San Jose City College  
ACADEMIC SENATE  

Unofficial Minutes  
May 17, 2011  

Senators Present: Jose Cabrera, Guillermo Castilla, Janet Chang, Christopher Frazier, Charles Heimler, Joseph King, Iyun Lazik, Dan McElroy, Maricela Martinez Margaret Muench, Renza Nassab (Proxy Roxie Banks), Dorothy Pucay, Jussi Rajna, Leslie Rice, Merylee Shelton, Jessica, Doriann Tran, Susan Wilson, Robert Wing  

Excused Senators: Carlton Connor, Mark Newton, Karen Pullen, David Yancey, Carole Young  

Senators Absent: Guillermo Castilla, Dieterich Numberg  

Guests/Resource Persons: Dr. Elaine Burns, Virginia Scales, Phil Crawford, Larry Harris, Farideh Dada  

I. CALL TO ORDER  
Christopher Frazier, Academic Senate President, called the meeting to order at 2:20 pm, in SC-204.  

II. ADOPTION OF THE AGENDA  
The senate president amended the agenda as follows: IV. Committee Appointments add to Charles Heimler evaluation committee Heidi Kozlowski. Delete Items B. and C. Add Facilities Manager – Celia Cruz, Carina Antilla, Fabio Gonzalez. The senate to discuss all hiring committees. VI. Discussion/Action Items Move Item A. before Committee appoints. Add Item Joint CPC Senate meeting regarding Accreditation response finding and report. Item E. Delete Grace Zheng, add Christopher Frazier as presenter. Add IPCC Charge to Policy and Procedures, and Add Item P. Motion for CalPath Portal.  
Motion to approve amended agenda  
Motion by Maricela Martinez, Second by Leslie Rice  
Motion passed unanimously  

III. APPROVAL OF MINUTES  
March 1, 2011 TABLED  
March 15, 2011 TABLED  
April 5, 2011 TABLED  
April 26, 2011 TABLED  
May 3, 2011 TABLED  

Vice President Charles Heimler asked the senate to review all the minutes which had be submitted via email and send any noted changes.  

Motion that the unapproved minutes of the Academic Senate can be included with the accreditation report if needed.  
Motion by Dan McElroy, Second by Margaret Muench  
Motion passed
IV. COMMITTEE APPOINTMENTS
Motion to approve amended committee appointments
Motion by Joseph King, Second by Charles Heimler
Motion passed unanimously

A. Evaluation Committee Charles Heimler – Heidi Kozlowski
B. Facilities Manager Committee – Celia Cruz, Carina Anttila, Fabio Gonzalez

Motion to delete Celia Cruz as volunteer for Facilities Manager Committee
Motion by Joseph King, Second by Margaret Muench
Motion passed unanimously

By White Ballot - Carina Anttila, Fabio Gonzalez

V. PUBLIC COMMENT

Faculty – Christopher Frazier
1. Passing of Lucy Poindexter’s husband, Ed Poindexter – Moving, senate to send flowers to new address
2. Passing of Martin Dreyfuss – senate to send card or flowers
3. Passing of Jennifer Witte-Richards – senate to send card or flowers
4. Pass of Charlotte Montandon – senate to send card

Senate Process – Maricela Martinez
This item was requested to be on the agenda of the first senate meeting in the fall. An Executive Officer team or a Parliamentarian was suggested to overlook the senate agenda, minutes, etc., and other items.

CDC – Joseph King
This item to be revisited in the Fall regarding the CDC and the Board towards the President and the Chancellor.

VI. DISCUSSION/ACTION ITEMS

A. Resolution Honoring, Virginia Scales, Interim Dean Language Arts - Senate
The senate honored Interim Dean Language Arts, Virginia Scales for her years of service with a resolution.

B. Academic Senate 2011-2012 Meeting Schedule – Christopher Frazier
The Senate approved the academic senate 2011-2012 meeting schedule with an amendment to include an additional meeting for Fall.

Motion to approve the submitted meeting schedule with an additional senate meeting on September 6, 2011.
Motion by ?????????, Second by ?????????
Motion passed unanimously

C. Senate Vice President Election – Dan McElroy/Margaret Muench
Former Senate Vice President, Joseph King commented on the Academic Senate President and Vice President for the next term. The senate president responded that at this time there is no vacancy for the Senate President. Senator McElroy and Senator Muench researched the proper procedure of succession of senate officers, and that treasurer to vice president is not in the SJCC Academic Senate Constitution.
Reference Attachment A Report by the San Jose City College Academic Senate Constitution Research Committee. Charles Heimler was declared the new senate vice president which is reflected on the March 1, 2011 agenda, Committee Appointments; and the March 1, 2011 unofficial minutes, Committee Appointments, after the results announced by the senate nominations committee.

The research committee concluded that the vacancy or the absence of the vice president was the initial question, and the constitution was clear that the senate vice president takes the seat of the senate president when the seat is vacated. Per the senate president, if he resigns or cannot complete his term, the senate vice president would take his seat. This would leave the senate vice president vacant and there would be an election. Merylee Shelton suggested that the senate have a parliamentarian to investigate not only the process of senate officers, elections, and other issues of the senate, especially during accreditation.

D. IPCC Charge to Policy and Procedures – Dorothy Pucay
Motion to approve the IPCC
Motion by Leslie Rice, Second by Iyun Lazik
Motion passed unanimously

E. DE Committee Recommendations Moodle/Evaluation – Melanie Levinson/Phil Crawford
Adjunct Faculty, Phil Crawford reported to the senate that the Distance Education Committee has a concern over student evaluations that form a contract. This does not meet the Title V requirement of frequent regular contact with student and instructor. Faculty Association does not want to re-open this part of the contract for negotiation, which could be done simply with a side letter. He also reported that there are other forms of modalities that can be used other than Moodle. The Distance Education committee asks the Academic Senate to charge the committee to review all the other forms modality that can be used and that the statutory requirements for the interaction with the instructor. Melanie Levinson was not present.
Motion to accept the Distance Education Mission Statement
Motion by Charles Heimler, Second by Maricela Martinez
Motion passed 13-0-3

Motion: The Academic Senate asks the Faculty Association to consider Distance Committees Online and Education Evaluation Form.
Motion by Charles Heimler, Second by Margaret Muench
Motion passed 13-0-0

The senate president and vice-president suggested that the review of all forms of modality be placed on the senate agenda for Fall 2011.

F. Accreditation Information – Christopher Frazier
The Senate reported that the accreditation recommendations had been submitted to the college president. The draft report would have the first reading on Wednesday, and read at the joint CPC Senate meeting, Friday, May 20, 2011.

a. Code of Ethics Second Reading
Motion to approve the Code of Ethics as a living document
Motion by Leslie Rice, Second by Joseph King
Motion passed 7-0-4
b. Accreditation Report Response Recommendations Motion – Leslie Rice
Motion: The faculty members at San Jose City College have been working collaboratively with administration, classified, and students to meet the recommendations of the accreditation report that directly relate to our campus. However, we, the members of the Academic Senate, are extremely concerned and worried about the board’s pace of action related to the shared recommendations, especially the recommendations that state:
1) the board stay focused on its core purpose: making policy, and 2) the board specifically support Chancellor Cepeda in her role as chief executive officer of our district and President Kavalier, President of San Jose City College.
Motion by Leslie Rice, Second Janet Chang
Motion passed unanimously

c. Integrated Program Review – Dorothy Pucay
Senator Pucay submitted the SJCC Program Review Information to the senate, Attachment B.
It was requested that the workgroup. The Program Review Workgroup is partially formed, with the need of additional members. The senate president to put out a call for the additional faculty members in specific areas for this workgroup committee. Senator Rice to call a meeting for the workgroup within the next two weeks to start the process.

d. SLOAC  DELETED

G. Policies and Procedures
a. President Evaluation
The senate President to send the President Evaluation to the senate. CPC is requesting input from the faculty of the content of the evaluation and the methodology of the evaluation of the President’s in the District.

b. BP 5140 DSPS
Board Policy 5140 Disabilities Support Program and Services was not discussed due to the proposed draft changes and legal items to the policy. This item to be reviewed by the senate and revisited at the next senate meeting.

c. SB1440  TABLED
d. Board Ethics  TABLED
e. Student Grievance  TABLED
f. Student Grade Change  TABLED
g. BP Chapter 5  TABLED

H. Senate Appointment of Powers for Summer
The Senate Bylaws state that the Academics Senate president has the appointment of powers during the summer.

I. Budget Page 2 (May 16, 2011) – Grace Zheng  DELETED
J. Executive Committee Motion – Charles Heimler  TABLED
K. English Hiring Committee – Sam Ho  TABLED
L. Website/DE Maintenance – Charles Heimler          TABLED
M. Research on Compelling Board Compliance          TABLED
N. Form Enrollment Management Committee – Charles Heimler   TABLED
O. Academic Senate Newsletter – Joseph King          TABLED
P. Form Enrollment Management Committee – Charles Heimler   TABLED

VII. SENATE GOALS/ASSESSMENT
A. Information Dissemination – Christopher Frazier/Joseph King
B. Faculty Committee Participation – Christopher Frazier
C. Non-Tenured Faculty on Search Committee – Christopher Frazier
D. Tie-in SLOs/Program Reviews Fall 2012 Deadline
E. Evaluation Tools – Christopher Frazier
F. Basic Skills Initiative – Leslie Rice
G. Advocacy for New Faculty/Employee Recognition – Chris Frazier/David Yancey

VIII. REPORTS TABLED
A. President’s Report – Christopher Frazier
B. BSI 2008-2009 Plan Completion Group – Unrepresented
C. Campus Technology Committee (CTC) – Robert Wing
D. College Planning Council (CPC) – Christopher Frazier
E. Diversity/EEO Advisory Committee (DEAC) – Karen Pullen
F. District Budget Committee Report – David Yancey
G. Distance Education Committee – Clem Lundie
H. Facilities Committee (District) – Unrepresented
I. Facilities Committee (SJCC) – Steve Mansfield
J. Faculty Association AFT 6157 – Mark Newton and/or David Yancey
K. Finance Committee – Christopher Frazier
L. Instructional Policies and Curriculum Committee (IPCC) – Dorothy Pucay
M. Safety Committee – Karen Pullen
N. Student Success Committee – Dr. Marie-Elaine Burns*

*Dr. Burns attended the meeting to discuss the Student Success Committee. Due the length of the meeting, Dr. Burns had to leave before senate came to this item of the reports section.

The meeting was adjourned at 4:35 p.m. Notes Recorded by Christopher Frazier, Academic Senate President and Vicki Elam, Academic Senate Program Assistant,
Special Joint Senate Meeting with CPC, Friday, May 20, 2011
The next Regular Senate Meeting will be Tuesday, September 20, 2011
I. Background

SJCC Academic Senate Vice President, Joseph King, announced his resignation from office during the March 1, 2011* meeting. During the same meeting, it was announced by President, Chris Frazier that an election was needed to fill the vacated position of Vice President. A request was made for Senate members to submit their names as candidates for the position of Vice President. Senator Charles Heimler was the only member who expressed interest as a candidate for the position. Charles Heimler was declared the new Vice President by a white ballot.

Senate Treasurer Merylee Shelton was not present at the meeting in which Vice President Joseph King resigned, and she was not able to put her name forward as a candidate for Vice President and has challenged the process of selecting the new Vice President.

The selection of Vice President is especially critical at this point in time since President Chris Frazier is planning to be on sabbatical next semester, and that the Vice President will complete the current term of the President beginning next semester. The position of President also involves a change in workload and pay allocation and is especially critical during this time of the college’s accreditation challenges.

* Since minutes are not available, this date was arrived at by reviewing agendas.

II. Definition of Terms

The following definitions of terms are based on the Merriam-Webster Online Dictionary and will be used during this discussion and analysis of the SJCC Academic Senate Constitution.

- **ABSENT:** not present or attending (Example, a student who is absent from a class is still a member of the class)
- **VACATED:** to give up the incumbency or occupancy of an official position
- **SUCESSION:** the order in which or the conditions under which one person after another succeeds to a property, office, dignity, title or throne

III. Procedural Question of Succession and Election of Senate Officers

A couple of questions were raised by the Academic Senate treasurer, Merylee Shelton. She expected that she would become the new Vice President upon the resignation by Joseph King. The first question concerns the succession of officers within the Senate. The second question concerns having an ACTION ITEM without having a DISCUSSION in a previous meeting.

A portion of the Academic Senate Constitution was cited to support the premises of succession by the treasurer:
ARTICLE V – Section 2.C

Treasurer – The Treasurer shall be responsible for having the Academic Senate’s financial records maintained, the Senate dues collected and funds disbursed. The Treasurer shall fulfill the duties of the President in the absence of the President and Vice President.
IV. The Brown Act and the Bagley-Keane Act Concerning Discussion/Action Items

The Academic Senate is subject to provisions of the Brown Act and the Bagley-Keane Act. Sections of these legislative acts which apply to the current discussion include:

The Brown Act
The Brown Act is primarily concerned with Open Meetings.
REGULAR MEETINGS: Agenda containing brief general description (approximately 54954.2 Ch. IV twenty words in length) of each matter to be considered or discussed must be posted at least 72 hours prior to meeting.

The Bagley-Keane Act
The Bagley-Keane Act is primarily concerned with Placing Items on an Agenda.
Notice shall be provided of California public body meetings to any person who makes such a request in writing at least 10 days in advance. Notices shall include a specific agenda for meetings, including the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the notice. Agendas of public meetings and other writings, when distributed to the members of a state body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act.

V. References to the SJCC Academic Constitution Concerning Fulfillment of Duties of Absent Officers, Succession and Election of Senate Officers

The Constitution contains the following concerning succession of the Vice President to the President position, and election of a new Vice President: ARTICLE V – Section 2

B. Vice President – The Vice President shall assume the duties of the President in the latter's absence. In the event that the office of President is vacated, the Vice President shall assume that office and fulfill its duties for the remainder of the term of the office. The Academic Senate will elect a new Vice President to fill the vacancy in that office.

C. Treasurer – The Treasurer shall be responsible for having the Academic Senate’s financial records maintained, the Senate dues collected and funds disbursed. The Treasurer shall fulfill the duties of the President in the absence of the President and Vice President.

The Constitution contains the following concerning the election of officers: ARTICLE V – Section 3

A. The term of office for the President, Vice President, and Treasurer shall be two years. At the first regular meeting in May of every other year, the Academic Senate shall appoint a nominating committee of three senate members from those who will be serving as senators during the coming year. The committee shall choose its own chair. The chair shall request nominations from all senate members. The committee will receive the names of nominees and shall conduct the election of officers. At the time of the election, the chair shall present the nominees to the senate.

B. The election of Academic Senate officers shall take place at the second regular meeting in May of every other year.
VI. Analysis and Conclusions

a. The Treasurer does not become the Vice President when the Vice President resigns.
The conclusion of the subcommittee concerning the succession is straightforward. The Constitution states that in the event that the office of the President is vacated, the Vice President assumes that office, and that a new Vice President is to be elected. The Constitution does NOT state that the Treasurer becomes the new Vice President. The Treasurer fulfills the duties of the President when both the President and Vice President are absent. The term absent meaning not present, not that either of these two offices have been vacated.

b. Election of a new Vice President
This section analyzes possible challenges to the procedure that was followed when selecting Charles Heimler as the current Vice President of the SJCC Academic Senate.

b.1 Arguments in favor of the procedure that was followed
1. Charles Heimler was the only Senator announcing his candidacy at the meeting when Joseph King resigned as Vice President.
2. Since only one candidate was nominated for the VP position, no election was necessary.
3. Unless the Senate chose to reopen nominations at a second meeting, Charles Heimler would still be elected as Vice President by white ballot.
4. Once the Senate has decided and voted on an item, the item has not been reconsidered because one or more senators were absent when a vote was taken and their vote could have changed the outcome.
5. Charles Heimler has served as Vice President since March 1, 2011. A challenge to the election process has not occurred during a Senate meeting until May 3, 2011. A timely challenge has not taken place.
6. Although the Constitution only states that an election occur to replace a Vice President, the procedure is not as clear as the election process for the bi-annual election of all Senate officers. Therefore the election by white ballot for the current Vice President was probably appropriate.

b.2 Arguments against the procedure that was followed and in favor of calling for a new election of VP
1. ACTION items on the Senate agenda must be discussed one meeting prior to action being taken.
2. The minutes of the meeting in which a New Vice President was selected and the minutes of subsequent meetings are still not available for review or approval.
3. The election of a new Vice President was not an agenda ACTION item. It was not even on an agenda for any of the meetings of the Senate.
4. Although the Constitution clearly states that nominations for Senate officers during the bi-annual election occur during one meeting and that the election occurs at the next meeting, the same procedure should be followed when replacing vacated offices of the Senate.
5. In the past, the Senate has permitted additional nominations for Senate offices during the second meeting in which the elections occur.
6. As stated in the Constitution, Article V, Section 3.A, the chair of the election committee in the Constitution is to request nominations from all senate members. This section does not state that the senators must be present.
7. The election of a new Vice President at the same meeting as the resignation of the old Vice President was NOT an emergency situation. The actual selection of a Vice President could have waited for a meeting in which it was listed as an ACTION item on the agenda.
8. When a procedural error has occurred, the Senate calls for a new election. For example, a new Senate election is being required for members serving on a faculty evaluation committee when a procedural error was detected.
9. If in fact a procedural error has occurred in selecting the current Vice President, any legal challenge could throw the Senate into turmoil as we enter a critical stage of our accreditation. If a change would
occur after the semester started, this would affect not only the credibility of the faculty and the senate, but also the class scheduling, loading and pay allotment of all involved.

10. Merylee Shelton’s challenge to the procedure of the latest election of Vice President should be considered as her request to be a candidate for the position of Vice President.

11. Past practice has been to permit additional nominations on the date of the election.

b.3 Election of a Vice President - Conclusion

It appears that procedural errors may have occurred in the current election process for Vice President of the San Jose City College Academic Senate. In order to rectify any errors and to totally avoid any potential conflict or possible litigation continuing into the next semester, it behooves the Senate to resolve the issue by calling for a new election for Vice President with Charles Heimler and Merylee Shelton as candidates since these two senators have expressed interest in the position. This action would permit the Senate to progress into the next semester without any potential challenge to the Senate leadership.