

**BREVARD COMMUNITY COLLEGE
BOARD OF TRUSTEES
LEGAL SERVICES MEETING**

July 17, 2000
2:00 P.M.

Board Room #231, Admin. Bldg.
Cocoa Campus

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

1. CALL TO ORDER:

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

2. PRESENTATIONS - LEGAL SERVICES:

a. Amari & Theriac

Mr. Jim Theriac provided a brief presentation on the legal firm of Amari & Theriac. If Amari & Theriac were chosen as the college's legal firm, Mr. Theriac and Mr. Amari would be the primary contact attorneys, but would recommend that another law firm handle the labor relations aspects for the college. He indicated bond work is a highly specialized area of the law, and Amari & Theriac would supervise the actions of the bond attorney, however, a specialized bond attorney should handle the college's bond issues. Mr. Theriac introduced partners with Amari & Theriac -- Mark McQuagge, primary litigator, insurance counsel and former prosecutor; Mitch Goldman, transactional attorney, real estate, corporate and does work for the City of Rockledge; and Brad Bettin, a litigator who has worked with the City of Cocoa for a number of years. There will be no retainer required by the firm. Mrs. Silvernail asked if there were any additional costs for litigation. Mr. Theriac reported there was no additional cost and travel would not be charged within Brevard County.

Dr. Gamble asked for information on background and experience for school law and community college law. Mr. Theriac responded they have not represented any community colleges, however, he had done a lot of work for UCF and is on the advisory board. Amari & Theriac have a copy of the code and state statutes and law, which they can refer to when needed. Dr. Gamble asked who BCC would be working with on a regular basis. Mr. Theriac reported he or Mr. Amari would be the primary contact.

Mr. Johnson asked if Amari & Theriac were familiar with the legislation regarding the operation of direct support organizations. Mr. Theriac reported the firm has done work with direct support organizations. Mr. Amari dealt primarily with this area. Mr. Theriac reported he had also served on the BCC Foundation Board. Mr. Johnson asked what type of experience Amari & Theriac have had with the risk management consortium in Florida in dealing with activities concerning the college. Mr. Theriac reported they have had no dealings with the consortium.

Dr. Gamble asked Mr. Theriac to characterize the administrative organization of his firm as compared to a firm such as Dean Mead and Holland and Knight. Mr. Theriac reported Amari & Theriac consists of thirteen partners and does not have associates.

Mr. Handley asked Mr. Theriac if Amari & Theriac is a totally local firm. Mr. Theriac stated they were local. The firm began in 1974 and the primary office is in Cocoa with another office in Suntree. Mr. Theriac reported they have never been sued for malpractice.

b. Dean Mead

Mr. Ken Crooks, attorney for Dean Mead, introduced Mr. Darryl Bloodworth, president of the firm. Mr. Bloodworth reported the firm began approximately 20 years ago and there are three Brevard County offices and one in Fort Pierce with 40 attorneys. The lead attorneys in the representation of Brevard Community College would be the seven lead attorneys who practice in the Brevard County offices, however, the college would have the resources of every lawyer in each office. Dean Mead is an A/V rated firm and most of the individual partners are A/V rated. Five lawyers are listed in the publication Best Lawyers in America. They have extensive experience in representing local governments, colleges and universities. Dean Mead does not currently represent a community college, however, they do represent Florida Technological University. Regarding cases, Dean Mead, does use a team concept to make sure the correct combination of people is working on a particular matter. Dean Mead has spent a lot of time and effort to ensure they are advanced technologically and have their own Intranet and a web site. The lead attorneys will be Ken Crooks and Joel Boyd, both of whom practice out of the Viera office. Mr. Bloodworth reported these are experienced, capable lawyers, who know the community and have the background and experience to meet most of the college's needs. If something comes up that is not within their area of expertise, there are other lawyers both in Brevard County,

Orlando and Fort Pierce, who are ready to assist. Some representative clients in Brevard County are the Viera Company, Florida Tech, Harris Corporation, and Huntington Bank.

Mr. Crooks reported he represented the Brevard County Commissioners as an outside and inside counsel for more than thirteen years. He reported on his expertise by serving on the various representative boards throughout Brevard County. Dean and Mead is very involved in the community and each of the share holders in the Viera office have been part of the firm for 20 years.

Dr. Penn Williams asked Mr. Crooks about his experience with direct support organizations. Mr. Crook reported Dean Mead has been involved with several of the medical foundations of the University of Florida and various members of the firm have been members of community college foundations as board members.

Mrs. Martinez asked Mr. Crooks to elaborate about the firm being pro active with clients. Mr. Crooks reported it is important to make sure that everyone is familiar with the rules and also reported Dean Mead provides seminars to educate employees to assist in avoiding human resources problems. In addition, they have quarterly news letters relative to new important legal issues which is provided to all clients.

Mrs. Silvernail asked for additional information on the litigation experience of Dean Mead and if it would be typically local attorneys. Mr. Crooks reported there are two litigators at the Viera office with experience in local government issues in the federal and local courts. Mr. Bloodworth reported in Orlando there are six lawyers who do nothing but litigate and can assist in a broad range of experience.

Mrs. Silvernail asked about Dean Mead's experience with union negotiations. Mr. Crooks reported he represented Brevard County for over ten years with union negotiations with the EMS fire fighters. He also was the prosecutor in front of their personnel counsel and handled the PERC issues. They currently represent the St. Lucie County Fire District which has been involved in union contracts for several years.

c. Holland & Knight

Mr. William Potter, partner with Holland & Knight in the Melbourne office, introduced three partners from the Melbourne office he brought with him.

Mr. Pat Healy, Mr. Andy Hament and Mr. Cliff McLellan, who does a lot of administrative work, i.e., imminent domain and commercial limitation as well. There are eleven attorneys in the Melbourne office.

Mr. Potter discussed the commitment of Holland & Knight to its institutional clients. He assured the Board that Holland & Knight looks toward the legal counseling as a long-term partnering relationship and puts the client's interest first. Holland & Knight has more than 1,000 lawyers with 22 offices throughout the country. There are eleven offices in Florida. At the Melbourne office there are three lawyers who specialize in labor law, one who is an intellectual property lawyer, three lawyers who primarily do real property matters, two certified trial lawyers, and one who does primarily corporate and business work. Holland & Knight has an office in Orlando with 91 lawyers who cover every part of the spectrum in law. In Tallahassee there are 29 lawyers, which he felt would be an asset to BCC to have an office in the state capital with lawyers involved in what is happening in the state government. The Washington office has 136 lawyers which keeps the firm abreast of the latest developments as they affect institutions like BCC. The lawyers can communicate via e-mail and direct dial telephones and Mr. Potter related several instances where he utilized this communication to obtain legal expertise from attorneys who specialize in certain areas.

Mr. Andy Hament addressed the Board on his labor law experience and reported approximately 50 lawyers throughout the firm specialize in employment and labor law. They provide education for their clients in labor law via newsletters and seminars. Mr. Hament reviewed experience in dealing with employment and labor law.

Mr. Pat Healy addressed the Board and reported Holland & Knight has a strong commitment to education and the college and stated he had served on the BCC Board of Trustees for eight years and is familiar with the types of legal services the Board has required in the past and is likely to require in the future. He was confident in saying there is no other firm that has the breadth of resources and expertise of Holland & Knight. The local capabilities are broad and strong and fit very well with the requirements and are supplemented by other attorneys in the country. Mr. Healy stated he had knowledge of the direct support organizations of the college and the board directed restructuring and felt there would be a smooth transition if the firm of Holland & Knight was selected as the college's legal counsel.

Mr. Potter reported there are 22 educational attorneys, and in addition, the intellectual property law will be more and more important. Between the specialist available through Holland & Knight and the technology they have which ties the entities together, Mr. Potter felt they could do a great job for BCC.

Mr. Johnson asked if Mr. Potter could elaborate on their experience with Florida community colleges. Mr. Hament reported Holland & Knight has not had collective bargaining experience with a community college, however, it is the same law as the numerous public agencies they have represented in collective bargaining matters.

Dr. Penn Williams stated there are partners in Jacksonville and asked if any of those have represented community colleges. Mr. Potter reported Holland & Knight does have some Jacksonville lawyers who have represented Florida Community College in Jacksonville on several matters.

Mrs. Silvernail confirmed that Mr. Potter would be the lead attorney and asked who would be the second attorney if he were not available. Mr. Potter reported Mr. Pat Healy would be the next attorney contact for the college. However, Dr. Gamble would have the firm directory and could contact any attorney in the law firm.

Mrs. Silvernail asked if the firm needed to out-source something if the fees would be the same as an attorney with Holland & Knight. Mr. Potter replied the rate would remain the same.

Mrs. Silvernail asked about any client conflicts. Mr. Potter said the only conflict he is aware of is with Brevard Workforce Board which he would have to address.

Mrs. Martinez asked Mr. Potter what he saw his role in the area of prevention. Mr. Potter felt particularly in employee matters they had a lot to offer in the area of prevention. Holland & Knight would be able to save the college money through preventive law through open and private seminars and these are not billed at an hourly rate and are done as a client service. There are newsletters provided to the client as well. The fact that Holland & Knight has specialists in so many areas will save the client money. Mr. Potter thanked the Board for its time.

d. Mr. Joe Matheny

Mr. Matheny thanked the Board for including him in the final group. In the RFP he noticed it did not include some things like loyalty, dedication, commitment which are things he said he is most proud of with his service to the college. Mr. Matheny provided information on his background and experience. In 1963, he located to Brevard County and came to BCC in 1968. BCC had been under the Brevard County School Board and when the change in Board autonomy took place, the school board sued the college claiming the college was required to pay the architect fees to design one of the college buildings. Mr. Matheny was called in to represent the college and to test the laws in place to test the autonomy. The case went to the Florida Supreme Court which ruled in favor of the college and the school board had to pay the architect. Mr. Matheny reported he has attended approximately 500 Board meetings. Beginning in 1985, he was able to dedicate his time to the college.

Mr. Matheny reported on the history of Brevard Community College and the establishment of the BCC Foundation and the establishment of the King Center for the Performing Arts endowment. Mr. Matheny discussed the establishment of the other various entities of the college including the TV station and the criminal justice center. He reported that most of the community colleges in the state have one attorney representing them. It is important for the attorney to have a good relationship with the president and the administrative staff to make the system work. Mr. Matheny reported he had been with the college for 32 years and there has not been a problem because he has been a single practitioner for those years. He believed that a single line of responsibility is essential to make the system works. The college needs a separate labor attorney to help negotiate contracts and to advise the college in labor matters. This has been done in the past and it works. Sometimes the college may need a specialist, however, it is rare.

Mr. Matheny reported he is available to answer questions presented by the president and his staff. The Board speaks with one voice, not five, so the direction given to the attorney must come from a Board meeting. Regarding fees, his are now \$115 an hour and there is a \$350 retainer. The fees charged to the college are considerably low compared to fees in the area. He does not charge for his secretaries time, unless there is a special project. Mr. Matheny reported he would like to stay with the college about three more years and the last six months of his tenure transition in another attorney.

Mrs. Martinez asked Mr. Matheny to assess the rise of attorneys' fees

for the college. He reported there were several legal issues requiring additional hours. In the past the administration frowned upon anyone except the president's office asking for legal advise which he felt minimized some of the legal costs. The present administration seems to favor having the top administrators contact the attorney directly. It is productive time, but it is more costly.

3. **ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:54 p.m.

APPROVED: _____
Chairman, District Board of Trustees

ATTESTED: _____
Secretary, District Board of Trustees