



March 16, 2009

M E M O R A N D U M

TO: District Board of Trustees

FROM: William D. Law, Jr., President

SUBJECT: February 16, 2009 Workshop and Board Meeting

Attached please find the minutes of the February 16, 2009 Board of Trustees Workshop and Meeting.

STAFF RESOURCE: Lenda Kling

RECOMMENDED ACTION:
Approve minutes as presented.

MINUTES
District Board of Trustees
Tallahassee Community College
444 Appleyard Drive
Tallahassee, FL 32304-2815
February 16, 2009
Board Workshop – 2:30 pm
Business Meeting – 4:00 pm

Vice Chair Moore called the District Board of Trustees workshop and business meeting to order at approximately 2:31 pm.

Members Present: Vice Chair Moore, Trustees Lamb, Moon, and Shirah.

Absent: Chair Messersmith, Trustee Hebrock

Via phone: Trustee Stanfield

Others Present: President Bill Law, Monte Finkelstein, Sally Search, EE Eunice, Chip Singletary, Kate Stewart, Carol Easley, Chiquita Henderson, Cherry Alexander, Marge Banocy-Payne, Barb Gill, Susie Hall, Donna Riordan, Robin Johnston, Bill Campman, Teresa Smith, Jerry Schilling, Bill Spiers, Jim Murdaugh, Sharon Jefferson, Barbara Sloan, Tom Wallter, Lee Kitchen, Scott Balog, Jacque Parramore, Lois Ewen, Bobby Jones, Renee' Maples, Tony Stallworth, Val Bahl, Robert Bell, John Norris, Maureen O'Neil, John Chapin, Melvin Stone, Renae Tolson, Bill Mabile, Randy Hanna, Jim Crosland, Theresa "Cissy" Proctor and Lenda Kling

COMMENTS

Board Chair – Vice Chair asked everyone to rise for a moment of silence and the pledge of allegiance. She asked for comments from Board Members.

Board Members – None

President – Dr. Law indicated that Chair Messersmith had a family matter requiring him to be out of town and that Trustee Hebrock had something come up at the last minute preventing his attendance. A minor addition to the Human Resources Report based upon the recent hire of two positions was provided.

BOARD WORKSHOP

President Law indicated that as discussed last month, we addressed a matter with the United Faculty of Florida where they approached the Board seeking voluntary recognition to represent our faculty in a collective bargaining arrangement. We have

acquired, via Bill Mabile's office, the services of Bryant, Miller, Olive to provide us with legal guidance during this period. We have done this before when we needed specialized assistance with the support of Mr. Mabile's general counsel.

A former member of this Board and civic leader in Tallahassee, Randy Hanna, is here and will introduce the members of the Bryant, Miller, Olive team. Mr. Hanna indicated he has served on the Board for the period 1991 – 1995, then 5 years on the State Board of Community Colleges and 4 years on the FAMU Board. In addition to being on the Board here, he shared he was also an adjunct faculty member for a couple of years.

He indicated he was very happy to present two of their team members, Jim Crosland and Theresa "Cissy" Proctor. Mr. Crosland has practiced law for many years in the area of labor and employment matters, with a great reputation across the State of Florida.

The firm represents about 70% government and 30% private, all on the management side. Examples of clients are City of Miami, Miami Dade County Public Schools, City of Pompeii, Broward Community College and a number of other institutions of higher education.

Currently the United Faculty of Florida has filed a representation petition with PERC seeking to represent the instructional faculty. The college must now file a response to that petition and deals with whether the college agrees with the proposed voting the union has identified. We are in the process to formulate a position of the college which is not due for another 10-11 days. We will also address managerial, supervisory, confidential issues and unit placement in community colleges throughout the state. We will not be addressing today what our position will be since it has not been finalized.

If parties are in agreement of who is eligible to vote, it will go to the PERC commission and they will issue an order to hold an election. The election division of PERC takes over and arranges the details with the parties. That is only if everyone is in agreement and could take 4-6 weeks.

If college determines some of the job classifications identified by the union are incomplete or too liberal, we will file that response and PERC will hold an evidentiary hearing. Both sides could then file briefs (proposed findings of facts), then the hearing officer makes a decision and both sides are allowed to file exceptions to that. It again goes before PERC, they make a ruling and an election could occur after that. Process generally could take about 2 - 3 months.

There has been some discussion about the validity of the union cards used, with some employees who feel they have confusion on the purpose of the card and we are looking into this issue. The standards under PERC to challenge the card are extremely stringent. The policy is if you sign the card – you sign the card.

Neither side (employer and employees) should threaten the other side in this type of situation (if you do this, we will do that scenario). After speaking with President Law, it

is apparent the college is dedicated to following the law and will conduct itself within the confines of the law.

The members of the Board have the right to an opinion and can express it openly or formally in writing. He indicated union members could request to meet with Board Members, since it is legal for the union members or employees favoring the union to do so. He indicated it was the right of the Board Member to determine if they wished to meet and cautioned that because they love their school, faculty and students their comments could be turned around.

If union negotiation should occur in the future, in Florida the final decision on the collective bargaining agreement rests with the Board of Trustees – not anyone else. Therefore he cautions them to be quite careful, because their well intentioned comments of jobs well done could be misunderstood.

Mr. Crosland further discussed the impact of what it means to be unionized, indicating there is some confusion in the public sector of the difference between unit and union. The union seeks to represent a bargaining unit of certain job classifications. If the union wins an election, assuming there will be one, they will represent a certified bargaining unit (certainly instructional faculty and maybe some other job classifications).

Florida is a right to work state and the statute is different between public and private sector. Under the federal statute, the employer and the union may agree to make it a condition of employment for an employee to join the union and maintain dues. The most significant amendment, Taft Hartley, to the statute above says it is illegal / unlawful in any right to work state to make union membership or non-membership a condition of employment.

With that in mind, it is possible you could end up with a bargaining unit with less than an half being members of the union. They have to get 50% plus one to vote to win an election, but it is typical in Florida that less than 50% of the bargaining unit to pay dues. He shared he represented some cities where it was 15-20% dues paying.

After the bargaining if there are impasse issues such as salary, sabbaticals, separation pay, holiday pay, office hours, etc., it goes before the Board and the Board makes the final decision. Currently today, the Board is the final decision maker so this does not change a thing.

Trustee Moon asked about the union cards and the election. Mr. Crosland indicated he was referring to the cards that were handed out seeking signatures requesting union representation so they could file a petition to PERC. The cards must represent 30% of the bargaining unit to be represented to get the petition filed, not to win an election.

Mr. Crosland indicated if we disagreed (we have not yet made a decision) with whom the union has identified as members of the bargaining that can vote, it will go to a hearing. The final decision on the voting members is made by PERC.

The petition asked for recognition of all full-time faculty, including librarians and counselors. We have a few hybrid cases in librarians and counselors where people were hired as faculty, although we no longer hire people in those job classifications as faculty. Most of our Department Heads are faculty with release time for administrative duties. In at least one case, we have a Department Head that was hired in an administrative classified position. Whether you vote for the union or not, if the union is in place – all members of the bargaining unit are represented.

Co-chair Moore thanked everyone, indicating the information was very helpful. She indicated faculty who signed the card and later changed their mind or indicated they did not understand what they were signing, asking if they could withdraw their signature.

Mr. Crosland indicated if faculty changed their mind about signing the card they can write the union requesting the card be returned, it is up to the union whether or not they give it back.

Trustee Lamb asked about impasse and clarified that the Board is the final decision maker now and with a union. When you get to the final impasse, the Board can procedurally decide to look at each item individually or by slate (all items together).

Good faith bargaining begins with status quo. Sometimes union organizing mantra is what you have now cannot be taken away, it can only go up. That is wrong; the legal truth is that all things are negotiable. We might agree to increase fringe benefits, but in return to pay for that we may have to cut something else.

Mandatory subjects of bargaining include one of particular interest to Mr. Crosland, the faculty senate issue. The whole concept of faculty senate is collegiality. The position could be that with a union, the faculty senate is no longer needed since you cannot discuss items assigned to the union with the faculty senate.

Florida has some of the strictest sunshine laws in the nation. PERC is one of the greatest exceptions. In dealing with collective bargaining the Board can meet in a private meeting (via Executive Session) – no minutes or recordings—then give direction to the President. In the impasse hearing you can only decide on those items that were brought before them – not new items.

Mr. Crossland noted that in the UFF's communications they stress there will be little change and collective bargaining is a very collegial process. He expressed his clear opinion that there is nothing collegial about collective bargaining. It is a very adversarial process.

President Law indicated they had covered interest bargaining which is the litany of subjects to be covered by a contract and which remains at the sole discretion of the board. After a contract is reached if there is a dispute over how it is implemented, he asked for clarification on how it is handled differently.

Mr. Crosland indicated the PERC statute dictates there is a grievance procedure with binding arbitration to be followed when there are disagreements on interpretations of how items are implemented. When there are differences on what the terms of the contract mean, the issue could go to arbitration outside the control of the board and the faculty bargaining unit.

There are references to arbitration in the UFF letter where both issues are basically addressed, however if you are not familiar with this process it can be rather vague. There is not interest arbitration in the State of Florida, but there is another type of arbitration that is over the interpretation of the subject language.

We believe there are more than enough cards to have a vote. PERC handles the vote. 50% of the people voting, not those eligible to vote, will determine the outcome of the vote. At FSU the number of people voting was in the low 20%, so a small number of people can make a big impact for all the people in a bargaining unit.

Trustee Shirah indicated the union may be sending letters that are not entirely forthcoming. She wanted to know if we were doing something to address. Dr. Law and Dr. Sloan have met with faculty in each division to provide faculty with as much legal and complete information as possible.

Organized via the Faculty Senate, March 3rd there will be an all faculty meeting. Mr. Frank Baglione and Dr. Law will each address questions/issues on facts/perceptions. We are working to get everyone all the information so they feel empowered to vote.

The previous meetings were engaging and professional. There were no awkward moments for anyone involved and a variety of questions were asked. We set up methods where questions could be asked anonymously via their dean or personally. We got different questions from each division and feel we have worked to get answers.

Trustee Moon asked who the Board was representing last month when they unanimously voted not to voluntarily recognize the union and was assured the Board was representing the employer. Trustee Lamb clarified that the process was not pretty and asked if the union and administration agreed on an item, what happened next.

The agreed upon item then comes to the Board for ratification. The Board has the right to deny the negotiation and tell them to try again. At that point, the union and administration goes back to the negotiating table.

Vice Chair Moore asked if there are financial ramifications we should think about based upon what may happen. At this juncture, it is recommended that we do not get ahead of the process. This Board has given raises every year that Dr. Law has been here.

Jim Crosland clarified that the final authority is the board, even if there is a vote for a union. Bill Mabile indicated by law it remains the board's authority to take disciplinary

action and release its employees from work for legitimate reasons. He further iterated that negotiating items can go either way. Ms. Proctor indicated the information was provided was very detailed, although there were a lot of legal terms used.

Trustee Lamb asked if the union does happen is there a time when it can be dismantled. Jim Crosland indicated that under the statute, at minimum the union will be in place for twelve months. Employees can petition to PERC seeking to decertify and end union affiliation after the end of the twelve months. In some cases due to lack of representation and participation, the union just sort of voluntarily becomes inactive.

Trustee Lamb asked who determines the union dues. Mr. Crosland indicated this was determined by the union and the employer has nothing to do with it.

Trustee Stanfield asked about the faculty senate meeting and if board members should attend or provide information for that meeting. Jim Crosland indicated that legally the board could, but strategically he felt it should be a decision by the president.

Probably a small team would bargain with the union and would not include the president. Vice Chair Moore verified that the Board should let the process happen, however the Board may want to weigh in at the March Board Meeting.

BUSINESS MEETING

Vice Chair Moore called the Board meeting to order at approximately 4:02 pm. She verified that a quorum was in attendance to move forward with voting.

APPROVAL OF MINUTES

Vice Chair Moore requested a motion to approve the minutes of the January 26, 2009 Workshop and Board Meeting.

MOTION: Trustee Lamb

SECOND: Trustee Moon

Motion passed unanimously.

INFORMATION AND NEWS ITEMS

Susie Hall introduced news clips including TCC men's basketball, Danny Wagner's trip to the Presidential inauguration, African-American history calendar, Flight line aviation science course, and The Big Read. Susie Hall indicated that Trustees Stanfield and Lamb were featured in the calendar.

Trustee Moon asked about copies of the African-American calendar for the Board members to get signed. Copies were obtained and provided to the board members prior to the end of the meeting.

UNFINISHED BUSINESS

None

PUBLIC COMMENT OR PRESENTATIONS

None

NEW BUSINESS

Approval of Consent Agenda

Vice Chair Moore asked if there were any comments or requests for the Consent Agenda. Trustee Moon asked for Tab 5 to be pulled. Tab 7 was amended via an earlier handout and is presented on the consent agenda as amended.

Vice Chair Moore requested a motion to accept the consent agenda as amended.

MOTION: Trustee Shirah
SECOND: Trustee Lamb
Motion passed unanimously.

Tab 5

Discussion ensued about the completion of Tab 5. It was determined all information was provided and the vote continued.

MOTION: Trustee Moon
SECOND: Trustee Lamb
Motion passed unanimously

Administrative Services

Construction Status Report (Information)

March 23rd is our target date for the Ghazvini groundbreaking ceremony. For the part we are committing at this time, all documents are in the hands of the city. The Surgeon's Drive item is later on the agenda for approval. Multipurpose building is also further in the agenda.

January Fund Analysis (Information)

Trustee Moon asked about the \$57,548 under received year to date. Research was conducted and, although no changes to the bottom line occurred, an amended item was provided later in the meeting.

Communications & Marketing Consulting Services (Action)

The college acquires a variety of services in our public information, marketing, consulting area. We have greatly reduced these expenditures so we have chosen to use a list of prequalified a number of vendors to buy services a la carte. At some later time, we may need a larger services contract.

Trustee Stanfield asked which, if any, of the vendors are minority owned businesses. Susie Hall indicated there were some, but she would review and get back to Trustee Stanfield.

MOTION: Trustee Moon
SECOND: Trustee Lamb
Motion passed unanimously.

2009 – 2010 Contract Schedule (Information)

This is just a look ahead of what is to come in the next few months so that we can prepare. Vice Chair Moore asked about Akerman Senterfitt and if we have any concerns of engagement given the multi-year contract.

President Law indicated they are as busy as they have ever been, but they have been very attentive. He has been in contact with them on a weekly basis over the next few weeks. He will bring the contract back in June for the annual renewal and expects a modest increase.

Comparison of Florida and non-Florida resident credit hours (Information)

Follow up to our workshop last month and it is eroding slightly. Primarily the out of state is static and the rest is growing. We will come back to you later with another look at Georgia, a border state, and feel we can engage them better.

Florida Public Safety Institute – Conference Center Bid (Action)

These are funds that were repurposed from prior construction projects that did not require the full appropriations. Last June or July the legislature re-appropriated this money to us.

The bid of \$2,532,000 to Childers (second place bid was within \$3,400) was slightly over our budget projections but within the contingency. The three bids were within \$10,000 of each other.

MOTION: Trustee Shirah
SECOND: Trustee Moon
Motion passed unanimously.

Guaranteed Maximum Price – Phase 1- Surgeon’s Drive Construction (Action)

Tony Stallworth indicated the maximum price of \$1,978,000 included other general construction costs. The actual \$700,000 cost of construction is included.

MOTION: Trustee Lamb
SECOND: Trustee Moon
Motion passed unanimously.

Disposition of Surplus Property Assets (Action)

As promised, this is a more timely list of items and is significantly shorter than items previously submitted.

Trustee Moon asked about the purchase of items listed as surplus. Jerry Schilling indicated it is not advertised in the newspaper, but information is sent to local schools and non-profits known to be interested.

MOTION: Trustee Shirah
SECOND: Trustee Lamb
Motion passed unanimously.

Academic Affairs

Recommendation of Annual Faculty Contracts for 2009 – 2010 (Action)

President Law has had the opportunity to work with all of them and feels good about the leadership roles many have already taken on.

Trustee Moon indicated it was wonderful that he did this type of activity.

MOTION: Trustee Lamb
SECOND: Trustee Moon
Motion passed unanimously.

Recommendation of Continuing Faculty Contracts for 2009 – 2010 (Action)

Each of these individuals were visited by Dr. Law in the fall and worked with them on projects. This group has clearly begun to make a contribution.

Vice Chair Moore indicated the students are the heart and the faculty is the soul and she really appreciates Dr. Law as the face of what makes this college so special.

MOTION: Trustee Moon
SECOND: Trustee Shirah
Motion passed unanimously.

Administration of the Admissions Assessment Exam to Nursing Applicants (Action)

The Board must approve any fee assessed to students. This fee is generally assessed across the nation (225 schools are already using).

Vice Chair Moore asked if this is the actual cost of the test or how much it costs to obtain. VP Sloan indicated it would cost \$25 to purchase the test and we are including \$5 to administer them.

MOTION: Trustee Moon
SECOND: Trustee Lamb
Motion passed unanimously.

Center for Workforce Development

Workforce Development Update (Information)

This Board has been strong in its support and proactive in its encouragement. Some months ago you designated us to take some money and go do the best we could for some folks in Gadsden County.

Dr. Chapin indicated there have been some successes in Gadsden County with a full class for ESL. We have 25 students in medical front office from Leon and Gadsden Counties, with 36 budding dump truck drivers and backhoe operators in Gadsden County. We have given out 50 of the \$400 dollar stipends to cover the training costs, which represents a little more than half the money the Board authorized.

We have another round of classes beginning in April and expect to have another 50 students. Our original goal was to train 100 by June, however feel we will pass that and have upped the goal to 150.

We have a signed contract with the Department of Management Services to train their employees in computer classes. Overall goal will be to package for training throughout the state to their 120,000 employees, with the first round of training to begin in about 30 days.

Trustee Lamb asked where training would be held. Dr. Chapin indicated initially the training would be in the facility used for Tech at Night. In Gadsden that includes Quincy House, Pat Thomas and Workforce Plus. Dr. Law indicated Workforce Plus had been a great partner

Vice Chair Moore asked if we needed to look at more funds for the Gadsden County initiative. With about half of it committed, we should be okay until the first of the year. If needed, we will come back to you at that time. Trustee Stanfield indicated she was very pleased to see they were using the technology training.

Florida Public Safety Institute

Tallahassee Fire Academy Agreement (Action)

Jim Murdaugh introduced Melvin Stone as the fire coordinator for this program. Two years into the contract, City of Tallahassee wants to move from an annual contract to something more durable so they don't have to go back to the commission each year. Chief Dick could not be a stronger supporter of this program.

The fourth graduating class is at a 100% pass rate (standard is around 80-84%) for the state cognitive exam and the state proficiency exam. Jim Murdaugh indicated this was a result of the work done by Mr. Stone. This item asks for permission on an agreement to move forward without having to come back for annual approvals unless there is a change in fee.

Vice Chair Moore complimented Melvin Stone on his leadership and support, thanking him for making us look good. Mr. Stone thanked the Board, Dr. Law and Jim Murdaugh for the opportunity and support. It was a team effort and he will continue to try for the 100%.

MOTION: Trustee Lamb
SECOND: Trustee Moon
Motion passed unanimously.

Student Affairs

2009 – 2010 Catalog Revisions (Action)

At this time of year we finalize the catalog for the upcoming academic year and provide an executive overview of the changes. VP Jefferson indicated this is the third year we have provided this information earlier, which aligns with our materials for earlier recruitment and thanked the Board for their support.

We have updated admissions sections in reference to assessments, removed the \$10 service fee, etc. Dr. Sloan indicated this does represent a redesign of our remedial classes with Sally Search indicating they are looking at each student.

Dr. Sloan indicated we are expanding our multi-cultural experience, including Italian as a foreign language. New child-care state requirements are being offered. Kate Stewart indicated they took AS degrees, moving them into smaller packages for certification programs. That allows the student to move forward into the workplace and keep their standing toward the degree.

We have spent some time on the general education outcomes, by being able to assess down to the student level if necessary. Final exam requirements were modified based on curriculum.

MOTION: Trustee Lamb
SECOND: Trustee Shirah
Motion passed unanimously.

TCC Foundation

TCC Foundation 2008-09 State Match Submission (Action)

VP Johnston indicated the state match for community colleges and universities was not authorized by the legislature last year and some doubt it will be awarded this year. It is our administrative responsibility to complete and submit this report, with the hope that the economy will allow the state to award at least a partial payment.

Trustee Stanfield asked about a couple of years ago when the state authorized retroactively. Dr. Law confirmed her recollection of state funding.

MOTION: Trustee Shirah
SECOND: Trustee Moon
Motion passed unanimously

TCC Foundation Update (Information)

VP Johnston presented the standing monthly report indicating the annual campaign currently is at a little over \$850,000. Capital City Capers scheduled for April 19th, with all expenses identified and sponsorships to date, we would net about \$13,000.

For the third year, we are distributing the Moving On and On Track magazines to all high schools juniors and seniors, as well as seventh and eighth graders, in Gadsden County. Trustee Shirah asked if there was any plan to distribute the magazine to other counties.

VP Johnston indicated that for the last two years, via Student Services and the Communications Office, additional magazines had been purchased and distributed to other schools. The Foundation's principal outreach at this time is community development primarily in Gadsden County.

PRESIDENT'S REPORT

The Wounded Warrior Project was listed and is a measure in the legislature to provide support for returning veterans. VP Jefferson reported that we recently participated in a soldier to student program. Recently Congress passed the most comprehensive GI Bill since WWII.

This Bill allows veterans to go school with full tuition and fees, a monthly housing stipend and \$1,000 a year for books and supplies. Currently there are over 17,000 veterans enrolled in college, but with over 150,000 Floridians deployed in the global war against terrorism.

She handed out the new bill for review. TCC, FAMU and FSU have been looking at ways to develop a program that would be of assistance to the large numbers we anticipate enrolling. We would like to award credit for those having high levels of training, using the services of the veteran centers and National Guard locations to communicate information on the program and enrollment.

One of the things learned at the most recent meeting was that most veterans were encouraged to come to the community college first. We may look at a separate orientation for them which would include college vocabulary, conduct campus tours, build a veteran's organization, assist with locating housing, modify workshops to address their needs and increase on-line activities to help them achieve their goals.

President Law indicated some TCC personnel would be leaving tomorrow morning to accept a National Award from Achieving the Dream. On Wednesday, he will be meeting

with the Gates Foundation. We will be asking for their assistance with the expansion of our student outreach portal, including high school students.

FUTURE AGENDA ITEMS

None

NEXT MEETING DATE

March 16, 2009

ADJOURNMENT

Meeting adjourned at approximately 5:00 pm.

Minutes approved at regular meeting of the District Board of Trustees on March 16, 2009.

Frank Messersmith
Chair

William D. Law, Jr.
President