



**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES
MINUTES
REGULAR MEETING
December 10, 2012**

Trustees Present:

Joan Barram, President
Betsy Bechtel
Pearl Cheng
Laura Casas Frier

For Public Session Only:

Vincent Mendoza, De Anza College Student Trustee
Antonia Zavala, Foothill College Student Trustee

Absent:

Bruce Swenson

CLOSED SESSION

The Board convened in closed session at 5:00 p.m. in the Chancellor's Office to discuss:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9)

Number of Potential Cases: 1

Executive Administrators Present:

Charles Allen, Executive Director, Facilities, Operations and Construction Management
Kevin McElroy, Vice Chancellor, Business Services
Judy Miner, President, Foothill College
Joe Moreau, Vice Chancellor, Technology
Brian Murphy, President, De Anza College
Dorene Novotny, Vice Chancellor, Human Resources and Equal Opportunity
Linda Thor, Chancellor

Others:

Phil Jaret, Legal Counsel (by telephone)

CONFERENCE WITH LABOR NEGOTIATOR

Executive Administrators Present:

Charles Allen, Executive Director, Facilities, Operations and Construction Management
Kevin McElroy, Vice Chancellor, Business Services
Judy Miner, President, Foothill College
Joe Moreau, Vice Chancellor, Technology
Brian Murphy, President, De Anza College
Dorene Novotny, Vice Chancellor, Human Resources and Equal Opportunity
Linda Thor, Chancellor

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Executive Administrators Present:

Charles Allen, Executive Director, Facilities, Operations and Construction Management
Kevin McElroy, Vice Chancellor, Business Services
Judy Miner, President, Foothill College
Joe Moreau, Vice Chancellor, Technology
Brian Murphy, President, De Anza College
Dorene Novotny, Vice Chancellor, Human Resources and Equal Opportunity
Linda Thor, Chancellor

CALL TO ORDER

President Barram called the meeting to order at 6:00 p.m. and led those present in the Pledge of Allegiance. She reported that trustee Swenson's absence was unavoidable due to long-scheduled international travel plans that conflicted with the recent change in meeting dates required by Santa Clara County Registrar of Voters' timetable for election certification.

REPORTING OUT FROM CLOSED SESSION

President Barram reported that in closed session, the Board approved a settlement agreement to avoid potential litigation on Measure C Project #203, Baldwin Winery & East Cottage Historic Renovation project. The agreement includes assessment of damages in the amount of \$200,000 for impacts to the district due to the collapse of the original East Cottage structure during construction renovation. Additionally, John Plane Construction releases the district from any and all claims on the project, including claims from subcontractors and suppliers. John Plane Construction also agrees to defend and indemnify the District from any claims from its subcontractors or suppliers on the Baldwin Winery & East Cottage Historic Renovation project.

OATH OF OFFICE – SWEARING IN OF NEWLY REELECTED TRUSTEES

President Barram announced that pursuant to Elections Code Section 15400, the Governing Board of Foothill–De Anza Community College District hereby accepts the Statement of Votes and Certificate of Election Results issued by the Santa Clara County Registrar of Voters and declares the following totals listed therein as the final results of the November 6, 2012, governing board member election:

Number to Vote for: 3
Completed Precincts: 226 of 226

Elected:

Laura Casas Frier	84,581	34.35%
Betsy Bechtel	69,430	28.20%
Joan Barram	61,859	25.13%

Not Elected:

Geby E. Espinosa	30,332	12.32%
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Chancellor Thor administered the Oath of Office to newly reelected trustees Joan Barram, Betsy Bechtel, and Laura Casas Frier.

ANNUAL ORGANIZATION MEETING

President Barram called for nominations for Board President and Vice President. Trustee Casas Frier advised that due to official state duties that require much of her time, she would respectfully decline the opportunity to serve as President.

M/S/C:	Casas Frier/Cheng
Advisory vote:	2
Board vote:	4
Absent:	1 (Swenson)
Action:	Elected Trustee Bechtel as Board President and Trustee Swenson as Board Vice President

Pursuant to Board Policy 9120, the Chancellor is designated Board Secretary.

Chancellor Thor presented outgoing President Barram with a certificate of appreciation and thanked her for always being accessible, asking excellent questions, and providing superb counsel and guidance. She stated that trustee Barram had gone above and beyond the requirements of Board President, staying actively involved in the Foundation Major Gifts Committee and serving on the hiring committee for the Chancellor's Assistant.

President Bechtel expressed appreciation for trustee Barram's work as President and also praised fellow trustees and district staff for working together well. She vowed to be accessible and encouraged staff members and members of the public to contact her.

President Bechtel made the following committee appointments.

Bruce Swenson, Chairperson, Audit & Finance Committee
Laura Casas Frier, Member, Audit & Finance Committee
Pearl Cheng, Member, Foothill-De Anza Colleges Foundation
Joan Barram, Member, Foothill-De Anza Colleges Foundation

President Bechtel announced that appointments to the Trustee Scholarship Interview Committee would be postponed until the January 7, 2013, meeting and asked that trustees contact her if interested in serving.

HEARINGS: ITEMS NOT ON THE AGENDA

Public

Ken Horowitz questioned the district's planning and decision-making with regard to the De Anza College Stadium and Track Project. He asserted that there was no public input into the project, the track was poorly planned, the press box is inadequate, the bathroom is too far from bleachers, and field lights should have been installed so that facilities could be rented and produce revenue.

Staff

Foothill College Classified Senate President Erin Ortiz invited those present to attend the last Foothill College Classified Senate meeting of the year on Thursday, December 13, 2012, at 2:30 p.m. in Council Chambers Room 2018. She noted that Joe Moreau, Vice Chancellor, Technology Services, will be giving a presentation and that an end-of-year luncheon to help boost participation in Welcome Week will be held prior to the meeting.

De Anza College Academic Senate President Karen Chow praised Outreach Assistant Jorge Morales' pilot program with four East San Jose high schools to conduct diagnostic testing so students may better prepare for placement tests and transfer to De Anza College.

Foothill College Academic Senate President Dolores Davison reported that at the Academic Senate for California Community Colleges Fall Plenary Session, Area B raised the most money in the state for the Foundation of the Academic Senate for the California Community Colleges. She announced that English instructor Scott Lankford has been selected as Foothill College's nominee for the statewide Academic Senate's Hayward Award and invited trustees to attend the next plenary session in April 2013.

De Anza College President Brian Murphy announced that both De Anza and Foothill colleges have received very positive draft reports from the Accrediting Commission for Community and Junior Colleges (ACCJC) visiting teams. He noted that the teams accepted the colleges' responses to the ACCJC recommendations and thanked the accreditation liaison officers and those on both campuses responsible for the successful Follow-Up reports.

Foothill College President Judy Miner advised that the Family Engagement Institute recently hosted attendees from six community colleges, Sonoma State University, and San Jose State University for two workshops on best practices for supporting undocumented students. She also announced that the college has nominated Program

Coordinator I Maureen Chenoweth, Academic Services Coordinator Darya Gilani, Physics instructors Frank Cascarano and David Marasco, and Division Dean of Physical Sciences, Mathematics, and Engineering Peter Murray for the League for Innovation in the Community College's John and Suanne Roueche Excellence Awards.

Chancellor Linda Thor stated that although 2012 was a challenging year, she is delighted by the passage of Proposition 30, the reelection of trustees, positive reports from the accreditation visiting teams, and the higher enrollment numbers at both colleges for winter quarter. Chancellor Thor reported progress in establishing a Chancellor's Business and Industry Advisory Council as a forum for dialogue, an opportunity to work collectively with industry leaders on meeting both current and future workforce needs in the Silicon Valley, and a way to benefit from external expertise on planning issues. She noted that out of the five nominees to the Council she has met with to date, four attended community colleges, two taught at a community college, and two spoke of involvement with their corporate foundations.

Board

Trustee Laura Casas Frier advised that at the suggestion of a local educational leader concerned about the district's recent election costs, she is exploring the possibility of a state legislative change that would allow educational institutions to require potential governing board candidates to submit a small number of signatures of support as evidence of serious intent.

Foothill College Student Trustee Antonia Zavala provided information regarding a dinner held recently to introduce international students to the Thanksgiving tradition and spoke of valuable insight into the faculty and staff perspective gained at the Community College League of California Annual Convention.

Trustee Joan Barram commented that the new De Anza College Media & Learning Center is beautiful and the excitement about the new facility was apparent at the recent opening.

De Anza College Student Trustee Vincent Mendoza praised the recent World AIDS Day event held by the Office of Equity, Social Justice and Multicultural Education. He echoed student trustee Zavala's comments regarding the Community College League of California Annual Convention and thanked the district for the opportunity to attend.

Trustee Pearl Cheng congratulated Chancellor Thor for recent national awards and stated that the Board is glad that she is here as the district's leader.

APPROVAL OF MINUTES

M/S/C:	Barram/Mendoza
Advisory vote:	2
Board vote:	4
Absent:	1 (Swenson)
Action:	Approved the corrected minutes of the September 10, 2012, meeting and the minutes of November 5, 2012, meeting

AUDIT & FINANCE COMMITTEE REPORT

President Bechtel reported that at the recently held Audit & Finance Committee meeting, the district's auditors presented the district and Measure C audit reports, which were subsequently accepted by the committee. Additionally, Measure C and Measure E project reports were reviewed. Trustee Casas Frier and President Bechtel praised the public members of the committee.

APPROVAL OF CONSENT CALENDAR

Trustee Cheng asked that item 5, Delegation of Contracting Authority Resolutions, be removed from the consent calendar.

M/S/C: Cheng/Barram

Advisory vote: 2

Board vote: 4

Absent: 1 (Swenson)

Action: **Approved** Items 1–4 and 6-14 on the Consent Calendar as follows:

Item 1 – **Ratified** International Travel

Item 2 – **Ratified** Contracts and Agreements

Item 3 – **Ratified** Board Warrants Greater than \$5,000 for September and October 2012

Item 4 – **Adopted** Resolution 2012-45 Authorizing Separate Bank Accounts

Item 6 – **Approved** Listing of District Investments as of September 30, 2012

Item 7 – **Authorized** Sale of Miscellaneous Surplus Electronic Equipment

Item 8 – **Authorized** Recycle and Disposal of Unusable Surplus Furniture

Item 9 – **Authorized** the Award of a Contract Pursuant to Invitation to Bid #1619 - Purchase of Trailer-Mounted Portable Diesel Generators to Sunbelt Rentals, Inc.

Item 10 – **Approved/Ratified** Human Resources Report

Item 11 – **Approved** Professional Achievement Award Applications 2012-2013

Item 12 – **Approved** Foothill and De Anza Colleges Winter 2013 Community Education/Short Courses

Item 13 – **Approved** De Anza College 2013-2014 New Course Offerings

Item 14 – **Approved** Celebrity Forum Speaker Series Addition

Item 5

Delegation of Contracting Authority Resolutions

In response to questions from trustee Cheng, Vice Chancellor of Business Services Kevin McElroy detailed the processes used to monitor charges made to the district's more than 300 procurement cards. He explained that every month he personally examines a listing of all charges, electronic statements are sent to card users and their supervisors for review and verification, and approximately 30 to 40 statements are audited. He also advised that external performance audits are conducted periodically, no charges for food or services are permitted, and users are required to acknowledge having read the policies and procedures. President Bechtel commented that the trustees and Chancellor are not issued procurement cards. She asked that the next performance audit be shared with the Board of Trustees.

M/S/C: Cheng/Casas Frier
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Adopted** Delegation of Contracting Authority Resolution

Item 15

Audit for Year Ended June 30, 2012

Terri Montgomery of Vavrinek, Trine, Day & Company, LLP presented results from the audit of the district's financial statements as of June 30, 2012. She indicated that the auditors have issued a clean opinion, the two findings were related to compliance issues, and all prior year findings have been implemented.

M/S/C: Cheng/Casas Frier
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Accepted** the audit report for the year ended June 30, 2012

Item 16

Measure C Performance and Financial Audits

Ms. Montgomery presented the Measure C performance and financial audit reports. She advised that the auditors issued a clean opinion of the Measure C financial statements and there were no findings.

M/S/C: Casas Frier/Barram
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Accepted** the Measure C performance and financial audit reports for the year ended June 30, 2012

Item 17

Environmental Compliance Annual Update

Director of Environmental and Health Safety Mona Voss presented the annual update of environmental compliance in connection with the Department of Environmental Health stipulated judgment.

Item 18

Update on Proposition 30, Education Protection Account

Vice Chancellor McElroy shared information regarding efforts to clarify district reporting requirements for Proposition 30 funds. He advised that the California Community Colleges Chancellor's Office plans to issue an accounting advisory by January 2013.

Item 19

Designation of Board Member to Vote in County Committee Election

M/S/C: Barram/Cheng
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Selected** President Bechtel as the voting representative for the 2013 County Committee on School District Organization election

Item 20

Resolution Authorizing Trustee Absence

M/S/C: Barram/Casas Frier
Advisory vote: 2
Board vote: 3
Absent: 1 (Swenson)
Abstained: 1 (Cheng)
Action: **Adopted** the resolution pursuant to Education Code Section 72024(d) authorizing the absence of trustee Pearl Cheng from the November 5, 2012, regular meeting of the Board of Trustees

Item 21

Purchase of Taleo Applicant Tracking System

M/S/C: Cheng/Barram
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Approved** the purchase of the Taleo applicant tracking system

Item 22

Measure E Consent

M/S/C: Casas Frier/Cheng
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Ratified/Approved** items on the Measure E Consent Calendar as follows:

Foothill College –

A) American Consulting Engineers Electrical, Inc. – Change #1 to Agreement for Services – Minor Improvements - \$7,000

Central Services –

B) Hensel Phelps Construction Company – Change #1 to Preconstruction Services Agreement – Data Center “E” - \$0

Item 23

Measure C Consent

Executive Director of Facilities, Operations and Construction Management Charles Allen asked that item A on the Measure C Consent cover sheet be corrected to reflect ratification of revision #4, rather than revision #3, to Noll & Tam Architects Campus Center Project Authorization Amendment #6A. In response to questions from

President Bechtel regarding item C, Executive Director Allen clarified that change orders on the A9/PE6 HVAC Improvements project have been higher than normal due to issues in renovating an older facility that were not well understood or defined at the time construction began. He explained in answer to trustee Cheng's questions concerning item D that the Flint Center parking structure repairs are needed as a result of changes in structural design standards.

M/S/C: Casas Frier/Cheng
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Ratified/Approved** items on the Measure C Consent Calendar as follows:

De Anza College –

- A) Noll & Tam Architects – Revision #4 to Project Authorization Amendment #6A – Campus Center - \$0
- B) OC Jones & Sons Inc. – Change Order #5 – Stadium and Track - \$61,498
- C) Omni Construction Service, Inc. – Change Order #3 – Final – A9/PE6 HVAC Improvements - \$27,303
- D) Simpson Gumpertz & Heger Inc. – Revision #3 to Agreement – Flint Parking Structure Repairs - \$199,000
- E) Swenson Associates – Change Order #3 – Corporation Yard - \$40,235

Foothill College –

- F) Allana Buick & Bers, Inc. – Revision #1 to Project Authorization Amendment #F-ABB-04 – Modernization of Building 5700 - \$0
- G) BSK Associates, Engineers & Laboratories – Change #5 to Agreement – Physical Sciences and Engineering Center - \$27,000
- H) Cleary Consultants – Change #1 to Agreement for Design Professional Services – Physical Sciences and Engineering Center - \$19,800
- I) Taber Construction, Inc. – Change Order #8 – Central Campus Site Improvements - \$66,833

Item 24

Award of a Lease-Leaseback Preconstruction Services Agreement for the Foothill College Library Renovation, Measure C Project #121

M/S/C: Casas Frier/Barram
Advisory vote: 2
Board vote: 4
Absent: 1 (Swenson)
Action: **Approved** Kitchell CEM, Inc. as the Lease-Leaseback contractor for the Foothill College Library Renovation project and **authorized** the Interim Director District Purchasing Services, to finalize and award the Preconstruction Services Agreement for the project to Kitchell CEM, Inc.

Item 25

Authorize Consignment Agreement No. US-L-29823 with Mori Seiki U.S.A., Inc. and make findings that the DMG/Mori Seiki DMU50 5-Axis Machine is the only product that can fulfill the educational needs of the De Anza College MCNC Department and is available only through one source, Ellison Technology

Instructor Mike Appio of De Anza College's Applied Technical Division explained that the equipment would be used to teach students cutting-edge machining and manufacturing skills that are in demand by Silicon Valley technology firms. Vice Chancellor McElroy reported that legal counsel reviewed the agreement.

M/S/C: **Barram/Cheng**

Advisory vote: 2

Board vote: 4

Absent: 1 (Swenson)

Action: **Authorized** the Vice Chancellor, Business Services, to enter into Consignment Agreement No. US-L-29823 with Mori Seiki U.S.A., Inc. for the loan of NMV5000 5-axis vertical machining center equipment; **made a finding** that the DMG/Mori Seiki DMU50 5-axis machine is the only product that can fulfill the educational needs of the MCNC program; and **made a finding** that the DMG DMU50 5-axis machine is available only from one vendor, Ellison Technologies, for a cost of \$180,000 plus applicable sales tax and freight charges.

ADJOURNMENT

President Bechtel adjourned the meeting at 7:49 p.m.



Chancellor and Secretary to
the Board of Trustees

Approved 1/7/13