



FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

## **BOARD OF TRUSTEES**

**MINUTES**

**REGULAR MEETING**

**June 16, 2008**

### **CALL TO ORDER AND ROLL CALL**

President Bruce Swenson declared a quorum was present and called the meeting to order at 5:30 p.m. in the Toyon Room of the Campus Center at Foothill College, 12345 El Monte Road, Los Altos Hills, CA 94022.

#### **Trustees Present:**

Bruce Swenson, President  
Paul Fong, Vice President  
Betsy Bechtel  
Laura Casas Frier  
Hal Plotkin

#### **for Public Session**

Patrick Ahrens, De Anza College Student Trustee  
Confiance Dukunde, Foothill College Student Trustee

### **CLOSED SESSION**

The Board immediately adjourned into closed session in the Toyon Room with the individuals listed below to discuss:

#### **CONFERENCE WITH LABOR NEGOTIATOR**

District Negotiator: Dorene Novotny  
Employee Organizations: All Represented and Unrepresented Groups

#### **PUBLIC EMPLOYEE DISCIPLINE / DISMISSAL / RELEASE**

#### **Executive Administrators Present:**

Andy Dunn, Vice Chancellor of Business Services  
Martha Kanter, Chancellor  
Judy Miner, President of Foothill College  
Brian Murphy, President of De Anza College  
Dorene Novotny, Vice Chancellor of Human Resources and Equal Opportunity

### **RE-CONVENE PUBLIC SESSION**

President Swenson re-convened the public session at 6:10 p.m. in the Hearthside Lounge of the Campus Center. He led the Board and those present in the Pledge of Allegiance. The following staff, press, students and members of the public were present:

*Staff:* Charles Allen Marie Fox Ellison Rose Myers  
Rosemary Arca Rich Hansen Dorene Novotny  
Tom Armstrong Jeanine Hawk Frank Nunez  
Gina Bailey Art Heinrich Jon O’Bergh  
Judy Baker Carolyn Holcroft-Burns Romeo Paule  
Shirley Barker Ken Horowitz Hector Quinonez  
Bob Barr Pat Hyland Marisa Spatafore  
Becky Bartindale Rob Johnstone Paul Starer  
Mia Casey Martha Kanter Annette Stenger  
Maureen Chenoweth Ron Levine John Swensson  
Wayne Chenoweth Christine Mangiameli Denise Swett  
Vicky Criddle Judy Miner Lauren Wong  
Don Dorsey John Mummert Laura Woodworth  
Andy Dunn Brian Murphy  
Christina Espinosa-Pieb Peter Murray

*Press:* None

*Students:* Antinea Chair  
Sarah Snow

*Public:* Richard Galope  
Geoffrey Kischuk  
Brian O’Neill

## **REPORTING OUT FROM CLOSED SESSION**

President Swenson reported that the Board took action in closed session to accept the resignation of a faculty member.

### **Item 1**

#### **FOOTHILL STATE OF THE COLLEGE REPORT**

Foothill President Judy Miner asked the Board to observe a moment of silence in memory of Foothill Instructor Greg McIlhiney.

Dr. Miner introduced students Antinea Chair, Confiance Dukunde and Sarah Snow, who each provided a brief comment to frame the State of the College report. Foothill President Miner then showed a DVD presentation that highlighted enrollment trends and student demographics; a variety of college initiatives including student learning outcomes, leadership training for students, the Basic Skills Initiative, and the Open Textbook Project; and the ways in which the college connects with the community, such as the Celebrity Forum series and outreach to the Mt. View-Whisman School District. Board members commented favorably on the presentation and thanked Dr. Miner for the report.

## **APPROVAL OF MINUTES**

**M/S/C:** Plotkin/Bechtel  
**Advisory vote:** 2 yes  
**Board vote:** 4 yes (Fong abstained)  
**Action:** Approved the minutes of the June 2, 2008 meeting

## **CORRESPONDENCE**

President Swenson asked if there was any correspondence which should be brought to the Board's attention. He noted a recent editorial in the Los Altos Town Crier regarding the decision of the Los Altos City Council to change its elections to even-numbered years and how that change will impact the cost of elections for local districts such as Foothill-De Anza. He requested that the District look into the matter.

## **HEARINGS: ITEMS NOT ON THE AGENDA**

### *Public / Students*

There were no students or members of the public who wished to address the Board on items not on the agenda.

### *Staff*

De Anza President Brian Murphy reported that the college received an award for having the finest athletic program in the Coast Conference. He also reported that summer enrollment was up 14%, reflecting the college's strong outreach efforts. He noted that the college has been invited by the New York Times to join an on-line dialog with other colleges and universities in the fall on the topics of race, class and gender.

Foothill President Miner thanked Trustee Casas Frier for attending a recent meeting of the Los Altos Rotary Club and for serving as a judge in a student business plan contest for the Business and Social Sciences Division. She congratulated Classified Senate members Maureen Chenoweth, David Garrido and Lucy Rodriguez for their presentation at a classified leadership conference and for receiving third prize for the best classified senate website.

Foothill Instructor Ken Horowitz thanked Dr. Miner for her presence at so many community events and congratulated Trustee Fong on winning the Democratic nomination for the 22<sup>nd</sup> Assembly seat.

Chancellor Martha Kanter thanked the college presidents for presiding at the Anne Darling Elementary School kindergarten graduation event sponsored by the Silicon Valley Higher Education Roundtable. The event aims to reach out to students and parents from populations who traditionally have low college enrollment rates. She also thanked District Communications Coordinator Becky Bartindale for helping organize the event. She reported that the Foundation held an excellent retreat and noted that Anita Manwani Bhagat is the new Foundation Board President. She announced that she would be testifying in Sacramento on June 18 at the California Senate Education Committee hearing on AB 2261, the Open Educational Resources bill. She reported that the state Legislative Analyst has produced a report on community colleges. Finally, she reported that she provided an orientation for the two student trustees earlier in the day.

### *Trustees*

Trustee Casas Frier reported that she attended the Community College League of California's Advisory Committee on Legislation, which endorsed AB 2261. She reported that she attended an event at the California History Center regarding the immigrant experience, and expressed how much she enjoyed serving as a judge for the business plan contest. President Swenson congratulated Trustee Fong on becoming the Democratic nominee for the 22<sup>nd</sup> Assembly seat. Trustee Fong expressed his gratitude for being able to serve as trustee at such a well-managed community college district. He said he would be attending the upcoming California Community College Trustees Board

meeting and expects the board will endorse AB 2261. Lastly, the Board was reminded of the upcoming Commence ceremonies at each college.

### **APPROVAL OF CONSENT CALENDAR**

President Swenson highlighted two minor changes to Item 3 (Board Policy 5001) and Item 5 (Board Policy 6124) suggested by the Chancellor's Advisory Council, revised copies of which were provided to each member of the Board.

**M/S/C:** Plotkin/Casas Frier  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved / Ratified Items 2-19 of the Consent Calendar with changes noted above as follows:

**Item 2** — **Approved** NEW BOARD POLICY 3225 – ACCESS CONTROL POLICY

**Item 3** — **Approved** NEW BOARD POLICY 5001 – ENROLLMENT PRIORITIES — with changes as distributed at the meeting

**Item 4** — **Approved** NEW BOARD POLICY 5600 – STUDENT EQUITY

**Item 5** — **Approved** NEW BOARD POLICY 6124 – COURSE REPETITION — with changes as distributed at the meeting

**Item 6** — **Ratified** CONTRACTS AND AGREEMENTS

**Item 7** — **Approved** ADVANCE OF STUDENT FEES TO FOOTHILL ANTHROPOLOGY INSTRUCTOR SAMUEL CONNELL TO SUPPORT ARCHAEOLOGY CLASSES IN ECUADOR DURING SUMMER QUARTER 2008

**Item 8** — **Approved** RENEWAL OF AGREEMENT WITH PLANNED PARENTHOOD MAR MONTE

**Item 9** — **Approved** INDEPENDENT CONTRACTOR AGREEMENT WITH CATHERINE AYERS — in the amount of \$61,048

**Item 10** — **Approved** AWARD OF THREE-YEAR CONTRACT FOR PRINTING AND MAILING FOOTHILL COLLEGE SCHEDULE OF CLASSES — authorized the Director of Purchasing Services to award a three-year contract to VQS Enterprises pursuant to Bid #1156

**Item 11** — **Approved** AWARD OF CONTRACT FOR CHILD DEVELOPMENT CENTER MEALS — authorized the Director of Purchasing Services to award a contract to Spice of Life Caterers, Inc. pursuant to Bid #1149 and to renew the contract for up to four additional years

**Item 12** — **Approved** CONTRACT FOR FLINT CENTER FACILITIES MANAGEMENT AND ENTERTAINMENT PROGRAMMING SERVICES PURSUANT TO RFQ #1153 — authorized the Vice Chancellor of Business Services to negotiate and enter into a contract with Domus Aurea, Inc. for the period July 1, 2008 through June 30, 2013

**Item 13** — **Approved** TRANSFER OF MEASURE C SERIES A AND B FUNDS TO COUNTY TREASURY

**Item 14** — **Approved** GANN APPROPRIATION LIMIT — adopted Resolution #2008-14 establishing the 2008-09 appropriation limit at \$246,490,762

**Item 15** — **Approved** ELECTRICITY UTILITY PROCUREMENT AND AGREEMENT WITH CONSTELLATION NEW ENERGY — approved a 6-month extension of the current contract at or below the rate established by the Community College League of California in negotiation with Constellation New Energy

**Item 16** — **Approved** RESOLUTION AUTHORIZING CHILD CARE AGREEMENT #CCTR-8406 — adopted Resolution #2008-15

**Item 17** — **Approved** ADVERTISING CONTRACT WITH CBS OUTDOOR — in the amount of \$135,000

**Item 18** — **Approved** PERSONNEL ACTIONS:

*Name:* **Vicky Criddle**  
*Position:* Director, FHDA Internship Training Program  
*College:* Foothill College  
*Division:* Internship Program  
*Action:* **Extend Contract**  
*Effective Date:* July 1, 2008 – June 30, 2009 # of Months: 12

*Name:* **Richard G.E. Galope**  
*Position:* Vice President  
*College:* Foothill College  
*Division:* Workforce Education  
*Action:* **Employment**  
*Effective Date:* July 1, 2008 – June 30, 2009 # of Months: 12  
*Compensation:* Level M, Step 2 @ \$10,993.46 per month

*Name:* **Lydia Hearn**  
*Position:* Interim Dean  
*College:* De Anza College  
*Division:* Language Arts  
*Action:* **Extend Contract**  
*Effective Date:* July 1, 2008 – June 30, 2009 # of Months: 12

*Name:* **Judy Mowrey**  
*Position:* Interim Dean  
*College:* De Anza College  
*Division:* Library Services  
*Action:* **Extend Contract**  
*Effective Date:* July 1, 2008 – December 31, 2008 # of Months: 6

*Name:* **Patricia S. Quarato**  
*Position:* Instructor  
*College:* De Anza College  
*Division:* Biological Health and Environmental Sciences  
*Action:* **Retirement**  
*Effective Date:* June 27, 2008

*Name:* **Randolph Splitter**  
*Position:* Instructor  
*College:* De Anza College  
*Division:* Language Arts  
*Action:* **Reduction in Contract to 61.1%**  
*Effective Date:* September 18, 2008 – June 26, 2009  
*Comments:* In accordance with Article 18 of the *Agreement* between the District and the Faculty Association

*Name:* **Ram Subramaniam**  
*Position:* Instructor  
*College:* De Anza College  
*Division:* Physical Science, Mathematics and Engineering  
*Action:* **Employment**  
*Effective Date:* September 18, 2008 – June 26, 2009  
*Compensation:* Column V, Step H @ \$8,285.11 per month

*Name:* **John Swensson**  
*Position:* Dean  
*College:* De Anza College  
*Division:* Language Arts  
*Action:* **Administrative Development Leave**  
*Effective Date:* September 1, 2008 – June 30, 2009  
*Comments:* In accordance with Chapter 7 of the Administrators Handbook

### **Item 19** — Approved HUMAN RESOURCES REPORT

### **Item 20**

REVISION TO BOARD POLICY 3214 (ENVIRONMENTALLY SUSTAINABLE PRACTICES) AND DELETION OF BOARD POLICY 3220 (ENERGY MANAGEMENT)

Executive Director of Facilities, Operations and Construction Management Charles Allen distributed a revised version of the policy and reviewed the changes suggested by the Chancellor’s Advisory Council. Chancellor Kanter reviewed the changes made in response to the discussion at the June 2 Board meeting, noting that “conservation” was added as a goal and bottled water usage would be addressed in the administrative procedures that will be further discussed in the fall. She also noted that pesticide management will be addressed in the context of hazardous materials, and the District will be looking at the most appropriate place in policies or procedures to include the matter. That recommendation will be brought back to the Board in the fall. Bechtel said she will watch the development of Administrative Procedures 3214 with special interest.

**M/S/C:** Bechtel/Dukunde  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved Board Policy 3214 as revised and approved the deletion of Board Policy 3220

## **Item 21**

### APPROVAL OF TENTATIVE BUDGET 2008-09

Vice Chancellor of Business Services Andy Dunn and Director of Budget Operations Bernata Slater presented the Tentative Budget, highlighting the projected 2007-08 ending balance of \$853,865, the estimated operating deficit of \$7.7 million for 2008-09, potential one-time solutions to address the ending balance shortfall, revenue and expense variables, an analysis of FTES enrollment, and the impact of the Governor's budget on other programs. Vice Chancellor Dunn noted that, despite the challenging economic climate, the District will be able to serve an expected 36,827 full-time equivalent students, provide an adequate level of programs and services for students, and maintain 5% reserves.

Responding to a question from Trustee Casas Frier, Vice Chancellor Dunn said he believes a budget impasse is likely in the state legislature, in which case the District's cash flow would be in good shape until October. If the state budget remains unresolved at that point, the District would qualify with other local agencies to participate in a Tax and Revenue Anticipation Note (TRAN), a form of short-term borrowing.

President Swenson expressed concern about using one-time funds to solve the budget shortfall since the state's budget problems may well continue beyond next year. De Anza President Murphy and Foothill President Miner discussed how the colleges have planned to limit how much carryover funds are spent to ensure that there remain sufficient one-time funds to address the structural imbalance in the budget and carry the District through two years of state budget shortfalls. Trustee Bechtel emphasized the importance of communicating how the District needs to absorb \$1.5 million in increased health benefits costs.

**M/S/C:** Plotkin/Fong  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved the 2008-09 Tentative Budget

## **Item 22**

### FUNDING OF OPEB OBLIGATION

Geoffrey Kischuk of Total Compensation Systems, Inc. presented the Actuarial Study of Retiree Health Liabilities. He discussed asset smoothing, which is used to smooth the typical ups and downs of the investment cycle in order to provide a more accurate projection of long-term results, and noted that the CalPERS asset smoothing model was used in the Actuarial Study. He also noted that, per the recommendation of the Audit & Finance Committee, the proposed contribution is based on smoothing accruals over three years. He discussed funding vehicles, explaining that the District currently participates in the Community College League of California program but the program offered by CalPERS is now available. He cautioned that investment return rate is not the best way to evaluate programs as there are a number of significant variables that should be considered.

Responding to a question about the current trend in health care cost increases, Mr. Kischuk offered his opinion that 4% over 30 years is a reasonable assumption. Trustee Plotkin expressed concern that 4% is overly optimistic given how the District's costs have doubled in seven years. Chancellor Kanter said that the percentage increase will be reviewed annually as part of the actuarial study and adjustments can be made if needed. Trustee Bechtel reported that the Audit & Finance Committee concurred with the four recommendations and will discuss investment options more fully at the next meeting on August 25. She also reported that the Audit & Finance Committee supports the idea of performing the actuarial study on an annual basis for the near future. Hansen asked for a liability estimate if lifetime retiree benefits were restored for all employees and Mr. Kischuk responded that it would be in the \$500 million range.

**M/S/C:** Bechtel/Plotkin

**Advisory vote:** 2 yes

**Board vote:** unanimous

**Action:** Approved the following recommendations:

1. That the \$1,005,182 budgeted for fiscal year 2007-08 be transferred by June 30, 2008 to the irrevocable trust established as part of the Community College Retiree Trust Joint Powers Authority sponsored by the Community College League of California in order to fully fund the Annual Required Contribution (ARC).
2. That the budget for 2008-09 include a contribution of \$829,400 to fully fund the ARC for fiscal year 2008-09. The \$829,400 funding contribution is calculated using a 3-year smoothing by averaging the funding obligation of fiscal year 2006-07 (\$975,905), 2007-08 (\$1,005,182), and the unfunded obligation reported on the Actuarial Study of Retiree Health Liabilities dated April 4, 2008 (\$507,042).
3. That the Internal Retirement Board — which is comprised of the Audit & Finance Committee Chair, the Vice Chancellor of Business Services, and the Controller — review and compare the OPEB trust program offered by the Public Employees Retirement System (PERS) with the plan sponsored by the Community College League of California.
4. That the District contract with Total Compensation Systems, Inc. to prepare an Actuarial Study of Retiree Health Liabilities in fiscal year 2008-09.

## **Item 23**

### TAX SHELTERED ANNUITIES, THIRD PARTY ADMINISTRATOR

President Swenson asked about the offer by AIG Retirement to act as third party administrator at no cost. Controller Hector Quinonez responded that a large number of District employees already invest through AIG Retirement, so the company was willing to perform that service at no cost. He added that this agreement will not hamper the ability of employees to select vendors and will actually allow the District to increase the preferred vendor list from 10 to at least 15. He added that employee groups were involved in making this recommendation. Responding to a question from Trustee Casas Frier, he explained that the contractual time frame will be 3-5 years.



**M/S/C:** Casas Frier/Dukunde  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Authorized the Vice Chancellor of Business Services to negotiate a contract with AIG Retirement for third party administration of the District's tax sheltered annuity program; if agreement on a final contract cannot be reached with AIG Retirement, the Vice Chancellor of Business Services is authorized to formalize a contract with one of the two remaining vendor finalists

## **Item 24**

### MEASURE E CONSENT CALENDAR

Responding to a question from President Swenson, Executive Director of Facilities, Operations and Construction Management Charles Allen said he would speak to the architect about the design errors, but he pointed out that the change order is within the industry norm regarding percentage of contract cost.

**M/S/C:** Bechtel/Fong  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved / Ratified the Measure E Consent Calendar, A as follows:

- A.** *Title:* Change Order #8  
*Vendor:* SJ Amoroso Construction Co., Inc.  
*Agreement Date:* June 29, 2007  
*Campus:* De Anza College  
*Project No.:* 765-209  
*Project Name:* Visual and Performing Arts Center  
*Amount:* \$39,022  
*For:* Provide revised structural concrete and steel framing, additional metal stud framing and sheetrock finish, revised product finish at roll-up doors, roof drain piping route, and relocated electrical outlets in the building as described by backup documentation. The original contract completion date of September 21, 2008 is unaltered by this change order.
- The total change orders to date represent 1.63% against the original Contract amount. The funding is included in the current budget.
- Action:* Ratification

## **Item 25**

### MEASURE C CONSENT CALENDAR

**M/S/C:** Plotkin/Ahrens  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved / Ratified the Measure C Consent Calendar, A-B as follows:

- A.** *Title:* Revision #2 to PO #G876084  
*Vendor:* Sugimura & Associates Architects  
*Agreement Date:* May 29, 2008  
*Campus:* Foothill College  
*Project No.:* 101  
*Project Name:* Forum 5000  
*Amount:* \$37,300  
*For:* Professional services for a structural engineer to complete the seismic upgrades identified in the Tier I analysis and for a civil engineer to complete utility connection drawings since direct buried hot and chilled piping systems are being replaced (the intent was to reuse the existing system but the pipes are undersized and specification modifications required after DSA submittal)  
*Action:* Ratification
- B.** *Title:* Revision #1 to Mobilization Contract  
*Vendor:* Gilbane/Maas  
*Agreement Date:* April 6, 2007  
*For:* The extension of consulting services for the Gilbane/Maas Agreement for Program and Construction Management and Mobilization Services to December 31, 2008. There will be no increase in contract value. Tasks associated with this contract remain ongoing.  
*Action:* Ratification

## **Item 26**

EXTEND AUTHORIZATION TO USE PIGGYBACK CONTRACT FOR DE ANZA COLLEGE FURNITURE PURCHASES

- M/S/C:** Plotkin/Ahrens  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Authorized the District Purchasing Director to issue purchase orders for De Anza College classroom and office furniture pursuant to the County of Alameda contract through the contract expiration date or through June 30, 2009, whichever is sooner

## **Item 27**

AUTHORIZATION TO PURCHASE APPLE AND DELL COMPUTERS

- M/S/C:** Plotkin/Dukunde  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Authorized the Director of Purchasing to place orders in excess of the legally mandated bid threshold through June 30, 2009 for Dell and Apple products and related services pursuant to the WSCA Master Agreements A63306 with Apple and A63307 with Dell

## **Item 28**

### MEASURE C INTEREST EARNINGS DISTRIBUTION

President Swenson asked about options if a parcel of land in which the District is interested becomes available. Vice Chancellor Dunn explained that, in developing the proposed guiding principles, the District considered those areas in which shortfalls had the most immediate impact, especially for students. If a parcel of land becomes available, there would need to be a discussion about whether to scale back or eliminate projects.

**M/S/C:** Fong/Bechtel  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved the recommended guiding principles for distribution of Measure C interest earnings

## **Item 29**

### MEASURE C PROJECT LIST REVISION: CENTRAL SERVICES BUDGET TRANSFER #3, FOOTHILL BUDGET TRANSFER #5 AND DE ANZA BUDGET TRANSFER #6

Trustee Bechtel pointed out that the Mediate Learning Center Project will be increased by \$10 million with this revision and the De Anza Planetarium expansion will be dropped.

**M/S/C:** Plotkin/Fong  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved the Bond Project List Revision with Central Services Budget Transfer #3, Foothill Budget Transfer #5 and De Anza Budget Transfer #6

## **Item 30**

### AGREEMENT WITH RATCLIFF ARCHITECTS FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES — DE ANZA COLLEGE PROJECT #766261, MEDIATED LEARNING CENTER

Chancellor Kanter pointed out that the building will be designed to the LEED Platinum standard. Executive Director Allen added that, while more expensive to construct, this standard will extend the life cycle of the building.

**M/S/C:** Ahrens/Casas Frier  
**Advisory vote:** 2 yes  
**Board vote:** unanimous  
**Action:** Approved the Standard Form of Agreement with Ratcliff Architects in the amount of \$4,624,300 including reimbursable expenses

## **DATES TO REMEMBER**

July 7, 2008 — Study Session and Regular Meeting

## **ADJOURNMENT**

President Swenson adjourned the meeting at 8:47 p.m.

jco

Approved: 7/7/08

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Martha J. Kanter, Chancellor  
Secretary, Board of Trustees