

**BREVARD COMMUNITY COLLEGE
BOARD OF TRUSTEES
DSO WORKSHOP**

October 4, 1999
3:00 P.M.

Rm. #168, Performing Arts Center
Melbourne Campus

PRESENT: Eugene C. Johnson, Chairman; Betts O. Silvernail, Vice Chairman; James W. Handley; Miriam E. Martinez; Dr. Alexandra M. Penn Williams; Joe D. Matheny, Attorney; Thomas E. Gamble, Secretary

1. CALL TO ORDER:

Mr. Johnson, Chairman, called the meeting to order.

2. DIRECT SUPPORT ORGANIZATIONS (DSO) STATE STATUTE & COLLEGE POLICY - Mr. Little:

a. Florida Statute #240-331 (Addendum)

Mr. Al Little, Vice President of Business & Financial Affairs, reviewed Florida Statute #240-331 dealing with community college direct support organizations. The most typical use of a direct support organization (DSO) across the state is the community college foundation. This is the normal fund-raising arm of the college with the executive functioning as a member of the college administration. The BCC Foundation receives donations for private scholarships, as well as unrestricted funds to assist the college's operations. Most community colleges have the Foundation as their only DSO, however, there are situations for which DSO's can be helpful. The King Center for the Performing Arts and the Cocoa Village Playhouse are organized as DSO's in part to avoid paying taxes on ticket revenue. If these operations were directly under the college, the college would be responsible for sales tax, as well as potentially responsible for IRS unrelated business income tax. The Florida Education and Research Foundation (FERF) was set up as a DSO to facilitate the bond issue and the Brevard Teaching and Research Laboratories (BTRL) also, because it is indirectly related to the bonds. The state statutes regarding the DSO specify that the DSO be a not-for-profit corporation operated exclusively to receive, hold, invest and administer property and to make expenditures to, or for, the benefit of the community college. DSO's exist solely for the benefit of the college. DSO's must be certified by the District Board of Trustees, a member of the Board of Trustees must be appointed to the Board of Directors and the Executive Committee of each DSO, and the college president, or his designee also sits on the Board of Directors and Executive Committee of the DSO. Mr. Little reported the College Board of Trustees is authorized to permit the use of property, facilities and personal services by a DSO and to prescribe any condition of how that property is to be utilized.

All transactions between DSO's must be approved by the District Board of Trustees. Each DSO must provide to the Board of Trustees a copy of their IRS application for recognition of exemption form and federal income tax return filed yearly. Each DSO must be audited annually with copies provided to the Board of Trustees, the State Board of Community Colleges, and the Auditor General.

a. BCC Policy #101.03 - Direct Support Organizations (Addendum)

Mr. Little reported BCC Policy #101.03, "Direct Support Organizations," specifically recognizes the college's five DSOs. It also states that the Board of Trustees have veto power over any transaction proposed by any DSO. Therefore, no DSO will do anything which is contrary to the wishes of the Board of Trustees, as recorded by a majority vote of the Board of Trustees.

3. REPORT ON DSO TASK COMMITTEE - Dr. Kaliszski:

a. Special State Audit Report (Addendum)

Dr. Michael Kaliszski, Melbourne Campus President, addressed the Board of Trustees and reported the Operational Audit of the Florida Education and Research Foundation, Inc. and Brevard Teaching and Research Laboratories, Inc. was called for by the joint legislative auditing committee in June of 1997 at the request of the majority of the local delegation. Some of the major findings were the violations of the Sunshine Law; transactions with entities that shared directors or officers; a lack of competitive procedures for the selection of contractors, consultants, and vendors; inadequate documentation of services provided by consultants; duplicate payments for equipment; receipt of contributions and loans from contractors, consultants, and vendors with whom the organizations conducted business; and a lack of a documented basis for management or Board of Directors approval for certain actions.

Dr. Kaliszski reported the \$9.5 million bond indebtedness generated only \$6.27 million in land and facilities' acquisitions. A resolution passed by BCC in 1995 stated BCC would use "best efforts to make lease payments." The rating of the bonds was partly based on the resolution passed by BCC in 1995. Dr. Kaliszski further reported on the bond situation. As Interim District President, Dr. Kaliszski reported he felt his first task was to try to get a handle on what was transpiring with the bond issue, therefore, he formed a DSO Task Committee.

b. DSO Task Committee/Report (Addendum)

Dr. Kaliszeski reported the DSO Task Committee examined each of the DSOs of BCC to determine if they complied with Florida Statutes and contributed to the mission of the college. Additionally, the Articles of Incorporation and Bylaws were examined, as well as actual operating procedures, to determine whether the respective organizations were operating in the best interest of the college and to address each concern listed in the audit. Dr. Kaliszeski reviewed the letter dated February 25, 1998, which was sent to Mr. Charles Lester, Auditor General, State of Florida, which was compiled through the efforts of the committee which listed thirteen action items the college would take to rectify those concerns listed in the critical audit. The Task Committee is still in existence and a list of the current members has been provided to the members of the Board of Trustees.

Mr. Joe Matheny, College Attorney, provided a brief history report on how the Florida Education and Research Foundation and the Brevard Teaching and Research Laboratories were established.

4. REPORT ON COLLEGE DSO'S:

a. Resolution by Board of Trustees - Mr. Matheny (Addendum)

Mr. Matheny reported the predecessors to the current District Board of Trustees adopted a resolution following the Task Committee's recommendations. He reported the Task Committee wished to develop uniformity among the DSO's with the Articles of Incorporation and the Bylaws, therefore, a common template was developed for the preparation of the five DSO Articles and Bylaws. All of the Articles of Incorporation/Charters have been approved by the Secretary of State. Mr. Matheny reported there are some differences among the Articles of Incorporation and Bylaws as the Foundation and the King Center for the Performing Arts are the only DSO's of the college which have investment committees. Mr. Matheny answered questions presented by the members of the Board of Trustees.

b. BCC Foundation, Inc. - Dr. Flom (Addendum)

Dr. Elena Flom, Executive Director of the BCC Foundation, Inc., reported the BCC Foundation is 28 years old and was established in 1971 as a DSO of the college. The Foundation provides for the college's needs that cannot be met by state funds or through student tuition and is exclusively charitable and for educational purposes.

The Foundation receives donations in the form of money, stocks, property, equipment, and trust. Dr. Flom provided a brief report on the history of the Foundation. In 1980 the Foundation through a joint effort with the students, constructed the Foundation House. The Foundation has purchased property on Rosetine Street when the college required additional parking. When elevators and improvements were needed at the college for accessibility, the Foundation raised funds. Dr. Flom reported the BCC Foundation Board raised more than \$2 million to establish the endowment for the King Center for the Performing Arts in 1986. State-of-the-art equipment was purchased through the Allied Health Enhancement Challenge Grant funds which are funds donated by local medical facilities and matched by the state on a 60-40 basis. These funds are designated to purchase equipment in the Allied Health area. Dr. Flom reported in 1996-97 the Foundation distributed \$79,000 in scholarships to 193 students. In 1998-99 the Foundation distributed \$304,000 in scholarships to 460 students. So far, for 1999-2000, \$270,000 has been distributed in scholarships. Dr. Flom reported on the Planned Giving and scholarship grants for underprivileged students initiatives. Dr. Flom introduced Bill Taylor, Chairman of the Foundation Board and President of the Community Bank of the South. Dr. Flom answered questions presented by the Board.

c. Historic Cocoa Village Playhouse, Inc. - Ms. Hawkins-Smith (Addendum)

Ms. Hawkins-Smith, Executive Director of the Historic Cocoa Village Playhouse, Inc., brought the Board of Trustees up-to-date on the background of the playhouse. The Cocoa Village Playhouse is a 75-year-old historic building. She reported on some concerns regarding the problems with maintaining the facility. In 1985, the college purchased the building from the City of Cocoa for \$1.00. Mr. Walt Gilfilen assisted in obtaining grant funding for renovations. Ms. Hawkins-Smith reported on programs offered through the Cocoa Village Playhouse including the "Stars of Tomorrow" program which involves 77 children. Tickets have been selling quickly and this past weekend they served 2,000 clients and the weekend before 1,500. The current show, 42nd Street, is doing very well. The playhouse has applied for three operating grants and Mr. Gilfilen's office assisted with these applications. Ms. Hawkins-Smith answered questions presented by the members of the Board of Trustees. Ms. Hawkins-Smith introduced Mr. Ned Kellar, Executive Director of the Historic Cocoa Village Playhouse.

d. King Center for the Performing Arts, Inc. - Mr. Janicki

Mr. Steve Janicki, Executive Director of the King Center for the Performing Arts, Inc., (KCPA) reported part of the mission of BCC is to produce a climate conducive to the personal, professional, cultural and economic growth of Brevard County through programs and services such as the cultural activities and community education. Mr. Janicki reported he has been the Executive Director of the King Center for the Performing Arts, for 13 years and has seen the organization grow from an organization having gross revenues of approximately \$650,000 to now more than \$4.5 million. The KCPA is a unique organization as a DSO and is held as a model organization throughout the State of Florida and the community colleges. The economic impact of the KCPA on Brevard County is phenomenal and figures provided by the Brevard Cultural Alliance and the Division of Cultural Affairs indicate that the KCPA's impact on the community for this past season alone was \$13.8 million. The endowment currently remains strong. Operations continue to run as efficiently as possible without compromising on the reputation and integrity within the entertainment and performing arts industry. Mr. Janicki reported the Chairman of the KCPA Board, Phil Nohrr, could not attend the meeting as he is out of the country. Mr. Janicki answered questions presented by the members of the Board of Trustees.

e. Florida Education and Research Foundation, Inc. - Dr. Purga (Addendum)

Dr. Bert Purga, Palm Bay Campus President, reported the Florida Education and Research Foundation, Inc. (FERF) was established in the early 1990's to develop Foundation Park as an industrial complex surrounding the Palm Bay Campus to the east, west and the south and this then became a DSO when the Brevard Teaching and Research Laboratories was visualized. Dr. Purga described the location of the various entities and property locations utilizing a map. FERF is still in control of 22 acres of land of the 44 original acres purchased under the bond issue. The release price of the bond land is \$43,260 and the market value of the acreage is only \$27,500 per acre, therefore, the college has to make up the difference when property is sold. The bond issue, which is now under FERF's control is costing the college \$750,000 a year out of the general fund. There are approximately 20 years left on the bond issue.

Dr. Purga explained why and how the Cleanroom was constructed utilizing a grant from the Federal Economic Development Administration in the amount of \$1,350,000; a \$250,000 grant from the Department of Community Affairs and a third grant from Technological Research and Development Authority in the amount of \$200,000. Extensive marketing was done on the Cleanroom, however, there was very little business for the facility.

The facility was costing approximately \$7,000 in operating costs per month predominantly to Florida Power & Light. The Technological Research and Development Authority (TRDA) proposed to convert the Cleanroom into a business incubator on the site. The college was then approached by Methode Technologies and is now moving toward sale of the Cleanroom facility.

Methode is Chicago based with a Melbourne branch and is willing to pay the college \$1,832,000 for the Cleanroom building and various related pieces of equipment. The college will have to pay back the Economic Development Administration and Technological Research and Development Authority grants. The FERF Board has approved the contract with Methode. Dr. Purga reported three parcels of property immediately west of the greenbelt have been mentioned by Methode in a letter of interest to have the first right of refusal in the event the college opts to sell the property. The Board of Trustees approved this at the September 30, 1999 meeting. Dr. Purga introduced Mr. Bob Stuhlmiller, Chairman, of the FERF Board of Directors and answered questions presented by the members of the Board of Trustees.

f. Brevard Teaching and Research Laboratories - Dr. Purga (Addendum)

Dr. Purga reported the Brevard Teaching and Research Laboratories (BTRL) started in the early 1990's as two laboratories; a biology lab and a chemical instrumentation laboratory in space on the Palm Bay Campus. Its original mission focused on education, support of the private sector, support of public agencies and university research. In the mid 1990's the focus of BTRL was on the acquisition of the bonds. The bonds were approved and a \$4.5-\$5 million building was constructed. Through the bond money and PECO appropriations for equipment the building was furnished. When the BTRL opened their building, four laboratories were opened; biological, chemical analytical, bioassay and geographic information systems/global positioning systems.

Mr. Little provided a brief history of what transpired with the BTRL financially. With MRI operating the BTRL, the college will continue to be responsible for the bond payment. It is not expected that MRI will be profitable enough so that BCC's 50% of the profits will cover the \$750,000 cost. At a 1998 meeting, the Board agreed to pay the bond payment which is now at \$750,000 per year and should remain at that level. Dr. Gamble reported the college is not paying any operational expenses as the Midwest Research Institute (MRI) is paying for the operational expenses.

The Board discussed the issue of selling the property which is under the bond issue and reducing the bond obligation. Mr. Handley felt the college needed to focus on obtaining professionals to market the bond land and BTRL. Through this avenue, along with reserve money and a possible discount by the bond holders, the debt could be eliminated. Dr. Gamble discussed that MRI may be interested in purchasing the BTRL facility for a set price. Mrs. Martinez and Mrs. Silvernail will look into obtaining expertise for the marketing of the BTRL and bond property. Mr. Stuhlmiller discussed information pertaining to the marketing of the BTRL and bond property. It was the consensus of the Board that Mr. Handley and Mr. Stuhlmiller work with Dr. Gamble to look into the marketing of the BTRL and bond property and possible elimination of the bond payment. It was agreed that this approach would be taken rather than trying to get the legislature to fund the bond.

Dr. Purga reported on a situation being researched dealing with FERF where Ringhaver donated \$15,000 to FERF and in return was promised a piece of property. Dr. Purga introduced Mr. Gary Nungesser, Chairman, of the BTRL Board of Directors and expressed appreciation to Mr. Nungesser and Mr. Stuhlmiller for their assistance and commitment.

5. COLLEGE LOBBYING SERVICE:

Mr. Johnson reported at the Board retreat and workshop September 25, the question of retaining the lobbyist's services was discussed. Mr. Matheny gave a brief report on the lobbyist's services whose fees of \$1,800 a month are paid by the college Foundation. Mr. Matheny reported he contacted the attorney with the Division of Community Colleges who had some concern with this arrangement as the 1998 legislature passed a law that the community colleges could not use public funds for a lobbyist and the college is indirectly doing what it is not permitted to do. Mr. Matheny stated the use of a public lobbyist is not a common practice among the Florida community colleges. The state statute does not prevent a college from having an in-house person, or employee, as a lobbyist if that employee is full-time. Several Board members discussed their discomfort in having an outside lobbyist and felt these monies could be used for other purposes at the college including scholarships. Mrs. Silvernail asked to go on record that she felt the college should continue with the services of the lobbyist, barring it being illegal, as the college needs all the assistance it can obtain with the legislature and she understands the lobbyist has greatly assisted the college in the past. The Board discussed the pros and cons of having an outside lobbyist.

Mr. Handley moved approval that the District President terminate the services of the current lobbyist immediately. Mrs. Martinez seconded the motion. All those voting in favor of the motion - Handley, Martinez, Penn Williams, Johnson; opposed - Silvernail. Motion approved 4-1.

6. **ADJOURNMENT:**

There being no further business to come before the Board, the meeting adjourned at 7:15 p.m.

APPROVED: _____
Chairman, District Board of Trustees

ATTESTED: _____
Secretary, District Board of Trustees