Regular Meeting of the Board of Trustees
May 7, 2013
CALL 208, 411 Central Avenue
Salinas, California

OPEN SESSION
Meeting called to order at 5:04 p.m. by Trustee DePauw in CALL 208.

PLEDGE OF ALLEGIANCE
Student Trustee Duran-Luchini led the Pledge of Allegiance.

ROLL CALL
Candi DePauw, President
Patricia Donohue, Vice President
Bill Freeman
Elia Gonzalez-Castro
Ray Montemayor
Erica Padilla-Chavez
Demetrio Pruneda
Elaine D. Luchini (Student Trustee)

Dr. Willard Lewallen, Board Secretary/Superintendent/President

PUBLIC COMMENTS
Trustee DePauw announced that the board would receive public comments during this time; however, she encouraged those wishing to address the item on lease-leaseback steps and procedures to wait until later in the meeting because the board planned to hear public comments prior to their discussion and action on the topic. Further, she explained, this would allow the board to hear the presentations on project labor agreements first and would allow the board to hear student presentations, some of whom have classes or other commitments they need to attend to this evening.

Steve Rios, first year apprentice with IBEW 234, thanked the board for their partnership with the apprenticeship program and he urged the board to support a project labor agreement for the new science building.

Jose Mendez, community member, thanked the board, administration, staff, and faculty for his experience at the college – that the experience was his springboard to receiving his degree from Sacramento State.

Aurora Mendez, Faculty, addressed the resolution for early retirement incentive and urged the board to consider reducing the number of retirees from seven to four.

Exavior Sanez, student, ACE Program, extended an invitation to the board and assembly to attend the student social justice presentations on Tuesday, May 21, 6 p.m., Steinbeck Hall.
REPORTS FROM ORGANIZATIONS AND LOCATIONS

**Associated Students**: Wayne Ross stated that it has been an honor to attend the meetings and that tonight is his last report. His report included the following: Week of the Young Child, Cinco de Mayo, Rental of cap and gowns, Panetta Institute Lecture Series, and student game center. Mr. Ross thanked Lucy Serrano and Laura Warren for their support. In addition, he stated that he believed Delia Edeza did the best job she could and he urged the board to support the hiring of a full-time director to oversee student life. In closing, he thanked the board for their guidance because he learned a lot.

**Faculty Association**: Dr. Ann Wright reported that the faculty association is currently negotiating with the district and each is working to reach a satisfactory agreement.

**CSEA**: Steve Otero thanked everyone involved with the reclassification and classification study and he thanked the board for considering the adoption of the resolution declaring CSEA week.

**Local 39**: Dale Fuge thanked the Dr. Lewallen for this presentation earlier in the afternoon (President's Forum) and he thanked the board for the opportunity to report at their meetings.

**Alisal Campus**: Dr. Zahi Atallah's report focused on the Diesel Open House, high school student recruitment, an entrepreneurship program within the Monterey Bay Area, update on the hiring of a welding instructor, and a Trade Adjustment Assistance Community College and Career Training Grant opportunity with other bay region colleges. Trustees Pruneda and Freeman followed up with questions related to the welding position.

**South County/King City Education Center**: Renata Funke, King City Education Center, reported on summer enrollments in south county and at the center and that, she and Dr. Lewallen met with the Gonzales High School principal and district superintendent. Also, she is working to partner with adult schools to offer ESL courses – the need is great in south county. The center has hosted a couple of visits 1) Jackie Cruz and Alfred Infante-Diaz, CHISPA Director and Foundation Board member and AVID students from Chalone Peaks Middle School (King City) toured and observed classes. In addition, she has met with Soul Treasurers (Art organization) to explore partnership possibilities. Also, she has been conducting faculty evaluations and she reported that the center has a poetry corner on the second floor of the center. In closing, she working to make reading more interesting in south county and she is exploring ways for students to do self-paced reading.

Following the report, Trustees Pruneda and Padilla-Chavez asked follow-up questions related to enrollment and course offerings at south county satellites and the strategies used to increase reading comprehension.

**President's Report**: Dr. Lewallen reported that he is going to Washington, D.C. with Dr. Eduardo Ochoa, President, CSUMB, this week. He and Dr. Ochoa will serve on a panel to talk to the National Science Foundation about a 3-year BA program that will be launched this fall and while there, they will
receive a grant from the National Science Foundation that will help support the three-year program. In addition, because of Dr. Ochoa's connections with the White House, Dr. Lewallen and others will go to the White House to present to the Domestic Policy Council.

**RECOGNITION OF STUDENT LEADERS**

The board recognized the outgoing student officers and presented them with a certificate of appreciation and those graduating officers received a medallion in recognition of their service.

The out-going officers were:
- Wayne Ross, President
- Jorge Cruz, Executive Vice President
- James Stephens, VP Communications & Relations
- Jorge Camacho, VP Finance
- Erica Lomeli, VP Programs & Services
- Miriam Munoz, VP ICC & Activities
- James Solarte, Senator-at-large
- Maria Lozano, Senator-at-large
- Jesus Antonio Barajas, Senator-at-large
- Laura Contreras, Senator-at-large
- Larry Davis, Senator at Large
- Elaine Duran, Student Trustee

In addition, the board announced the officers for academic year 2013-2014:
- President: James Stephens
- Executive Vice President: Jorge Camacho
- Vice President of Programs & Services: Erica Lomeli
- Senators-at-large:
  - Jesus Antonio Barajas
  - Elaine Duran
  - Miriam Munoz
  - James Solarte
- Student Trustee: Elaine Duran

**2013 NURSING STUDENT LEADERSHIP AND SERVICE LEARNING PROJECTS**

The board received a presentation from the nursing students. Each year, the graduating nursing students complete “Leadership and Image of Nursing” assignments under the advisement of faculty. The overriding goals are to advance the image of Hartnell College, to recruit prospective students to healthcare programs at Hartnell College, and to provide learning and service to populations served by Hartnell College nursing students. This year’s projects include Hartnell College Chapter of National Student Nurse Association; Hartnell College Nursing Alumni Association; Drug Take Back Program; Healthcare Career Days at Salinas High Schools; Partnering for the Future: Interviewing with our clinical partners; Nursing Pinning Ceremony; Labor of Love; and Fifth Annual Hartnell College Nursing and Allied Health Blood Drive. Following the presentation, the board thanked the students for their presentations and congratulated them on their achievements.
The board received two presentations on project labor agreements (PLA). The purpose of the two presentations is to allow the board to hear about project labor agreements from two perspectives.

1) Nicole Goehring, Associated Builders and Contractors, a national trade association that does not support the use of project labor agreements; and 2) Ron Chesshire, Executive Director, Monterey/Santa Cruz Counties Building and Construction Trade Council, a council that supports the use of project labor agreements.

Ms. Goehring stated that ABC’s goal is to provide opportunities for the entire construction workforce whether union or non-union. In addition, ABC supports fair and open competition and freedom of choice for workers concerning union membership and training programs. She explained the requirements of a PLA and that ABC believes that PLAs restrict bidders and increases cost to the project. (Appendix A) Ms. Goehring invited the board to tour their facility on May 22, 2013. After Ms. Goehring’s presentation, the board asked questions about the treatment and pay of workers, the use of veterans and apprentices on projects, the percentage of graduates, and the location of their facility.

Ron Chesshire explained that a project labor agreement is a project management tool used to reduce risks to the owner by prohibiting work stoppages or action by workers, which would inhibit, delay, or stop work on a project. It is an agreement between the owner of a project and the building trades council and its affiliates and that it is a condition of a project an owner would require of its contractor/sub-contractors. Mr. Chesshire stated that the use of a PLA would assist the college in assuring that local tax and bond dollars benefit the local economy and guarantee that the needs and goals of the college and community are reached. In addition, he cited updated statistics for apprenticeship programs in Monterey County. (Appendix B) After Mr. Chessirre’s presentation, the board asked about the advantages for disadvantage businesses, ways in which a PLA is used, i.e., through governmental agencies, and how the council would help the college meet its local hiring goal.

**CONSENT AGENDA**

Motioned (Padilla-Chavez) seconded (Duran-Luchini) by vote of 6-1 (No: Freeman) and by an advisory vote of Aye (Student Trustee), the board moved to approve Consent Agenda Items A through H, excluding the minutes of April 16, 2013 (Board Development).

The minutes of April 16, 2013 (Board Development) were pulled for further discussion. Trustee Montemayor stated that, at the development meeting of April 16, 2013, he asked that project labor agreements be placed on the agenda as an action item for tonight’s meeting and that the minutes do not include his request and that he wants the minutes corrected. Other members recalled the same. The minutes of April 16, 2013 (Board Development) were pulled to allow staff to review the transcript.
A. MINUTES
The board adopted the regular meeting minutes of March 19, 2013 (Board Development), April 2, 2013 (Regular Meeting), and April 16, 2013 (Special Meeting) as submitted.

B. DISBURSEMENTS
The board ratified the disbursements from any or all of the following funds: general; debt service; bookstore; child development; capital outlay projects; scheduled maintenance; property acquisition; bond projects; cafeteria; self-insurance; retirees health benefits; associated student body; scholarship, loan, and trust; and intercollegiate athletics.

C. CURRICULUM
The board ratified the Curriculum Committee actions from the March 21, 2013, April 4, 2013, and April 18, 2013 meetings.

D. BOND OVERSIGHT COMMITTEE STUDENT APPOINTMENT
The board approved the appointment of Elaine Duran Luchini, student representative, and Michael Payne, senior citizen representative to the Bond Oversight Committee for one two-year term, effective May 17, 2013. Mr. Payne will serve his second two-year term.

E. QUARTERLY FINANCIAL STATUS REPORT
The board reviewed and accepted the Quarterly Financial Status Report for the quarter ended March 31, 2013.

F. GRANT APPLICATION: SONG BROWN HEALTH CARE WORKFORCE
The board ratified the grant application, accepted the funds, if awarded, and authorized the administration to enter into agreements to execute the work of the Song-Brown Health Care Workforce Training Act grant. The term of the grant is for two years, effective July 1, 2013 through and including June 30, 2015 for $125,000.

G. GRANT APPLICATION: DEPUTY SECTOR NAVIGATOR FOR INFORMATION COMMUNICATION TECHNOLOGY AND DIGITAL MEDIA
The board ratified the grant application, accepted the funds, if awarded, and authorized the administration to enter into agreements to execute the work of the Deputy Sector Navigator for Information Communication Technology and Digital Media grant. The term of the grant is for one year with an option to renew with successful outcomes. The amount, if awarded, would be $300,000.

H. PERSONNEL ACTIONS
The board approved and/or ratified personnel actions. (Appendix C)

ACTION ITEMS

BUDGET REVISIONS
Motioned (Donohue), seconded (Padilla-Chavez) by vote of 7-0, and by advisory vote of Aye (Student Trustee), the board moved to ratify the budget revisions numbered 10203 to 10277.

RESOLUTION 13:2 2013 CLASSIFIED EMPLOYEE WEEK
Motioned (Padilla-Chavez), seconded (Pruneda), by roll-call vote of 7-0, and by advisory vote Aye (Student Trustee), the board moved to adopt Resolution 13:2, Declaring the week of May 19-25, 2013 as Classified Employee Week.

RESOLUTION 13:3 ED PROTECTION ACCT SPENDING AUTHORIZATION
Motioned (Gonzalez-Castro), seconded (Donohue), by roll-call vote of 7-0, and by advisory vote Aye (Student Trustee), the board moved to adopt Resolution 13:3, Education Protection Account Spending Authorization.
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<tr>
<th>RESOLUTION 13:4</th>
<th>TECHNICAL ADJUSTMENTS TO TRUSTEE AREA BOUNDARIES</th>
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<td>Motioned (Padilla-Chavez), seconded (Gonzalez-Castro), by roll-call vote of 7-0, and by advisory vote Aye (Student Trustee), the board moved to adopt Resolution 13:4, Technical Adjustments to Trustee Area Boundaries.</td>
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<td>The board asked for clarification on the adjustments. Dr. Lewallen explained that all districts in Monterey County are making these adjustments due to a technicality in how the boundaries were drawn and that the recommended adjustments do not make a significant difference in the demographic characteristics of the original, adopted redistricting plan. In addition, his office will notify the redistricting advisory committee about the adjustments.</td>
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<th>RESOLUTION 13:5</th>
<th>EARLY RETIREMENT INCENTIVE FOR STRS MEMBERS</th>
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<td>Motioned (Padilla-Chavez), seconded (Montemayor), by roll-call vote of 7-0, the board moved to adopt Resolution 13:5, Early Retirement Incentive for STRS members. Student Trustee Duran Luchini abstained.</td>
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<td>In addition, the board's action included an amendment to the resolution that corrected the retirement date to July 7, 2013 in order to meet the 60-day requirement.</td>
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<td>There was discussion about the requirement of seven retirees and district savings if fewer than seven retire. The faculty association brought forth a list of more than seven faculty who qualify, but the district is aware of how many will take advantage of the opportunity – that seven is a number that is financially sound for the district.</td>
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<th>AWARD OF POSTHUMOUS DEGREE</th>
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<td>Motioned (Montemayor), seconded (Donohue), by vote of 7-0, and by advisory vote of Aye (Student Trustee), the board moved to award a posthumous degree to Anna F. Martinez per board policy and procedure 4111, Posthumous Degrees.</td>
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<td>The family of Anna Martinez stated that they are extremely grateful to the board and the administration for awarding this degree to their mother stating that she was proud to be part of Hartnell College.</td>
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<th>CONSTRUCTION CHANGE ORDERS</th>
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<td>Motioned (Padilla-Chavez), seconded (Gonzalez-Castro), by vote of 7-0, and by advisory vote of Aye (Student Trustee), the board moved to approve the construction change orders in compliance with board policy.</td>
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<td>There was a question related change order#6 and what caused the change orders to which Joseph Reyes clarified.</td>
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<th>LEASE-LEASEBACK STEPS AND PROCEDURES</th>
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<td>Due to the large number of public comment slips and in the interest of time, the board recessed for five minutes to organize how they would receive public comments submitted for this item.</td>
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<td>After the recess, Trustee DePauw explained that the board would hear 30 minutes of public comments; a total of ten speakers, three minutes each, and others may stand, state their name, and echo a previous speaker.</td>
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PUBLIC COMMENTS

Those who spoke in favor and urged the board to approve the use of a PLA:
Jim Conway, Statewide Labor Coalition
Jose Mendez, Cement Masons, Local 300
Balencio Vargas, Cement Masons, Local 300
Andy Hartmann, IBEW, 234
Pabla Sanchez, CIA
Mark Gonzales, Cement Mason

Others who stood in support of PLA:
Tom Scardida, Laborers Local 297
Phillip Nelson, Building Trades
Chris Burditt, IBEW, 234
Abel Moran
Adrian Flores
Roberto Garcia, American Legion and Northgate Advisory
Eustolia Villasenor, Journeyman/Carpenter
Adam Gonzales
Ken Dursa

Those who spoke and do not support the use of a PLA and urged the board to not enter into a PLA:
Dick Johnson, California Apprenticeship Council
Bob Perkins, President, Salinas Taxpayers Association
Toby Cummings, Associated Builders Contractors
Paul Farmer, Salinas Valley Chamber of Commerce
Don Chapin, Don Chapin Company

BOARD DISCUSSION ON MOTION 1

Trustee Montemayor asked about the paragraph related to PLAs within the RFP/Q and he asked for clarification on what that language meant. Legal counsel, Tom Manniello, stated that the document is a draft and that the language, as written, states that it is at the discretion of the contractor on whether they choose to enter into a PLA. However, should the board choose to, the language could be revised. Trustee Montemayor stated that he cannot support the RFP/Q as recommended and if the motion did not pass, he would consider making a motion to amend the document and move on.

Trustee Padilla-Chavez stated that she is concerned about the college requiring a PLA because of her fiduciary responsibility as a board member and potential litigation, according to her research, surrounding competitive bidding.

Trustee Freeman stated he supports PLAs because he believes it is in the best interest of the students, community, and local workers. Further, he supports amending the RFP/Q to include a PLA.

Trustee Pruneda stated that the board needs to be fair and balanced to better the community and he believes the PLA should be required because he does not want to give his responsibility to a contractor.

Trustee Donohue thanked Ron Chessire for meeting with her – that she appreciated his time. She then referenced that out of $112 million in
construction work, $80 million to union shops, 30% to non-union shops - all without a PLA. It is for this reason, that she supports her motion.

Trustee Gonzalez-Castro stated that the numbers Trustee Donohue cited were from the design, bid, build construction process and that the lease-leaseback method opened up other opportunities, such as a PLA.

Trustee DePauw stated that the board is faced with a difficult situation and she believes, unfortunately, comes down to union vs. non-union. She asked what is best for Hartnell College and its students. She believes the community has been extremely generous to the college and its efforts and believes a divisive decision is irresponsible and she supports leaving the PLA up to the contractor – that excluding a certain portion of the community from this project is wrong.

Dr. Lewallen clarified that the PLA used by the college in 2004 was done under a traditional construction method (design, bid, build) – that a PLA can be done in either construction method and is not tied to the lease-leaseback construction delivery method.

Trustee Padilla-Chavez called for the question and the board voted.

Trustee Donohue motioned, seconded by Padilla-Chavez to approve the lease-leaseback document for the construction of the science building and by roll-call vote of 3-4 and by an advisory vote of Aye (Student Trustee), the motion failed.

Yes: DePauw, Donohue, Padilla-Chavez
No: Freeman, Gonzalez-Castro, Montemayor, Pruneda
Advisory Aye: Student Trustee Duran-Luchini

Prior to the vote, the board asked legal counsel to review the motion by Trustee Montemayor. Legal counsel stated that he believes the motion is to:

1) Approve the RFP/Q as recommended, excluding the paragraph addressing the PLA. Insert language contingent upon negotiating a PLA with Monterey and Santa Cruz Counties Building and Construction Trades Council; 2) Elect three board members to a negotiating team; 3) allow legal counsel to assist, but not have any voting authority; 4) incorporate a PLA into the RFP/Q prior to distribution, and 5) the committee would continue to meet. Legal counsel recommended that #5 be removed because he believes #5 to be premature.

Trustee Montemayor agreed to amend the motion to remove #5.

Trustee Padilla-Chavez stated that she wants to minimize any negative financial impact to the college, and making changes to a document that has not been vetted through legal counsel is irresponsible and asked the board to consider her concern.

Student Trustee Duran-Luchini questioned why the board would want to micromanage when staff is hired to do the work.
Dr. Lewallen advised legal review of the document is prudent and that, in his experience, it is uncommon for boards to negotiate agreements due to time commitment and scheduling.

Trustee DePauw stated that she would like to see the motion amended not to include board members on a negotiating team because the college has many qualified staff to do this work.

Trustee Freeman called for the question and the board voted.

**MOTION 2 and VOTE**

Trustee Montemayor made a motion, seconded by Trustee Freeman, to approve the RFP/Q for the lease-leaseback construction services proposal contingent on negotiating a project labor agreement with the Monterey and Santa Cruz Counties Building and Construction Trades Council. The negotiating team will consist of three (3) Hartnell College Board members elected by the board. Legal counsel will assist the committee but will not have any voting authority regarding the elements of the PLA. The PLA shall be incorporated into the RFP/Q prior to its distribution to potential contractors. On a roll vote of 4-3 and by advisory vote of Nay (Student Trustee), the motion passed.

Yes: Freeman, Gonzalez-Castro, Montemayor, Pruneda
No: DePauw, Donohue, Padilla-Chavez
Advisory No: Student Trustee Duran Luchini

**ADMINISTRATIVE PROCEDURES 2740, BOARD EDUCATION**

Motioned (Padilla-Chavez), seconded (Donohue), by vote of 7-0, and by advisory vote of Aye (Student Trustee), the board moved to approve administrative procedure 2740, Board Education.

**2013-14 BUDGET FOR BOARD TRAVEL**

Motioned (Padilla-Chavez), seconded (Donohue), by vote of 7-0 and by advisory vote of Aye (Student Trustee), the board moved to approve the board's travel budget for fiscal year 2013-14. Trustee Padilla-Chavez asked how the amount per trustee was determined. Dr. Lewallen said the amount was based on previous expenditures. In addition, Trustee DePauw stated that the $3,000 is allowable and is not transferable or accumulative.

**INFORMATION ITEMS**

**CONSTRUCTION PROJECTS – UPDATE**

The board received an updated, written report on the current construction projects. The report is on Page 131 of the May 7, 2013 meeting agenda packet posted at: [http://www.hartnell.edu/board/packets/050713.pdf](http://www.hartnell.edu/board/packets/050713.pdf)

**FINANCIAL STATEMENTS**

The board received the financial statements ending March 31, 2013.

**BUDGET UPDATE**

Alfred Muñoz, Vice President, Administrative Services, presented a budget update as of March 31, 2013. The presentation is on page 178 of the May 7, 2013 meeting packet posted: [http://www.hartnell.edu/board/packets/050713.pdf](http://www.hartnell.edu/board/packets/050713.pdf)

**SUBSTANTIVE CHANGE PROPOSAL – RESPIRATORY CARE PROGRAM**

The board was informed that, on March 18, 2013, the Respiratory Care Program received approval from the Accrediting Commission Substantive Change Committee.
**BOARD POLICY 6800, SAFETY**  
The board reviewed the first reading of board policy 6800, Safety.

**ADMINISTRATIVE PROCEDURE 6800**  
The board reviewed administrative procedure 6800, Safety.

**FACULTY RECRUITMENT UPDATE**  
The administration provided an update on faculty recruitment. Dr. Lewallen reported that over 400 applicants applied for the eight openings. Selection committees are formed and screening and interviews will follow. The positions will be filled over the summer. Trustee Pruneda asked about the process used to determine which positions are recruited. Dr. Lewallen responded he would like to review the process with Trustee Pruneda.

**2013-14 ORGANIZATIONAL STRUCTURE**  
The board received the organizational structure for academic year 2013-14. Trustee DePauw thanked Dr. Lewallen for providing this information.

**REPORTS FROM THE BOARD**  
Student Trustee Duran-Luchini thanked the board for approving her travel to attend the Student General Assembly – it was very informative. Also, she attended a WELI workshop where she heard Jessie Ryan – she was inspiring; that she was invited to apply to the National Leadership of Success, if selected, she would be the president of that chapter; that she attended her first Western Stage meeting and that she is now the student representative to the bond oversight committee.

Trustee Pruneda reported that, as a banana slug, he receives the UCSC Quarterly Report and former student, Juan Ledesma, was in that report.

Trustee Freeman reported that he attended college sports events in track, softball, and baseball. Also, he attended the Monterey County School Boards Association’s annual dinner where he saw Sylvia Panetta. In addition, he attended a dinner for the Alisal Foundation, and he attended Aurora Mendez's retirement party where he thanked Aurora for all of her years of service.

Trustee Padilla-Chavez reported that the dinner for the Monterey County School Boards Association was wonderful and Ms. Panetta did an amazing job. In addition, the awards ceremony for the MESA/STEM was impressive and that the number of Latino students in that program is amazing. She gave kudos to Leti Contreras for a successful event. In closing, she encouraged the board to support the Party in Library, a Foundation fundraising event, by joining the President’s Circle.

Trustee Gonzalez-Castro congratulated Aurora Mendez on her retirement and stated that she is one of the best teachers. She was pleased to attend the Steinbeck Festival and was surprised and happy to see Hartnell connected to the Marks Ranch. The performance, Pastures of Heaven performed by the Western Stage was incredible.

Trustee Montemayor congratulated Aurora Mendez on her retirement and wished all well.

Trustee Donohue extended best wishes to Aurora Mendez on her retirement, stating that there is life after retiring. Also, she shared that the WELI is working to establish 25 dream teams to support women attain their dream.
She challenged her colleagues to support the cause. If interested, contact Dr. Lewallen.

Trustee DePauw thanked Aurora Mendez for her services. She encouraged the board to attend the Party in the Library. Tickets are $150, funds go to a great cause, and the food is great. Also, she, too, thought the MESA/STEM awards evening was great and that the students are amazing.

**MOVE TO CLOSED SESSION**

The board, Dr. Lewallen, Superintendent/President, and legal counsel, Tom Manniello, moved to closed session at 9:20 p.m. to discuss:

1. Conference with Legal Counsel Regarding Existing Litigation (Government Code Section 54956.9(d) (1))
   Name of Case: HCFA/Stave Grievance Arbitration

**RECONVENE PUBLIC SESSION / REPORT OUT FROM CLOSED SESSION**

Trustee DePauw reconvened the public session at 9:35 p.m. and reported the board took no action in Closed Session.

**ANNOUNCEMENTS**

Next meetings:
1. Board Development May 28, 2013, 5 p.m., Hartnell College Main Campus, Building A, Room 116 (Library Distance Learning Room)
2. Regular Meeting June 4, 2013, 5:30 p.m., King City Education Center

**ADJOURNMENT**

The meeting adjourned at 9:50 p.m.

Candi DePauw
Board President

Willard Lewallen, Ph. D.
Board Secretary
Project
Labor Agreements:
Divisive, Discriminatory, Disproven
Hartnell Community College District

May 7, 2013

Who is Associated Builders and Contractors?
In Northern California, we represent our 440 General and Subcontractor members who perform commercial, industrial and public works construction. Ten percent of our membership consists of Associate and Supplier members who support the construction industry. Our members work within the merit shop philosophy.

Our goal
• To provide increased opportunities for the entire construction workforce of today and tomorrow whether they be union or non-union. In the normal construction market, work is performed by union General Contractors and union and non-unions subs on hundreds of jobs each day throughout California and vice versa. We are merit shop and do not discriminate.
• We also operated state approved apprenticeship programs in several trades.

Who is Associated Builders and Contractors?
➢ A National Trade Association of
  • 72 chapters
  • Representing 22,000 merit shop construction and construction-related firms
  • More than 2 million employees
➢ In California, five chapters of ABC represent more than 1,200 members.
Who is Associated Builders and Contractors?

- ABC Supports:
  - Fair and open competition
  - Free enterprise
  - Freedom of choice for workers concerning union membership and training programs
  - Balanced budgets
  - Reasonable regulation

What is a Project Labor Agreement (PLA)?

- An exclusionary labor agreement that discourages merit shop contractors from competing for and winning construction projects.
- Big labor’s attempt to circumvent the fair and open bidding process that has been the fabric of economic growth and stability of many small businesses in America.

What are some requirements of a PLA?

- Non-union workers must pay union dues for the right to work on the job (i.e. $1100 per worker on 2010 Discovery Bay Asphalt Rubber Cape Seal Project).
- All workers must be hired through a union hiring hall. This discriminates against non-union workers.
- Non-union companies are often forced to lay off proven, productive workers to hire strangers.

Under a PLA, continued:

- All employees must contribute to union health, welfare and pension plans, regardless of whether or not the workers already have their own plans. Companies thus have to pay benefits twice: once to the union and once to the company plan. Workers never see any of their benefits sent to the unions unless they decide to leave their non-union employer and remain with the union until vested.
- All apprentices must come from state approved union programs, discriminating against all apprentices in state approved merit shop programs.
According to the most recent data from the U.S. Department of Labor’s Bureau of Labor Statistics (released January 2013), only 13.2 percent of America’s private construction workforce belongs to a union.

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<th>Union</th>
<th>Non-Union</th>
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<td>13.2%</td>
<td>86.8%</td>
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- Union Membership in Construction (California)

Understanding Now What PLAs Are, Here is What Happens When You Use One!

- PLAs increase the cost of construction in California between 13 percent and 15 percent.

  - Measuring the Costs of Project Labor Agreements on School Construction in California, a 2011 study by National University’s Institute for Policy Research and the most comprehensive study conducted to date regarding the costs of Project Labor Agreements, concluded that California school construction costs taxpayers 13-15% percent more when built under Project Labor Agreements. This means that, in inflation-adjusted dollars, a Project Labor Agreement is associated with costs that are as much as $32.49 per square foot higher than those built without PLAs.
This is Why Only 15 Out of California’s 72 Community College Districts Have Used a PLA

- CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT
- CONTRA COSTA COMMUNITY COLLEGE DISTRICT
- FOOTHILL-DEANZA COMMUNITY COLLEGE DISTRICT
- HARTNELL COMMUNITY COLLEGE DISTRICT
- LOS ANGELES COMMUNITY COLLEGE DISTRICT
- MARIN COMMUNITY COLLEGE DISTRICT
- OHLONE COMMUNITY COLLEGE DISTRICT
- PERALTA COMMUNITY COLLEGE DISTRICT
- RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
- RIO HONDO COMMUNITY COLLEGE DISTRICT
- RIVERSIDE COMMUNITY COLLEGE DISTRICT
- SAN FRANCISCO COMMUNITY COLLEGE DISTRICT
- SAN JOSE-EVERGREEN COMMUNITY COLLEGE DISTRICT
- SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
- SOLANO COUNTY COMMUNITY COLLEGE DISTRICT

72 Community College Districts in CA
57 do not use PLAs

- ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT
- ANTELOPE VALLEY COMMUNITY COLLEGE DISTRICT
- BARSTOW COMMUNITY COLLEGE DISTRICT
- BUTTE-GLENN COMMUNITY COLLEGE DISTRICT
- CABRILLO COMMUNITY COLLEGE DISTRICT
- CERRITOS COMMUNITY COLLEGE DISTRICT
- CHAFFEY COMMUNITY COLLEGE DISTRICT
- CITRUS COMMUNITY COLLEGE DISTRICT
- COAST COMMUNITY COLLEGE DISTRICT
- ($99M Measure M)
- COMPTON COMMUNITY COLLEGE DISTRICT
- COPPER MOUNTAIN COMMUNITY COLLEGE DISTRICT
- DESERT COMMUNITY COLLEGE DISTRICT
- EL CAMINO COMMUNITY COLLEGE DISTRICT
- FEATHER RIVER COMMUNITY COLLEGE DISTRICT
- GAVILAN COMMUNITY COLLEGE DISTRICT
- GLENDALE COMMUNITY COLLEGE DISTRICT
- GROSSMONT-CUYAMACA COMMUNITY COLLEGE DISTRICT
- IMPERIAL COMMUNITY COLLEGE DISTRICT
- KERN COMMUNITY COLLEGE DISTRICT
- LAKE TAHOE COMMUNITY COLLEGE DISTRICT
- LASSEN COMMUNITY COLLEGE DISTRICT
- LONG BEACH COMMUNITY COLLEGE DISTRICT
- LOS ANGELES COMMUNITY COLLEGE DISTRICT
- MENDOCINO-LAKE COMMUNITY COLLEGE DISTRICT
- MERCED COMMUNITY COLLEGE DISTRICT
- MIRACOSTA COMMUNITY COLLEGE DISTRICT
- MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT
- MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT
- MT. SAN JACINTO COLLEGE DISTRICT
- NAPA VALLEY COMMUNITY COLLEGE DISTRICT
- NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
- PALO VERDE COMMUNITY COLLEGE DISTRICT
- PALOMAR COMMUNITY COLLEGE DISTRICT
- PASADENA AREA COMMUNITY COLLEGE DISTRICT

72 Community College Districts in CA
57 do not use PLAs

- REDWOODS COMMUNITY COLLEGE DISTRICT
- SAN BERNARDINO COMMUNITY COLLEGE DISTRICT
- SAN DIEGO COMMUNITY COLLEGE DISTRICT
- SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT
- SAN LUIS OBISPO COMMUNITY COLLEGE DISTRICT
- SANTA BARBARA COMMUNITY COLLEGE DISTRICT
- SANTA CLARITA COMMUNITY COLLEGE DISTRICT
- SANTA MONICA COMMUNITY COLLEGE DISTRICT
- SEQUOIAS COMMUNITY COLLEGE DISTRICT
- SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE DISTRICT
- SIERRA JOINT COMMUNITY COLLEGE DISTRICT
- SISKIYOUJOINT COMMUNITY COLLEGE DISTRICT
- SONOMA COUNTY COMMUNITY COLLEGE DISTRICT
- SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
- SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
- STATE CENTER COMMUNITY COLLEGE DISTRICT
72 Community College Districts in CA
57 do not use PLAs
- VENTURA COUNTY COMMUNITY COLLEGE DISTRICT
- VICTOR VALLEY COMMUNITY COLLEGE DISTRICT
- WEST HILLS COMMUNITY COLLEGE DISTRICT
- WEST KERN COMMUNITY COLLEGE DISTRICT
- WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT
- YOSEMITE COMMUNITY COLLEGE DISTRICT
- YUBA COMMUNITY COLLEGE DISTRICT

Only three projects in California bid with and without a PLA
- Burckhalter Elementary School in Oakland USD—eight bidders to three bidders, **low bid increased 24 percent**
- City of Pasadena’s Glendale Power Plant—**low bid increased more than 15 percent**
- Contra Costa County 2010 Discovery Bay Asphalt Rubber Cape Seal Project – two bidders, **low bid difference was $369,310.40 on a $1.8 million dollar project**

Exclusion of bidders = higher costs to taxpayers.
- 30% reduction in bidders on the City of Brentwood Civic Center bid under a PLA
  - Only one local contractor on the winning bid list.
- 25 general contractors went through the pre-qualification process before the PLA was implemented - 20 prequalified.
- On bid day the number of contractors bidding the work dropped almost 50% to 11!

Exclusion of bidders = higher costs to taxpayers.
- Two local governments in Northern California tried Project Labor Agreements in so-called “pilot projects.” At the Mount Diablo Unified School District, the district received one $5.2M bid for a two-piece project covered by a Project Labor Agreement. One bid exceeded the estimate by 300%, the other exceeded the estimate by 93%. On the rebid, the district only managed to get two bidders.
- At the Solano County Community College District, only two contractors bid on a simple $3 million pilot project classroom renovation covered by a Project Labor Agreement.
Exclusion of bidders = higher costs to taxpayers.

- The San Diego Unified School District placed a PLA on its $2.1B construction bond in July 2009. The first project to go out to bid under the PLA had 66% less bids than a similar project in the area without a PLA provision. The bid was 35% over budget and was awarded to a bidder from Los Angeles.

- On the recent Contra Costa Community College District Student Services Remodel bid, there were 17 prequalified bidders before the Project Stabilization Agreement was put in place. The result of the PSA? 5 contractors bid the project. The engineer’s estimated construction cost for the LMC Student Services Center Remodel project was $14.87M and the final bid price was $16.47M representing a cost differential $1.6M or 10.7%.

Santa Cruz Metro Transit District Judy K. Souza Operations Facility recently bid under a PLA

- The project bid September 12, 2012
- Eight out of eight bid proposals had deficiencies
- The project was awarded on December 7, 2012 after a nearly 3 month delay due to deficiencies in the bid proposals and a subsequent bid protest by the United Brotherhood of Carpenters and Joiners of America Local 505.
- Only two of the sixteen subcontractors were from the Tri-Counties

PLAs are not needed to hire veterans
Helmets to Hardhats Complete Failure on Lodi Energy Center Project

We have zero confirmed helmets to hard hats onsite. The boilermakers and the fitters have both confirmed they are enrolled in the program, but just with zero takers. I’m still waiting on a response from the electricians and laborers. As you know, the carpenters and operators are not a part of the PLA.

Matthew Ventura, ARB Inc.
April 29, 2011

PLAs cannot require Local Hire

- The California Public Contract Code section 20111 provides that “the governing board shall let any contract for a public [construction, repair, etc.] project involving an expenditure of fifteen thousand dollars ($15,000) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.”
- Thus, school districts may not require bidders of public works projects to employ a certain percentage of local employees (at least for contracts of $15,000 or more) because to do so could result in a district not letting a contract for a public project to the lowest responsible bidder.
PLAs do not ensure Labor Compliance

- LAUSD was among the first school districts to adopt a PLA.
- **LAUSD Found**, over a four year period from July ’08 to July ’12, there was nearly $13 million assessed in under paid wages, training fund contributions and penalties from hundreds of contractors.


**WHAT THE PUBLIC THINKS**

**ELEVEN CHARTER AMENDMENTS, ORDINANCES, AND RESOLUTIONS IN CALIFORNIA HAVE PROHIBITED LOCAL GOVERNMENTS FROM ENTERING INTO CONTRACTS THAT REQUIRE CONSTRUCTION CONTRACTORS TO SIGN PROJECT LABOR AGREEMENTS WITH CONSTRUCTION TRADE UNIONS**

**VOTERS IN FIVE LOCAL GOVERNMENTS SAY NO TO PLAS**

- **City of San Diego** – Ordinance – Prohibition of Project Labor Agreements
  Approved by 58% of Voters, June 5, 2012
  San Diego Municipal Code §22.44

- **City of El Cajon** – Charter Provision – Fair and Open Competition
  Approved by 58% of Voters, June 5, 2012
  El Cajon Charter §400

- **Chula Vista** – Ordinance – Fair and Open Competition in Contracting
  Approved by 56% of Voters, June 8, 2010
  Chula Vista Municipal Code §02-59

- **Oceanside** – Charter Provision – Fair and Open Competition
  Approved by 54% of Voters, June 8, 2010
  Oceanside Charter §303

- **San Diego County** – Charter Provision – Prohibition on Requiring Project Labor Agreements
  Approved by 76% of Voters, November 2, 2010
  San Diego County Charter - §705.4

**“The city had accepted bids for three projects before the city passed its charter, and then put them back out to bid. The bids saved the city $970,000.”**

Jerry Kern, Oceanside City Councilman

PublicCeo.com October 2nd, 2012
“The ultimate effect of the San Francisco Airport PLA is clear ... once a PLA was implemented, minority business enterprise prime contract participation dropped 91.9 percent and subcontract participation dropped 34.4 percent. This PLA has been a disaster for minority-owned businesses...”

American Asian Contractors Association

The PLA on Measure Q projects will disproportionately affect small business, particularly those owned by minorities and women. Imposing such restrictions on competitive firms that bid on construction projects ultimately serves only to reduce the number of minority-owned businesses that seek to compete with union-preferred competitors. This is why the Latin Builders Association, the American Asian Contractors Association, the National Black Chamber of Commerce and Women Construction Owners and Executives all oppose PLAs.

(O.C. Register, Published: April 3, 2013)

Almost Every Construction Organization Opposes PLAs

Opposed:
- Air Conditioning and Trades Association
- American Subcontractors Association
- California Subcontractors Association
- American Road Builders and Transportation Association
- Asian American Contractors Association
- Associated Builders and Contractors
- Associated General Contractors (Opposed to GMPLAs)
- Black Contractors Association
- Bay Area Black Contractors Association
- Californians for the Advancement of Apprenticeship & Training

In Favor:
- Construction Trade Unions
If the Hartnell Board of Trustees is Really Interested in Fair and Open Competition

- Adopt fair and open language that solves the key provisions that are so problematic thus increasing competition and perhaps reducing the cost of the project for taxpayers. A “fair” PLA would also provide a more inviting environment for small businesses in the area – including minority and women-owned businesses – to consider submitting a proposal.
- All sides should be represented in the negotiations.
- Include language that allows for the use of all state approved apprentices.
- Allow Contractors to hire their Core Workforce.
- Allow Contractors to pay health and pension employee benefits into their existing plans.
- Allow voluntary payment of union dues and fees.

Thank you for allowing us to be part of your decision making process.

For more information about PLAs visit: www.thetruthaboutplas.com
WHAT IS A PROJECT LABOR AGREEMENT?

• A PLA is a project management tool used to reduce risks to the owner by prohibiting work stoppages or actions by workers which would inhibit, delay, or stop work on a project.

• A PLA is a negotiated agreement between the owner of a project and the Building Trades Council and its Affiliates.

• A PLA is a condition of construction an owner would require of its contractors/subcontractors doing work on a project.

The Purpose of a P.L.A

To ensure all construction work be performed efficiently, economically and without interruption.

To assist the College in assuring that local tax and bond dollars benefit the local economy.

And

To guarantee that the needs and goals of the College and community are reached.

• A PLA requires construction work on a project to be done under the terms and conditions and/or any negotiated amendments to the respective collective bargaining agreements of the trades with jurisdiction in the local area.

• A PLA must be placed in any RFP/RFQ and bid documents so contractors will be aware of the terms and conditions of the project.

Note – Any Contractor can bid under a PLA. If they don’t, it is their choice.
COMPONENTS OF A PLA

• Recognition of Owner’s Rights
• Mechanism To Ensure Steady Supply of Skilled Labor
• Scope of work and duration of agreement
• Terms of contracting and subcontracting
• Prohibition of labor disputes
• Pre-Established Mechanism For Resolving Employee Grievances and jurisdictional disputes
• Anti-discrimination clause
• Union security
• Statement of Wage, Hours, Benefits and working conditions
• Safety
• Compliance
• TRAINING

Possible Components to Negotiate to Help the College Meet Its Goals

• Mechanism for increased safety, training and programs
• Use of alternative dispute resolution process to lower workers compensation, therefore total cost – CBA only *
• Target employment of local residents, especially students
• Create work opportunities for historically disadvantaged workers and contractors
• Utilization of small, local, and disadvantaged businesses

• Provide opportunities for Veterans
• Recruit Women into non-traditional careers
• Employment of apprentices in State prescribed ratios

All other goals of the College as determined by the Board within legal boundaries and the purview of the Building Trades Council

PLAs ARE LEGAL FOR PUBLIC WORKS IN ALL 50 STATES & THE DISTRICT OF COLUMBIA

• The California Supreme Court Said: Public Entities Have the Same Right As Private Owners to Use PLAs as a Management Tool For The Effective Construction of Their Public Works Projects.
A SAMPLING OF EDUCATIONAL INSTITUTIONS USING PLas

- Peralta Community College, Vista Campus
- Solano Community College District
- Pittsburg Unified School District
- City College of San Francisco
- San Mateo Community College District
- San Mateo High School District
- East Side Union High School District
- Oakland Unified School District
- West Contra Costa Unified School District

PLas ASSIST IN PROVIDING LOCAL APPRENTICESHIP OPPORTUNITIES AND CREATING CAREERS

It is Estimated That 70% of All High School Graduates Will NOT Go On To A Four Year College Education

Note – this does not take into consideration those that do not graduate from HS. There also needs to be a path for them.

APPRENTICESHIPS IN MONTEREY COUNTY

From DAS Records Issued May 2013

- There Were 253 State Registered Apprentices in Monterey County
- All Construction Trades Operate in Monterey County Along With Automotive, Barber and Cosmetology, Civil Service, Highway Patrol, Firefighters, Stationary Engineers, Meat Cutters, and Plant Workers (PG&E)
- Of the 253, 193 Were in Construction Apprenticeship Programs
- Of the 193, 172 Were in Union Programs and 21 Were in Other Programs
- Of the 21, 10 Were in Roofing, 11 in Electrical.

* Union Apprenticeship Programs Cover 18 Different Building and Construction Trades, the Others Only Cover 2

“The Record and History Shows That Union Apprenticeship Programs Have Made a Commitment and Invested in The People of Our Community and Our Industry.” Ron Chesshire

UNION APPRENTICESHIP PROGRAMS IN CALIFORNIA INVEST TENS OF MILLIONS OF DOLLARS EACH YEAR IN APPRENTICESHIP TRAINING
PLAs PROVIDE A MECHANISM FOR EDUCATIONAL INSTITUTIONS AND BUILDING TRADES COUNCILS TO PARTNER IN INSTITUTING PROGRAMS TO IDENTIFY, EDUCATE, AND PROVIDE OPPORTUNITIES

- Career Clubs on Campus
- Testing
- Leadership training
- Trade seminars
- Classroom visits
- Field trips
- Recruitment
- Apprenticeships leading to careers

APPRENTICESHIP PROVIDES

- Skilled Training
- Life Time Careers and Upward Mobility
- A Living Wage
- Health and Welfare Benefits
- Pension Benefits
- Insures That Graduates From Union Apprenticeship Programs are NOT a Drain On the Local Economy or Social Welfare Systems

PLA BENEFITS TO THE COLLEGE

- A PLA Can Assist the College With Prequalification of Qualified Contractors
- A PLA Can Assist the College With Contract Compliance Monitoring For Public Works
- A PLA Can Assist in Bringing a Project in On-Time and Within Budget
- A PLA Can Assist The College To Ensure Local Hiring For Its Construction Projects
- A PLA Can Assist The College To Ensure Apprenticeship Opportunities For Its Students and Graduates
- A PLA can assist Hartnell College in Meeting Desired Goals

OVERVIEW OF PLA BENEFITS

- Yields Quality Construction, On Time and On Budget
- Assists Colleges In Monitoring Compliance With Public Works Laws
- Benefits Local Economy and Local Workers
- Builds Construction Careers not one-time Jobs
- Provides Apprenticeship Opportunities For Community Members and Interested College Students and Graduates
Tonight, with the politics that are being played, it is imperative that the lease-leaseback proposal is amended if a PLA is to be included.
Personnel Actions approved and/or ratified at the Hartnell College Board of Trustees Regular Meeting of May 7, 2013:

I. Retirements, resignations, releases, and leave requests
   A. Ratify resignations of regular personnel:

II. Appointments
   A. Ratify appointment of classified employee:
      1. Daniel Jimmeye, full-time, 40 hours per week, 12 months per year, Multimedia Technician – Information & Technology Resources, (#CC-124), Range 33, Step A, effective April 24, 2013.
   B. Ratify appointment of part-time instructor for spring semester 2013:
      1. Karl Ewald, Engineering
   C. Ratify appointment of substitute:
      1. Yesenia Contreras, $16.52/hr (40 hrs/week), division administrative assistant, February 19 – April 1, 2013.
   D. Ratify appointments of Professional Experts:
      Hartnell’s theater arts program/The Western Stage (TWS) provides students the opportunity to learn their craft within a professional context. The Young Company (YC) exposes young people to theater arts:
      2. Richard Green, $7,000 total, photographer, May 1 – December 7, 2013.
      3. Amber Hamzeh, $5,000 total, costume designer, April 20 – June 7, 2013.
      5. Leslie Lancaster, $13,500 total, properties coordinator, April 2 – December 21, 2013.

The Athletic Program provides competitive opportunities for Hartnell students, and professional experts assist coaches in fulfilling the program’s mission:
5. Chris Hauswirth, $500 total, assistant track coach, April 1 – April 27, 2013.
6. Jesus Santa, $500 total, assistant track coach, April 1 – April 27, 2013.

The Foster Kinship Care Education Program (FKCE) provides advanced training for current and prospective foster, relative, and non-related extended family member caregivers, adoptive parents, and local agency employees. It also provides support for foster home recruitment activities. This grant-funded program is a joint effort of the California Community College Chancellor’s Office and the Department of Social and Employment Services (DSES). Assignments include orientation leaders, trainers, childcare and activity providers, and program coordination:
8. Denise M. Fematt, $13/hr (as needed), childcare, March 1, 2013 - June 10, 2015.
9. Denise M. Fematt, $16/hr (as needed), childcare lead, March 1, 2013 - June 10, 2015.

E. Ratify appointments of volunteers:
   1. Ashley Varao, King City Center, April 1 – May 31, 2013.

F. Ratify appointments of student workers for spring semester 2013:
   1. Maria Alejandre-Manzo, Child Development Center, Student Worker I
   2. Cristina Calderon, Human Resources, Student Worker I
   3. Rodolfo Garcia, MESA, Student Worker IV
   4. Jocelyn Gonzalez-Martinez, Student Services, Student Worker III
   5. Yeraldiny Jose Alonzo, HEP, Student Worker I
   6. Wei Li, MESA, Student Worker IV
   7. Aaron Lopez, MESA, Student Worker IV
   8. Luis Perez, Title V, Student Worker IV
   9. Lisset Ramirez, Tutorial Center, Student Worker III
   10. Rex Ramos, Student Affairs, Student Worker III
   12. Vanessa Rouch, Title V, Student Worker II
   13. Raul Tapia, ACE, Student Worker III
   14. Ramiro Valdez, MESA, Student Worker IV
   15. Ricardo Valenzuela Acharte, Student Services, Student Worker III