

31 Years Strong!



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Volume XXXIX No. 12, December 2009

Union Press

Ponderings of the President

by Ira Lansing

It is now 137 seconds later.

[Plot line catch-up from last month's column: The ABC Network has a new television series this fall called "Flashforward". The premise of this show is the reverse of a flashback. Everyone on the entire planet unexpectedly blacks out at the same time for 137 seconds. After some fairly good special effects that show spectacular crashes and other related tragedies, everyone wakes up with the recollection of having seen a short segment of their lives 6 months in the future. The series develops the various characters' efforts to determine what happened, why, and is the forward vision inevitable.]

Last month I sought a flashforward to know the effect of the College of Marin Board of Trustees election, since one appointed incumbent had been defeated by a candidate backed by UPM and labor in general. Much like the television series, after most everyone awakens, there was chaos, destruction and confusion to deal with. Reports that appeared in the *Marin Independent Journal* of the December 8

Trustees meeting had Board members shouting and cursing at one another. Accusations of incompetency, ignorance and blatant disregard for long standing processes were made by various Trustees. At the end of this series premiere it was apparent that there was a change. A new majority (although we know how tenuous those can be: cf. current Democratic Congressional majority) appeared and new officers were elected: Eva Long as Board President (a position she previously held some years ago), James Namnath as Vice-president (still in his first term as a trustee and a former part-time chemistry instructor here at CoM) and Diana Conti as Clerk (the aforementioned newly-elected member). Longest serving Board member Barbara Dolan serves as the fourth of the 7-member current, but who-knows-how-long, majority.

While the election of these officers was not particularly contentious, what ensued was and lasted until after midnight. The issues that night do not directly relate to UPM matters—primarily bond construction priorities and expenditures—but the fact that

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this new majority was willing to take a look at these long-standing matters is a good sign for another long-standing matter: our unresolved contract (2007-2010). I preface the following remarks with the observation that often it is the case that positive electoral outcomes do not always produce positive outcomes (*cf.* national election 2008 and healthcare, Iraq, Afghanistan, etc. Then again, “positive” can be a relative term).

You should all know that UPM and the District have been attempting to negotiate a contract since 2006 when re-openers for that year were rolled forward into the next and currently unsettled contract. In the years since then the District has made few, if any, variations on its original proposal covering about 16 contractual articles of our current 25. These include language that is extensive in its take-back nature and salary offers that have ranged from 0%-0%-0% for three years to 0%-0%-0% plus 1.5% one time, off the salary schedule. In the same period UPM has changed its proposals to be more attractive to the District, modified the salary proposals numerous times, and at one point even offered the District *every single one* of its language articles in exchange for some offer, any offer, on salary and benefits. The District and Trustees refused to respond to this. In the past few days the District has rejected a proposal on Management Rights (Article 14) that is *identical* to one they sign off on with CSEA. What does that tell you about intent?

The preceding took place in the course of at-the-table negotiations, or during mediation after impasse was declared, or in fact finding and in the fact finder facilitated “don’t call it bargaining” bargaining. The process has failed us all, producing no results, wasting time and costing energy and money (the District uses *two* law firms during the fact finding process; UPM uses none). Most recently, the District’s litigator and chief

negotiator has declared that they will no longer participate in facilitated bargaining, despite (or because of?) the facilitator’s belief that movement was possible; but the administration wants to return to fact finding—and except for a date that is the third day of classes of the new spring semester, they will be unavailable to resume the process until March or April. What does this tell you about intent?

Much like the TV series, things are now different in our world. And again like the show, we are not sure how they will play out. But there is the potential for additional changes to take place. The stated intention of a majority of Trustees is to settle the contract and not impose one that could result in a faculty strike. This is a good idea for many reasons: no one wants to lose work, the Trustees have construction issues to deal with, there are perpetual WASC matters and they will also be searching for a new superintendent/president (can you see the job announcement that advertises this position: nice location, good pay, faculty on strike); and most importantly, there is a growing community awareness that all is not right at CoM (finally someone other than “a few renegade faculty” are seeing the situation).

I cannot tell you how “Flashforward” is developing because this is the time of year when many televisions shows go on a seasonal hiatus. Unfortunately, the same will be true to some extent for our contract situation. We all will have to wait and see what develops, although UPM will continue to work on moving matters in the direction of resolution. And to make sure that you stay in touch, informed and involved, be certain you can receive the UPM e-mail updates. Subscribe with a request from a non-CoM e-mail address to ira@UnitedProfessorsofMarin.org. Until the season resumes, stay rested and healthy.



**Tick-tock, tick, tock, time on the clock.
Amount paid to the attorney for the
month of November:**

\$16,850

District Total since start of 2009:

\$207,095.50

... and still no contract



Bargaining Update

After months of meetings, the District has decided to walk away from “Facilitation” and return to “Fact Finding.” While during these facilitated meetings the UPM Bargaining Team has substantially modified two of its proposals, the District has not made any significant offer on any item. The only person who benefits from this delay is the attorney for the District, who has now amassed over \$200,000 since the beginning of 2009 for his “expertise” in bargaining.

For more details, plan to attend the UPM General Membership meeting during Flex week—Friday, January 22, 2010, at 12:30 in Fusselman Hall.

Class Max Sidebar

As we reported last month, the UPM Negotiating Team **had been** collaborating with Academic Senate on a sidebar that **would have** established a procedure and criteria for determining class sizes. The sidebar **would have** made the Curriculum Committee primarily responsible for class sizes—reductions and increases. Criteria **would have** included Program Review, professional standards, safety concerns, technology issues, SLO’s and other relevant matters.

However, recently HR Chief Linda Beam responded on behalf of the District to say they are NOT interested in doing a sidebar on class maxima. The issue is too complicated to deal with at this time, she added.

CONNECTING THE DOTS

News and Opinion
by Arthur Lutz

BOARD AMNESIA

"History repeats itself, first as tragedy, then as farce."

Karl Marx

In April 2003 at an Academic Senate convocation, eighty-nine percent of our faculty voted NO CONFIDENCE in President Jim Middleton. Two months later Dr. Middleton resigned.

The charges against Dr. Middleton, as detailed in the Senate's *No Confidence* resolution included the following:

- Ill-considered proposals to sell or lease college property to private developers;
- Plans to build unneeded facilities;
- Failure to repair deteriorating college buildings;
- Disbursement of hundreds of thousands of dollars for attorneys to overturn collective bargaining agreements;
- Bypassing and rebuffing our shared governance system;
- Unwillingness to hire additional faculty while expanding the number of consultants and administrators;
- Promoting an unacceptable and overpriced computer software system.

And perhaps most egregious of all,

- Scapegoating our faculty – blaming us for the dysfunction and poor morale on campus.

After Dr. Middleton was forced to resign, our Board of Trustees had an opportunity to repudiate his policies and practices and work with our faculty to resolve some of the problems for which they and Dr. Middleton were largely responsible. However they failed to do this, and one year later they hired Dr. White and her administrative team to "*continue with the same policies*" that were responsible for Dr. Middleton's demise. (Pacific Sun 2/22/08, see Trustee Hayashino's comments.) And so our Board of Trustees became poster children for George Santayana's famous dictum, "***Those who cannot learn from history are doomed to repeat it.***"

And repeat it they did, because today, six and a half years later, our college is suffering from an identical set of blunders, abuses and District follies. And we have yet another president who just announced that she will be resigning before the end of her contract.

If all this weren't so tragic for our institution, it would indeed qualify as "*farce.*"

In bullet-point after bullet-point, Dr. White and the Board of Trustees have repeated the same blunders and mismanagement abuses that occurred during the Middleton years.

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- Ill-considered and inadequate building plans (Gateway, New Science Center, Fine Arts);
- Attempts to sell or lease college property to private developers (College Mall);
- Exorbitant expenditures for attorneys attempting to break our faculty union; (~\$1,000,000 to fight faculty grievances);
- Continued deterioration of our buildings (Reduction of maintenance personnel and budgets – janitors – gardeners – painters – electricians etc);
- Huge monthly fees to maintain a problematic computer system (\$35,000 per month! for a consultant to advise on Banner);
- Elimination of programs and student services (Closing down the IVC Library and the Bolinas Lab and the Football Program and GED Testing);

AND (once again most egregious of all,)

- Scapegoating by a President and

administrators and trustees who call senior faculty members *sexists, racists, bullies, jackals and hostage takers*. (Pacific Sun 2/22/08; Echo Times 12/09).

Reading the above, it's sometimes difficult to appreciate the 'farce' element in this historical redux.

Nevertheless, we have some cause to feel hopeful. Because it's Winter Solstice, a time of rebirth when days start to lengthen and we can look forward to a brighter future – perhaps even here at College of Marin. We have a new Board majority whom we have reason to believe will change the anti-faculty dynamic of the previous Board leadership. And we will soon have a new President, who will undoubtedly bring aboard some new administration team members.

A propos of this, I think it would be gracious if our faculty bought our new bosses a welcoming gift.

I might suggest, "***The Wisdom of George Santayana.***"

UPM Building Reps:	Contact:	Campus Extension or Email:
Austin Science Center	Ira Lansing	531
Business Center	Mike Ransom	7579
Dance, Landscape, Fine/Visual Arts	Deborah Graham Tara Flandreau	Deborah.graham@marin.edu 7576
Dickson, Fusselman Hall	Paul Christensen	7635
Harlan Center	John Sutherland	7434
IVC Campus	Arthur Lutz	8518
Learning Resource Center	Carl Cox	7423
Part-time Faculty	Tom Behr	tom.behr@marin.edu ; Deborah Graham
Physical Education	Ira Lansing	7531
Student Services	Theo Fung	7389

Grievance Update

Another UPM Win Another Embarrassing and Costly District Loss

UPM recently won yet another arbitration, this one regarding conference leave. Though we tried and tried to reason with District reps, their unwillingness to resolve the issue has cost Marin County taxpayers once again. This win comes on the tail of another decisive victory—Intersession Work--in which the arbitrator found that the District's arguments were flawed, characterized by phrases such as:

“unilateral action,” “wrongfully overturned,” “improperly overturned,” “contravened unilateral managerial decision,” “clearly in addition to and inconsistent with Article...,” “irrelevant, and also hypocritical.”

It should come as no surprise, then, that the arbitrator in this Conference Leave Grievance used similar language to describe the District's actions and arguments.

Background

In July, 2008, a unit member applied for conference leave to attend a union-related conference in Chicago. His request was quickly approved by the Professional Affairs Committee (PAC); however, then-vice president Anita Martinez refused to provide funding for travel, conference fees, lodging, etc.

The Unknown

Somehow, Ms. Martinez couldn't quite grasp Article 5.5.3.3, a provision the arbitrator understood immediately, which states that “The PAC shall award conference money for travel

expenditures (including meals) to *all approved conference leaves* not to exceed \$1,000 per year per unit member.” [Emphasis mine]

The Arbitration

The arbitrator's decision relied heavily on past practice:

“Moreover, the practice of reimbursing travel expenses for union related conferences...

further supports the conclusion that the parties' mutual interpretation of the contract language, up until 2007, was that travel expenses for union related conferences would be reimbursed on the same basis as travel expenses for any other paid conference leave.”

The arbitrator concluded, “The District violated Paragraph 5.5.3.3 of the Agreement when it denied... request for reimbursement of travel expenses associated with his approved conference leave to attend the AFT Convention.”

The Award

For the District's violation of the contract, the arbitrator awarded as follows:

—The provisions of Paragraph 5.5.3.3 of the Agreement apply to approved union related conference leaves under Article 13.15 the same as they apply to any other approved conference leaves, and the District shall administer the Agreement accordingly.

—The Grievant shall be made whole: he shall be reimbursed his travel expenses for the 2008 AFT Convention in Chicago, subject to any other limitations (such as the maximum individual cap) set forth in Article 5.5, plus interest as sought by UPM in its brief.

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—The Arbitrator will retain jurisdiction pending implementation of this Award.

The Motivation—Union Busting.

At the heart of the District’s intention in this case is its blatant anti-union bias: “Its [the District’s] actions were discriminatory and arbitrary”; “its stated reason was that it refused to fund ‘union activities,’ not because the applications it denied failed to meet any ‘appropriate criteria.’”

The Cost

The District’s actions and refusal to adhere to the CBA clearly cost the taxpayers of Marin County. Not only does the District now have to pay the grievant in this case, but the costs to the District in terms of time and money spent by HR personnel are added insults to taxpayers. Finally, the attorney for the District, the attorney who also “negotiates” contracts for CoM unions, was paid handsomely for his advice and participation in the grievance and arbitration. These costs continue to be felt in terms of the disrespect the District shows to the Collective Bargaining Agreement, its employees and Marin taxpayers.

The Ongoing Offense

In recent years UPM has won several important legal victories against the District:

Retirement Savings Arbitration. The District’s refusal to adhere to its own agreement cost Marin taxpayers an approximate \$1.6 million dollars; the arbitrator further fined the District \$2500 and described its arguments in the case as “specious.”

Required Teaching Load Arbitration. The District refused to provide a unit

member with the contractually mandated 15 unit teaching load and was ordered to make the grievant whole for any loss of pay and to cease and desist discrimination against the unit member for his union activities.

Intersession Arbitration. After the District refused a full-time unit member’s intersession assignment, the arbitrator ordered monetary award to the unit member for loss of income resulting from the District’s breach of contract. Consequently, the District had to pay TWICE for one class taught; plus legal fees, of course.

The Unconscionable Mismanagement

Grievances continue to pile up. Currently, UPM is working on another, almost identical Conference Leave arbitration; an arbitration regarding the contractual right to access records; and an overload arbitration. A recent meeting with a top level administrator made it loud and clear that the administration is pursuing arbitrations in order to deplete the Union so that it can no longer afford to defend the CBA. Despite its losing record, the District has expressed no interest in finding remedies to these issues and would rather waste more taxpayer money and go to arbitration.

This (last point) cannot be emphasized enough: The District is spending Marin County taxpayer dollars to defend its blatant violations of the MCCD/UPM Contact. This money does NOT come out of Fran White’s purse, nor does it come from other managers who are making in excess of \$100,000 from their PENSIONS alone! That’s IN ADDITION to their CoM salaries!

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Our administration is quite open handed when it comes to spending Marin residents' money. I wonder how bold they'd be, how committed to breaking our Union, if they had to dig into their

own pockets to defend their scandalous behavior.

John Sutherland
UPM Grievance Officer

The Raoul Teilhet Scholarship for Graduating High School Seniors and Continuing College Students



About the scholarship program

The scholarships were established in honor of former CFT President Raoul Teilhet, the charismatic leader of the union during the 1970s when California education employees won collective bargaining.

About the scholarship awards

Scholarships of \$3000 are awarded to students entering or attending a four-year university; \$1000 scholarships are awarded to students entering or attending a two-year school. The awards are based on academic achievement, financial need, special talents and skills, participation in extra-curricular activities, and a 500-word essay on a social issue about which the applicant feels strongly.

Who is eligible to apply

Scholarships are available to graduating high school seniors and continuing college students who are children or dependents of CFT members in good standing, or children of deceased CFT members. High school seniors who received a Raoul Teilhet Scholarship are not eligible to apply for a continuing college scholarship.

How to obtain an application

To download a scholarship application, go to www.cft.org and click on Scholarships. To obtain a photocopy of the application, contact your local union. To have an application mailed to you, phone the CFT Costa Mesa Field Office.

California Federation
of Teachers 
AFT, AFL-CIO
A Union of Professionals

Costa Mesa Field Office
2900 Bristol St., Suite C107
Costa Mesa, CA 92626
T: 714/754-6638
F: 714/754-1514
www.cft.org



HIGH SCHOOL APPLICATIONS MUST BE POSTMARKED BY
JANUARY 10, 2010

COLLEGE APPLICATIONS MUST BE POSTMARKED BY
JULY 1, 2010

UPM Membership Application

I hereby apply for membership in the United Professors of Marin, AFT Local 1610

Date: _____ Email: _____

Name _____ SS #: _____

Address: _____ Department: _____

City: _____ Zip: _____

Home Phone: _____ Campus Ext.: _____

Check the appropriate category:

I am a permanent credit or non-credit employee or leave replacement.

I am a temporary non-credit employee on the quarter system.

I am a temporary credit or non-credit employee on the semester system.

Return to UPM Kentfield campus mailbox or UPM Office, Science Center 136

United Professors of Marin UPM-PAC Payroll Deduction Form

The UPM-PAC (Political Action Committee) provides financial support to candidates and measures that support or benefit education in Marin County and the College of Marin in particular. If you would like to support the UPM-PAC with a monthly contribution, small or large, please fill out the form below and send it to the Payroll Office.

To: Payroll, College of Marin

Date: _____

I hereby authorize the Marin Community College to deduct from my earnings the sum of _____ beginning in the month of _____, _____ (year), and each month thereafter, and to remit this sum to the United Professors of Marin PAC #990958 until I revoke this authorization in writing.

Signature: _____

Print Name: _____

Address: _____

City: _____

Zip: _____

SSN: _____

UPM

United Professors of Marin

**American Federation of Teachers
Local 1610
Box 503
Kentfield, CA 94914**

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2009-2010

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