

BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502
COUNTIES OF DuPAGE, COOK AND WILL
STATE OF ILLINOIS

THURSDAY, SEPTEMBER 17, 2015
REGULAR BOARD MEETING ~ 6:45 P.M.

MINUTES

HELD ON CAMPUS IN SSC-2206, GLEN ELLYN, IL

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

At 6:52 p.m., Chairman Hamilton called to order the September 17, 2015 Regular Meeting of the College of DuPage Board of Trustees and led the pledge of allegiance.

2. ROLL CALL

Chairman Hamilton asked Secretary Napolitano to call the roll.

Present: Trustees Charles Bernstein, Erin Birt, Katharine Hamilton, Deanne Mazzochi, Dianne McGuire, Frank Napolitano, Joseph Wozniak and Student Trustee Gloria Roark.

Also Present: Timothy D. Elliott, Rathje & Woodward, LLC; Dr. Joseph Collins, Acting Interim President; staff members, representatives of the press and visitors. (Minutes prepared by Monica Miller.)

3. AGENDA

Chairman Hamilton called for a motion that the Board of Trustees approve the September 17, 2015 Regular Board Meeting Agenda.

Vice Chairman Mazzochi moved, Secretary Napolitano seconded a motion to approve the September 17, 2015 Regular Board Meeting Agenda.

Motion passed on a voice vote, with Trustee Birt voting nay.

4. PUBLIC COMMENT

Glenn Hansen commented on Item 10.

Richard Jarman commented on Items 10 and 11.

Kirk Allen commented on agenda item 11 and the Illinois Community College Act.

John Kraft commented on agenda item 11 and had questions on SLEA.

Adam Anrdzejewski suggested certain contracts be invalidated.

Matthew Tyrmand commented on trustee reimbursements.

Laura Reigle commented on the Board meeting space.

Paul LeFort questioned construction costs.

Rep. Jeanne Ives commented on Item 11.

Roger Kempa commented on finances of the College.

5. PUBLIC HEARING ON THE FY2016 BUDGET

Chairman Hamilton explained the Budget Hearing process and called for a motion to open the Public Hearing on the College of DuPage FY2016 Budget.

Trustee McGuire moved, Secretary Napolitano seconded a motion to open the Public Hearing on the College of DuPage FY2016 Budget. On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, Birt, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Motion passed.

Board Secretary and Budget Committee Chairman Napolitano provided a brief summary on how the proposed Budget was developed. He highlighted the 5% reduction in the tax levy as well as a \$5 tuition reduction for the Spring 2016, while still maintaining the current level of service. Interim Controller Kurt Beckeman, Alix Partners, and College of DuPage Budget Manager, David Virgilio gave a short presentation.

Trustee Dianne McGuire commented on the proposed budget and highlighted the \$17 million deficit, at a time when the state is without a budget. With so many uncertainties, stated now is not the time to cut the levy, or tuition and now is not the time to spend the savings. She referenced Pulse survey findings on tuition and tax.

Roger Kempa responded to Trustee McGuire's comments.

Kirk Allen responded to Trustee McGuire's comments.

Laura Reigle responded to Trustee McGuire's comments.

Jan Shaw spoke about taking money out of savings.

Adam Andrzejewski responded to Trustee McGuire's comments.

John Kraft reminded the Board that the purpose of a hearing is get answers to questions posed.

Kurt Beckeman returned to the podium and addressed the issue of the \$17 million deficit noted during public comment. He also spoke about the state operating grants and the SURS issue.

Trustee Bernstein noted that this is a much tighter budget and that the apparent deficit is not really a deficit but an accounting artifice.

Chairman Hamilton thanked the Budget Committee – Secretary Napolitano, Trustee Bernstein, Paul LeFort and Claire Ball for their work.

Chairman Hamilton asked Attorney Elliott about the budgeted \$33 million reserve for construction, if it can be spent. Mr. Elliott indicated that a project must be presented,

must be bid and will require Board discussion and approval.

Secretary Napolitano indicated that the Budget will be voted for adoption at the Special Meeting on Thursday, September 24.

Vice Chairman Mazzochi moved and Trustee Bernstein seconded a motion to close the public hearing on the FY2016 Budget. On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, Birt, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Motion passed.

6. CLOSED SESSION

At 7:58 p.m., Chairman Hamilton called for a motion that the Board of Trustees move to closed session for the reasons read into the record by Board Attorney Elliott:

“The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.”

Motion to move to closed session was made by Secretary Napolitano and seconded by Vice Chairman Mazzochi.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, Birt, McGuire and Wozniak, Secretary Napolitano, Vice Chairman Mazzochi, and Chairman Hamilton. Motion passed.

The Board moved to SSC 2200 for Closed Session.

At 9:33 p.m., Vice Chairman Mazzochi moved and Secretary Napolitano seconded a motion to return to Open Session and the Secretary Napolitano called the roll.

ROLL CALL

Present: Student Trustee Gloria Roark, Trustees Charles Bernstein, Erin Birt, Katharine Hamilton, Deanne Mazzochi, Dianne McGuire, Frank Napolitano and Joseph Wozniak.

7. STUDENT TRUSTEE’S REPORT

Student Trustee Roark reported on her attendance at a recent ICCB SAC (Illinois

Community College Board Student Advisory Committee) meeting and subcommittee meetings. She gave an update on MAP Grant legislation currently in the Illinois House.

At this time, Vice Chairman Mazzochi moved and Trustee Bernstein seconded a motion to take out of order Agenda Items 10 and 11, and consider those Items before Agenda Items 8 and 9.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, Birt, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Motion passed.

(The following two Agenda Items were considered in the order below.)

10. Declaration that Dr. Breuder's Employment Contract and all Amendments and Addenda Thereto are Void Ab Initio

Chairman Hamilton indicated that this means that the contract was void from the start.

Vice Chairman Mazzochi moved, Trustee Bernstein seconded a motion that the Board approve the Declaration that Dr. Breuder's Employment Contract is Void Ab Initio.

Chairman Hamilton indicated that she had comments and each Trustee will also have time to speak to the Item. Chairman Hamilton stated that this resolution embodies a significant legal and institutional conclusion, that the contract has been void since November 2008. This would mean that Dr. Breuder is an "at will" employee with rights. Case law cited says that one Board cannot tie the hands of a future Board.

Trustee McGuire indicated that she has not been convinced by any of the specious arguments in support of the motion. She stated concerns about other agreements that the Board signs. Trustee McGuire stated that clearly this is a breach of contract, in an effort to undue the severance agreement and in her opinion, the severance package will be nothing compared to reckless spending on legal fees that have been estimated at \$3 million - \$5 million.

Trustee Wozniak indicated that he was not in support of the motion. Dr. Breuder has done much for the College. He stated that he feels that the Board will be opening itself to a lawsuit.

Vice Chairman indicated that this is about the Board's autonomy, not a carte blanche re-do the prior work. It is about the one person that the Board gets to hire. Each Board when seated must be able to act.

Secretary Napolitano said that the law is quite clear that Boards cannot bind future Boards specifically addressing executive directors.

Chairman Hamilton asked the Board Attorney to address the matter. Board attorney Elliott indicated that the action would be a declaration by the Board that the original contract and all subsequent addendum and extensions, the severance agreement and severance package would also be void.

Hearing no further discussion, Chairman Hamilton called for a vote. On a roll call voting aye: Trustee Bernstein, Secretary Napolitano, Vice Chairman Mazzochi and Chairman Hamilton. Voting nay: Trustees Birt, McGuire and Wozniak. Abstain: Student Trustee Roark. Motion passed.

11. Proclamation Naming Homeland Security Education Center in Honor of Congressional Medal of Honor Recipient Staff Sgt. Robert J. Miller

Vice Chairman Mazzochi moved, Trustee Bernstein seconded a motion that the Board approve the Proclamation Naming Homeland Security Education Center in Honor of Congressional Medal of Honor Recipient Staff Sgt. Robert J. Miller.

Trustee McGuire moved and Trustee Birt seconded a motion to amend the motion on the floor by substituting the "Homeland Security Training Center" for the "Homeland Security Education Center."

Trustee McGuire spoke about her motion, that we have no idea what lies ahead and how the action the Board just took (Item 10) may complicate the issue. She stated that she believes we can better honor the memory and sacrifice of Staff Sgt. Robert Miller as a Medal of Honor winner by replacing Homeland Security Education Center with Homeland Security Training Center.

Vice Chairman Mazzochi clarified that because the September 11 memorial is in the HEC, that is where the honor should be placed.

Trustee Wozniak indicated that he agreed with Trustee McGuire. When asked by the Chairman, he said he supported either of the two buildings be named for Staff Sgt. Robert Miller.

Trustee Birt said that to be able to honor Staff Sgt. Miller over the COD controversies that what Dianne McGuire is suggesting would be appropriate. So that we have an appropriate honor without it being complicated by further litigation, she supports the amended motion.

With no further discussion on the amended motion, on a roll call voting aye: Trustees Birt, McGuire and Wozniak. Voting nay: Trustee Bernstein, Board Secretary

Napolitano, Vice Chairman Mazzochi and Chairman Hamilton. Abstain: Student Trustee Roark. Motion to amend failed.

Back to the original motion, Trustee Bernstein read the President Obama's proclamation on Staff Sgt. Robert J. Miller's Medal of Honor Presentation.

With no further discussion on the original motion, on a roll call voting aye: Student Trustee Roark, Trustee Bernstein, Board Secretary Napolitano, Vice Chairman Mazzochi and Chairman Hamilton. Voting nay: Trustees Birt and McGuire. Abstain: Trustee Wozniak. Motion passed.

Trustee Birt inquired that given the time, might 8 and 9 be deferred. Chairman Hamilton indicated that someone traveled to the College for one of the presentations.

8. PRESIDENT'S REPORT
(Deferred.)

9. PRESENTATIONS

Chairman Hamilton introduced Narcisa Polonio from the Association of Community College Trustees (ACCT) who gave a presentation and answered questions on the presidential search services offered by the ACCT.

12. Appointment of Administrator Appeal Hearing Officer

Chairman Hamilton provided some background regarding this item. A hearing officer does not decide the case but presents evidentiary record to the Board. The Board then makes their decision. Two COD employees were terminated last week and have indicated that they challenge those terminations. This is highly specialized legal work.

Vice Chairman Mazzochi moved, Secretary Napolitano seconded the motion that the Board appoint a hearing officer to hear the administrator appeals brought and conduct in accordance with Board Policy 15-251 and Administrative Procedure 15-251 and in particular that the Board appoints Joseph A. Morris as its Administrator Appeal Process Hearing Officer pursuant to Administrative Procedure 15-251.

Vice Chairman Mazzochi stated that the Board has reviewed resumes and the Board is under a time constraint. Mr. Morris is best positioned to handle the hearing proceedings. He has presided over many highly contested proceedings.

Trustee McGuire indicated that she would like to have seen a larger pool of applicants. We cannot be sure that the process is not tainted and unbiased completely. She stated she would have liked to reach out to the Illinois Education Labor Relations Board (IELRB). Perhaps if the individuals involved would be willing to extend the time line, there could be a bigger pool.

Vice Chairman Mazzochi responded that there was enough opportunity to forward other names and that nobody has any prior relationship with Mr. Morris.

The Chairman asked Attorney Elliot to address the matter. Mr. Elliott indicated that as far as he is aware no one at his law firm has a personal or business relationship with Mr. Morris, who was contacted because of his reputation.

Trustee Birt questioned Attorney Elliott if he reached out to both candidates and provided background before it was discussed in Executive Session. Mr. Elliott explained that he did not discuss the individuals but rather explained the process and forwarded a copy of the Administrative Procedure. Both were familiar through news accounts with the types of employment issues. Attorney Elliott confirmed that the discussion held in Executive Session did not violate the Open Meetings Act and Trustee Birt said she asked for this clarification since Vice Chair Mazzochi indicated that the questioning did not occur.

Secretary Napolitano indicated that it was his understanding the Board was under a tight time frame with responding to the two individuals.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein and Wozniak, Board Secretary Napolitano, Vice Chairman Mazzochi and Chairman Hamilton. Voting nay: Trustees Birt and McGuire. Motion passed.

13. Retention of Law Firm to Provide Governmental Legal Services

Vice Chairman Mazzochi moved, Trustee Bernstein seconded a motion that the Board approve the retention of Nicolay & Dart and TaylorUhe as described above pursuant to a retention agreement to be executed by the Chairman.

Trustee McGuire expressed her concern with the choice of Nicolay & Dart, saying that the Chairman has a prior relationship with Mr. Nicolay. She stated that one firm, not two firms, is all that is needed. If both firms are included in the motion, she will vote no, though she would vote for TaylorUhe.

Trustee Bernstein said that whatever amount is allocated, there will not be more spent because there are two firms instead of one. He appreciates the Trustee's regard for avoiding conflicts, but does not see one here.

Board Secretary Napolitano stated that he does not have any relationship with Nicolay & Dart, but would favor them. Both would serve us well.

Trustee McGuire said that TaylorUhe has higher education experience.

Trustee Birt stated that it would be in the best interest to stop the ties between the

Chairman and the people that we hire. She therefore offered to amend the motion.

Trustee Birt moved, Trustee Wozniak seconded a motion to amend the motion that the Board approve the retention of TaylorUhe. On a roll call voting aye: Trustees Birt, McGuire and Wozniak. Voting nay: Trustee Bernstein, Board Secretary Napolitano, Vice Chairman Mazzochi and Chairman Hamilton. Abstain: Student Trustee Roark. Motion to amend failed.

With no further discussion on the original motion, the Chairman called for a roll call vote. On a roll call voting aye: Trustee Bernstein, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Voting nay: Trustees Birt, McGuire and Wozniak. Abstain: Student Trustee Roark. Motion passed.

At 11:04 p.m., Trustee Birt left the meeting.

14. INFORMATION

- a. Personnel Actions**
- b. Construction Change Orders**
- c. Financial Statements**
- d. Clarification of Agreement with Follett Bookstore**

Chairman Hamilton stated that the Board is entitled to the information but does not need to vote on the items. There were no questions from Board members.

15. CONSENT AGENDA

- a. Minutes of the August 13, 2015 Special Board Meeting**
- b. Closed Session Minutes of the August 13, 2015 Special Board Meeting – CONFIDENTIAL – for Board only**
- c. Minutes of the August 20, 2015 Regular Board Meeting**
- d. Closed Session Minutes of the August 20, 2015 Regular Board Meeting – CONFIDENTIAL – for Board only**
- e. Personnel Actions**
- f. Crowe Horwath Audit**
- g. Joint Education Agreement with McHenry County College**
- h. Addendum to the Facility Use Agreement with DuPage Area Occupational Education System (DAOES)**
- i. Resolution in Recognition of Illinois Community College**

Vice Chairman Mazzochi moved, Trustee Bernstein seconded a motion to approve the Consent Agenda.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Absent: Trustee Birt. Motion passed.

16. Financial Reports

Vice Chairman Mazzochi moved, Secretary Napolitano seconded a motion that the Board approve this month's financial reports.

Vice Chairman Mazzochi asked for a clarification on payments to Hurricane Graphics and attorney fees. Kurt Beckman, Alix Partners, indicated that those items were previous bills that have been approved appropriately.

On a roll call voting aye: Student Trustee Roark, Trustee Bernstein, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Voting nay: Trustees McGuire and Wozniak Absent: Trustee Birt. Motion passed.

17. Nail Technology Certificate

Secretary Napolitano moved, Trustee Bernstein seconded a motion that the Board approve a new 16 credit hour nail technology certificate program.

Dr. Donna Stewart, Dean of Business and Technology Division came to the podium to respond to Vice Chairman Mazzochi's questions.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Absent: Trustee Birt. Motion passed.

18. Elsevier Longitudinal Testing

Vice Chairman Mazzochi moved, Board Secretary Napolitano seconded a motion that the Board approve an agreement between the College and Elsevier Inc. for the provision of certain testing services for associate degree nursing students.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Absent: Trustee Birt. Motion passed.

19. 2016 Employee Insurance Benefit Renewals

Vice Chairman Mazzochi moved, Trustee Bernstein seconded a motion that the Board approve the renewal of College Employees' Insurance Benefits Plan for 2016.

Vice Chairman Mazzochi indicated that she understands the consortium is represented by Robbins Schwartz, and determined fees are not large. She indicated

she hopes the Board would be made aware early in the process next year as negotiations take a long time and in the upcoming year there will be a lot of issues including whether the College will have a plan regarding the “Cadillac tax.”

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Absent: Trustee Birt. Motion passed.

20. Project Management Consulting Services with CCS International, Inc. (CCS) Contract Extension

Trustee Bernstein moved, Board Secretary Napolitano seconded a motion that the Board approve an extension of an existing contract for project management consulting services with CCS International.

Board Secretary Napolitano and Chairman Hamilton had questions for Bruce Schmiedl, Director of Facilities Planning & Construction. Secretary Napolitano asked about the bid process. This is an extension of an existing contract. The projects include: signage, Naperville Center close-out, SRC close-out, and site work. The project manager has historical knowledge of the projects.

On a roll call voting aye: Student Trustee Roark, Trustees Bernstein, McGuire and Wozniak, Vice Chairman Mazzochi, Secretary Napolitano and Chairman Hamilton. Absent: Trustee Birt. Motion passed.

21. COMMITTEE REPORTS

Chairman Hamilton asked if any Committee would like to report out.

a. Audit Committee

Moved to September 24

b. Budget Committee

c. Outreach Committee

Trustee Wozniak reported on his meeting with the Chairman on efforts to work together.

22. TRUSTEE DISCUSSION

Vice Chairman Mazzochi reported that she has received feedback on the Academic Committee charter. The goal is to have the first meeting mid-November, a charter by next week and faculty feedback.

Trustee McGuire reported on Foundation events.

Board Attorney Elliott discussed the public comments at last Board meeting, regarding requested documents through FOIA. At Chuck Currier’s request it was

looked into the matter. Attorney Elliott's firm withheld those emails as non-responsive. Documents were properly turned over to Counsel and not destroyed.

23. PUBLIC COMMENT

John Kraft commented on trustee reimbursements and that Board Committee meetings must be open.

Kirk Allen commented on case law.

Laure Reigle commented on the previous contract lobbyist.

24. COMMENTS BY BOARD CHAIRMAN

Chairman Hamilton closed the meeting with Congressman Peter Roskam and DuPage County Board Chairman's statements to the Higher Learning Commission. The Chairman thanked both Congressman Roskam and Chairman Cronin for their support.

Vice Chairman read into the record the letter from Chairman Cronin (attached herewith).

Trustee Bernstein read the letter from Congressman Roskam (attached herewith).

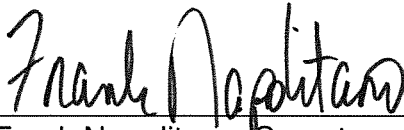
25. Calendar Dates

Campus Events (Note: * = Required Board Event)

- **Thursday, September 24, 2015– Special Board Meeting – SSC-2206 – 7:00 p.m.**

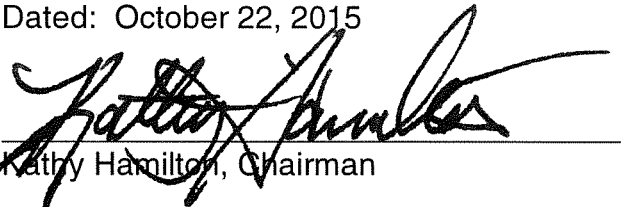
26. ADJOURN

At 11:48 p.m., seeing no other business before the Board, Chairman Hamilton called for a motion to adjourn. Vice Chairman Mazzochi moved and Secretary Napolitano seconded a motion to adjourn the September 17, 2015 Regular Meeting of the Board. Motion passed on a voice vote.



Frank Napolitano, Secretary

Dated: October 22, 2015



Kathy Hamilton, Chairman