official Budgets for 2008-09. Board President McCaffrey deferred Mr. Grube's comments to later on the agenda.

Mr. Mike Gazant from Allen L. Bender, Inc., requested to speak on 7.(b), Bid #08-008, Authorization to Award Contract to Jeff Luchetti Construction, Inc., for the Vacaville Center Project. Board President McCaffrey deferred Mr. Gazant's comments to later on the agenda.

6. CONSENT AGENDA – ACTION ITEMS

(a) Employment 2007-08; Resignations

Moved by Trustee Keith and seconded by Trustee Murphy for approval of the Consent Agenda. The motion carried unanimously.

7. NON-CONSENT AGENDA ITEMS – ACTION ITEMS

Administrative and Business Services

(a) Tentative Budgets and Proposed Time and Place for the Public Hearing and Adoption of the Official Budgets for 2008-09

Board President McCaffrey advised the audience, except as extended by the Board President or action of the Board, individuals would be limited to three minutes on any one topic or item.

Board President McCaffrey recognized Mr. Tom Grube, CTA President, who requested to speak on this item under comments from members of the public. Mr. Grube distributed to the Board a copy of his comments and read as follows:

“If I were to spend thousands of dollars on a luxurious vacation, then complained that I didn't have money to buy shoes for my children, someone might appropriately respond that I have plenty of money—perhaps I should reconsider my priorities.

Many Democrats in Washington have complained that they were misled when they initially voted to authorize the President to send our troops to Iraq. Later, they felt compelled to vote for the more recent troop surge. ‘We're in it up to our elbows now; we better do what we can to clean up the mess we started.’ Still, we watch as billions of dollars are spent on contractors making outrageous profits. We wonder, if nothing else, if these contractors' profits that my children will end up paying for couldn't be reduced at the very least.

What does any of this have to do with Solano Community College? Well, I see where some of the money is going, and I wonder if some luxuries can be spared so that some perhaps more urgent needs can be met. At every opportunity, someone pipes up with the, 'We can't afford to keep paying for health care for our employees', mantra. I wonder when health care became a luxury that should be one of the things we look to cut. I also wonder if we were misled into the Banner project and some of the consultant contracts which have followed. I don't have a forum where I can ask questions and demand a response, but in the spirit of the late Tim Russert, I'll propose a few questions and hope the Governing Board will see to it that answers are demanded from the appropriate individuals. I've given you each a copy of my address so that you can refer to the questions later. Feel free to add your own.

How much are we spending on legal costs compared to ten years ago? Why do we still use a firm located in San Diego causing us to pay for travel expenses and travel time? This firm was chosen by a now-departed Superintendent/President. Perhaps some like working with individuals in this firm, but isn't this a bit of a luxury when plenty of qualified lawyers are available in our area?

How many consultants are currently being employed by the Budget Office? Answer: At least four. How much has been spent in the Budget Office in the last three years for salaries, consultants, conferences, brand new furniture to replace almost-new furniture, and additional soundproofing for already soundproofed walls?

Faculty pay for conferences they attend and hope that at the end of the year some small portion of the expenses will get reimbursed. Others go to conferences knowing they will get everything reimbursed. Can we afford to pay for interim employees to go to conferences? Does it make sense to pay for a K-12 conference and the equivalent community college conference for the Interim Director of Fiscal Services?

At the June 4, 2008 meeting, you voted to authorize over \$140,000 to Robert Curry for his consulting services. You were told that you couldn't postpone a vote to gather more information without a disruption in service. Why was it so urgent when Mr. Curry was already under contract until June 30 of this year?

You were told that Mr. Curry was focused 100% on Banner. Why does his contract also say he is to assist with FY 2008 year-end closing? Why is it Mr. Curry's understanding that he is to '...assist in supporting the annual audit, complete the implementation and the retail inventory system for the bookstore, and other projects as agreed to?'

You were told several times that Mr. Curry is very hands on and I've heard nothing but wonderful work he does. Still, I wonder how hands on he can be when he works from home. Does he bill us for a twenty-four hour work day when he works from home? As some who have seen the bills say, 'He is.' Making \$115 an hour to sleep in your own bed is a pretty good gig. Does he bill us for a twenty-four work day when he works on campus? If we're paying for his airfare, car rental (\$90 a day gets a nice car); incidental expenses, and mileage to the airport, why are we also paying a \$175 per day per diem? Isn't paying this consultant's fees and travel from Millville, Utah, a more frivolous luxury than health care for our employees? Did this expense get voted on by FABPAC? Was it even seen by or mentioned to FABPAC?

You were told last week that Mr. Curry was really only costing \$40,000 because \$100,000 was coming from the unfilled Accounts Manager position. Ask the Human Resources Director if he has a job description for this position. Answer: No, the position doesn't exist. Who was in that position before it went vacant? If it is a new position, when was it approved by FABPAC, Executive Council, or the Superintendent?

If the District's share of health and welfare benefit premiums is going to increase by \$382,850 (page 10 of this meeting's agenda) and the other benefits are proportional to employees' salaries, which are expected to decrease, why do we need to budget for an increase of \$1.3 million for employee benefits?

As of March 31, 2008, the \$250,000 Reserve for Contingencies has not been touched. What contingencies have appeared in the last 86 days or might crop up in the next five days? The budget indicates that these will be spent. Were some expenses rushed into this category to answer the criticism of this line item? After all, what is the entire \$5 million plus reserve if not a reserve for contingencies?

On page 15, we once again read that, 'Clearly, the extreme increases in the cost for employee and retiree health programs must be contained.' How about, 'Clearly, the extreme increases in the cost of managing the District's money must be contained?' Perhaps, 'Clearly, the extreme increases in the cost of legal advice, which has increased ten fold in the last decade must be contained?' Why not, 'Clearly, the cost of conference attendance for those privileged enough to get those reimbursed must be contained?'

Before continuing to insist that health care is a luxury that the District can no longer afford; before determining that the 4.53% COLA adjustment that the District received can't be given to your loyal employees who are dealing with huge increases in transportation costs and groceries, I hope you'll take a look at some luxuries that the District can live without. Ask some hard questions. Demand some answers."

Board President McCaffrey thanked Instructor Grube for his comments.

Trustee Keith, with all due respect, commented that she believes everything the Board does is pretty transparent and that faculty and staff do have a forum in which to ask questions. The Board wants everyone on campus to be aware of what is going on. Ms. Keith stated, relative to their use of the current law firm, that the Board doesn't have control over a lot of the expenses due to various issues that require legal counsel, and further stated that the former Superintendent/President did not choose our legal counsel—the Board did, and if the Board becomes dissatisfied with them--they can get rid of them.

Mr. Grube responded by asking the Board to reconsider their decision to use a law firm located in San Diego because of their astronomical expenses and strategic location.

Mazie L. Brewington, Vice President of Administrative and Business Services, presented the District's tentative 2008-09 budgets and the dates to establish the public hearing and formal adoption of the 2008-09 budgets. It was recommended that the following tentative budgets be adopted:

General Fund Budget in the amount of	\$59,523,954
Capital Projects Budget in the amount of	\$ 147,750
Bookstore Fund Budget in the amount of	\$ 3,912,120

It was recommended to tentatively schedule the public hearing on these official 2008-09 budgets for the Board meeting scheduled September 3, 2008, in the Board Room of the Solano Community College District. The tentative Board adoption date was proposed to be September 3, 2008, in accordance with California Code of Regulations, Title 5, Section 58301.

These dates are subject to change and are contingent on the final passage of the state budget. Once the state adopts a 2008-09 budget, the District has 60 days to approve its 2008-09 budget.

Vice President Brewington also presented the report on the 2008-09 Tentative Budgets, with the key elements being the budget overview, major revenue, expenditure and reserve assumptions; enrollment summer acceleration, 2008-09 proposed District priorities, facilities, employee compensation; Solano College revenue and expenditures, and Capital Outlay Projects and Bookstore funds.

Moved by Trustee Keith and seconded by Trustee Young to adopt the tentative budgets and proposed time and place for the public hearing and adoption of the official budgets for 2008-09. The motion carried unanimously.

(b) Bid #08-008, Authorization to Award Contract to Jeff Luchetti Construction, Inc., for the Vacaville Center Project

Board President McCaffrey recognized Mr. Mike Garant from Allen Bender Construction, who requested to speak on this item under comments from members of the public.

Mr. Garant introduced himself as a 20-year Vacaville resident and Project Manager for Allen L. Bender, Inc. Allen L. Bender, Inc., is a union affiliated general contractor with over 35 years of experience, with average annual sales of \$60 million. Mr. Garant stated they have successfully completed many high quality projects, similar to the Vacaville Center, and shared photos of other such projects, e.g., Lincoln City Hall, U.C. Davis Lab, Chico State Student Center, and Sacramento State Geology Department.

Mr. Garant addressed points contained in a letter submitted to the Governing Board on June 23, 2008, concerning the June 18, 2008, Board meeting, which were as follows:

- Allen L. Bender has not been notified that their bid was non-responsive.
- The Kitchell CEM bid results summary identifying the project award has not been received.
- Allen L. Bender has not received a copy of a bid protest letter and has never been formally notified of a bid protest and when.
- The recommendation provided to the Board on June 18 implies numerous errors were made in the Allen L. Bender bid, when actually two minor irregularities in the bid package included:
 - Noncollusion Affidavit was not signed--form is non-compliant with the Public Contract Code (PCC).
 - Statement of Experience form regarding recent participation in arbitration was omitted.

Both items were later submitted upon a call from Kitchell CEM.

- The Allen L. Bender bid contained all cost data, subcontractor listings, addenda confirmations, bonds, insurance, and statements of past work experience. The bid package contained five documents that were signed by an officer of Allen L. Bender.
- Allen L. Bender believes the two omissions were minor irregularities in the bid and have no material impact to the cost proposal or successful completion of the project.
- The District has the authority to waive informalities and minor irregularities in the bid form or bid process as provided by the bid specifications and the courts.

In closing, Mr. Garant asked the Board to re-evaluate the Allen L. Bender bid within the context of their authority to waive minor irregularities in order for the District to receive the benefit of their lower price and to award the Vacaville Center project to Allen L. Bender, Inc. Mr. Garant stated they understand the Board's reluctance, but the courts support the local governing body to be able to make decisions that are in their interest and not in the interest of the bidders. The reason for the option to waive informalities and minor irregularities that are part of the bid specifications are for situations as indicated above. The courts do not want public agencies to be held responsible for, or have to pay a higher price (with taxpayer money), for simple minor issues. In this case, Mr. Garant stated there is nothing wrong with the Allen L. Bender bid, only an unfounded fear that an award to Allen L. Bender might be challenged by the next bidder; however, Jeff Luchetti Construction must understand they are in no position to decide what is best for the Solano Community College District.

Board President McCaffrey thanked Mr. Garant for his comments.

Superintendent/President Fisher stated that new information has come to the attention of the Board, and that the Board has four options relative to their decision to award a contract for the Vacaville Center project:

- Approve the recommendation to award contract to Jeff Luchetti Construction, Inc., for the Vacaville Center Project.
- Entertain the concepts presented by Mr. Garant from Allen L. Bender, Inc.
- Reject all bids and re-bid the Vacaville Center project.
- Take time to analyze the new information that has been provided by legal counsel.

Trustee Murphy expressed concern that the information received was only within the last few hours and that he was uncomfortable in making a decision with so little time to review the documentation and to do independent research. He further stated that, in his opinion, rebidding the project is troubling because of the near certainty that future bids will be considerably higher, possibly in the millions. Trustee Murphy cautioned the Board against a re-bid of the project because it is likely to cost substantially more, there may be other options that are available that haven't been discussed or contemplated in our volatile economy, and that litigation could still occur.

Trustee Honeychurch asked Mr. Richards (Kitchell CEM) to restate the amount of time involved to re-bid the project. Mr. Richards responded that in order to comply with the requirements for advertising that it would be about 6-8 weeks. Trustee Honeychurch stated he was troubled by awarding the contract to the third lowest bidder, based on the recent legal opinion, which was the

opinion presented at the June 18, 2008, meeting, and doesn't want to jeopardize the District legally.

Agenda item 7.(b), Bid #08-008, Authorization to Award Contract to Jeff Luchetti Construction, Inc., for the Vacaville Center Project as recommended died due to lack of motion.

Moved by Trustee Young and seconded by Trustee Claffey to exercise its authority to reject all bids and re-bid the entire Vacaville Center project. The motion carried. Trustee Murphy voted no. An advisory vote from Student Trustee Brannen was no.

Moved by Trustee Honeychurch and seconded by Vice President Ubalde that the District has determined that Mascon, Inc., has complied with the requirements for relief from its bid under PCC Section 5103. The District is relieving Mascon, Inc., from its bid under PCC Section 5103. The District shall prepare a written public record report under PCC Section 5101 with its findings. The District declares that Mascon, Inc., is prohibited from bidding on the Project under PCC Section 5105. The motion carried unanimously.

Board President McCaffrey recessed the special meeting at 7:55 p.m.

8. CLOSED SESSION

- (a) Conference with Labor Negotiator
Agency Negotiator: Richard Christensen, Ed.D.
Employee Organization: CCA/CTA/NEA, CSEA, Operating Engineers—Local 39

- (b) Public Employee Discipline/Dismissal/Release
(No additional information required.)

Board President McCaffrey called the Closed Session to order at 8:06 p.m., and adjourned the Closed Session at 8:29 p.m.

9. RECONVENE REGULAR MEETING

Board President McCaffrey reconvened the special meeting at 8:30 p.m.

10. REPORT OF ACTION TAKEN IN CLOSED SESSION

Board President McCaffrey reported that the Board held conference with Labor Negotiator on CCA/CTA/NEA, CSEA, Operating Engineers-Local 39 in Closed Session, and no action was taken.

Board President McCaffrey reported that the Board discussed public employee discipline/dismissal/release in Closed Session, and took action to approve a settlement agreement with a permanent instructor.

Board President McCaffrey, after returning to open session, clarified the motion taken in 7.(b), stating that the rejection of all bids and re-bidding the project would be in accordance with Section 1.5(H) of the Instruction to Bidders.

11. ADJOURNMENT

There being no further business, Board President McCaffrey adjourned the special meeting at 8:32 p.m.

GFF:js

BOARD MINUTES SPECIAL MEETING.06.25.08.FINAL

PHIL McCAFFREY, PRESIDENT

APPROVED
GERALD F. FISHER, SECRETARY