

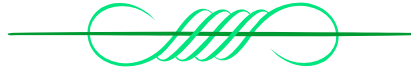


WEST HILLS COMMUNITY COLLEGE DISTRICT

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

MINUTES OF THE STUDY SESSION OF THE GOVERNING BOARD

March 20, 2008



CALL TO ORDER / OPEN SESSION

The study session of the Board of Trustees was called to order at 10:05 a.m. and the Board of Trustees and audience were led in the flag salute.

Board members present:

Nina Oxborrow
Jeff Levinson
Edna Ivans
Steve Cantu

Board members absent:

Mark McKean
Bill Henry
Jack Minnite

Administrators present:

Frank Gornick, Chancellor
Ken Stoppenbrink, Vice Chancellor of Business Services
Willard Lewallen, President, West Hills College Coalinga

Introduction of Guests

The following guests were introduced: Mark Levinson of Greenberg Traurig; Ken Ough of Nollenberger Capital Partners; Jim Pell of Nollenberger Capital Partners; and E.A. Sachs of Nollenberger Capital Partners

Public Comments

Trustee Cantu stated that he would like to have detailed minutes as he hopes to refer to the minutes if any questions arise.

STUDY SESSION

Certificates of Participation – Mr. Mark Levinson stated that he would like to go over the legal component of the discussion, review each document, and explain its purpose. He explained the basic concepts of Certificates of Participation (COPs), which is an allocation of a stream of revenue. It is created through a lease/lease back concept. The District leases the underlying land to the special purpose entity, in this case the West

Hills Community College District Financing Corporation. This entity has a unique purpose which is to facilitate the finances. In turn, it immediately leases the underlying property back to the District. The District makes lease payments based on obligation. The obligation is limited in increments of one year. Every year the District allocates lease payments for a term of one year. Mr. Levinson declared that this does not constitute long term debt as defined in California law. The lease payments are determined by the trading rates on the certificates, in this case the auction rates. The instrument that creates these basic obligations is the Site Lease and then there is a more complete Lease Agreement. He referred to the packet of documents for a sample of a Lease Agreement. Mr. Levinson stated that there are investors that will purchase these obligations. He explained that the "gatekeeper" will be the financial institution, or trustee, and they have a document that governs the nature of the transaction, also referred to as a Trust Agreement. Mr. Levinson further explained that it contains a variety of provisions that relate to the economic transactions. It refers to how interest rates will be computed, who will compute, where money will go, etc. It also reviews how agreement would be modified, trustees changed, etc. It is the blueprint for the transaction.

The purpose of the Assignment Agreement is to have the Financing Corporation assign its rights to receive monies to the trustee.

The Memorandum of Lease Agreement gives notice to the world that there is an encumbrance on the District. The Memorandum of Lease Agreement is a shorter version of the full lease. The reason for this is that there needs to be notification but all of the specifics do not need to go out. Trustee Levinson asked about foreclosure on the collateral. Mr. Levinson stated that we have a lease obligation not a foreclosure and that a creditor can sue based on the amount that is due that year. Mr. Ken Ough stated that foreclosure can happen in theory, but it is very difficult. Trustee Oxborrow commented that it still can happen. Mr. Ough stated that these are insured transactions and that the real tension will be with the party that has taken the credit risk. Dr. Gornick stated that he did not realize it was the yearly lease payment that would be the issue. Mr. Levinson stated that under California law creditors are limited to what they can go after. Trustee Oxborrow commented that if we cannot pay our obligation we would be in default. Mr. Levinson stated that there are insurance agreements that also provide protection and take on the project risk. Mr. Levinson explained that the investor is in the market in terms of interest rates and they need to have a certain level of comfort that they will receive their principle back. These institutions have mandates to invest AAA paper. In the market place right now, there are a lot of funds that are looking for AAA paper. Mr. Ken Stoppenbrink commented that he understands there is a requirement of two years of lease payments covered and there is a need to purchase insurance. Assuming the lease payment is for \$70 million, he questioned what we are to assume the lease payment will be. Mr. Ough stated that it would be on or about 2.1%.

Mr. Levinson stated that there are no bidders right now for auction rates. Mr. Levinson explained that people are going to the variable rate instead of auction rate. The variable rate model is a structure where the investors are able to put their paper in the market and, come that sell date if there are no bidders, there will be a bank that will buy that paper. This reduces the risk and the rate is lower. This information can be found in the Trust Agreement. He stated that the Trust Agreement also refers to whether it's a daily rate, weekly rate, monthly rate, etc. The remarketing agent helps the District in obtaining the rates. This person receives notices from the trustee who gets notices from investors. The remarketing agent identifies buyers. The remarketing agent facilitates the purchase of the certificates.

Trustee Cantu stated that he wants to make sure he understands the difference between the auction and variable rates in that the difference is the auction rates go out to bid and variable rates do not. Mr. Levinson stated that was correct. Mr. Ough also presented a document that provided additional information about the difference in the rates. He provided a snapshot of the markets for the different types of rates. Trustee Oxborrow asked what would happen if the bank couldn't sell. Mr. Levinson stated that the bank takes the risk. With the auction rate, there is a higher risk as there are no bidders. Mr. E.A. Sachs stated that the bank will hold the certificates until the next opportunity to sell. Trustee Oxborrow stated that the district will pay for the risk in the form of insurance.

It was explained that the Agency Agreement allows the special entity, West Hills Community College Financing Corporation, to assign its rights to the District so projects can be completed.

Trustee Cantu stated that he was under the impression that the new projects were a prerequisite to issuing the new bond. Mr. Ough confirmed and explained that there must be a purpose in order to refund. The new projects qualify for that purpose.

Trustee Oxborrow questioned a statement that referred to West Hills Community College District as a political subdivision and then referred to the West Hills Community College District Financing Corporation as a nonprofit. Mr. Levinson reported that this was correct as it is created by a governmental body. Dr. Frank Gornick asked if it was similar to a redevelopment agency. Mr. Ough confirmed.

Mr. Levinson stated that these are the basic concepts of the transaction. He explained that there are more details in the documents provided. Mr. Ough stated that a COP is nothing more than breaking up a lease payment into \$5,000 or \$100,000 increments and then selling them. For example, if we lease a Xerox machine, Xerox can break up the lease payments and sell them. The question is who is the issuer of the COPs. The issuer of the COPs is the trustee bank, not the District. The District's obligation is to enter into the lease agreement. The trustee breaks up the lease payment and sells the COPs. Trustee Levinson stated that after four years of dealing with COPs, this is the best

explanation he has heard as it was given in simple terms. Trustee Oxborrow agreed. Mr. Ough stated that he will be leaving a book for the Board of Trustees to review. It refers to COP bonds, general obligation bonds, community colleges, etc. It is a good guide based on the issuer's standpoint.

Mr. Stoppenbrink referred to the Signature and Incumbency Certificate of the District as it had his and Dr. Gornick's name on it. He asked if the Board of Trustees should be on the document instead. Mr. Levinson clarified that those documents were drafts and would have to be updated.

Trustee Oxborrow referred to the Remarketing Agreement and questioned page 3, section 5. She asked for clarification on the agent's right to terminate. Mr. Ough responded that if the remarketing agent was not performing, we would have the option of terminating. The remarketing agent also has the option to terminate. Mr. Ough stated that his office will be monitoring the rates. If they feel the agent is not doing a good job, they will notify the District. Trustee Oxborrow stated that she is concerned as it refers to the agent providing their "best effort" and asked what determines that. Mr. Levinson stated that the marketplace makes the determination. They are looking at who is getting what rates and what the limits are. Dr. Gornick mentioned that it is similar to Mr. Stoppenbrink coming in and reviewing the rates. If the rates were not good, we would contact the bank and express concern and go from there.

Mr. Sachs stated that if the agent is not doing their job, they will come to us and recommend the agent be replaced. Trustee Oxborrow stated that she tried to obtain a bit of history on the agent but was unable to do so. Mr. Levinson stated that the company has been around for awhile. Mr. Sachs affirmed they had an excellent reputation.

Trustee Oxborrow referred to page 3, section 5(d) of the Remarketing Agreement as it refers to the certificates ceasing to be exempt. Mr. Ough responded and explained that this refers to monies being lent for other projects. The monies cannot be used for a different purpose than originally planned. These monies cannot be accessed to lend for other projects other than our own.

Trustee Oxborrow asked for a definition of the credit enhancement instrument and Mr. Ough stated it is the letter of credit.

Trustee Oxborrow referred to section 9 of the Remarketing Agreement and referred to the 30 day notice. She asked what the estimate of cost would be. Mr. Levinson stated that they are referring to fees accrued. Mr. Stoppenbrink stated that the annualized fees were 1/4 of 1%. Mr. Ough stated that they are negotiating 1/8 of 1%.

Trustee Oxborrow asked for clarification on the purpose of the Signature and Incumbency of District document. Mr. Levinson stated that it refers to the authorized

signatures and also refers to what has been done. Trustee Oxborrow mentioned to Dr. Gornick that she understood that he and Ken will be meeting monthly. She asked if a Board member could attend. Dr. Gornick responded that he and Ken meet informally on a monthly basis to review the finances before preparing for the Board meeting. Trustee Oxborrow stated that she likes having the financial information monthly and it is very helpful.

Trustee Oxborrow asked about the facilities corporation. Mr. Levinson stated that the facilities corporation was the financing corporation. Trustee Oxborrow referred to page 2, section 7 of the Signature and Incumbency Certificate of the District as it refers to when the financing corporation meets. Mr. Stoppenbrink stated that they do not necessarily meet at that time as it depends on the Board meeting. The West Hills Community College District Financing Corporation is held before the Board meeting every month. Trustee Levinson also stated that the location of the meetings also vary as the meetings are held at all sites. Mr. Levinson stated that he will make it more general so as not to cause any confusion. Trustee Levinson asked if we will be changing the entity name. Mr. Levinson stated we will not as he allowed for flexibility.

Trustee Oxborrow questioned who had prepared the Preliminary Official Statement. Mr. Ough stated that their underwriters create the document with input from the District. Mr. Levinson explained that he reviews the document line by line and makes sure it's accurate.

Trustee Oxborrow referred to page 1 of the Lease Agreement as it refers to the District bonded indebtedness as it should not exceed 3.125% of the taxable property. She asked if this was standard language. Mr. Ough confirmed. Trustee Oxborrow asked Mr. Stoppenbrink to provide information to her that refers to the indebtedness of the District.

Trustee Oxborrow referred to page 3 of the Lease Agreement, noting that there is a deadline of April 11, 2011. She asked if this was a reasonable date. Mr. Levinson stated that the deadline ties back to tax code and we have 3 years.

Trustee Oxborrow referred to page 4, section 2.3 which refers to insurance and additional coverage. She asked if this had been taken care of. Mr. Stoppenbrink stated that the earthquake insurance is not a requirement but we would be liable for the damages to the facilities. Trustee Oxborrow stated that she understood it was a requirement. Mr. Levinson explained that he is waiting to hear back from Bank of America regarding whether or not the earthquake insurance is required. Trustee Oxborrow stated that she was concerned as the document refers to all employees. She stated that the District does not have control over everybody involved in this process. Mr. Levinson explained that it refers to issues that are within our control. Trustee Oxborrow stated that she understood that it was also the responsibility of the District not to be placed in this type of situation.

Trustee Oxborrow asked for clarification on page 5, section 2.5 of the Lease Agreement which refers to subleasing. She expressed her concern as the District has a charter school in Lemoore and was concerned as to how this would relate. Mr. Ough stated that you can only sub-lease to another tax exempt organization.

Trustee Cantu left the meeting at this time.

Mr. Ough stated that if we planned on subleasing, we would need to place a phone call to bond counsel for approval.

Mr. Stoppenbrink left the meeting at this time.

Trustee Oxborrow asked if the 25 year lease and the COPs had the same term. Mr. Levinson confirmed.

Trustee Oxborrow asked how the variable rates will be calculated. Mr. Ough stated that the remarketing agent will call and let us know how the rates are and let us know what the best rate is.

Trustee Cantu returned to the meeting at this time.

Mr. Stoppenbrink returned to the meeting at this time.

Trustee Oxborrow presented an article from a Tulare newspaper. She asked how long it would be before insurance companies started giving ratings back. Trustee Cantu stated that it would probably depend on cash flow. Mr. Levinson stated that there really is no way to tell.

Trustee Oxborrow questioned if we could add something in the Lease Agreement stating that the District is not responsible for the actions of others if they do not follow the law. Mr. Levinson stated that he would look into it. Trustee Oxborrow also requested a financial report and a historical summary of the last COPs so the Board of Trustees could see what we did. She also asked that charts be included. Mr. Stoppenbrink said he would gather this information for her and the other Board members.

Mr. Stoppenbrink referred to section 5.3 of the Lease Agreement. He asked if we can change comprehensive general insurance to comprehensive general liability insurance. Mr. Levinson stated he would make the correction.

Trustee Cantu asked how SB 344 may affect us. He presented an article to the group. Mr. Levinson stated that he would never recommend we buy back our own paper. Mr. Ough explained that the SEC is all over this. He further explained that you never want to buy back; you want to pay off your bonds. He also stated that we want to redeem

the bonds, not buy back. He stated that a buy back is not the same as redeeming your bonds.

Trustee Cantu asked if we wanted to convert to a fixed rate three to four years from now, would we have to pay the reissuing fees. Mr. Ough stated that we will not as it is not a reissuance it is a conversion.

Trustee Oxborrow thanked Mark Levinson and others for answering all of her questions.

Dr. Gornick stated that the book Mr. Ough provided to us is actually worth \$50 on Amazon.com.

Trustee Levinson questioned the role of Union Bank. Mr. Levinson stated that they will provide the letter of credit.

Mr. Levinson stated that he will try and put together a PowerPoint presentation and send it out to all as it may help. Trustee Levinson asked if he could also provide a one to two page summary. Mr. Levinson agreed.

Mr. Sachs commended the District staff and the Board for being visionary and seeing the need to move forward.

Trustee Cantu asked if the fixed rate would be lower. Mr. Ough stated that it should be going down. Mr. Stoppenbrink stated that the variable rate is at 2% and it should be going down as well.

ADJOURNMENT

There being no further business before the Board of Trustees, the study session was adjourned at 11:30 a.m.

Nina Oxborrow
Clerk of the Board of Trustees

/bc