



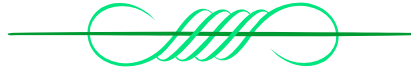
## WEST HILLS COMMUNITY COLLEGE DISTRICT

Board of Trustees  
9900 Cody Street  
Coalinga, CA 93210  
(559) 934-2100

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### MINUTES OF THE MEETING OF THE GOVERNING BOARD

January 15, 2009



#### **CALL TO ORDER / OPEN SESSION**

President McKean called the meeting of the Board of Trustees to order at 10:02 a.m. and led the Board members and audience in the flag salute.

#### Board members present:

Mark McKean, President  
Bill Henry, Vice President  
Nina Oxborrow, Clerk  
Jeff Levinson  
Edna Ivans

#### Board members absent:

Jack Minnite  
Steve Cantu  
Jaqueline DePue, Student Trustee

#### Administrators present:

Frank Gornick, Chancellor  
Ken Stoppenbrink, Vice Chancellor of Business Services  
Don Warkentin, President, West Hills College Lemoore  
Jana Cox, Director of Human Resources  
Frances Squire, Director of Marketing  
Jill Stearns, Dean of Student Learning, West Hills College Coalinga

#### **Introduction of Guests**

Ms. Frances Squire, Director of Marketing, introduced the following guests: Michael Schoenfeld, Attorney; Bob Asmus, Contractor, Greg Opinski Construction; Kevin Cobb, AP Architects; Tim Mudge, Carpenters Union; Susan Rodriguez, Carpenters Union; Jim Schaefer, Attorney, Zampi, Determan & Erickson; Gordon Tessman, General Superintendent for Lewis C. Nelson and Sons, Inc.

#### **Public Comments**

Mr. Michael Schoenfeld, attorney for Lewis C. Nelson and Sons, Inc. addressed the Board of Trustees with regard to a bid protest. He stated that he presents a single issue - With the Opinski bid opened in November, does the Board have the legal authority to award them a contract or was the bid deficient in such a manner that it violates our

published rules and the laws of the State of California? In order to answer the question, Mr. Schoenfeld stated that he believes there are two things to address:

1. Does Lewis C. Nelson and Sons have the ability to protest? He stated that the contention of Mr. Ken Stoppenbrink in the letter of December 11 indicated that the bid protest was untimely. Irrespective of this decision, Mr. Schoenfeld asked that the Board's decision not be based on the timeliness of the protest. He stated that once bids are open, there are certain rules to be followed and there is no disputing the facts in the letter. The time limits are clearly defined. Protests of any bids must be filed and received by the Director of Business Services by certified mail or personal delivery during normal working hours. The protest was received at 3:43 p.m. on Monday, November 17. The deadline was Sunday, November. Mr. Schoenfeld stated that he believes the timeline should include business days. He stated that the district has said that Lewis C. Nelson and Sons waived its right for an appeal based upon an untimely protest.
2. Mr. Schoenfeld stated that Lewis C. Nelson and Sons contends that the irregularity in the bid of Opinski is and was material. He commented on the published rules and how the matters would be addressed. Mr. Schoenfeld questioned, "Can the Board accept the Opinski bid?" and stated, as a matter of law, no. The Board has the right to reject all bids or can choose to go to the next lowest bidder.

Mr. Bob Asmus, Greg Opinski Construction, stated that he feels they are a responsible bidder. He stated that it is true that they did not provide the information as an attachment. He also stated that his company was one of two bidders who did not provide the information as an attachment. He stated that the minor information requested has no bearing on the selection of the low bidder, nor any impact on his total bid price. President McKean asked for clarification and stated that it is his understanding that in their bid they did not include the price for aggregate. Mr. Asmus stated that this is correct and that the price for aggregate was not given.

Ms. Susan Rodriguez, Carpenter's Union, stated that she would like to respectfully request that the project be put out for rebid to protect the integrity of the bid process. She further stated that often times when projects are put out for rebid the prices come down.

Trustee Henry requested that Mr. Schoenfeld state the points of his argument again for clarification on why he believes Opinski Construction was not responsive with their bid. Mr. Schoenfeld stated that the instructions directed that all bid documents should be filled out properly and additional documents requested be listed on a separate sheet. He stated that Opinski Construction did not do this and it was a disabling component. Mr. Schoenfeld also clarified that the timeliness of the protest was the other point of argument.

### **CLOSED SESSION**

Hearing no other public comments at this time, the Board of Trustees adjourned to closed session at 10:31 a.m.

- Significant exposure to litigation (as per Government Code Section 54956.9).  
Number of potential cases: 3

### **RECONVENE OPEN SESSION / REPORT OF ACTION TAKEN**

The meeting was reconvened to open session at 11:17 a.m. President McKean stated that no action was taken during closed session.

### **FISCAL SERVICES**

**FS-31**        Bid Protest Appeal – The bid protest appeal was tabled on a motion by Trustee Henry, seconded by Trustee Ivans, and carried unanimously.

**FS-32**        Bid Contract Award – All bids as of the November 13, 2008 bid date for the West Hills College Lemoore Multi-Use Sports Complex project were rejected on a motion by Trustee Henry, seconded by Trustee Levinson, and carried unanimously. The district’s agent was directed to proceed with rebidding the project.

### **BOARD REPORTS / COMMENTS / REQUESTS AND ANNOUNCEMENTS**

There were no reports, comments, requests or announcements made at this time.

### **CLOSED SESSION**

The meeting was adjourned to closed session at 11:24 a.m.

- Potential Litigation (as per Government Code Section 54956.9). Number of potential cases: 2
- Public Employee Discipline/Dismissal/Release (as per Government Code Section 54957)
- Discussion of Land Acquisition/Disposition of Property (as per Government Code Section 54956.8). Property: Coalinga, California; Firebaugh, California; Lemoore, California

**ADJOURNMENT**

There being no further business before the Board of Trustees, the meeting was adjourned at 12:34 p.m.

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Nina Oxborrow  
Clerk of the Board of Trustees

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