

Adopted

**HARTNELL COMMUNITY COLLEGE DISTRICT
SPECIAL MEETING OF THE BOARD OF TRUSTEES**

M I N U T E S

June 17, 2008

**OPEN SESSION
CALL TO ORDER**

The Special Meeting of the Board of Trustees of Hartnell Community College District was called to order at Hartnell College Board Room, at 5:08 p.m., by Board President, Kari Lee Valdés.

PRESENT

Board of Trustees
Kari Lee Valdés, President
Patricia Donohue, Vice-President
Bill Freeman, Trustee
Elia Gonzalez-Castro, Trustee
Kevin Healy, Trustee
John Martinez, Trustee
Brad Rice, Trustee

ALSO PRESENT

Phoebe K. Helm, Interim Superintendent/President
Armando Cortes, Student Trustee

**POINT OF
PRIVILEGE**

Board President Valdés called for and read aloud a Point of Privilege based on having received a number of faculty resolutions and wanted to address them prior to the meeting.

1. Resolution: Stop the Presidential Search
Let me re-trace the process
 - a) September 13th Board Meeting:
 - (1) Hired Search Firm
 - (2) Withdrew Item 9 – “Approval of a Search Committee” because the Board was advised that, if they appointed the search committee, the committee would then become a “committee of the Board” and thus be subjected to the Brown Act. This means that all meetings of the search committee would have had to have been posted in advance and open to the public, thus making it impossible to maintain the confidentiality of applicants’ information.
 - b) December 4th Board Meeting – In Dr. Helm’s report on Board’s Goals, it was pointed out that there were three groups involved in the search: (Steering, Search and Hiring): 1) Steering Committee – Board chair, 4 union, and senate leaders; 2) Search Committee – 10 representatives, of which half are male and half are Hispanic; 3) Hiring Committee, which is the Board of Trustees.

Also, at the December meeting, the Board chair read a letter summarizing a correspondence with legal counsel at the Chancellors Office and concluded by asking Dr. Helm to apply for the position.

- c) All members were chosen by the leaders of their constituency groups with the exception of the community members. A pool of community members were chosen by the Board who then asked Dr. Helm to interview them and narrow the number to two.

Later in December, in response to a request of the La Raza faculty, Dr. Helm interviewed La Raza faculty who lived in the district to serve on the search committee, bringing the total to eleven members; 6 Hispanic, 3 white, 1 Asian, and 1 African American.

In April, in response to the faculty union's concerns, the search firm obtained the opinion of legal counsel from the firm of Lozano Smith regarding whether or not Dr. Helm could be properly considered as an applicant. The legal opinion was that she could.

The search committee determined that the search should go forward and forwarded the names of three finalists to the Board.

In May the Board interviewed the three candidates and chose two for site visits.

The Board invited the four constituent groups to choose a representative to participate in the site visits.

This is a chronological history of events leading to tonight.

2. Resolution: Arbitration regarding two non-tenured faculty. Certainly, both the Board and the faculty union hope for a speedy resolution to the process.
3. Resolution: Place the vacant administrative position: Executive Vice President on hold. While we all have concerns about the budget, I recommend that the reorganization go forward as agreed.
4. Resolution: Release site visit reports regarding the two presidential candidates. Each individual can choose to release their reports, but we ask that all names be removed to protect the College.
5. Resolution: Limit the presidential contract to one year as with other administrators – We will consider your recommendation.

ADOPT AGENDA

Upon motion by Bill Freeman, seconded by Kevin Healy, and unanimously carried, the Board moved to adopt the agenda.

Trustee Freeman made a motion to postpone the procedure of selecting the Superintendent/President because he believed the process was not ethical. Due to a lack of a second, the motion died.

Trustee Gonzalez-Castro asked to table Action Item IV.C, Approve and Award Lowest Responsive Bid – Center for Applied Technology Building Contractor to the July 1, 2008 Board Meeting. Dr. Helm responded that the reason the item was on this agenda, was because the Board needs to take action by June 23rd or lose \$700,000 of state funds. Legal counsel was present to discuss the item, and Dr. Helm suggested the Board meet with them first, and then as a result of that discussion, decide if they want to postpone their decision.

**DISCLOSURE OF
ITEMS TO BE
DISCUSSED IN
CLOSED SESSION**

Board President read aloud the items to be discussed in Closed Session: legal, personnel, labor, and/or contract matters authorized for Closed Session per Government Code Sections, 3549.1, 54956.9, 54957 and/or 54957.6. She also stated that, for the purpose of clarification, there are actually two items for closed session. One is the selecting of a Superintendent/President and the other is anticipated litigation.

**PUBLIC COMMENT
PRIOR TO CLOSED
SESSION**

Fernando Armenta, County Supervisor, addressed the Superintendent/President search process, and a board member serving on two boards.

Hetty Yelland, Faculty, addressed not being granted tenure.

Ann Wright, HFCA President, read aloud a resolution passed by the rep council to limit the President's contract to one year.

Josh Stratton, community member, spoke in support of Dr. Helm.

Ann Wright, HFCA President, read aloud a resolution passed by rep council to postpone filling the Executive Vice President position.

Aurelio Salazar, Jr., LULAC, asked the Board to consider looking for other qualified candidates for the Superintendent/President.

Tony Anderson, Counselor, addressed not being granted tenure.

Ned VanValkenburgh, Carpenter's Union, spoke about the CAT bid protest.

Gina Rauchenstein, Student Senate President, read aloud student poll results regarding the Superintendent/President.

Sharon Dilbeck, representative of Dilbeck and Sons, addressed the CAT bid protest.

Ann Wright, HCFA President, read aloud a letter from the HCFA in support of faculty who were denied tenure.

Dan McAweeney, CEO, DMC Construction, spoke in support of his CAT bid.

Liz Estrella, Counselor, spoke in support of Dr. Helm.

Phillip Tabera, SUHSD Trustee, asked the Board to consider what the public is saying on both sides of the Superintendent/President search process.

Enrique Mendez-Flores, community member, spoke about the selection of the Superintendent/President.

Ann Wright, HFCA President, read aloud a resolution passed by rep council regarding the presidential process.

David Serena, Coalition for Justice, Fairness, and Equality, read aloud a letter addressing Education Code 72104, Disqualification for High School Governing Board.

Ann Wright, HFCA President, read aloud a resolution passed by rep council regarding the release of the site visit team reports.

Aurora Mendez, faculty, addressed the Superintendent/President search process and her report on the site visits.

Demetrio Prueda, community member and member of Steering Committee addressed Superintendent/President search process.

Michael Mungia, Student Senator, asked the Board to consider an election to fill District 5.

Bob Perkins, community member, addressed the Superintendent/President search process.

Jose Castaneda, community member, spoke about the CAT bid protest and President Valdés' departure.

CLOSED SESSION

As authorized for Closed Session per Government Code Sections, 3549.1, 54956.9, 54957 and/or 54957.6, the Board, Dr. Phoebe Helm, Superintendent, and legal counsel adjourned to Closed Session at 6:15 p.m. to discuss anticipated litigation. Later, Dr. Helm left Closed Session so that the Board could begin their discussion on the selection of the Superintendent/President.

**RECONVENE
OPEN SESSION**

Board President, Kari Lee Valdés reconvened the meeting at 9:50 p.m.

The Pledge of Allegiance was recited.

**REPORT OUT FROM
CLOSED SESSION**

President Valdés reported out from closed session.

1. A subcommittee has been created to fill District 5. The committee will be Trustee Donohue (Chair), Trustee Martinez, and Trustee Healy.
2. A motion was made to stop the Presidential process by Trustee Freeman, seconded Gonzalez-Castro. The motion failed. Trustee Freeman, Trustee Gonzalez-Castro, and Trustee Martinez voted in favor, and Trustee Rice, Trustee Donohue, Trustee Valdés and Trustee Healy voted against the motion.
3. A motion was made by Trustee Healy to accept the recommendation of HCFA to limit the Superintendent/President contract to one year, seconded by Trustee Donohue and unanimously passed.
4. A motion was made by Trustee Rice to appoint Dr. Phoebe Helm as Superintendent/President, seconded by Trustee Valdés and passed with 4 in favor, 2 opposed (Freeman, Gonzalez-Castro) and 1 abstention (Martinez).

PUBLIC COMMENTS

President Valdés moved to public comments and reminded the public the comments would be limited to three minutes.

Ned VanValkenburgh, Carpenter's Union, addressed the CAT bid irregularities.

Theresa Carbajal, community member, thanked President Valdés for her service, asked that she resign as of July 1, and asked the community be allowed to select their next representative via an election.

Andrea Zarate, faculty, addressed the tenure process.

Sharon Dilbeck, Dilbeck and Son, addressed the CAT bid protest.

Dan McAweeney, CEO, DMC Construction, spoke in support of his CAT bid.

Mark Lord, General Manager, DMC Construction, support in support of their CAT bid.

Aurelio Salazar, community member, commented on the student trustee as the time keeper, stating that it sets a low standard.

**APPROVE
TENTATIVE
BUDGET 2008-2009**

As required by the Monterey County Office of Education, the College is required to submit its Tentative Budget before July 1 of each year.

On a motion by Trustee Rice, seconded by Trustee Gonzalez-Castro, and unanimously carried, the Board moved to approve the Tentative Budget for 2008-2009, Set the Date and Time for a Public Hearing, and Set the Date to Adopt the 2008-2009 Budget.

For the purposes of clarification, a second motion was made by Trustee Rice, seconded by Trustee Healy, and unanimously carried, to approve the Tentative Budget (Scenario 2-Draft 2 and Summary of Other Funds), Set the Date and Time for a Public Hearing, and Set the Date to Adopt the 2008-2009 Budget. (Appendix A)

**Public Hearing Date
and Time**

Date/Time for Public Hearing: September 9, 2008, 6:00 p.m.

Date to Adopt Budget

Date to Adopt 2008-2009 Budget: September 9, 2008

**ADOPT
RESOLUTION 08:8**

On a motion by Trustee Donohue, seconded by Trustee Rice, and on a roll call vote of 7-0, the Board moved to Adopt Resolution 08:8, Budget Transfer Fiscal Year 2007-2008.

The purpose of this resolution is, as the college closes the year, transfers will need to be made, and the resolution permits the College to do this. All transfers will come to the Board as a ratification item once the books are closed. Trustee Martinez requested that, in future, he would like to see more information given to the Board.

**APPROVE AND
AWARD BID –
CENTER FOR
APPLIED
TECHNOLOGY
BUILDING**

The following motion was made by President Valdés, seconded by Trustee Rice:

Having considered the bids received for the Center for Alternative Technology project on June 5, 2008, I move that the Board find that (1) the failure to provide the amount of the bid in both words and numbers and to provide a corporate seal on the bid bond are immaterial irregularities that are waived; (2) site work, underground utilities and paving (AC patching, paving and striping)

are included in DMC's Subcontractor's List and are therefore not irregularities; (3) therefore, the bid is responsive; (4) DMC is a responsible bidder; and (5) award the bid to DMC.

Move discussion to Closed Session

Trustee Martinez asked for further clarification and at the recommendation of legal counsel, the Board, along with Dr. Phoebe Helm, moved the discussion to closed session at 10:30 p.m.

Reconvened Open Session

President Valdés reconvened open session at 10:38 p.m., the Board voted on the motion, and the motion failed.

Yes: Donohue, Rice, Valdés

Opposed : Freeman, Gonzalez-Castro, Healy, Martinez

The following motion was made by President Valdés, seconded by Trustee Freeman, and carried by the Board: (Opposed: Healy)

Having considered the bids received for the Center for Alternative Technology project on June 5, 2008, I move that the Board find that (1) the failure to provide a corporate seal on the bid bond; (2) the failure to provide the amount of the bid in both words and numbers; (3) the crossing out of the word "site work" for a portion of the work on the Subcontractor's List; (4) the Subcontractor's List not showing a subcontractor for underground utilities; and (5) the Subcontractor's List not showing a subcontractor for paving (AC patching, paving and striping) are each irregularities that are either immaterial but the Board chooses not to waive them or are material and the Board cannot waive them. Each irregularity renders the bid non-responsive and the bid of DMC is therefore rejected. I further move that the Board find that (1) The portion of work for Dilbeck's elevator subcontractor is less than one-half of one percent of Dilbeck's total bid, and this is not an irregularity; (2) the listing of the casework subcontractor contains an immaterial irregularity, which is waived. The bid is responsive and the contract is awarded to Dilbeck.

ADJOURNMENT

Upon motion by Bill Freeman, seconded by Armando Cortes, and unanimously carried, the Board moved to adjourn the meeting at 10:45 p.m.

Kari Lee Valdés
Board of Trustees President

Phoebe K. Helm, Board Secretary
Interim Superintendent/President