

# COAST COMMUNITY COLLEGE DISTRICT

## District Budget Advisory Committee Meeting Summary

March 3, 2011

### CALL TO ORDER

**Chancellor Ding-Jo Currie** called the meeting to order at 8:02 a.m. in the District Board Room.

Cabinet members present were:

1. Lori Adrian, President, CCC
2. Wes Bryan, President, Golden West College, GWC
3. Susana Castellanos-Gaona, Classified Representative, GWC
4. Ding-Jo Currie, Chancellor, District
5. Andrew Dunn, Vice Chancellor, Administrative Services, District
6. Raine Hambly, Classified Representative, District
7. Dennis Harkins, President, OCC
8. Ann Holliday, representing Academic Senate Representative, CCC
9. Janet Houlihan, Vice President, Administrative Services, GWC
10. Christina Irvin, representing Confidentials
11. Judi Lagerlof, Classified Representative, OCC
12. Theresa Lavarini, Academic Senate Representative, GWC
13. Dale Lendrum, Student Representative, GWC
14. Dean Mancina, CFE Representative, OCC
15. Vesna Marcina, Academic Senate Representative, OCC
16. Christine Nguyen, Representing Vice President, Administrative Services, CCC
17. Robin O'Connor, Faculty Representative, OCC
18. Rich Pagel, Vice President, Administrative Services, OCC
19. Barbara Price, representing Coast CCA
20. Vince Rodriguez, representing CDMA Representative
21. Cheryl Stewart, Faculty Representative, CCC
22. Danny Wojciechowski, CFCE Designee Representative, CCC
23. Linda York, Faculty Representative, GWC

### Committee Members Absent:

1. Minal Ajbani, Classified Representative, CCC
2. Alex Ceballos, Student Representative, OCC
3. Lee Fuller, Student Representative, CCC
4. Nancy Jones, Academic Senate Representative, CCC, represented by Ann Holliday
5. Michael Mandelkern, CDMA Representative, OCC, represented by Vince Rodriguez
6. Norma Pollaro, Confidentials Representative, GWC, represented by Christina Irvin
7. Jack Price, Coast CCA Representative, represented by Barbara Price

### **Report from Board President Patterson on General Counsel Fees for Calendar Years 2009 and 2010**

#### **Discussion:**

In response to concerns expressed at previous DBAC meetings about the legal costs associated with the use of a General Counsel, **Board President Jerry Patterson** attended the DBAC meeting to offer a response. **Board President Patterson** distributed a set of handouts and provided a thorough history of how the District has used legal services during the previous 15 years while he has served on the Board, the process used to select the General Counsel, details concerning the General Counsel contract, scope and benefit of his work, and clarification of rumors regarding his personal relationship with the General Counsel.

**Trustee Patterson** reported the following key points:

- The Board supports transparency and although some legal areas are confidential, such as those involving litigation and personnel issues, legal costs are totally transparent.
- During the Board's Closed Session meeting of March 2, 2011, the Board conducted a performance evaluation of the General Counsel (which is confidential, as are all performance evaluations) and unanimously agreed to reduce General Counsel fees and to support **General Counsel Jack Lipton**. The Board further agreed to the following in Closed Session:
  - Continue oversight of litigation; avoid litigation in the first place; reduce General Counsel hours
  - Develop a contract review process by staff that reduces use of General Counsel services
  - Examine more closely how work is assigned. The executive team will be asked to develop protocol with the Board.
- Prior to use of General Counsel, the District engaged private law firms or utilized services for generic legal issues (not litigation) that are available at no charge from the Orange County Department of Education.
- **Board President Patterson** noted several legal areas he believed needed to be addressed by bringing in a General Counsel to the District. They included:
  - Access to a system for good and frequent legal advice
  - Brown Act compliance
  - Action-oriented Board minutes
  - Properly prepared and filed resolutions
  - Updated Board policies and procedures
  - Contracts reviewed with an eye toward that which is in the best interest of the District
  - Resolution of on-going personnel and arbitration issues
  - Bringing auxiliary operations into legal compliance (College and District Foundations and CCCD Enterprise)
  - Litigation oversight
  - Oversight of personnel performance evaluations
  - Removal of evergreen employment contracts (automatic renewals).
- In 2007, **Trustee Jerry Patterson** and **Trustee Walter Howald** were appointed to a Task Force to consider use of legal counsel. They considered two options: employing outside legal counsel or hiring an in-house, full-time attorney as an employee. Then **Chancellor Kenneth Yglesias** and **Trustee Patterson** were not in favor of an in-house employee; **Trustee Howald** and **Trustee Patterson** looked at several law firms but did not agree on an outside firm.
- In 2008, after a Board election that resulted in **Dr. Lorraine Prinsky** replacing **Trustee Armando Ruiz**, an ad-hoc Board Committee consisting of **Trustee Jerry Patterson** and **Trustee Jim Moreno** performed due diligence and looked at multiple law firms. **Trustee Patterson** interviewed **Dr. Jack Lipton** with the firm Burke, Williams and Sorenson for the General Counsel position. **Dr. Lipton** was then interviewed by both **Trustee Patterson** and **Trustee Moreno**. **Trustee Patterson** and **Trustee Moreno** recommended **Dr. Lipton's** hire to the full Board on December 9, 2008. The hire was approved by a 3-2 vote of the Board. **Board President Patterson** noted that General Counsel was retained without a public bidding process, as public bidding processes are used for public work projects and not for personnel services.
- **Board President Patterson** dispelled rumors of having a personal relationship with **Dr. Lipton** prior to his selection as General Counsel. **Mr. Patterson** retired from Burke, Williams, Sorenson in 1997 where he was a managing senior partner in the Orange County office; **Dr. Lipton** was hired in the Los Angeles office as an associate just coming into practice. They never worked together or had any social contact. **Mr. Patterson** further dismissed the rumor that **Dr. Lipton** was fired as General Counsel from Ventura Community College District for overcharging. **Mr. Patterson** stated that **Dr. Lipton** served in Ventura for six years before a newly-elected Board majority fired the Chancellor, College President, General Counsel and

others. **Trustee Patterson** talked to a newly elected Board member at Ventura who said **Dr. Lipton's** fees were too high.

- **Board President Patterson** noted **Dr. Lipton's** impeccable qualifications of having earned a Ph.D. and a doctor of law degree, that he was a community college student and part-time community college teacher, and served as a Vice Chancellor of Human Resources.
- **Board President Patterson** reviewed the General Counsel retainer agreement and noted that **Dr. Lipton** does not charge for travel time and no longer bills for his service at public Board meetings, as he originally had, but does bill for his time in Closed Session meetings. **Dr. Lipton's** hourly rate is \$290.00, which is very reasonable for a quality lawyer as many attorneys charge as much as \$400.00 per hour. **Dr. Lipton's** contract can be cancelled with 30 days notice.
- A history of legal fees over the last eight-year period was reviewed in which the highest expense was \$948,958 in 2003-04, and the lowest was \$385,057 in 2007-08; the average was \$450,000. In 2009, General Counsel legal fees were \$504,000 and outside legal fees were \$514,000. **Board President Patterson** expressed his personal goal to reduce annual legal fees to \$450,000 a year. He made a distinction that the firm of Burke, Williams, Sorenson does not perform litigation services for the District, but supervises litigation.
- **Board President Patterson** offered a few examples of cost savings to the District through the use of General Counsel:
  - Contracts for the Chancellor and executive staff
  - Elimination of evergreen contracts for educational administrators and review of performance evaluations prior to contract renewal
  - IKON Office Solutions contract
  - PLATO Learning, Inc. contract
  - Avoidance, reduction, settlement and completion of litigation
  - Compliance issues
  - Human Resources issues (grievances, EEOC, PERB, arbitration, etc.)
- If in-house legal services were considered in lieu of an outside General Counsel, **Board President Patterson** noted costs of approximately \$320,000 in salary and benefits for one attorney and one paralegal, with costs increasing to approximately \$399,000 with the addition of Lexus Nexus legal service and a law library. An in-house attorney would also limit litigation resources to one person.
- **Board President Patterson** requested money-saving ideas from DBAC members, reminding all that this is from the ten percent of the budget that is not allocated to salary and benefits. **Mr. Patterson** applauded the efforts of DBAC to examine costs and find where cuts can be made from the ten percent of the budget not allocated to salary and benefits. Remaining cost-cutting measures will materialize from the 90 percent of the budget that is negotiated, or they will occur in other ways.
- **Trustee Jim Moreno** advised that the District needs legal protection and noted that many costs are contractual and cannot be cut. He offered that the issue of legal costs was used by his opponent during the campaign for his Board seat. He commended DBAC for doing the work they were tasked to do and searching for ways to cut expenses.
- In response to **Trustee Patterson's** report, DBAC and audience members offered the following feedback:
  - **Ding-Jo Currie** informed that the majority of outside legal fees are covered by insurance and the District pays a deductible, and more information about this can be given to DBAC.
  - **Theresa Lavarini** suggested the General Counsel contract be written with a not-to-exceed clause. **Mr. Patterson** replied that no law firm works on a NTE, largely because most legal fees are driven by what someone else does.
  - **Neal Kelsey** asked if operational costs for the General Counsel are taken from his salary. **Mr. Patterson** confirmed they were.
  - **Vesna Marcina** asked that savings from reduced legal costs be put toward students.

## **Budget Update and Review**

### **Discussion:**

- Due to time constraints, **Andy Dunn** quickly reviewed a budget-update presentation. He referenced a second presentation on fiscal monitoring and self-assessment, which is a framework made available by the System Office to promote institutional dialogue, and informed that both presentations will be available on the District website.
- **Mr. Dunn** noted the following for 2011-2012:
  - Student fees will increase to \$36 per unit
  - Growth is off the table
  - Deferrals will increase by \$129 million for a total of \$961 million
  - No further reductions planned for categorical programs
  - Census change proposal was rejected
  - Plan for proportionate workload reduction mode.
- There has been no statewide education bond since 2006; it is hoped there will be one in 2012.
- VSP-Option B was approved by the Board at the March 2, 2011, Board meeting. With respect to staff vacancies resulting from VSP-Options A & B, each site will be asked to make their own staffing decisions.
- As all departments and staff have been asked to do more with less, **Mr. Dunn** noted an example of District Fiscal Services, which has five fewer staff now than one year ago. Their department has requested a reorganization.
- All budget solutions must come together in the next five-to-six weeks.

### **NEXT MEETING DATE:**

It was agreed that the next meeting would be held April 7, 2011, 3:00 – 5:00 p.m. in the District Board Room.

The meeting adjourned at 10:11 a.m.

Recorded by Nancy Sprague