



**BOARD OF TRUSTEES
SPECIAL MEETING MINUTES
Oakland Community College
2480 Opdyke Road
Bloomfield Hills, MI 48304
January 5, 2012**

1. GENERAL FUNCTIONS

1.1 Call to Order and Welcome

The meeting was called to order at 10:00 a.m. by Chair Kuhn.
The meeting was held at the Doris Mosher Foundation House, 2480 Opdyke Road, in Bloomfield Hills, Michigan.

1.2 Attendance

Present

Thomas Kuhn, Chair
Daniel Kelly, Vice Chair
Pamala Davis, Secretary
Thomas Sullivan, Treasurer
Shirley Bryant, Trustee
Sandra Ritter, Trustee
Anna Zimmerman, Trustee
Timothy R. Meyer, Chancellor

1.3 Public Comments

OCCFA President Mary Ann McGee addressed the Board. She shared several concerns regarding today's special meeting. Some of these concerns included collecting feedback from the organization. Another issue was the scheduling of the meeting with less than 48 hours' notice to the College and community. Lastly, the issue was raised why this subject was not being addressed at a regular meeting.

1.4 Chancellor's Contract

Trustee Sullivan MOVED to approve the proposed Chancellor Employment Contract and authorize the Board attorney to make any formatting and stylistic changes, not substantive in nature, and authorize execution of the proposed contract. Trustee Davis seconded.

Trustee Ritter noted there was nothing in the notice that indicated the contract would be voted on today, just discussed. Chair Kuhn responded the notice required under the Open Meetings Act requires the time, place, and date and this notice went beyond that. He noted there were 16 members of the public in attendance. Trustee Ritter responded her concern is she thought this meeting was just for discussion purposes, not to take a vote.

Trustee Ritter requested the following remarks be recorded in the minutes verbatim.

“As an elected Oakland Community Trustee since 1978, I know something about governance. In that respect, I believe this contract erodes the governance responsibilities of this Board and eliminates the checks and balances created in the establishment of Community Colleges in Public Act 331 of 1966 and subsequent revisions.

I have never seen such a one-sided contract. By the Board agreeing to its terms and provisions, it is subcontracting its fiduciary responsibilities by:

- 1) Requiring a more than a majority vote to terminate the contract of the Chancellor. If this is a ‘best practice’ then all votes of the Board should mirror this provision.
- 2) Allowing all personnel decisions to be approved only by the Chancellor without the approval of the Board. The elimination of Board approval creates a type of dictatorship and ultimately an institutional culture described in the story *The Emperor’s New Clothes*.
- 3) Establishing a precedent to allow a term of contract to exceed more than 3 years in duration. This provision is said to send a message to the College and community that the Board supports the efforts of the Chancellor. This provision is unnecessary because of the last three years the Board has repeatedly supported the Chancellor as evident in its evaluation of the Chancellor and in its support of his recommendations brought forth at Board meetings.
- 4) Allowing an evergreen provision when no other Michigan Community College CEO has a roll over contract. Such a precedent puts this Board and future Boards in liable for the damage this contract will do to the College’s reputation of being fiscally prudent and good stewards of the public’s trust.
- 5) Agreeing to an automatic 2.5% annual increase and a bonus of more than \$20,000 when all other College employees have contributed concessions in recognition of the worst recession in Michigan since the Great Depression. In the face of Michigan’s economic uncertainty, this provision runs contrary to the Board’s demand of employees to make economic concessions to solve OCC’s budget problems.
- 6) Allowing payment for unused vacation pay when all other College employees are required to use or lose their vacation days. This reinforces the adage, ‘do as I say and not as I do.’ A mark of a leader is to lead by example.

- 7) Allowing any dispute to be heard by anyone other than an individual appointed by the American Arbitration Association. The College by virtue of its prominence in Oakland County must ensure that any mediation is conducted by a recognized, credentialed, unbiased and reputable individual.”

Trustee Kelly stated he has no problem with having an open discussion of the Chancellor’s contract. He responded to Trustee Ritter stating it is not a 6-1 vote – he has not told anyone on this Board what his vote is as he has not yet made a decision. Mr. Kelly also had some concerns on voting for the contract at a special meeting. Trustee Kelly inquired if the Board ever got an answer to the legal question on whether or not there has to be a 5-2 vote because of the provisions in the contract? Chair Kuhn said it is a majority vote per attorney Tukul. Trustee Kelly said he took very seriously Trustee Ritter’s comments regarding checks and balances. As you know, there were a lot of discussions back and forth in both public and closed sessions with our attorney. He believes there was a compromise in exactly what Trustee Ritter was talking about in keeping our fiduciary duties, particularly with regard to the clause that we actually put some beef behind our evaluations, so that the evaluations, if they are poor for the Chancellor, will have an effect on his security here with the College. He feels that is important. It now becomes the Board’s responsibility to do those evaluations, as the Board has worked on the format for a year and the evaluations should be done. He continued he will concede there was some compromise, particularly if we go to a super majority vote, but the contract provides it can also be lost after evaluations are poor for three years, which he thought was a fair compromise. He addressed Trustee Ritter’s statement regarding the contract being generous, but stated in this particular field as Chancellor of a community college and in this particular Michigan environment there has to be support from the Board. Ideally, he would like to see a 7-0 vote, but that will probably not happen.

Trustee Ritter thanked Trustee Kelly for his response. Regarding checks and balances, she indicated when she asks for items to be placed on the agenda, they don’t get included. She also went on she doesn’t feel the Board has checked all avenues for evaluations for the Chancellor.

Trustee Kelly responded Board members should have the right to have items placed on the agenda. He feels the Board hasn’t given away anything with the evaluations. An issue for him is the 5-2 vote when making decisions to hire or terminate a CEO – it should be a majority vote (5-2). Trustee Kelly does not believe this violates the charter or legislation.

Trustee Zimmerman expressed she thought this meeting was to discuss and review any other concerns regarding the Chancellor’s contract. She is not sure she could vote on the contract at this time. Ms. Zimmerman believes this vote should be addressed at a regular meeting. She continued the Board has worked hard to put evaluation language into the contract. Trustee Zimmerman suggested

feedback from the Cabinet should be included in the evaluation, but not from the entire College community. She wants to make sure the Board has put in their due diligence on the contract.

Trustee Bryant noted the Board has had long and laborious meetings, some of which Trustee Ritter was unable to attend, where Trustee Ritter's issues were discussed. She also stated she found it amazing that the person who negotiated the contract, except for the 2/3rd vote, is now not supporting it. Ms. Bryant continued she would like to make sure Trustee Ritter's "verbatim" statements are accurate.

Chair Kuhn noted all trustees have had the opportunity to read the contract, and Trustee Ritter is entitled to her interpretation of it.

Trustee Ritter responded in regards to the four votes, it only takes 4 votes to hire and to approve a budget. She's been told that four votes are four votes. In response to Trustee Bryant's request for Trustee's verbatim comments to be checked for accuracy, Ms. Ritter stated there are always things said at meetings that are erroneous and recorded at Board meetings and maybe she just added a couple.

Trustee Zimmerman reminded the Board we are here to discuss the contract and move forward.

Piggybacking on a statement made by Trustee Zimmerman, Trustee Davis said it is important to compare history to the present to try not to make the same mistakes. Ms. Davis is for the 2/3rds vote because she can remember a time when this whole community college suffered because of four trustees [and everyone knows what I am talking about] and I think that a 5-2 vote is fair. It is based on the evaluations that Trustee Kelly was talking about. Maybe it should take five votes to hire a CEO. She does not want to see people who are on the Board who don't have OCC's best interest at heart.

Trustee Kelly sees two issues going on: 1) The substance of the contract, and he is satisfied with it and agrees with Trustee Bryant that the Board has done their due diligence. 2) Concerned where some Board members are coming from regarding voting today in this special meeting. He suggested a compromise to make a motion today to end negotiations and place this on the regular meeting for approval. What we would be saying is we had our discussion here today, and it will be on the regular Board meeting for a vote. He doesn't want the Board to be criticized doing this at a special meeting. The contract will become public and people can decide whether it is too generous or not. In fact, he continued, the income part of the contract doesn't really change that much from what the Chancellor already has. There is definitely some security in there, and Trustee Kelly believes that you earn security.

The Chancellor has been here for a period of time, and the Board has had the opportunity to review it, and we want to give him security so he can accomplish some of the goals he has laid out for us.

Trustee Kelly offered a friendly amendment to Trustee Sullivan's motion that we set it up that way. Chair Kuhn asked Trustee Kelly that what he may be suggesting is to amend Trustee Sullivan's motion to approve the substance of the contract, but delete the section that authorizes execution of the contract and that way the execution issue could come back at a later Board meeting. Trustee Kelly said that was fine with him.

Trustee Kelly MOVED to amend the current motion to state the Board approves the substance of the contract, that the issue of authorizing the Chair to execute the contract and the minor necessities of the attorney be scheduled for the regular Board meeting on January 17th. Trustee Zimmerman seconded.

Trustee Ritter thought the Board was going to discuss the contract. She can't approve the substance as she doesn't understand certain items in the contract. She was unable to attend all of the contract meetings, and tried contacting the Chair for information, but still doesn't have answers.

Chair Kuhn stated in his 20 years of public service he has never seen a Board take more time to go over a contract as thoroughly and diligently as this Board has. He commended each of the members for their input.

Chair Kuhn called for the vote on Trustee Kelly's amendment:

AYES: Davis, Kelly, Kuhn, Ritter, Zimmerman

NAYS: Bryant, Sullivan Motion Carried

Trustee Davis indicated she was prepared to vote today. She clarified since all negotiations of the contract have ceased as of now, she will wait another week or so to vote.

Chair Kuhn called for the vote on the main motion as amended:

AYES: Davis, Kelly, Kuhn, Zimmerman

NAYS: Bryant, Ritter, Sullivan Motion Carried

Secretary Foster asked for a clarification on the vote. Trustee Sullivan asked that the main motion be read back. Ms. Foster stated she would have to find that section in her minutes. Chair Kuhn asked Trustee Kelly to restate. Trustee Kelly said paraphrasing it is to cease further negotiations with regards to the

Chancellor's contract and to place the execution of the contract on the Board agenda for January 17th along with any of the attorney clarifications that might occur between now and then.

Trustee Sullivan asked for a point of clarification that we are only postponing the vote on the contract. Chair Kuhn responded we are approving substance of this contract, but we are not moving for execution of the contract. That has to be moved separately at the January regular meeting. However, the substance in this contract is approved.

Both Trustees Kelly and Zimmerman offered Trustee Ritter the chance to ask questions about the contract. Trustee Ritter asked if she would be able to ask questions at the regular January Board meeting. Ms. Ritter wants to address her questions with the College attorney.

Trustee Sullivan commented the Board has had numerous meetings with the attorney regarding the Chancellor's contract and to him it sounds like Trustee Ritter would like the Board to reinvent the wheel to bring her up to date because she was unable to attend some of the meetings. He continued it is not fair to the other trustees or the Chancellor to keep postponing. Dr. Sullivan stated the question may arise if the Board is negotiating in good faith or playing games.

Trustee Ritter stated she had questions regarding certain provisions in the contract that run contrary to her governance concerns, as well as the economic conditions.

Trustee Zimmerman suggested again that now is the time to discuss the contract if there are any questions. Trustee Ritter did not opt to pursue the offer.

Upon receiving clarification and further discussion, Chair Kuhn again asked for the vote on the main motion as amended, which read:

MOVE to approve the substance of the proposed Chancellor employment contract and authorize the attorney to make any minor necessities (formatting and stylist change), not substantive in nature, and to vote on the authorization for the Board Chair to execute the agreement at the regular Board meeting on January 17th.

AYES: Davis, Kelly, Kuhn, Zimmerman

NAYS: Bryant, Ritter, Sullivan Motion Carried

2. ADJOURNMENT

Trustee Sullivan MOVED to adjourn the meeting, and Trustee Bryant seconded.

AYES: Bryant, Davis, Kelly, Kuhn, Ritter, Sullivan, Zimmerman

NAYS: None Motion Carried

The meeting was adjourned by Chair Kuhn at 10:53 a.m.

Respectfully submitted,

Cherie A. Foster

Date

Thomas Kuhn, Chair

Pamala M. Davis, Secretary