

**PALO VERDE COMMUNITY COLLEGE DISTRICT**  
**STUDY SESSION/SPECIAL MEETING**  
**BOARD OF TRUSTEES**  
**Tuesday, April 28, 2015**  
**4:30 p.m.**  
**One College Drive, Blythe, CA – CL 101**  
*(ITV held at Palo Verde College Needles Center – 725 W. Broadway, Needles, CA)*

**Meeting 15-07**

**MINUTES**

**I. OPENING OF MEETING**

1. Call to Order  
The Study Session/Special Meeting of the Board of Trustees was called to order by Dr. George Thomas, President of the Board, at 4:35 p.m.
2. Flag Salute  
The Salute to the American Flag was led by Ms. Woods, Trustee.
3. Roll Call

Trustees Present:                   George Thomas, President  
  Ned Hyduke, Vice President  
  Ted Arneson, Trustee  
  Ed Gonzales, Trustee *(by ITV from Needles Center)*  
  Jerry Lewis, Trustee *(by ITV from Needles Center)*  
  Suzanne Woods, Trustee

Administrators Present:           Donald G. Wallace, Superintendent/President  
  Sean Hancock, V.P. of Instructional and Student  
  Services  
  Russi Egan, Chief Business Officer

Absent:                               Ermila Rodriguez, Clerk  
  Alex Munoz, Student Trustee

Recorder:                           Carrie Mullion, Administrative Assistant to  
  Superintendent/President and Board of Trustees

Visitors:                            William Diedrich; Attorney with Atkinson, Andelson,  
  Loya, Ruud & Romo (AALRR)

4. Approval of the Agenda for this meeting.  
It was moved by Mr. Arneson, seconded by Mr. Gonzales, and unanimously carried, that the Agenda be approved.

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(These minutes are a concise summary of reports, discussion and actions taken at this meeting. For detailed comments and discussion, a tape is available to the public for 30 days after the date of this meeting.)

**II. HEARING OF CITIZENS (AGENDA ITEMS)**

*Members of the public have this opportunity to directly address the Board on agenda items, subject to a five (5) minute time limitation per individual. Pursuant to the Brown Act Government Code Section 54954.2(a): "No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3."*

None.

**III. ANNOUNCEMENT OF RECUSAL FROM AGENDA ITEMS**

*The Superintendent/President respectfully asks if any of the Governing Board members need to recuse themselves from any item where there might be a potential conflict of interest.*

None.

**IV. ACTION ITEM**

**D. MISCELLANEOUS**

**Resolution 15-07 D-12 – SUPPORT OF COLLEGE & CAREER ACCESS PATHWAYS ACT (ASSEMBLY BILL 288)**

**The following Resolution calls upon members of the California Senate and California Assembly to approve college & career access pathways (CCAP) which rely on concurrent enrollment partnerships between school districts and community college districts, to improve and expand college opportunities for all students.**

*Whereas, the connection between a college degree and economic stability has been exhaustively documented, making college access and preparation a social and economic justice issue; and*

*Whereas, across the United States there is a growing emphasis on school and community college collaboration to prepare students to be college and career ready; and*

*Whereas, California should do more to help schools and community colleges improve their college readiness and college enrollment rates; and*

*Whereas, concurrent enrollment has become a viable and effective method to prepare any student – even those who may have struggled academically and who may have had no initial interest in pursuing a postsecondary degree or credential – to complete high school and enter college; and*

*Whereas, allowing a greater and more diverse segment of high school students to take community college courses could provide benefits to both students and the state, such as, reducing high school dropouts, increasing the number of community college students who transfer and complete a degree, shortening the time to completion of educational goals, and improving the level of preparation of students to successfully complete for-credit, college level courses; and*

*Whereas, through concurrent enrollment partnerships school districts and community college districts could create clear pathways of aligned, sequenced coursework that would allow students to easily and successfully transition to for-credit, college level coursework leading to an associate degree, transfer to the University of California or the California State University, or a career technical education (CTE) credential or certificate; and*

**IV. ACTION ITEM (continued)**

*Whereas*, to facilitate the establishment of concurrent enrollment partnerships, the state should remove fiscal penalties and policy barriers that discourage concurrent enrollment opportunities; and

*Whereas*, AB 288, the College & Career Access Pathways (CCAP) Act, reduces some of the state’s key barriers around concurrent enrollment and makes it possible to expand college and career pathway opportunities for all students, thereby saving students and the state valuable time, money and scarce educational resources; and

*Now, therefore, be it resolved*, that Palo Verde Community College District Board of Trustees supports California rethinking its policies governing concurrent enrollment and establishing a policy framework under which school districts and community college districts could create concurrent enrollment partnerships as a strategy to provide critical support for under-achieving students, those from groups underrepresented in higher education, those who are seeking advanced studies while in high school, and those seeking a career technical education (CTE) credential or certificate; and

*Be it further resolved*, that Palo Verde Community College District Board of Trustees supports members of the California State Senate and the California State Assembly should improve and expand college access for all students and pass AB 288 by Assembly Member Chris R. Holden, the College & Career Access Pathways (CCAP) Act.

It was moved by Mr. Arneson, and seconded by Mr. Lewis, that Resolution 15-07 D-12 be approved.

Discussion occurred, and Dr. Wallace provided clarification.

Student Advisory	<u>Absent</u>	Hyduke	<u>Yes</u>	Thomas	<u>Yes</u>
Arneson	<u>Yes</u>	Lewis	<u>Yes</u>	Woods	<u>Yes</u>
Gonzales	<u>Yes</u>	Rodriguez	<u>Absent</u>		

Motion carried; Aye 6 No 0 Abstain 0 Absent 1

**V. STUDY SESSION**

1. Fiscal and Negotiations *(handouts to be provided at the meeting)*  
Presenter: William Diedrich, AALRR

Mr. Diedrich, Attorney for AALRR, provided handouts and a PowerPoint presentation titled “Negotiations 101”. Topics discussed included:

- The bargaining process
  - ❖ Commonly used terms
  - ❖ Meet and negotiate requirements
  - ❖ Duties of parties to provide information
  - ❖ Declaring impasse and its effects
  - ❖ Good faith bargaining requirements
- Commonly used terms
  - ❖ Good faith – no legal definition, but a simple definition is: if your efforts are designed to gain agreement, you are acting in “good faith”. If your efforts are designed to not get agreement, you are probably acting in “bad faith”.

- ❖ Exclusive representative – another term for labor union.

## V. STUDY SESSION (continued)

- Impasse
  - ❖ When you have met and negotiated and despite your best efforts you cannot reach agreement and you need the help of a third party.
- Negotiate
  - ❖ To make a “good faith” effort to come to an agreement. Requires that parties who enter into negotiations over matters within the scope of representation make a “good faith effort” to come to an agreement on such matters.
- Scope of representation
  - ❖ Subjects that need to be negotiated. Refers to the subject matters that are subject to the meet and negotiate requirements; includes enumerated matters and those which affect the enumerated matters.
- Meet and negotiate
  - ❖ Employers must meet and negotiate in good faith with the duly selected exclusive representative of its employees as to the subjects within the statutorily defined scope of representation.
  - ❖ A duty to initiate negotiations arises when the district seeks to make a unilateral change with respect to any mandatory bargaining terms, or with respect to any issue affecting such terms, i.e., terms within the scope of representation. Before the district makes a firm decision: (1) Give notice of the intended decision to an official of the employee organization who has the authority to act on behalf of the organization; and (2) provide an opportunity to negotiate.
- Decision negotiations vs. impacts and affects negotiations
  - ❖ Decision negotiations – the district cannot make a decision until the labor union agrees to it, or until impasse.
  - ❖ Impacts and affects negotiations – the district wants to make a decision which is not negotiable but impacts negotiable topics, so you must still meet with the labor union.
  - ❖ The major distinction between impacts and affects negotiations and decision negotiations: you do not have to go through the impasse process with impacts and affects before you implement.
- AB 1611
  - ❖ Adds language to Gov. Code section 3543.2 that states if you intend to make changes to matters within the scope of representation you must give *written notice* to labor unions and an opportunity to negotiate.
- Duty to provide information
  - ❖ A union has a right to request information that is necessary and relevant to its representational obligations; however, such right is not without limitations. Limitations include: information requested that pertains immediately to a mandatory subject of bargaining is presumptively relevant; and if it is not, there is no presumption and the requestor must show that it is relevant and necessary.
  - ❖ Failure to provide information is an unfair labor practice. Public Employees Relations Board (PERB) is the sole body that determines violations of the Educational Employment Relations Act.
  - ❖ In a bargaining relationship, the district also has the right to request information from unions. The belief is that the union has the obligation to negotiate in good faith as well, which requires

transparency.

## V. STUDY SESSION (continued)

- Declaring impasse
  - ❖ Either the district or the union may declare that an impasse has been reached between the parties over matters within the scope of representation and may request PERB to assign a mediator to assist the parties in reconciling their differences and resolving the controversies involved.
  - ❖ Whether or not impasse is granted once it is requested is a factual determination by PERB based on the number and length of sessions that occurred; the period of time over which the sessions occurred; the extent to which the parties considered counterproposals; the extent to which tentative agreements on some bargaining issues have been reached; and the extent to which issues are unresolved.
- Impasse procedures
  - ❖ A mediator is appointed and employed by PERB within five days.
  - ❖ Once a mediator is appointed, you have a little bit less control because there is now a third party whose goal is to get the two parties to come together. A mediator may push to agree to something you might not want to agree to.
  - ❖ The mediator, within 15 days after his or her appointment, assists the parties in effecting a settlement of their controversies and disagreements.
  - ❖ Mediators will hold between one and five sessions, depending on progress being made.
  - ❖ If no progress is being made, the mediator will move to “factfinding”.
- Factfinding:
  - ❖ The district and the union each present their positions, and a panel of three people [one appointed by the employer, one appointed by the union; and one appointed by PERB] will hear each side and then make a suggested agreement or “factfinding” report.
  - ❖ Once the factfinding report is written the parties are obligated to review the report and determine whether there are grounds for settlement.
  - ❖ If a settlement does not occur, the district is free to implement their last best and final proposal, and the union is free to strike.
  - ❖ The entire bargaining process takes approximately one year.
- Indicia of “bad faith” bargaining – the “totality of circumstances” in light of the following factors [things to avoid]:
  - ❖ Frequent turnover in negotiators.
  - ❖ Negotiator’s lack of authority.
  - ❖ Lack of preparation for bargaining sessions.
  - ❖ Missing, delaying, or canceling bargaining sessions.
  - ❖ Insistence on ground rules before negotiating substantive issues.
  - ❖ Taking an inflexible position.
  - ❖ Regressive bargaining proposals.
  - ❖ Proposing predictable unacceptable counterproposals.
  - ❖ Repudiation of a tentative agreement.
  - ❖ Conditioning agreement on acceptance of proposals to settle grievances, unfair practice charges, or agreement on non-mandatory subjects of bargaining.

- Subjects of negotiations:
  - ❖ The scope of representation shall be limited to “matters relating to wages, hours, and other terms and conditions of employment”.

## V. STUDY SESSION (continued)

- ❖ The employer and exclusive organization must meet about mandatory subjects of negotiation but cannot require negotiation of non-mandatory subjects to the point of impasse.
- Subjects of negotiations “terms and conditions”:
  - 1) Health and welfare benefits.
  - 2) Leave, transfer and reassignment policies.
  - 3) Safety conditions of employment.
  - 4) Class size.
  - 5) Procedures for the evaluation of employees.
  - 6) Organizational security.
  - 7) Procedures for processing grievances.
  - 8) Layoff of probationary certificated employees.
  - 9) Alternative compensation or benefits for employees adversely affected by pension limitations.
- The California Supreme Court test [The Anaheim Case] – a matter is a subject of negotiations if:
  - 1) It is logically and reasonably related to wages, hours or an enumerated term or condition of employment.
  - 2) The subject is of such concern to management and employees that conflict is likely to occur, and the mediatory influence of the collective negotiations is the appropriate means of resolving the conflict.
  - 3) The employer’s obligation to negotiate would not significantly abridge its freedom to exercise those managerial prerogatives (including matters of fundamental policy) essential to the achievement of the district’s mission.
    - ❖ If it seems important, it is probably negotiable.
    - ❖ If you negotiate a non-negotiate subject, it becomes negotiable.
    - ❖ If it is not negotiable, it is reserved to management.
- Non-mandatory subjects of bargaining:
  - ❖ Consultation right regarding affirmative action policy.
  - ❖ Copies of all reports by the district to government.
  - ❖ Right to inspect funding and budgetary documents (intrusion on management responsibilities).
  - ❖ Timely furnishing of supplies or furnishing a classroom.
  - ❖ Central location to securely store materials for teachers without an assigned classroom.
  - ❖ Number of staff development days.
  - ❖ Inspection of teachers’ desks without prior notice.
  - ❖ Employee’s right to object to inclusion of materials within personnel file (conflict with statute).
  - ❖ Destruction of personnel records prior to statutory required time.
  - ❖ Limiting the union’s right to file a grievance on its own behalf.
- Violations of process – restrictions on the district:
  - ❖ Impose or threaten to impose reprisals, discriminate or threaten to discriminate, or otherwise to interfere with, restrain, or coerce employees/applicants because of their exercise of collective bargaining rights under EERA.
  - ❖ Refuse or fail to meet and negotiate in good faith with an exclusive

representative.

- ❖ Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.
- ❖ Refuse to participate in good faith in the impasse procedures.

## V. STUDY SESSION (continued)

- Violations of process – restrictions on the associations:
  - ❖ Cause or attempt to cause a public school employer to violate any of the above-outlined provisions.
  - ❖ Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed through EERA.
  - ❖ Refuse or fail to meet and negotiate in good faith with the district, the employer of the employees of which it is the exclusive representative.
  - ❖ Refuse to participate in good faith in the impasse procedure.
- Violations of process – Per Se Violations make either party liable for violating collective bargaining procedures. These categories include:
  - ❖ An outright refusal to bargain.
  - ❖ Refusal to provide information necessary and relevant to the employee organization's duty to represent bargaining unit employees.
  - ❖ Insistence to impasse on non-mandatory subject of bargaining.
  - ❖ Bypassing the employee organization's negotiators. This can occur on either side of the bargaining table.
  - ❖ Implementation of a unilateral change in working conditions without notice and an opportunity to bargain.
- Per Se Violations regarding waivers:
  - ❖ A waiver is anything in the contract that is considered a right to negotiate that is no longer wanted in the contract.
  - ❖ Waivers must be negotiated out of contracts.
- Dynamics of good "teams":
  - ❖ Take group responsibility, no one is singled out.
  - ❖ Make group decisions.
  - ❖ Are informal, not overly rigid.
  - ❖ Allow all to participate. Everyone is free to talk.
  - ❖ Are flexible.
  - ❖ Are self-evaluative.
  - ❖ Be mindful of constituencies.
- Good team members:
  - ❖ Demonstrates reliability.
  - ❖ Communicates constructively.
  - ❖ Listens actively.
  - ❖ Functions as an active participant.
  - ❖ Shares openly and willingly.
  - ❖ Cooperates and pitches in to help.
  - ❖ Exhibits flexibility.
  - ❖ Shows commitment to the team.
  - ❖ Works as a problem-solver.
  - ❖ Treats others in a respectful and supportive manner.
  - ❖ Think outside of the box.
- Abilene paradox:

- ❖ Group dynamics; know where everyone stands on an issue. If the team is not on the same page, a deal could fall through.

Discussion took place regarding questions on the presentation.

The Governing Board expressed their thanks to Mr. Diedrich for his presentation.

**VI. HEARING OF CITIZENS (NON-AGENDA ITEMS)**

*Members of the public have this opportunity to directly address the Board on items of interest to the public, subject to a five (5) minute time limitation per individual.*

None.

**VII. CLOSED SESSION**

The Governing Board adjourned to Closed Session at 5:51 p.m. to discuss the following items:

1. Conference with Labor Negotiator; pursuant to Gov. Code section 54957.6  
Agency Designated Representative: Mark Thompson, AALRR  
Unrepresented Employee: Superintendent/President
2. Conference with Real Property Negotiators; pursuant to Gov. Code section 54956.8  
Under Negotiation: Lease of office space, One College Drive, Blythe, CA  
Agency Negotiator: Russi Egan, Chief Business Officer  
Negotiating Parties: Employment Development Department
3. Conference with Legal Counsel—Existing Litigation pursuant to Gov. Code 54956.9(a); Gilmore v. Palo Verde Community College District.

**VIII. ADJOURN**

The meeting was adjourned at 5:51 p.m.

**Minutes approved at the May 26, 2015  
Study Session/Special Meeting.**

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**Donald G. Wallace, Secretary of the Board**