

West Hills Community College Foundation
9900 Cody Street
Coalinga, CA 93210

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

June 17, 2009

This meeting of the Board of Directors of the West Hills Community College Foundation was held on June 17, 2009, at the West Hills Community College District Board Room.

Call to Order

The meeting was called to order by President Ernest Drewry at 10:03 a.m. and a quorum was established. Len Falter led the Board of Directors and audience in the flag salute.

Board of Directors Present:

Ernest Drewry, President, Community Director
Len Falter, Community Director
Bertha Felix-Mata, Staff Director
Don Forth, Community Director
Brad Gleason, Community Director
Edna Ivans, Trustee Director
Sheilah Kreyenhagen, Community Director
Nancy Oliveira, Community Director
Nina Oxborrow, Trustee Director
Bill Pucheu, Community Director
Ann Stone, Secretary, Community Director
Ken Stoppenbrink, Chief Financial Officer, Staff Director
Don Warkentin, Staff Director

Board of Directors Absent:

Willard Lewallen, Staff Director
Oscar Sablan, Community Director
Marc Scott, Community Director

Others Present:

Frank Gornick, Chancellor
Rick Post, Interim Executive Director, West Hills Community College Foundation
Elaine Sloan, Administrative Secretary
Kevin Cobb, District Architect, AP Architects
David Reynolds, Associate Dean of Student Services, West Hills College Coalinga
Richard Larson, Director of Farm of the Future, West Hills College Coalinga
Mark Gritton, Director of Athletics, West Hills College Coalinga
Sharon Gordon

Public Comments

Mr. Bill Pucheu read the following letter (typed as written):

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Dear Rick –

As the Foundation is approaching our June meeting some items are necessary, in my opinion, to be completed beforehand. As a result of Mr. Zampi's statement that the Foundation falls under the Ralph M. Brown Act we have a number of items to accomplish prior the board being able to meet or transact any business. Those items I feel are as follows:

- 1. Posting of our meeting agendas – This must be published in the local media and then posted in easy view of the public at our regular place of meeting. Perhaps a board resolution is sufficient to accomplish this.*
- 2. Conflict of Interest Code compliance – To my knowledge every public entity subject to the Ralph M. Brown Act in California must adopt a Conflict of Interest Code prior to the transaction of any business. Perhaps we could adopt the West Hills Community College Conflict of Interest Code presently in use by the Governing Board of the District. Every board of directors that I presently sit has complied with the Fair Political Practices Commission requirement.*
- 3. Affirming Board actions taken prior to March 25, 2009 – I need legal advice on this item. We have purchased real property and spent public funds in the course of our believed to be legal actions in the course of doing the Business of the Foundation. How we affirm or ratify our past actions I do not know.*
- 4. California Form 700 (Statement of Economic Interests) – To my knowledge this filing requirement is necessary of all directors of the Foundation prior to the conducting of any business. Normally this is an annual filing that is accomplished on or before April 1st. For the purposes of the Foundation I have used March 25, 2009 (Assuming Office) because that is the day the college's counsel (Mr. Zampi) opined that the Foundation falls under the Ralph M. Brown Act. I hope this is not too great a burden for those needing to complete this filing.*

There are two other items I need to bring to your attention and ask for an explanation.

The first concern is the school audit of the Foundation office. I would like to know who requested this, who defined the parameters of this audit, who is conducting this audit, and what is the purpose of this audit. Audits of any public agency's financial records is solely the responsibility of the Board of Directors is therefore is completely under their control. As a member of the Board I have not been made aware of any suspected irregularities. I only learned of this "Audit" from the recent press releases (March 25, 2009, Fresno Bee) and have unable to respond to questions asked of me by residents of my local community.

Secondly, I have been made aware that Dr. Gornick prepared and sent to the District Trustees a letter informing them of his resignation from the Foundation Board. I

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would request an explanation of this and would request a copy of the letter if it is a public document.

I regret having to prepare such a long letter with my concerns for you. My commitment to the West Hills Community College District will remain as strong as it has been in the past. In my younger years my attendance at Coalinga College had a major influence on me and helped me find my way in this life. My wish is to insure that the Foundation is in compliance with the rules and regulations as defined by the various California laws that govern the Foundation's activities.

*Kindest regards,
/s/
William C. Pucheu*

Enc: California Form 700

Reports

Executive Director's Report

Dr. Rick Post provided a brief summary of the Ralph M. Brown Act. He stated that he was happy to report that the notices were properly posted for this Board meeting.

Dr. Post discussed Form 700 Statement of Economic Interests and asked the Board members to complete and return the forms at their earliest convenience. He also briefly reviewed the instructions page.

Dr. Post provided a summary of income, expenses and profit for the Foundation Golf Tournament from 2006 through 2009. He thanked several Board members for their commitment to the tournament and also thanked the wonderful group of volunteers.

Dr. Post commented on the list of scholarships given to students at West Hills College Coalinga and West Hills College Lemoore. He stated that the total amount awarded for Coalinga for 2009-2010 is \$27,000 and the total amount awarded for Lemoore for 2009-2010 is \$19,350. Mr. Pucheu questioned the number of Presidential Scholars and Dr. Post responded that he will find out and get back to him with an answer. Dr. Post reported that the Osher Foundation has provided a challenge wherein they will provide a \$25 million donation if we will match it. The goal among all California Community Colleges is to raise \$50 million. Our individual goal for the West Hills Community College Foundation is \$217,000. Dr. Post stated that we will be doing what we can in that area.

Dr. Post discussed the mission, vision and guiding principles statements with the Board. He suggested that the Board hold a retreat to develop a strategic plan for the Foundation.

Dr. Post informed the Board that the following individuals have submitted their resignation from the Foundation Board of Directors:

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- Frank Gornick
- Bill Gundacker
- Stacy Sablan

Investment Committee Report

With regard to the Investment Committee meeting held on May 7, 2009, Mr. Ernie Drewry discussed the removal of the 8% administrative fee from constituent accounts with \$10,000 or less. He asked if anyone had comments. Mr. Mark Gritton stated that he participated in that meeting and he commented that we lose our volunteers because of the fee that is being charged. Mr. Richard Larson expressed his agreement and stated that he is supportive of the changes to the 8% fee.

Ms. Nina Oxborrow initiated discussion concerning the scholarships listed in the investment account. Dr. Post commented on the investment policy and how it addresses this matter. He also commented on specific requirements with regard to the Osher Foundation and Title 5.

Discussion took place regarding the various accounts and activity related to those accounts. Discussion also took place regarding donations to the Foundation and Dr. Post explained the process. He also commented on the Datatel Colleague Advancement software, stating that this new software allows for the accounting to be handled by the Foundation staff and the business office staff. Mr. Drewry commented on the recent report from UBS and the gains and losses in the accounts.

College Reports

- West Hills College Coalinga – In the absence of Dr. Willard Lewallen, President, Mr. David Reynolds, Associate Dean of Student Services, distributed copies of the college report and briefly commented on recent and upcoming events and activities.

Mr. Kevin Cobb, District Architect, provided an update on the North District Center, Firebaugh. He provided a history of the center and commented on the initial purchase and the Chancellor's office communication. He reported that the project has been carried on the 5 year construction plan since 1998. Mr. Cobb also reported that DSA (Department of the State Architect) retrofit testing occurred in 1999-2000 and the project has been pushed back each year. Currently, the Capacity Load Ratio (CLR) is sufficiently low for a fundable project and Measure Q funds are available for matching funds. Mr. Cobb explained the planning options and commented on maintaining the downtown location. Master plan options were also discussed which include modernization with new space detached, modernization with new space addition, or an entirely new building which would replace the existing building. He also discussed Chancellor's Office funding. Mr. Cobb explained that the project would be funded by capital outlay. The final cost is unknown until options are determined and the final data input is complete. With regard to the schedule, Mr. Cobb reported that the Initial Project Proposal (IPP) will

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be submitted in June 2009 and the Final Project Proposal (FPP) will be ready for submittal in September 2009. The District will need to have title of the property with the FPP final submittal.

Mr. Brad Gleason initiated discussion on the process of the sale or transfer of the Firebaugh property. Dr. Frank Gornick explained the history of acquiring the property and the issues with the IRS and the property owner.

- West Hills College Lemoore – Mr. Don Warkentin, President, distributed copies of his college report and briefly commented on recent and upcoming events and activities.

Financial Activity

Mr. Ken Stoppenbrink presented the financial activity report for the Foundation accounts. Discussion took place concerning the negative balance in the IEE account. Dr. Post explained the previous accounting process used and reported that it has been changed and there will no longer be a negative amount reflected. Brief discussion took place concerning the account activity.

Action Items

- 3.F. 8% Administrative Fee – Dr. Post explained that the reason for the change in the 8% administrative fee procedure is that it would be beneficial for the students. Ms. Edna Ivans stated that she thinks it is the right thing to do. Additional brief comments were made in support of the change.

The removal of the 8% administrative fee from constituent accounts with \$10,000 or less was approved on a motion by Ms. Edna Ivans, seconded by Mr. Don Forth, and carried unanimously.

- 3.A. Minutes – The minutes of the December 10, 2008 meeting were approved on a motion by Mr. Bill Pucheu, seconded by Mr. Len Falter, and carried unanimously.
- 3.B. Acceptance of Donation – On a motion by Ms. Edna Ivans, seconded by Mr. Bill Pucheu, and carried unanimously, the Board of Directors accepted the donation of \$25,000 to establish the Phyllis Roberts Endowed Scholarship.
- 3.C. Authorization to Sell/Trade/Transfer – The authorization to sell/trade/transfer and receipt of sale for the following property was approved on a motion by Mr. Bill Pucheu, seconded by Mr. Len Falter, and carried unanimously:

- 4 Black Angus Calves
- 1 Old Canner Cutter

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- 3.D. 2009-2010 Meeting Schedule – On a motion by Mr. Bill Pucheu, seconded by Mr. Don Forth, and carried unanimously, the Board of Directors approved the 2009-2010 meeting schedule which includes a meeting every other month.
- 3.E. Statement of Investment Policy – The Statement of Investment Policy was approved on a motion by Ms. Edna Ivans, seconded by Mr. Ken Stoppenbrink, and carried unanimously.
- 3.G. Kings Country Club Dues – On a motion by Mr. Len Falter, seconded by Ms. Edna Ivans, and carried unanimously, the Board of Directors approved the deduction of the Kings Country Club annual golf dues from the Foundation’s operating budget. In addition, the Board agreed to appoint a committee to discuss the Kings Country Club annual golf dues. The volunteers for the committee are Mr. Brad Gleason, Mr. Len Falter, Ms. Nina Oxborrow, Ms. Nancy Oliveria, Dr. Rick Post and Mr. Ernie Drewry.
- 3.H. 2009-2010 Operating Budget – The 2009-2010 Operating Budget for the West Hills Community College Foundation was approved on a motion by Ms. Edna Ivans, seconded by Mr. Bill Pucheu, and carried unanimously.
- 3.I. Sale of Firebaugh Property – Mr. Drewry asked for public comments. Hearing none, he turned the discussion over to Dr. Gornick.

Dr. Gornick commented on the history of the construction and expenses at the North District Center in Firebaugh, stating that it solidifies the good relationship that the District has always had with the Foundation. He stated that the expenses were incurred on the Foundation’s behalf and the Foundation was willing to allow the expenses. The question of transferring title may have come sooner if the issues with the IRS and Mr. Joseph Uremovic had not occurred three or four years ago. He commented on the Firebaugh community’s support of a School Facilities Improvement District (SFID) and the funds being available to expand the center. Dr. Gornick also commented on the recent discussions with the Fresno County Library and the resources that they have allocated for Firebaugh area. They are very anxious to work with us in terms of partnering to combine facilities. It is a much anticipated project for us and they will be a good partner.

Dr. Gornick stated that from the District’s point of view, the District’s part of the bargain is the ongoing support for the Foundation activities. That support has increased significantly over the years with the employment of a full time Director and two staff members. The intent is to continue that support. The Board of Trustees’ perspective is that they see the value in maturing the Foundation in terms of what can occur. The Foundation and the District have come a long way to the mutual credit of everyone. The overall intent of what the plan was and what we wanted to do is still intact, is still supported by the Board of Trustees, and is still supportive in terms of recognition to the Foundation. The transfer of title, and the District and Foundation agreeing to continue to maintain the

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operation of the Foundation as you see it today, continues to solidify the commitment that began 15 years ago in terms of what we wanted to do in Firebaugh.

Ms. Ivans stated that 15 years ago we would give out about \$3,500 in scholarships and thought we were doing a great job. She stated that we have worked really hard and the increase in the amount of scholarships we are able to give is amazing.

Mr. Gleason stated that he doesn't disagree but referred to the balance sheet which shows a value of \$250,000 that has been capitalized. He stated that he can't see deeding the property to the District for just one dollar. He stated that we would be taking it out of the Foundation without receiving some commensurate amount of money. Mr. Gleason commented that the Foundation's fund balance for the whole operation is \$209,000 and if the property is to be taken off the books, they would be in a deficit position.

Mr. Gleason expressed his concern that there is not a contractual obligation between the two entities with regard to the District supporting the salaries of the staff and expressed that the issue is being forced – for example, a fair trade of assets. Mr. Drewry stated that his opinion is that the Foundation is providing an asset to the District and the District is providing employee support for the Foundation. The Foundation is not getting a tangible dollar amount but the District is making a commitment over the next five years that they will take care of the staffing. If it is calculated over five years, the District is incurring more than \$1,200,000 in expenses that would have had to be taken care of by the Foundation.

Mr. Gleason stated that he is used to an escrow, a buy/sale agreement or an appraisal and what is and isn't tangible. He stated that the Foundation is talking about deeding the property for a dollar and going from an equity positive to an equity negative. He stated that there is not an accounting transaction in the world that is going to allow the Foundation to treat it as an asset with and be able to quantify a future benefit we are going to receive. He stated that he is not in favor of just deeding the asset over for nothing while the Foundation has it capitalized on their books for \$250,000. He stated that he will not go along with that.

Discussion took place concerning the capitalized amount of \$250,000. Mr. Stoppenbrink stated that the \$250,000 was the money spent by the District for improvements on the property and was capitalized as such as an asset on the books. Mr. Gleason stated that to the extent that there was rental income, if the Foundation is investing in something it is entitled to make a return on that investment.

Mr. Gleason initiated discussion concerning the why the district did not take on the property in the first place. Mr. Cobb explained that the Foundation taking

initial ownership of the property is a mechanism to use for the District to qualify for a future that would ultimately replace some piece of property. Mr. Gleason commented that the Foundation is going to create a deficit by taking a loss and will be giving up a \$250,000 item that is on the balance sheet. Mr. Pucheu questioned if this is an unmanageable issue. Mr. Falter stated that it is for the benefit of the college, not for the benefit of the Foundation. They are two separate entities and the Foundation's goal is to support the college with long term objectives.

Mr. Drewry stated that all the improvements on the property have been paid for by the District and not the Foundation. He stated that the benefit of the district owning the property is that they can build a new campus and receive matching funds from the state to do so. He stated that the Foundation is here to benefit the college and it doesn't bother him if the District owns the property.

Mr. Pucheu stated that the Foundation has to take action to protect themselves and that a title search and environmental assessments should be done if necessary. Mr. Drewry agreed and stated that the transfer of title will not occur unless the title is clear. Mr. Cobb stated that a title search would occur as a matter of business practice, but any environmental reviews can be done later in the project. He stated that the District can take title without any environmental reviews. Dr. Gornick stated that the District can accept the title with any liabilities that come with it.

Mr. Pucheu commented on Foundations being separate entities. He stated that there has been good dialogue over this matter and we are finding that things are not as different as originally thought in many respects. He commented on the balance sheet and stated that he is not going to worry about it too much. The Foundation's emphasis is to support the college and we are going to find a way to do that.

Dr. Gornick stated that he isn't implying that there would just be a change of title without a title search and all the things that are stipulated in escrow. Any liability would be incurred by the District. These are stipulations that would be put into escrow. The District's point of view is that they have acted in good faith on behalf of the Foundation. They will continue that in terms of exchange. He stated that he doesn't see arguing against the transfer. Mr. Gleason stated that he thinks the money could be put to use for the students.

Dr. Post stated that the exchange for the property is obviously going to have some form of present consideration and that might be a dollar, but having an agreement that the District is going to continue to support the Foundation will be beneficial. He commented on the work of the staff and the implementation of the Colleague Advancement software that it going to make the office much more professional and efficient when it comes to communicating with donors, potential donors, and alumni. He stated that the Foundation could not absorb the expenses of the Foundation staff and their benefits and continue to exist.

Dr. Gornick stated that the District is not in a financial position to be able to pay for the property plus an operating budget. Mr. Gleason initiated discussion concerning the Foundation carrying a note if the District didn't have the cash. Ms. Ivans stated that the Foundation did not buy the building, the District did. Mr. Gleason stated that the Foundation capitalized it as though they owned it and they have the title. Mr. Pucheu stated that the issue before us is not how the building was purchased, but how we sell it. Dr. Post stated that the item the Board of Directors is considering is the sale of the property. He stated that it could be for a dollar, but there has to be present consideration. Mr. Gleason questioned if the offer is for a dollar. Dr. Post again stated that it would be nominal consideration and, in addition, future support of the Foundation. Dr. Gornick stated that the District had not made an offer, they are just attempting to state the facts.

Mr. Gleason questioned if a vote is needed today. Dr. Gornick stated that he is not hearing that the Foundation is against the benefit, but that they are questioning the details and the transfer. Dr. Forth questioned the ownership of properties by Foundations on behalf of colleges and stated that he does not believe this is uncommon in California. Dr. Post responded that it is not unusual. The Foundation can step in to help the District. He stated that looking back in retrospect, it made a lot of sense for the Foundation and the District to do what they did. His experience is that this is a common practice with Foundations and he does not recommend that the Foundation get into the business of buying and selling real estate.

Mr. Drewry stated that when the Foundation took on the responsibility of the North District Center, they did so to help the District. It also helped the Foundation by providing them with an asset as they basically had nothing back then. The Foundation did not have the money to purchase the property on their own, but the District offered to pay the lease if the Foundation would purchase the property. Now the Foundation has the opportunity to transfer it back to the District so that they can build a big campus and provide additional services to students. Mr. Drewry stated that the Foundation should transfer the property to the District. Dr. Post stated that it would be beneficial to get rid of the insurance premium on the property. Mr. Drewry reiterated that the District is going to cover the cost of the expenses with regard to the title search and escrow. Mr. Drewry stated that he would entertain a motion to transfer the property to the District.

Mr. Pucheu stated that he lives in the Firebaugh area and he would certainly welcome this idea. He stated that someday the industry is going to come back and we have to plan for the next 20 to 30 years. He stated that he is grateful to be here at this moment. Mr. Pucheu made a motion to approve the sale of the Firebaugh property to the West Hills Community College District. Ms. Ivans seconded the motion and it carried unanimously.

Ms. Oxborrow stated that the Foundation and District have been put in this position because we have operated in some instances as a family. She stated that she thinks from this point on we need to operate like a business, we need to be accountable, and we need to do what's right. She stated that we need to have good accounting, legal opinions and CPA opinions and we need to act like a business. She stated that this is all she has asked for and it is the reason why a lot of these issues have come up and may continue to come up. Ms. Oxborrow stated that we have the opportunity now to go forward and make this the best Foundation possible. We need to make our District proud of our Foundation. We have done wonderful things in the past and we just need to do the right thing. She stated that she expected that everything will be done legally and correctly and in the future, when this present Board is not here, someone can look at everything that has been done and know that it was done correctly.

Mr. Drewry stated that the Foundation hasn't done anything illegal and he agrees with Ms. Oxborrow that things need to be done legally and correctly.

Review and Discussion Items

- 4.A. West Hills Community College Foundation Bylaws – Dr. Post announced that a review of the proposed West Hills Community College Foundation Bylaws will occur at the next meeting of the Foundation Board of Directors scheduled for July 15, 2009.

Announcements and Upcoming Events

Dr. Post announced that a special meeting of the West Hills Community College Foundation Board of Directors will be held on Wednesday, July 15, 2009 at 10:00 a.m. at the West Hills Community College District Office Board Room. The next regular meeting of the West Hills Community College Foundation Board of Directors meeting will be held on Wednesday, September 16, 2009 at the North District Center, Firebaugh at 10:00 a.m.

Board of Directors Comments and Requests

Mr. Falter thanked Dr. Post for his work with the Foundation and for getting the Board of Directors through this transition.

Adjournment

There being no further business before the Board of Directors, the meeting was adjourned at 12:56 p.m.