

SOLANO COMMUNITY COLLEGE DISTRICT  
GOVERNING BOARD

UNADOPTED MINUTES  
July 22, 2009

APPENDIX A

**A. July 15, 2009 Board Agenda  
Questions/Concerns/Follow-Up  
B. New Areas for Board Agenda –July 22, 2009**

*Prepared by: Trustee A. Marie Young, President SCCD Governing Board*

[A.] **Board agenda for July 15<sup>th</sup>**: Dr. Laguerre, please have staff to respond in writing to my questions and concerns that are contained in this document, prior to our July 15<sup>th</sup> Board meeting. Depending on the answers given to my questions and the replies made to my concerns will determine whether or not I will ask any of the question(s) or state my concern(s) in open session at Board meeting tonight. Please write answers/comments below related questions/concerns. Share responses with each Board member. Thanks in advance for the staff's response to this document. Hopefully, there will not be a need for me to ask follow-up questions. **My follow up questions/comments are in blue. Please have staff to respond to my follow up comments/questions before tonight's Board meeting.**

[B.] **Board agenda for July 22<sup>nd</sup>**: Please have staff to respond, in writing, to my questions/ comments before tonight's Board meeting.

**A. Board Agenda for July 15, 2009**

1. **Page 3- Table of Contents-Non-Consent Agenda Items-item (i)-Technology and Learning Resources:**

- For specificity, the title should read **eCollege Master Services and License Agreement.**

**Agree that this would have been more accurate. In future correspondence, the District will use a more descriptive title. Changed on July 22<sup>nd</sup> document.**

2. **Page 4- Table of Contents-No closed session-** This is not a good idea. As Board president, I feel very strongly that **Closed Session** should be listed as a standing agenda item. What if a personnel matter, the reorganization plan or some other topic that can be discussed in closed session needs to be dealt with? It is easier for the Board president to announce at the meeting that there is no closed session this evening than to have a closed session issue that needs urgent attention to take place between the agenda being posted and the meeting and closed session is not listed on the agenda.

**Agree that this is a good idea. Even if there are no Closed Session items to discuss, we will keep the Closed Session disclaimer on the agenda. Changed on July 22<sup>nd</sup> document.**

*Closed Session may be held as authorized by law for matters including, but not limited to conference with labor negotiator, public employment (public employee discipline, dismissal and release); potential litigation, purchase, sale, exchange or lease of real property.*

### 3. Page 1 Consent Calendar-Human Resources-Employment 2008-09:

- **Corrine Kirkbride** (6/1/09-6/30/09) -This is an after the fact reporting. Why is it late?
- **This item was inadvertently placed in the 2008-09 column. It is being moved to the 2009-10 column: Comment: This is a 2008- 09 item and I would like a response for why it is late.** **Arthur Lopez, M.S:-** The start date is 7/20/09, which means this should be listed under 2009-10. **Comment: Moved to 2009-10 on the July 22<sup>nd</sup> agenda.** Does this candidate meet the minimum qualifications for the job, which means at a minimum he should have a master's degree? Who replaced Sal Alcala when he left? When is this position going to be announced for a permanent hire? What is the annual salary for this position? Since this position is tied up in the reorganization plan, when will this be resolved? This is a categorically funded position; therefore, how will the expected budget cuts affect funding?
- **Patricia Mitchell** (6/22/09-6/30/09) - This is an after the fact reporting. Why is it late? In addition, how did funding this position affect the expected budget shortfall for this program?

Mr. Lopez does meet the minimum qualifications of Title 5, Section 53420, as he possesses a Master's Degree and has several years of formal training related to the assignment. **Comment: The response states he has formal training. What about on the job experience?**

**Arthur Lopez comes from San Diego. He brings more than 22 years of financial aid experience while working for Southwestern Community College. He has a Master's Degree in Physical Education from Azusa Pacific University.**

We did not replace Sal after his retirement.

We have had Ona Smith serve as a FA analyst and as the "go to person" in the department. Dr. Waits has been serving as direct supervisor of the staff and monitoring progress in the department. We have had an outside consultant review the FA processes and she has provided content expertise until we could hire an interim person. **Questions: Who was the outside consultant and what were they paid? I perused past agendas and did not locate this consultant. When was this position Board approved and why did the person leave?**

**Kristin Shear – Independent Contractor – June 15-30, 2009 - \$2880 – Board Agenda June 24, 2009. Her assignment expired.**

This is not a categorically funded position.

The Dean's salary has been used as the District general fund match for categorical dollars for a long while. There are two current classified vacancies in FA and a third anticipated. These vacancies are not part of the 1.8 million dollar solution for the deficit. There are sufficient funds for both the position and finders fee for this position in the general fund. The re-organization meant for there to be an administrator directly over FA. **Questions: What is the annual salary for this position?**

**On the Agenda, the salary is noted as \$8,468.62 per month, because we do not anticipate this person to be at the College for a full year.**

The job description for the FA Director and the Admissions and Records Director are in the approval process. They have been reviewed by Shared Governance Council and community feedback is being incorporated into the job descriptions. As soon as the Superintendent/President is confident they are

ready, they will be presented to the board for information and then approval. I anticipate that the Board will see them at one of their August meetings. Once the job description is approved we will announce the position. Right now, estimating the timeline, we would optimistically expect the permanent hire to start at the end of the Fall term, perhaps as early as late November.

As for Patricia Mitchell hire, Pat Mitchell is a 10 month employee. If at the end of the year there are program funds (EOPS - categorical) to be expended, Pat is hired to serve students in the summer. This year the Chancellor's office has permitted 08-09 EOPS carry over funds. This categorical budget supports this work. In terms of the lateness, there was a concerted effort made to monitor the funds and this is late due to a variety of reasons of personnel on vacation and vacant positions. **Comment: The aforementioned comments appear to be excuses.**

**We are sorry that this item was late.**

**4. Pages 1-4-Consent Calendar-Human Resources-Employment 2009-10.** The following employees are listed twice (pages 1-4), as both registration aides and Banner Backfill (pages 3-4), please explain? Also, please explain funding source for Banner backfill staff?

- Justin Barnes- pp.1,3
- Japhia Bera- pp. 2,3
- Antoineta Galang- pp. 2,3
- Laura Goldstein- pp. 2,3
- Bridggette Johnson- pp. 2,4
- Kelly Lawler- pp. 2,4
- Liberty Majzoub- pp. 2,4
- Lisa Morgan- pp. 2,4
- Ramona Nelson- pp. 2,4
- Carolyn Pleasant- pp. 3,4
- Antoinette Remlinge- pp. 3,4
- Ruth Rich- pp. 3,4
- Bette Shields- pp. 3,4
- Alicia Sutton- pp. 3,4

This is budgeted in the 2009/10 fiscal year as part of the Enterprise Resource Program (ERP) recovery costs. Total budgeted for the 2009/10 fiscal year is \$161,000 for Admissions and Records, Financial Aid and Fiscal services.

If any of the people listed work for us at all throughout the 09/10 fiscal year, we have to be able to pay them out of whatever budget has money in it. The Banner Recovery Plan allows for *some* backfill to attempt to get us through December but after that, any who still work for us, will get paid out of the regular Reg Aide budget.

We would pay them only out of the Registration Aide budget, but as it currently stands, due to various cuts, there is not enough money for that, hence the Banner backfill. These people are key to the Banner Recovery Plan and regular services as well. They work for us intermittently throughout the year during peak times and we make every effort to spend as little as possible. **Comment: Confusing response and question really not answered. Listing the names twice is confusing and unnecessary. Clarity would have been the results, if each name had been written once with an asterisk and footnoted!**

**In providing similar information in the future, we will use the suggested format.**

5. **Pages 7/8-VP Student Services-Leadership Resources Solutions-** Finders fee - at \$1, 270.29/ month. Does this additional cost along with the expected monthly salary exceed the budget for this position? This is a categorically funded position; therefore, how will the expected budget cuts affect funding? **Comment: This question has not been answered.**

Addressed in item 3.

**The consultant is being placed at step 3; the former dean was at the highest step. This position is not categorically funded. It has not been since my time here. The dean position has been used as a match for categorical program funds, but not funded by the categorical program.**

**There are sufficient funds for both the position and finders fee for this position in the general fund.**

6. **Page 10-Construction Change Order No.4 to Roebbelen Contracting, Inc., for the Vacaville Center-**Errors and omission account for \$25,329 (85.3%) of the \$29,663 requested change order. Will the District receive a credit in kind for this matter? Going forward, what is the process to minimize errors and omissions?

Unfortunately, there was no contractual provision built in to the District contracts with our architects for chargebacks or credits for their errors and omissions (E&O). Regardless, the District has been successful in charge-backs for E&O items and suggested it to Dr. Jensen. He was supportive and a month or so ago, we put KMD Architects (Vallejo project) on notice that we were planning to withhold 20% of the E&O total from their fee. They have already disagreed and we will probably go to arbitration. **Comment: Where is Kitchell in this process?**

**Kitchell is construction management -- they don't make policy, decisions or changes to the drawings, specs or project at all. The architects are under contract to the District and the District is responsible for supervising them and ensuring that they meet their contractual obligations to us. Kitchell certainly plays an advisory role to the District in terms of reporting whether or not the architect is making deadlines and/or providing needed information. In addition, all questions, requests or changes are submitted to and processed by, the Kitchell Project Manager (PM) on the way to and from all of the various players (owner's rep., architect, inspectors, contractors, sub-contractors, etc.) on the project team.**

**For example, during the construction, the Kitchell Project Manager will likely receive an RFI (Request For Information) from the contractor asking for clarification of something in the drawings or specs. The PM will forward that to the Architect for a response and when the response is received, return the answer to the contractor with info copies to the other team members. Many times, that response will generate a PCO (Proposed change Order) from the contractor, which essentially says "Well, that answers my question, but if I have to do that . . ., then I am going to have to charge you \$XX above and beyond the original contract price." And thus we have a PCO, and after negotiating the cost and obtaining signatures/approvals, it comes to the District for final approval and then we have a full-fledged Change Order. Kitchell helps me gather all the PCO's and analyze them, but it is up to me to try and charge back the architect for his errors and/or omissions.**

The above is the Vallejo experience, but KMD is also the architect for the Vacaville project, so the process and the reaction will probably be identical.

On future projects (not under contract), we can do a much more thorough review of the architect's drawings before they even go to DSA. We will also send them out to an independent agency for what is known as a "constructability review" which should catch many of the E&O items. It is certainly not foolproof, but we will do better. We will seek legal advice to incorporate contract language for change orders to be billed back to architects or others. **Comment: When Stan Dobbs was here, he talked about doing "constructability reviews", but there is money associated with this process. It is probably worth it, but do we have the dollars to do this?**

In my experience, a good constructability review of the Vallejo drawings and specs would have probably cost between \$25,000-30,000 (sounds like a lot of money) and taken about a month (before sending the project to DSA). The Vallejo Project had a total of \$1,231,037 in change orders, of which \$206,444 have been categorized as Errors& Omissions (E&O). Although it is difficult to quantify how much an error/omission caught ahead of time would have cost later as a Change order, it has been estimated that you can catch between 70 and 80% of architectural E&O's with a good constructability review. In this case, it could have resulted in a net savings to the District (even conservatively) of over \$110,000! I think that particularly when you are constructing new buildings, you cannot afford to not do a constructability review. Even for many modernizations, I have often advised clients to have an independent constructability review accomplished.

**7. Pages 19-20-Change Order No. 1 to Asbestos Management Group (AMG) of California, Inc., Building 100 Asbestos Abatement Contract**-According to the language contained in the body of this item, an asbestos survey was completed prior to start of this project to determine the scope of work. Therefore, how is it possible to have a 90.4% increase to the project? Under public contract code, how does such a substantial increase affect the bidding process and possible liability for the District if this is challenged? Once again, this is listed, as an error/omission-where is the accountability.

The matrix added to this change order showing the Reason as "Errors and Omissions", in actuality should have listed the Reason as "Unforeseen Conditions". Although I do believe that the original survey company could possibly have identified more of the asbestos, it is not an exact science and until walls are opened up and ceilings and floor coverings are removed, it is impossible to know exactly how much of friable asbestos is actually present and will need to be abated. Although technically we could have gone out to bid (again) for the additional asbestos removal, generally it has been upheld that if 1) identical work is being added (and it was), and 2) timing is critical to the project ( and it was), and 3) there would be a competitive disadvantage to the District by stopping the contractor, going out to bid and either restarting/remobilizing the same contractor, or having a new contractor come in (and that process would have cost us far more than any possible re-bid savings), the identical work can be added. Again, the reason should have been listed as unforeseen condition. **Comment: The July 22<sup>nd</sup> agenda item still shows Error/Omission as the reason. As a matter of record, this is a substantial increase and I am of the belief that a closer estimate could have been provided.**

Due to the short timing between the cancelled meeting and the publication of the new agenda, I didn't pull and re-do the chart. I should have, and re-labeled it as "Unforeseen Conditions". If we had had the time, we could have had a new firm come in and re-survey the opened areas. This additional estimate however, would have been at additional cost, delayed the project completion, and they (the abatement contractor) still would have likely found the same additional amount, because the increase in contract amount (\$26,400) is for the actual (not estimated) amount of additional asbestos they removed from the building.

**8. Page 24-Resolution Establishing AD Valorem Tax Rates for the 2009-10 Fiscal Year, Resolution NO. 09/10-01-**This item certifies a tax rate for voters for the 2005 General Obligation Refunding Bonds and the 2006 Series B Bonds. The calculations should accompany this agenda item and not be provided separately. **The voters have a right to see this item under the Brown Act disclosure requirements.** The Board should feel uncomfortable approving this item without the calculations in front of them. I do!! I don't issue blank checks – neither should the staff to the Board. Approving this item without the presence of the calculations, could get the Board, CBOC, and CEO in a lot of trouble, if the assessed value is above what was voter approved.

In preparing the July 15 Board agenda, it was believed Resolution No. 09/10 – 01 and accompanying worksheet would be prepared and provided to the Board under separate cover; however, the above-referenced agenda item needs to be withdrawn and tabled to the next Board meeting on August 5, 2009 because of a delay from the Solano County and Yolo County Auditor-Controller's Offices.

Tax rates are calculated and established upon receipt of assessed values from the County Assessor's Office. A part of the District's service region resides in Yolo County (Winters). Due to the continuing real estate downturn, the Yolo County Assessor's Office was granted an extension in submitting assessed values to its Auditor-Controller's Office.

Solano County is waiting for that piece of information before it finalizes its calculations for the College. The Auditor-Controller's Office will calculate all tax rates when all assessed values are received.

In communicating with the Deputy Auditor-Controller and its knowledge of the District's August 5 Board meeting date, the College will receive its calculation and debt service requirement by August 3 and is being permitted to submit its resolution after the August 5 meeting. **Comment: It will be critical to ensure that is on the August 5 Board agenda.**

**We are in constant contact with the Deputy Auditor Controller and have expressed this concern to him.**

**9. Page 25-Measure G Bond 2007-08 Financial Audit Report-**Did the Board's audit subcommittee meet with the auditors to discuss the Bond Financial and Performance Audit? If not, why? Has this audit been shared with the CBOC, if not, why? If so, when?

The audit subcommittee did not have a separate meeting regarding this report. **Question: Why not? Since serving on the Board, it has been a practice and is a good idea that a subgroup of the Board is aware of audit information prior to the public. The Bond Financial and Performance Audit was included in the District Audit that the Subcommittee reviewed. Comment: This is not true. If the Board's audit subcommittee reviewed The Bond Financial and Performance Audit Report, the chair of the subcommittee, Trustee James Claffey, would have reported to the full Board on this report. If it is true, then you are saying that the Board's audit subcommittee did not report back to the Board on this issue. Also, this report was not included in the District's 2007-2008 Financial Audit Report that was presented by the auditors and approved by the Board on June 17, 2009.**

This audit has not been shared with the CBOC; normally it is shared after it has presented to the Board. Perry-Smith will present this information to the CBOC at the Monday, August 3, 2009 CBOC meeting.

**Comment: First, the report is normally shared with the CBOC. Then the CBOC come to the Board and present their annual report at the same time the district's audit is being presented.**

The response by staff to your earlier question was inadvertently misstated. The audit subcommittee has not reviewed the most recent Bond Financial and Performance Audit. Staff was unaware or had forgotten of the past practice. At the June 17, 2009, Board meeting, the Bond Financial and Performance Audit was not available to provide to the Board.

In the future, the audit subcommittee will review this information prior to the Board meeting.

10. Page 44-eCollege-Title should include Master Service and License Agreement. **Positive comment:** It appears the cost has substantially improved. **Changed on July 22<sup>nd</sup> document.**

11. Pages 51-58-Response to 2008-09 Grand Jury Report-Under Findings and Recommendations:

- Page 54-bottom paragraph-this paragraph should be italicized?
- Page 56- **BACKGROUND/SUMMARY** In the first paragraph, I suggest that the “**bonds were refunded in 2005**” be added. When people look at the history, the refunding date is important.
- Page 58-last paragraph-this is the same paragraph on page 57 (second paragraph). I have reread the document. Does the paragraph need to be repeated in full?

The bottom paragraph on page 54 will be italicized in the final file copy and the copy mailed to the Grand Jury.

- In the first paragraph under "BACKGROUND/SUMMARY", an additional historical sentence at the end will be added. It will read: It should also be noted, "The Bond measure authorized the issuance of \$124.5 million in general obligation bonds that were issued in two series: Series A for \$80 million and Series B for \$44.5 million. The Series A bonds were refunded in 2005, generating a bond issuance premium of \$8.4 million additional monies. These funds were deposited into the Bond project fund."
- Yes, the paragraph should be repeated on pages 57 and 58. They refer to different sections of the Grand Jury report and need clarification. However, there is an edit error in the response. On page 57, the response will be changed to read, "On page two (2), first paragraph, ....." This sentence needs to read "first" not "last" paragraph.

12. Pages 59-62-Solano Community College District Governing Board

**How Do We Rate Checklist Summary**-On page 60, items #6 & 12-reponses only add up to 5. Did someone not cast a vote for these items?

Not all of the Trustees participated in this summary checklist; therefore, the responses will not add up perfectly. **Comment: It is common practice when reporting compiled data of this type that all persons participating in the questionnaire are noted in the tally. All “yes” votes, “no” votes and “no responses” are tallied and reported out.**

The same process has been followed for past summaries, but we can make this change for future summary reports.

**NEW ITEMS**  
**B. Board Agenda for July 22, 2009**

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**Consent Agenda-Action Items:**

**Item 7(b) – Employment 2009-10. Short-Term, Temporary & Substitute Assignments.**

- Trudy Largent, J.D. – Interim Director of Human Resources –**Comments:** no dates and no salary listed. This needs to be corrected and provided to Board members before the meeting tonight.

**Yes – this information will be provided in the meeting tonight.**

- Interim VP, Administrative & Business Services- **Comments:** No name, no dates, no salary listed. This needs to be corrected and provided to Board members before the meeting tonight.

**This item will be pulled tonight. We are still searching for an Interim CBO.**

**Items 7(e) (f) & (g) – Change orders moved from Non-Consent to Consent. Comment:** There were a number of questions around these change orders that are problematic. **Question:** Why were these items moved?

**It was an error that they were on two separate agendas. We took advantage of the opportunity to correct this error for the July 22 meeting.**

**Non-Consent Agenda – Action Items**

**Item 10 (a)–Measure G Bond Audit 2007-08.**

**Comments:** According to the immediate past Board agendas, a Bond audit subcommittee meeting (exit conference with auditors) has not been scheduled prior to any of the immediate past Board meetings. Referring to past years agendas, this is not a standard practice at SCC or acceptable protocol for any finance/ performance/program audits.

**The audit subcommittee has not reviewed the Bond Financial and Performance Audit. Staff was unaware of the past practice. At the June 17, 2009, Board meeting, the Bond Financial and Performance Audit had not yet been received from the audit firm, and as such, was not included in the Board materials.**

**The Bond Financial and Performance Audit is included in the Board materials for this evening. In the future, the audit subcommittee will review prior to the Board meeting.**

**Unrelated Questions:**

**Dean Issue -VP of Student Services:**

**Comments:** The VP of Student Services use to have an allotment of two Deans under her charge: One was Admissions & Records and the other Financial Aid. The reorganization plan calls for one Dean (new), Shirley Lewis over Student Activities (title changed) and the two other Deans (Admission & Records and Financial Aid) are to become Directors.



**Question:** Why is the VP of Student Services sending a request to the Board for a Dean for Financial Aid if she is going to be a Director, according to the reorganization plan? **Comment:** This person appears to have no hands on experience and the college is paying a healthy salary.

**This is a temporary position until the reorganization is completed and the position filled.**

**Mr. Lopez was director of Financial Aid and Student Employment at Southwestern College for eight years where he supervised a staff of 22 and was responsible for implementation of comprehensive financial aid service using the computerized system, Datatel. He implemented state and federal guidelines for awarding financial assistance to students. He oversaw a budget of \$700,000. He used various modes of communication to publicize financial aid options to students. He was elevated from this position after serving as Financial Aid Supervisor for four years and Financial Aid Specialist for three years.**

**Mr. Lopez has also taught and coached at Southwestern College.**

**He holds a Master's of Science Degree in Physical Education from Azusa Pacific; a bachelors degree in Business Management from the University of Phoenix and an Associate Degree in Data Processing from Southwestern College.**

**He holds membership in the National Association of Student Financial Aid Administrators (NASFAA) as well as other relevant organizations in California. In Addition to English, he is fluent in Spanish.**