

A special meeting of the Central Wyoming College Board of Trustees was held on Wednesday, March 9, 2005, in Room AW 124 of the Administration Wing on the Central Wyoming College campus. Board Chair Deanna Crofts called the meeting to order at 5:36 p.m.

ATTENDANCE:

<u>Present:</u>	Deanna Crofts	Scott Phister
	Dallas Myers	Jim Matson
	Dennis Christensen	Caroline Mills
	Joe Megeath (by speakerphone)	
<u>Administration:</u>	Jo Anne McFarland	Jay Nielson
	J.D. Rottweiler	
<u>Attorney:</u>	Frank Watkins	
<u>Recorder:</u>	Linda Bender	
<u>Guests:</u>	Dennis Pince	Jerry Erdahl
	Sandy Barton	Cory Daly
	Larry Christensen	Jeff Hosking
	John Wood	Jackie Dorothy
	Carolyn Aanestad	Diana Clapp
	Carl Manning	

WELCOME AND INTRODUCTION OF GUESTS: Board Chair Crofts welcomed the guests present. She asked Interim Board Attorney Frank Watkins to comment on the appropriateness of the Executive Session. Mr. Watkins indicated that the executive session was appropriate because of possibly proposed litigation that CWC may be a party relating to the subject matter to be discussed.

EXECUTIVE SESSION: At 5:39 p.m., Trustee Christensen moved to recess into executive session. Mr. Phister seconded the motion.

Ms. Cory Daly of the *Lander Journal* indicated that she understood that litigation is a legitimate reason for an executive session, but she wanted to be sure that is all that is discussed.

Board Chair Crofts called for a vote on the motion currently on the floor. Motion carried.

At 7:14 p.m., Mr. Matson moved to reconvene the special meeting. Mr. Myers seconded the motion. Motion carried.

SPECIAL BUSINESS:

BOCES/BOCHES Board Chair Crofts read aloud the Board's Mission, Vision, and Goals from its Policy Governance Manual. She then indicated that open discussion would commence in a respective manner as to what the board's concerns are with its mill levy to the Fremont County BOCES.

Mr. Phister referred to the "Amended Fremont County Board of Cooperative Educational Services Agreement" and indicated that it does not seem that Fremont County BOCES is abiding by this agreement. The agreement states that "each member district shall have an equal right of access, benefit, and use of materials and services provided by Fremont County BOCES." It also states that "upon request of one or more member boards of trustees, Fremont County BOCES shall promptly furnish information, statistics and reports under its control to the member boards of trustees and shall fully cooperate with the member boards of trustees." He does not feel this has been done by Fremont County BOCES.

Board Chair Crofts indicated that former CWC trustee and Fremont County BOCES board member Nance Shelsta had some concerns on some funding issues as far as how the CWC BOCES mill levy was spent for Fremont County BOCES. Board Chair Crofts asked if an accounting of the mill levy was provided to the CWC board in a satisfactory manner. The board has concerns that the money be spent for post-secondary educational purposes.

Dr. McFarland stated that only recently has a specific accounting of the CWC board levied 1/2 mill been pulled out, but it has not been in any itemized detail nor has it included the revenue that has been carried over that is illegal. The board should expect and require a monthly itemized list of every penny of expenditure for the 1/2 mill that it levies because of its accountability for this money. The CWC Board must account for the revenues for the levy that it approved as a board and which must be included in the biennial report to the College Commission. Without complete itemized reports and without the levy coming directly to the college so that it can be receipted in before being passed through Fremont County BOCES, it appears to not comply with current statute.

Mr. Phister again referred to the current agreement with BOCES, which states that "Fremont County BOCES shall maintain an inventory of all equipment owned by them. The community college district electing to assess the additional one half (1/2) mill shall be responsible for

maintaining an inventory of all equipment purchased pursuant to revenues generated by that one half-mill.” He indicated that an equipment inventory has not been received. Mr. Myers pointed out that under the statute, the trustees are responsible for this inventory. Dr. McFarland stated that the college has no way of complying because the money does not come to the college, and the college does not get sufficient detail from Fremont County BOCES relating to equipment purchased by the CWC 1/2 mill.

Mr. Phister stated that there is a communication problem. He asked why the college does not have the inventory list. Mr. Matson suggested there may be some interpretation of law of how much money a piece of equipment is worth before it is inventoried. If there was a fire in that facility, he asked if there is an insurance inventory to at least indicate what kind of equipment is in there. Mr. Nielson stated that the college inventories equipment that is valued at \$500 or more. Capitalized inventory is valued at \$5,000 or more.

Mr. Phister pointed out that Fremont County BOCES has been really late in responding to the June 2004 letter that was sent to all Fremont County BOCES board members, Fremont County school superintendents, Fremont County school board chairs, and Fremont County BOCES Executive Director Sandy Barton. He asked if Fremont County BOCES has had any action items related to CWC on their agenda. Trustee Christensen said no. The second amended agreement was sent to the BOCES Chair and was copied to the members. Mr. Phister asked if any action was taken. Trustee Christensen said no. Mr. Phister referred to the letter sent to Board Chair Crofts by Fremont County BOCES Chair Craig Abel which indicated that the Fremont County BOCES board of directors was unable to sign the proposed second amended BOCES document at the February 24 meeting. He asked what precipitated this letter. Trustee Christensen indicated that the second amended agreement was addressed in work session prior to the regular meeting. No action items were on the agenda of the BOCES public meeting.

Mr. Myers asked if the proposed funding model was approved at the February 24 BOCES meeting. Trustee Christensen said that neither agreement has had formal action. Dr. Megeath indicated that the CWC board and the Fremont County BOCES board operate in entirely different ways. The funding agreement addresses issues the CWC board brought up a long time ago, but he sees this as a lot of movement by the BOCES board. Another issue is looking at an intentional, purposeful audit. The

audit of Fremont County BOCES was not done in depth and was done in an apologetic way. The person giving the report said she did not know its legal ramifications.

Mr. Phister asked if the CWC board has provided sufficient information and has done what it needed to do. He asked if these issues are being discussed in Fremont County BOCES board meetings. Trustee Christensen stated that the concerns of the CWC board were discussed in May of last year. There seems to be a lot of foot-dragging in getting to an agreement of how to fund the BOCES, and to not approve it until January seems negligent. Six months is a long time to come up with an agreement. Some of the school districts have legal concerns with CWC's agreement and CWC's attorney has concerns on the agreement that was given to CWC by BOCES. Mr. Phister indicated there is a complete lack of timely communication from someone who is a cooperative partner.

Trustee Christensen stated that there is still a big lack of communication. It should be the administrators who communicate, and this communication should be face-to-face. He will not second guess the college's business manager. Mr. Phister pointed out that information should be shared freely. He asked if there have been communication attempts to lobby board members that have by-passed the college. Trustee Christensen indicated that he would not address this in public session. He again stated that he wants face-to-face communication.

Board Chair Crofts indicated that statute 21-20-109(b) says "the amount of the mill levy shall be determined on the basis of a pre-determined formula," and "the assessment shall raise only the necessary funds to meet the financial requirements of programs and services offered." The year-end carryover for the CWC mill levy was over \$100,000, and this is a concern if that money isn't being used. The mill levy is not to fund a savings plan. The board has the option to levy up to 1/2 mill, but it doesn't have to levy the entire amount.

Mr. Myers pointed out that some confusion comes from the fact that there are eight member school districts and the college. Community colleges and schools districts are not legally bound by the same things, and these things need to be specified. Board Chair Crofts stated that in order to be accountable to the College Commission, the money must be receipted in by the college. It's not that the college wants control of the money because it would be turned over to the Fremont County BOCES. The

money has to be included in the college's biennialized budget, and this must be done in order for the college to be in compliance with state statute.

Dr. McFarland pointed out that Casper College levies 1/2 mill for BOCES, and the Natrona County treasurer remits the money directly to Casper College. Casper College has an agreement with the Natrona County School District to rotate who serves as fiscal agent. This is an example of a cooperative between one school district and one college. Eastern Wyoming College and Sheridan College also have similar arrangements. CWC has to account for the monies levied by this board, but the money is considered to be outside the community college funding model and is a pass-through. In every case of a community college levied 1/2 BOCES mill, the money goes directly to the community college.

Board Chair Crofts asked what the college receives in dual enrollment fees. Vice President Rottweiler explained that Fremont County BOCES picks up the cost of fees, and to date that is \$50,000 out of CWC's half mill. Two-thirds of the tuition money that comes to CWC is reimbursed back to the school district to help cover costs of dual enrollment by the schools.

Dr. McFarland stated that at the February 24 work session of the Fremont County BOCES, a document entitled "Fremont County BOCES Distributions by Districts July 01, 2003, through February 15, 2005" was distributed in the work session but not in the public session. Mr. Nielson provided an analysis of the amount of \$153,674.92 which was listed as the amount for CWC/Dual Credit for 2003-2004. The college has asked for a detailed list of what constitutes this amount. Much of the amount is reimbursement for the college's out-of-pocket expenses for Fremont County BOCES for rent, phone and copier charges, educational programs such as Cyber camp, compass tests, Tracks to Success, Entrepren students, and Cisco exams.

Board Chair Crofts asked if it was correct that instead of the college hiring its own instructors, school districts can have an instructor from a high school as the instructor, and the money that goes for dual credit goes back to that school to pay that teacher. Vice President Rottweiler indicated that this is correct. Two-thirds of any tuition cost goes back to the instructor or as determined by the individual school.

Ms. Mills stated that if \$70,000 can be traced to the student enrollment, she asked where the remaining \$190,000 from the amounts paid to CWC during FY 04 and FY 05 went that was not directed to students. Mr. Nielson indicated that this money was used for the building project and operational costs. The fees for dual enrolled students were just under \$70,000.

Dr. McFarland indicated her concern that what Vice President Rottweiler described does not mean that every Fremont County high school student gets the same deal. Each member district does not have equal right of access and benefit of services. It is critical that whatever course the CWC board decides to take must ensure that every Fremont County high school student has equal right and access to post-secondary educational services such as dual enrollment on the same basis. The current Fremont County BOCES agreement is not in compliance with state statute or with its current agreement. The statutes indicate that any educational services that are provided must be through a cooperative effort. The mill levy cannot truly be utilized for services that are specific to a particular school. Programs must be available to all schools. All the money should be pooled.

Mr. Phister asked where the remaining \$190,000 went after the \$70,000 was paid in fees. Mr. Nielson reported that this money comes to the college to pay copier charges and phone bills for Fremont County BOCES. A big part was the building project and rent. Mr. Phister asked if all those costs come out of the \$190,000. Mr. Nielson said he did not know. Dr. McFarland stated that what is known is that the school districts have not paid any of the operating expenses. These all come out of the CWC 1/2 mill. Mr. Phister asked if there is excess money as well. Mr. Nielson indicated that the college does not have the detail except for audit reports and intermittent reports. The BOCES wing on the Professional-Technical Center cost \$350,000, and the funding arrangement is \$36,000 per year. Additional improvements to the wing were about \$15,000, so BOCES has paid approximately \$90,000 in rent and improvements.

Mr. Phister stated that the college has another \$250,000 out there. There could be more that has gone to operating costs. Vice President Rottweiler indicated that the full cost of operating the Fremont County BOCES is being funded by the CWC 1/2 mill levy. Mr. Phister asked why the numbers match. He asked if there is an excess or are the costs really that high. Dr. McFarland indicated that there was \$28,500 in revenue above

the projections built into the FY 05 BOCES budget which was distributed to the Fremont County BOCES. The college formally requested that that additional revenue be dedicated toward partial support of the Interactive Classroom Network. That request was rejected by the Fremont County BOCES, and it is not known where this excess revenue went.

Board Chair Crofts stated there is \$228,559 in revenue and \$225,023 in expenditures. So it is known what the college is paying for, and the college would like to see a further breakdown. Mr. Phister stated that the college has to have this information. Dr. McFarland pointed out that it is public tax money. Mr. Phister indicated there is a lot of money out there that is going somewhere. Mr. Matson stated that the money must be used for post-secondary educational services as the law requires. If the board and the college know there is a problem, it can't be ignored anymore. The problem has to be dealt with because the college can't knowingly violate the law. Mr. Phister stated the college would not want the money to go anywhere but post-secondary education.

Mr. Myers stated that the college needs to keep dual enrollment. The money has to be part of the budget, and there must be an accounting of the equipment. The only way the college can do this is through the CWC coffers. The CWC board levies the 1/2 mill, and the CWC board is liable for it. Dr. McFarland pointed out that the way this can be assured is through a Board of Cooperative Higher Educational Services (BOCHES). She sees it as a possibility of delivering enhanced services to all Fremont County high school students regardless of their school district affiliation. It is possible that combining K-12 activities and post-secondary educational activities is inherently problematic. There are other ways that the college can provide the post-secondary component and ensure full accountability. This can be done without dictating what the school districts do with their mill levy. Mr. Phister stated that dual credit can be offered without a BOCES. It is just a common sense issue.

Dr. McFarland stated that the Fremont County BOCES is a nine-member board, and CWC has one vote of nine. Up to this point the college has received no detailed information on how the college's 1/2 mill has been spent and has no authority on how the college's 1/2 mill is spent. The question is what is the best option for the greatest number and quality of services for students.

Board Chair Crofts asked if there were any other concerns that needed to be aired. There is a question on the funding agreement for the Fremont County BOCES that was not acted upon by that board. Dr. McFarland stated that the interim board attorney has indicated legal problems with the funding agreement. Mr. Myers asked if anyone helped in developing this funding agreement. President McFarland, Trustee Christensen, and Interim Board Attorney Frank Watkins indicated that they had not participated in the development of the funding agreement.

Interim Board Attorney Frank Watkins stated that paragraph 9 of the funding agreement is a concern. This paragraph states that "school districts whose levy exceeds the required amount of Fremont County BOCES operations shall determine use of levy revenues toward approved Fremont County BOCES programs/services to serve that district's students as indicated by the school districts to Fremont County BOCES by April 1 of each year." He also is concerned with paragraph 8 which states "the college districts whose half-mill for Fremont County BOCES levies fail to cover their enrollment based operational assessment shall be considered to fulfill the operational assessment if the district levies the entire one-half mill levy." He asked what would happen if there isn't enough money or if the levies failed to cover the enrollment assessment cost.

Mr. Myers asked if the 1/2 mill can only be levied for expenses. Dr. McFarland answered yes. He asked how much of the mill levy can be carried over. Dr. McFarland replied that none of it can be carried over.

Dr. Megeath asked why the funding agreement was sent if the Fremont County BOCES had not acted on it. Trustee Christensen indicated that it was a presentation for this board to review. It is not a rebuttal to what was sent by the college but a stand-alone agreement. Dr. McFarland indicated that it is a response to the June 2004 communication from the college attorney. Trustee Christensen stated that it was developed by Fremont County BOCES legal counsel.

Ms. Sandy Barton, Executive Director of Fremont County BOCES, indicated that at a meeting regarding the FY 06 budget, it was decided to have legal counsel develop a funding agreement about the principles of funding. The intention was for it to go out to all school district boards and legal counsels to make sure that the accounting for statute would be in the funding agreement. Whenever a mill is levied, sometimes more comes in than is anticipated. She has been in contact with school attorneys and has

been trying to get everyone to understand the funding agreement. The Fremont County BOCES board didn't take action on it, and they are asking for input on it right now. Trustee Christensen pointed out that it was only discussed during a work session.

Mr. Phister asked Ms. Barton why there has been such a delay in this process. Ms. Barton replied that an agenda was presented to the Fremont County BOCES board, and they have kept with this agenda. It takes a long time when working with ten boards, supervisors, and other individuals. They wanted to make sure that CWC was comfortable and to make sure they recognize CWC's issues. Mr. Phister asked Ms. Barton if she felt that the communication was open and free. Ms. Barton responded that communication can always be improved. Mr. Phister asked how many Fremont County BOCES board meetings had been held since June 2004. Ms. Barton replied there has been one meeting every month. Mr. Phister asked if CWC's proposal was discussed in open session with the Fremont County BOCES board members. Ms. Barton replied that the proposal was not discussed at a board meeting.

Board Chair Crofts asked how she would know that Fremont County BOCES was having a work session. Ms. Barton indicated that a notice had been posted on the door, and the superintendents knew about it. The media are given notice upon their request. Dr. McFarland indicated that she did not know about the work session. Mr. Phister asked why this business is not conducted in the open. He asked if this is a critical issue for the Fremont County BOCES. Ms. Barton answered yes. Mr. Phister wondered how it could be a critical issue but never an issue at a board meeting. He indicated it was tough to take action if the issue is never brought up in a board meeting. He asked if any board members wanted it on the agenda. Trustee Christensen indicated that there was no comment on it. Mr. Phister stated that all of the Fremont County BOCES board members have the information that they need in a form that is conducive to making a decision.

Mr. Dennis Pince, Fremont County BOCES board member, stated that the proposed funding agreement had just been received that night at the work session, and he felt that his attorney, the attorney for the Shoshoni School District, should look at it first. This was the first meeting that the board members had seen the agreement. Dr. McFarland stated that she did not know about the work session. Public notice needs to be given. Mr. Pince stated that they were not trying to exclude anyone. Dr. McFarland asked

why the Fremont County BOCES members met for one and one-half hours after the February 24 BOCES meeting without including BOCES member Dennis Christensen. Mr. Pince indicated that no Fremont County BOCES issues were discussed. Dr. McFarland asked if there was a quorum. Mr. Pince answered no.

Mr. Phister asked Mr. Pince what his perception was of what CWC was trying to do. Mr. Pince answered that he would talk to Mr. Phister about it after the meeting since it was a personal opinion.

Ms. Mills asked Ms. Barton how the inventory for the Fremont County BOCES is kept. Ms. Barton replied that one inventory is kept for the audit and for insurance purposes. Dr. McFarland asked if Ms. Barton would provide this inventory to CWC. Ms. Barton answered yes. Mr. Phister asked if this inventory had been requested before. Ms. Barton answered no.

Mr. Pince stated that Ms. Barton had provided him with the all the information he asked for when he became a board member. He wanted to know more about where the mill money was going. Ms. Mills asked if he asked for this information verbally or did he put it in writing. Mr. Pince indicated that he just asked for it verbally. Vice President Rottweiler indicated that a request for an inventory has been made numerous times, and it has never been received. Dr. McFarland indicated that the board could make a formal motion requesting a comprehensive, itemized inventory.

Mr. Matson moved to request a comprehensive, itemized inventory from Fremont County BOCES. Ms. Mills seconded the motion. Motion carried.

Trustee Christensen moved to request that this inventory be received by the CWC board's regular meeting on March 16, 2005. Mr. Myers seconded the motion.

Dr. McFarland indicated that this gives no opportunity for analysis or review prior to the March 16 board meeting. Mr. Phister asked why the board should have to wait that long. Ms. Mills indicated that she would like to see the information by Monday. Dr. McFarland indicated that she could distribute it immediately upon receipt. Board Chair Crofts asked if anything in this information is going to create an action item at the March

16 meeting. If not, it doesn't matter if it is received on Friday or on Monday. Ms. Barton stated that it exists as an itemized inventory. The college board is adding different items. Mr. Myers stated that the college board is responsible for the 1/2 mill levy and the items the money is spent on. The funding source should be itemized.

Mr. Matson stated that the books should be open to a complete review by CWC Dean of Administrative Services Jay Nielson. He asked if the board wants strictly an inventory or full disclosure.

Board Chair Crofts called for a vote on the motion currently on the floor. Motion failed with Trustee Christensen, Board Chair Crofts, and Mr. Myers voting yes and with Mr. Matson, Ms. Mills, Mr. Phister, and Dr. Megeath voting no.

Dr. Megeath moved to request a comprehensive, itemized inventory from Fremont County BOCES to be received by the close of business on March 10, 2005. Mr. Phister seconded the motion. Motion carried with Mr. Myers voting no.

Board Chair Crofts reminded the board and members of the public that this board has already acted on the one-year notice of intent withdraw from funding of the Fremont County BOCES and the one-year notice of intent to withdraw from membership in the Fremont County BOCES as per the current BOCES agreement. The CWC board has also directed the college administration to look at a parallel course with a Board of Cooperative Higher Educational Services (BOCHES).

Dr. McFarland stated that if the board wants to enlarge this to other appropriate mechanisms that this can be done.

Dr. Megeath moved to direct the CWC administration to pursue all feasible opportunities to continue higher educational support and dual credit offerings equally throughout Fremont County. Mr. Phister seconded the motion.

Dr. Megeath pointed out that this would include continuing with the Fremont County BOCES.

Board Chair Crofts called for a vote on the motion currently on the floor. Motion carried.

ADJOURNMENT: At 9:02 p.m., Mr. Matson moved to adjourn the meeting. Trustee Christensen seconded the motion. Motion carried.

Secretary

APPROVAL:

Chair