

## STORE OPERATIONS BOARD MINUTES

January 27, 2009

### Present: (Members and others)

Sheila Chen (ASUC Senator)	Eddie Nahabet (ASUC Senator)	Claudia Rodriguez (ASUC Sen.)
Sarah Cho (ASUC Senator)	Alberto Ortega	Jordan Smith
Ron Coley	Tommy Owens (ASUC Senator)	Tom Spivey
Miguel Daal (GA President)	Krystle Pasco	Bryan Thomas (Daily Cal)
Barbara Davis	Nadesan Permaul	Tu Tran (ASUC Senator)
Jeff Deutsch (Store Director)	Tara Raffi (ASUC Senator)	Roxanne Winston
Meghana Dhar (ASUC Senator)	Nish Rajan	Obiamaka Ude (ASUC Sen.)
Mary June Flores (ASUC Senator)	Diane Rames (Daily Cal)	Yishi Zuo (ASUC Senator)
Oscar Mairena (ASUC Senator)	Dave Rhoads	

### SUMMARY OF THE MEETING

This meeting commenced Spring Semester. It was called to order at 6:10 p.m.

#### Public Comment

Bear's Lair Food Court were represented by Mr. Al-Silwani. Vendors are willing the area and were sad the Board went out to RFP. Vendors requested a plan to show what changes could be made to upgrade the facilities. They've thought of having a specialist look at the place for suggestions and were ready to look into training students to work with them.

The vendors have been there almost 25 years.

They'd all contribute to upgrading the area. If vendors make that investment, they'd want a lease.

Ms. Vu, owner of Healthy Heavenly Foods has worked without a lease since 2000. She's invested \$100,000. She had a petition of support signed by more than 1,000. She wanted to invest money in her place. But she couldn't compete with a big corporation. If people want to get somebody else, they should pay her back the \$100,000 she invested.

Tim Kline, a student there, was concerned about Panda coming to campus. It would be the first fast food restaurant on campus. It would hurt Berkeley's reputation and would take business away from local vendors. He would like to see the students have a voice on this.

Melissa Smith, a student there, was concerned that Panda would put in a commercial kitchen when the entire area will eventually be torn down.

John Backus, a student there, said students had ideas on how to use the space.

Kris Daum, a student there, was concerned that the campus and the community were isolated from each other. A student-run food co-OP would incorporate the student community into the functioning of the campus and the food systems there.

Kristen Auker, a student there, felt corporations and fast food chains were just duplications of each other.

Christina Oatfield, ASUC Senator, said her constituency has asked what they could do to stop Panda, so she invited them to the Board meeting. The University should promote environmental sustainability and a fast food company on campus would make a mockery of that. Ten items on Panda's express menu had a fat content that was 50% or more of total calories.

Yoni Landau gave the Board a petition with over 1,000 signatures against Panda Express.

Alex Stone said the City of Berkeley has traditionally rejected chain businesses, and wondered why the University would overturn that. She'd like to see the space used for a cooperative local, sustainable, and preferably student-run business.

### Daily Cal Update

Mr. Thomas, Daily Cal Editor-in-Chief, said he met with Board members and they had some workable options for the future. He was optimistic they'd have a solution or be close to one by the next SOB meeting.

### Physical Improvements and Maintenance

Over Winter Break a footing was poured in the garage by the Store, for support of Pauley Ballroom and that side of MLK. That summer they'll go into larger renovations.

The Art Studio has finished its renovations and has new computer stations and a new room in which to program events.

The new Open Computing Facility will have a soft opening on February 9.

There was a sewer back up that went into Strawberry Creek, causing a report to be filed with East Bay MUD. The clog has been traced back to grease from the Bear's Lair Food Court.

Major work was done to get heat restored in the Studio, textbooks, the storeroom, and a couple of other areas. There were also problems in Eshleman.

### Bear's Lair Food Court

Per the Board's direction a letter was drafted to Food Court vendors about going to an RFP on the leases in the area. Healthy Heavenly Foods was closed during the Christmas holidays by EH&S for failing since August to repair its hood. Work has been completed and it is open. It can't use its barbecue. The Pub complained that Healthy Heavenly Foods used the Pub's oven to cook, without authorization.

There was no intention of inviting national food vendors to replace the vendors in the Bear's Lair Food Court.

The Scholar's Work Station was now managed and operated by Follett. Since January 5, they've had \$139,000 worth of business in the Scholar's Work Station. But overall sales in the Store were down \$1.3 million from last year, based on the economy.

The Brazil Café

The Brazil Café has made contact with the Auxiliary recently and was still very interested in coming to the campus.

Tully's Coffee

Tully's Coffee had a walk-through of the site. Capital Projects has vetted Tully's design. The Fire Marshall will do an inspection.

Capital Projects wanted to ensure that there would be no permanent construction for Tully's, and it will be a portable, flexible space, with a kiosk.

Panda Express

Real Estate Services was working on the Panda lease at that time, using the lease UCSD had with Panda. The infrastructure for Panda was close to being completely assessed.

All contracts take into consideration the potential that the University might renovate Lower Sproul and the Student Union complex.

Panda has agreed to all the considerations Sen. Oatfield presented. Panda seemed to be very open to all considerations from Board and the Senate.

It was noted that Panda has not addressed all concerns that have been raised, such as with organic food.

Regarding Healthy Heavenly Foods, Ms. Vu she had problems with a contractor doing work on the hood. As for cooking in the Pub, the employees agreed to cook together.

Closed Session

The Board met in closed session to discuss Bear's Lair food vendors, the Daily Cal proposal, the Tully's Coffee term sheet, and the draft RFP concept for the Bear's Lair

In open session, by a vote of 3-2-1, the Board voted to continue negotiations with Panda Express.

By a vote of 5-2-1, the Board voted to continue negotiations with Tully's Coffee.

The meeting adjourned at 8:48 p.m.

**[End summary of the meeting.]**

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This regular meeting of the Store Operations Board, commencing the Spring Semester, was called to order by Jordan Smith at 6:10 p.m. in the ASUC Senate Chamber.

APPROVAL OF THE MINUTES

Mr. Smith said he would entertain a motion to approve the minutes from the December meeting. It was so moved and was seconded. THE MOTION TO APPROVE THE MINUTES OF THE DECEMBER 9, 2008 BOARD MEETING PASSED UNANIMOUSLY BY VOICE-VOTE.

APPROVAL OF THE AGENDA

Mr. Smith called for a motion to adopt the agenda for that evening. A motion to approve was made and seconded. THE MOTION TO APPROVE THE AGENDA, AS AMENDED, PASSED UNANIMOUSLY BY VOICE-VOTE.

PUBLIC COMMENT

Mr. Smith said that if people would like to, they could sign up to give public comment, and would have two minutes to speak. After hearing the comments, the Board would continue with the rest of the meeting.

Mr. Smith said the first public comment was from Bear's Lair Food Court vendors. Mr. Al-Silwani introduced himself and said he's been asked by the local vendors there to talk on their behalf. The vendors have expressed their willingness to improve all the area they operate from. They're definitely a bit sad about the Board trying to get outside vendors after spending almost a quarter of a century serving the students there. They believe they could work with the Board to find means and ways to create more money for the Student Union. The vendors were requesting a plan to show what changes could be made to upgrade the facilities. They've been thinking about certain ideas that vendors could do, and they've thought about having a specialist, a planner, or interior designer, or people involved in upgrading stores, to look at the place, and make it the most convenient and friendly atmosphere the students have. They're ready to look into training students to work with them rather than having other people work in their offices.

Mr. Al-Silwani said the vendors have been there for almost 25 years. They understand the students and know what their means are, and they could create food the students would be happy about. The vendors looked forward to hearing from the committee about how they could cooperate to do this in a better way to serve the students. If there were any questions he could ask answer, or ask the vendors to answer, he would ask the Board to please let him know. Or if there's anything they want more of an explanation about, they should ask.

Mr. Ortega said that it was mentioned that the vendors were willing to expand the facilities, and he asked if that just meant the Bear's Lair Food Court or the area where there's potential. Mr. Al-Silwani said they

had an idea to upgrade the whole area, and they'd all contribute together. They'd even ask the guy next door to share with them because it was a big public area. There's an area outside they could have umbrellas, looking into the building, with everything dealing with the space that would make matching the level he believed the University was looking for. Of course, they expect the committee to contribute to the overall expenses, which would be quite considerable. But the vendors were willing to do that.

Mr. Al-Silwani said that one thing the vendors have mentioned was that if they invest that amount of money they at least want some sort of confirmation that they'd have a lease for a certain period that would allow them to get back the cash for doing the renovations. So they hoped to get a chance to get a lease that was long enough to justify the expenses.

Ms. Oatfield asked what planning the vendors would do to improve their environmental sustainability standards, like packaging, organic food, things like that. Mr. Al-Silwani said they would consult specialists for that and would fully expect to make the most sustainable environment.

Ann MyLinh Vu said she was there last week at the Senate meeting and talked about the situation in her restaurant. She would like to introduce herself. And she had some background to pass out. She's the owner of Healthy Heavenly Foods. This was her 18th year there. Her work there took a long time to get good credit with the students. She's worked without a lease since 2000. Tom Cordi, who was Executive Director before, wanted to get a corporation in to remodel, for \$1 million. So they all gave up, and she went home and got a job offer with a doctor. Mr. Cordi called her and convinced her to come back because the students supported small businesses. Mr. Cordi got into a problem and the students were going to throw him out. He told her that if she invested money in her place, he'd give her one more spot. She did work in her kitchen, but he didn't give her a lease until two years after. She knew he was going to Florida. She invested \$100,000. He didn't give her a lease at first, and then only gave her a two-year lease.

Ms. Vu said that she works there every single day. She had to worry. Her money was invested there and it was income for her family. They give good food and good service, and every student loves her business. But every day she was concerned. Last year she went to Mr. Permaul and talked to him. She had a petition, of more than 1,000. And he said that it was a rumor, and that nobody could take her business or kick her out, and said he would give her a lease.

Ms. Vu said she wanted to invest money in her place. She works every single day there. And she did nothing wrong. She always paid the rent and followed the rules. She had a recycling program. Whatever people wanted, she would do. The only thing she wanted was to invest in her kitchen, but she would ask them to give her a lease. She could put in \$100,000, or \$200,000 more. But if she didn't have a lease, one day they could tell her they didn't want her there, and they could get somebody else. Right now it was a bad economy, and everybody needed money. So she would ask them to please be fair to her. If they wanted to get a big business in, she would lose her business. She couldn't compete with a big corporation. She was a small business, a minority. So she couldn't compete with a big corporation, and the Board would force her out. She was looking for support. If people want to get somebody else, they should pay her back \$100,000 and she could go somewhere else for her family.

Ms. Vu said she told Mr. Coley that they wanted to make the students' place beautiful, but she told him the whole building was ugly, not the kitchen. If people want to bring in a corporation, they should pay her back. If they help her with that, at least she'd have money for her retirement.

Mr. Smith asked why it took so long for the kitchen to be fixed. Ms. Vu said she paid \$22,000 to Mr. Coley, but he didn't help her, and didn't give her a permit. In 2000 she did half, and he said she should wait for Phase 2. But she couldn't do that. So she shopped for everything, even the design for a cooler. But they don't give it to her. It was unfair. They did Phase 1 and they never got to Phase 2. She spent \$22,000 for Phase 1 and they never got to Phase 2.

Tim Kline introduced himself and said he's been a student at Cal for three years. He was really proud to be a student there and he's learned a lot there that he probably couldn't have learned anywhere else. He was really concerned about Panda Express coming to campus, for a couple of reasons. He was concerned that this would be the first fast food restaurant on the UC Berkeley campus. He really didn't like the idea of that, just for their reputation as an institution of higher learning. He was concerned that a fast food restaurant would take business away from their local vendors, who he thought were really trying hard to do everything they could for environmental sustainability, social sustainability, and the health of students. He really saw them working hard, and he had a difficult time imagining Panda Express working that hard. He was concerned about Panda's affect on student health. He asked if they want students to be eating from a menu that has such high levels of fat. Somebody will talk about statistics, but there's a lot of fat in Panda's food.

Mr. Kline said he was also concerned that the ASUC was not valuing student input on this issue. He would really like to see the students have a powerful voice on this. It was their University, when it came down to it. They paying the fee, or a lot of them do. He wanted to thank the Board.

Melissa Smith introduced herself and said she was also a student there at Cal, and was there to talk about Panda Express. She wanted to address one point about the Panda Express plan that she wasn't comfortable with. There were a few familiar faces there from the Lower Sproul redevelopment eco-planning session, so she knew that for Panda Express to go in, they'd put in a commercial kitchen, and doing that would take a lot of construction and energy. And according to the latest plans that she's seen for Lower Sproul redevelopment, that area wasn't even going to exist any more. It wouldn't be there. So Panda Express will invest all this money to build a kitchen just to have the entire area torn down. In her mind, sustainability meant that something would last more than three to five years.

Ms. Smith said that at the planning session they talked a lot about re-using construction material and all that kind of stuff, but she would ask what kind of message for a sustainable and green campus that would send if they waste all this energy and effort into building a space that will only be torn down. She felt that was very contradictory.

Lastly, Ms. Smith said she was concerned about the health of Panda food and the calories of items on the Panda Express menu. She was also concerned with the competition Panda would represent with the businesses already there, and trying to support them, without taking away from their campus' reputation for sustainability and supporting local economies and progressiveness.

John Backus introduced himself and said he was a student at Cal. He wanted to emphasize that Berkeley was really known as a progressive campus. They have so many smart, creative, free-thinking people, and they have a ton of ideas on how to use the space, besides just having a corporation come in and set up a

fast food chain, and start delivering greasy, bad food to all their students. Instead, they could really utilize the space for an opportunity to do something different and to go beyond what every other campus was doing, and to set a standard. They want things to change. This was their student group and they want to do what was sustainable and ethical, and want to support their local economy. They want to eat better food and they want to be a community, and he thought that just running for the money would be a wasted opportunity for the space.

Tulsi Patel introduced herself and said she was there to show support for a progressive alternative they've talked about. It would support student health and student interests and was more sustainable for their environment and themselves. By putting Panda Express on their campus, they're just supporting so many health issues. As a student, it wasn't just about convenience, because there was no better alternative. She thought they should consider prepared foods, like the shops they have right now, but something that was more cooperative and that supported organic and fresh produce, and was more for student sustainability as well as for environmental sustainability.

Rachel Horn said she was a first-year student at Cal. She didn't prepare anything to say, but wanted to show her full-hearted support for a student community space on Lower Sproul. To her what was important was the Berkeley community, and having local people who live in Berkeley, and having their small businesses that were maybe more sustainable and environmentally friendly and socially responsible. She fully supported a student community group and a presence on Lower Sproul. She wanted to thank them.

Kris Daum said he was also a student. A lot has been said already and he wouldn't dwell on things too much. He noticed that the Berkeley campus and the community there in a lot of ways has been isolated from the community in which it exists. By inviting outside corporations like Panda Express, that wasn't supporting the local community at all. He thought by supporting local businesses, or even a student-run food co-op, that would incorporate the student community into the functioning of the campus and the food systems there. He thought that would be a much better alternative. He also thought it was important, this being a public University, a University that they've managed to keep that way, even in harsh economic climate, to resist the pull of large, private organizations, and to not continue that trend. He supports a student-run co-op in that space. That would make the student community more involved with the functioning of the school, especially as far as food was concerned. And food was an incredibly important issue.

Kristen Auker said she was a student there as well. She would like to say that each of them was unique and creative. She felt that corporations such as Panda Express, and fast food chains, were duplications and replications. Instead of having such businesses, they should allow people there actualize their passion, and their vision, a student-run food co-op. She hoped the Board gave them the opportunity to do that.

Christina Oatfield said she's an ASUC Senator. People might be wondering why she was there, and the reason she was there was because her constituency has asked her over and over again what they could do to stop the Panda Express issue. So she invited them to come to the Board meeting to talk to the Board. She hoped people weren't too upset with her.

Ms. Oatfield said she would ask people to raise their hand if they were a citizen of the world. She noted that everyone in the room would be included. She would ask them to raise their hand if they were a citizen of the world that was facing issues like climate change, toxic pollution in rivers, streams, water, and air, and decreasing availability of food. She asked people to raise their hands if they've lived in that world; and once again, that should be everyone. Everyone sitting around the table was in a position of privilege because they have a position of power with the University, and their decisions and votes affect what they're doing on the University to promote environmental sustainability. Greenhouse gas emissions from their industrial factory farming system was responsible for more of the United States' greenhouse gas emissions than the transportation sector. Food was a huge component of environmental sustainability. She didn't know if everybody was always conscious of that. She really felt they need to think about food as a critical component of their campus' efforts to green the world. If Panda Express came onto their campus, she'd do her best to work with Panda to make sure it pushed the envelope on the company's corporate, social, and environmental sustainability standards. She could not support a fast food company coming on to their campus, making a mockery of their campus' sustainability initiative, and making their Student Union area and making it look like a shopping mall.

Ms. Oatfield said that one more statistic she'd like to read was that there are ten items on Panda's express menu where fat accounts for 50% or more of the total calories. That included the ever-popular Orange Chicken, and the mixed vegetable entrée, among others.

Leslie Üke said she was also a student there. She didn't like public speaking, so it actually meant a lot that she was speaking there. She was really bored by the American landscape. She drives on the highway and sees that every city looked the same. It's all franchises, and she didn't want their University to look like that, and she didn't want every University in the future to look like that. So it was an important point to stop that from happening and stop that from coming on to their campus. She wanted to thank them.

Yoni Landau said he's recently been involved in this. He wanted to give the Board over 1,000 petition signatures against Panda Express. He's only been involved in this for a couple of weeks. It's been a kind of outpouring of shock and awe. He hoped the Board relates to whomever they were trying to do business with that it might not be as profitable or as welcome on this campus as expected. He wanted to stress that there were many viable alternatives possible and they might want to seek those out a little more forcibly before they engage in negotiations with such a corporation as Panda Express, that will be opposed strongly. He wanted to thank them.

Alex Stone said that when she looks around Berkeley she sees a lot of local businesses. Berkeley traditionally, as a City, has rejected chain businesses, and she personally was wondering why the University thought it was acceptable for it to completely overturn that and welcome an incredibly large and harmful chain onto their campus. Personally, she would like to see the space used for a cooperative local, sustainable, and preferably student-run business. Students have been working really hard to come up with a viable option for that. So far as she's seen, the ASUC has had a lot of resistance in listening to students. Clearly there was a lot of support for this other option. She was wondering how the ASUC, which was supposed to represent the students, has ignored a lot of students. She would also like to see the space used as a student community. Even with Naia at that time having open mic nights, she didn't see Panda Express being as welcoming to students other than having unhealthy food during the day and completely shutting down at night. After Leland Stanford could not buy his way onto the Regents, which was why



Stanford University started, she would ask why the ASUC lacked integrity to say no to Panda Express buying its way on to their campus.

Kaan Caglar introduced himself and said he represented SF State. He's getting an MBA in marketing and he looked at this from a different perspective. He could see that the ASUC was really desperate for money and was trying to rent out its spaces. The economy wasn't doing well and they need income for their expenses. That was probably the reason they're saying okay to Panda Express, because the company was investing half a million dollars for that store space, and will probably pay a really good rent. And Mr. Caglar said he totally agreed with that. He lives in a co-op house that has 1,200 members, and during the dark economic days in the 1930s, they survived by incorporating, getting together, and serving the community with alternative housing options. Right now they have a lot of sharp people working on this idea and on a business proposal to open a food business that was a student-run non-profit. He thought students were being a little underestimated and he thought they could come up with a really good idea and find connections. Maybe they wouldn't be corporate, but they could find alternatives to Panda Express. He just wanted to communicate that, and that they shouldn't underestimate students. They could probably be successful at that spot if the Board let them, and serve the community in a respectful way.

Mr. Smith said he just wanted to make a quick note to thank all the speakers. It was very good to hear them come in and tell the Board where they stood; and the Board appreciated it.

#### Daily Cal Update

Mr. Thomas, Daily Cal Editor-in-Chief, said that regarding negotiations with the Daily Cal, he met with Mr. Smith and Mr. Rajan that day and he thought they had some workable options for the future. Over the next couple of weeks he looked forward to continuing to working with the Board to come up with a good solution. He was optimistic that by the time the next SOB meeting happened, they'd have a solution, or at least be very, very close to one.

Mr. Smith said that to give some more information on this, in the next week or two the students will get together with Mr. Thomas and try to come up with a solution that was mutually beneficial to both parties.

#### Physical Improvements and Maintenance

Mr. Spivey introduced himself and said he was the Auxiliary Associate Director. He worked for the Director of the ASUC Auxiliary. Over the Winter Break they took their first step in the seismic improvements of the Student Union. They poured a footing down in the garage area, over by the Store, the textbook section. That project was completed, a foot/landing pad for the support of Pauley Ballroom and that side of MLK. That summer they'll go into larger renovations in three areas that go up to strengthen King Union.

The Art Studio has finished its renovations, and Mr. Spivey said he would encourage people to go by and show their support. The Studio has been upgraded tremendously. It has a new room in which to program events and new computer stations. The art and clay section has been completely cleaned up and repainted. So he would ask them to please go by and take a look.

The Open Computing Facility met that day and it looked like they'll have a soft opening of the OCF on February 9. So they're almost done downstairs. They'll announce the grand opening down the road, and they were almost there. They've been working for about six months for the transition.

Mr. Spivey said that over the King holiday, the weekend, they had a sewer back up. It was still currently under investigation. The leak went into the creek, and the sewer backed up in the parking lot and moved into Strawberry Creek. So they had to fill out an incident report with the East Bay Municipal Utilities District. The sewage clog has initially been traced back to grease from the Bear's Lair Food Court. They're scooping the line and will soon find out more. He'll give an update later.

There was very good news regarding heating and ventilation. Those who took finals in the Student Union probably found out it was a little chilly. The Auxiliary had major work to be done and initiated a project to get heat restored in the Studio, textbooks, the storeroom, and a couple of other areas. Also, they've had problems in Eshleman. Heat in Eshleman had been off, but came back last week. Also, they found some mold in an equipment room and it will be abated soon. It's in an area where people don't locate and wasn't habitable.

#### Bear's Lair Food Court

Mr. Permaul said that pursuant to the Board's direction at its last meeting, he drafted a letter to the vendors of the Bear's Lair Food Court. Just prior to Christmas they met, together with Mr. Smith, as Chair of the Board, and presented the letter to the vendors. They explained that the Board had taken a decision to go to an RFP on the leases in the Bear's Lair Food Court. One issue that the Auxiliary had at the Food Court had to do with the closing of Healthy Heavenly Foods during the Christmas holidays. Environmental Health and Safety tagged Healthy Heavenly Foods for failing to make repairs to its hood that were called for in August of last year. It remained closed during the Christmas holidays all the way through January. The work was completed last week. EH&S also instructed the Auxiliary to stop Healthy Heavenly Foods from using its barbecue as an alternative cooking method. And the Auxiliary received a complaint from the Bear's Lair Pub that Healthy Heavenly Foods was cooking in an unauthorized manner in the early morning inside the Pub's oven, and what ensued was an unpleasant confrontation. That cooking has ceased. Work in Healthy Heavenly Foods was completed the next day, it now had access again to its oven.

There's a petition that has been circulated by the vendors asking people to support the notion of maintaining small businesses. Mr. Permaul said he thought they needed to put on the record, since it was at the Board meeting in December, that there was no intention of inviting national food vendors to replace the vendors in the Bear's Lair Food Court. In fact, the Auxiliary has already received up to 20 contacts from local businesses throughout the Bay Area that have expressed significant interest in coming to this area. And he could say that some of them were ones that students were very interested in having come to the campus. So he wanted to clear up that notion.

And the letter had nothing to do with the other businesses that the Auxiliary was negotiating with. Those other businesses include Tully's Coffee, at the request of the ASUC, and Panda Express, at the request of Naia, which brought Panda to the Auxiliary. Also included was the new Scholar's Work Station

The new TSW replaces the old Scholar's Work Station on the campus. It's now being managed and operated by Follett, the Auxiliary's vendor of the Cal Student Store. Since January 5, they've had \$139,000 worth of business in the Scholar's Work Station. That was very good because they're down \$1.3 million based on the economy from last year to this year at the Cal Student Store.

#### The Brazil Café

Mr. Permaul said the Auxiliary received a call from the Brazil Café. The owners were in Rio, as they are every winter. They're still very interested in coming to the ASUC. They will look at their options and will work with Tom Spivey, as have all of their vendors. But the Brazil Café has made contact and was still very interested in coming to the campus.

#### Tully's Coffee

Mr. Spivey said they met with Tully's Coffee and walked through the site. Capital Projects has vetted Tully's design and has responded back to the Auxiliary. They're still awaiting an inspection by the Fire Marshall, which will occur on February 10. Tully's was very excited about coming to the 2nd floor.

Mr. Rhoads asked how it went with the walk through. Mr. Spivey said Tully's was very excited. They walked through the building completely, and walked over to the mall, and to the Golden Bear, to see what other services there were on campus.

Mr. Rhoads asked if they expressed any need or desire to change things. Mr. Spivey said they didn't. Mr. Permaul said that Capital Projects wanted to ensure the construction they were putting in was not physically permanent. And it isn't, as it's a kiosk. It's something they could set up in the foyer, in a portable, flexible way, which they'll be able to do. Those were the only considerations. The Auxiliary will report to Capital Projects that they met their criteria and will work with Tully's on a contract and move forward, they hope sooner rather than later, to have Tully's eventually open up.

Mr. Rhoads said he had a question. At one meeting, Mr. Permaul or somebody else mentioned that the Brazil Café was advertising they were coming to the Student Union. Mr. Permaul said the Brazil Café has been printing up cards saying they were coming to the Student Union. Mr. Spivey has advised them that there was no commitment at that point to coming to the Student Union. The Auxiliary knows that students were interested in having them there, but the Auxiliary has done none of the process that would make that possible. Mr. Rhoads asked if the Brazil Café understood that and would stop printing that information. Mr. Permaul said they're in Brazil, and when they come back, the Auxiliary will ask them to stop. Mr. Spivey said he sent them an e-mail asking them to stop. He's been there for 18 months and the Brazil Café has been talking about coming to Lower Sproul as long as he's been there.

Panda Express

Mr. Spivey said he's been in communication with Panda Express. The Auxiliary has checked in with the Office of the President and found that the UC San Diego lease with Panda Express was the best lease, and Real Estate Services was working on that at that time. The infrastructure for Panda Express was close to being completely assessed. The electrical assessment project was done and the gas assessment project wasn't quite done. There will also be two reset interceptors put in. Right now they're investigating the hood travel and they'll submit more detailed drawings to Capital Projects in the next couple of weeks. They just had a walk through with the Panda architect a week and a half ago.

Mr. Permaul said they should also point out that no contact with Panda Express will result in them building something that would either put them at a disadvantage or the ASUC at a disadvantage. All of their contracts take into consideration the potential that the University might renovate Lower Sproul and the Student Union complex. Of course, there's no project yet for that, although planning was going on. But they're a long way from that. The other element was that Panda has agreed to all of the considerations that Sen. Oatfield presented to the Senate and to the SOB previously with regard to how Panda would run its business operation, including working with the Bear's Lair Food Court vendors, whoever they may be, to ensure that they take a more sustainable approach to utensils and a variety of other approaches. So as far as the Auxiliary knew, Panda was very open to all considerations from both the Board and the Senate, things they have presented to the Auxiliary.

Mr. Smith said that included vegetarian options. Mr. Permaul said that was correct.

Ms. Oatfield said she raised other concerns that have never been addressed, like organic foods. So with all due respect, Mr. Permaul misspoke, and Panda hasn't agreed to all the issues she raised. Mr. Permaul said Panda has agreed to discuss everything Ms. Oatfield requested, including organic food options.

A speaker asked if Panda would just offer these other options at Berkeley, or if they would be available at all their other branches. Mr. Permaul said he would assume Panda was only looking at the Berkeley campus at that time. The Auxiliary has spoken to Panda about this being the model for the rest of its operations, and Panda was more than willing to look at themselves in that fashion.

Ms. Vu said that regarding Healthy Heavenly Foods, she received a letter in August, and she called the contractor to update her system; but he was on vacation. It cost her \$4,000. But after they submitted the \$4,000, they tried to get an outside contractor. She could find a contractor for \$2,000. But only two days later she received a letter saying her business was on RFP and somebody said they could extend the hood system for four months. She couldn't pay \$2,000 because it was too much. After he talked to Tony, Tony said she had to do it now, and that the work was very difficult. She tried to call everybody, but people didn't respond, and she went crazy. Ms. Vu said she was not denying to work but the Fire Marshall posted she didn't do any cooking.

Ms. Vu said the second point that was made was that she cooked in the Pub. The employees agreed to cook together. If she was there, she wouldn't let that happen. But the manager came and was very unpolite and yelled at her. Ms. Vu said she didn't want to make any problems. The third thing that was mentioned was about the barbecue not being removed. Ms. Vu said she said nothing. She did hot dogs 20 years ago. She tried to bring back students, with hot dogs and cold beer. And she couldn't move the

barbecue. They said she couldn't cook. She told people to move away. She wanted to show everybody that she did everything people wanted her to do.

### CLOSED SESSION

Mr. Smith said he would like to move into closed session, which would mean that Senators and Board members would stay, but for everybody else, the meeting would be closed. As for some background as to why they were going into closed session, any contract terms had to be discussed privately, according to the campus, until something was signed, and at that point it would be made public.

Ms. Pasco moved to include Mr. Spivey in closed session. The motion was seconded by Mr. Ortega and passed with no objection.

Mr. Smith said he would call for a two-minute recess, and hearing no objection, said the meeting was recessed. This meeting was recessed.

Back in open session, a motion to meet in executive session was made and seconded and passed with no objection. This meeting entered into closed session. In closed session, the Board discussed Bear's Lair food vendors, the Daily Cal proposal, the Tully's Coffee term sheet, and the draft RFP concept for the Bear's Lair

Back in open session, Mr. Smith said the only other thing, he would entertain a motion to continue negotiation with Panda Express. It was so moved and seconded by Mr. Rajan and Mr. Rhoads. A roll call vote was requested. Mr. Smith said he would note the votes for the record. **THE MOTION TO CONTINUE NEGOTIATIONS WITH PANDA EXPRESS PASSED 3-2-1.** Mr. Smith said that voting yes were he, Mr. Coley, and Mr. Rhoads. Voting no were Ms. Pasco and Ms. Winston. Mr. Rajan abstained.

Mr. Permaul said they needed a motion to move forward with Tully's contract. Mr. Rhoads moved to continue contract negotiations with Tully's Coffee. The motion was seconded by Mr. Rajan. **THE MOTION TO CONTINUE NEGOTIATIONS WITH TULLY'S COFFEE PASSED UNANIMOUSLY BY VOICE-VOTE.** Mr. Smith noted that the vote was 5-0-1.

Mr. Smith said that seeing no further business, he would entertain a motion to adjourn. It was so moved and seconded and passed with no objection.

Mr. Smith said he would like to thank Board members for staying so long.

This meeting adjourned at 8:48 p.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

## DECISIONS OF THE BOARD

### Procedures

- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07     Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's term as undergraduate representative Board member begins.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06      Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06      Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06      Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05     Mr. Dally joined the Board as undergrad representative.
- Dec. '05      Asked the Finance Committee to discuss with Internal Audit the ASUC's use of the BFS accounting system.
- Dec. '05      Elected Ms. Putnam-Smith as Chair of the Board.
- June '05      Voted to have committees, after the August meeting, agree upon meeting times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05      Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.

Procedures (cont'd)

Feb. '05	Mr. Miles and Mr. Williamson joined the Board.
Aug. '04	Formed an ad hoc committee to study increasing efficiency in information technology.
July '04	Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
April '04	Considered and amended ASUC Auxiliary Budget Principles.
Jan. '04	Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of a GA representation on the Board.
Dec. '03	Voted to send a letter to the ASUC Senate asking to resolve the question of GA representation.
Oct. '03	Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
Aug. '03	Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
June '03	Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
June '03	Formed a Subcommittee on Committees to determine a committee structure for the Board.
June '03	Agreed to hold a Board member orientation by August 30.
May '03	Agreed on the need for a Board member orientation to be held before the start of the school year.
Dec. '02	Enhanced Board minutes by adding "Decisions of the Board"

Vendors

<b>Jan. '09</b>	<b>Voted to continue negotiations with Panda Express and Tully's Coffee.</b>
Dec. '08	Voted to go out to bid for all Bear's Lair Food Court vendors.
Nov. '08	Voted to terminate the contract with CampusLink

Nov. '08 Approved Action Vending proposal to increase vending prices.

Decisions of the Board

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Vendors (cont'd)

Sept. '08 Agreed to Daily Cal terms for deferment and reduction of rent.

Sept. '08 Heard the terms of a possible Panda Express contract.

June '08 Approved the concept of bringing the Brazil Café to the ASUC .

June '08 Approved a Letter of Intent to negotiate with Panda Express.

May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.

Dec. '07 Heard a presentation by CUBS.

Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations.

June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.

March '06 Approved a five-year lease option exercised by the Jupiter Pub

Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.

Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.

Sept. '05 Approved use of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorized pursuing an agreement for the Alumni Association to manage the Lodge.

May '05 Approved the further exploration with Darryl Ross of placing a green café at the southeast corner of the Student Union.

March '05 Heard a presentation by Darryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.

Nov. '04 Approved the transfer of ownership of The Taqueria to the owner's nephew.



Vendors (cont'd)

July '04	To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
June '04	Approved a five-year extension for the STA Travel lease.
June '04	Approved the Resolution In Support of Follett Contract Performance Review.
June '04	Approved changes to the terms of the Pub's lease.
April '04	Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations fail, and to issue an RFP.
March '04	Agreed to a four-week pilot project for the New York Times Readership Pilot Project.
March '04	Rejected contract proposals submitted by Pub management, called upon Commercial Operations to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
March '04	Recommended signing the Follett contract, dated Feb. 26, '04.
Jan. '04	Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
Jan. '04	Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
Dec. '03	Heard from John Martin, operator of the Pub.
Nov. '03	The Daily Cal lease was signed, and printing of the ASUC government page began.
Nov. '03	Heard a presentation on Coca-Cola business practices in Colombia.
Aug. '03	Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus committee at-large.
July '03	Approved a five-year lease with the Daily Cal.
July '03	Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.

- Nov. '04      Approved a two-year lease extension, beginning Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. '04      Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04      Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03      Formed a subcommittee to further consider the Daily Cal lease.
- May '03      Heard a presentation by Coca-Cola representatives on the Company's business practices in Colombia.
- Dec. '02      Added a fair-trade coffee option into the lease of the Coffee Spot
- Dec. '02      Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- Dec. '08      Work began on the seismic retrofit of MLK.
- Oct. '08      Heard from, gave feedback to, Brailsford & Dunlavey, on Lower Sproul redevelopment.
- June '07      Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the food court.
- May '05      Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05      Voted to explore options for the expansion of the Art Studio.
- Oct. '04      Authorized ASUC President Leybovich, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03      Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.

Student Union/Pauley Ballroom (cont'd)

- May '03            Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June meeting.
- April '03           Received a proposal, as part of the 2003-2004 budget, to allocate \$20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- February '03      Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- April '06            Approved the 2006-7 Auxiliary budget.
- April '05            Approved the 2005-6 Auxiliary budget.
- September '04    Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a transfer of that amount to the ASUC to balance its 04-05 budget.
- May '04             Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half position OSA position for the GA.
- April '04            Approved the ASUC Auxiliary FY2004-2005 Budget, including a transfer to the ASUC of \$50,000 from the Auxiliary Contingency Reserves.
- February '03      Received "ASUC Auxiliary Revenue and Expense Report, July -December 2003."
- June '03            A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.
- May '03             Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in Eshleman starting at 6 p.m., rather than 8 p.m.

## STORE OPERATIONS BOARD MINUTES

February 17, 2009

Present: (Members and others)

Ron Coley	Alberto Ortega	Lyell Sakaue (ASUC Sen.)
Miguel Daal (GA President)	Tommy Owens (ASUC Sen.)	Jordan Smith
Carlo De la Cruz	Krystle Pasco	Tom Spivey
Jeff Deutsch (Store Director)	Nadesan Permaul	Lisa Tran (ASUC Sen.)
Victoria Harrison	Tara Raffi (ASUC Senator)	Obiamaka Ude (ASUC Sen.)
Oscar Mairena (ASUC Sen.)	Nish Rajan	Roxanne Winston
Eddie Nahabet (ASUC Sen.)	Dave Rhoads	Stephanie Yang (ASUC Sen.)
		Yishi Zuo (ASUC Senator)

### **SUMMARY OF THE MEETING**

The meeting was called to order at 6:14 p.m.

#### Public Comment

Mr. Deutsch, Store Director, wanted to thank the Board for its help in a very successful transition of The Scholar's Workstation into the Cal Student Store. They expect that The Scholar's Workstation for departments will move in by the first week of March.

The makeup of staff has been in the press recently, so he'd give some numbers. The Store has 125 staff. More than half are students, including 60 Berkeley students. Of their non-students, more than 10% are Cal grads, including managers who stayed with the Store. In the past back-to-school period in January they offered 80 positions to temporary employees. More than half were Cal students

Melissa Smith said she a group of students were present to discuss Panda Express, and thought it was unwise to bring in a chain. The campus was supposed to represent academic rigor, forward thinking, and progress, and Panda Express had nothing to do with those things. The System and the campus were working on sustainable food policies and Panda Express would undermine those efforts.

Alex Stone said Panda Express was not real Chinese food and went against her values as a vegetarian. She was also concerned about the health of Panda's menus.

Rachel Horn said one awesome thing about Berkeley was that it wasn't commercialized and the City and campus had so few chains.

Conrad Myers said Berkeley was famous for all the little, local places that give them character.

Tulsi Patel said she supported something healthier than Panda, for students, the environment, and their campus' reputation. Perspective students come to campus knowing that the campus supports local

economies. Panda Express would compromise values they've established there. She supported an alternative like the Brazil Café.

Jon Backus said he went to Santa Cruz for a sustainable food conference and was amazed at how far they've gone past Berkeley, with an organic farm students work on and a student-run food co-OP.

Nicky Crummett thought the Student Union should be where students come together, and Panda Express wouldn't really foster that. Students should be allowed to nurture their brilliant ideas.

Laura Zelko said they should give this space to the students.

Keith Brower-Brown said that accepting a deal with Panda would lower their national standings as a leader in the forefront of administrative policy. Instead they could have a student-run co-op.

Noah Bartlett said Panda Express' intrusion on campus seemed like an incredibly poor decision when the campus supported local and sustainable businesses.

Monica Chen said forcing Panda on them was sort of giving them McDonald's instead better, local alternatives. Cheap Chinese food was already available. The students realize this was about the ASUC and Panda Express making money. It should not be a part of their legacy.

Yulena Filipchuk said corporations controlled a food system that was entirely unsustainable. Obesity and heart disease were an epidemic and they don't do not want to offer the next generation of Cal students a dining option that didn't fully support their brains and minds. Panda also used genetically modified ingredients and didn't support environmentally sustainable practices or have information on where it sourced its food.

David Percival said approving Panda would be a dramatic step back from what the faculty there teach.

Anya Kamanskaya there's been a tremendous increase in student interest in these issues in the four years she's been there. Universities all across America have student-run co-ops and even cafes attached to student-run gardens, farms, and rooftop gardens.

Marcella Wagner said students love the businesses now in the Bear's Lair. Students seemed to be treated as children by parent organizations like the SOB and the Auxiliary telling students what they could and couldn't do.

Monika Roy said the University already owns Gill Tract, the largest piece of agricultural land in the area. They could use that to grow food to bring to campus.

Justin Wiley said the nutritional content of Panda Express was absolutely disgusting. They'd be making money selling poison to people. There were other options.

David Lee said this wasn't a free market and people were choosing what was on the campus based on normative values. The question was, what kind of values they wanted. The University and the City have protected the area from fast food shops. Plenty of cheap food was just a few blocks away. Students come there because they think that the campus has values that they hold.

Yonatan Landau said he knew it was a little late in the game. Negotiations with Panda have been going on for a long time. But a growing, broad student movement, with a lot of energy and a lot of enthusiasm, wasn't going to make it easy or comfortable to put Panda Express in. Students was amended to create a co-op that would provide low-cost, socially and environmentally sustainable business services to the University community. It Office provide income from low-cost, food healthy food for breakfast, lunch, and dinner, with a varied menu of the day. It would be competitive and low cost because of affiliation with the Berkeley Student Cooperative. The Board would be ushering in a culture shift if they let Panda in.

Christina Oatfield this would be a quick-fix band-aid solution to some of the Auxiliary's budgetary issues. But it was environmental degradation and cultural imperialism. She read a letter from the Berkeley Student Cooperative's President and Executive Director in support of a student co-op restaurant/food service.

### Director's Report

#### Status of the Panda Express Contract

The Auxiliary received from the OP the Panda Express contract with UCSD, the best Panda contract in the UC System.

#### CUBS Contract

Development of the CUBS contract was finished. If the Student Union is renovated, or if a bank comes into the Student Union complex, the Auxiliary would prorate the contract.

#### Status of Tully's

With campus help, Tully's might open that semester. The Vice Chancellor and Capital Projects had questions about the design, but the Auxiliary believed it's met all requirements.

#### Cal Copy

The campus' Cal Copy and the Auxiliary were considering selling readers through the Bookstore. It would increase foot traffic.

#### Heating System

The heating system has been out again. The Auxiliary expended the entire budget for maintenance in the first half of the year to try and keep the buildings operating. It was now using reserves for that.

#### Public Comment (cont'd)

Xander Lenc thought it was spectacular the amount of patience the Board has displayed. It was harmful to have a corporate presence on campus. This decision would affect people's health and was also about farm workers. Students could work with small businesses because they were more flexible than a huge chain. Promises of a vegetarian option and environmental packaging by Panda were not actually in the contract. So the campus was already losing ground.

Ali said she represented the Real Food Challenge, a national student campaign with the goal of having 20% real food. If Panda Express came to campus, people would hear a lot about it. This was also a human issue. A chain had extreme control over its producers and where it got its food.

Kurt said they could do worse than Panda, which pays its workers over .50¢ more than minimum wage. But he didn't want a fast food company. A student cooperative would bring certain elements that a business couldn't.

Adam White said the only argument for Panda Express was that it would bring in revenue. But that would come from students. Student groups need revenue. But an entirely student initiative would come up with a solution to all these problems.

#### Closed Session

The Board met in closed session to review the Panda contracts concept, the Tully's contract, the CUBS contract, and the proposed fee schedule for ASUC businesses and hypothetical revenue for 09-10.

#### Contracts

The Board approved the CUBS contract by unanimous voice-vote.

The Tully's contract was amended. Instead of free coffee being provided at Senate meetings, it will be provided to the Eshleman Library during finals.

The Board voted to move ahead with the Tully's contract by unanimous voice-vote.

Purchasing was helping the Auxiliary with the Food Court RFP.

#### Closed Session

The Board met in closed session to review the RFP for the Food Court.

#### SOB Binders

Individual rents to vendors could not be publicly provided. Each contract is negotiated with vendors independently. Totals could be provided.

Regarding the budget, revenues and expenses that year have finally converged. The Auxiliary could not transfer any funds to the ASUC. And next year there will be a deficit. They have to generate new revenue or cut the budget of the Auxiliary. They're looking at a significant realignment and restructuring. It would mean jobs.

The Auxiliary was looking at a \$140,000 deficit. There won't be a significant increase in revenue until 2010-11. So 09-10 will be another serious year.

When the ASUC started paying the campus for return to financial aid, student government lost one-third of its revenue. It cannibalized internal funding. SUPERB used to be funded \$300,000 a year. The

ASUC also got money from Auxiliary positions that hadn't been filled. Unchecked, by 2010-11 the quality of services would diminish. Students could give input, but these were decisions the Auxiliary would make. They couldn't have a deficit.

The meeting adjourned at 9:02 p.m.

**[End summary of the meeting.]**

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This regular meeting of the Store Operations Board was called to order by Jordan Smith at 6:14 p.m. in the Senate Chamber.

Public Comment

Mr. Smith said that for the purpose of public comments, he would ask people to please present new information so they're not repetitive.

Jeff Deutsch introduced himself and said he was the Store Director for the Cal Student Store. He wanted to thank the Board for its help in a very successful transition of The Scholar's Workstation into the Cal Student Store. Mr. Smith was at the grand opening, as were two Vice Chancellors and the Associate Vice Chancellor. They had a really nice crowd of both faculty and students at the grand opening last month, and business has been good so far. So he wanted to thank them for that. The Store really appreciated it. They expect that The Scholar's Workstation for campus departments will be moved in by the first week of March, which should be exciting as well.

Mr. Deutsch said he also wanted to take a quick minute to talk a little bit about the makeup of staff in the Store, a subject that has been in the press recently. He'll throw a lot of numbers out, so if anybody wanted to see him one-on-one, or if they had questions afterwards, they shouldn't hesitate to ask.

The Store has 125 people on staff. Of those, more than half are students. They have 60 Berkeley students and also have students from Berkeley City College, Laney, etc. Of their non-students, more than 10% are UC Berkeley grads. That includes some managers who graduated and stayed with the Store. That was really exciting. The Student Store didn't just cater to students, but was actually catered by students as well.

Mr. Deutsch said that for this past back-to-school period in January, in a tough economic climate, they were able to offer 80 positions to temporary employees. More than half of those were students from Berkeley. He wanted to thank them for their attention and said they shouldn't hesitate to talk to him if they had any questions or wanted a job.



Mr. Nahabet said there was no sign up saying that The Scholar's Workstation was there. Mr. Deutsch said signs were on order.

Melissa Smith introduced herself and said she was a student and was there with a group of students who were present to discuss Panda Express, which may be coming on to their campus. At the last Board meeting, the group presented a number of concerns they had about this possible addition to their campus, as well as a more sustainable and palliative alternative.

Ms. Smith said they thought it was unwise to bring in a chain, a restaurant with no record of environmental record on this campus. The public discourse on the link between environmental degradation and the public food system was beginning to open up. It would be a terrible blunder for UC Berkeley to allow Panda Express onto the campus, right at this point, especially only months after their own Michael Pollan was in a feature article in the *New York Times Magazine* about their current national food crisis.

The campus was supposed to represent academic rigor, forward thinking, and progress, and Panda Express had absolutely nothing to do with those things. Panda Express can't counter those shortcomings with a verbal promise about packaging and vegetarian options. A student-run food co-op, which the group mentioned last time at the Board meeting, would be a smart, marketable, and more sustainable alternative. Right now, UC Berkeley and the UC System in general needed to use its green and progressive thinking as a tool to get funding and perspective students. Right now, both the System and the campus were working on sustainable food policies to ensure the food they serve there helped the environment instead of degrading it. Panda Express would not only fall short of these policies, but would undermine them, and make the policies less effective where for other student centers they have worked.

Ms. Smith said that in her opinion, Panda Express represented a huge step backwards for this campus and its reputation. She would ask the Board to please consider other options, including a food co-op, about which the group has taken thoughtful and marketable steps in the right direction.

Alex Stone introduced herself and said she was also there to talk about Panda Express. She echoed everything Ms. Smith said. Aside from the issues of cultural imperialism, since Panda Express was not real Chinese food, and aside from handing Berkeley over to big business and denying students the right for a little space they still actually have on campus, she was there to talk about a few other issues.

Ms. Stone said that as a vegetarian, regardless of the contract that says Panda would have vegetarian options, Panda, as a system, went against her values as a vegetarian. She didn't want to support a business where 1,200 other branches across the country didn't offer one vegetarian dish. Also, by allowing Panda Express onto their campus, they're supporting the chain as a whole. Panda might be helping environmentally on the campus, but for a business with \$1 billion in revenues, the campus was supporting someone who across the country could do a lot of damage.

Ms. Stone said she was also concerned about the health of Panda's menus. Twenty-two of their items have more than 500 milligrams of sodium. That was 25% of the daily recommended intake. That includes a 1.5 ounce serving packet of Mandarin sauce and hot sauce. It also included Orange Chicken.

On the “Guide to Healthy Eating” page, while FDA standards recommends 25% of calories coming from fat, not one of Panda’s entrees offered that. And only one side dish did: rice. In the 1980s, the ASUC sold off Zellerbach and the Greek Theatre to Cal Performances, and now that has greatly limited student access, and has made it really expensive and difficult to get access to those venues.

Ms. Stone said she would ask the Board to not sell out the little space they have on campus to Panda Express and to more big businesses. She was asking them to stand up to big business, give the students back their space, and to let the plan that they’re making with the food cooperative to possibly take flight, and just say no to Panda Express.

Rachel Horn introduced herself and said she was a freshman there. She asked people who were there to oppose Panda Express to please stand. That was just to recognize who they were. She wanted to thank them.

Ms. Horn said she thought one of the awesome things about Berkeley was that the campus was not commercialized. She thought introducing a national fast food corporation onto campus would make Berkeley a less student-friendly place. She thought a lot of incoming students to Berkeley really thought it was an awesome place because there were so few chains in the City and on the campus. So she would highly oppose a Panda Express coming on to their campus because she was afraid of what other large food or big chains would come in as well.

Conrad Myers introduced himself and said he was a senior there. He’s a Business major at the Haas School of Business. So he was obviously anything but anti-business. He wanted the Naia Lounge in operation. He understood it was having trouble staying afloat and that something needed to be done to keep business flowing through there. Most students don't even know it exists. He would ask the Board to please put anything in there but a Panda Express. It was absolutely processed, sodium-filled garbage. It was horrible. And it was a complete misrepresentation of Asian cuisine.

Berkeley was famous for places like Top Dog and Blondie’s, and all the little, local places that give them character. He would ask what visitors would think when they come down to Sproul and see a big “Panda Express” sign. It was just absolute garbage, and he would ask the Board to please not allow that to happen to their University.

Tulsi Patel introduced herself and said she was a second-year there at Cal. She was there to support an alternative to Panda, something healthier. Something that wasn't just good for the students, but for the environment, and for their campus’ reputation. Perspective students come to campus knowing that the campus supports local economies, they're culturally aware as a campus, and that they protect their environment. By going with Panda Express, they're compromising all those progressive values that they've established there. Supporting an alternative like the Brazil Café, rather than having it replace one of the local vendors they already have on campus, would be great. She asked why they couldn't try and fill the space on Lower Sproul with the Brazil Café. It would bring just as much as foot traffic as Panda Express

and would have a lot more support. She was sure all of them would go there. It's great food and unique, and contributes to the atmosphere they have on campus. He would also support Naia Lounge bringing high revenues to the ASUC and customers into that space. She was there to support an alternative to Panda Express that was healthier and better for the environment.

Jon Backus introduced himself and said he was also a student there, a second-year. Last weekend he went to Santa Cruz for a sustainable food conference and he was amazed at how far they've gone past Berkeley. Not only do they have a huge organic farm, with students working on it, but they harvest the food and bring it directly to the dining halls, where they serve it. Santa Cruz also has a student-run food co-op, which is run by 12 members. He couldn't tell the Board how many people he met who go to Santa Cruz and said they love it that they were growing things there. They said it brought them a sense of community.

Mr. Backus said he recently got a survey online asking how they could make Berkeley more a community, and how to get students to better relate to each other. He thought the answer was right there. If they had something they could bond over, like food, nourishing their bodies, and maintaining a local economy, that would be the way to go. If they want to be progressive, they should definitely say no to Panda Express and yes to community and local food.

Nicky Crummett introduced herself and said she was a third-year there at Cal. She thought it was important to know that this was a Student Union, a space where students should be able to come together and engage in finding support and refuge. She didn't see giving student space to Panda Express as really fostering that kind of environment. She thought that instead of a corporation abusing the student body, students should be allowed to nurture their brilliant ideas. There is a strong student presence there that didn't want Panda Express. If people were allowed to come up with something that students could engage in, and put their time and effort and love into, the student body would collectively benefit.

Laura Zelko introduced herself and said she was a second-year. She'd say that instead of giving this contract to a large company, the contract should be given to their extremely intelligent student body. They're Berkeley. If they can't think of something to do to fix their problems, in this financial crisis, then she didn't know who could. The Board should give the space to its students.

Keith Brower-Brown introduced himself and said he was a third-year there. He works with a non-profit consulting firm, Campus Empower, which consults with universities around the country on administrative policy, sustainability, and energy policy issues. He could say without a doubt that accepting a deal with Panda Express on the campus would lower their national standings as a leader in the forefront of administrative policy. Schools all around the country look to UC Berkeley as a pioneer on the administrative side of how they build their campus, their energy efficiency systems, and commercial systems as well. So it was really important that they look into what they have. They realize it's worth it to make a

stand on this issue; and it's worth it to have a food co-op owned by students and run by students. Instead of lowering the campus' national ranking and nature and high-profile standards, like the campus sustainability assessment, they could do better. They could have a student-run co-op on their campus, and he would urge the Board to allow that to happen.

Noah Bartlett introduced himself and said he was a representative of the Conservation and Natural Resource organization and they firmly oppose Panda Express' intrusion on their campus. It seems like an incredibly poor decision on the part of UC Berkeley to bring in a corporate chain on a campus and a climate that supports sustainability and local and sustainable businesses. He agreed with several of the members who spoke, that this would lower Berkeley's standing. As leaders in the environment, it would be a remarkably bad decision and set a terrible example to the rest of the organization.

Monica Chen introduced herself and said she was a student there at Cal. Forcing a Panda Express on them was sort of giving them McDonald's instead of some better local alternatives the group has suggested. Those two fast food chains were not all that different. Secondly, she would like to point out that their students were not lacking in cheap Chinese food. There was a plethora of options within a block away from Sproul, and she could show them where the Asian Ghetto was. There was a lot of stuff available. She thought that given there was no student demand for Panda Express to come to Cal, she thought the students have just come to realize that this was about money: the ASUC making money and Panda Express making money. But she would ask if the relatively small amount of money was worth more than the efforts of students to make Cal and the rest of the community more green. Many of her peers and herself would not support a Senator who didn't support what the students really want. Finally, she would ask them to please not let Panda Express be a part of their legacy.

Yulena Filipchuk introduced herself and said she would like to bring the Board's attention the larger context of the economic crisis. She'd point out that there's corporate control of a food system that was entirely unsustainable and entirely contrary to the principles of environmental cohesion and support for their local economies, their local biodiversity, and their local resources. They don't want to have that considered as a part of their legacy there at Cal. The days are over in which they will support corporations that sell to the lowest common denominator and buy the lowest quality products. She did not support nutrition that pizza could provide. Obesity and heart disease are rising and were an epidemic in the student body. They do not want to offer the next generation of Cal students a dining option that does not fully support their brains and minds. She wanted to point out that Panda Express has a policy of using genetically modified ingredients in its food. It does not have a policy of supporting environmentally sustainable practices and does not really have any kind of information available about where it sources its food from. She would encourage Cal and the Store Operations Board to look into all those factors as requirements for any kind of organization that comes on to their campus because those are conditions that will become necessary for any kind of business to function in the next 10, 15, 50 years. Because the way that their economy was turning right now, they'll have to take a more holistic approach to the way that they do business with each other. So if they want to sponsor local economies and their students, they should highly consider a student-run cooperative that would foster community around these issues.

David Percival said he was a graduate of Yale University, where he also worked for agrarian studies. He is a perspective graduate student at UC Berkeley next fall, to study environmental policy and climate policy. When he made his decision on whether to go to UC Berkeley, Stanford, or Columbia, whether or not they approve this contract with Panda Express, would be a dramatic step back from what the faculty there teach, and what Michael Pollan, Miguel Altieri, and others teach about food policy in this country and in this area. That would really dramatically affect the decision he'll make. He thought they would like to hear that first hand about what students have been saying and whether this decision would make Berkeley a less competitive campus. This would go in the face of UC Berkeley and the City of Berkeley. He would hope they come to the same conclusion that evening. He wanted to thank them.

Anya Kamenskaya introduced herself and said she was in the Society of Agriculture and Food Ecology. She's been an active foodie on the campus for four years. During those four years she's seen an incredible, tremendous increase in student interest in these issues. To put Panda Express where Naia is and to not allow students to have the opportunity to experiment with a student-run co-op would be a really big step back in all of this movement that's really been pushing them forward, helping them progress in their community. She also wanted to make a little parallel. Someone else brought up the fact that UC Berkeley arguably has some of the most creative minds in the country. And while they did build the atomic bomb, if they could do that, she would ask why they couldn't have a student-run co-op. It seemed pretty simple. As a member of SAFE, she's also seen, through their many workshops, film series, and lectures, the value of community. Once again, as many people have said, she really saw the value of sharing information, how excited people get, and how much more productive it was to be able to have a group of people with whom one could exchange ideas, develop them, make them happen, and make them into a reality. She thought it would be a real shame to stymie this opportunity. Lastly, universities all across America, from California, from UC Santa Cruz, to NYU, even in Canada, have student-run co-ops. They have student-run cafes that are even attached to student-run gardens, farms, and roof-top gardens. So it happens. This wasn't just some joke or something that was completely implausible. She really would encourage all of them to just do a simple Google search on student-run cooperatives and they'd get thousands of hits. It works and they could also do it at UC Berkeley.

Marcella Wagner said she was a graduating senior in Ethnic Studies. She had a few personal remarks she'd like to say. First, she wanted to mention how important it was for them to not only to voice how much they do not want Panda on this campus, but also to make clear how much they love the businesses currently in the Bear's Lair, such as the Taqueria El Tacotento, Healthy Heavenly Foods, and the Coffee Spot. She understood these vendors were considered separate and that Panda was not directly threatening the space of the Bear's Lair as of now, but they also think it's relevant that they understand that these two struggles were connected. Panda was let in through a similar process of bidding that was being set for the Bear's Lair. That was an elaborate and very polite way of saying those people were not welcome and that all kinds of businesses that don't bring in enough revenue were not welcome on this campus either. She thought also that all this pointed to a larger issue that had to be brought up with their relationship of students to bodies like the Store Operations Board and the ASUC Auxiliary. They seemed to be treated as children by parent organizations that need to tell the students what they can and cannot do. There should be a space where students come to be supported, and get support and guidance as to how to realize the dozens of dreams that have been vocalized that evening. She hoped the Board votes to allow the students to flourish as they were all asking the Board to do. She wanted to thank them.

Monika Roy introduced herself and said she was also there with the Society for Agricultural Food Ecology (SAFE). She would like to thank everyone for having the courage to speak up that day, on whatever they felt like. She would also like to echo everyone and bring up the point that they could use the space for students and that they could use the space that the University already owns, like the Gill Tract, a huge piece of agricultural land in the Bay Area, the largest piece of agricultural land in the area. They could use that to grow food to bring to campus to sell to students and to foster their relationship between food and students that she didn't think was really there.

Robert Hines introduced himself and said he was a graduating senior. He didn't have anything to add to the conversation, but he stood in solidarity with everything that's been said.

Tim Kline introduced himself and said he was a student there. He was really blown away and humbled at what everybody has said there. He thought there was a lot of energy there. It was really impressive, and reliable. He hoped that when the Board discusses Panda Express in private, after they kick the group out, that they continue to listen to them, because it was their University and they were powerful.

Justin Wiley introduced himself and said he was a graduating senior in Conservation and Natural Resources Studies. He was also in the Conservation and Resource Studies student organization. He wanted to see a show of hands of who would be voting that evening on the Store Operations Board. He asked if they've seen the nutritional content of Panda. As someone who has made investments in the past, obviously, they consider the cost-benefit ratio between what was going on. He just wanted to send some information around, the nutritional content of Panda Express. It was remarkable, absolutely disgusting. It was poison. And to be honest, just because money was involved did not mean that this was the correct way. The implications of this investment are vast and heavy on the future of the health and sustainability of this campus. He really, really urged the Board to actually look into what they were investing into. It made a lot of sense if these people were going to come on their campus and put \$500,000 into this campus, and obviously they'll make more money per year, maybe a couple of million. He asked how they'd be making the money, and said they'd be making it off the selling of this poison to the people who pay people's salaries. So Mr. Wiley said he would ask them to please reconsider and do the research and investigate the nutritional information of the content that the Board will be shoving down the throats of their students. He would ask them to please consider an alternative. It was being done all over the country and all over the world. Students have the power to do this. The campus has one of the largest agricultural spaces left in the entire Bay Area, a 14-acre plot, the Gill Tract. People were working with a ton of students and a ton of community members, and a lot of people who really support this cause. Panda Express was not the way to go. There were other options, and he really, really urged the Board to do the research before making a decision that will affect this community for a long time.

Joel said he could see conceive what a lot of people have said about the implications of having Panda Express on campus. He just wanted to urge at the same time, while they're making the decision of

whether Panda Express comes onto campus or not, that the Physical Education Department has been cut by 50%. These are decisions that will severely affect students in the future on this campus, whether they have access to physical education and what kind of food they have access to. These are things that they have a right to have. They have rights to basic nutritional needs and rights to having access to methods of taking care of their bodies so that they can have clear minds and do creative things. He knew there was not a lot of things the Board could do about that specifically, but this was one part where they could start making a change, a change that they should always see on the campus.

David Lee introduced himself and said he was a graduate student in Public Policy and was involved with the Economics Department. He came to the meeting that evening, although he was pretty ill, because he wanted to speak out against Panda Express. A lot of what he was going to say has already been said. Somebody made the argument about this being a free market. That was really dubious. People were choosing what was on the campus based on normative values. The question was, what kind of values they wanted to have there. They have a limited amount of space, and the question was what they were going to use that space for. Mr. Lee said he was frankly surprised that they were even going in this direction, because he thought this really cheapened the overall value of Berkeley. He was an undergraduate at Oxford and the University and the City vigorously protected the downtown center area from all sorts of fast food shops because they wanted to keep the special aesthetic value of that area. He thought that when they talk about why students come to Berkeley, they don't come there for cheap fast food. There was plenty of that just a few blocks away. They come here because they think that the campus has values that they hold and that the campus operated at a higher level. He's seen some eye rolls and stuff like that around the table as people have been talking, but he really hoped people there listen. Once again, if they're talking about a free market, he wasn't seeing too much support for Panda. He was seeing a lot of people say some really strong concerns as to why they don't want Panda Express on this campus. He hoped the Board was listening.

Yonatan Landau introduced himself and said the Board heard a lot that evening, so he put his name at the end. He wanted to apologize a little bit. He knew that maybe for some of them it was a little late in the game. They have been negotiating with Panda for a long time, and they have perhaps been set on this in their minds that Panda was going in, and now all of a sudden all these people were giving reasons Panda shouldn't go in. So he just wanted apologize for the group's lateness. But this was a growing, broad student movement, with a lot of energy and a lot of enthusiasm, and at this point it wasn't going to be very easy or comfortable to put Panda Express in, or as easy and comfortable as people may have thought. But he would like to say that there is, as some people have been suggesting, a really viable alternative. He had a draft of the group's mission statement that he would read to them, of the student cooperative.

The mission statement says that the cooperative will be a democratically run, volunteer-based student space that will provide low-cost, socially and environmentally sustainable business services to the University community. This space will encourage student development, provide opportunities for job creation in the community, organizing as well as educating. The momentum for this project will come from STEAM, the local Cal Cooking Club, and other student organizations. This space will serve the membership of all these groups, and many other organizations, as well as any other groups dedicated towards working towards sustainability and social justice.

Mr. Landau said that was their mission statement and the values that will enable them to look for revenue sources in the form of rents, such as from TGIF, Big Ideas, alumni, State, and federal sources. The bulk of their regular income will be from low-cost, healthy food and beverage services for breakfast, lunch, and dinner. The cooperative will serve a varied menu of the day in the style of the Cheese Board and Pizza. It will allow them to take advantage of extremely fresh herbs, spices, and produce as well as minimize preparation costs. In time, the cooperative will also operate as a cozy café, with comfortable seating and a relaxed atmosphere. A small grocery section will provide cheap sandwiches and other prepared food as well as some groceries, perhaps non-perishables, for home preparation. They're looking into the possibility of revenue from door charges at events, such as music.

What will keep them competitive is that they'll be under-priced. The current student prices were actually fairly high for what could be achieved and they'll be low cost because the cooperative will benefit economically from affiliation with the Berkeley Student Cooperative. The BSC has a large base of well-trained, enthusiastic volunteers. They could have cheap and fresh food delivery from their central kitchen and would have bureaucratic support from the central office of the large Berkeley Student Cooperative. Their costs will then only be the renovation, rental, and a very small payroll for management and the costs of products.

Mr. Landau said he had one last comment. This was not about the money that they get coming in. This was, in the end, about the long-term consequences of a culture shift that they'd be ushering in if they let Panda Express in to this campus. This campus sends students into leadership fields all across the world, and Panda Express is a beacon on consumption, convenience, and apathy. That's not what the cooperative was trying to do.

Christina Oatfield introduced herself and said she was an ASUC Senator and also a member of the Board of Directors of the Berkeley Student Cooperative. She had a letter that she passed around that she'd read to the Board. But first, she wanted to state that members of the SOB sitting around the table were considering bringing a fast food chain to the UC Berkeley campus. She would repeat that. The people on the Board were thinking and talking about bringing a fast food chain on to the UC Berkeley campus. She would ask them to please think hard about that. She knew that to them, this was perhaps a quick-fix band-aid solution to some of the ASUC Auxiliary's budgetary issues. She saw this as environmental degradation and cultural imperialism. She thought a lot of students in the room who stand in solidarity with her, and she would ask them to please stand. She thought it was rare for some of these students to come out to an SOB meeting. Last month there were also a lot of students there, and she wanted to take note of how many students took the time out of their busy lives and schedules to come there and express their passion about this issue.

Ms. Oatfield said she would like to read a letter, from the Berkeley Student Cooperative President and Executive Director.

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Begin letter from Berkeley Student Cooperative officers

February 17, 2009

To: Jordan Smith, Chair, and members of the ASUC Store Operations Board



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 Letter from Berkeley Student Cooperative officers (cont'd)

Dear Chairperson Smith and Members of the ASUC Store Operations Board:

As President and Executive Director of the Berkeley Student Cooperative, we are writing to express our support for the student petition to start a co-op restaurant/food service on campus. Hundreds of members of the Berkeley Student Cooperative have signed the petition in support of this initiative, and we feel privileged to join them. The 2009 food co-op organizing effort draws on a rich legacy of cooperative organizing on the Berkeley campus. Seventy-five years ago, in the heart of the Great Depression, 14 UC Berkeley students formed our organization, which, with 1,280 members, is now the largest and oldest student housing cooperative in the nation, serving one of every 15 UC Berkeley students. Because we are governed, managed, and run by students, our rates are 50% of comparable dorm rates and well below the budget of students living in market rate housing.

It is probably not a coincidence that, like the Berkeley Student Cooperative, this new food co-op is being organized when students and their families are struggling with an impact of a structural financial failure on their ability to pursue higher education. Unprecedented layoffs and unemployment rates are reducing what families can contribute to the cost of a UC Berkeley education, and making it harder for student to find additional employment themselves.

The success of the Berkeley Student Cooperative demonstrates that student-run cooperatives can not only thrive as economically sound institutions, but they also serve as centers for the development of knowledge and leadership among the students involved. Panda Express may offer short-term financial benefits, but in a rental space that has experienced tremendous turnover, the longevity and community impact of a student-run food cooperative makes it a more attractive alternative for the ASUC in the long term. In addition to offering low-cost, healthy food, a student-run food cooperative will teach students about the complexities of food trade and production; promote creditable business skills that they can apply to their careers when they graduate; and foster a sense of community and shared fortune that is often lost in our 35,000+ student body.

The mission, vision, and values of the ASUC are on the line with this choice between when they graduate; and foster a sense of community and shared fortune that is often lost in our 35,000+ student body.

The mission, vision, and values of the ASUC are on the line with this choice between

- a profit-based franchise, the Panda Express, which translates the revenue from students' shrinking food budgets into fast food and dividends to shareholders, and
- a student-run cooperative enterprise, providing healthy food at the lowest possible cost to students, retaining revenue in our local community, and increasing opportunities for student leadership.

Rarely will you be offered such a clear test of who you are and what you stand for. As leaders of the Berkeley Student Cooperative, we urge you to support a student-run, cooperative food enterprise, and we stand ready to assist this effort to the best of our ability.

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Letter from Berkeley Student Cooperative officers (cont'd)

Sincerely,

/s/ Theo Slomoff, President  
/s/ Jan Stokley, Executive Director

End letter from Berkeley Student Cooperative officers

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(Applause)

Mr. Smith said he would like to thank people for coming to speak that evening.

#### APPROVAL OF THE MINUTES

A motion to approve the minutes from the last meeting was made and seconded. THE MOTION TO APPROVE THE MINUTES FROM THE JANUARY 27, 2009 MEETING PASSED WITH NO OBJECTION.

#### APPROVAL OF THE AGENDA

Mr. Smith said he would entertain a motion to adopt the agenda for that evening. Mr. Permaul said he wanted to add something about the budget of the Auxiliary, to be discussed in closed session. Mr. Smith said that seeing no objection, they'd said that. THE AGENDA, AS AMENDED, WAS APPROVED WITH NO OBJECTION.

#### DIRECTOR'S REPORT

##### Status of the Panda Express Contract

Mr. Permaul said the Auxiliary has received from UC San Diego and from the OP the Panda Express contract with that school. They believe that of the Panda Expresses contracts throughout the UC System, UCSD's was the best. That is the contract the Auxiliary would use as a basis for crafting the Berkeley campus contract.

##### CUBS Contract

Mr. Permaul said they have finished with the development of the CUBS contract and were negotiating some very specific terms with them. If, in fact, the Student Union goes under renovation, the Auxiliary will need to pro-rate CUBS' investment and return some of that to CUBS. And if the University and the campus goes for a commercial 1 Card program, and a bank comes into the Student Union complex, then that would be another reason for the Auxiliary to prorate CUBS' contract.

#### Status of Tully's

Mr. Permaul said they're almost complete on the work for the Tully's contract and fully expect that if they get support from the campus, they might be able to open during the course of this semester. The Auxiliary just received notification from the Vice Chancellor and Capital Projects that they had questions about the type of design. The Auxiliary referred that to AVC Coley and Vice Chancellor Brostrom. The Auxiliary believes it has met all the requirements that are appropriate and necessary to move this project along.

#### Cal Copy

That past week, Cal Copy, the campus copy program, visited the Cal Student Store and the Auxiliary to talk about the possibility of producing readers and selling them through the Student Union and the ASUC Bookstore. They already have a significant campus clientele and there are others who want to join with them. This would bring a whole new set of foot traffic into the Student Union. So the Auxiliary was looking at this prospect. First, they're doing an assessment to ensure that they follow federal requirements for copyright and to ensure that if the Auxiliary produces readers, it's done in a more cost effective manner and gives students the best prices. So the Auxiliary was looking at this as another option. It would not require space inside the Student Union. Cal Copy could produce the material off-site and sell the readers through the ASUC Bookstore. As they have more information, they'll bring that back.

#### Heating System

Mr. Permaul said the heating system was out again. The Auxiliary has expended the entire budget for maintenance in the first half of the year in order to try and keep these buildings operating. The Auxiliary was now having to use its reserves in order to sustain them. This is an ongoing issue. He got a message that day from the Manager of the Cal Student Store saying that he had five leaks throughout his building and asked when they'd be fixed. The Auxiliary is working on that. They have a number of issues, not the least of which deal with safety, and they have proposed to the Senate a number of ways to resolve those issues.

Mr. Permaul said he would finish his report in executive session.

Ms. Winston moved to go back to public comment. The motion was seconded by Ms. Pasco and passed with no objection.

Public Comment (cont'd)

A speaker asked if the contracts were ready for review. Mr. Smith said the protocol for all contracts being reviewed was to do so in private, until the contract was signed.

Xander Lenc introduced himself and said he was a graduate student at Berkeley. He wanted to thank the Board for listening to all of them. He thought it was spectacular the amount of patience the Board has been displaying. He wished as a GSI he got that from his students during office hours. He also wanted to thank everyone who spoke that evening, and thought they brought up some excellent points. But he would like to clarify some things that he wouldn't feel comfortable leaving without saying.

Mr. Lenc said it was harmful to have a corporate presence on campus, and people were concerned about that. A lot of the discussion has been about whether or not this was an issue of free trade and whether or not it was a student choice, and whether students had a right to impose their dietary choices upon students. That was a concern he understood. But it was important to realize that the decision the Board was making that day affected a lot more than the people in the room. It was a lot of more than the fact that the pesticide that remains whenever somebody forgets to wash a bit of lettuce can cause some student to get sick. It was a lot of more than that. But that was big. It was also about the farm workers, the people who couldn't be there today. He found that a lot of them went to high school with kids who were currently out there. So many hundreds of thousands of people are killed every single year because of this issue.

Mr. Lenc said he was there not just in solidarity with students, but also with people who couldn't be students because they're not provided that opportunity, or have the health care to take care of themselves when they're sick, because of the practices that distributors to Panda Express have. He recognizes that restaurants that are currently on this campus aren't perfect either. And he looked forward for the rest of his education, and the rest of his life, to work to help them adopt new principles that make a transition to a food system.

The reason he opposes Panda is that he didn't think this was anything to do with choice. With a small business, students could work with them. That would be very possible because people were willing and flexible. With a huge chain that owned hundreds of locations across the country, it was impossible to make a huge, widespread change. The food system in itself was really broken at that time. That's what he was really concerned about. A lot of people were forced to do things by manipulative food distributors, and it had nothing to do with student rights or free trade. It came down to issues of students getting sick because they don't have any other food choices on campus. That had nothing to do with free choice or free trade. He wanted the Board to not only consider the people who came to the meeting that day, who were very important, but also, to all the people who couldn't make it there that day.

Mr. Lenc said that especially on the issue of whether or not they are able to work with Panda, his understanding was that promises that have been made for a vegetarian option or environmental packaging, but he understood they're not actually within the contract. Rather, they were being promised as something

that would come after the terms of the agreement. This was something that was happening right now, demonstrable proof that already, they were losing ground. They're talking about negotiating with Panda, but they can't negotiate with something that has gone to a place where they don't have any sort of respect for human rights. He would ask the Board to please take that into consideration, because this wasn't about students, but about all Californians.

Ali introduced herself and said she was a third-year there, a representative from the Real Food Challenge, a national student campaign. They have over 300 universities signed on, UC Berkeley being one of them, with the goal of getting 20% real food: that's food that's fair, ecologically sound, and community based.

The proposal being made was something that had a lot of momentum behind it, and they're not going to let up. If Panda Express does get on campus, people will hear a lot about it. She would like to echo Mr. Lenc's sentiments, that this was the ecological issue. The environmental issue was a huge one, but it was also a human issue. Two months ago there was a court case decided about modern-day slavery on a US farm. Farm workers were being locked in U-Hauls overnight, or were chained to trees, and were forced to fight for their managers' entertainment. This is something they're supporting in a huge way with a fast food chain that had such extreme control over its producers and where it got its food from. Ali said that was something that they could take a big stance against as a University, a school that was supposed to be leading the nation in progressive thought. This was something they needed to take a stance against. She wanted to thank them.

Kurt introduced himself and said he was a third-year in Economics. They could do worse than Panda Express. He felt the sentiment in the room was that Panda Express was the worst, and it's not. There are worse things. Panda pays its workers over .50¢ more than minimum wage. Everyone in the room was laughing at that, and a minimum wage was not a living wage. To him, the idea of gourmet fast food was a signal that Panda was better than other fast food companies. But what he didn't want was a fast food company, even if it was gourmet. He thought the options were limitless, and he thought they should not be asking themselves if this was okay, but rather, if it was the best. He thought a student cooperative would bring certain elements that a business couldn't. As a 501(c)(3) it means they don't go for profit. So that would lower the prices. It's volunteer and they wouldn't have to pay their workers that much. He was not entirely sure of the finances, but a co-op would have lower costs.

The other thing is a local cooperative service association would include all the costs of production, whereas Panda Express would skim off the top. A local co-op gives lower prices and imposes all sorts of externalities across the board. If they have a local association, they internalize those externalities and do things cheaper. He believed that was a very good option that needed to be worked out, and he believed that Panda Express was not the best option.

Adam White introduced himself and said he just wanted to emphasize that as far as he was concerned, the only argument for Panda Express was that it will bring in revenue. He just wanted to try to lay it

## Closed Session

## Contracts

bare, that that revenue would come out of the pockets of students. What they have is a problem of money going to student groups. So they're somehow going to charge students to pay for Panda Express revenue that goes into student group funds. And on the other hand, they're being offered an opportunity by some of the brightest minds in Berkeley for an entirely student initiative that would come up with a solution to all these problems. It seems clear that part of the solution could be to have part of their student-run space be an art room, with a Xerox machine, and everything available to student groups to cut down the cost of entry to become a student group. It seems like the answer was there. He wanted to thank them.

Mr. Smith said he would entertain a motion for a five-minute recess before they went into closed session. It was so moved and seconded and passed with no objection. This meeting was recessed.

Closed Session

Back in session, Mr. Smith said he would entertain a motion to go into closed session, with Tom Spivey remaining, to talk about contracts. It was so moved and seconded and passed with no objection.

Ms. Oatfield said she would like to allow members of the student body and the public who expressed concern to remain. Mr. Smith said that wasn't possible, and they've already gone over that. Contracts were meant to be private.

This meeting entered into closed session to review the Panda contracts concept, the Tully's contract, the CUBS contract, and the proposed fee schedule for ASUC businesses and hypothetical revenue for 09-10.

Contracts

Back in open session, Mr. Rhoads moved to approve the CUBS contract.

Mr. Rajan asked if this was a vote on the actual contract. Mr. Smith said this would solidify the actual contract, which would then be signed. Mr. Permaul said they would move forward with the final contract terms for CUBS.

The motion was seconded by Mr. Ortega.

**THE MOTION TO APPROVE THE CUBS CONTRACT PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Smith he would entertain a motion to move forward with Tully's. It was so moved and seconded by Mr. Rhoads and Ms. Pasco.

Closed session

SOB Binders

Mr. Smith said the contract was amended. Tully's was initially going to provide free coffee to Senate meetings, and instead, free coffee will be provided during finals in the Library.

Mr. Permaul asked if the GA wanted to change this, and said they didn't let the Auxiliary know. Mr. Rajan said the GA considered that, and they would like to keep that in the contract. Mr. Permaul said that was fine. Mr. Smith said they would reword that.

THE MOTION TO MOVE AHEAD WITH THE TULLY'S CONTRACT, AS THE CONTRACT TERMS WERE AMENDED, PASSED UNANIMOUSLY BY VOICE-VOTE.

Mr. Smith asked if they should go into closed session to discuss the RFP. Mr. Permaul said they met that afternoon with campus Purchasing, and they were very helpful and laid out a whole series of terms and conditions and issues that the Auxiliary needed to move forward with in the RFP. Most importantly was the timeline. If they're going to treat their current vendors fairly and also be ready by the beginning of school next year, they had to move forward. He understood that two principals on the Board had to leave, but if the rest of the Board could give them another 15 minutes he'd be grateful if the Board could take a look at the RFP to get their input and keep on moving in that process.

#### Closed Session

The Board met in closed session to review the RFP for the Food Court.

#### SOB Binders

Ms. Winston asked if there was any progress on the binder that students recommended for the SOB, just to have a collection of stuff to transition when people leave. That was something some people on the Board didn't have to begin with. Mr. Smith said that would include the financial information they talked about before Winter Break, like ASUC budgets and information to have before them at student meetings. Mr. Permaul asked if he was talking about individual rents to the vendors, and things like that. Mr. Smith said he was, as well as the Auxiliary budget, all compiled in one source for the students. Mr. Permaul said they could put out the Auxiliary budget and the budget of the ASUC. They can't give out individual rents of the vendors. That was a good question, and they'll ask to see if they could do that. Mr. Spivey said they might be able to release that once the contracts are signed. Mr. Permaul said that would be bad business practice. They negotiate each contract with a vendor independently, and they're putting them against one another. They could give dollar totals.

Mr. Rhoads said that past signed contracts were public record. He thought that was the request, for existing contracts. Mr. Spivey said some of them have confidentiality clauses. If the Board wanted to review something and ask questions, that was fine. But the idea of something leaving the office or becoming public record might be a little more difficult. Mr. Smith said it was challenging to have a student meeting without numbers.

Ms. Oatfield said she thought it was imperative for this organization, as a student government that was suspend the By-laws held accountable for the students, for this information to be easily accessible. She was trying to find minutes from previous SOB meetings and went to the general Auxiliary Web site, did general Google searches, and could only find minutes from a year or two ago. She thought that brought up the whole issue of general documentation and transparency and accessibility of information. It's something the Board should talk about.

Mr. Permaul said no one has ever asked him to look at the minutes of the SOB. They'd be happy to put up the minutes from the past. But in talking about transparency, somebody really had to have an interest in it, and no one in the last three years he's been there has asked to look at the minutes of the SOB.

Mr. Smith said they've been sent to Karyn Houston. Mr. Permaul said the last two years were up.

### Budget Overview

Mr. Daal asked if he could give a brief rundown of the budget. Mr. Permaul said he's talked to the Senate for the last three years about the delta between revenues that come into the ASUC and their expenses. This year they finally reached that delta point, where they converged. The ASUC Auxiliary was not going to be able to transfer any funds to ASUC student government from the Commercial Holding Account. And next year there will be a deficit. They either have to generate new revenue or cut the budget of the Auxiliary. They're looking to make a significant realignment and restructuring of the Auxiliary budget in order to make sure they don't run a deficit. That's what he was going to talk about.

Mr. Rajan asked if he could give them an idea of what a reduced Auxiliary would be like. People hear a lot of arguments when they can't increase revenue or when sources are objectionable. In those cases, an organization looked to trim fat. Mr. Permaul has mentioned there wasn't that much fat. So they'd probably be less of an Auxiliary than in the past. But he asked what they'd have to live without.

Mr. Permaul said that 70% of the Auxiliary's budget was staff. They're the smallest business Auxiliary on the campus. In some cases they have individuals who cover entire units of operation. For example, they only have one clerical support person in the entire operation, and so everybody does their own. At this point, if they were looking at restructuring the Auxiliary, it would mean jobs.

Mr. Rajan said that as bad as that was, it was hard to know what life would be like for students with a smaller Auxiliary. Mr. Permaul said their goal would be to actually enhance services, even as they're reducing staffing. So it would not be prudent to simply make changes in the culture of the Auxiliary that might reduce staff and not propose ways in which they do business, either in a better way or a way that was more supportive of the programs that they were there for. So they're looking at technology, in particular. They've been beta testing for the last four or five weeks a new form of student group management system that will allow groups to manage their own student groups online in real time on the Web.

Mr. Rajan asked if that would eliminate a staff position. Mr. Permaul said it would eliminate dollars they're currently spending on data entry, because they have to do everything in a very laborious way. Mr. Rajan asked how much that was. Mr. Permaul said the program was \$11,000, but the savings would



be significantly more than that. But that wasn't going to be the only change. They're taking about a matrix and they'll reassign people to positions and responsibilities and they'll restructure in a way to get things that they think they need to make that functionality work. That's what they're going to propose to do.

Ms. Ude asked what the method was of data entry and if there was another program they're using currently, or student workers. Mr. Permaul said it's partly student employees. Ms. Ude asked about Auxiliary staff. Mr. Permaul said they'll look at Auxiliary staff as well.

Mr. Rajan asked if he was actually saying that next year, if they got no more money, they could still be the same Auxiliary they are in terms of services. Mr. Permaul said that he would hope so. Ms. Pasco asked about in terms of people. Mr. Permaul said he wasn't sure that was possible.

Mr. Daal said he thought it was mentioned at one point that the Auxiliary was looking at a \$140,000 deficit. Mr. Permaul said that was correct, approximately. Mr. Daal said that was a lot of jobs. Mr. Permaul said it was. And he could tell them this as well: They're not even going to begin a significant increase in their revenue until 2010-11. So 09-10 will be another serious year for the ASUC in terms of funding. If they don't implement those increases in revenue by 10-11, things will get worse.

Mr. Daal said, then, that they really need to find some way of increasing revenue. Mr. Permaul said he says it at every Senate meeting, but people don't hear it. If Auxiliary revenue doesn't grow by 4-5% every year, what they showed Vice Chancellor Brostrom would continue to happen. In the past ten years, the ASUC has already lost 40% of its real dollar value, and they will continue to lose.

Mr. Rajan said that what he was trying to get an understanding of was a different delta. He said Mr. Permaul has talked about the nominal delta between the amount returned to the ASUC and the amount of services they keep. He asked when they'll get that real delta, the amount of services the ASUC Auxiliary provides versus the amount it must be depreciating. There's no way the Auxiliary has gotten 40% more efficient in the last ten years.

Mr. Permaul said the ASUC previously collected its student fees without paying the campus for return to financial aid. When that change was made, ASUC student government lost one-third of its revenue that it distributed to student groups. What the ASUC began to do was to cannibalize its internal distribution of funds. SUPERB went from \$300,000 a year down to what it currently is. That's basically where student government has been pulling its money over the last three to four years. But the Auxiliary three or four years ago had positions in its budget that didn't fill. They've either eliminated those positions or they've filled them, so they could generate the revenue associated with those positions. But that meant that the amount of surplus revenue in the Commercial Holding Account began to go down. This year they reached zero. In 2010-11 was the point at which they would actually diminish the quality of services. If they don't generate the new revenue, they'll start to cut real positions. And by the way, realignment and restructuring meant real positions. So right now, even though they think they're going to maintain services, there will be fewer people working, or different people.

Ms. Ude asked if there was a way for students to take an active role in the restructuring of these positions and the system that they have, to make that a more democratic process, if it was a democratic process. Mr. Permaul said it definitely was not. What he could do was solicit their input, which was what he'd do at their next meeting. He was very happy to take their input. But the one thing the University hires him

to do was to manage the operation. And he had to make those hard decisions, in consultation with Ron Coley, about what they'll do operationally in order to live within their budget. That was not a decision that was democratic. But he'd definitely take student input on that. That's why he wanted to come there. He already had this conversation with Mr. Daal last Friday with regard to his operation. And he was coming to the Board that evening to get input from them. But input was not management. That was the separation, and it was his responsibility to manage the resources that they give him within the framework of the University's budget. He couldn't run a deficit.

He found it very interesting that people have kind of implied that somehow the Auxiliary was spending lots of money and spending beyond its means. Nothing could be further from the truth. The real issue is that now, because they've reached this point, it was going to affect real people. It's not going to be a question of hypothetical any more, and now it was real. That's not a pleasant position for him to be in, he could assure them.

Mr. Daal asked if he could just return briefly to the discussion of the binders. He thought what they had in mind when they requested that in December was section 4.3.1 in the Commercial Activities Agreement. They don't quite understand what the limitations were for sharing contractual information, rental information, etc. That sections guarantees access to that information and they can make copies of it and freely discuss it. So it was confusing. Mr. Permaul said they went to the University's General Counsel, which gave the Auxiliary the Regents' recommendations on how to handle contracts. The Auxiliary is able to share information in meetings and after things are published, but not during the negotiations stage. The Auxiliary could provide people with square footage and total revenue, but they wouldn't, e.g., tell them what rents were individually, except in this room, for each one of the vendors. The vendors would see that many of them were being charged different rates, based on contracts they've negotiated at different times. For some contracts, like with Coca-Cola, the way they were negotiated with the campus, there are portions of them that are, in fact confidential. But anything they could publish that was post contract, they'd put in the binder and give to students. The Follett contract, all of those kinds of things that they are able to publicly show, which they could do after the contract was in place.

Ms. Pasco moved to adjourn. The motion was seconded by Mr. Smith and passed with no objection.

This meeting adjourned at 9:02 p.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

## **DECISIONS OF THE BOARD**

### Procedures

- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07      Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's term as undergraduate representative Board member begins.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06      Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06      Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06      Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05      Mr. Dally joined the Board as undergrad representative.
- Dec. '05      Asked the Finance Committee to discuss with Internal Audit the ASUC's use of the BFS accounting system.
- Dec. '05      Elected Ms. Putnam-Smith as Chair of the Board.
- June '05      Voted to have committees, after the August meeting, agree upon meeting times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05      Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.

Procedures (cont'd)

- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- Aug. '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of a GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC Senate asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board member orientation by August 30.
- May '03 Agreed on the need for a Board member orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board"

Vendors

- Feb. '09 Voted to approve the CUBS contract.**
- Feb. '09 Voted to move forward with the Tully's contract.**
- Jan. '09 Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08 Voted to go out to bid for all Bear's Lair Food Court vendors.

Vendors (cont'd)

Nov. '08	Voted to terminate the contract with CampusLink
Nov. '08	Approved Action Vending proposal to increase vending prices.
Sept. '08	Agreed to Daily Cal terms for deferment and reduction of rent.
Sept. '08	Heard the terms of a possible Panda Express contract.
June '08	Approved the concept of bringing the Brazil Café to the ASUC .
June '08	Approved a Letter of Intent to negotiate with Panda Express.
May '08	Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
Dec. '07	Heard a presentation by CUBS.
Nov. '07	Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations.
June '06	Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
March '06	Approved a five-year lease option exercised by the Jupiter Pub
Feb. '06	Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
Sept. '05	Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
Sept. '05	Approved use of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorized pursuing an agreement for the Alumni Association to manage the Lodge.
May '05	Approved the further exploration with Darryl Ross of placing a green café at the southeast corner of the Student Union.
March '05	Heard a presentation by Darryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.

Vendors (cont'd)

- Nov. '04      Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04      To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04      Approved a five-year extension for the STA Travel lease.
- June '04      Approved the Resolution In Support of Follett Contract Performance Review.
- June '04      Approved changes to the terms of the Pub's lease.
- April '04      Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations fail, and to issue an RFP.
- March '04      Agreed to a four-week pilot project for the New York Times Readership Pilot Project.
- March '04      Rejected contract proposals submitted by Pub management, called upon Commercial Operations to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04      Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04      Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04      Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03      Heard from John Martin, operator of the Pub.
- Nov. '03      The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03      Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03      Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus committee at-large.
- July '03      Approved a five-year lease with the Daily Cal.

July '03	Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
Nov. '04	Approved a two-year lease extension, beginning Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
Aug. '04	Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
July '04	Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
June '03	Formed a subcommittee to further consider the Daily Cal lease.
May '03	Heard a presentation by Coca-Cola representatives on the Company's business practices in Colombia.
Dec. '02	Added a fair-trade coffee option into the lease of the Coffee Spot
Dec. '02	Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

#### Student Union / Pauley Ballroom

Dec. '08	Work began on the seismic retrofit of MLK.
Oct. '08	Heard from, gave feedback to, Brailsford & Dunlavey, on Lower Sproul redevelopment.
June '07	Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the food court.
May '05	Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
May '05	Voted to explore options for the expansion of the Art Studio.
Oct. '04	Authorized ASUC President Leybovich, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
May '03	Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in

Student Union/Pauley Ballroom (cont'd)

- managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate \$20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- February '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- April '06 Approved the 2006-7 Auxiliary budget.
- April '05 Approved the 2005-6 Auxiliary budget.
- September '04 Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a transfer of that amount to the ASUC to balance its 04-05 budget.
- May '04 Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half position OSA position for the GA.
- April '04 Approved the ASUC Auxiliary FY2004-2005 Budget, including a transfer to the ASUC of \$50,000 from the Auxiliary Contingency Reserves.
- February '03 Received "ASUC Auxiliary Revenue and Expense Report, July -December 2003."
- June '03 A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.
- May '03 Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in Eshleman starting at 6 p.m., rather than 8 p.m.



## STORE OPERATIONS BOARD MINUTES

April 14, 2009

Present: (Members and others)

Haitham Alloun (Bear's Lair vendor)	Arnoldo Marquez (Bear's Lair vendor)
Sheila Chen (ASUC Senator)	Eddie Nahabet (ASUC Senator)
Ron Coley (Board member)	Christina Oatfield (ASUC Senator)
Jan Crowder (Auxiliary employee)	Arturo Ortega (Board member)
Miguel Daal (GA President)	Tommy Owens (ASUC Senator)
Meghana Dhar (ASUC Senator)	Krystle Pasco (ASUC EVP)
Barbara Davis (Board member)	Tara Raffi (ASUC Senator)
Carlo De la Cruz (ASUC AAVP)	Nish Rajan (Board member)
Jeff Deutsch (Bookstore Manager)	David Rhoads (Board member)
Mary Jane Flores (ASUC Senator)	Lyell Sakaue (ASUC Senator)
Brad Froehle (GA Delegate)	Kifah Shah (ASUC Senator)
Elizabeth Gray (Bookstore Asst.Mgr.)	Jordan Smith (Board member)
Victoria Harrison (Board member)	Tom Spivey (Auxiliary employee)
Susan Hsueh (Auxiliary Employee)	Marilyn Stager (Auxiliary employee)
Saira Hussain (ASUC Senator)	Lisa Tran (ASUC Senator)
Dionne Jirachaikitti (ASUC EAVP)	Tu Tran (ASUC Senator)
Sameer Khan (Cmte. Student Fees)	Obiamaka Ude (ASUC Senator)
Danny Kodmur (UCB employee)	Ann Vu (Bear's Lair vendor)
Oscar Mairena (ASUC Senator)	Roxanne Winston (ASUC President)
	Yishi Zuo (ASUC Senator)

### **SUMMARY OF THE MEETING**

The meeting was called to order at 6:15 p.m.

#### **PUBLIC COMMENT**

Prof. Pat Crawford, Public Health, Nutritional Sciences, said people need to have good, healthy choices for food. Berkeley represents a model to the nation

Jan Crowder, ASUC Director of the Office Student Affairs, read a letter she wrote, expressing concern for the Auxiliary's future, and read a letter from Auxiliary employees in support of Panda Express coming to campus.

Philippe Marchand, GA Delegate, expressed concern about becoming dependent on revenue from Panda, calling into question how independent the Auxiliary was.

Vanessa Coe, Executive Director of bridges, the Multicultural Resource Center, said Panda Express commodified her culture. She wanted independently owned, environmentally sustainable businesses.

Gregg Sparkman surveyed students about the Bear's Lair. The top two values of students were price and nutrition. Funds going to the ASUC was last. The top choice for students in one question was for businesses coming there to be the highest bidder, and to be small, green, and to hire students. He thought students, if asked to choose, would choose the current small businesses or the highest bidder who was a small business that followed other valued practices.

Susan Hsueh, Graduate Assembly Business Manager, said that to sustain a balanced budget, the Auxiliary will face layoffs. Panda has been working patiently with the SOB for two and a half years. Students could set guidelines to challenge big corporations to conform.

Tommy Owens, ASUC Senator, said rejecting Panda would place a burden on next year's ASUC. Berkeley could change corporations' business practices.

Michael Wax said he enjoyed going to Panda Express and said it would generate revenue second only to the Bookstore.

Students, proponents of a food co-op, gave a presentation. Laura talked about health, environmental concerns, and cultural concerns with Panda, and its likely use of GMO soy. Janet Frishberg read extensively from the minutes, giving a timeline on Panda coming to campus. Issues raised were SOB concerns with transparency; the poor condition of the location; the closure of Naia; fee following Board protocols.

Yonatin Landau said yearly revenue from Panda was just \$110,000, a minimal amount.

Ms. Oatfield the Board's own policies and going to an RFP were ignored in bringing Panda there. An RFP should be done for the old STA Travel location and for Naia lounge.

Mr. Zuo, ASUC Senator, said the ASUC should focus on campus issues. The ASUC could be risking its autonomy from UC.

Trevor Morris, co-founder of Gelateria Naia, said the business spent a lot of money to open. A lot of businesses have been contacted for Naia to share the space. The only business they found was Panda. There was no RFP because Panda would sublease the space.

Matt Marks that on one hand there was no RFP in order to get Panda in, but there is an RFP process for tenants who have been viable for decades. Current vendors pay market rate or above. But vendors have been told that they're being subsidized. And Mr. Alloun and Ms. Vu, especially, have been portrayed as being uncooperative.

Joseph worked with Greg on the survey. It obviously wasn't a very big sample and more effort was needed to determine beliefs/desires of the student body.

#### APPOINTMENT TO THE BOARD

The Board will have a new faculty member, Dr. John Myers, a professor in Marketing; former Associate Dean at Haas; and a professor at Cal since 1964.

## DIRECTOR'S REPORT

### Update of the Seismic Project at MLK, Jr. Union and ASUC Revenues

Plans for the seismic renovation of the Student Union have been revised again by the campus. This could impact the Store by \$500,000 to \$1 million in lost revenue. The Auxiliary will work to mitigate the impacts.

### Budget Impacts for 08-09 and 09-10

The Auxiliary will be faced with personnel layoffs in 08-09 and 09-10, as a result of shortfalls in the 09-10 budget for next year. The Cal Student Store is significantly behind in revenues from a year.

### Student Cooperative Store Proposal

A proposal has been submitted to develop a student cooperative store in what was the Postal Annex space. The Auxiliary hoped the co-op can put together a substantive business model to bring a store to life in the coming year.

Regarding renovation work, the focus was to return the Food Court and the Store back to operation on the 1st and 2nd floors as quickly as possible. The Student Union Director was working to get a tent on Lower Sproul after Labor Day to facilitate events. There will be no impact in the textbook area itself for the start of classes.

Capital Projects has not yet confirmed the renovation schedule.

### Proposal for the Student Cooperative Store

A student food cooperative came about as a positive alternative to Panda Express, to be student-run and cooperatively operated, serving soup, salad, sandwiches, groceries, and produce, operated using the cooperative model, where volunteers become members. And students would get involved in the whole food system. The "Real Food Calculator" will be used.

The co-op would like to be located at the STA Travel space instead of Panda.

The student group had to come up with a substantive business model. The campus would have to approve any renovations.

### Panda Express Lease

The Board entered into executive session to discuss the Panda contract.

By unanimous voice-vote, the Board added four amendments to the contract: terms for regular meetings between Panda and the ASUC; language for termination for cause; a ten-year meeting to re-evaluate the terms of the contract; and two mutual five-year options, rather than an exclusive option. The exact language will be crafted by Real Estate Services.

Ms. Winston moved to have no more discussion if Panda did not accept the terms to the current contract. In response to a question, Ms. Winston said the motion dealt only with this contract, and a future contract could be offered. The motion passed by hand-vote 3-2-4.

What would happen if Panda didn't accept the four amendments would depend on Panda's response.

A motion to approve the Panda Express contract, as amended that evening, subject to Board review of finalized language, failed by hand-vote 4-5-0.

A motion to direct the Auxiliary to renegotiate the contract with the amendments made that evening, including clarification of financial information, and/or other terms passed by roll-call vote 5-2-2.

It was noted that it was hard to understand how, after a vote against the, there could be another vote to continue moving in that direction.

A motion to stop all negotiations with Panda Express failed by roll-call vote 2-6-1.

A motion to bring discussions to a close if a Panda Express contract is not reached by the end of the next Board meeting failed by roll-call vote 3-5-1.

#### ASUC Food Court RFP

It was noted that Naia got a contract in a short period of time while long-term vendors have been a long time and were month-to-month. New businesses have a high failure rate and current vendors provide a guaranteed income. It was noted that Naia got a long-term contract quickly, but long-term vendors were month-to-month.

It was noted that an RFP offered an opportunity to change what they had and was transparent, but existing vendors pay a legitimate rent.

Students would work with vendors on their RFPs on an individual basis, helping them craft this proposal.

It was noted that whether they contract with current tenants or go with an RFP, a long-term contract was needed, with the space renovated and with new terms.

It was stated that the Board's belief that vendors were paying below market rate was the primary motivation for an RFP, but that was not the case.

It was noted that the idea to go to an RFP was student driven.

The Director noted that two vendors would be given two-year contracts, with an expectation of renovations within a year, and the third vendor would have a longer-term contract. Market rates on Telegraph Ave. are \$2.75 - \$3.25 for local businesses, particularly adjacent to campus, and would include a percentage of revenue. Bear's Lair food vendors currently don't pay that.

It was suggested that a Request for Information might be sent out.

Mr. Alloun noted that submitting an RFP could cost \$15,000.

It was suggested that since vendors believed they could fulfill requirements the Board set for an, that the vendors be given first right of refusal. The Board could decide on parameters of an ideal contract, including access to vendors' gross revenues.

By a roll-call vote of 9-0-0, the Board passed a motion to present draft contracts at the next SOB meeting for the Coffee Spot, Taqueria el Tacotento, and Healthy Heavenly Foods, incorporating what was in the draft RFP for those spaces, including health, sustainability, and financial considerations. If the vendors and the Board do not agree on the terms, there would be an open, public RFP process for that spot in the Bear's Lair Food Court. The campus would craft the language.

With no objection, the Board approved a motion to create a subcommittee to draft terms for the existing Bear's Lair tenants consisting of the student members of the Store Operations Board.

The meeting adjourned at 12:56 a.m.

**[End summary of the meeting.]**

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This regular meeting of the Store Operations Board was called to order by Jordan Smith at 6:15 p.m. in the ASUC Senate Chamber.

APPROVAL OF THE MINUTES

Mr. Smith said he would entertain a motion to approve the minutes from the March meeting. It was so moved and was seconded. THE MOTION TO APPROVE THE MINUTES OF THE MARCH 10, 2009 BOARD MEETING PASSED UNANIMOUSLY BY VOICE-VOTE.

APPROVAL OF THE AGENDA

Mr. Smith said he would ask for a motion to adopt the agenda. It was so moved and seconded and passed with no objection.

PUBLIC COMMENT

Mr. Smith everybody would have two minutes to speak. The first speaker was Pat Crawford. Ms. Crawford said she would like to thank the Board and Mr. Coley for inviting her to speak. She's a professor in Public Health, Nutritional Sciences, and was also the Director for Weight and Health on

campus. They do a great number of studies of changing environment and policy to provide food choices for young people. She largely works in schools, but also at work sites and communities to keep moving the agenda to try to help provide a healthier California. She serves on Gov. Schwarzenegger's Legislative Task Force for Diabetes. Some recommendations of that Task Force were to provide more, healthier choices for students and those in the work force.

One recommendation of the Task Force was to really understand that people need to have good choices, but need to have healthy choices that are not in the environment at that time. State institutions should be the leaders and the models for other work-force sites in the State.

Ms. Crawford said it was so important to recognize the value of what they have there. Berkeley actually represented a model to the nation, one they should be very, very proud of. People might not feel they're moving very fast there, but she could assure them that they're moving faster than the rest of the nation in providing healthier choices.

Ms. Crawford said that the groups and industries she works with often use the argument that they just need choices and that people were old enough to make good choices. But the fact was that they don't have a lot of choices for healthy foods. So that was the choice they really had to be talking about, not the choice of bringing in food that was of lower quality nutritionally. There are many, many studies that have been done to show that fast food was directly linked to obesity and diabetes. And the movement on this was in Berkeley.

Ms. Crawford said that aside from choice, the other issue that kept coming up was that Panda was going to provide some real leadership in changing the way it does business, and that these business practices would be a national model. But the things Panda was offering to change were things that any vendor would do. For example, Panda said they would put in food without trans-fats. But that was State law. And Panda said it was going to have ingredient labeling, but that was also State law.

Ms. Crawford said she's worked on research that led to these State laws. The campus would expect any vendor to do those things. She didn't see any leadership in bringing in an organization that would do what the campus would expect any vendor to do.

Finally, Ms. Crawford said that Michael Pollan, who's on sabbatical that year, e-mailed her that day. He said that all he could say was that surely Berkeley could do better by the health of its students than to bring fast foods to campus. Ms. Crawford said she wanted to thank them.

Mr. Smith said the next speaker was Jan Crowder.

Ms. Crowder introduced herself and said she was the ASUC Director of the Office Student Affairs. She would like to read a letter she wrote to the Board, as well as a letter that Auxiliary employees have written.

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Begin letter by Jan Crowder

Thank you for giving me this opportunity to address you about the Panda Express matter.

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Letter by Jan Crowder (cont'd)

As a long-time University and former ASUC employee, I have witnessed many changes at ASUC over 40 years. I joined the ASUC family in 1982 and lived through the 1990s when it reached its most financially depressed season. It was not a pleasant period to experience as a career employee. During that time:

- there were no merit or cost-of-living pay increases;
- many employees, both full-time career and part-time students, were laid off;
- and employees who continued after the Commercial Activities Agreement signing lost our years of service toward our retirement.

The reason many of us stayed after 1998 and continue to stay is that we love the mission of the ASUC and have a special pride in supporting that mission and working directly for the student government and its sponsored groups and programs. We have always tried to keep to our role as supporters of the student government and its programs, but I am extremely concerned about the possibility of falling prey again to the circumstances that led the ASUC to a \$6,000,000 deficit and near bankruptcy in 1998. In the current economic climate, a major change needs to take place in how ASUC conducts its business to generate an increase in revenues to support not only the ASUC, its programs and student groups, but also the employees who work so hard on a daily basis. With limited resources we work diligently to ensure the ASUC continues to provide services to the Campus and surrounding community.

I was saddened to see the remarks in the Daily Cal's election edition that claimed "the Auxiliary has become more powerful and eats up far more student dollars which could otherwise go to student organizations." That is simply not true. The Auxiliary has transferred more funds from commercial activities in the last three years than it has in many years. And what power? We've turned the Black Lightning Notes (now Cal Lecture Notes) into a profitable business for the first time in 20 years. We are on the verge of doing the same for the ASUC Art Studio. We have opened the Cal Lodge for the first time in years over the last three seasons. Though the number of student groups and student government programs have tripled since 1998 we have managed to maintain a high level of student service with a limited level of resources. If that is what is meant by gaining more power, then we are guilty. But we exercise no authority over student government. What we do, and have done regardless of the ASUC's financial abilities -- or disabilities -- is to serve every student government, and student group, as best we can.

This year feels like deja-vu for me and as though history is beginning to repeat itself right before my eyes -- no pay raises, the pending lay-offs, more lay-offs in the future, and most disheartening, the likelihood of ASUC placing itself in the risky position of losing its autonomy by either having the University come in and run its operations or turning the business over to the University. At this point, I feel that if ASUC does not enter into a contract with Panda Express, it will not have other options available to stay afloat.

I would now like to read a letter that has been signed by most of the ASUC Auxiliary career employees, and I thank you for your time.

End letter by Jan Crowder

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Ms. Crowder said she would like to read the letter that Auxiliary employees wrote. She read the following:

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Begin letter from ASUC Auxiliary employees, read by Ms. Crowder

We at the ASUC Auxiliary are in strong support of the effort to bring Panda Express to the ASUC because we think it is a financially sound decision.

We are aware of the amount of research and fact-finding that have gone into this effort and feel that every attempt has been made to put together a strong agreement that will be of great benefit to the students and the University.

While we certainly respect the opinion of those who might disagree, we feel that from a business standpoint it makes sense to bring Panda Express to campus. Panda will be an anchor tenant in the ASUC mall, and other food vendors and businesses will greatly benefit from its presence. We believe that small, family-owned businesses can co-exist and profit from relationships with larger tenants, like Follett, for example. The arrangement with Follett has been a win-win for the ASUC and the agreement with Panda would be as well.

As a group, we would very much like to see the ASUC mall and Food Court area improved, and the only way we can do so is to bring in viable tenants who can make a business work in this challenging economy and in a somewhat difficult area of campus to promote. We are all working hard on your behalf and truly enjoy the privilege of working at UC Berkeley on behalf of the ASUC and the Cal students it serves through its constituencies.

We strongly believe that the addition of Panda Express to the ASUC mall will invigorate and improve the area, provide a solid cash flow to the ASUC, contribute to maintaining the ASUC's autonomy, and prove beneficial to the campus and the Cal community as a whole.

Sincerely,  
/s/ Auxiliary employees

End letter from ASUC Auxiliary employees, read by Ms. Crowder  
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Mr. Smith said the next speaker was Philippe Marchand. Mr. Marchand said he's in the GA. He was enthusiastic to read in Monday's paper that the Lower Sproul project was going ahead. It's been recorded that the budget for this project was over \$100 million. The next milestone was next year, when the students, the biggest stakeholders, had to be convinced to take ownership of this project. He thought people who were very involved on campus were behind this project. So for this reason, partly, it wasn't the time to bring in something that was very divisive at the ASUC level. He knew there weren't that many students were involved on a daily basis on campus and thought that had to be put into perspective.

The other thing about Panda Express was that personally, as a student, he would be more comfortable supporting this if it was on the basis that students wanted this service, and thought it was something



important that they need on the campus, and that they needed it for the money, to save their independence and their businesses. What that tells him was that the ASUC Auxiliary would become dependent on the income from Panda Express for its financial viability. Also, that because of the commission system, they'd become dependent on how much of these products were sold. It's a long-term contract, for the substantial investment that would be made, and this would become structural to Auxiliary planning.

Mr. Marchand said that if they work on the premise that they need income and a certain volume of product sold from a major fast-food chain in order to have viable independent student businesses, then he would ask to what extent people could call them "independent" student businesses.

Mr. Smith said the next speaker was Vanessa Coe. Ms. Coe said she was the Executive Director of bridges, the Multicultural Resource Center. Bridges is a coalition of five Recruitment and Retention Centers: the Black, Raza, Native American, and API R&RCs, and Pilipino Academic Student Services, and affiliates. Ms. Coe said she couldn't say she was speaking for this coalition, but she came from the community.

Panda Express commodified her culture, and was then going to sell it back to her. That was exploitation and objectification. The family businesses there look like her family, like the business she came from, not the corporation who sold out her family so that they couldn't feed themselves any more, so that they had to struggle and hustle somewhere else. When she looked at them, she knew it was a piece of home. She knew that there was something there that represented where she came from.

Ms. Coe said she thought bringing other businesses on campus was cool if they were independently owned, environmentally sustainable, good for her body. But the whole idea that they need Panda Express to be sustainable financially was kind of silly. It was backwards. Instead, they could have something viable. They have people who are so passionate about bringing alternatives to the campus, something better for the campus. She was really excited and juiced to see all the people out that evening, because she really believed in student power more than anything else, and believed in the student voice. She wanted to thank them for everything they have been doing.

Mr. Smith said the next speaker was Taymyr Bryant. Ms. Bryant introduced herself and said she didn't support Panda Express coming to this campus. It's totally like, "What the fuck?"

Mr. Smith said the next speaker was Gregg Sparkman. Mr. Sparkman introduced himself and said he put together a student survey looking into the future of the Bear's Lair, although it could be pretty easily generalized as to student opinions about something like Panda Express. He's a Psych. major and worked in a laboratory, the Institute of Personality and Social Research, and was part of the Haas Fellows. That meant he was good at statistics. How would state how he could be biased in doing any statistics, which he's done for primarily student opinion on the eateries on campus. The bias he would identify most was that his work could be called "populist," meaning he considered democracy the supreme method of deciding policy.

As for what that meant for the survey he did, Mr. Sparkman said he would quickly reject elitist notions or proclamations from left or right, and pretty much desired an accurate student voice to be most relevant. Specifically, he compares his survey to one that was done in 2007, which seemed to have a lot of steam and a lot of venues for representation of student opinion. In his survey, he requested 250 students to respond, from a random selection by algorithms of last names he got from the Registrar, meaning it was random. Of those, he got 22.4%. The 2007 survey had about 2.7%, about one-tenth of what he got in terms of percentage. But they were working from the entire student population and got about 950 participants.

In terms of presenting his report, there were four questions. The first asked to rank values in order. Options included green business options, funds going to the ASUC, hiring students, keeping the current small businesses, having small businesses in general (not necessarily the current ones), as well as price and nutrition. The top two were price and nutrition, not surprisingly. They're things students were concerned about. The next two were keeping the current small businesses and having small businesses in general. The last three, unfortunately, are the ones it seems the ASUC Auxiliary has been discussing the most: green business standards, hiring students, and funds going to the ASUC, which was dead last of those seven.

Mr. Sparkman said the second and third questions specifically asked what people were more concerned about, keeping current small businesses or funds going to the ASUC. In that question, there was not a good preference for either and it was insignificant at that point. The next question asked if they just wanted small businesses in general, and if they wanted to keep out chains at the expense of ASUC funds coming from the Bear's Lair; and there was a significant response that yes, that's what they would prefer. With so many people there, one of the surveys might be floating around for people to look at, and if anyone wanted a copy, they could e-mail him.

Mr. Sparkman said the fourth question was the most tedious, and had the most information. It basically had permutations of all different concerns they could have, looking at what students would want to be put in there if they could directly vote on what the Bear's Lair would look like. Basically, the top choice for students in this question was for a business to be the highest bidder, and the business must be a small business, have green business standards, and hire students. If any of those conditions were violated, the next thing students dropped down to were the second, third, and fourth options. They were to keep the current small businesses, with green business options, and having some kind of student preference. Students basically exhausted all of their options before choosing one that involved not specifying a small business. So if the campus proceeded with something like having a large business with green business standards, or with a student-hiring quota, as far as he could tell, that would be unrepresentative of student opinion, especially if they were doing it for the purpose of raising funds for the ASUC. Apparently, that's not what students would like.

Mr. Sparkman said that out of the report, students responded to critiques with statements like, "while it's romantic to support small businesses, the ASUC doesn't exist to subsidize them," and the ASUC was first and foremost to provide and generate services, and support student services, programs, and operations. If the ASUC Auxiliary existed to exercise students' will, students want to generate revenues from their properties, but not while violating their values. If asked to choose, they would choose the current small businesses or the highest bidder who was a small business that followed other practices.

Mr. Sparkman said that from an academic perspective, what he would suggest before decisions got made was to have a survey asking much more pointed questions than his, or the questions from 2007, which

were too vague to shape policy. He would suggest taking another survey similar to his and actually have it dispersed among 500 people. That would give them, assuming they got a response rate much better than the 2007 survey, a much better and much more accurate representation of what students want; and they could proceed from there. He wanted to thank them.

Mr. Smith said the next speaker was Susan Hsueh. Ms. Hsueh introduced herself and said she was an Auxiliary employee, and has been the Graduate Assembly Business Manager since 2005. This was her 27th year working as a career staff at Berkeley. She has worked in both State-funded and self-supporting units. The current budget crisis that they face, was the worst she's seen in 27 years. ASUC student government and the ASUC Auxiliary are supported by student fees, commercial revenue, and interest earned from the endowment. Due to the current economic downturn, most commercial revenue and the endowment interest won't meet this year's or next year's budgets. In order to sustain a balanced budget, drastic measures must be implemented now and next year, and maybe a couple of years from now. Unless UC Berkeley students pass a student fee referendum this year, or increase commercial revenue immediately, layoffs will happen on July 1, 2009. And the second round of layoffs will take place on July 1, 2010.

With any layoffs, services will be impacted. It will take longer to process reimbursement checks, they'll lack the personnel to handle any rush requests, and there won't be enough people to answer questions at the times students need.

Ms. Hsueh said that UCOP has proposed a substantial fee increase later that year. So another fee increase, another fee referendum by students, both graduate and undergraduate, was not something most of them would want to do. Increasing commercial revenue was the next logical thing to pursue. The question that people were asking themselves was how to maximize their rental spaces and get the most out of them. As a career staff in the ASUC Auxiliary, their lives were at stake. They're on the chopping block. A company that has been working patiently with the Store Operations Board for the past two and a half years and has met all the guidelines that students have asked of them. In her opinion, she would say to go with that company.

Furthermore, Ms. Hsueh said she wouldn't stop there. They need to pursue other companies and maximize the available space they have, at a premium rate. Students must step up, and set up guidelines to challenge big corporations to conform, not to shun them.

The Store Operations Board is the governing body of any company or corporation that wished to do business with Berkeley. So it sets the tone for business practices. What they want they could put in the contract, and the company had to do it if it wanted to do business with Berkeley.

Lastly, Ms. Hsueh said she wanted to thank them for giving her this opportunity to express her opinion. ASUC employees value small vendors. But they also had to look at the bigger picture. They had to be financially responsible. She wanted to thank them.

Mr. Smith said the next speaker was Tommy Owens. Mr. Owens said he supported the idea of a student food cooperative. He absolutely did. That addition would reinforce the idea of diversity, and he thought

it was definitely a good idea. It should supplement, but not replace, Panda Express. Rejecting Panda will place a burden on next year's Senate, Executives, and ASUC Auxiliary. Four of the five student groups he represented as an ASUC Senator, the Berkeley College Republicans, Berkeley Students for Life, Cal Veterans, independents, and Greeks, have all received cuts that year. The SOB needed to realize that by rejecting Panda, they're rejecting revenue for students.

As for health concerns, Mr. Owens said he would acknowledge, and concede absolutely, that there were concerns with caloric intake, sodium intake, and non-biodegradable plastic. But he didn't think those were big enough to transcend the financial concerns of these student groups. Panda, in its current lease, which he's seen, was a win-win situation. The ASUC has a lot of dead space in the mall because there's high rent and financial risk.

Mr. Owens said another point he'd like to make is that they can change Panda's business practices. People shouldn't be negative about that and say they couldn't, or that somehow, Panda's corporate values did not meld with Berkeley's. They absolutely did. Berkeley could change them, and from a utilitarian perspective. Berkeley could make a bigger change by changing Panda than they could by rejecting Panda. Seven out of ten people on the campus did not vote in the ASUC elections. The ASUC Senate, unfortunately, does not speak for all students. People had to think about all the people outside this room. He would ask them to think about his student groups, and about their student groups, and the implications that would result in rejecting Panda.

Mr. Smith said the next speaker was Michael Wax. Mr. Wax introduced himself and said he was a second-year student there. He loved the City of Berkeley and loved UC Berkeley even more. He found a lot of ways to get involved around campus. He's currently the Chair of the IFC Judicial Committee. He was more than happy to lend his time that evening to speak in support of having Panda Express at UC Berkeley. His main reasons for wanting Panda Express to have a restaurant on campus was student happiness and revenue. He has always enjoyed going to Panda Express when he was home in Sacramento. However, he rarely, if ever, was able to fulfill his desire to get Panda Express when he was in Berkeley since the nearest one he knew of was near the Oakland Airport. A lot of students share the same sentiment he did, and he could tell them personally that when he could, he eats at Panda at least twice a week.

Furthermore, Mr. Wax said he knew that some people that evening might try to lecture the Board on corporate responsibility or say that the money was not as important in this specific case. But Mr. Wax said he was there to tell them that the money was important. In these tough economic times, having Panda Express would generate revenue second only to the ASUC Bookstore, and bringing it in was a very smart financial decision. Moreover, having an established restaurant of such caliber as Panda Express was a perfect way to revitalize Lower Sproul, which all students agree was needed. He would urge the Board to be logical and to act in the best interests of all students at the school. He couldn't wait for that first bite of Orange Chicken on campus at Cal.

Ms. Oatfield said that several members of her constituency have prepared a really thorough presentation and spent a lot of time making it precise, to avoid redundancies. But some speakers will go over the time limit, and she hoped the Board could either allow them to go on, or for someone else to yield time.

Mr. Rhoads moved to give the presentation 15 minutes. The motion was seconded and passed with no objection.

Laura introduced herself and said she would say some things that the SOB has been hearing for months, but she thought they needed to hear quickly one more time. Students have a lot of health concerns about Panda Express. The FDA says it's not healthy food. A UC Berkeley study that just came out said that linked obesity and the proximity to fast food. So she would ask why they were putting a fast-food restaurant on their campus. Panda has no commitment to using organic ingredients whatsoever at any of its other stores. There has been some talk of Panda conceding to what students at Berkeley want, but that didn't say anything to the rest of their stores, over 1,100, she believed.

Students also have environmental concerns. Meat actually has a lot more of an environmental impact than any vegetable or grain, including water, energy, and land use, and had a lot of food miles. Just because Panda says that some of its vegetables would come from Northern California, those vegetables are being shipped to Florida and New York as well. Panda had no commitment, again, to using organic or sustainable farming practices. The Local sent Panda a list of farms that it uses and Panda said they couldn't use any of them as that wasn't in its business model. That concerns students.

Another concern was that Panda's soy ingredients most likely contain GMO soy. It was "most likely" because Panda wasn't that clear about where its food actually comes from. Again, that was concerning.

Another concern was culture. Berkeley has a very rich history of people who are very committed to things like local, sustainable foods, such as Michael Pollan and Alice Waters.

The Board has heard from the Asian American Pacific Islander community, especially at its last meeting, about this being cultural imperialism. That was a big point. That cannot be denied. UC Berkeley students also have a history. They have to set an example. She didn't know what the neighbors would think, honestly.

Laura said that students just found out that a couple of months ago that Panda Express became involved in a labor lawsuit. A class action lawsuit has been filed for all the general managers of the nationwide Panda Express saying they have not been paid enough for overtime. She didn't want a restaurant on her campus that wasn't going to pay its workers for overtime. Despite the fact that Panda uses that as a marketing tool, how good its labor practice is, apparently they're not that great.

Also, the fact that when one gets food from a large agribusiness, it was more likely to have very incredibly horrible working conditions, such as the ones they have seen in recent years. Laura said that was the recap, and now the students would move on to the new arguments.

Janet Frishberg said she would like to ask for three extra two-minute slots. She introduced herself and said she attended her first SOB meeting last month. From that meeting, she left kind of confused about what happened during the long road that brought them to where they are today. And she was really stumped by something that Ms. Harrison said. Ms. Frishberg said she would like to read from SOB minutes.

Ms. Harrison said she was reacting to the feeling that there wasn't transparency when the decision was originally made to explore the Naia and Panda partnership. One suggestion she

might make was to go back to the SOB minutes. They have minutes constitution could refresh their memories about what the conversation was.

Ms. Frishberg said she thought that going back to the minutes was a great idea, so she decided to do that. She made a timeline.

The Panda Express timeline begins July 11, 2006. Mr. Permaul joins the Auxiliary Board and advocates for student support in any changes made, and specifically for creating new revenue for the Auxiliary.

March 12, 2007: This is the first time that a Panda representative contacts Mr. Permaul. She'd read a quote from SOB minutes that was also in the packet:

Regarding Panda Express, Mr. Permaul said the company called him and said they wanted to come to Berkeley for years and would do anything to come there. The company was told it was in queue and that the Auxiliary had to follow some steps. But Panda Express called him again last Friday and will not take "no" for an answer.

On April 9 the Auxiliary invests in current businesses to counter the impact of Panda. This was in response to Healthy Heavenly Foods coming in, with Ms. Vu saying she had concerns about the businesses being negatively impacted by Panda Express. So the Auxiliary suggested that in response, they could invest modestly in those businesses to help them remain competitive.

Ms. Frishberg said she found that interesting since the entire point of a Panda Express has been framed as a way to create new revenue for the Auxiliary, rather than forcing it to spend its own money to keep their current businesses valuable or competitive. At that meeting, Ms. Harrison encouraged the Board to go out for an RFP for big businesses such as Starbucks and Panda Express.

Ms. Harrison said the other part was that if there was a real interest in having a vendor such as Starbucks on the campus, then there was a way in which they could go about doing that. The Board could recommend that they go out to an RFP. If what Mr. Permaul said was true, then Starbucks would probably be the most competitive bidder; and then it would work. But she would encourage that people really go by what was dictated by the CAA and by campus policies.

Ms. Frishberg said the "CAA" is the "Commercial Activities Agreement," which was also included in the packet that was distributed. And the CAA requires an RFP for all new leases.

At the meeting, Mr. Permaul then expresses concerns about how to get Panda Express and Starbucks under contract:

The reason was because every year there's a change to the government and the Senate. The current Senate was very supportive of these commercial activities. And he had no guarantee that the next Senate would be.

On May 14, Mr. Permaul describes to the Board a presentation that Panda Express made to the campus:

Mr. Permaul said that Panda was willing to bring in an absolutely remarkable investment to Auxiliary facilities and revenues if something was worked out. Panda's presentation was successful and students in general supported Panda.

One student asked if there weren't other businesses that would be willing to bring in the kind of revenue Panda was willing to bring in to the Auxiliary. And Mr. Permaul explained that to date, no other businesses approached him in that manner. And Panda came to the Auxiliary aggressively. They were also there three or four years ago. Ms. Putnam asked about the issues the Board discussed previously regarding the need to go out to an RFP:

Mr. Permaul said he went to the campus Business Contracts Manager, who went to the Office of the President. He sent out an e-mail to SOB members saying the opinion of the General Counsel was that the ASUC did not have to go out to bid.

Ms. Harrison said she would like to discuss it before moving into it because she thought the CAA actually required the Auxiliary to go out for an RFP:

Ms. Harrison said the Commercial Activities Agreement called for an RFP for commercial space to allow people to bid on the space. The SOB would evaluate the proposal to determine which one they thought was in the best interests of the campus and the students.

Mr. Permaul said that when he went through the Agreement, the commercial space was specifically identified. The spaces they're looking at now were not commercial spaces, so technically, do not fall under provisions for agreement for a commercial spaces. These spaces were new and would become commercial space. But it was up to the druthers of the Board. He thought they could potentially lose some of these vendors and there was a question as to whether they would want to go through the hassle. Starbucks, for instance, specifically said it didn't like RFPs. But if the Board felt this was something it would like to do, he was currently open for that.

Ms. Harrison said that was commercial space. Mr. Permaul said the Auxiliary already had an agreement for that space. Ms. Harrison said she interpreted some of this differently. She thought some of this also had to do with the intent of the agreement at the time.

June 27 was the first time that Naia/Gelateria discusses bringing in a partner, a full three meetings after Panda Express originally contacted Mr. Permaul. Mr. Permaul also said on that date that whoever was chosen as a partner, they hope it would be something that students like very much.

August 27: Naia asked Mr. Permaul to put them in contact with Panda Express directly. Mr. Dally expressed his concerns that if Naia closed, he didn't want the spot to stay empty for a year or so. Mr. Permaul said the Board could be sure that he wouldn't sit around waiting and that the Auxiliary would go out and aggressively look for someone, and that it was a prime location.

Ms. Frishberg said she took that comment because at more recent meetings, numerous Board members have stated that this was not a prime location, and that it was, in fact, a blighted space, that no one would come to. Mr. Spivey commented that it was a difficult space to lease, and Mr. Smith said it was a pretty risky place to go in to. The Auxiliary would be hard pressed to find any chain or local business that would be even willing to seriously consider going into that space and making an investment there. That wasn't to say one doesn't exist at all, but that it was unlikely.

September 11: Dave Rhoads and Alberto Ortega joined the SOB. Naia submitted its list of 20 potential vendors, partners for the lounge. This was when Mr. Permaul said he told Mr. Tan that they

would expect there to be quote “fair wages and conditions for the employees in whatever business they include.”

Ms. Allbright said she heard a lot of students say they want to take advantage of the commercial opportunity and prioritizing and maximizing profits for students, but to also try to be innovative and move forward with the types of business model they utilize.

At that meeting, Mr. Spivey said that in support of that, when they hold the bid process, the SOB could set standards for the companies who bid. Requests for Information were a way to drive practices forward, putting them into the bid process. Ms. Frishberg said she thought many people in the room would completely agree to that reasoning. It was reasonable to hold a bid process to standards for companies to bid on their spaces.

On October 9 the Board discussed the Naia partnership in closed session, and she could tell them nothing about what happened.

On December 4 the Board approved the concept of working with Panda Express and Naia. Mr. Williamson brought up concerns about the Board’s closed sessions:

Mr. Williamson said he would like to ask a question about going into closed session, about the lack of any directive. He understood the Board had to be concerned about confidentiality, but he thought the Board's closed sessions were some of the most important sessions the Board held. Not to have a record, and not to be able to review it or have agreement on it, was not a good practice.

Ms. Frishberg said that those were the exact same concerns that the students there held. In going through the SOB’s minutes, a lot of the Board’s important decisions were made in closed session, with no record for Board members to look back on, or for others to look back on, or for the public to look back on. And now it was too late.

March 11, 2008: This is where discussion to relocate STA Travel and CUBS begins. It seems like the Panda deal was kind of spilling over the boundaries of its original intention of just being a partner with Naia. And that got into the concern that Sen. Oatfield and others have brought up about the necessity for an RFP for these spaces. It seems from the minutes that Panda was only brought into these spaces because it needed to have a hood. And the only place a hood could go was by STA Travel, because of construction concerns with the bathroom.

So in both the March 11 meeting and the April 15 meeting, there's really no mention of an RFP for these spaces. Instead, they're discussing what the best way to shop around STA and CUBS so that they could get Panda into those spaces without having them go through an RFP.

On April 15 again, there's concerned expressed about student support for big business.

September 23 is the first time that they hear that Naia Gelateria has closed its doors:

Mr. Permaul said the Naia Gelateria was closed. The vendor has not returned and says they want to do renovations. The Auxiliary believes they're basically stalling so they don't have to open



until Panda opens. That wasn't acceptable because students have access to Naia. Mr. Permaul said he may come back to the Board and to ask to negotiate an end to the contract. He had another suitor who was already pounding on the door to get into that space and look into bringing different food options into the ASUC if Naia didn't shape up very quickly. He asked Board members to please keep that information within the room because they didn't want to create issues that end up in the Daily Cal or hurt their opportunities to negotiate with vendors.

Ms. Frishberg said that in open session, they never hear who that vendor was and they don't really see any more mention of it. Perhaps that happened in closed session.

October 14, 2008 is when the Board discusses Naia's violation of its contract:

Mr. Smith said he didn't think the answer at that time was a suit, and at least they were getting rent. Mr. Spivey said Naia was paying the Auxiliary according to the terms and conditions of the lease.

Mr. Rajan asked if Naia was paying a huge discount to what it should be paying. Mr. Spivey said that was not the case. Mr. Permaul said the Auxiliary, though, wasn't getting any commissions. Mr. Rhoads said Naia was still not providing a service that it contractually agreed to.

Ms. Davis asked about enforcing the contract. Mr. Spivey said that Naia could say that it didn't want people using its space. Mr. Permaul said the point was that Naia wasn't in agreement with its contract, and he wasn't prepared to give them a break. Mr. Spivey said a break on rent would be the first thing Naia would say. Mr. Permaul said the first thing the Auxiliary would say was that Naia was in violation of the contract.

Ms. Frishberg said the student group understands the Board's concerns and understands about having a legal battle with Naia. But they haven't seen a substantive answer. No public resolution was ever provided for the Board's actions. Any further discussion of Naia's violation of the contract either occurred in closed session, or perhaps never occurred.

In November 18, 2008, all discussion of Panda occurred in closed session.

It was January, 2009 when public comment from students increased vastly, and tons of students started showing up and talking to the Board at its meetings.

On February 17, 2009 Mr. Permaul brings up the necessity for either new revenue or budget cuts. He explained that this was an urgent necessity and it justified ignoring student concerns about Panda Express because the Auxiliary basically really needed the money. Mr. Permaul said:

He found it very interesting that people have kind of implied that somehow the Auxiliary was spending lots of money and spending beyond its means. Nothing could be further from the truth. The real issue is that now, because they've reached this point, it was going to affect real people.

Ms. Frishberg said this was something they've seen that evening. Mr. Permaul continues:

It's not going to be a question of hypothetical any more, and now it was real. That's not a pleasant position for him to be in, he could assure them.

Ms. Frishberg said that the students' question was how they reached this point, where it's become so urgent that they can't say no, or that they have to give in on all of their standards and they can't stand up for the things they believe in. They reached this point over this entire time, and before this, when many students, most of them, weren't even in the picture.

On March 10, 2009, they come back to the original quote from Ms. Harrison, which brought up issues about transparency.

Ms. Frishberg said that when she came to the first SOB meeting last time, she was under the impression from what the representatives were saying was they knew that Panda was their only option because Terranomics, a firm hired by Naia, had gone out into the community and had asked for bids for the space:

Ms. Oatfield said it was brought to her attention by another student that Section 3 of the Commercial Activities Agreement requires that any non-minor leases go through an RFP process. It was her understanding from talking to Mr. Permaul that there was no RFP process for the Panda Express proposal. She would like to know how the Board chose to skip the RFP process. Mr. Smith said he could quickly address part of that. The decision was made about a year and a half ago when Naia was looking for a strategic partner and hired Terranomics, which did an unofficial RFP and searched for potential tenants and a strategic partner. At that point the Board decided to start working with them, and that's how they got to where they now were.

Ms. Frishberg said that September 11, however, was where the students said that they were starting to work with Panda Express. But March 12 is where Panda Express came into the picture for the first time in the minutes. She was surprised to see that. Many months before Naia even said to the Board it was having trouble and needed a partner, Panda Express had contacted the Director of the Auxiliary demanding to be put on their campus, and people have been trying to find a space for them this entire time. In fact, the Auxiliary was trying to find a space for them on purpose that would avoid an RFP, because the Auxiliary thought that would make it easier to get Panda on to the campus. It was fortunate that Naia ended up needing a partner, and how fortunate that they were put directly with Panda Express so they could move forward with that. (Applause)

Ms. Frishberg said he also wanted to make one more point and then conclude. This presentation was not to villainize members of the Board. They've been bringing up the same concerns that students have brought up through this whole process. But things have somehow have moved forward, despite those concerns. Particularly, the students had so many concerns over Panda Express. They wanted student support and didn't know if they had it. And all of a sudden the students were there, and the question was, where they could go from here. They're told that they're between a rock and a hard space and that they need this revenue. But students were stakeholders in this process of seeking out new businesses. In fact, they're purposefully supposed to represent the largest stakeholders of the Board.

Ms. Frishberg said that after studying the minutes from the last three years, she failed to see that due diligence has been given, both to protecting their interests and to following the intended protocol of the Board.

In conclusion, Ms. Frishberg said she would like to thank Ms. Harrison for her suggestion to go back through the minutes, because Ms. Frishberg said she found that to be really interesting and really informative. She wanted to thank them. (Applause)

Yonatin Landau said he would like to thank Ms. Frishberg for her presentation. He found it really informative and was sure that everybody else in the room as well found it extremely informative.

He wanted to really briefly talk about some arguments, some obvious rebuttals he thought needed to be brought up.

The students there did a little "Panda by the numbers" for the Board. The first and clearest point was the need for revenue from Panda Express. If they go to "Panda by the numbers," \$100,000 is a simple calculation, done through figures that were presented in the Daily Cal: \$47,500 is the base revenue, and then 6% profit sharing, with \$1 million of revenue. That results in \$110,000. The contract was based on UCSD's contract, and UCSD was a completely different location with less student objection, less competition, and different constituencies. It's completely nonsensical to base that million dollars on the UCSD revenue.

But given that number, \$100,000 represents about 3% of ASUC Auxiliary revenue. That 3% may be important, but that's a 3% decrease in student services for the permanent placement of Panda Express on their campus. Three percent per year was very minimal.

Mr. Landau said another number, \$77,500, was the amount of money lost by allowing Naia to stay closed and subsidized for 12 months. The minute Naia was closed and they did not go to RFP, the Auxiliary started to lose money because it subsidized a closed space. That was very unfortunate. But not a whole lot could be done about that \$77,500. It was important to know this was what put the Auxiliary in this dire situation that day, where they had Auxiliary employees coming forward fearing for their jobs. With that \$77,500, they subsidized a closed space.

Mr. Landau said he wanted the Board aware of that and aware that a little fear mongering was going on at that time, with people saying their jobs were on the line if Panda didn't come in. Out of a budget of \$3 million, \$100,000 for one year wouldn't mean vast layoffs. It might mean some vacation time or furloughs. Students got a 10% increase in fees and that was hard on them; and executives everywhere were facing cuts. There were solutions to this, which would mean that lives would not be on the line and jobs not on the chopping block. He knew and Mr. Permaul knew that they were facing deficits and they'd have to cut people. The \$100K would not make or break the ASUC. It's been said that the Administration would take over the ASUC Auxiliary and the ASUC would lose autonomy, if the Auxiliary didn't bring Panda in. There's been no indication from any University officials that that was the case; and there are some officials on the Board. Mr. Landau said that from all he's heard, that was empty rhetoric from people who want Panda Express on campus. He hasn't heard anything to indicate that was true.

There's been fear about losing student money. But it was important to say that the \$100,000 would not go to student money, but would only patch a small deficit in the ASUC Auxiliary. It would not lose student money.

Mr. Landau said that the last thing he wanted to say was about a survey that claimed students were interested in Panda, a study done in 2006. It had a very small percentage of respondents, which meant it wasn't randomized, which meant they couldn't trust the results as much as they wanted. It's still a legitimate study. But another study that was also legitimate had a much larger response rate, and got completely different results. He wasn't saying one study was correct and the other was wrong, but that there wasn't enough information to make the argument that students want Panda Express on campus.

There's a lot of information that says students don't want Panda on campus. Students present at the Board meeting that evening went to student groups, and a diverse range of student groups were in opposition to this, including fraternities, sororities, cooking clubs, a bizarre, anomalous range of student groups that were in opposition. So people on the Board shouldn't convince themselves that they were right and that there was a study telling them that students want Panda and that the Board could move forward with that knowledge. That wasn't the case. People have the other study, and the Board should read it.

He said that there would be a brief summary. (Applause)

Ms. Oatfield said she would summarize some of the points her community has made. People were misled the whole time about the reasons for bringing Panda on to campus. It was evident from reading the minutes that Panda was begging to come onto their campus before it was established that Naia needed a business partner to help it. Panda will not conform to campus standards, as was mentioned earlier. The Local proposed a set of farmers they wanted to see Panda Express buy from, and the company wasn't able to do that.

Suggestions to follow the Board's own policies and go to an RFP which were ignored, and instead, loopholes were used. From that, Ms. Oatfield said she could conclude that it was impossible to say Panda was their only option, and they could say no to having fast food on the UC Berkeley campus.

Ms. Oatfield said they were in a time where the entire world was facing climate change and a global economic crisis. In this time, people were looking to academic communities, like Berkeley, for solutions. Selling out to a fast-food chain at that time would be telling the world that they're giving up and that they can't come up with creative solutions to stand up to the challenges they face.

Ms. Oatfield said she would propose that the Auxiliary do an RFP for the old STA Travel location, for Naia lounge, and that the Auxiliary find out what its options really were. She knew an item on the agenda was discussion of a proposal for a student-run natural foods cooperative. And she knew that if they did a real RFP process, they would find something more than just a food co-op. She would like everyone in the room who stood in solidarity with the students there against fast-food chains coming on to their campus, and for having other creative options, like a student-run food co-op, to please stand in solidarity with the students, to show the Board that support. She wanted to thank them. (Applause)

Mr. Smith said the next speaker was Mr. Zuo. Mr. Zuo said he would like to present himself as a member of the Asian American community on campus. But he would not purport to speak for any larger Asian American groups or coalitions. They weren't monolithic, and not all of them thought the same way. He was speaking as a student and also as a current ASUC Senator, a non-voting member of the SOB. As a Berkeley student government, they don't have the privilege of focusing on these large concerns, such as the deteriorating wages of farm workers, the increase in food miles, carbon emissions, or obesity problems facing Americans. Those were issues the federal government needed to deal with, not the ASUC. The ASUC could take that into consideration, but it had bigger issues on campus.

They had one immediate consideration at hand, and only one consideration: and that was the concern for the student body. He would ask what would happen if the ASUC went bankrupt again. The University

could and would take over the ASUC. The ASUC would lose more of its autonomy, as it did in 1998. The ASUC was the only autonomous student government in America. He respected administrators and loved them a lot, including Mr. Permaul, Dean Poullard, and the Chancellor. But he would hate to have to answer to them one day. Perhaps the only institution in worse financial shape than the ASUC was the larger UC Berkeley campus. They could see all the budget cuts, including those to East Asian languages, the IS Department, and PE classes.

Mr. Zuo asked what people thought the University would do if it took over the ASUC. The campus would see an opportunity to take over ASUC businesses and increase revenue. He asked if people would doubt the possibility of more fast-food chains coming there, more than just Panda Express. If the University took control of student government, Panda Express would only be the beginning.

Mr. Zuo said he wrote an editorial last semester expressing his support for Panda's arrival. In the end it was all about a compromise. Unfortunately, no matter how the SOB voted, somebody will lose, either student groups that receive funding, in the form of seeing drastic reductions, which some of them were seeing already, or supporters of sustainable foods.

The SOB wasn't compromising people's values away, and was ensuring that the ASUC retains autonomy, so that the ASUC could continue to protect those very same values in the future. Ideally, they wouldn't have to worry about being fiscally solvent, and about compromising. But this was the real world.

Mr. Smith said the next speaker was Trevor Morris. Mr. Morris introduced himself and said he was the co-founder of Gelateria Naia. He was one of the people no one ever talks to. He didn't really prepare a lot that evening because he wanted to hear what people had to say. He just wanted to state something quickly. The numbers weren't correct, but they weren't terribly far off. The ASUC didn't lose \$77,500, and he wrote checks for that amount of money. Naia has been paying rent that whole year, because that was how committed they were to this campus.

When Gelateria Naia first came to campus, they had been invited, encouraged, and urged. They thought there was a good business reason for doing so. Most of their sales came from a night part, and they were looking for a day part. They thought coming on to campus would be a good deal, and it was, although they took a space that was larger than what they wanted.

It's been said that Naia's space was being subsidized and Naia was paying less than market rate. Mr. Morris said he wasn't sure, since he didn't look at other people's leases. But he could say that they maintained the entire seating area. They bought all the furniture, almost \$50,000 worth of furniture, and maintained the entire space. They spent a lot of money.

When Naia first came to campus, the biggest opposition they faced was from people who supported the arcade, the Bearcade that used to be there. And they were furious. They wrote letters and editorials, and even wrote an editorial where they threatened the lives of Naia employees, saying they were going to set fire to the store. Obviously, it was a jest. But people had to understand that when one employs people, that's pretty stressful.

Mr. Morris said he was the one person people never talked to. They never asked if they could keep some of the arcade games in the space. He wouldn't have been opposed to that. They never asked if they could

have some of the arcade games that were left over when Naia started to do its building. He would have said yes. They never presented it to him or asked him what he wanted or what he could do for them. So that was very difficult.

Mr. Morris said a lot has been brought up about the timeline, and he didn't really have a lot of problems with the timeline other than to say Naia knew about Panda when Naia started to do its search. That's all he could tell them. They could believe what's in the minutes. He wasn't disputing anything. He could just tell them what he knew.

Mr. Morris said there's been talk about going to a formal RFP, and he wanted to read a list: Intermezzo Café, Café Fanny, Crepes-a-Go Go, a bakery, Cheese Board Collective, Zachary's Pizza, another café, Acme Bakery, Semi-Freddy's, Bread Workshop, Cliff Bars, Brazil Café, the Adeline Bakery, Tokyo Fish Market, Rick and Ann's, Fat Apples. Mr. Morris said those were all businesses that they personally contacted to ask if they wanted to share space with Naia. Most of them are exactly the businesses that the ASUC wanted. They're green, they serve perfect food, they're great businesses. None of them wanted to go in the space. One of the people on the list actually laughed at him.

Naia hired a commercial real estate broker at Naia's expense. These are the people they broker contacted when they expended the search: AG Ferrari, Grapevine, Noah's Bagels, Wolfgang Puck, Pete's Coffee, Extreme Pizza, In-N-Out Burger, Jamba Juice, Booster Juice, Elephant Pharmacy, Taco del Mar, Little Caesar, Pluto's, Panera Bread, Roundtable Pizza, Straw Hat Pizza, Blondie's Pizza, and others. They all said no. Only one said yes, and that was Panda Express.

Mr. Morris said Panda Express was contacted by Naia's real estate broker after Naia hired that person. He didn't know anything else to tell the Board about that.

The other thing he'd add was that a lot of questions were brought up about an RFP. He could say that the reason he knew they didn't go to an RFP was simply because they were subleasing the space. They have a lease, a legal document. That lease says that Naia was allowed to sublease its space. And that was exactly what they did. They didn't break any rules and only had to get minimal permission to start that process. When they started, they were just looking for someone. That's what their search was for, to simply sublease part of their space. When Naia initially took on the project to come to the ASUC, they knew it was a bigger space than they needed. They tried to offer that space to student groups, and there was a huge demand from student groups to use the space. There was a night when they had 107 people. They shouldn't tell that to the fire department. And Naia had four sales.

Mr. Morris said he heard people talk about supporting small business. Naia was a small business and didn't get a lot of support on campus. People could say that nobody wanted their product, and that was fine. But on Shattuck, they sell a huge amount of their product. People talked about fear mongering and people losing their jobs, and he was going to lose his job. That's how dire this was. It was his idea to come on campus and he was the one who green-lighted it. There's a representative from Panda Express whose job was really on the line. Mr. Morris said he wasn't asking the Board to care, and was simply pointing out that this was true.

Mr. Morris said a year and a half ago he was in this room, and they went through a lot of things. He knew none of the students who were there now were in the room at that time, and there was no one like them in the room at that time. There was no one with all these great ideas that they now have. He wasn't

disparaging any of those ideas and he was just saying that the students who are there that evening weren't there a year and a half ago to help Naia. So he didn't know what to do at that time.

Mr. Morris said the other thing he'd say was that someone pointed out that Michael Pollan wrote that surely Berkeley could do better. Mr. Morris said he would hold it to people in Berkeley. Berkeley businesses that were born and raised in Berkeley, none of them want to go into that space. Businesses just like his, which started on Shattuck Avenue in 2002, doesn't want to move to this location. Naia had interest from two people. One of them said there was no way they could possibly put in a hood. Another person said they really wanted to come in that space. He asked what they'd do since there wasn't a hood, and they said they would cook up the meat, put it in a car, and would drive it over. The Board could see why Naia didn't follow through with that.

Lastly, Mr. Morris said he just wanted to make an argument. For the longest time, he was the person at Naia who decided what flavors they'd have. He was the creative force behind a lot of what their business did. Recently, they hired someone with a lot more culinary skills than he had, someone who had a lot of experience. And the first thing this person did was to introduce a new flavor to their gelato lineup, cookies and cream. Mr. Morris said he was opposed to that flavor from the beginning. He thought it was a stupid, pedestrian flavor, something that every ice cream joint in the country had, and it wasn't something that Naia did. He pointed out to the new guy the list of flavors Naia did. Mr. Morris said he seriously wanted to get rid of the guy. But they're selling ass loads of cookies and cream. Mr. Morris said he didn't sell out by allowing the new guy to serve that flavor. As a result of that Mr. Morris said he probably kept his business going, and could serve the flavors he wanted to sell. He wanted to thank them.

Matt Marks said this would be a good time to start referring to the packet that the students distributed. He really empathized with Gelateria Naia. It's a small business that came in and struggled. As for the \$77,500 number, and how the students got to that number, they looked at the amount of rent Naia has been paying the Auxiliary, \$2,800 a month. That puts them at \$1.33 per square foot, and that was the biggest subsidy on campus. As to how the students got the \$77.5K, they decided to look at Haitham Alloun, one of the Auxiliary's current small businesses, who pays \$3.06 a square foot for his spot. The Board decided that if Mr. Alloun had taken the spot and paid that rent, that's how much money the Auxiliary would have made, \$77.5K for 12 months.

Mr. Marks said that Mr. Alloun, however, was being threatened with an RFP process for his space, whereas the Board was doing back flips to get past the rules in order to bring in a fast-food chain on to this campus. Mr. Marks said he understood there were many businesses that Naia contacted, and with all due respect, selling overpriced ice cream there was maybe not the right business model. The fact that students don't support small businesses seemed to be really contradictory because Mr. Marks said he's been informed that for 25 years, Haitham Alloun has done business on this campus and his business has remained viable. An Vu runs Healthy Heavenly Foods and has been there 19 years, running a viable business. And Arnoldo Marquez brought the Taqueria from his uncle, who ran it for 20 years, and has been running a viable business himself for five years. Students support small businesses that have a viable business model that emphasizes student needs. So that was a little introduction.

Mr. Marks said the problem was that on one hand, they're bending over backwards to not engage in an RFP process because they want Panda Express. On the other side, they're engaging in an RFP process in

spaces where they've had viable tenants for decades. As STA Travel has gone under, as Naia, the Postal Annex, and CampusLink have gone under, and as the Daily Cal receives a huge subsidy, the Auxiliary has three businesses that have proven an ability to work in economic booms and busts, through multiple generations of students. Yet these are the people who are getting an RFP, whereas Panda Express is coming in for nothing. He would suggest that everyone in the room read section 3. Three tenants were being bought out by Panda, so it didn't require an RFP, whereas there's an RFP for the Bear's Lair Food Court, with his three friends over there. At the very least, this violated the spirit of the law. He thought they could all agree on that.

All the vendors in the room have agreed that if they had a long-term lease they would want to become green-business certified and make investments in the Bear's Lair Food Court, which was actually the job of the Auxiliary. But these small businesses were offering to help with that. And they'd make hundreds of thousands of dollars of investments in their own spaces. They've offered to increase their rents. There's been discussion about how Panda Express bent over backwards for the ASUC, while Mr. Alloun has been there for 25 years, and these vendors have bent over backwards. Mr. Alloun works 16 hours a day. Mr. Marks said he's never been there where he's never Ms. Vu, Mr. Alloun, or Mr. Marquez not there, because they work over 12 hours a day to keep costs low for themselves and to keep costs low to students. He wanted to thank them. (Applause)

Mr. Marks said that for the financial arguments, Panda has offered the Auxiliary \$47,500 in base rent. Naia gives the Auxiliary about \$30,000 a year. He didn't expect Naia to ever reach its ceiling and give the Auxiliary any more. Panda might. That would give the Auxiliary about \$100,000, maybe more. But it was a huge gamble. The Bear's Lair Food Court is a financially secure, low-risk option that has offered to increase its rent. This was a sure thing. They could be green-business certified and the campus could have family-owned, immigrant-owned businesses, where people could speak students' native languages. They could have Ms. Vu treat people like her nephew. She calls people "baby," and it was wonderful there, and really a different type of cultural space.

Mr. Marks said that some people in the room may not understand that cultural space and some of them may disagree whether that was a cultural space that they want on this campus. But he thought the argument that this was not what students want just had absolutely no basis when they look at the past 25 years of economic viability, at spots where the vendors pay market rate. Mr. Alloun pays above market rate. Ms. Vu pays right at market rate. And Mr. Marquez is pretty much right there too. And Naia was being subsidized at \$1.33. And they are being treated like a stakeholder in this, like the campus needs Panda Express. There were double standards as far as he was concerned, which reflected a huge cultural and class bias that he wasn't okay with. He wasn't okay with it in his Student Union or at his University. He's done fighting that battle, and that was why he doesn't go to those meetings any more. But as soon as this started happening in his Student Union, he started paying attention; and he's been doing some research. And he would like to continue with that.

Regarding the politics of this decision, Mr. Marks said that Mr. Permaul has already prepped the Board by informing them that the vendors and students will fight politically and that the Board had to prepare for that. This was beyond politics, and was about relationships people have with having Mr. Alloun, the owner, make people a cup of coffee personally, hand it to them, and talk to them. This was about Mr. Marquez, if people didn't have their wallet, writing down their name on the receipt, putting it in his cash register, and telling people to pay him when they could; because that was his business model. Mr. Marks said these vendors have built a business model on providing the students with whatever they need. They're working 12-hour days, working to keep their costs low for students.



There's been a smear campaign going on. These vendors have been specifically told that they're being subsidized, over and over again. In April 9, 2007, Mr. Coley is quoted as saying the businesses they have give the appearance of paying, but that the ASUC was actually subsidizing them quite substantially. In May 14, 2007, Mr. Permaul is quoted as responding to a question about how much they were paying by saying they were looking to raise them something between \$.50¢ per square foot, to \$.75¢ or \$1.00. Mr. Spivey then prepared a report that gave the facts. A Real Estate Services specialist came in and said that strong rate there would be \$2.75. Mr. Alloun pays \$3.06. That was \$.31¢ above a "strong rate," and the claim was that Mr. Alloun was being subsidized.

Mr. Marks said that Ms. Vu was right at market rate and Mr. Marquez was slightly below. All vendors have offered to come up to market rate. But Mr. Marks said he didn't know why Mr. Alloun was offering that, and maybe the Auxiliary should offer to give him a subsidy or a thank you letter for the past 25 years of over-paying in rent.

After this, Mr. Permaul focuses continuously on this subsidy. Naia was paying \$1.33. And Naia has locked its doors and was holding that space hostage, while it's stated that there's a desire to protect small businesses. Mr. Marks said he didn't believe that was motivating this. Clearly there are some other concerns, because the desire to protect small businesses was not shown by charging them above market rate.

Mr. Marks said that Mr. Dally, at the end-of-the-year report, said they all liked the merchants in the Bear's Lair to pay rent, but that wasn't going to happen anytime soon. But they're already paying it.

Moving on to December 9, Mr. Permaul says about the RFP, that the vendors would probably ask why they were being bid out since they've been there for 20 years and were still charging the same prices. Mr. Permaul said the Board had to be prepared to say they were looking for change and looking to do things differently. Mr. Smith said it wasn't necessarily a change in tenants, but having students get their fair share. Once again, these figures were not based on any facts and instead, were numbers that were literally thrown around for two years to decide to go to RFP, and they are, at their very least, false statements.

Another thing that's been said is that Mr. Alloun and Ms. Vu have been uncooperative. There are two sides to this story. According to Mr. Alloun, they've wanted a lease, something that clearly showed them what they needed to do in order to get a long-term lease, to have time to recuperate their costs. Mr. Permaul has presented a story that they have been unwilling and have not provided them the plans to get their long-term leases. Mr. Alloun basically was quoted as saying, "Does it say 'stupid' on my forehead?" He wants a long-term lease and will do what's required of him. He wants to stay here. He's been here for 25 years.

Ms. Vu has been really smeared, and he thought a lot of people in the room need to think why Ms. Vu has been targeted more so than anybody there. It's been argued that Ms. Vu has been in violation of health code over and over again. She's never been closed, has never had a letter posted, and hasn't had a hearing in the last three years, since the new health inspector got there. There was also a large amount in the minutes about how Ms. Vu was not complying with her hood system, and it was said in the minutes that she was forced to close for a day. That was not true. Rather, she just wasn't allowed to cook for one day. But she, being the entrepreneur she is, figured out how to get food on the table for students, because she couldn't afford to close for a day. Naia might be able to close for an entire year. Mr. Marquez, Mr. Alloun, and Ms. Vu have payments, families, and employees to deal with, and can't afford to not provide

students with services. They also have a tough time affording thousands of dollars for fancy proposals they're now being forced to engage in.

Mr. Marks said he did a little research. While Ms. Vu was forced to not cook on her hood for one day, that took up a large amount in the minutes. Pauley Ballroom had the exact same violation and has been in violation since 2008. He gave them a call yesterday and asked if he could rent it and cook on the grill, and they said he could. He would ask what was up with the double standard. He asked what was up with having an RFP. It was a complete double standard with hood compliance and a smear campaign. There were no fire concerns with Pauley, but when Ms. Vu did it, it was a big deal. He could go on and on about the smear campaign, but they didn't have time.

Once again, he'd like to emphasize the double standard on one side. They did back flips to not have to engage in a public process to make sure that this new fast-food chain was really the perfect thing for the UC Berkeley campus and yet, they have 25 years of proven viability. He would also ask people to stand up if they were in solidarity with these three small businesses. (Applause)

In conclusion, Mr. Marks said he wanted the Board to do the fiscally and ethically responsible thing, and kept these businesses there, give them a long-term lease, and make sure they get what students need, green certified businesses and the renovation of the Food Court. He would ask them to engage in immediate long-term contract negotiations to keep what they have and immediately engage in an RFP process on this space. He wanted to thank them. (Applause)

Mr. Smith said he would like to thank people for making the presentations. They had to move on at that point. They've given everyone more than enough time to articulate their views.

Ms. Oatfield moved to extend speaking time by two minutes. Mr. Smith called for any objection to adding an additional "hard" two minutes. Seeing no objection, he said they would continue.

Joseph introduced himself and said he worked with Greg on the survey he talked about. He thought there was something a lot of people were missing there. Mr. Marks mentioned towards the end of his talk that they had to realize there were two distinct things the SOB was considering: Naia lounge, or the Panda issue, and the Bear's Lair. Before he talked about this, he'd mention his biases. Joseph said he liked the businesses in the Bear's Lair and was a devoted customer of the Coffee Spot. The average student is there for about four years. These vendors have been there for at least 20 years. He didn't feel that it was entirely fair that they're going, or may be booted out, due to the whims of the current ASUC Auxiliary. However, at the same time, like Craig, he's a populist. And since the SOB did, in fact, have the power to make a decision on this matter, whatever decision it makes should reflect the true beliefs and desires of the student body. He wouldn't make any claims about what those are at that time. He tried to ascertain that with the survey they did. It obviously wasn't a very big sample. He thought more effort needed to be made to determine what that was.

If people on the Board honestly felt that they know what the students want and know students want someone besides the businesses in the Bear's Lair, and they honestly believed that, then they had to make a decision based on their conscience. However, he thought that if he was on the Board, he would not feel comfortable making a decision like this yet, because he would not yet have a basis for knowing what the

overall student opinion was. Everyone saw the Lower Sproul survey that was sent out to everyone. But the questions it addressed were not nearly specific enough to the Bear's Lair for anyone to make a decision about what the student body wanted with regard to the businesses in the Bear's Lair. He thought there was a great deal of support for the current businesses in the Bear's Lair. He wanted to thank them.

Mr. Smith said he would like to thank everyone who spoke and to thank people for listening. It was great to have so many people at the SOB meeting, and he wanted to thank them for attending.

Mr. Rajan said he would like to make two symbolic motions. He would first like to move that Michael Pollan be requested to be a faculty representative to the Board, something the Board hasn't had in a couple of years. He would also like to request, as a symbolic motion, that they do all they could to convince the current Bear's Lair vendors that the deck was not stacked against them. If they do go to an RFP, he would like the Board to do all it could to convince the vendors to reapply, as an RFP didn't mean they wouldn't be successful. And he was speaking as a member of the Store Operations Board.

#### APPOINTMENT TO THE BOARD

Mr. Smith said they have a new faculty member, Dr. John Myers. They're also looking for two student members of the Board. Applications should now be up at asuc.org. If people were interested, they should fill out an application.

Prof. Myers is a professor in Marketing. He's former Associate Dean at Haas. He's been a professor at Cal since 1964. So he's definitely seen how things have changed.

#### DIRECTOR'S REPORT

##### Update of the Seismic Project at MLK, Jr. Union and ASUC Revenues

Mr. Permaul said that it turns out that the campus has revised, once again, the plans for the seismic renovation of the Student Union. This impact will be more substantive on their anchor tenant, the Cal Student Store. The Manager of the Cal Student Store has suggested that under the plans that have been proposed by the seismic renovation, there could be another impact of anywhere from \$500,000 to \$1 million of lost revenue. Right now the Auxiliary was working with the Manager of Capital Projects to try to mitigate those impacts, and they're looking to find a way to help the Cal Student Store meet its operational needs and objectives so the Auxiliary will not face an additional loss of revenue as a result of the changes to the projects.

Budget Impacts for 08-09 and 09-10

Mr. Permaul said that as for the budget impacts for 08-09 and 09-10, they already know that Auxiliary will be faced with personnel layoffs in 08-09, 09-10, as a result of the shortfalls for next year's budget, 09-10. They're going to use operational reserves to assist them at the end of this fiscal year. No one could have anticipated the kind of downturn of revenue since the collapse of the economy last fall.

Mr. Permaul said the Cal Student Store is significantly behind in its revenues from a year ago and won't be able to make the revenue projections they would have anticipated.

Student Cooperative Store Proposal

Mr. Permaul said the Board will hear more about this in the next item.

The group that originally approached the Auxiliary about a month and a half ago has submitted a proposal to develop a student cooperative store in what was the Postal Annex space, inside the Student Union. That is one of the Auxiliary's vacant spaces. It's currently occupied by staff who have been displaced because of seismic work being done in the Union for reservations. But they're developing a proposal and have made requests for funding from a variety of different funding sources. The Auxiliary submitted a letter to The Green Initiative Fund in support of the cooperative's efforts to get a grant. The Auxiliary hopes the cooperative will be able to put together a substantive business model to be able to bring that store to life sometime during the coming year.

Ms. Davis asked about the schedule for the seismic renovation. Mr. Permaul said it will start at the end of May, after final exams, and proceed through the summer, into the Fall Semester. The work was scheduled to end by September 1, but the Auxiliary doesn't believe that will be the case. Most of them think the work will linger until the end of September. But their goal was to have them construction done by the end of September. The work will proceed in the basement and will affect the Bear's Lair Food Court, the 1st floor, and the Cal Student Store, and will impact the 4th floor, Pauley Ballroom, and ultimately, the 5th floor as well.

Mr. Rhoads asked if he got any indication from Capital Projects that the work in the basement, in the textbook area, would be done by the start of classes so as to not impact the budget. Mr. Spivey said their main focus was to return the Bear's Lair Food Court and the Store back to operation on the 1st and 2nd floors as quickly as possible. During August renovation will work its way up to the 3rd floor. So the Union will be out of operation until October 1. But they were working their way up to have a minimal disruption at the opening of school. The Student Union Director was actually working with the Dean of the campus to get a tent up on Lower Sproul after Labor Day to actually facilitate a lot of the events that happen. So they're actually mitigating the impact for that that month, when they won't have services in the building.

Mr. Rhoads asked what will happen with the Store and the Bear's Lair tenants. Mr. Spivey said they'll reopen by early August. That was a promise. Mr. Permaul said that's what they were hoping for.

Mr. Rhoads asked if there was a plan if that didn't happen and spaces weren't ready to be open by August, whenever school started. Mr. Spivey said that would not be an option, and they will be open.

Mr. Deutsch said there was no impact in the textbook area itself, so that wouldn't be an issue. The impact was on the ground level, on the 2nd floor. The date should be July 15 when it reopens, which would give the Store about a 30-day cushion. Mr. Rhoads asked if that was the same for the Bear's Lair Food Court. Mr. Spivey said it was.

Ms. Davis asked if they'll do something for the Food Court as to when it will and will not be open. Mr. Permaul said Capital Projects has still not confirmed the schedule. As soon as the Auxiliary gets that, they'll do an information campaign.

Mr. Rhoads asked if that will be handled by Capital Projects, as it normally does. Mr. Permaul said the Auxiliary has asked to handle the notification process because they feel they'd do a better job.

### PROPOSAL FOR THE STUDENT COOPERATIVE STORE

Ms. Oatfield said students submitted a proposal. She would yield time to one of several co-authors of the proposal, Alli Reed, to recap some of the main points, and then she'd go quickly and touch on some of the logistical concerns. She knew the meeting agenda was behind schedule, so they'd leave the rest of their time for questions.

Ms. Reed said the Berkeley student food cooperative is an idea that has come about as a positive alternative to Panda Express, as something that could serve the Berkeley student community in a way that was healthy for their bodies, their communities, and their fellow human beings. It will be a student-run and cooperatively operated fresh food café and deli operating on Lower Sproul. They'll serve sustainable and responsibly produced and affordable soups, salads, and sandwiches, and also have a grocery section with fresh produce. In order to keep their costs low, they'll operate using the cooperative model, where volunteers can become members of the cooperative. Being a member meant they'd get to vote in decisions and would receive a small discount on all food purchases. In order to be a member, people would have to volunteer four hours a month at the cooperative.

Ms. Reed said that one thing about the BSFC was that it wasn't just going to be working from the storefront, but there would be a rotating system to get students really involved in their whole food system. One week a volunteer might stock shelves and sell food, and the next they might farm at a local farm. The next they might facilitate a workshop at a school, or they might work with an after-school program with elementary school kids on how to grow their own food.

This will allow a way for students to flood into the entire food system that they're all a part of. They're using "The Real Food Calculator" to determine how real an item of food is, which was defined as community based, fair, ecologically sound, and humane. That's what will guide all their purchasing practices. So the cooperative will be a really healthy model. There are so many benefits to not only their campus and community, but to the world at large.

Economically, cooperatives have a history of springing up in times of economic recession because it's a really affordable model. The Berkeley Student Co-operative, which now houses over 1,300 Bay Area students in Berkeley, sprang up during the Great Depression. This was something that was really economically viable.

As for sustainability, 30% of all greenhouse gas emissions come from food and from the agricultural sector. That had huge affects on global warming and water use. A single pound of factory-farmed beef uses almost 1,700 gallons of water to produce. Their food choices have huge environmental impacts.

Health-wise, The Real Food Calculator has standards for health. And in the midst of 50% cutbacks for physical education at UC Berkeley, and growing trends of obesity and heart disease, it was so necessary to have healthy, real food options for their students. And community and leadership development was so crucial because this wouldn't be a situation where someone would come in, give them the food they eat, and then they'd just go on. Rather, this would be something that students would own. It would be their space. And it's not just a hippy co-op crowd, but something for all Berkeley students. It's something they'd own and something they'd have in common, that they were Berkeley students and this was theirs.

Through their volunteer structure, they'll create a sense of student empowerment and ownership. Personally, she's grown in the few months she's been involved. Getting involved in this, she's learned so much, and she really felt like she owned this in a really serious way. This was something they want to be common to Berkeley students.

Along those lines, there are some concerns that will be addressed about their timeline and budget, which was pretty rough, as they're students. And they didn't know what they were doing a lot of the time. But they're learning. This was a learning process. They hope they can course of the to rely on the Store Operations Board's support and experience and expertise on this and that they can work together to create something that was really healthy. (Applause)

Ms. Oatfield said that to respond to some concerns that have been brought up, they have to increase their estimated annual rent by a couple of thousand dollars, which she thought was totally realistic for them to work with. They are willing to work out some kind of revenue sharing model with the Board. They're totally open to that. It looked like their timeline might be a little overly optimistic, but they have people who will be around for a couple of more years, people who were totally committed to working on this. So she would love to sit down and work out the details of seismic retrofitting and look at the space a little more, and have a more realistic timeline. But as far as she knew, it was all very realistic, and they have a lot of students who were really committed to this.

Mr. Rajan asked if they would work just as hard and be just as enthused if Panda Express was also on campus. Ms. Oatfield said they would be. Regardless of the Board's decision on Panda, if Panda came on, she thought they could out compete Panda. Mr. Landau said that especially in the location the Board would put them, they'd be right next to Panda, and they'd plan on affecting their sales as negatively as possible. The Auxiliary was looking at putting the co-op in a corner, and from the beginning, the cooperative has been looking at the STA Travel space as their optimal space, because it's right there; and they'd share the lounge with Naia, just as Panda would.

Mr. Rajan said he was looking at their budget and understood it was rough. Doing a quick calculation of operating revenue versus operating expenses, it seemed like the co-op would be just under-operating the

projected numbers from prepared food and beverage and produce sales, \$180,000 plus \$60,000. But it's \$200,000, with rent at \$36,000 and salaries at \$80,000. He was sure all of that could be worked around. They have a lot of one-time things to cover, like The Green Initiative Fund, Bears Breaking Boundaries, and so on, and many of these could be ASUC-type donations. He asked how often they could use such sources of money, and if they thought they'd receive that year after year. Certainly, these sources would give them a one-year gap. After that, if the ASUC was in a position, it might give them a sustainable model to fund a co-op or subsidize it. He asked if that was something that would enter their business plans or if it was something they could work on together. Ms. Oatfield said they intended for grants they applied for to be an initial start-up cost. They didn't expect to reapply for grants on an annual basis. They hope that once they get off the ground they'll be sustainable on their own. With that said, to keep prices low, she could foresee them tapping into a lot of their community who works to contribute to the ongoing expenses of a co-op and keep costs as low as much as possible. Mr. Landau said that in terms of inventory, some costs are also just for the initial start-up.

Mr. Rajan asked if they had an idea of costs from year to year. Ms. Reed said year-to-year was probably higher than the next year's inventory because they were starting up.

Mr. Rajan said the ASUC was looking at returning this money to student ventures and something like this was a great student venture. If they want funding, these things could be supported in the future.

Mr. Smith said he had a suggestion as they move forward. He thought it would be great to see the projections brought out to longer periods, such as a five-year projection of revenues and expenses, in order to get a better understanding of how the business will operate. Once they get off start-up costs they could see comparable food co-ops people have discussed in the past. Someone mentioned the top food co-op in the country that did \$500,000 in sales. He asked how that compares to other ones, and asked what realistic figures the Auxiliary could work with so they could better figure out what makes sense in terms of rent.

Mr. Rhoads asked Mr. Permaul asked if the potential space will open up October 1, after the seismic renovation. Mr. Permaul said if they could get the space back sooner, they'd open it up. They need to sit down and really put together a substantive business model because they don't have one yet. They could work with the students to do that, and with some of the suggestions that have been made at the meeting. Mr. Spivey is an expert in this area. For buying food, revenue generation, and the model they want to look at, he thought Mr. Spivey could help them fashion this. He thought they had to be concerned about the subsidies after year two because they've only projected \$180,000 revenue in year one. And when they look at the amount of revenue they have to generate to sustain the model, they just had to sit down with the students to see how they could build that to make it work.

Mr. Rhoads asked when they'll hear back from all of the respective funds they've applied for. Ms. Reed said they were told they'd find out the status with TGIF that week. Ms. Oatfield said she thought they'd find out about both that month. Mr. Rhoads asked if there was any time limit on when they had to spend that money if they got funding. That helps the case for the Board to lease space to a student cooperative. But if there's a limit, obviously things would move somewhat slowly. Ms. Oatfield said she didn't think there was a time limit for spending their money. A speaker said that some of them were year-long grants.

Mr. Permaul said that that for one other comment, they had to go to Capital Projects to renovate that space, in order to make it viable for what the co-op wanted. And there were a whole series of timelines

and regulations. They could look at how long it's taken to move Tully's forward, as an example. So the Auxiliary would have to sit down with the students to go over the kinds of requirements that would be needed. And then there were a whole series of certificates that had to be met in terms of campus and local regulations. The Auxiliary would have all that information for the co-op. Ms. Oatfield said they'd appreciate that, and said it would help a lot.

Mr. Rhoads said he knew some Architecture undergrads who could help in drawing up the plans.

Mr. Ortega asked if Naia would be willing to work with the food co-op, and if that was a business model Naia was interested in partnering with. And he asked Mr. Permaul that if Panda Express were to fail, if there was an option to go there. Mr. Permaul said Panda has already indicated to the Auxiliary, at the last meeting, that if the vote did fail, they would still be leaving their investment to the ASUC. So the ASUC would have a build-out.

Mr. Ortega said that if the vote on Panda didn't pass, he asked if the food co-op was a model that could go into the space instead of Panda. Mr. Permaul said they'd have to go through the same set of requirements and plans for the space. But a co-op's needs for the space would not include a hot kitchen; and that wouldn't involve a hood and some of the expensive infrastructure Panda would bring in.

Mr. Morris said that if their company was still in business, Naia would be willing to work with people. But it would be a business venture. Naia's lease entitles them to a legal holding over the space that they hold, and they're not simply going to give that away. They put a lot of money into that space. They allow students to eat food there that they buy in the Bear's Lair when there's no room in there, to come into the lounge and eat. But if it was just assumed that Naia would be a dining area for another business, he didn't know if that made any sense for Naia.

Mr. Ortega said it would be a joint venture, like with Panda. But instead of Panda, it would be a food co-op. He asked if Mr. Morris would share the lease. Mr. Morris said that for a business venture like that, Naia wouldn't be averse to that at all, and it would be a question of timing. They have five stores, and this build-out is the only one for which they went over budget, and it was the only one that went over the predicted time on the timeline. It was more than double what it should have been. So regarding the idea of what the students were proposing, he honestly wouldn't want to take it on.

#### PANDA EXPRESS LEASE

Mr. Smith said they would move on to the Board's discussion of Panda Express. He asked if anybody felt they wanted to look at the contract again, and to move into closed session. Mr. Rajan said that unfortunately, he did. He asked if there was anything that needed to be said before they moved into closed session. Mr. Smith said he could say a couple of things.

Mr. Smith said he just wanted to respond to a few things that were mentioned in the comments period. On the survey that the two students mentioned from 2007, that was actually done through the campus, and was a random sample. He thought it had about a 40% response rate, and so it was very similar to the other survey. Both surveys certainly have their own biases. He just wanted to clear that up.



In terms of the environment and food miles and meat, Mr. Smith said he thought that was a good point. But a lot of students like to eat meat. He wasn't a vegetarian and was interested in eating meat for some of his food. He thought that should be taken into consideration.

Mr. Smith said that most people probably wanted to hear about Panda being discussed in March. Panda came on to campus around that time. In terms of Naia, Mr. Morris said they had no idea about that in terms of their list of 40 or so companies, that he read off, all of which were interested. There was a reason Panda Express was interested, because Panda had been here before and had already expressed an interest. It was only natural that they would continue to be interested in that space. He hoped that sort of explained that a little better.

A lot of the figures that were given were wrong. Mr. Smith said he didn't want to specify too much. The \$100,000, 3-4%, \$77.5, in terms of the amount of revenue Panda would produce, it was significantly more than that Panda's base case. Mr. Landau said those were the numbers he had from the Auxiliary's documents. Mr. Smith said the contractual terms are to remain confidential until after the lease is signed. Mr. Marks said they saw that figure that day in the Daily Cal. Mr. Smith said it wasn't correct, and he would ask the Daily Cal for its source.

Ms. Shah yielded time to Mr. Marchand. Mr. Marchand asked if the terms of the contract confidential. Mr. Smith said the way the contract was written, it will have a certain amount of years. With that said, what was written into the contract was that if Panda got below a worst-case scenario for two consecutive periods in a row, they would just completely leave, and leave all their investment in the space. So if Panda were to fail, they had an out, and would just leave. That was written into the contract.

Mr. Rhoads said that because some Board members have requested to go into closed session to review the contract, that didn't mean there wouldn't be a discussion of this outside closed session. He personally had some comments he'd like to make on the record and he knew some other people also wanted to discuss this in the public realm. He thought the time to review this contract should remain short and to the point. And when they come back out, people could return to the meeting and hear what happens. He wanted to say that before people started to ask questions about the contract. And in the debate followed Robert's Rules of Order, they'd need to frame the debate in terms of members of the Board. That was how the ASUC Senate worked, and how the GA worked, more or less. So they'd follow Robert's Rules of Order.

Ms. Oatfield said that there are people who want to look at the contract, and she was totally in support of the Board looking at the it. She asked if the Board could set a time limit it would be in closed session, so if students wanted to return, they'd know when to come back.

Mr. Rajan moved to meet in executive session for ten minutes. The motion was seconded by Mr. Rhoads. Mr. Rajan said his motion would include allowing Mr. Spivey to remain in closed session. The motion passed with no objection.

This meeting entered into closed session. A motion to extend executive session for five minutes was made and seconded and passed with no objection. With no objection, executive session was extended for ten minutes. With no objection, executive session was extended for ten minutes.

Back in open session, Mr. Rhoads said that as Vice Chair, he would like the Auxiliary to read into the minutes the changes that the Board has proposed to the Panda Express contract.

Mr. Permaul said the Auxiliary was asking the Board to approve the proposed lease for Panda Express in the ASUC mall, in the Martin Luther King, Jr. Student Union, including terms for regular meetings between Panda and the ASUC; language for termination for cause; a ten-year meeting to re-evaluate the terms of the contract; and two mutual five-year options, rather than an exclusive option. Failing agreement on those terms, the Auxiliary would either come back to the Board or terminate negotiations.

Ms. Davis asked about clarifying the financials. Mr. Permaul said the financials were automatic.

Mr. Rhoads moved to adopt those changes into the contract negotiations. The motion was seconded by Mr. Rajan. **THE MOTION TO ADOPT THE ABOVE AMENDMENTS TO THE PANDA CONTRACT PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Smith asked if there was anything else to be discussed.

Ms. Winston asked for a straw poll on the motion to approve the contract. Mr. Rajan said he thought they should just vote, instead of doing a straw poll.

Mr. Smith said they would vote on whether or not to have a straw poll. The motion to have a straw poll on the Panda contract failed by hand-vote 4-4-1.

Mr. Rajan moved to vote on the Panda Express contract.

Ms. Flores asked how many voting members were present. Mr. Smith said there were nine members present.

Mr. Rajan said he would rescind his motion to call the question.

On a point of order, Mr. Rhoads said he would like to know from the Board if they were going forward with these amendments with the understanding that if not approved and agreed upon in negotiations with Panda Express, then the negotiations would fail, or they would come back to the Board. He thought that had to be decided that evening.

Mr. Smith said his opinion was that it was in Panda's best interest to accept these terms because if it went back, it would delay the process even more. So he wouldn't dismiss Panda coming back to the table and the Auxiliary having further discussions with them.

Ms. Raffi said that straw polls were prohibited, according to Robert's Rules. Roberts thinks they're dilatory.

Ms. Davis said she was confused on what the Board was voting on. She asked if they were voting on the contract with the amendments the Board approved. Mr. Smith said that was correct. Ms. Davis said that if Panda agreed to everything, to those amendments, then the Board was done with negotiating. If Panda didn't agree, then the negotiations may fall apart or the matter may come back to the Board. Mr. Rhoads said that was the question he posed to the Board. If Panda rejects part or all of these amendments of the negotiated contract, he asked if the Board would say, "That's it." He asked if the Auxiliary would reject any counter offer or if they would negotiate again.

Mr. Ortega said another, additional question was how to determine any other contract that was negotiated had terms that were to the Board's satisfaction. Mr. Rhoads said he would think that Panda would have to adopt the equivalent terms of the Board, or better terms.

Mr. Ortega said that if the campus was doing the revisions, he asked how the Board would know if that language reflected the Board's intentions. Ms. Harrison asked if a renegotiated contract would have to come back to the Board for approval, and for signature. Mr. Permaul said the signature would be by the Chancellor and the President of the ASUC. Ms. Harrison asked if the contract would have to come back to the Board. Mr. Rhoads said he didn't think it would have to if Panda agreed to the terms the Board had just negotiated. He would assume that would be the responsibility of the ASUC President and the Chancellor, if there were terms that were not satisfactory in their eyes. He would assume that's how it worked.

Ms. Winston said that if Panda does not meet the requirements the Board requested, the Auxiliary would tell Panda to leave. She thought that was the first option. They've gone through all these negotiations, and these new terms were things that were not negotiable. If the reason the Board stated that it was okay to bring Panda to campus was because Panda would be environmentally sustainable and not use MSG, she would ask why Panda wouldn't sign the contract saying they would do those things. So it should be that either Panda agreed to these things or they couldn't come on to this campus.

Mr. Smith said it was all relative, because they didn't know what Panda's reaction will be. So it was hard to judge. Secondly, they're just hearing this right now, so it was hard to know what Panda's reaction would be. Panda might just agree, and say they'd do whatever it took. He thought the things the Board requested were not unreasonable.

Ms. Shah said she didn't think the Board should base its decision on what Panda wanted, and it was the Board that was making the decision.

Mr. Rajan moved to vote on the agreement, with terms that were yet to be negotiated to return to the board to be voted upon; but only those terms to be under consideration when the question came back.

Mr. Permaul said Panda has already agreed to the Board's terms, and what the Board was asking for was enforcement. Panda wasn't being asked to establish terms and those terms were already in the lease. What the Board was asking for was regular meetings between Panda and the ASUC; language for termination for cause, if Panda didn't meet the requirements the Board had; and a ten-year meeting to re-evaluate the terms of the contract. Panda has already agreed to the Board's terms, and what the Board was now doing was putting teeth behind those terms.

Ms. Winston said she thought the Board was adding accountability.

Mr. Rajan said the last two terms Mr. Permaul mentioned both of which Panda changed literally transferred power in the contract. That option right now was something only Panda held. The Board was demanding an option as well. He asked if Panda would be automatically okay with that.

Mr. Permaul said the Board has told the Auxiliary to take these terms back to Panda. Mr. Rajan said his point of clarification was for the Board to see that in writing, the change in that option. He wanted to see that clause again before he accepted it. It changed the substantive nature of the contract.

Ms. Harrison said the Board allows this to be done by e-mail, and there's a procedure for approving things via e-mail.

Mr. Permaul said the flip side should be that as they talk to Panda Express, that the Board, if it gets the language that it has asked for, would move forward. There couldn't be a double standard there. Mr. Rajan said he agreed.

Mr. Rajan moved to approve the Panda contract as it stood. The Board has been delaying this for three years and he thought it was time to put their money where their mouth was. And if there was anything in the specific terms that Panda didn't meet, then the agreement would be terminated. He asked if that was possible. Mr. Rhoads said he believed it was. Mr. Permaul said the Auxiliary will talk to Real Estate Services and make sure they're on solid ground. The Chief pointed out that the Board had the ability to vote by e-mail. Mr. Permaul said he just needed to make sure with Real Estate Services that what the Board was proposing to take back to Panda was acceptable. He'll make sure to get back to the Chair of the Board when he's notified.

Ms. Winston objected.

Mr. Rajan said he would rescind his motion to approve the contract.

Ms. Winston moved to recess for five minutes. The motion was seconded and passed with no objection. This meeting was recessed. Back in session, Ms. Pasco moved to extend the recess by two minutes. The motion was seconded by Ms. Winston and passed with no objection.

Back in session, Mr. Rhoads moved to call the question on the Panda Express contract with the terms that were approved as amendments that evening, with the condition of approval of the technical, legal language that was negotiated that evening. Mr. Smith said that was in terms of approving the legalese was sufficient, not the terms themselves.

Mr. Rhoads said he would restate the motion. He was sending it out to members of the Board. The motion was to approve the Panda Express lease as presented to the Board, including amendments to the language that were approved that evening, pending the translation of those amendments into formal lease language by campus Real Estate Services and reviewed by the Board. The motion was seconded.

Mr. Rajan asked about being "reviewed by the Board," and if that meant that if the Board reviewed the amendments and found them wanting, and asked what would happen. Mr. Rhoads said that was the question he proposed earlier. Either it fails completely or that piece would need to go back to be hashed out. Mr. Smith said there were also two other levels, the idea or the language itself. He asked what Mr. Rajan was referring to. Mr. Rajan said he was referring to the language.

Mr. Permaul said that if the poll of the Board by e-mail says that the language does not, for specific cause, meet those objections, then they would have to re-do it again.

Ms. Hussain said that if they vote on this that evening, yes or no, when it comes to actually hashing out the specific details, she asked if it would go back into review or if it would just be voted on in committee, because right now, there was nothing to be considered. If they pass it that evening, there was nothing that will be considered if those clauses had to be changed, because they're passing it as a whole. Mr. Smith

said it would be passed as long as the Board was happy with the legalese of the terms and Panda met all the Board's conditions.

Mr. Mairena asked if the only way the question would come back was if changes the Board made weren't adopted. The Board was basically voting on the final contract, unless the contract wasn't adopted, at which point the question would come back to the Board. Mr. Smith said they just want to ensure that the legalese was in a way the Board thought was suitable. That was all. That would be done by Real Estate Services.

Ms. Oatfield asked what would happen if the Board that evening tentatively voted yes and then Panda said no. Mr. Smith said it would depend on what Panda said, and if Panda came back with a counter offer or if they walked away.

Ms. Shah said she thought they were deciding what the outcome would be. That's what Mr. Rhoads presented.

Mr. Rhoads said he would rescind his initial motion and would like to propose that the Board would decide what would happen in the case of a rejection by Panda Express. He asked if they would reject any counter offer or negotiate with them.

Ms. Winston moved that if the contract was voted on and is sent with amendments to Panda, and Panda chooses not to accept those terms, that the contract dies and there would be no more discussion. The motion was seconded by Ms. Pasco.

Mr. Rajan said that what he meant to ask was whether they were trying to tie the hands of future Boards, because Panda could always reintroduce the exact same contract. If this specific contract died, Panda could re-introduce another contract, and the motion Ms. Winston made would have been at best vacuous. He asked if that was the case.

Ms. Shah said Ms. Winston addresses that full circle, and there was no ambiguity to it.

Mr. Rajan asked if Ms. Winston's motion was saying that no future ASUC could ever consider a future Panda contract. Ms. Shah said that was not the case, and was saying that this contract itself was terminated. Ms. Winston said the motion dealt with this contract. Ms. Davis said that a future contract, then could be offered by Panda and reviewed by a future Board. Ms. Winston said that was correct, and her motion spoke specifically to the current contract. In the unlikely situation that this contract passed, with amendments, and they bring it to Panda and Panda chose to not make those changes, the Board would terminate the contract.

Ms. Flores said she didn't believe the Board could vote on a contract with pending amendments. This was a really important contract. With Robert's Rules, or any legal proceedings, the contract, once the Board passed it that evening, will bind the ASUC. When they read into the minutes that there are pending amendments, basically that evening they'd vote on the contract. To pass the contract with pending amendments would essentially void the contract because they'd be passing the contract as it currently read. Ms. Winston said it was like passing a bill with an amendment.

Ms. Shah said there was nothing to make this binding on Panda. Mr. Rhoads said it was essentially like an ultimatum. Ms. Shah asked what guarantee the ASUC would have if Panda didn't agree to the

contract. Mr. Rhoads said the ASUC wouldn't sign it. Mr. Smith said the Board would be agreeing to the contract based on the terms being met that the Board set.

Mr. Rhoads said that Ms. Winston's motion was that if Panda Express refused to make the changes, all negotiations on said contract will be terminated. That was the key part of the motion.

**MS. WINSTON'S MOTION PASSED BY HAND-VOTE, 3-2-4, TO HAVE NO MORE DISCUSSION IF PANDA DID NOT ACCEPT CONTRACT TERMS.**

Mr. Rajan asked Mr. Coley what the main problem was with the motion. Mr. Coley said he didn't see any point to going to that ledge at this point. If Panda refused, he would expect an explanation and a counter offer. He would not like to shut that opportunity off.

Ms. Raffi said the way she understood how this would happen is that if Panda didn't agree to the Board's terms, and considering Ms. Winston's motion, then everything would fail. The next step would be renegotiation, and the contract would be different. To propose that to the Board would be a new order of business. So the considerations would just proceed.

Mr. Coley said that's not what he was hearing, and he was hearing an ultimatum, with Panda to either take it or they'd be done. If they're operating from Panda's standpoint, after they've gone through this, he didn't think it was the right way to terminate an agreement like this. These are last minute issues the Board has come up with that are substantive, and he thought the Board should enter into them in a responsible way, the same way they've dealt with all the other amendments they've had to the contract. They fall into negotiations, and the Board should not, in this instance, offer an ultimatum, all or nothing, take it or leave it.

Ms. Harrison said she would suggest that they vote on the contract as written. Should it fail, they would then authorize the Director to go back and negotiate with Panda based upon the information the Board provided. Mr. Smith said that, at the next meeting, then, or whenever, they'd get final approval. Ms. Harrison said that was correct.

Ms. Raffi said that in response to Mr. Coley's comments, she thought the motion was functionally an ultimatum that was empty. This doesn't end negotiations, because there are a sufficient number of people going on with this. The Board was spending time on something that didn't really have any bearing on how this moved forward. It doesn't really affect how the Board considers this contract.

Mr. Smith said he would disagree. If the Board says "This is it," and Panda says "no," then it was over, and he would ask why Panda would keep trying. It was irresponsible on the Board's part. They didn't know what the response will be. It could be that Panda would leave or that it could make a counter offer.

Mr. Coley said the Board already voted this up or down, but in his view, it was more prudent to vote on the contract as it stood, with the pending issues, the three or four amendments the Board has agreed to. People want to review the language. If Panda accepts them, then it's a done deal. If they choose not to accept that, then he would expect them to provide alternate language or alternate items for the Board to consider. Those would be the items that he'd think would come back to the Board, if Panda chose to modify what the Board submitted.

Ms. Raffi said they'd proceed, but with a counter offer, which would be presented. Mr. Coley said he thought they could wrap them into one package. It's not particularly complicated, but it did have to be a step-wise function. The Board already had the big piece, the items they want to amend the contract by. They'd send the whole piece to Panda.

Mr. Zuo said he thought they were all on the same page. People were saying the exact same thing. He disagreed with Ms. Raffi and thought that what Mr. Coley said about the motion being an ultimatum was correct. The Board could pass an ultimatum and Panda could submit something else, and they'd start all over. But he would ask why the Board would even go that way. In standard business negotiations, people keep renegotiating and moving on. There was no need for an ultimatum. That's why he disagreed with Ms. Winston's amendment. It seemed that people disagreed with the motion, and he didn't understand why they voted differently.

Ms. Winston said she was trying to push this forward even though people were saying they don't want to move forward. The motion was saying that if Panda didn't agree with the terms, then the Auxiliary shouldn't continue moving forward with Panda Express. She felt the conversation was now that they could still get Panda involved and for Panda to present another contract. She would ask when the Board would make a decision on this. It felt like it was forcing something down students' throats.

Mr. Coley said the Board makes a decision when there's an impasse, and they have not reached that point. It would be more prudent for the Board to offer suggestions and amendments. If Panda accepts them, then the Board was in a comfortable space. If Panda chose not to accept them, he thought it would be responsible to give Panda an opportunity to offer counter language.

Ms. Winston asked how long that would go on. Mr. Smith said that's what the Board would have to decide at some point.

Mr. Rhoads said the vote that evening, then, was that Panda would get the contract if it agreed to these last few terms. If they don't, then they'd ask Panda what its counter offer was.

Ms. Winston said that if they don't accept them, her motion was for Panda to find another campus. The Board already voted on that.

Mr. Rajan said that in light of this long discussion, he moved to reconsider Ms. Winston's motion. The motion was seconded.

Mr. Mairena said that Mr. Rajan didn't vote on the prevailing side, so that motion couldn't be considered.

Mr. Rhoads moved to reconsider Ms. Winston's motion, in light of the discussion that just happened.

Ms. Pasco asked if roll call was taken on that vote. Mr. Smith said he knew what the vote was.

On a point of order, Ms. Shah said that because there wasn't a roll call and people didn't know who voted, there couldn't be a motion to reconsider.

Ms. Raffi said this was ridiculous, and everybody knew Mr. Rhoads voted on the prevailing side. She asked why the Board couldn't just move forward.

Ms. Harrison asked if they could have their memories refreshed on what constituted a vote and asked if it was a simple majority. She'd like to make certain, because of the significance of this vote, that it was consistent with what SOB rules required. Mr. Permaul said the CAA says it's a vote of the present members of the Board at the meeting. It doesn't call for a quorum.

Mr. Zuo said that if people really wanted to circumvent this, they could make another amendment to strike out what Ms. Winston did and to then add words. But he would ask why they would do that.

Ms. Winston said she felt that they were saying at that time that they should bypass Robert's Rules because people didn't like a decision that was made. She didn't think they could manipulate Robert's Rules based on how they felt about things. That's not how it worked.

Mr. Smith said he would entertain a motion to recess for two minutes.

Mr. Rhoads moved to reconsider the previous motion, made by Ms. Winston, such that if Panda refused to make the changes, all negotiations on the contract would be terminated. Mr. Rhoads said he voted yes and he would like to move to reconsider that vote.

Ms. Flores said they could not reconsider already passed motions because there was no roll call to validate who voted on the prevailing side. So the motion was out of order.

Mr. Kodmur said that if there were only three votes in favor of Ms. Winston's motion, that constitutes a plurality of the available members and it did not constitute a majority. Therefore the motion did not pass and did not need to be reconsidered.

Mr. Permaul said that Section 5 of their rules of order states that unless the Board adopts other rules, it shall use the most recent edition of Robert's Rules of Order. Six members of the Board shall constitute a quorum to conduct business, but a smaller number may convene to consider items as a committee of the whole. Members present and voting at a duly called meeting at which quorum initially exists may continue to transact business notwithstanding the withdrawal of enough members to be less than a quorum if any action thereafter taken is approved by at least the number of members necessary to carry the matter. Mr. Permaul said they have a quorum, they can vote, they're using Robert's Rules, they just had a clarification, a point of order from a visitor, Mr. Kodmur.

Mr. Mairena said their rules don't say what constitutes a majority, and if it's a majority of the Board or of voting members. A majority of voting member was three, as compared to two, and people who abstained don't count.

On a point of information, Mr. Rajan said that he was looking at Robert's Rules, "Frequently Asked Questions," and No. 4, says that in determining the result of a vote, a majority is simply more than half. But that didn't answer the question of abstentions.

Ms. Pasco asked if there was a motion on the floor.

Ms. Hussain said that out of nine members present, they need five people to pass a motion; so the last vote didn't pass.



Mr. Rajan asked if Mr. Coley could formulate a motion to satisfy what he thought would be the right way to do this.

Mr. Coley moved to submit the contract, as written, to a vote, with the four amendments that the Board has recommended. If the vote passes, there would be an agreement if Panda Express agrees to the language that characterizes those four amendments. The motion was seconded by Mr. Rajan.

Mr. Rhoads said the motion was to approve the Panda Express contract with the four amendments that the SOB approved earlier. If the vote passes, the contract will be approved pending agreement of the language that characterizes the four amendments.

Mr. Coley said his motion was that there would be one document, essentially, the contract that the Board reviewed that evening, amended by the four items that they all agreed to. If the Board approves the contract, it was subject to the subsequent agreement with Panda on the language that was finalized for those four amendments.

Ms. Davis said that would be subject to the Board's review. Mr. Smith said that review was of the language to come from Real Estate Services. Mr. Permaul said it would be further subject to agreement by Panda.

Mr. Rhoads said the motion was to approve the Panda Express contract with four amendments the SOB approved earlier. If approved, the contract was subject to the Board's review of the finalized language of the amendments. Mr. Rajan seconded the motion.

Mr. Rajan moved to call the question. The motion to end debate was seconded. He asked to rescind the motion to call the question.

Ms. Winston said she didn't see a reason for voting on it the contract because it was a vote to continue negotiations. It will come back to the Board and they'll continue discussions. She didn't see any resolution to the question.

Ms. Davis asked if students' strategy was to not have a vote. Ms. Winston said she wanted to vote on it that evening.

Mr. Rajan said he'll wait for five minutes and then he'd call the question.

Ms. Flores said that as much as she respected the Assistant Vice Chancellor's amendments, and everybody else's amendments to the contract, students have been working on this contract and all of them have been to past SOB meetings, making amendments to the basic contract. She agreed with Ms. Winston that they should vote on the contract that evening and stop having Panda come up with new agreements. She thought a new contract should be created if Panda Express was willing to fit in the four amendments that were proposed. That essentially should be a new contract. Ms. Davis asked if Ms. Flores was saying that a vote should be up or down on the existing contract, without any of the amendments they made. Ms. Flores said that was correct.

Mr. Rhoads said it was his understanding that a vote on this motion, if passed, would do what it says it would do. If it fails, that was it. He asked if he was missing something. Mr. Permaul said he wasn't. Ms. Shah said that was what they were still deciding.

Mr. Rhoads said that what he didn't understand was whether contract negotiations fail if this motion fails. Mr. Smith said they wouldn't.

Ms. Harrison asked if it was appropriate to ask the students who were voting on this to give Board members some idea of what their thought process was regarding this question and moving forward with Panda. For students who were contemplating voting yes, she would like to know what their incentive was. Her other thinking along those lines was that if somebody was voting no, she would like to know what their thought process was as well, and if it was because of the way the motion was framed, or because they didn't like Panda, or didn't like the terms of the contract. She was trying to understand a little as she was deciding how she was going to vote.

Mr. Smith asked people to please be brief in the explanations in answer to Ms. Harrison's request.

Ms. Winston said she mentioned earlier that they keep going back to negotiations, and she would like closure. If approved, the contract was subject to approval of the Board. There was no mention in the motion about what would happen if the contract wasn't approved by Panda. She asked if that meant the contract would come back. That felt like the Board wasn't, then, actually voting on anything, and they'd keep negotiating. So she wasn't voting for it.

Mr. Rajan said that on this motion specifically, he thought it was quite possible that somebody could introduce an exact same contract and then they'd just start up all over again. He wasn't necessarily wedded to this opinion, but for the sake of efficiency, things would be contextualized better if the contract did come back. They're not tying anybody else's hands down the road. The thing that will stop them or have them actually make their decision was that when this comes back, he'd expect them to have a similar decision, only about the actual contract. And they could either say yes or no to the actual contract. Even then, if the Board votes the contract down, that wouldn't preclude Panda Express from introducing a proposal again a month later.

Mr. Smith said he was a little confused with all that. He liked Mr. Coley's motion. He thought that from Panda's stance, knowing how long everything has taken, it was clearly to Panda's benefit, if everything was reasonable to Panda, to just say "Let's do it." They know that if they want to renegotiate, that could take forever. He didn't think the Board had to have an ultimatum, but he thought it was almost implied because they knew that if they agreed to this, they'd be in, and there would be nothing else for Panda to deal with.

Mr. Rhoads said that were this motion to fail, then they'd vote on the existing contract.

Ms. Winston asked if he was amending this, if it were to fail. Mr. Rhoads said he wasn't. If this motion were to fail, it was basically contract/no contract. But if it passes, Panda Express is approved, pending conditions of the language being approved by Panda. That basically what Mr. Smith just said. Panda could spare itself a lot of time and another vote if it agreed with the terms that evening. If Panda agree, then the Board would have more thinking to do at the next meeting, and decide if a contract without these concessions would fulfill their needs.

Ms. Winston said she had a question for the maker of the motion. The question students had was what happened if it passes. She asked if he would be willing to add language about what would happen if Panda doesn't accept the four amendments. Mr. Coley said it would depend on Panda's response. He didn't want to presuppose his recommendation on the motion as to what the response would be.

Ms. Winston moved to call the question. The motion to end debate was seconded by Mr. Rhoads.

Mr. Smith said this was the vote on the contract.

Ms. Davis asked if it would be cleaner if they just voted yes or no on the existing contract, without any amendments. Ms. Pasco said they'd have to move to do that. Mr. Coley said they went through a whole discussion of the motion. The motion simply was on the contract as amended by those four items, that is, the new proposed contract.

Ms. Davis said this would be the last vote they'd take that evening. Mr. Coley said that was his expectation.

Mr. Smith asked if everybody was prepared to do that.

Ms. Pasco asked to have the motion repeated. Mr. Rhoads said the motion was to approve the Panda Express contract with the four amendments the Board approved earlier. If approved, it was subject to the Board's review of the finalized language of the amendments.

Mr. Rhoads said that if approved, they'd send the contract back to Panda. If Panda doesn't like it, Panda could come back to them. If Panda approves it, it's a done deal.

Ms. Shah asked if it was correct that if it's not approved, it dies permanently.

Mr. Rajan called the question. The motion to end debate was seconded by Mr. Rhoads.

Roll-call vote was taken on the motion to approve the Panda Express contract, as amended:

YES	NO
Mr. Rhoads	Mr. Ortega
Mr. Smith	Ms. Winston
Mr. Rajan	Ms. Pasco
Mr. Coley	Ms. Harrison
	Ms. Davis

Ms. Winston moved to close the rolls. The motion was seconded by Ms. Pasco and failed by hand-vote 2-5-2.

Ms. Winston moved to close the rolls. The motion was seconded by Ms. Pasco. Ms. Winston asked to rescind her motion.

Ms. Pasco moved to recess for three minutes. The motion was seconded by Mr. Rajan and passed with no objection. This meeting was recessed.

Back in session, Mr. Smith noted that it was 10:54.

Ms. Pasco moved to close the rolls. The motion was seconded by Ms. Winston and passed by hand-vote 5-2-2.

With the rolls closed, the motion to approve the Panda Express contract failed 4-5-0.

Mr. Rhoads voted with comment. He thought it was unfortunate they didn't actually sign the contract as is that evening. But he would like to say that he'll be making a motion to send back to Panda Express the request for the four amendments, for continued negotiations. The motion the Board just failed did not prevent that from happening. So while Panda was not approved with these terms, the four amendments, it also did not fail. So he was proposing that the Board later on continue negotiations with the four amendments the Board approved that evening.

Mr. Rajan voted with comment. He agreed with Ms. Winston on one point, that this question has been going on too long, and needed to be decided upon soon. This might be the meeting where that's decided, or it might not. He was willing to wait until May, but no longer. He's made a lot of mistakes in the past and was willing to own up to that. He's made a lot of mistakes his entire life. He just couldn't sit there and let this keep going. That was why he voted as he did.

Ms. Pasco voted with comment. She wanted to thank all the students and everyone who stayed so late at the meeting. That definitely said a lot about students really caring about the issues they face on their campus. She's glad they all stuck it out. If they do decide to continue to renegotiate with Panda, for whatever process happens, it should be as transparent as possible, with the most student input as possible.

Ms. Winston voted with comment. She wanted to thank everybody who's come out and expressed their opinions regardless of what those opinions were. She was frustrated. She would love some closure. She didn't feel it was democratic to vote on this, and then at the end of the vote, which failed, to then say they'd continue discussion. Then she had to wonder why she spent two hours having the discussion. But she understood how this worked. She will vote against that motion and felt the decision they made that evening should be final decision, and she hoped they could make a decision.

Ms. Harrison voted with comment. She would apologize to anyone who was frustrated as the result of her vote. She felt very torn about her vote, and they took it extremely seriously, because she believed that their responsibility was to make sure that they commit the campus and the students to a long-term relationship and a contract. They need to make sure they're doing their due diligence and that they really understood the ramifications of the decision. She really wanted to get a sense from all the students and everybody in the room who have attended and shared their thoughts, and she thought she had a sense of how they all felt. What she was trying to do was to get a sense of how students on the Board, who are charged with the responsibility of voting, were feeling about this, and what was driving them to entertain the idea of having Panda Express do business on this campus. She too was committed to bringing this to closure at the May meeting, one way or the other.

Mr. Rhoads moved to direct the Auxiliary to negotiate further with Panda Express, with that evening's changes to the contract.

Ms. Harrison said she would suggest what she thought would be a friendly amendment, and to also to review the financial aspects of the contract.

Mr. Rhoads moved to direct the Auxiliary to renegotiate the contract with Panda Express with changes the Board approved that evening, including clarification of financial information.

Ms. Davis asked if it was only the changes they've talked about that evening or any changes. Ms. Harrison said she added financial matters. Ms. Davis said that it could be other changes as well.

Mr. Rhoads said his motion was to renegotiate the contract with that evening's changes, the four amendments previously mentioned, approved by the Board, including the clarification of financial information, and other possible changes.

Ms. Davis said it could be broader than the four things that they've identified and the financial things Ms. Harrison added, or if negotiations would just be on those four things plus the financial aspects. Mr. Rhoads said those are the things they talked about.

Mr. Rhoads said the motion was to direct the Auxiliary to renegotiate the contract with that evening's changes, approved by the Board, including the clarification of financial information, and/or other terms. The motion was seconded by Mr. Smith.

A roll-call vote was taken:

YES	NO	ABSTAIN
Mr. Rhoads	Ms. Pasco	Mr. Ortega
Mr. Smith	Ms. Winston	Ms. Davis
Mr. Rajan		
Mr. Coley		
Ms. Harrison		

A motion to close the rolls was made and seconded and passed with no objection. THE MOTION TO DIRECT THE AUXILIARY TO RENEGOTIATE THE CONTRACT WITH PANDA EXPRESS PASSED 5-2-2.

Ms. Winston voted with comment. She didn't like this and felt there were certain individuals or stakeholders whose perceptions, ideas, or interests were being taken more seriously than other people's interests. She didn't understand how it was that the Board had a discussion to call for a vote on Panda Express, with a vote against a contract, and then another vote to keep moving in that direction. She didn't understand that and asked whose interests were being represented at that time, because it wasn't hers. She asked how they stop Panda Express from coming. That was her question.

Mr. Smith said the Auxiliary will go back to Panda, discuss the four terms, clarify the financial terms, and get that all done by May. And the Board may have to vote on this again.

On a point of personal privilege, Mr. Nahabet asked if Pres. Winston would like negotiations to not continue, if she could make a motion requesting that the Auxiliary stop all negotiations.

Ms. Winston moved to have the SOB stop all negotiations with Panda Express. The motion was seconded by Ms. Pasco.

A roll call vote was requested.

YES	NO	ABSTAIN
Ms. Pasco	Mr. Rhoads	Mr. Ortega
Ms. Winston	Mr. Smith	
	Mr. Rajan	
	Mr. Coley	
	Ms. Harrison	
	Ms. Davis	

A motion to close the rolls was made and seconded by Ms. Winston and Ms. Pasco and passed with no objection.

The motion to have the SOB stop all negotiations with Panda Express failed 2-6-1.

Mr. Smith voted with comment. He would hope that if they can get everything done by May, they could make a final decision. At that point they'll know if Panda will agree to the terms and have a better understanding of the financial situation. He would hope that everyone will have an opportunity, before the meeting, to review the contracts so they're comfortable with everything in and so they could make a decision at that point. They'll know whether or not Panda agrees with the terms. The Board could then decide, and that would be it.

Ms. Pasco voted with comment. She said that earlier she felt really uncomfortable voting with some of the amendments that were made in terms what people were trying to push forward, and voting on the contract with amendments that seemed to be agreeable to Panda Express. She didn't vote with that assumption. If they wanted to renegotiate this contract anyway, they should have tabled the decision until their next meeting, so they wouldn't have students coming there thinking the Board was voting on this contract, and then it not being the end of that conversation. To her, this vote was very symbolic of a lot of things. She felt they just lied to a lot of people.

Ms. Davis voted with comment. Her comment was on the legalities or protocols of just stopping the contract at that point. She needed to ask some questions about whether that was possible or where they were with the negotiations with Panda, or what Panda was expecting. She didn't know if they had the context to do something like that, and just abruptly say "no." She would have wanted to have a little further discussion about protocols for that.

Ms. Oatfield moved that if a decision about the Panda Express contract is not reached by the end of the next SOB meeting, that at that time, they bring this issue to a close and stop keeping people on the fence, out of respect for the dozens of students who have been researching this issues extensively, and almost did the Board's job for it.

Mr. Zuo said the motion was dilatory in that the Board voted on that exact same thing. It was a new motion for the same thing. Ms. Winston said her motion before was for that evening, and Ms. Oatfield's motion was for the next meeting.

Ms. Raffi said they could consider the motion at the next meeting when they get to it.

Ms. Davis asked what the process was for negotiations. There was concern about elements in the contract. She asked what the process was in terms of identifying the problematic aspects or concerns people have about it. Mr. Rhoads said it was just a continuation, the same thing.

Ms. Oatfield's motion was seconded by Ms. Shah.

A roll call vote was taken Ms. Oatfield's motion:

YES	NO	ABSTAIN
Ms. Pasco	Mr. Rhoads	Mr. Ortega
Ms. Winston	Mr. Coley	
Ms. Davis	Ms. Harrison	
	Mr. Smith	
	Mr. Rajan	

A motion to close the rolls was made and seconded and passed with no objection.

The motion to bring discussions to a close if a Panda Express contract is not reached by the end of the next Board meeting failed 3-5-1.

Ms. Winston voted with comment. Out of respect for the students who have come to the SOB meetings, and also for the students who were on the SOB currently, and who have sat through this for a year, and were aware of this information, students who will no longer be there after May, she felt the Board could postpone this decision as long as they want and have student government turn over and have all that institutional knowledge lost, and continue to have the Board manipulated, with decisions made that don't reflect student wants.

Mr. Rajan said he would like to use that exact logic for the RFP, which he wanted to move on to. He thought the RFP has gotten to the point where the Board had to make some important decisions about the future vision of the Bear's Lair. He didn't think an RFP would automatically result in changes, but would provide new information. He thought the Board was qualified, given its many years of service, to do this, and he thought it needed to be done now.

Mr. Rajan moved to move discuss the RFP agenda item at that time. The motion was seconded by Mr. Smith and passed with no objection.

#### ASUC FOOD COURT RFP

Ms. Winston moved to have a straw poll on the RFP.

Mr. Smith said the straw poll was whether or not to approve the RFP. After a straw poll was held, Mr. Smith said the result was 2-2-2.

Ms. Oatfield said she was initially very open to the RFP process for the Bear's Lair Food Court, but now she felt it was a huge injustice. Naia, STA, and the other locations were not going to RFP, but the vendors who are there would go through an RFP process, which would be a lot of work for them. She thought that was unfair and thought it was a double standard. If they do an RFP for the Bear's Lair, they had to do an RFP for everything. They had to hold Panda to that standard as well.

Mr. Smith said he disagreed, because those businesses were under long-term contracts, whereas the Bear's Lair businesses were month-to-month. So there was a difference in how it was legally seen.

Ms. Winston said that part of the injustice was that Bear's Lair vendors were not under a contract. She asked how Naia got a contract in such a short period of time while the other vendors have been there so long. That was another example of double standards. A point was brought up about fiscal irresponsibility involved in going to an RFP in the Bear's Lair. New businesses fail at a rate of 40-50%. They were in an economic crunch and the Auxiliary was concerned about income. She would ask why they would get rid of the only businesses that they know for sure could withstand staying in their spaces. They provide guaranteed income, and she would ask why they would get rid of them at this time. It didn't sound smart to her.

Mr. Rhoads said he wasn't sure how he was voting on this. They have a unique time, because if they look at the issue objectively, they have three spots that were up for lease renewal. It offered a unique opportunity to change what was currently in existence. With that said, the RFP process was transparent and was, he thought, the most transparent process for something like this. His sticking point was something that was a good point that was brought up, that the existing vendors have been paying a legitimate rent, consistently. He was conflicted between the transparency issue and going with something that they have. There was nothing wrong with what they have, per se. There are some things they don't like in the Food Court, maybe quality of service, or quality of space, or food products, or environmental sustainability. There are things they don't like. But they do know they work and they pay their rent.

Mr. Zuo asked if the terms of the RFP would be released in open session. Mr. Permaul said they have copies of the RFP. There was nothing about them that needed to be in closed session. Mr. Spivey said the vendors who were there that evening, if they read it, they'd be privy to the terms and conditions before the RFP was released. Mr. Permaul said they couldn't let the current vendors see the RFP.

Mr. Zuo said that he felt the ASUC had a right to ask for a better deal from their vendors from time to time. Ideally, the RFPs could be sent out and the vendors could renegotiate the contracts, and the Auxiliary would choose them. Ideally, they'd get 5-10% more revenue. That might not happen, and maybe other businesses would come in, but he would like to see the current vendors stay and be given some preference, as long as they had the best proposal. Under Mr. Tran's suggestion, Mr. Zuo said he's taken the initiative and e-mailed a whole bunch of business groups, asking them if they would be willing to donate their time and effort to help out the current vendors. And students have done that. They've met with vendors separately and will work with them on an individual basis, helping them craft this proposal. Mr. Zuo said he'll get involved with that, but he has connected students with vendors. So if this went through, the vendors would get some help. He hoped this will lead to future cooperation between students and the Auxiliary.

Mr. Coley asked if this would apply to all of the current vendors. Mr. Zuo said it applied to the Coffee Spot, the Taqueria, and Healthy Heavenly Foods.



Mr. Rajan said he would go with “two wrongs don't make a right.” It can be interpreted as a double standard, but it wasn't something insidious that the Board wanted. It was the exact feedback they got, saying that an RFP would be the most transparent process, realizing late last year that the SOB process was highly opaque. This was the only thing he could think of that would do that correctly. Matt Marks spent a lot of time crafting a very good argument on why the current vendors had to stay. That's something he wished they could consider once all the RFPs are in and they decide what businesses they'd like to see in Lower Sproul. They're struggling now, certainly, because none of them have a vision for what they want for Lower Sproul. If they had a vision, they could say Panda did or didn't meet that vision. None of them have written down a vision and this RFP would let them do that. They keep putting that off. They never fully think of all the tradeoffs. He would like to do that now and thought this was a perfect opportunity. It would be a big mistake to have a private RFP because the deck was definitely not stacked against current vendors. The Board has heard logical arguments in favor of current vendors, so he would ask them to please apply. An RFP was never meant to drive out current vendors, but was meant to start doing things correctly, because things have been done incorrectly for so long. And it would be fair to everybody.

Mr. Smith said he wanted to warn of danger to the SOB with regard to the status quo. Over the last ten years not much has changed in their financial situation, and the financial situation of the ASUC has continued to worsen. So at some point they had to do something differently. With that said, regardless of how the RFP worked, and whether they go forward with it or vote against it, whether they have current tenants or go with an RFP, in the end, it was in everyone's best interests to look for a long-term contract where the space was renovated and the Auxiliary would get a lot of the terms that students expect, which were already written into the RFP. If they decide to vote down the RFP, their expectations for the current tenants would be to meet the terms of the RFP.

Ms. Winston yielded time to a speaker. The speaker said that saying this was a unique opportunity made him uncomfortable. All the different stores have been really good tenants for the past 20 years or so, and this “unique opportunity” was time to hold them to a higher standard, when these businesses have been great tenants for the Auxiliary and the ASUC for a very long time. In that sense, he felt that if anything, this time, with seismic retrofitting, should be a time where they had to do this. But the one thing they should count on was that the Auxiliary should want the businesses back, and not pose higher standards out of the blue. The businesses have wanted a long-term contract for a long time. The RFP served as a way to kick them out.

Ms. Winston said she thought Mr. Rajan was right in that several wrongs don't make a right. She felt the Board was making mistakes, and they've already started down that path. They could do something right at this point, and give the current vendors a contract that had all the ideas and desires the Auxiliary wanted for the spaces. Like they do with other businesses, they'd negotiate a contract. And if they don't fit the needs of that space, or they don't meet that contract, then they'd go to an RFP. She loved the idea of having Business students work with these businesses, but these are people's livelihood. It was so pretentious as undergrads to do a project with somebody's business. She thought they were playing with people's lives. The Board should do the right thing and give contracts to businesses that are already there. And if they don't meet the needs of the contracts, then the Auxiliary could renegotiate and find businesses that the Board wants.

Ms. Shah yielded time. Mr. Marks said that nobody in the room was advocating the status quo. A long-term lease was what they were advocating for. That would make things greener and result in hundreds of

thousands of dollars in investments in the Bear's Lair Food Court. And it could possibly result in higher rent, although he thought they had a serious information problem about whether that was a necessity. The vendors were embarrassed about how the Food Court looked and they want to renovate. But they haven't had a long-term lease. Where they were a year ago was discussing a long-term lease. If the Board had done that, they would have had more money right now, and a guarantee, and this wouldn't be an issue. What they were discussing back then was not the status quo, but going beyond that. How they got to where they are today was important. The packet has information on statements that were made from a long-term contract to an RFP. If these statements had not been made, the Board would have been done, and they'd have a long-term agreement.

Mr. Marks said there were statements in the minutes that the vendors were paying below market rate. The fact that the Board felt these vendors were paying below market rate was the primary thing fueling the RFP. He asked where these numbers come from. Mr. Marks said that Mr. Spivey reported that Mr. Alloun paid \$3.06 per square foot. That was more than the Bear's Lair Pub, and well over twice as much as Naia. And those things were never mentioned. Mr. Marks said he knew that people thought this was a very transparent and public process, and he agreed. He thought the Board's integrity was awesome; and that's changed some things for him. But it didn't change this one fact. Something there needed to be validated. In a letter, Mr. Permaul said the ASUC didn't exist to subsidize small businesses. But such an argument was not just misleading, but was actually false. Before the Board votes, that needed to be explained.

Mr. Rajan said that Mr. Marks had a phenomenal argument as to why they should keep the Bear's Lair vendors, and that would still hold water when the RFP process was decided. He would like this to be a part of the decision-making process if, for nothing else, than to set a good example for future Boards. One problem they had was that they don't really know why the SOB exists. He didn't really know, and for three years he's been trying to figure out why it exists. It was frustrating to go year in and year out and not know that. This RFP would let the Board figure that out. It would do it in a rushed timeframe, but if the Board didn't do it now, it wouldn't get done for another year. That vision wouldn't be written and this process would just keep plodding along in its incredibly inefficient way. It was time for the Board to step up to the plate, and this was the way they could do that. He wanted to be as transparent as possible and didn't want the Board to endanger the livelihood of people whose businesses were at stake. He would do his utmost to make sure this was as fair as possible, as will his colleagues; and they'd do it right.

Mr. Smith said he had another response. In terms of market rate, he would respond that market rate was a rate someone was willing to pay. If the Board went to an RFP they'd find what people were willing to pay, and that would establish market rate, regardless of what people have said. That was one way to establish it.

Mr. Marks said he would ask Mr. Permaul and Mr. Spivey to substantiate the numbers they continuously point to. Board members needed to think about how they got from long-term negotiations to an RFP. There's a reason they were where they were that evening. It was all in the minutes. There were a lot of misstatements and wrong information.

They know Ms. Vu has hired a lawyer. That was not a threat or coercion. When a decision was made to not have an RFP for Naia, one of the main decisions was because of the possibility of a long and costly legal battle. Helen Levay has been in real estate for 20 years. She states it was likely for a decision to go

in a tenant's favor when a tenant did not fully understand the terms of their agreement. That was especially true if a landlord was perceived to be more sophisticated and if the tenant was perceived as less knowledgeable about real estate and leases. Beyond the legal battle, there would be a huge public relations battle. It would reek. Despite the integrity he's come to find that was involved in the SOB, factually and in the minutes, it really reeked. That was something to keep in mind as the Board considered this. Mr. Marks said he hoped this didn't come across as a threat, but as the facts.

Mr. Smith said that in terms of the gap, they had meetings of student members of the Board and the idea to go to an RFP was student driven, in an effort to be more transparent, because there had been some criticism. That's how they got to that point.

Mr. Permaul said he had two points of information. There are no long-term leases contemplated for all these vendors. Two vendors were going to be given two-year contracts, with the expectation that renovations would be completed within a year, with plans to be submitted. The third vendor was going forward with a longer-term contract. Secondly, when they talk about market rates, Mr. Spivey did a survey that showed that market rates on Telegraph Ave., were between \$2.75 and \$3.25, for local businesses, particularly vendors adjacent to campus. Also, market rate would include a percentage of revenues. The Board currently does not collect any percent of gross from Bear's Lair food vendors, which it does from the Bear's Lair Pub in its contract. That will also be collected from Tully's and would have been collected from Panda, and that was also the case with Naia. So as they will recall that they wanted included in the RFP was not only a base rent, but a percentage of sales, which would substantially chairs the revenue.

Mr. Permaul said he's heard conflicting statements that evening. One was that vendors were fully prepared to spend substantial amounts of money not only on capital improvements, but on rent as well. So it would seem that if they go to RFP, that would all be clarified in that process. As was pointed out earlier, market rate is set by the proposals. The Board didn't have to accept any proposal. The whole notion was that they were going to see what was out there. Statements made previously seemed to imply that there was some dishonesty in the process, and he didn't think there was.

Ms. Pasco said she agreed that the RFP was most transparent at this point. But she thought that even going through the RFP process was putting an obvious band-aid on the process that happened in prior times that was not transparent, the real reason why the vendors have been on a month-to-month lease for so many years. A lot of the class issues brought up earlier really resonated with her. As a low-income student who has been going to the Bear's Lair for the last five years, she was in favor of working with the vendors they now have. They are a source of guaranteed income. She was conflicted with this issue just because a lot of things were going on at that time with Panda Express, Lower Sproul redevelopment, and the RFP process. She thought the Board needed to be very critical about all the decisions it was making and they need to look at the situation very realistically. She didn't think going to RFP or getting rid of the vendors they have now would be any good for the Board, and she didn't think that would be a smart decision to make at this point, especially the way the economy was. The financial protections the ASUC needs and wants won't obviously come over night. She didn't feel the effort to maximize the potential of the current vendors was done in good faith. She was in support of keeping the current vendors they have and making sure the Board worked with them to establish a long-term contract, as the vendors have proven that they can withstand a lot of whatever economic situations have happened in at least the last 30 years.

Mr. Rhoads said that like many people on the Board, he saw a lot of value for the existing tenants. But he was starting to think that because they were there already, and because they seem to think that they could fulfill the requirements the Board has already set for the RFP, that maybe they should have the first right of refusal. It would be tough bidding on a space occupied by an existing tenant. It was already the tenants' spaces, and they had more to lose than somebody had to gain. But he also understood the argument that they had an upper hand in an RFP, if they decided to have an RFP. He thought people on the Board knew that. But maybe vendors can put their money where their mouths were, so to speak. If the Board gives current vendors the first right of refusal, on extremely similar terms to an RFP, and the vendors accept those terms, and meet the requirements within a certain amount of time, he thought the Board would get what it was looking for in improving the space.

Mr. Rhoads said this might not be the most transparent process in terms of going out and seeing what the Board could do, and envisioning the Bear's Lair, but he wasn't convinced that had to be done, since they had these three people who knew the work there. He thought the Board could agree on terms. If the vendors say they can't meet the RFP, they'd be month-to-month. This was vendors' opportunity to decide if it was worth staying or not. If they stay, the Board would get what it needs. And if a vendor left, the space would be opened up to an RFP. An RFP was the most transparent process.

Mr. Rajan said that if this was January and Mr. Rhoads was proposing that, he would agree to Mr. Rhoads' suggestion. But it was April, and by proposing that now, he was worried that effectively, they'd just be punting. They'd go with something safe but not necessarily optimal, just because the Board was afraid of making a mistake. That's not going to change next year, and they're going to lock people in to a long-term contract. He had no doubt the current Bear's Lair vendors could put out a great RFP, especially with Mr. Marks and all his work. Mr. Rajan said he was pretty sure that an RFP from the vendors would come back looking solid. He thought there was an inherent bias in vendors existing in that space and having a proven record, but he would like the biases to be on the table and considered in full. People were elected to be on the Board to lead, and he hasn't seen leadership from the Board except Board members saying they were too afraid to make a mistake. Mr. Rajan said he's made lots of mistakes, and people have gone through the minutes and have explained all his mistakes. That was fine. He wanted all the information at this time, after three years, to make a decision that was hopefully right, and that he would stand behind. He felt he wouldn't be given that opportunity if they do this little back and forth. And they'd never take a stand as to what students really believe, and the Board would just keep punting.

Ms. Ude said it was a matter of students knowing what they want, and that being respected, and acting in good faith for businesses that have been tried and found to work. That was a major concern. There was no question of these businesses failing or succeeding. The Board should take seriously the fact that people had a personal stake in these businesses, and that shouldn't be glossed over.

Ms. Oatfield yielded time to Ms. Frishberg. Ms. Frishberg said that part of Mr. Rajan's concern was about good business practice and why Naia wasn't put under an RFP. People were saying they want to change things, so they should do an RFP, since that was fairest. But Naia was in violation of its contract, as Mr. Permaul has stated. These current businesses have not violated their contracts. Being transparent equaled being fair, and she would ask if this intent was fair. The current vendors didn't violate their contracts in the same way Naia did, so she wasn't sure the two issues were the same. People might see it as a double standard, but she didn't see it that way. Secondly, it's respectable to question prior decisions and ask if mistakes were made. That doesn't show a lack of character, but that there was enough humility to question their prior decisions. Thirdly, perhaps she'll be doing a timeline on RFPs for a month, but she

wanted to read two things she found interesting, as she went through the RFP process. She didn't include this in the timeline she presented before because she didn't want to mix the two issues. The question she had was with people who say the Board did not intend on kicking out the current vendors. Some statements might say otherwise.

From the October 14, 2008 Board meeting:

Mr. Smith said he wanted to get the Board's opinion on something. If the campus didn't approve this deck location, since everyone was really excited about the Brazil Café, he asked about the Board's opinion to potentially replace a current tenant in the Bear's Lair with the Brazil Café. Mr. Rhoads said he wouldn't phrase it like that, but not renewing a contract with somebody.

Ms. Frishberg said that at that same meeting was Mr. Carruthers, of Brailsford & Dunlavey. Mr. Smith said he was hired by the campus to do a study of the retail space on the campus. Mr. Carruthers' firm was heading up Lower Sproul renovation, and Ms. Frishberg said she talked to him as well.

From the October 14, 2008 meeting: "Mr. Ortega said that would include all the businesses in the Bear's Lair. He doesn't go there because even if the food was decent, there was no place to sit." Ms. Frishberg said that Mr. Ortega's intention was against the businesses in the Bear's Lair, but he seemed to have an issue with the seating space the Auxiliary was in charge of. But it was scary to see these things pop up and then hear that the Board's intent was to support these businesses. People sometimes say things that don't support these businesses, and say the opposite of that idea. She thought it was a good idea for people to say what their vision was.

Ms. Ude asked how they would go about saying they didn't want an RFP and just wanted to have a long-term contract for the vendors. Mr. Smith said that theoretically, they could do that by a motion to offer the terms of the RFP as a first right of refusal to Bear's Lair vendors.

Mr. Smith said he wanted to read a statement from the Brailsford & Dunlavey analysis, from the presentation the consultants made a couple of meetings ago. It states that food service options were mostly centered around, near, or in Lower Sproul Plaza. In the King Memorial Union, the dining options were located in the Bear's Lair Food Court and were operated by independent vendors who lease the space from the ASUC. Current options include the Coffee Spot, Healthy Heavenly Foods, Taqueria el Tacotento, and the Bear's Lair Pub. The Projects Team believes these retail units generally under perform because of poor exposure to campus traffic and do not differentiate themselves from their counterparts on Telegraph Ave. and Bancroft Way when it comes to appearance, level of service, and price points.

Mr. Smith said that part of that was the Bear's Lair Food Court itself, the location, which was no one's fault. With that said, if it was the opinion of all the students that the first right of refusal was the best option, he could be swayed. He thought it was important to note that maybe there was something better out there. Or maybe not, and maybe what is in the Bear's Lair was the best thing for them. He didn't know.

Ms. Shah said she felt this RFP process was feigned attempt at transparency, and they could actually do other things to address the issues that were more pressing, in her opinion, such as asking Naia for the RFP. For the past 20 to 25 years, the existing businesses have provided their students with services and revenue. In recent years it hasn't been improving, but she thought that was mainly because the vendors

haven't been offered a permanent contract, and were month-to-month. Being permanent would help with the area's appearance, make it more appealing and improve foot traffic. She didn't think it was the correct way to address the issues they have with transparency at these meetings. They shouldn't have an imposition on reliable sources of income. These vendors have been loyal to the ASUC for the past 20 to 25 years. She didn't know how it could be said that they might not be suitable, because they have been.

Mr. Coley said there may be a solution there, with all the comments he's heard. There's something that organizations often do, a Request for Information. The Board could go that path, and identify what restaurants would indicate that they had some interest in coming there without putting forth a full-blown proposal. That would assuage the concerns Mr. Rajan had, which were valuable and long overdue, to take the time to find a vision and what they expect from the space, to be able to raise the bar to position they want. Short of that, they could envision what they want without going out to an RFP. They could identify the parameters and do the research, without having people declare. The Board could say what they envision for this place, the return they expect from it, and the types of contracts they'd want in any agreement. If they're all satisfied with that, then they could present that to the current tenants. To the extent that they were willing to rise to that level of expectation, that would be a way to possibly get to the same end point without putting them in a space where the vendors would feel they didn't have the first right of refusal.

Mr. Rajan asked who would pay for the Request for Information and do the analysis. If they go out to an RFP, somebody else would do that, the people who submit the proposals. The people who do the research will be the people submitting the RFP. Having the Board figure out what they want would be a lot of manpower.

Mr. Alloun said that to submit an RFP had many steps. They had to put together a proposal to the landlord and a floor plan was needed. That could cost \$5-10-15,000. He asked how many people would spend that for something they might not get. They're talking about \$15,000. Just to do a blueprint was \$17,000. By asking for an RFP, the Board shouldn't think that people would do the heavy lifting for them, or spend money. It required an architect and a contractor and it costs a lot. That was the reason why he didn't do what Mr. Permaul asked of him a year ago, which was to submit a proposal to him to remodel his place. And Mr. Alloun said there would be nothing in writing to guarantee that if he spent \$17,000 on a blueprint, he would get a contract. If he wasn't guaranteed a contract, he wouldn't spend that money. Whatever needs to be done he'd do it. He was the highest paying tenant. And he was willing to pay more and to go green, whatever it took to stay there, because he loved it. But he needed a written contract.

Mr. Alloun said that in the year 2000, he gave Tom Cordi an open check for Mr. Cordi's own contractor and architect to do his space. It cost him \$200,000 in the year 2000 for the spaces, which Mr. Cordi did himself. He had his own architect, and he designed the place the way it currently was. And Mr. Alloun said he never got a contract. He asked why he would make the same mistake again and do a renovation with nothing in writing. He wouldn't. He lost quite a bit of money. The Auxiliary, Mr. Cordi, asked Cheese 'N Stuff to be a partner. And Mr. Alloun said they paid the old tenant \$100,000 two years ago. And that was on record, to have Cheese 'N Stuff there. But it didn't work out. They thought it would do a tremendous amount of business and they didn't make it. Mr. Alloun said he had to buy him out, and paid \$80,000 last year on the terms that they'd get an extension on the lease and open them both together; and all that was on a verbal agreement. "Go ahead, no problem." That was the expression he got. And now, he was getting hit with an RFP. That's why it wasn't fair.

Mr. Alloun said he's been serving the students for 25 years and everybody knew him. He has not raised his prices for the last ten years, and he'd challenge anybody to say otherwise, or that they could get any better service than they could get at the Coffee Spot. He would like to thank them for allowing him to speak. Mr. Smith said he would like to thank the vendors for staying.

Ms. Ude said that to preserve the Board's integrity, the thing to do would be to give a long-term contract. Aside from contracts, they had to consider loyalty, which isn't given enough weight in this space. It was in poor taste to not do that. They're not paying enough attention to how insulting they were being to people who have shown the utmost loyalty by staying with the ASUC for so many years. An RFP would be disrespectful, she would like to have them in a long-term contract, especially since things with the vendors were already messed up.

Mr. Rajan said that when somebody reads the minutes, things will look odd and out of context, the same way the decisions they have made in the past look odd and out of context. It wouldn't be a decision he was proud of. He thought the vendors' argument was strong and solid and thought Mr. Alloun has been getting a raw deal, the way he described it. Vendors' arguments were very strong for being selected once an RFP goes out. He didn't know what other metric to use. It might not be the fairest or the most optimal process, but it's a business. The vendors are businesspeople, and this was a cost of doing business. It was just a proposal, to make a decision as transparent as possible. That's all he was asking for a chance to do. Businesses there have demonstrated they could be there for the long haul. He was confused with the discussion about making mistakes. They shouldn't continue past mistakes. He didn't understand doing that. He would ask them to not be shady and give a long-term contract to businesses they have.

Mr. Rhoads said he didn't agree with just giving the vendors a contract. If the Board does decide to present the vendors with a contract and not go to an RFP, the Board needed to have a contract that made sense to the Board, given the terms of the RFP that the Board has discussed. He believed the vendors deserve a first right of refusal. But the Board had to be strict with the terms. If the vendors couldn't meet those terms, then they would have to go to an RFP.

Mr. Permaul asked how they could negotiate the terms and conditions for first right of refusal without competition. They wouldn't know what their optimal rates were unless they asked other vendors to provide them with what their terms were.

Mr. Rhoads said they have a decent idea of what the rates are. Mr. Permaul said they did, and they knew what the market would bear. Mr. Rhoads said they have a decent idea because they were about to sign a contract with Panda, and they just signed a contract with Tully's.

Mr. Permaul asked what the capital improvements would be. Mr. Rhoads said he didn't know. But the same thing would happen whether they gave first right of refusal to existing vendors or someone else. They'll come in with ideas for capital improvements. Mr. Permaul said that if vendors submit something, from the Board's perspective, they'd be given the first right of refusal. They would have that opportunity. This process would not disadvantage the vendors. They weren't talking in very business-like terms. Mr. Permaul said it was him who wanted to offer contracts, and the Board decided to go to an RFP. Now the Board had an opportunity to look at different proposals, and they have 20 businesses that, even through just word of mouth, were saying they were interested in looking at the space. It seemed like the Board was ricocheting.

Mr. Rhoads said he didn't think this was in business terms any more. He didn't have a lot of experience negotiating. In general, they would give somebody an existing space. It wasn't legally required. But he thought it would be in good faith and a good business decision to offer a simple first right of refusal based on requirements similar to an RFP.

Mr. Permaul said that was the opposite of what Brailsford & Dunlavey said at the presentation. Mr. Rhoads said the Board could take the consultants' analysis and make a value judgment on what they thought market rates were. He knew that wasn't like an RFP, but they could put that into a contract and see if it was acceptable. It should be fair. If it's not accepted then the Board would go to an RFP.

Ms. Shah moved to request RFPs and give vendors the first right of refusal. Mr. Spivey said a Request for Proposal was a public document and there really was no "first right of refusal." If they request a proposal from the public, they couldn't say certain people would have the first right of refusal. That wasn't transparent.

Mr. Smith said he thought he could clarify what was being said. Option number 1) was to look at the terms of the RFP and decide on the numbers themselves, in terms of the financial side, what was deemed to be fair to the Board and fair to the vendors, and would greening, sustainability, and capital improvements. If the vendors met those terms, they'd have a contract. If they don't, the Auxiliary would go to an RFP. But it would deal with all the terms that were already listed in the RFP as well as figuring out more clarified financial numbers, and not making a guess.

Mr. Kodmur said that in spite of transparency, the Board was now talking about not having an RFP and entering into contract negotiations with the current vendors. If contract negotiations fail that incorporate aspects of a possible RFP, the Board would be making things more transparent with the current vendors, but would have a more closed process for vendors that aren't there. He asked if that's what they were saying, transparent for current vendors, not transparent for others. Mr. Smith said it was. Mr. Rajan said it was a Faustian bargain. Mr. Kodmur asked if people were okay with that, despite previous statements about transparency.

Mr. Rajan asked what Mr. Coley thought of this. Mr. Coley said that what was said was shorthand and had more clarity than what Mr. Coley said he's been saying. He didn't think an RFP would get the kind of information people were asking for. He thought the Board needed to keep in mind the Panda conversation. There was a list of 25, 30, or 40 vendors who said "no." He didn't see an RFP as the way to get the best information. They have a lot of smart, invested people who could do the research that needed to be done to determine the value of the space. And it would come back to the Board. The Board could decide on the parameters of an ideal contract. If they don't go to an RFP they had the opportunity to raise the bar higher than they might with the results of an RFP. When an RFP is done, it's a roll of the dice, and they enter into a negotiation. Once someone wins the RFP, that doesn't mean the Auxiliary gets what's in the RFP, and it just meant that they go into negotiations. The Board had the opportunity to identify their ideal space and do exactly what Mr. Rajan said, but not rely on what someone to do the "heavy lifting," as Mr. Rajan said. Mr. Coley said he could do the visioning himself. Once they do that, the Auxiliary could ask people if they were willing to step up to the Board's vision.

Mr. Coley said one big thing he'd want to incorporate which was not there was for the Auxiliary to be able to have access to how much gross revenue was made. The Auxiliary had no idea. For their vendor at Follett, who makes millions of dollars, they know to the penny how much it makes. And the Auxiliary



gets the benefit of every one of those dollars. But they don't have that information with all the other vendors. That was a fundamental problem and where they needed to focus their attention.

Mr. Smith said he agreed, and they needed to figure out what rent made sense.

Mr. Coley said if he could amend his previous comment. A lot of times they get confused about pure business values, and try to go down that path. Human values, loyalty were relevant. To be a good, positive business it goes both ways. This wasn't abusive. They want tenants in their spaces who will provide the quality of service for food and amenities for their community. But once they find those folks, they need to give love back to them. That was very important. That needed to be part of the equation when they think about what a good quality partnership was.

A speaker said the business world was cruel. Being there 25 years counted for something, but shouldn't mean the process shouldn't be transparent.

Mr. Rhoads moved, at the next SOB meeting, to draft contracts for the Coffee Spot, Taqueria El Tacotento, and Healthy Heavenly Foods, that incorporate what was in the draft RFP for those spaces, including health, sustainability, and financial considerations. If a vendor didn't agree to the terms, there shall be an open, public RFP process for that spot in the Bear's Lair Food Court. The motion was seconded.

Mr. Rajan asked if this was what Mr. Coley wanted. Mr. Coley said in gross terms it was. He was assuming there were a lot of details attached to this, and he wouldn't think about limiting what would be in this potential contract from the RFP. He would expect much more vision. The RFP was often a lazy man's game, where people put general stuff out there, throw it out, and see what comes back. The Board needed to be involved in determining what was incorporated in these contracts. If they do this, they need to have a subcommittee go about and create what these potential contracts might look like, bring that back to the Board, and have the Board go through the same scrutiny it had with the Panda contract, and come up with what a potential contract might be, and then present it to the Board.

Ms. Shah asked if the motion could be amended to include what Mr. Coley said.

Mr. Rhoads said the motion was to draft contracts so that at the next SOB meeting they'd present draft contracts that would incorporate what was in the draft RFP; and the word "incorporate" didn't limit as to what was in the draft RFP. He asked if they needed to add other things. Mr. Coley said he didn't think they did, and didn't think they needed to enumerate everything. They've outlined the large concept and they could focus at the process to arrive at the document that the Board would ultimately approve, and who would be the people to create that draft document.

Mr. Rajan moved to, at the next SOB meeting, present draft contracts for the Coffee Spot, Taqueria el Tacotento, and Healthy Heavenly Foods, that incorporate what was in the draft RFP for those spaces, including health, sustainability, and financial considerations. If the vendors and the Board do not agree on the terms, there should be an open, public RFP process for that spot in the Bear's Lair Food Court. The motion was seconded.

A roll call vote was requested.

Roll call was taken to consider draft contracts for Food Court vendors at the next SOB meeting:

YES

Mr. Rhoads	Ms. Davis	Mr. Ortega
Mr. Coley	Mr. Smith	Ms. Pasco
Ms. Harrison	Mr. Rajan	Ms. Winston

A motion to close the rolls was made and seconded and passed with no objection.

THE MOTION TO APPROVE PRESENTING DRAFT CONTRACTS TO THE COFFEE SPOT, TAQUERIA EL TACOTENTO, AND HEALTHY HEAVENLY FOODS, INCORPORATING ASPECTS OF THE PROPOSED RFP, FOR CONSIDERATION AT THE NEXT BOARD MEETING, PASSED 9-0-0.

Ms. Pasco voted with comment. She was glad this was the direction the Board was taking. It's 12:45 a.m. and she was glad people stayed there to duke this out.

Mr. Permaul said the subcommittee could not draft the lease agreement. It could put together terms and conditions that would go to the campus, which would draft a lease, with the language to come back to the Board. So what the subcommittee would do was to put together whatever visions, terms, and conditions that the Board would like to see in formal lease language.

Mr. Smith said it might be helpful if Mr. Coley and Ms. Harrison would be willing to participate. Mr. Coley said he wouldn't do that. Mr. Rhoads asked if Mr. Coley and Ms. Harrison could serve as resources for people on the subcommittee. Mr. Coley said he was always a resource for all of them.

Mr. Rajan said this might not get done by the next meeting, and if it doesn't, there will be a huge turnover starting after finals. So some level of continuity was important. He would be happy to serve on that level, and he was sure Mr. Ortega was as well. But it would be good to have a couple of administrators and people who will be around on this, even though he understood this would be another committee that people would have to deal with. So he would propose two students, two student members of the SOB, and three administrators.

Ms. Oatfield said they've seen students who were not members of the Board who were committed and they deserve to be on this committee.

Mr. Rajan said he wanted to charge six people with doing this on the Board. He would like two SOB members, and would envision that to be him and Mr. Ortega; at least one ASUC Senator; and all three administrators.

Ms. Davis asked if the committee could augment itself as it deemed fit, with input, and add people as it wished.

Ms. Oatfield moved for there to be a subcommittee that works with the Auxiliary, with the subcommittee to consist of Mr. Rajan, Mr. Ortega, herself, Mr. Tran, and Matt Marks, and the three administrators. Mr. Coley said he wouldn't be on the committee.

Mr. Smith said that students could come up with their initial terms and consult with the administrators.

Mr. Kodmur said that because of various levels of confidentiality, he asked if it was okay to have students who were not members of the Board on a subcommittee of a Board they're not members of.

Ms. Harrison said the objective of the group was to come up with parameters of what the Board would like to see in the contract, and not actually be the ones sitting down and negotiating the contract.

Mr. Rhoads said they would operate with that understanding. If there are non-Board members on the subcommittee, when they go into negotiations for contracts, there was a tendency to allow them to be included in the meetings. Ms. Harrison said that if they're a Senator they could sit in on executive sessions.

Mr. Rajan moved that the subcommittee be student members of the SOB. The motion was seconded.

Ms. Oatfield asked to rescind her motion.

Mr. Rajan said that for the sake of simplicity, and to get out of there, he would move that the subcommittee be the student members of the Store Operations Board, who will decide how to grow the committee.

Mr. Coley asked who would chair the committee. Mr. Rajan said that Mr. Smith would. Mr. Smith said that if this went past the summer meeting, since it was just the student members on the subcommittee, they'd be replaced by whoever replaced those students. Mr. Rajan said the committee could be changed by the students at any time.

Mr. Rhoads moved to create a subcommittee to draft terms for the existing Bear's Lair tenants consisting of the student members of the Store Operations Board. The motion was seconded by Mr. Rajan.

**THE MOTION TO CREATE A SUBCOMMITTEE TO DRAFT LEASE TERMS FOR CURRENT BEAR'S LAIR TENANTS, COMPRISED OF STUDENT MEMBERS OF THE SOB, PASSED WITH NO OBJECTION.**

Mr. Smith said he would entertain a motion to adjourn. It was so moved and seconded by Ms. Pasco and Mr. Rajan and passed with no objection.

This meeting adjourned at 12:56 a.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

**DECISIONS OF THE BOARD**Procedures

- Dec. '08 Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07 Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07 Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07 Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07 Mr. Smith's term as undergraduate representative Board member begins.
- May '07 Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director
- Dec. '06 Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06 Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06 Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06 Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05 Mr. Dally joined the Board as undergrad representative.
- Dec. '05 Asked the Finance Committee to discuss with Internal Audit the ASUC's use of the BFS accounting system.
- Dec. '05 Elected Ms. Putnam-Smith as Chair of the Board.
- June '05 Voted to have committees, after the August meeting, agree upon meeting times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.

Procedures (cont'd)

- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- Aug. '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of a GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC Senate asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board member orientation by August 30.
- May '03 Agreed on the need for a Board member orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board"

Vendors

- April '09 Amended the Panda Express contract and voted to renegotiate.**
- April '09 Agreed to present draft contracts to the Coffee Spot, Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFPs if necessary.**
- March '09 Approved the Tully's Coffee contract.
- Feb. '09 Voted to approve the CUBS contract.

Vendors (cont'd)

Feb. '09	Voted to move forward with the Tully's contract.
Jan. '09	Voted to continue negotiations with Panda Express and Tully's Coffee.
Dec. '08	Voted to go out to bid for all Bear's Lair Food Court vendors.
Nov. '08	Voted to terminate the contract with CampusLink
Nov. '08	Approved Action Vending proposal to increase vending prices.
Sept. '08	Agreed to Daily Cal terms for deferment and reduction of rent.
Sept. '08	Heard the terms of a possible Panda Express contract.
June '08	Approved the concept of bringing the Brazil Café to the ASUC .
June '08	Approved a Letter of Intent to negotiate with Panda Express.
May '08	Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
Dec. '07	Heard a presentation by CUBS.
Nov. '07	Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations.
June '06	Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
March '06	Approved a five-year lease option exercised by the Jupiter Pub
Feb. '06	Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
Sept. '05	Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
Sept. '05	Approved use of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorized pursuing an agreement for the Alumni Association to manage the Lodge.

Vendors (cont'd)

- May '05            Approved the further exploration with Darryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05            Heard a presentation by Darryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04            Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04            To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04            Approved a five-year extension for the STA Travel lease.
- June '04            Approved the Resolution In Support of Follett Contract Performance Review.
- June '04            Approved changes to the terms of the Pub's lease.
- April '04            Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations fail, and to issue an RFP.
- March '04            Agreed to a four-week pilot project for the New York Times Readership Pilot Project.
- March '04            Rejected contract proposals submitted by Pub management, called upon Commercial Operations to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04            Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04            Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04            Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03            Heard from John Martin, operator of the Pub.
- Nov. '03            The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03            Heard a presentation on Coca-Cola business practices in Colombia.

- Aug. '03 Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus committee at-large.
- July '03 Approved a five-year lease with the Daily Cal.
- July '03 Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04 Approved a two-year lease extension, beginning Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. '04 Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04 Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03 Formed a subcommittee to further consider the Daily Cal lease.
- May '03 Heard a presentation by Coca-Cola representatives on the Company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- Dec. '08 Work began on the seismic retrofit of MLK.
- Oct. '08 Heard from, gave feedback to, Brailsford & Dunlavey, on Lower Sproul redevelopment.
- June '07 Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the food court.
- May '05 Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05 Voted to explore options for the expansion of the Art Studio.



Student Union/Pauley Ballroom (cont'd)

- Oct. '04 Authorized ASUC President Leybovich, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03 Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate \$20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- February '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- April '06 Approved the 2006-7 Auxiliary budget.
- April '05 Approved the 2005-6 Auxiliary budget.
- September '04 Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a transfer of that amount to the ASUC to balance its 04-05 budget.
- May '04 Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half position OSA position for the GA.
- April '04 Approved the ASUC Auxiliary FY2004-2005 Budget, including a transfer to the ASUC of \$50,000 from the Auxiliary Contingency Reserves.
- February '03 Received "ASUC Auxiliary Revenue and Expense Report, July -December 2003."
- June '03 A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.

Budget (cont'd)

May '03	Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in Eshleman starting at 6 p.m., rather than 8 p.m.
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## STORE OPERATIONS BOARD MINUTES

May 5, 2009

Present: (Members and others)

Haitham Alloun (the Coffee Spot)	Oscar Mairena (ASUC Senator)	Nish Rajan (Board member)
Ron Coley (Board member)	Arnoldo Marquez (Taqueria)	Dave Rhoads (Board mbr.)
Miguel Daal (GA President)	Michelle (ASUC OP)	Lyell Sakaue (ASUC Senator)
Meghana Dhar (ASUC Senator)	John Myers(incoming Bd. Mbr.)	Kifah Shah (ASUC Senator)
Barbara Davis (Board member)	Eddie Nahabet (ASUC Senator)	Will Smelko (ASUC Sen.)
Jeff Deutsch (Bookstore)	Alberto Ortega (Board member)	Jordan Smith (Board mbr.)
Mary June Flores (ASUC Senator)	Krystal Pasco (ASUC EVP)	Tom Spivey (Auxiliary)
Elizabeth Gray (Bookstore)	Nadesan Permaul (Auxiliary)	Tu Tran (ASUC Senator)
Victoria Harrison (Board member)	Jonathan Poullard (Dean,CLL)	AnnVu(HealthyHeavenlyFood)
Sameer Kahn(Cmte.onStudentFees)	Tara Raffi (ASUC Senator)	Roxanne Winston(ASUC Pres.)
		Yishi Zuo (ASUC Senator)

### **SUMMARY OF THE MEETING**

The meeting was called to order 6:20 p.m. ASUC Senate Chamber.

#### **PUBLIC COMMENT**

Jeff Deutsch, ASUC Bookstore Director, said about five years ago the Cal Student Store was two floors, with everything on the lower levels. The 2nd floor of the Student Union, facing Upper Sproul, was completely vacant for about a year. Four years ago Follett expanded to the 2nd floor and experienced double-digit sales growth, and Follett paid above its minimum guarantee of \$1.57 million for the first time in ten years. The Board had to take swift action on the space between the Store and the Art Studio. That space could not remain vacant. Thriving businesses help other businesses thrive.

Andy Nevis said that Berkeley was well known for the number and quality of its student groups, which require a strong funding source. The ASUC has instituted a 4% reduction in groups' allocations, and students want more money for their groups.

Alli Reed said the Berkeley student food cooperative, a proposed student-run food co-op, had some successes that past week. They won their grants from Bears Breaking Boundaries, \$5,000; from The Green Initiative Fund, \$91,000; and from the Berkeley Student Cooperative, \$10,000. And they've gotten support from people in the community as well.

Ryann Pollock said some people were really excited to have Panda Express coming there, people who don't speak as loudly or always come to Board meetings. A larger business that would attract people would be really beneficial.

Matt Senate said the food co-op would have a sufficient amount of funding to cover costs. Also, it was hard to expect student groups would not have budget cuts eventually, given the economy. And while he loved Panda Express food that didn't mean they needed fast food on their campus.

Nick Horraran said he was the Treasurer for a large student group and asked the Board to consider the revenue that the ASUC would get from a business going into Lower Sproul.

Yoni Landau said he thought politics had seeped into the conversation, but it really wasn't political. Panda was not a good deal and was not the only choice. Terranomics did its pseudo RFP for a business partner for Naia, not for the space that was available. Board members themselves brought up issues of transparency and the student response. Also, the Auxiliary has not been a substantial funder of student groups, and no group funding will be cut next year Panda didn't come in. If Panda did come in, Auxiliary revenue would be \$100-200,000, not a lot of money. And the compromises Panda said it would make were not real sacrifices, and were the cheapest, most convenient things. The food co-op was an alternative.

Meghan Coontz, VP of External Affairs of the Berkeley Student Cooperative, said the 1930s were a similar, horrible economic time. Students formed the BSC at that time, and it now has a \$9 million budget.

Paul Grossi said the majority of the student population would gain from having Panda Express there. Many students at the meeting had a special interest, and thousands of kids would eat at Panda.

Tara Raffi said Berkeley already had fast food that perspective students see. Panda alone might not save them financially, but would contribute to revenue and contribute to a vibrant Food Court. A food co-op was a great idea, but the funding it received was all ASUC money. Panda was something people want.

Andrea said Panda Express wasn't appropriate for the campus because it didn't have anything to do with what the school stood for.

Laura Zelko said that just because people loved something, that didn't mean they had to have it on campus.

Janet Frishberg said an RFP was never done for the STA Travel space, where Panda planned to move. Students make food choices because they don't have time, and the location of the Student Union, with its limited space, was important. The idea that Panda would be popular was based on a survey done a few years ago. But another survey presented last month found that two-thirds of students wanted to keep fast-food chains off campus. Students choose to come to UC Berkeley because of its differences from other schools. Students weren't anti-chain. Panda was not taking issues seriously, and its responses have been superficial. She asked if some expenses could be cut in order to save jobs. Panda wasn't a curative to the Auxiliary's financial problems. It was a gamble that students would shop there. Follett has itself not lived up to hopes.

In February, 2006, when Mr. Cordi left as Executive Director, the Auxiliary had over \$2 million in reserves. The co-op group was wondering about the state of those reserves, since they haven't been brought up before. There was a lack of vision on the part of the Board. A vote for Panda wouldn't be legitimate in the eyes of the student body.

Mr. Marks said it was an age-old tactic to bankrupt a space to become dependent on the need for a large corporation. The three Bear's Lair vendors have been on campus for 20 years and have paid strong market rates. A survey found that cost was more important to students than anything else, and cost for

students was very low among the Board's priorities. That vendors would agree to a point-of-sales system and to revenue sharing. The Board should do an RFP for Naia, STA, and the Postal Annex spaces.

Chris Reid said several Board members, have expressed concerns about the transparency of the process with regard to Panda. Panda actually came before the Board prior to Naia expressing it was having financial difficulties.

Mr. Smith introduced the new faculty Board member, John Myers, who will officially start July 1, 2009. Dr. Myers is Professor Emeritus from the Haas Marketing Group.

Ms. Winston, ASUC President, said students were not in opposition to business or to a financially solvent ASUC, but were in opposition to double standards and to a process that went against the CAA. Panda was voted down last month and was still being pushed forward. They don't want Berkeley to be like UCLA. An RFP should be done for these spaces, and Panda should bid just like everyone else.

A speaker said she was okay with having Panda, especially if their current venues were at a loss.

Eddie Nahabet, ASUC Senator, showed a move he shot from meetings of the Senate and the Finance Committee at which student group representatives pleaded for funding. The video was to give the Board a complete image of what the ASUC did and how the lack of revenue affected their groups.

Raymond said the Cal Literary and Arts Magazine, which was in the video, was not in support of Panda Express.

Jesse said she would not compromise the character of her campus for this proposal, which wasn't a sustainable, long-term solution for their financial problems.

Chas said he ate at Panda Express and got food poisoning once. He's lived and eaten in the co-ops for several years and hasn't gotten sick once.

Oneta said she was a member of the Executive Committee for Relay for Life, an organization displayed in the video; and the group was not in support of Panda Express, as unhealthy eating led to cancer.

The Organizing Director for the bridges Multicultural Resource Center and said her community was exploited in the video.

A speaker from the bridges coalition said they were uncomfortable being exploited by the video.

Xander Lenc said they were told that they were at risk next year if they didn't bring in Panda. That was a fallacy, and "either Panda or student funding" was false. It wouldn't help student groups.

Mr. Nahabet said he let people know that he was making a movie on how student groups were affected by cuts.

#### REVIEW OF LEASE TERMS FOR ASUC FOOD COURT VENDORS

The meeting entered into closed session to discuss lease terms for Bear's Lair vendors.

It was noted that the delay in getting terms and conditions for a contract for food vendors was not by design. The Board looked forward to discussing the lease with them. The Board figured out what it needed and wanted to discuss with the vendors

Ms. Vu said that if the Board took it easy on the contract, Healthy Heavenly could continue. If rent was too high the vendors would give up.

#### PANDA EXPRESS CONTRACT NEGOTIATIONS

The meeting returned to closed session to discuss the Panda Express contract negotiations.

The Board decided: 1) To get the contracts for all commercial venues on campus; 2) To get the current Bear's Lair vendor contracts; 3) To compile all that information for the Board; and 4) To designate someone to approach Bear's Lair vendors to assure them the Auxiliary was still negotiating in good faith.

#### PUBLIC COMMENT (cont'd)

Mr. Reed said it would be nice to have a clearer timeline.

#### PANDA EXPRESS (cont'd)

By a vote of 3-6-0, the Board failed the motion to approve the Panda Express contract. Voting comments were made.

By a vote of 7-1-1, the Board approved going to RFP for the STA Travel space starting June 30, and to go to RFP for any other spaces in the coming year.

#### ASUC AUXILIARY REPORT

##### Tully's Coffee

A drawing was distributed of the proposed Tully's Coffee kiosk in MLK, the southeast corner lobby. The drawing was based on review by the Fire Marshall. Campus approval will hopefully occur soon, with a lease agreement to come in the summer.

##### Seismic Project

Capital Projects has stopped the seismic project in the Student Union. The campus received initial approval by FEMA for up to \$3 million for the project. Beginning construction work could endanger approval. Phases 1 and 2 will still happen that summer, the Tilden Room, the 4th floor, and Pauley Ballroom. Phase 3, the Food Court, the Pub, the Cal Student Store, and the Multicultural Center may be postponed until the summer of 2010.

##### Bear's Lair Pub

The Pub has proposed investing funds to extend an area of the Food Court, construct new restrooms, and do substantial cosmetic work on the exterior. The proposal will be brought to the Board in the summer.

### New Vending Proposal

A new vending machine operator wants to sell music, films, software and games through vending machines, paying \$1,500 per machine per month per site. The Auxiliary was doing due diligence. The campus Office of Marketing and Business Outreach was involved.

### CampusLink

CampusLink paid \$10,000 and revised its agreement to eliminate its monopoly on Student Union advertising. Existing kiosks will be removed and new ones installed. This allows the plasma screen program with the Daily Cal to move forward.

### The Cooperative Food Store

The Auxiliary has been meeting with reps of the Cooperative Food Store. Currently, the Co-op does not have a viable business model and its proposal had incomplete funding. The Auxiliary will continue to work with the Co-op.

### THANK YOU'S

Appreciation was expressed to Ms. Harrison and Ms. Davis for their long-time participation on the Board, and gifts were presented to them. The Board also presented a gift to Mr. Smith, for his chairmanship and his two years on the Board.

Appreciation was expressed to student members of the Board.

### DAILY CAL CONTRACT NEGOTIATIONS

Terms of an agreement with the Daily Cal were sent out by e-mail. It called for the Board to give the paper three years to pay back \$14,244 in deferred rent, from Oct. '08 to June '09, before imposing 3% on the balance. Until this was paid back, the Board would have a member sit on the Daily Cal's Board, with full voting rights.

Bryan Thomas, Editor-in-Chief and President, was present from the Daily Cal. He, Mr. Smith, and Mr. Rajan negotiated the agreement.

A question was raised regarding paragraph 2), and it was noted that if the amount wasn't repaid in three years, the paper would pay 3% interest on the balance. There was no default date.

Having an SOB member on the Daily Cal Board would incentivize the Daily Cal to repay the amount and would help with information flow.

The agreement had an issue with utilities and that custodial cost, which were actual expenses. That was something they had to discuss because that was a hard cost, and removing that from the deferred rent meant not much would actually be repaid for past rent.

The paper will decide how to publicize this agreement, perhaps as news or on the opinion page.

The paper has non-profit status that it hasn't taken advantage of. It was looking at supplementing its budget with charitable contributions and an endowment-based model.

It was suggested that the paper look more closely and creatively at the ASUC, and to look outside the box at new models, and as a public piece, with the ASUC helping to underwrite costs.

This arrangement could not dictate the paper's coverage, although the paper acknowledged the inherent conflict of interest at work. It was noted that the Board did not want the paper to be a puppet.

With no objection, the Board approved the agreement, with paragraph 2) to be clarified.

### ASUC-CONTROLLED COMMERCIAL SPACES

Commercial spaces as listed in the CAA have not been revised for ten years, and during the summer that will be brought to the Board, so the CAA could be revised.

### BUDGET REVIEW

The budget will be redone, given the vote on Panda Express, and brought to the Board. A more detailed version of the budget was requested than what was online.

### SUMMER MEETING

The Board's next meeting will be Tuesday, May 26.

The meeting adjourned at 11:59 p.m.

## **End Summary of the Meeting**

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This regular meeting of the Store Operations Board was called to order by Jordan Smith at 6:20 p.m. in the ASUC Senate Chamber.

### PUBLIC COMMENT

Mr. Smith said anybody who hadn't had the opportunity to sign up to make a public comment could do so at that time.

Mr. Smith said the first speaker was Jeff Deutsch, ASUC Bookstore Director. Mr. Deutsch said he wanted to thank them very much for letting him speak. He wanted to talk a little bit about the history of



the Student Union and share some thoughts he had as a member of the Cal community. About five years ago the Cal Student Store was two floors, with books, merchandise, everything on the lower levels. Book sections were at or near capacity. The 2nd floor of the building, facing east, or Upper Sproul, was completely vacant for about a year. Some of them in the room were on campus at that point and may remember what it looked like. There was no business going on at all by Upper Sproul.

Four years ago Follett expanded to the 2nd floor and brought all their men's and unisex clothing there. Follett experienced double-digit sales growth, and that allowed Follett to pay above its minimum guarantee, which was \$1.57 million. That was the first time in ten years that they were able to a goal they were able to pay above the minimum.

Mr. Deutsch said he was talking to them that evening not as Director of the Store, or about anything that had to do with the Store, but really as a member of the Cal community, somebody who took pride in the success of their students, in the ASUC, and in the Auxiliary. It was important for the Board to take swift and resolute action that evening regardless of the decision they make. The space between the Store and the Art Studio cannot remain vacant. They need a vibrant business there, one that will draw students, staff, and visitors on its merit, and give back to the community through the ASUC. As business owners, the Board must not leave a much needed opportunity on the table, so to speak. These funds were much needed funds not only for new student groups and activities, but also, as they all knew, since it's been in the paper, for existing student groups and existing student activities.

Mr. Deutsch said that for nearly a year their 2nd floor was vacated. STA Travel has once again moved on. It's been over a year since Naia and the Postal Annex have shut their doors. Thriving businesses help other businesses thrive. Putting a viable, dynamic business in a currently vacant commercial space was necessary to maintain and increase the operating budget for student activities through the ASUC and would help all of the other partners in the ASUC commercial family. He wanted to thank them.

Mr. Smith said the next speaker was Andy Nevis. Mr. Nevis introduced himself and said he was currently finishing his first year at UC Berkeley. Over the past year there has been a very spirited debate, both on this campus and before this Board, regarding a proposed Panda Express location by Upper Sproul. Opponents have argued that introduction of a chain restaurant would denigrate Berkeley's reputation as a haven for local and unique businesses and detract from the reputation of the campus as a place for healthy and environmentally friendly thinking.

But there was something else that Berkeley was well known for, and that was the number and quality of its student groups and organizations. Every perspective student is told, when they take their tour of this campus, that UC Berkeley is home to hundreds of student groups and organizations, from politics, to religion, to the environment, to education. There's a student group that can address the interests of just about every student on the campus. Unfortunately, however, these organizations were not cost-neutral. They require a strong outside funding source. For most groups, this comes in the form of allocations from the ASUC. However, recent months have shown a deterioration of revenue from the ASUC as the overall economy falters. As a result, most student organizations have tried to adjust to a 4% reduction in their allocations from the ASUC, with even further reductions almost certain in the future, unless new revenue sources are found.

Mr. Nevis said that's where the Board came in. There's been a debate on the campus as to whether or not the student body as a whole wanted Panda Express on the campus. He was not there to settle that debate,

but he did know that almost universally, students want more money for their student groups, so they wouldn't have to cut back on the wonderful activities they provide. And right now, the proposed deal with Panda Express may very well be the best opportunity for the ASUC to create new revenue for its student groups. He would ask the Board to please consider the impacts of its decision on this issue with regard to student organizations. They are counting on the Board to deliver more revenue so they can continue their activities, which have made UC Berkeley the wonderful place it was.

Mr. Smith said the next speaker was Alli Reed. Ms. Reed said she would like to echo Mr. Deutsch's comment that they can't let the storefronts on Lower Sproul remain closed. They need something healthy and vibrant for the Berkeley community. But she didn't think a branded fast-food chain would help make it healthy and vibrant. She would like to share a few successes of the Berkeley student food cooperative, a proposed student-run food co-op she was sure all of them were familiar with. They've had some successes over the past week. They won their first grant, from Bears Breaking Boundaries, for \$5,000; and they won their second grant, for \$91,000, through The Green Initiative Fund. And last night, a committee of the Berkeley Student Cooperative voted unanimously to recommend this project for a further \$10,000, from the BSC. And that week the food co-op got an unsolicited letter from David Sukoff, offering to help the food co-op financially. The food co-op has also gotten support from Kim Hewett, people from the Cheese Board, and an insane amount of support from communities, not just in Berkeley, and not just in the co-op system, but all over. It was insane the passion people have shown, and that people were volunteering left and right on ways they could possibly help this out. This was such an incredible opportunity that Berkeley had to put a co-op into that space. If Panda Express moved in, the only space available to the co-op would be the Postal Annex. She didn't know if people were familiar with that space, but it's been closed for about a year or so. It's a small space, hidden back, and she didn't know if it was a place where the food co-op could effectively serve the Berkeley student community. So they have an opportunity to put in the co-op and to revitalize Lower Sproul. She just wanted to share the amazing successes that the food co-op has had and hope that the Board could see it as a really, really viable alternative.

Mr. Smith said the next speaker was Ryann Pollock. Ms. Pollock introduced herself and said she wasn't really there to take one position or another on Panda Express. But she did feel very strongly that, as Mr. Deutsch said earlier, there needed to be some form of revenue coming into the ASUC. Their student groups at the last budget meeting of the ASUC were cut 4%. She personally didn't think that was very comfortable, especially since almost everyone on campus was involved in a student group in one way or another, or at least has taken advantage of the activities that groups put on.

Some people were really excited to have Panda Express coming there, and she did know people who would be thrilled to see Panda Express on campus, although maybe they don't speak as loudly or always come to Board meetings. But she definitely thought there needed to be a form of revenue and a way for the ASUC to support students besides just relying on the student fees that every student pays to the ASUC. There isn't a huge growth potential for just taking from what the students bring in. She felt that a business that attracted more people, besides just a certain group, but a larger business that would attract local communities, would be really beneficial.

Mr. Smith said the next speaker was Matt Senate. Mr. Senate said he wanted to address two of the main arguments to supporting the co-op financially. He thought they'd have a sufficient amount of funding to cover costs. It's been shown through the money the co-op has raised. It was hard to expect that student groups would sustain the level of vibrancy and success with the damage people have seen to the economy. They had to imagine some budget cuts would be made eventually. So this would be a partial solution. Secondly, as for people being thrilled about Panda, Mr. Senate said he loved Panda Express food. He thought it was delicious. He was human, and the tongue reacted to what tastes good. He grew up on fast food, and loved that kind of food. That didn't mean they had to have fast food on their campus. It didn't mean they couldn't be responsible. If food doesn't meet their standards, it was very important for people to understand that there was more to it than simply wanting it. They had to be responsible as a community, as individuals, and as students.

Mr. Smith said the next speaker was Nick Horraran. Mr. Horraran introduced himself and said he was the Treasurer for a large student group on campus. Like other people before him, he wasn't there to take a position one way or another on the Panda Express issue. Rather, he would like to address the ASUC and the revenue it would get from Panda. Being the Treasurer in an ASUC sponsored group, he was very aware of the financial constraints the ASUC had at that time. He was aware that the carryforward and the Contingency Fund were being extremely strained. That really was unacceptable. And he realized that student groups will have to take budget cuts eventually just because that's an inherent situation given the economy they were in. But it didn't have to be that way forever. With revenue coming in from whatever business went into Lower Sproul, that would be able to fund student groups, student service groups, and whatever else the ASUC needed. With that said, he really wanted to reiterate that the Board should take into consideration the revenue that the ASUC would get from any kind of business going into Lower Sproul.

Mr. Smith said the next speaker was Yoni Landau. Mr. Landau said it's been a long journey, enjoyable for some, probably not for most. He was a little shocked that they were still talking about Panda Express, to be honest. It seemed like a political decision. He thought politics as seeped into this. It seemed like a political conversation. It's like liberal versus conservative. But it really wasn't a political decision. If they look at the facts, they'd see it wasn't. The Board has been presented with all of the information to see that Panda was not a good deal, and that what they think they're getting was not as good as what they would be getting, and that they don't need to do this. The Board has been presented with a survey in contrast to the survey Jordan Smith presented that says that two-thirds of students want to keep large chains off-campus. The Board has been presented with documents that UC Berkeley and the greater UC System have signed on to regarding responsible investment and guided action in food policy should guide their actions on campus. The Board has been presented at length why Panda Express, as a corporation, did not meet campus standards. At great, great length, from their own minutes, the Board has been presented with reasons why Panda was not the only choice. When Terranomics did its pseudo RFP, that RFP was based on the idea that a business would come in and partner with Naia Lounge. That was not the same as doing an RFP for all of those spaces. Terranomics seeking those other businesses didn't mean that the Board knew all the options. And as people have said, and as Janet Frishberg may mention later, there were other alternatives that are perhaps being hidden or underplayed, that people heard about at the BFSC meeting.

It was also mentioned that there are other businesses coming to the Student Union. In the Board's own minutes people have shown the Board that Board members had their own concerns. The concerns of Board members were brought up time and again about transparency, about student response, and about being responsible; and these concerns were never addressed. They were just brushed under the table, "we'll get back to you." And in the minutes, they see there's no response at all.

Mr. Landau said that people could see from the numbers that the Panda proposal was not about student group funding, since the ASUC Auxiliary was not a substantial funder of student groups. So to be clear, no student group funding will be cut next year from the Auxiliary if Panda Express didn't come in. The numbers were ridiculously small, and that was why this contract was a bad decision, and why this decision was not political.

Mr. Landau said that if the numbers they've been given for the contract were accurate, the Auxiliary would get \$100-200,000 in revenue. If Panda Express had \$1 million in revenue, as their projected revenue, with profit sharing of 6%, if all of that was true, the Auxiliary would make \$110,000 a year. That was not a lot of money. He hasn't been shown why this analysis was wrong, only that it was a little bit off. If Panda Express made \$500,000, which was still wildly successful, he asked Mr. Permaul how much money the Auxiliary would get. Mr. Landau it was \$45,000, and \$3,000 was the amount of revenue they'd get. He asked Mr. Permaul if that was correct. Mr. Permaul said this was Mr. Landau's comment.

Mr. Landau said his feeling was that \$3,000 a month was about one-fifth the amount Panda Express would have to pay if it went to Telegraph Ave. or Shattuck. That was not enough money to sacrifice. That amount was not going to fund all of the ASUC's student groups and wasn't going to make the ASUC permanently solvent. It was a gamble that the ASUC didn't need to take, and it was not a political decision to say no.

Mr. Landau said he would also like to say that compromises that Panda Express has been saying it would make were not real sacrifices. It wasn't the case that this was a good deal for the Auxiliary because Panda Express made compromises. In looking at Cal Dining, which was not a progressive, activist group, but a mainstream food service provider, the things that Cal Dining did far surpassed what Panda Express has promised. That was the case even if Panda Express surpassed expectations and things like composting. There are things that Panda Express has not expressed, and he believed Janet will talk about this more in detail. Panda Express hasn't responded to students' concerns at all. Panda has only done the cheapest, most convenient things.

To address just the most basic of their concerns, Mr. Landau said Panda has said it will source locally, but they already purchase their produce from California. Panda says they won't serve trans fats, but it's going to be illegal to serve trans fats. Panda was doing very basic things. The other thing Panda said it would do was to serve a vegetarian option. Panda would have to do that to be viable on this campus anyway. So Panda was not making any compromises there. Panda doesn't serve vegetarian options anywhere else in the Bay Area which, to him, was mind blowing.

Mr. Landau said the other thing he wanted to mention as to why Panda Express was not the good business people thought it was, involved a lawsuit, as some of them already knew. Panda markets itself as paying a good wage, but they only pay .50¢ over minimum wage, not a good living wage. Panda has MSG in its products. Panda markets itself as not having MSG because they don't synthetically add it

before it's cooked. He didn't know if people knew that. One thing he just found out was that at UC Irvine, Panda was the last restaurant to not serve biodegradable packaging on the campus. Panda Express is not resilient in its values. They don't care. And this was something people might be surprised to learn after talking to Panda representatives. Reps say they care. Mr. Landau said he's talked to Panda representatives, and they say they care, and that they were compromising. If people look at the terms, there's nothing that shows that they actually care.

Mr. Landau said students' participation there was not a political act. This participation was students saying that they wanted what was best for their campus. Students were willing to sacrifice their time and energy, with hundreds of people spending hours and hours coming to Board meetings, should not be disrespected by brushing it aside saying it was a political act. These are students and people who want a better campus. Christina Oatfield wasn't there at that time, and asked if anyone noticed that. He got a text earlier that day, and Ms. Oatfield was in the emergency room last night. She's been sick. Ms. Oatfield has sacrificed more than anyone else. And she was going to be there to speak. Ms. Oatfield stays up, she researches, she works with the students. She's been sick for the past week. He thought it was sacrifices like this that should count when the Board thought about what students want. He would ask what students care about, and what drew them to Berkeley. This is what was important, and not a little bit of funding, which wouldn't go to student groups and would only make the ASUC \$50,000 more comfortable.

Difficult decisions require leadership, and it was the job of members of the Board to provide that leadership. Mr. Permaul was providing a lot of leadership, but it was Board members' job to provide that leadership as well. And during difficult times, they had to weigh all the facts. And what they wanted to do was to look at their constituency and consider what they were telling the Board. And then the Board should look at its guiding documents and see what they state that the Board should do. If they follow those two things, they could do no wrong as a Board that was democratically held. So if the Board made sure they follow their guiding documents, then perhaps they can do no wrong. In this past time span, if they have learned anything from these four months, it's that leadership based on fear, based on insecurity, and based on the status quo, was not as effective as leadership based on hope. Leadership based on hope, when backed with logic, reason, funding, intelligence, and enthusiasm, as the Board has seen on campus, and as they've seen all around the world, was in vogue right now. So he would urge the Board to think about what leadership meant to them. And when they make a choice that evening, they should think about what leadership they wanted to make.

There were alternatives to the Panda Express deal. The student co-op idea was started three or four months ago. In the last two months they've raised \$106,000. It was the beginning of their fundraising. They are a viable company to put in that space. He talked to David Trachtenberg that day, the architect of a lot of spaces around Telegraph Ave., and he said he was interested in making this project a center of Telegraph's, or Berkeley's, revitalization. And Mr. Trachtenberg has a big company.

Mr. Landau said he just wanted to stress that the food co-op was an alternative. It was unlikely that the members of the co-op were interested in a small Postal Annex space. If the Board puts a Panda Express in the STA Travel space, he wanted to make it clear that it was unlikely that there would be a food co-op. The Board would be driving its own students off-campus. It was as simple as that. That was not a strategic plan or a political decision, but a simple fact. They'd be driving students off-campus because the good spaces that were available will have been given to a large chain. He would ask Board members to please think about that as they vote.

Mr. Landau said he wanted to read an itemized menu from the food co-op, what they'd serve in the spring. They plan to sell a grilled chicken sandwich for \$4.50. They'll make their markup and make this viable. All of it will be local, organic, or both. The sandwich will be served without \$450,000 in renovation. The choice was the Board's. He wanted to thank them. (Applause)

Mr. Smith said the next speaker was Meghan Coontz. Ms. Coontz said she was the Vice President of External Affairs of the Berkeley Student Cooperative. What she's heard from one side was mostly a question of economics, and what would be the best for them financially and what would best serve the student community. She wanted the Board to think about the situation in the 1930s, which were similar, really horrible economic times. There was a problem with housing, so a group of really passionate students got together, and today, the Berkeley Student Cooperative has a \$9 million budget that it spends per year. She was hearing questions that almost said the Berkeley food cooperative would not be successful. Today, in 2009, they see food prices rising, and now they're seeing a group of passionate students also coming together to address this issue. She didn't see why it wouldn't be just as successful, if not more successful, as the Berkeley Student Cooperative. She didn't know how many people in the room have taken an economics class, but if questions of economics were on the table, she thought obviously the food cooperative would be a better alternative than Panda Express. First of all, a cooperative would be run and owned by students and would give them a vested interest in this community; and they weren't going anywhere. If the Board brought in a profit-driven venture like Panda Express, as soon as things got tough, and as soon as students didn't go there, Panda would be out. And it would be the students who lose. She also wanted to say that a student-owned would put money back in the pockets of students. Not only would it be successful, but it would be sustainable economic development. She hoped the Board will consider that.

Mr. Smith said the next speaker was Paul Grossi. Mr. Grossi said he wanted to state that he had no interest except as a regular student there. He actually happened to really like Panda Express. He thought Panda had some valid points. He also thought that the campus would gain from this. He felt the majority of the student population would gain from actually having Panda Express there. To say that having it there would drive students off-campus wasn't correct. If the ASUC had Chipotle on campus, it would have so many people coming on to campus. He sees lines out the door there. He thought the majority of students on campus were regular students. He sometimes drove a half-hour out of his way to eat at Panda Express. At home, he ate there a couple of times a week. It's cheap, and he was trying to keep his budget down, as was everyone. A place like that would be open late, and would be viable, and he thought it was a good idea. He thought a lot of students at the meeting had a special interest. He thought if the Board got the real thoughts of the majority of students, they'd realize that thousands of kids each day would eat there. Obviously the ASUC wanted to make money for student groups, but as a campus, just for the students, he thought they'd be happy if they could have a Panda Express or something like that. He thought the Board should consider that.

Mr. Smith said the next speaker was Tara Raffi. Ms. Raffi said she was speaking during public comment and not during the Board meeting, as an ex officio member of the Board, as a Senator. She was speaking

during the comment period because she wanted to speak as a student, and for a lot of students that she knew who cared about this issue, who may not be there that evening. First of all, on fast food, Berkeley has fast food. If they look out the Senate Chamber windows they'll see fast food. And if they walk down Telegraph, they'll see fast food. Wells Fargo is a corporation, and Follett is a corporation. They have corporations and a corporate fast-food presence in Berkeley. There was nothing that would be changing about Berkeley. When perspective students come there, they see chains, they see corporations, and they still have all of these wonderful people sitting in this room, even though these corporations and fast food restaurants were there. Students spend money there, and eat at Subway and Chipotle, which have lines out the door every day.

What was worse was that the money that was spent there went entirely to those businesses. If they had such restaurants on campus that draw students to their doors, the money would come a little bit back to students. And that was important.

And it wasn't just about Panda. Panda alone might not save the students, even though she felt it would contribute to the situation. It would contribute to student groups that were facing 4% straight-line cuts that year. If the ASUC had Panda Express, there would not be 4% cuts. There would be some cuts, but less than 4%. But this wasn't just about Panda Express, but about the environment they have on Lower Sproul. They don't just have one vacancy, but multiple vacancies. They have a Food Court that students don't frequent as much as they could or should. The Auxiliary doesn't have a Food Court that people frequent more than the Durant Food Court, or places on Telegraph. She would ask why that was the case. Students spend a majority of their time on campus, yet they go off-campus to eat. Panda has the opportunity to bring people there. Maybe in and of itself, Panda Express might not be vibrant just by itself, but it could bring other restaurants there that could contribute as a whole to a vibrant Food Court that students want to eat at. And that will, as a whole, have a financial impact on the ASUC.

Ms. Raffi said they had to cut student groups 4% that year. There were four Finance Committee Senators in the room at that time, and they sat and listened to appeals. They sat in a Senate meeting that got out at almost 7 a.m. last Wednesday and listened to student groups come and tell them they need money and that they couldn't sustain their programming. She could name the Board the many groups that came with heartfelt pleas for money they need from the ASUC. And the ASUC couldn't provide those funds to them. If there were financially sustainable businesses on campus, the ASUC would be able to provide student groups more money.

About the Berkeley food co-op, Ms. Raffi said it was a great idea. When it was suggested for the first time at a meeting, she fully supported it. It's really important for the campus' diversity that Berkeley was famous for, and for having different creative ideas. And for that reason she supported the Berkeley food co-op coming on to campus. But in terms of finances, just by what she heard that evening at the meeting, it wasn't as good. The numbers she'd give might be a little off and were just from memory, but she thought she heard that \$33,000 came from Bears Breaking Boundaries and \$91,000 from The Green Initiative Fund. That was all ASUC money. It was money from the ASUC. The Green Initiative Fund and Bears Breaking Boundaries were ASUC funded. So it was student money. This is money they're trying to use to serve the students, and it came from students. While it's a good idea in some respects, it wasn't the fiscally responsible alternative that people were looking for.

And lastly, Ms. Raffi said she wanted to talk about choice. It was incredible that, for example, the Berkeley Co-op got together because students wanted something and they were missing something from

their lives, and they came together and they created it. But she thought that this was a different situation because this was not a fight for something that students were missing. She saw the opposition to Panda Express as people fighting against something other people want, something that mattered to other people. She thought that was an important aspect to this situation as well.

Mr. Smith said the next speaker was Andrea. Andrea said she wanted to bring up a couple of additional points that maybe weren't addressed yet. It was true the food co-op got student funding. They're a University and they're proud of their student groups and all the things they do on their campus. She thought it was very important to continue to support that. She thought that they also had to consider that it wasn't necessary to support them at the expense of their ideals and the things that this campus was built on. But maybe that was just her own personal opinion. When they see that the increases in revenue or the amount of money that going to student groups that came from having Panda Express there, they might also be attainable from a different business. She thought it was proper to think about that. They stand for a lot of things on this campus, and while she thought a lot of students really did enjoy Panda, and while her dad also really liked Panda, when she was talking to him that day, he brought up a great point, in that even if they love Panda Express, it wasn't appropriate for this campus, because it didn't have anything to do with what the school stood for. They are leaders in a huge community, in the University community, and on a national scale. She thought that was something people really had to take into consideration. She thought that in trying to fix this problem that has come about that they really should try to look at other options, such as the Berkeley student food co-op. She just wanted to share her very strong support for that. Finally, she wanted to leave with a quote from a speech that Alice Waters made about public schools and eating in public schools. "There are countless ways to lead a food program into the curriculum at every level of education." Ms. Waters was mostly talking about elementary schools, but Andrea said that there was no reason that people shouldn't expect this from their own University. She thought they need good nutritional food.

Mr. Smith said the next speaker was Laura Zelko. Ms. Zelko said she didn't have much to add and just had one thing to say. She was really sick of one argument. She wanted to come out to them and say that she loved sour gummy works and other candy, but if they were to put a candy store in the Student Union, she'd laugh. It wouldn't make any sense. So she just had to say she for one wasn't entertaining that argument. She loved things that were bad for her, but that didn't mean she had to have them right there. She didn't mind walking all the way to North Oakland to get a certain soda that she really liked. That was fine for her, because it was a treat. She felt that Panda Express was also kind of a treat. She felt that Panda Express was kind of a treat, like, "I've been so good, I'm going to eat some Orange Chicken," and then regret it later.

Janet Frishberg said she wanted to say that she has been doing a lot of research again. She was loving this project. She really appreciated the Board giving her their full attention and time because she was not going to waste it. She wasn't interested in presenting the same arguments on whether she liked or didn't like Panda. She thought they could sit there all day and argue about Orange Chicken. But some of them at the meeting wanted to celebrate Cinco de Mayo that evening. She appreciated their attention in this



matter. It was really important and she was representing a lot of students who couldn't be there that evening, because they'd miss out on their schooling from being at this meeting.

Ms. Frishberg said she was just a regular student, not on the Senate or on the Board. The job of the ASUC Auxiliary Board was to ensure the financial viability of the ASUC so that the ASUC and the Auxiliary can provide student services. As she understood it, the Board supported student groups and student life on the campus in general. Their stated problem is that their revenue has stagnated while their costs have increased, and they're as much as \$200,000 in deficit. They have a slew of resources and solutions to that problem in their hands. One of them was the Tully's lease that they're currently negotiating. Another was the Bear's Lair Food Court that they're in the middle of raising rents for. They have a deal with Coca-Cola and with Follett, and they're looking to have The Scholar's Workstation to make it more central to campus and therefore more profitable. Finally, someone said the Auxiliary also had a few vacant spaces, four, as she understood it, including Naia, which has closed its doors; STA Travel; CUBS; and the Postal Annex. Some of them were still paying rent and a lot of it was subsidized.

Ms. Frishberg said that out of all their solutions to increasing revenue, there was only one that created enough controversy to draw hundreds of students to SOB meetings in these last few months, and has, in the Board's attempts to make it work on this campus, become a quagmire of a situation in which students interests and financial interests find themselves at odds. They have proposed to bring in a fast-food chain to their school, one with deep enough pockets to spend a lot of money in renovation and supposedly save Naia's business with increased foot traffic. Students have raised issues with both the general idea of Panda Express and this specific Panda on their campus. The general problems that apply to fast-food chains, and to every Panda Express, include cultural, social, environmental, and health-related concerns. Students have come to Board meetings and expressed those concerns eloquently and passionately.

Ms. Frishberg said she was happy to announce that she finally found the Board's mission statement. It's on the bottom of their staff list Web site, and it reads, "Our mission: To create a student-centered environment that provides the campus community with programs, activities, services, and facilities that extends student learning beyond the classroom."

Hundreds of students have come to Board meetings from a variety of different backgrounds, such as Environmental Science, Ethnic Studies, Public Health, Nutritional Sciences, Psychology, Urban Studies, Business, and others. All these students were coming there and saying they were using what they've learned at this school to reject this proposal for a student facility. She'd ask why the Board would ignore what these students were saying, and what their professors were saying, and what their experts were saying. She would ask why the Board was rejecting the voice of the very people the University was supporting and trying to train students to become. She would ask what the point was of learning this if they didn't actually apply the research they do and the knowledge they gain when they ask real-life decisions. If all that mattered was finances, she would ask why they were wasting their time learning about any other subjects.

Regardless, Ms. Frishberg said she would like to discuss problems specific to this Panda Express and this contract. There was a huge problem with how this has unfolded and morphed over time. She's gone through that with the Board step-by-step in terms of the minutes and what happened last month. She found it really interesting to go through the minutes, and she hoped the Board learned a lot too.

In times of crisis, she thought it was most important to look back at the guiding documents and the intent of their By-laws and the agreements that founded their organization. Section 3.3 of the ASUC

Commercial Activities Agreement discusses non-RFP contracts. It states that the Board may authorize the Auxiliary to negotiate and, upon approval of the Board, execute minor leases, licenses, or operating agreements, which may be necessary for the normal conduct of business. All other contracts were supposed to go through an RFP, per the CAA. Ms. Frishberg said the pseudo RFP done by Terranomics was not sufficient to find out what resources lay in their community to develop the space. Additionally, an RFP was never done for the STA Travel space, where Panda currently planned to move.

The point of an RFP was to have a public, open process whereby the Board could set a vision for the space and the public could compete to fill that vision in the most beneficial to them. This pseudo RFP was neither public nor open. There was no vision on the Board's part, and members of the Board brought up concerns about this process time and time again. One month after Panda Express was first brought to the Board's attention by Mr. Permaul, that there was interest in coming in to the campus, in April of 2007, Ms. Harrison said that any new commercial activity undertaken on behalf of the ASUC had to be approved by the Board and would also need to go through the ASUC Senate and to the Chancellor for approval. She also stated at seven different points throughout the meeting, that she was concerned that the Board was not following the CAA.

Ms. Frishberg said they could also see this in regard to other spaces on campus. The Postal Annex was closed, and an administrative office was moved in there, something from the campus, that paid rent. But originally Mr. Permaul said in September 2006 that while it was sad that the Postal Annex closed its doors, the good news was that people were pounding on the doors to get into that space. And three years later they're being offered this for the food cooperative. Ms. Frishberg said she was bringing this up because it was part of this larger problem of not having revenue and an increase in vacancies in the Auxiliary's available real estate. And they've been ignoring their governing laws. And that process has gotten them to where they are today. They can't change that; and many people have expressed extreme regret. But this was where they find themselves, and the question was what they do now. She believed that a yes vote on this contract was inherently an approval of the questionable road that got them there.

To continue with their specific concerns, they raised issues of the concern with student choice. An argument was heard that students should be allowed to have Panda Express because they're adults and can choose whether or not they want to eat there. Choice implies that students have equal information, and choice implies that people have unlimited resources. Their main issue with resources was with time. Students will purchase any food on campus, to some extent, because it's convenient when they have ten minutes between classes. She's taking 19 units that semester. She had many days on campus when she didn't have more than ten minutes between class and work. A lot of people have at least one day a week where they don't have more than a ten-minute break in the day. So their purchasing decisions aren't based on choice because they don't have time, and location was important because they have only limited space for the Student Union to choose Panda Express. That negates all the other alternatives knocking on their door trying to get into the Student Union. At a recent food cooperative meeting, Mr. Permaul cited 23 businesses interested in getting into the Student Union. So she'd guess it was too bad that they only had four open storefronts, and maybe with Lower Sproul revitalization, they could have a lot more.

Also, they're a public University and they allow research and reason to guide their decisions. They were also created for the public good, not as a capital project. As for student choice, students were choosing right now, by trying to be a part of the Board's democratic process, saying they would choose to keep chain restaurants off campus completely. They want to do that from the start, rather than having to choose every single day of their lives to avoid Panda Express on the campus.

Ms. Frishberg said another concern the group had was the idea that Panda Express would be popular among the students. That was all based on one survey done a few years ago, coordinated by Jordan Smith. Mr. Smith said it actually wasn't coordinated by him. Ms. Frishberg asked if he was working with the Office of Undergraduate Research. Mr. Smith said it wasn't him. Ms. Frishberg said that Mr. Smith presented it to the Board and explained the results. She would apologize for that mistake. A lot of Board members used that survey when they said they wouldn't be doing this except for the survey that said students want this. Ms. Frishberg said she truly believed the Board was trying to figure out what students want, and they haven't been able to.

A different, randomized, impartial survey presented last month that was done by a curious student found that two-thirds of students in the survey wanted to keep fast-food chains off the campus. In the Board's minutes from November, 2006, Ms. Putnam-Smith said that thinking back to Follett, in 2004, they did a survey of almost 700 students and faculty, and the strong majority was very against having chains on campus. Ms. Putnam-Smith knew there would be a tremendous amount of protest if Starbucks were to come to campus. Ms. Frishberg said that Mr. Permaul responded by saying that part of it was that students would be educated. Ms. Frishberg said she found that statement to be extremely alarming. If their only solution to the lack of student support for the big brand they were bringing on was to re-educate students, then they were in for a very long battle.

Ms. Frishberg said she would next like to address the culture of Berkeley specifically. She would like to mention something that Dave Rhoads said to her at a meeting they had a few weeks ago. She wanted to thank him for his thoughtfulness and honesty at that meeting. She hoped he didn't regret it. She asked Mr. Rhoads why he chose to come to UC Berkeley, and he said it was different from Las Vegas, where he's from, and it was different from UCLA; and that drew him there. Ms. Frishberg said she had the same experience. She went to UCLA but didn't apply there. She went to San Diego and didn't say yes. She went to USC, UC Santa Cruz, and to a lot of other different schools, and she came to Berkeley after all of that. That was about character.

The students weren't anti-chain. Naia is a chain and has five businesses. It was a question of what chain. A successful business that met all of the students' requirements, or most of their requirements, and wanted to go into that space and was pleasing to students and popular and successful financially, would be cool. It wouldn't depend if such a business had two locations or a hundred locations. The students were not anti development. They're not anti financial solvency for the ASUC Auxiliary. They're trying to help the Auxiliary and encourage it to make decisions based on more than \$47,000 in rent.

Ms. Frishberg said that when Mr. Rhoads said that, she thought that was in complete contrast to what the Board was doing with this vote, which was moving their campus towards the model of, for instance, ASUC-LA. The whole basis of this conversation about Panda Express was that the students wanted to move towards the way ASUC-LA functioned because of UCLA's revenue, as mentioned in the Board's September 2, 2006 minutes. Ms. Frishberg said her question was whether Berkeley would lose a student like Mr. Rhoads by changing the culture in this way, or a student like herself, or like Ms. Oatfield, or Ms. Winston, or any of the other students in the room who care enough about this school to devote their time or their energy towards Board meetings and these huge decisions that they were a part of. She wouldn't want to risk that.

Ms. Frishberg said that if the Board really wanted to change the face of the campus for ten years minimum, with the Panda contract.

Next, Ms. Frishberg said that Mr. Rhoads also brought up his belief that this contract was creating a model fast-food chain on the campus, and she really wanted to address that idea. She believed that he was a logical person and that he was considering both sides of the argument. She thought that went for all of the Board. She asked if anyone has heard of the term “greenwashing.” It's a term used to describe the practice of companies disingenuously spinning their products and policies as being environmentally friendly when they're not. This was exactly what was happening at Berkeley. A vote yes on the Panda contract was saying that this was good enough for UC Berkeley, and that they were setting the bar at that point, at a low point. Panda was not a model big business. It has pending lawsuits with its store managers and Panda has not agreed to deal with the most serious concerns of students and professors who study environmental issues at this campus.

Ms. Frishberg said her roommate made a flowchart to illustrate a few of the issues with their production, distribution, and their consumption. Ms. Frishberg said that as far as she could tell, all that was being addressed by Panda was waste and a non-vegetarian menu. And they could go on, and talk about diseases and about fossil fuel use, with an entire flowchart about how that affected the world. And obesity was a national epidemic, according to their government. The students weren't making this up. This wasn't unfeasible. There are businesses that address all of these concerns, or at least think about them. They don't have to change industrial meat production to decrease pollution, and they could just change their mode of production, or of consumption, or of distribution. And if they started from here instead of down here, maybe they'd see less problems. It's really frustrating when people say that all of the concerns raised have been met in this contract. Students will tell them when their concerns have been met, because they will have been met. It was frustrating because she didn't want to interrupt the Board's public comment, or she couldn't do a little insert into the editorials of the Daily Cal. But to have someone saying that their concerns have been met, when they haven't, was the most frustrating thing.

Ms. Frishberg said that some of them believe they're setting a high standard that could reverberate on to all other Panda Expresses. However, Panda was not taking the issue seriously. Panda's responses have been superficial and haven't addressed how the food got to them and what it was made of, and they're ignoring the main issue at hand. This contract would do a disservice to other schools and to Berkeley students by not fighting for these values that the campus has supposedly seriously committed itself to. Ms. Frishberg said those were a few of the students' current concerns.

Ms. Frishberg said that what she most wanted to talk to them about, because she thought it was at the forefront of their minds, was the financial aspect of the situation. She was moved last month, as she was sure all of them were, by the impassioned voices of the Auxiliary employees, including Jan Crowder, voicing concerns that they could lose their jobs or that the Auxiliary would be taken over by the Administration because of financial insolvency. However, Ms. Frishberg said she had serious questions about these hysteria-inducing claims, which have caused some students to take up the pro Panda flag solely in the hopes of saving the Auxiliary, which they so care about. So she went and spoke to some of the employees of the Auxiliary who were being threatened with layoffs. And they had really interesting feedback. They encouraged her to look closely at the budget to see where the money was going.

Most of the Auxiliary budget goes to payroll, over \$2 million. And much of that went to management. In fact, it was her understanding that ASUC management staff at a relatively recent meeting, granted three classes that cost the department a relatively large amount of money, and contributed significantly to the current budget impasse that made layoffs seem necessary to management. However, in the budget that was posted on the Auxiliary Web site at that time, it showed the budget as breaking even at the end

of the year. There was no shortfall. In fact, for the 08-09 budget, over \$9,000 was scheduled to be transferred to reserves. She didn't have anything else to go from because when she went to the Auxiliary office to talk to someone there, she was told to go online. In 09-10, the budget projects an increase in revenues, but expenses are increasing so much, not in terms of utilities, but in other areas, that the Auxiliary was not quite breaking even.

Ms. Frishberg said the budget brought up some serious questions. She would ask why the budget wasn't kept up-to-date on the Web site. She asked what fell under "miscellaneous expenses," at \$22,000; or what fell under \$7,000 for travel. She believed the Auxiliary employees were working really, really hard on students' behalf. And she hoped that everybody felt that way. She's only heard great things about the services Auxiliary employees provide. She thought Auxiliary employees would love to provide more services to students, if they had the time and energy. She wasn't trying to tell the Auxiliary how to spend its money and she didn't presume to know everything about their budget from looking at the basic figures online. But what she was saying was she wondered if some expenses could be cut from the budget that weren't completely necessary in order to save the jobs of employees throughout the tough times this year and next year, since that was something that was clearly important to the students and beneficial to the staff.

These employees also talked about the Chancellor's recent response to overall budget cuts. He spoke several times on campus. The Chancellor was very proud of the fact that they had successfully encouraged upper-level management to either participate in the START program or to donate a portion of salary back to the University. She asked if people knew what the START program was, and said it's a campus-wide method of the University when it had budget problems and layoffs were threatened. START allows staff to take 5%, 10%, or all the way up to 50% of their time off and not get paid for that time. But they're allowed to maintain retirement credit and benefits as if they were working at their previous full-time schedule. However, she would imagine that many in the Auxiliary would say that they had too much work and too much responsibility to take time off, and that they were already doing two people's jobs. Then upper-level management or whoever could donate a portion of their salary back to the University. That's how it works in other departments.

Ms. Frishberg said she would talk about Panda Express as a curative to the Auxiliary's financial problems. In making this a cure-all to the Auxiliary's financial woes, they're gambling on the fact that students will shop there, and not just for Panda Express to be profitable, but for them to be so wildly profitable that they make \$1 million in revenue. At that point the Auxiliary would gain back about \$100,000. That amount is half of what the Auxiliary needed to break even this year, or next year. Ms. Frishberg said she was going from the stated terms of the contract in the minutes. She was sorry if those numbers weren't completely exact, but she wasn't allowed to see the contract so she couldn't get them the exact numbers. From what she's heard, the numbers changed slightly, but only to be a worse deal for the ASUC. That is, the rent has been lowered, and maybe the profit, although she wasn't sure.

Ms. Frishberg said she wanted to put this in an historical, broader context for them, and would talk about Follett. Follett has not lived up to their hopes and dreams and gambled. It didn't make nearly as much money as the bookstores at UCLA or San Diego, and doesn't make as much as people really expected it to. This has resulted in the Board having to restructure the deal with Follett to the detriment of Auxiliary profit, and was contributing to the current gap between expenses and revenue from their business ventures. And that was because students didn't feel loyal to the Student Store. If they felt that Ned's was offering a cheaper books, they'd go across the street.

Ms. Frishberg said she would next discuss the contract with Coca-Cola. She would like to read from the Board minutes of April 11, 2006. Ms. Wang said that another big impact with the Coca-Cola commission was that the original budget revenue from Coca-Cola was budgeted at \$275,000, but the actual commission received was only \$251,000, with revenue down by \$21,000. The Auxiliary has seen a continual erosion of Coke revenue that was continuing in the latest figures. The Auxiliary has seen a continual reduction in Coke revenue. That was continuing, and the latest figures were down. They're trying to work against that. Coke volume was way down, and now water was actually a top seller, even in the vending machines.

Ms. Frishberg said this was a prime example of how, when they gamble at making money at the expense of student health, it did not have long-term financial viability. She asked if the Board was willing to keep making that gamble at the expense of losing out on other options, ones that might be popular as students and also might have serious staying power on this campus.

Ms. Frishberg said the third item was the longer term of the Auxiliary budget. On February 14, 2006, Mr. Cordi left the Board as Executive Director. At that time he said that the Auxiliary had over \$2 million in reserves and that they were in, quote, "very good" shape financially. Ms. Frishberg said this was the first time she's heard of these reserves. The student group was wondering what the state of those reserves was at that time and why they haven't been brought up before. Ms. Harrison expressed at the meeting about the lack of vision on the part of the Board. Ms. Frishberg said she thought that was a huge issue at stake. The Board has been ad hoc'ing, but that could not go on any longer. The Board had the opportunity to construct a business plan with a real vision of Lower Sproul that day. The group of students there would suggest going out for an RFP. While they do that, they should either follow the Chancellor's example and trim their expenses voluntarily, cut salaries from the top, or use the START program, or use Auxiliary reserves to cover the cost of leasing spaces. Reserves were obviously not a long-term solution. The students there were not trying to be unrealistic with the Board. They were addressing that RFPs take time, up to six months. And the students there work that out see the Auxiliary financially solvent. But it would be possible for at least these six months, while they design and implement an RFP, to do so. An RFP will give them time to seek real student input. To ensure that they have competition for these spaces and that they give the public an open at any time to compete for contracts that are set on the Auxiliary's terms from the start. It was the only prudent thing to do. As the Auxiliary negotiated on and on with Panda Express, try to placate all of these issues, the Auxiliary's financial situation has only gotten more dire. When the Board started, their budget was balanced, and now it wasn't. Now was the Board's chance to begin on the path of correcting this. They should vote down this contract and move to end negotiations with Panda Express for these spaces, draw up revisions for the empty spaces, as a Board, and under its jurisdiction, and move to do an RFP based on the vision for all of the Auxiliary's empty storefronts. And they should secure the food cooperative as part of Lower Sproul and shouldn't push them off-campus by filling their storefronts with chains like Panda or by businesses that haven't proven viable, like Naia. If the Board wanted to maintain its legitimacy in the eyes of the student body and the campus, to make sure they support the Board in all its endeavors, a vote for Panda Express was not a vote for legitimacy in the eyes of the student body. She wanted to thank them. (Applause)

Mr. Marks said that real quickly, for those who had concerns about the budget, he would encourage them to look at how strongly they've gotten to their current point. It was an age-old tactic, to bankrupt a space to become dependent on the need for a large corporation. In the 1980s that whole strategy was

completely debunked, and he thought people were over that. But that was exactly what was going on at that time. He appreciated the strong voices advocating for more revenue, but he would really appreciate it if people would do the research and find out how the Auxiliary got to this point. They have three businesses that have been on campus for 20 years, that have paid strong market rates, without losing out on a single payment of rent. So as they discuss the need to save the mom-and-pop stores and the need to save the ASUC through Panda Express, he thought that in an economic crisis, they should look at what they have, look at what's worked, get in a dialogue with the vendors, and make that grow, in order to get themselves out of this situation, instead of doing the age-old tactic of reaching for the first person to give them deep pockets to get out of this.

Mr. Marks said he wasn't there to talk about Panda Express. Most people have done that extremely well. They might remember him from last April 14. He was really happy with how the meeting went on April 14. Some things have happened since then that he didn't feel so good about. The Bear's Lair Food Court vendors sitting over there, Ms. Vu, Mr. Alloun, and Mr. Marquez, have paid strong market rates and never missed a rental payment. They need no assistance from Panda Express and were doing just fine. Yet, while the Board has spent so much time focusing on Panda since April 14, when the Board voted unanimously to enter into contract negotiations with them, the Board has done very little. They've been very busy, and he understood that. But he felt slightly betrayed. He couldn't imagine how the Bear's Lair vendors felt. Mr. Marks said he's invested three months of his time into this and he couldn't imagine how it would feel in the next 20 years of his life put into serving students and to be treated like the Bear's Lair vendors were being treated. And that's what really killed him. He couldn't go there emotionally.

That day he wanted to talk to the Board about the cost for students' food in the Bear's Lair Food Court being such a low priority. He's met with some of them, and cost really was very low on the totem pole. That was the case even though the only survey that's been done in there put cost as the top concern, above greening, above even keeping small businesses, and above revenue. And it was from a large cross-section. So this wasn't a party line. Food costs went above all of those.

One of the things they have lost out on focusing on Panda Express was the great ideas that come out of the Bear's Lair Food Court, innovative ways to increase revenue. One way that's been brought up that people were excited about was to increase catering contracts. Another idea was to actually emphasize advertising and to put into the contract a guarantee of catering contracts for the vendors. For that, the vendors said they would guarantee a ridiculously high revenue-sharing fee with the Auxiliary. That actually would get the Auxiliary to possibly get most, if not all, of the increased revenue they want to get in raised rent. This was an example of serving students, of acknowledging the need for revenue, and acknowledging that they want the same thing, and that they want to green up that area. They're talking about an all-organic option, with green business certification, and completely biodegradable or rewashable serving ware. The vendors would do really good things in there. And there are ways to integrate all stakeholders who are involved. But the problem was, the Auxiliary has been too busy talking about Panda Express, for two years, doing back flips on a gamble that may not do anything for the Auxiliary. And they've completely forgotten about what was working.

Mr. Marks said he didn't want to repeat anything, but he was there that evening to advocate for really prioritizing what was going on there. He didn't want to hear anything about mom-and-pop stores in the Student Union needing help. It was overpriced ice cream that needed help. People with viable businesses who are very intelligent and who have been there for 20 years do not need help from a

corporation. All they need was maybe a little attention such as what Panda Express has gotten in over two hours of closed-session meetings to convince the Board that Panda was the golden ticket. He asked the Food Court vendors if they have ever been invited to a closed-session meeting of the Board to talk about their innovative ideas, after 20 years of experience, more than anybody on the Board. And they never were.

Mr. Marks said that this, to him, was really unfathomable. And not just as an activist, a student, and a human being, but from an economic mind. It was hard for him to conceptualize this. They have a guarantee there, with the Food Court vendors. The vendors have ideas for revenue sharing, with a point-of-sales system, so if they make \$500,000, e.g., they give the Auxiliary more money. They could even put that in a fund that went directly to student groups. That would actually create ownership in the Bear's Lair Food Court and would create foot traffic similar to the plan the cooperative had, although not quite there, but definitely a step that direction. And this would not be the campus Student Store that says, quote, "The store that gives back." Instead, it would be said, "This is exactly where this money would go."

Mr. Marks said he would advocate for the agenda to be changed to talk about the current vendors before anything else. He could care less about Panda Express. That was just some random idea that has been put forth that had no bearing on him personally. He didn't even think it was important. This was very important, the vendors, people who have been there for a long time and who support families.

The Board's priorities really needed to be realigned, and he would encourage the Board to really quickly make the correct decision and go out to an RFP for Naia, STA, and the Postal Annex spaces. The student cooperative does not want to come into a backroom deal and wanted to engage in this public process. The Auxiliary should hold on to what really mattered, and hold on to what they've got, and create a dialogue with the vendors hopefully later that night, or very soon. That was the way to increase revenue without taking it out of students' pockets.

Mr. Marks said he smokes half a pack of rolling tobacco a day. He loves it. But he would hate to see tobacco in his Student Union. But at some point, they had to admit that there's a balance between revenue and student concerns. He thought they had no better concern with that balance than with the three vendors, his friends, who have served for two decades. Hopefully the vendors wouldn't be there late because they had to get up at 4 o'clock in the morning, as they do every morning, to serve the students. Mr. Marks said he wanted to thank them. (Applause)

Chris Reid said he would just elaborate. A key issue was the concern about what to do about Naia or STA, or the Bear's Lair Food Court, and that was a procedural issue at hand. He thought Chief Harrison, Ron Coley, and several other members, have expressed concerns about the transparency of this process with regard to Panda. They've expressed that concern numerous times. And the interesting thing to look at when considering this was to actually go back to the fall of 2006, when the idea was first raised to bring a Starbucks or a Panda to campus. It was actually Chairman Jordan Smith who conducted a study, since he was interested in putting his time into thinking what would serve students best. Mr. Reid said he would congratulate Mr. Smith on doing that. One thing that Mr. Smith found in the survey was that students would love to have Panda Express, or would love to have Starbucks. But there happened to be another survey conducted more recently that said the opposite. Surveys were always a little delicate, and



it was always questionable how to derive data points. He didn't think either Mr. Smith or the other gentleman intended to skew those data points in any way whatsoever, but they're two different studies, both conducted in ethical manners, and according to the skills that students learned to try to do surveys correctly. He thought that both were done in good faith. But they came up with different answers.

The idea of Panda and Starbucks both came up at the end of 2006. He would ask people to be honest about that. They were also discussed extensively through March, April, and May of 2007. During that time, when they were discussed, the idea was to bring in a Starbucks or a Panda through Follett. The idea was that the Auxiliary would sublet space from Follett and sublet a little square, at the location where computers are now sold. That was the initial idea. That deal didn't seem to fly. There was a lot of concern across the board that Starbucks just wouldn't cut it as this was, after all, Berkeley, and Starbucks wouldn't fly in the face of all the students there, and Berkeley's tradition and legacy. Panda Express, on the other hand, was a viable option and was considered quite extensively during those times. There was talk about Panda being a family-owned business, a small business. There were some discrepancies about that. He understood Panda has 1,200 restaurants. He thought that was bending the definition of a small business.

People might not agree that the Auxiliary had to have small businesses there at all, and could flat-out say they don't need small businesses, and ask why they shouldn't have a McDonalds. That was fine. But if the Board was going to talk about Panda Express as a small business, he thought that was pushing it.

Coming back to how Panda would come on here, Mr. Reid was that it was going to come in as a sublet with Follett, or with some other entity yet to be described at the time during that period. Chief Harrison and Ron Coley both expressed concern about that process, and said it would be going against the Commercial Activities Agreement, the document that actually formed the Board in the first place. Mr. Reid said that Chief Harrison has been around for a long time. He didn't know all of her thoughts or exactly what she thought then, or now, and if she was pursuing it otherwise. But at the time she expressed quite a lot of concern that the CAA specifically stated that in the case of a new space going out, becoming a new business area, that they would need to go out to RFP. There were also specific statements that if they changed from one type of business to ASUC completely different type of business, it would also have to go to an RFP. There was also the point that going through an RFP process was a little more complicated than just the Board getting to open up the field to anybody who came in. A proposal would be submitted and then the Board would get to decide in public. It was actually a little more complicated, and his reading of the CAA suggests that the ASUC President's signature must be on the final RFP document. After the Board decided who it wanted, Ms. Winston could get to veto that, just like the Chancellor could. That meant there was ASUC Senate and Executive Office oversight over what businesses came in.

Mr. Reid said he thought Mr. Marks's points about whether the ASUC should sell tobacco or pornography or some other kinds of things on campus went without saying. Some of the people in the room felt the same way about Panda Express.

Going back to March, April, and May of 2007, in discussions, it was quite clear, over and over again, with Chief Harrison encouraged the Board to go back to the CAA, an agreement she participated in creating, during negotiations with students who were about to lose control and power over the ASUC. Incidentally, Chief Harrison was not on the side of the students at that time. That wasn't her particular role. In that delicate balance, she had to play a particular role in advising on how to figure out the debt morass

that the ASUC found itself in, and to guide students who come in and go, and never really get a feel for what was going on there. In that capacity, she saw that there were certain balances of power that needed to take place.

So the question was where they find themselves now with Panda Express. Panda Express came up to this Board long before, and actually came up two to three months, or four months, he believed, prior to Naia even expressing that it was having financial difficulties. The idea of bringing Panda Express as a sublet came up three to four months prior to Naia going in. Then, apparently, Naia comes to the Auxiliary, after having some other corporations figure out what would be the best bid, and states that the only fit was Panda Express. And at that point, Naia brings Panda in.

Mr. Reid said he wasn't clear about this and asked how long Naia has been closed. It's been shut down and locked, with paper over the windows, for ten months. They've paying \$2,800 a month. That was the base rent. Naia is paying \$2,800 for all of this time, and wasn't even open. And if they look at Naia's contract, it was very similar to Panda's contract, as far as they knew. At \$500,000, they'd start to pay revenue sharing. He didn't believe Naia ever came close to \$500,000 in revenue. And therefore it never paid the Auxiliary a cent in revenue sharing. He asked what the Auxiliary was doing with Panda Express. If Panda had to get to \$700K or \$1 million before starting to pay revenue sharing, it was the same patched ideas, all based on what they thought would happen. Naia thought it would do great, and it didn't. That's what businesses do. Panda thought it would do great, but that wasn't known, and wasn't guaranteed. The Bear's Lair tenants have demonstrated that they were capable of going through all these processes of projecting income and actually getting it. And the Board has never had an issue of funding from them. And they were actually paying strong market rents. Mr. Reid said he wanted to thank them.

Mr. Nahabet said he would show a little clip that he made in the past two days.

Mr. Smith said that as they were waiting for Mr. Nahabet to set things up, he would like to introduce the new faculty Board member, John Myers, who will officially start July 1, 2009. Dr. Myers is Professor Emeritus from the Haas Marketing Group. He got his undergraduate degree in Forestry and Commerce at the University of British Columbia; an MBA at the University of Western Ontario; a Master's in Sociology at Northwestern; and a Ph.D. in Business Administration and Marketing at Northwestern University. Prof. Myers has been at Haas and Cal since 1964. He's had multiple positions, including Chairman of the Marketing International Business Group, Associate Dean of the Graduate School, and Associate Dean of Academic Affairs at Haas. And they also found out that in 1990, Prof. Myers was on a Board very similar to the Board they have today. So Mr. Smith said he would like to welcome Dr. Myers. Prof. Myers said he would like to thank them so much. (Applause)

Mr. Nahabet said he's an ASUC Senator and he felt there was sort of a disconnect between the SOB and the ASUC. To be honest, he knew a lot of the members of the Board, voting or non-voting, who haven't been to Senate meetings and haven't been to meetings of the Senate's Finance Committee. So in the movie he'd show, he tried to bring that to them. He knew Board members were busy and didn't have time to sit through those meetings, like Senators have done for the past year. Before he started, he wanted to say that the large attendance he's seen in the Senate Chamber was not during SOB meetings, but was frequently during Finance Committee meetings.

Ms. Winston said she just wanted to say a few comments before the Board moved into the next portion of its agenda. To flash back to the discussion at the end of last month's SOB meeting, many members of the Board talked about not wanting to forget that as they went through the meeting that evening. Another thing she wanted to stress was what she and many students have said that evening; and many students were not there that evening, but had similar views. They're not in opposition to bringing businesses to campus, or in opposition to the financial solvency of the ASUC. But they were in opposition to double standards and to a process that was incongruent with their Commercial Activities Agreement. And for those who were not sure exactly what she was speaking about, she meant the RFP process, or the lack of an RFP process for the Naia space.

Ms. Winston said that last month the Panda concept was voted down. And yet, it was still being pushed forward. At the end of the last meeting, she remembered saying that her question to the Board remained, i.e., what she had to do in order to express that Panda Express was not welcome on this campus, and to stop this from proceeding. And that continued to be her question that evening. She wanted other conversations centered around what they'd be gaining, and whether what they'd gain would be a small amount of revenue to the Auxiliary, or a new business that would create foot traffic. But she thought the question that was being largely ignored was what they were losing. She remembered at one meeting somebody coming in and suggesting that people visualize seeing a Panda Express under Sather Gate, or by the Sproul steps. That was something they'd be losing. They would be losing part of Berkeley's culture and part of what attracts people to this school, and part of what has made them one of the best universities in the country. She would ask what it meant for the Board to reject a student innovation in order to bring in a food chain. That was another question for people to ask themselves.

Ms. Winston said she thought a lot of people thought they shouldn't discuss a co-op in opposition to Panda. However, she thought that was very fitting to discuss, and to talk about these things, not in opposition, but juxtaposed to each other, mainly because this entire year she felt students have not been given any options, or alternatives. And that's exactly what the co-op was. Students came up with this idea themselves, and she thought that was exactly what the Board was looking for, and exactly what fit the mission statement of both the ASUC and the ASUC Auxiliary. A lot of times they have discussed the model of ASUC-LA, and how that was not something Berkeley needed to look like. They didn't need to be like that. Berkeley stood solely on its own. They heard students state that they wouldn't have wanted to come there because of these changes, to be very honest. One woman who spoke earlier said she would not have wanted to come there if it looked like UCLA. She didn't go to UCLA, and that's why she came to Berkeley.

There are things about the Berkeley campus that no other UC could boast of, and that's something they'd lose, a culture, their pride. Lastly, if they were so confident in Panda Express, she asked why they didn't take these spaces to an RFP process and allow Panda to bid, just like everyone else. If Panda was really the strongest option in that space, they should get it in a way that was ethical and in compliance with the CAA. The Board should make a decision that evening and not have these conversations further, and to not have something that didn't reflect every student.

A speaker said she might play devil's advocate, but she was okay with having Panda Express, especially if their current venues were at a loss. They need to try something new and they couldn't keep on betting on a losing bet. If their current vendor wasn't making money, maybe they should try something new.

Mr. Nahabet said the reason for the video was because he just to show what student groups were going through that year, and what not having revenue did to their student groups. He wasn't there to talk to the Board about what it was going to do with Panda, but he's been sitting in Finance Committee meetings the entire year and has had to gut groups and student organizations. Student leaders come in and look at him with faces of disgust because their group was cut. Mr. Nahabet said he didn't want to have to do that. But he did, as did other members of the Finance Committee, and he thought it was really important that the SOB have a complete image of what the ASUC did and how the lack of revenue affected their student groups. These are the budgets that groups are allocated for next year, and they were all drastically cut. For this video, he only had a week, and had one Finance Committee meeting worth of content to video and base the movie on. He hoped, when considering any decision that evening, that the Board took into consideration the student groups, the ASUC, the Senate, the Executives, and the entire campus. He wanted to thank them. [A video was shown.]

Mr. Smith said the Chair would entertain a motion for a five-minute recess. It was so moved and seconded and passed with no objection. This meeting was recessed.

Back in session, Mr. Smith noted that Mr. Daal was Mr. Rajan's voting proxy at that point. Ms. Winston asked if Mr. Daal could vote on a proxy. Mr. Smith said he could, and said that was approved by the Board online.

Ms. Winston moved to go back to public comment. Mr. Smith said the Board has had two hours of public comment. The motion was seconded by Ms. Pasco. Ms. Winston moved to extend public comment by 15 minutes. The motion was seconded by Ms. Pasco passed by voice-vote. Mr. Smith said that would be a "hard" 15 minutes. He said there were eight speakers, and once they reached the two-minute limit, they would be asked to stop.

Mr. Nahabet said that some people have approached him and accused of using the video to push an agenda. He wanted to make clear that when he went up there, he said that he wasn't pushing for Panda. He didn't care about the decisions the Board was making that day. He just hoped the Board understood that the impact of not having enough revenue had on student groups. He said that when he was filming the video, that when he got up to present it. It was simply a portrayal of the way student groups have their funding cut, and what groups experience and have to put up with because of that. As for accusing him of pushing an agenda, he didn't care what the Board voted on with regard to Panda or the RFPs. He simply showed a video that presented facts and things that were important for the Board to know. It was important for the Board to know that student groups have been cut drastically this year.

Ms. Winston asked why he didn't mention the increase in carryforward of almost \$200,000 that the Senate received as opposed to last year's Senate. Mr. Nahabet said the Senate spent that money in carryforward, and group were still being affected by a zero amount of dollars coming out of commercial activities in Lower Sproul.

Mr. Marks said there were students there who were in a student group and knew things were bad for groups. Student funding was a really big deal. They understand. The Board had to understand that the conversations Mr. Nahabet showed in the video implied that he was trying to derive an illogical, false

correlation, or false causation, that student groups getting cut required the Board to do something drastic, like admit Panda Express to the campus, so that these costs could be offset. He knew Mr. Nahabet didn't mean that, but that's what it says when using the images and audio he presented to influence people. It was very covert. Maybe Mr. Nahabet he didn't intend that, but that didn't matter.

Raymond said the Cal Literary and Arts Magazine was not in support of Panda Express. He got a text message from a friend saying that he was plastered all over the video, which was cool. Mr. Nahabet has been very supportive of the group. Raymond said he was also a vegetarian, and many of his friends were. And there are many healthy, ecologically conscious, smart people on the campus who could put forward a business model for the student cooperative movement that he's heard a lot about in a lot of his classes. He didn't know what might have been implied in the video, but as for while he was in the video, he would go on the record as saying that he was not in support of this, and his organization was not in support of Panda Express. Yes, funding was necessary, and there was a mistake made with the group, which was why he asked for so much money, and that was why the situation was so grave when he talked about it at the Senate meeting. But that money was given back to the group because the Senate saw that a mistake had been made. He wanted to thank them.

Jesse said that as a former philanthropy chair for a sorority that did receive funding from the ASUC for her event, she would like to say on behalf of herself, that she would not compromise the character of her campus for this proposal because honestly, the group wouldn't be there if it weren't for the character of the campus. In times of economic hardship, people had to buckle down. When things get rough, people had to become more financially responsible. And that's what the ASUC had to do. She knew it was really hard to cut funding for student groups, but such were the times. She thought going out for an RFP would get the most viable and successful business. Putting a band-aid such as Panda in was not a sustainable, long-term solution for their financial problems.

Chas said he just wanted to add a side note that may not have been aired. He's eaten at Panda Express three times, and one of those three times, the chicken dish he ate caused food poisoning, and he was almost a week in pain because of his choice in eating there. He has since decided not to eat there any more. He lives in the co-ops and has eaten there for several years. The people there make their own food as a very cost effective measure, and he has not gotten sick once. He'd say that the standards of food in the co-op exceeds standards of restaurants. He really felt this was a corporate, profit driven venture, where profit was the bottom line, and Panda would be willing to cut corners to make a profit. He didn't feel that was in students' best interests.

Oneta said she was a member of the Executive Committee for Relay for Life, one of the organizations that was displayed in the video. She also wanted to say that the group was not in support of Panda Express. They also understand that in tough times they may be cut and may not get the funding they want, but they also understood that Panda was not a healthy option for food. Another reason she wasn't in

support of it was because unhealthy eating led to cancer. So the group would be in support of an organic cooperative.

A speaker introduced herself and said she was the Organizing Director for the bridges Multicultural Resource Center. She received a text message telling her that her community, the community she fights for, was being exploited in a video that she never agreed to. Bridges as a community organized against Panda Express. At the last SOB meeting, they had half their community there saying Panda was not what they need on this campus. She didn't see any film being shown of that, of their community standing there and saying hell no, they don't need the funding that badly, and that there were alternatives, there were other things they could do. They were being misrepresented and they do not support Panda.

A speaker said she was from the Black Recruitment Center, the Raza Recruitment Center, and they're all part of the bridges coalition. They're uncomfortable being exploited by the video. They weren't told that they were going to be recorded and that it was going to be for an SOB meeting. She didn't think people were listening. They're students and they've come out there every Tuesday. People were just not listening. The students were telling the Board that if they bring a Panda Express there, that the labor they use, those people come from students' communities, and the food they're bringing exploits their culture. There are alternatives that people were clearly presenting. And the Board was still exploiting them to bring Panda on this campus. This was so much worse than what's been done already. Because they've come there all the time, she didn't even know these people at first, but has gotten to know them because of the Board. So she wanted to thank the Board for that.

Xander Lenc said he was part of a student group that did not experience intense times, but he was there because all of them were being told that suddenly, he was at risk next year if they didn't bring in Panda, and that his group would be cut. He was there because he knew that wasn't true. It's a fallacy, and "either Panda or student funding" was false. People should stop looking at it that way. That was the same kind of messaging that people always use: You have to choose between the right to marry and a family. It's the things that have forced them to choose between the rights of workers at the University and a proper budget without student fees. It was pitting people against each other at the SOB meeting. They had the chance to fund so many of those groups, especially the most cultural groups that were experiencing intense cuts, by just taking cuts from other areas that weren't even given a slight review. It was unbelievable that they were put in a situation where so many groups were pushed together and they had groups that took money away from other groups that were funded. And to come back and say they were trying to help these groups. It was disgusting that the Board was holding these groups hostage for its own revenue. He didn't know why they want to bring Panda to campus. It wouldn't help student groups. It's a fallacy that the Board has presented where they had to choose between these two options. So many people have spent so much time going case-by-case that the Board didn't have to choose between a budget and Panda Express. He didn't know how they did it, but somehow the Board has convinced so many people that the only way to be financially responsible and the only way to make money for the ASUC was to bring Panda Express on to campus. But they haven't demonstrated that it would make any money.

Mr. Nahabet said he was really offended by a lot of the things that were said outside of this room to people outside of this room. First, before he started to film, he said he was filming because he was making a movie about how student groups were affected and impacted by cuts. He will continue to show the video to future Senators, to future Finance Committee members, and to future Executive members. He was glad the SOB saw it because it needed to know about those cuts. He probably will go upstairs and print the spring budget from last year and the spring budget from this year so they could see the cuts. The Board deserved to know that student groups were being cut. Unfortunately, he thought of this recently and he only had one night of content for which he said clearly that he was making a movie demonstrating how student organizations were being affected by these cuts. He said that at the beginning of the meeting and he said it once later on as well. So for any student group to telling him that they didn't like him exploiting them, Mr. Nahabet said he completely resented that because when he just spoke, he said he was not in support of Panda and just wanted to make sure the Board made its decisions aware that student groups were getting cut because of a lack of revenue.

Ms. Winston asked if he was aware that they didn't receive revenue from the Auxiliary this year or last year. Mr. Nahabet said he was. Finances were getting tighter and groups were having more difficulty finding other financial resources because of the economic situation. He understood they need to increase their revenue in general. He wasn't pitting things against each other and was clearly informing the SOB about these measures.

Mr. Smith said that was the total time they had for public comment and they would move on.

#### APPROVAL OF THE MINUTES

Mr. Smith said he would entertain a motion to approve the minutes from the April meeting. It was so moved and seconded by Ms. Winston and Mr. Rhoads. **THE MOTION TO APPROVE THE PRELIMINARY MINUTES OF THE APRIL 2009 SOB MEETING PASSED WITH NO OBJECTION.**

#### APPROVAL OF THE AGENDA

Mr. Smith said he would entertain a motion to approve the agenda for that evening. The only amendment he would like to make was after the Daily Cal contract negotiations, to review the 2009-2010 updated Auxiliary budget. It was so moved by Mr. Rhoads. Mr. Daal asked if that would include a vote on the budget. Mr. Smith said it was an action item. Ms. Davis asked if they would see the budget. Mr. Smith said that at the very least he would like review it so they know what they could do moving forward. The motion to approve the agenda was seconded by Ms. Pasco. The motion to approve the amendment to the agenda passed with no objection.

Ms. Winston moved to move item 9, review of the lease terms for the Food Court vendors, to item 6, so they weren't at the meeting late. The motion was seconded by Ms. Pasco and passed with no objection.

Ms. Winston moved to move the Panda Express contract negotiations to the item right after review of the leases for the food vendors. The motion was seconded by Ms. Pasco and passed with no objection.

#### REVIEW OF LEASE TERMS FOR ASUC FOOD COURT VENDORS

Mr. Permaul said this discussion would be in executive session, because they're looking at contractual terms. Ms. Pasco asked if the vendors could remain in the room. Mr. Smith said he would entertain a motion to keep Tom Spivey in the room since he was helping with the review, but not to have the vendors present. The Board had to discuss the terms of the contract. It was so moved and seconded by Mr. Rhoads and Mr. Smith. The motion passed with no objection.

This meeting entered into closed session. Mr. Smith said a document was distributed, "Terms for the Bear's Lair Vendor Lease, May 4, 2009."

Back in open session, Mr. Smith said the Board wanted to make it very clear to the vendors that any delay that has happened with regard to getting terms and conditions for a contract for food vendors has not been by design. It's simply because they had a great deal of work that they've been trying to do to get ready for the Board meeting. They were looking forward for the opportunity to sit down with the vendors and show them proposed terms for the lease and to discuss them. This was to Ms. Vu, Mr. Alloun, and to Mr. Marquez.

Mr. Permaul said the Auxiliary wasn't ready yet and they're still working on getting things together. But they wanted the vendors to understand that the delay was not a tactic to prevent the Board from getting to that discussion.

Mr. Alloun asked if there would be, then, nothing that evening. Mr. Permaul said there wouldn't be. Mr. Permaul said the idea was that their point of action was to figure out what they need and what they want; and then they'll come and talk to the vendors about that and figure out the impacts of those decisions. What they want was what the businesses can bring to the table. Essentially, the Auxiliary will come to them shortly with some more concrete and technical information that vendors can base their businesses on, and tell the Auxiliary what they could and could not do in the negotiations.

Ms. Vu said she could tell them right now. She knew they were going to work on the contract about revenue, more money on the rent, and more money for the ASUC. She could point out they work in a small business, and they work hard and compare their space was very small for doing business. They don't make too much money. They could show that to the Auxiliary. But right now, money was tight for the students, and the campus didn't have too much money for the students. But they love working for the students, because it was her life over there, 20 years. Compared to someone else, they don't pay a little money. But right now the economy was very bad. Every else was cutting and being laid off. She wanted to keep everybody working. And they work for students. At every activity for the school. Every month they help the students and donate. The vendors work there five days, for maybe \$5-7 an hour. If people would like them to stay, like a mom-and-pop and work for other people, a lot of people have e-mailed them that they love her, and Healthy Heavenly's food. So if the Board takes it easy on the contract, Healthy Heavenly could continue to work and make the students happy. If rent was too high the vendors would give up.



Mr. Alloun asked if there was an estimate of when they'd get something back from the Auxiliary. He asked if that would be before school ends, at the end of May. Mr. Rhoads said he wanted to say yes, but he didn't want to disappoint anybody. It was in everyone's best interests that the Auxiliary show the vendors something before the end of May; and he thought that was very possible. He thought they could do that. There wasn't much that had to be done between now and showing the vendors something. So it was very possible, and the chances were very good. But he didn't want to go back on his word by saying yes. Mr. Alloun said he wanted to thank them.

### PANDA EXPRESS CONTRACT NEGOTIATIONS

The meeting returned to closed session to discuss the Panda Express contract negotiations. A document was distributed, "April 29, 2009, Revised Terms for the Panda Express Lease."

Back in open session, Ms. Winston moved to recess until the discretion of the Chair. The motion was seconded and passed with no objection. Mr. Smith said they would recess for five minutes. This meeting was recessed.

Back in session, Mr. Rajan said he would like the minutes to reflect that regarding the agenda item on the review of lease terms for ASUC Food Court vendors, the Board has decided to follow four actionable items. 1) To get the contracts for all commercial venues on campus; 2) To get the current Bear's Lair vendor contracts; 3) To compile all the information from items 1) and 2) into a presentation that is vetted and could be better processed by the full Board; and 4) To designate somebody from the Board to approach the current Bear's Lair vendors to assure them the Auxiliary was still negotiating in good faith.

### PUBLIC COMMENT (cont'd)

Ms. Pasco moved to hear public comment for three minutes. The motion was seconded by Ms. Winston and passed with no objection.

Mr. Reid said he liked that there were at least four steps and that there was some kind of plan. On the other hand, he wasn't really sure why this plan was different from the plan that came up on April 14. And they got from April 14 to now without making any progress on having any data other than the data that students provided the Board. He thought it was fair to question how they'll get from here to wherever the distant future was. A real effort on somebody's part needed to take place in order to secure all these things. For example, he recommended to multiple people on the committee that they go pick up those contracts and get a hold of the binder that Mr. Permaul has. It would be nice to have a clearer timeline and order of procedures of what data was needed in order to make a decision one way or another. Whatever decision it was, it needed to be made rapidly. Two people have quit on Mr. Alloun already because they had no idea about their future. What's coming up was that on May 25, the vendors will close down from one to two months. And they have no idea how long the retrofit will take. The Board was leaving these guys in a complete vacuum. He understood that, as everybody says, a mistake was made, and

people were asking what they could do. But that wasn't good enough. Mistakes were made and this has dallied long enough, and the only way to get to where they want to go is if people take it seriously. The Auxiliary and the administrative apparatus needs to take it seriously, and all the data needs to be provided. In order to make a decision, there needs to be some kind of check or guarantee to make sure the data got to the Board.

Mr. Marks said he didn't want to be a fear monger about their economic issues, but what was truly scary was conceptualizing starting in the Fall Semester with no one in the Bear's Lair Food Court.

Mr. Rajan moved to vote on the Panda Express contract negotiations. The motion was seconded by Mr. Smith.

Ms. Winston said that maybe they could have a quick synopsis of what went on in executive session, maybe a quick discussion, for people who have been waiting outside during executive session. Mr. Rajan said he would rescind his motion. He moved to have three minutes for Ms. Winston to make a statement.

Mr. Marks said he just had one question. People didn't wait to come in there in order to be spectators for the vote. He understood there was a value in having the vote in open session, but people would like some sort of response, at least him personally, some explanation from any student members of the Board who planned to vote yes, to explain that either they were knowing and purposefully violating the intent of the CAA and to defend that for the purpose of the minutes, or an explanation of how this didn't violate the CAA's intent, just for the historical record, for future Boards to learn from, as an explanation of why they were violating an agreement that was set forth to ensure that at that time of financial crisis, that they weren't tempted by corporations with large pockets who were not the best fit. He would like that to be explained for the record, for students who have waited until 11:05, all of whom were failing their classes.

On a point of order, Ms. Raffi said the SOB was governed by Robert's Rules of Order, and there was a motion on the floor. There was an objection, and they should vote on whether or not to call the question.

#### PANDA EXPRESS CONTRACT NEGOTIATIONS (cont'd)

Mr. Rajan moved to vote on the Panda Express contract.

Mr. Smith said at that point he felt that they've all made a decision on how they'll vote, and in the interests of moving on, he thought it would be better to just vote.

Mr. Marks said his request would take two minutes, and would just alleviate some concern. He thought there was a lack of respect there. Mr. Smith said the space was there and the Board had legal rationale from Real Estate Services that it was okay to move forward with Panda, so the Board did. That's how he felt about the issue. Mr. Marks asked if the rest of the intent was, then, of no importance. Mr. Smith said they understood that that was the circumstance at the time. They looked into it and they got advice from Real Estate Services that an RFP was not necessary. And that's where they were at.

Mr. Marks said that out of respect for the students, he would love to hear one student for the record explain, and just put it out there. Mr. Smith said they would move on.

On a point of order, Ms. Raffi said that if somebody wanted to move into debate, somebody should move that. But they're governed by Robert's Rules and should not have cross debate without any sort of order.

Mr. Smith moved to call the question. The motion was seconded by Ms. Raffi. The motion to come to a vote passed by hand-vote 6-2-1.

Ms. Oatfield requested a roll call vote.

Roll call was taken on the motion to approve the Panda Express contract:

YES	NO
Mr. Smith	Ms. Pasco
Mr. Rajan	Ms. Winston
Mr. Coley	Ms. Davis
	Mr. Ortega
	Ms. Harrison
	Mr. Rhoads

Ms. Winston moved to close the rolls. The motion was seconded by Ms. Pasco and passed with no objection.

The motion to approve the Panda Express contract failed 3-6-0.

Mr. Rhoads voted with comment: He really had to go with his gut on this. He realized they may not be in such a real, real, real crunch as they may have thought they were in. That formed his vote, combined with the knowledge that this was a shift for them, for their campus. He thought they could go forward without a Panda Express knowing that it wouldn't debilitate the Auxiliary. He knew they could explore fiscally responsible options without any major detrimental effect to the students or to the Auxiliary. In the future they will need to explore options and work with their tenants directly.

Mr. Smith voted with comment: He thought this was a really good opportunity to have taken one step in a series of steps to increase revenue to the ASUC. But he respected the Board's decision, and the result was pretty clear. So in terms of his view, that was it. But he was cautious, and was afraid that in the future, that any big business, or most anything else, will be afraid of coming there. That could be a potential problem down the road. But it was clear how the Board has spoken and he'd have to respect that.

Mr. Rajan voted with comment: As a response to what was asked before, there may be some debate over what the charge was of the Board. That was not necessarily obvious in the CAA. The best he could do was to represent whatever constituencies he thought he represented, and he voted as he did because he thought that was the best option for the overall fiscal health of the ASUC. The revenue that Panda generated could have been used to support all the ideals that people there held dear. Maybe that was a Faustian bargain, but it was one that he was willing to make. And he stood behind that decision. But he respected the decision of the Board and he was happy about the outcome.

Ms. Pasco voted with comment: She said she wanted to thank the students, faculty, and staff who came out to every single meeting, and really voiced their opinions on the situation. She really hoped that the next time something like this happened that the Board was as transparent as possible, and that they really stick guidelines that govern the Board. As for the future of the ASUC, she was really glad, at least for herself, that she stood in solidarity with the students she and other elected officials were supposed to represent. Unfortunately, those students weren't all here that evening, but she was pretty sure they'll read about this in the Daily Cal; and she looked forward for that article. She was really glad with the direction the Board took, especially with Panda Express, to not bring it to their campus. She didn't think it was a fit, not only for their campus, but for the Berkeley community. She was looking forward to the conversations that will continue to happen with the Bear's Lair vendors because she felt that issue was also moving in the right direction. She was really glad of the outcome of the vote.

Ms. Winston said she wanted to mirror people's sentiments about thanking the students who have come out to SOB meeting after SOB meeting, and for bringing the Board so much information and background about the situation. It has been invaluable. She thought the vote was a really good step in the right direction and will set up the next Board with some idea of a concept of what was a good fit for the campus and what wasn't. She was really proud to be leaving on this note. This was a good time. She hoped future Boards will respect the decisions this Board has made, and will also uphold the values that students have definitely demonstrated that they share. Also, she hoped that they will take the space to RFP and that this was the last vote the Board has on this issue. She hoped future Boards will respect the decisions this Board has made, and will also uphold the values that students have definitely demonstrated that they share. Also, she hoped that they will take the space to RFP and that this was the last vote the Board has on this issue, and that they can find other business that will continue to uphold ASUC finances and general revenue for students. Lastly, she thought this process has actually done something people weren't expecting, which was to motivate student innovation. She was very excited about stuff that has come out of there, especially with the student food cooperative. She hoped to see it in the future on campus. It's been a great night.

Mr. Ortega voted with comment: He said that that in all this process, they learned quite a bit about the values of the students on campus, and at the same time, learned quite a bit about what the Auxiliary's tenants were and were not doing. He hoped, in moving forward, that they hold the same standards to all current vendors, who were not up to the standards they held Panda to, and to ensure that new vendors who come in were also held to those standards.

Ms. Raffi said she would like to express her discontent with what happened. She thought the ASUC has proven its inability to manage itself in the past. And while they did have values, they had to balance them with other values, and they needed to be careful to operate within their goals. She saw the value in voting against the Panda Express contract. She thought they needed to be careful to not say this was a precedent for all future actions because the ASUC could very easily find itself in a very dire financial situation.

Ms. Winston asked about the proper process for deciding to go to RFP for the Naia Lounge and STA Travel. Mr. Rhoads said he thought that meant they were back to discussing what an RFP should include.

Mr. Smith said they might need to take some time to figure out what the next steps would be before they vote on a motion to go to RFP.

Ms. Winston moved to go to RFP for STA and Naia spaces. The motion was seconded by Ms. Pasco.

Mr. Smith said he thought they should have further discussion about the legality of going to RFP for those spaces. He wanted further clarification on the situation with Naia, potential problems Naia had, and Naia's investment. He didn't know if the Board could go to RFP before getting that information.

Ms. Winston asked if the Board could get Naia to reopen in the meantime. Mr. Daal said that Naia said it would be going out of business. Mr. Rhoads said there was the STA space as well as the Naia space.

Ms. Winston asked if going to an RFP was the appropriate thing to do.

On a point of information, Mr. Permaul said they didn't know whether or not they were still under contract with STA for that space through June. They'll need to go back to Real Estate Services to find out. So it would probably be inappropriate to vote on the motion until they had that information. The information he had was that STA Travel's contract went until June 30.

A speaker asked if an RFP could be done that would start on June 30.

Ms. Winston moved to amend the motion, and to begin the RFP process on June 30. Mr. Smith said the RFP would just be for STA Travel, because Naia and CUBS were entirely other issues. So the motion was specifically for STA.

Mr. Reid asked if STA and Gelateria Naia were in default of their contracts. Mr. Permaul said that STA currently had a contract. If the Board would like to discuss the Naia contract, the Auxiliary could prepare a presentation on it. But the Board approved of Naia continuing to pay rent and staying in the space it currently had.

Mr. Rajan called the question for STA Travel.

Ms. Oatfield said she would offer an amendment, that any spaces that become vacant would go out to RFP. Mr. Rhoads said that was procedure.

The motion to call the question on STA Travel was seconded and passed unanimously by voice-vote.

Mr. Rhoads said the motion was to go to RFP for the STA space starting June 30, and any other spaces that become vacant for the upcoming year.

A roll call vote was taken on the motion to go to RFP for the STA space:

YES	NO	ABSTAIN
Mr. Rhoads	Mr. Rajan	Mr. Coley
Ms. Pasco		
Ms. Winston		
Ms. Harrison		
Ms. Davis		
Mr. Ortega		
Mr. Smith		

THE MOTION WAS TO GO TO RFP FOR THE STA TRAVEL SPACE STARTING JUNE 30, AND ANY OTHER SPACES THAT BECOME VACANT FOR THE UPCOMING YEAR, PASSED 7-1-1.

Ms. Winston asked what “vacant” meant. Mr. Spivey said it meant not under lease.

### ASUC AUXILIARY REPORT

#### Tully's Coffee

Mr. Permaul said that regarding Tully's Coffee, the Board has received a drawing of Tully's Coffee for its space in the MLK, Jr. Student Union. The drawing was based on the Fire Marshall's review. The kiosk is in the southeast corner of the southeast lobby. They hope to have campus approval soon and they'll work on a construction program. The lease agreement will come to the President of the ASUC and the Chancellor during the summer.

#### Seismic Project

Capital Projects has stopped the seismic project in the Student Union due to receiving initial approval by FEMA for up to \$3 million in reimbursements for the proposed project. The campus submitted the grant proposal in November of last year but was only recently notified that it was among the finalists for the proposal. If the campus began construction work required by FEMA approval of the grant, the campus would run the risk of losing reimbursements. As a result, phases 1 and 2 were still on the board for the summer. Those were the Tilden Room, the 4th floor, and Pauley Ballroom. But phase 3, the Food Court, the Pub, and the Cal Student Store, may need to be postponed until the summer of 2010. The Multicultural Center was part of that.

#### Bear's Lair Pub

The Auxiliary has received in writing a proposal from the Bear's Lair Pub to invest funds in extending out in an area of the Food Court including construction of new restrooms and substantial cosmetic work on the exterior of the Pub outdoor seating area. The Auxiliary will bring this proposal to the Board during the summer.

#### New Vending Proposal

The ASUC has been contacted by a new vending machine operator who wants to sell music, films, software and games electronically through vending machines. He was willing to pay rent of \$1,500 per

machine per month per site located on the campus. The Auxiliary has checked the credentials of the company but still wanted to do more due diligence before bringing the proposal to the Board. The Auxiliary was partnering with the Office of Marketing and Business Outreach on this project.

### CampusLink

The Auxiliary has received two checks from CampusLink for a total of \$10,000 and a revised agreement has been signed with the campus Contracts Office to eliminate CampusLink's monopoly on advertising in the Student Union. The Auxiliary has called for demolition of the existing kiosks and installation of new ones. This opens up the opportunity to move forward with the separate plasma screen program in conjunction with the Daily Californian. As they get more information, they'll bring that to the Board for review.

### The Cooperative Food Store

The Auxiliary has been meeting with representatives of the Cooperative Food Store for the past two weeks. Currently, the Co-op does not have a viable business model and has a proposal that had incomplete funding as a part of its ROI. The Auxiliary will work with them and has offered a draft ROI and to help the co-op set up terms and conditions to present to the Board a viable concept for a cooperative food store beyond year one. Until that time, it was still not a viable approach.

Mr. Permaul said that was all he had to report.

Mr. Rhoads said he would pass around the Tully's rendering.

Mr. Rhoads said he wanted to thank Ms. Harrison and Ms. Davis for being on the Board for a really long time. He wasn't exactly sure of the year they joined. He felt they deserved a lot of credit for sitting through all these meetings, especially the last two, which have been one of a kind. So he wanted to thank them and said the Board had gifts for both of them. (Applause)

Mr. Rhoads said the rest of the Board had a gift for Jordan Smith, for his chairmanship and his two years on the Board. (Applause)

Ms. Davis asked if other student members were going off the Board. She knew how hard they've worked that year, in one of the more event-filled years in her time on the Board. So she really wanted to congratulate all the students for the great job they've done and the hard work they've put in. She thought there were some rocky points, but she thought all the issues were surfaced as a result of students' insightful questions and their leadership. She didn't know if the grad students were leaving. On behalf of the entire Administration, she wanted to thank all of their terrific students for being such good members of this Board and helping them through all of these issues, especially those leaving, Mr. Smith, Mr. Rhoads, Ms. Winston, and Ms. Pasco.

DAILY CAL CONTRACT NEGOTIATIONS

The following proposed agreement was submitted:

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Begin proposed agreement between The Daily Californian and the SOB

The Daily Californian and ASUC Store Operations Board agree that:

- 1) The ASUC Store Operations Board will forgive the \$14,244.50 in past deferred rent payment accumulated between October 2008 and June 2009.
- 2) The Daily Californian will pay at no interest \$14,244.50, the remainder of the past deferred rent payment accumulated between October 2008 and June 2009. There is no term for the loan, and it can be paid back in installments and on a schedule determined by The Daily Californian Board. If the loan has not been repaid in full by July 2012, then it will be paid back with three (3) percent annual interest, retroactive to the start of the loan period.
- 3) In consideration for the forgiven rent payment, The Daily Californian will invite a Store Operations Board member to sit on its Board the duration of the loan repayment. That Board member must meet the following requirements:
  - a) The Board member must be a currently registered UC Berkeley student.
  - b) The Board member will be selected by the Store Operations Board.
  - c) The Board member cannot be an elected official within the Associated Students of the University of California or the Graduate Assembly.
  - d) The Board member will have full voting rights.
  - e) The term of the Board member may end when The Daily Californian has repaid the debt to the ASUC Store Operations Board.
- 4) The Daily Californian and the ASUC Store Operations Board shall enter into a three (3) year lease agreement under the same terms and conditions as its previous agreement, as detailed:
  - a) The Daily Californian shall pay a total of \$3,860 per month to the ASUC for rental payment. The Daily Californian shall pay its utility costs, currently \$1,201 per month.
  - b) The Daily Californian will run a full-page advertisement from the ASUC for each of the 30 weeks of instruction in the Fall and Spring Semesters.

Signed:

\_\_\_\_\_  
 Bryan Thomas, Editor-in-Chief and  
 President, The Daily Californian

\_\_\_\_\_  
Date

\_\_\_\_\_  
 Jordan Smith, Chairman,  
 ASUC Store Operations Board

\_\_\_\_\_  
Date

End proposed agreement between The Daily Californian and the SOB

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Mr. Smith said he printed out copies of the terms he sent out by e-mail. Bryan Thomas, Editor-in-Chief and President, was present from the Daily Cal. To give a little background, Mr. Smith said that he, Mr. Thomas, and Mr. Rajan have been meeting pretty often for a long time and he felt like they were pretty close to figuring this all out. There were comments about paragraph 2), they wanted more clarification about the loan. He thought maybe Mr. Coley could address that since he had the most clarity on it.

Mr. Coley said the question was the third sentence of 2), "If the loan has not been repaid in full by July 2012, then it will be paid back with 3% annual interest, retroactive to the start of the loan period." The sentence seemed to assume that there will have been no payments made at all during that period. The sentence would need to be modified to accommodate the balance being paid. And then the question needed to be answered as to whether or not the 3% applied to the original amount or the amount of the balance. There also needed to be clarification on how long the expected repayment would be for whatever that balance was.

Mr. Thomas said that from his understanding, it was 3% on the balance. Mr. Smith said he thought it was reasonable for 3% on whatever was left to be paid; and it would be retroactive. So if \$5,000 was left at year five, it would be 3% of just the \$5,000.

Mr. Coley asked how much time the paper would be allowed to pay the remaining balance. Mr. Smith said that they started the 3% interest after three years because that would help them in case the paper couldn't pay the Auxiliary back in the first three. They discussed having that stay on the paper's books until it was repaid. Also, a voting member of the SOB would become a voting member of the paper's Board, and would stay on until everything was paid off. Hopefully, that would be an incentive for the paper.

Mr. Coley said, the balance would continue to accrue interest and there would be no default date. Mr. Thomas said they could put that in. Their expectation was to pay it back within the three years. But who knew what will happen. Their expectations were great now, but who knew what would happen in three years. But the Board member would stay on for as long as the paper had any debt to the ASUC. If that continued after three years and they started to accrue interest, he'd guess that the paper did have incentive to end the arrangement. He couldn't speak for all of them, but he didn't think any of them were comfortable with this arrangement. And his Board wasn't comfortable with this arrangement for the long term. But they were more than gratified to be doing this in the short-term, and he thought they reached a pretty happy agreement. If the Board wanted to put an end date on that, he thought they could put a final date of maturation on the loan, and that would be okay. He thought the idea was to basically get this repaid in the next three years, and he didn't think interest would come into play. But he'd leave that to the Board's discussion. He couldn't sign off on anything that evening, but he'd be happy to bring things back to the Chairman of his Board to see what he thought about a final date. But from all of their discussions, the paper planned to get this done in three years.

Mr. Coley said he would be interested in hearing about the decision to have an SOB member on the paper's Board, and asked how that came about. Mr. Thomas said it was actually proposed by SOB members. Mr. Smith said they talked about all sorts of different strategies. They bounced everything from equity stakes to paying it back with all sorts of percentages. They bounced it around for a while. There were two reasons why being on the Daily Cal's Board could help the SOB. It would incentivize the Daily Cal to pay the amount back. Mr. Coley asked how it would help the SOB to have a Board member on the Daily Cal Board. Mr. Smith said it was their feeling that the Daily Cal wouldn't want an SOB member on its Board. Mr. Coley said it was a disincentive, then.

Mr. Rajan said the notion was to basically ensure that the debt was repaid without causing any sort of major monetary damage to the paper. Making it stated as a debt would negatively affect the paper's balance sheet and its ability to get lines of credit. The negotiators just needed a way to make sure this wouldn't happen on a regular basis, and that whatever loan amount that was outstanding would be repaid. So having an SOB member on the paper's Board would serve as a deterrent. The assumption was that was not necessarily the optimal from the point of view of the paper's Board. It would be a deterrent. The other point was that there seemed to have been, at least in the beginning, since there's been a whole year of discussion about the problem, with the flow of information from the Daily Cal to the SOB. Maybe the current channels were jammed for whatever reason. There would be a better flow of information if somebody represented SOB interests on the Daily Cal Board. Ideally, that person would also be able to provide information about the financial condition of the Daily Cal. So when the Daily Cal comes back in a few years, which he hoped didn't happen, and says they weren't in good shape, the student member of the SOB who was on the Daily Cal Board could say whether the paper was correct.

Mr. Smith said the other issue that was brought up in an e-mail was the fact that of the \$28,000 or so, \$10,000 was on utilities, and that was all custodial salaries that was going to be actual expenses. That was something they had to discuss as well, because that was a hard cost. If that was taken out of the \$14.2K that the Auxiliary was get paid back, it wouldn't be that much in rent. Mr. Smith said that he and Mr. Rajan both looked at the finances with Mr. Thomas. They're sort of in agreement concerning the paper's financial state. Given where the paper was at, this seemed like a pretty reasonable figure to agree upon. But he wanted to offer it up to the Board for its reaction and thoughts.

Mr. Rajan said the paper's financial situation was sufficiently dire that money given back to the paper will be put to good use and would restore services the Daily Cal cut. The ASUC's financial situation got significantly more dire. Mr. Rajan said he and Mr. Smith thought it was a good use of ASUC money to support an enterprise that seemed to serve a lot of students. So the number was accountable to them. They threw it around, got some pushback, and settled on this number. It seemed to be worth it. It was hard to conceptualize what the price of this agreement was, but it was a nice round figure.

Mr. Smith asked how Mr. Coley felt about this. Mr. Coley said he was actually pretty indifferent. Whatever worked for them would work for him. He was intrigued that if this passed, if there was any sense of how it would be characterized in the newspaper. Mr. Thomas said he would first like to say one thing. Speaking on behalf of the paper and the Board, the SOB could trust him that the paper did not want to be in this position. And that wasn't just because their position hurts the ASUC. The paper didn't want to be in a position where it was asking for a hand out; and they recognize that's what they were doing there. He thought they've come up with a fair arrangement. About what the trade was, if things were better, he'd hope to never stop paying, and to start paying half rent. This was never anything the paper particularly wanted to do. Unfortunately, he spent nine hours in meetings that day looking for \$127,000 to cut out of their next fiscal year budget. And that was on \$900,000 of expected revenue. So they're talking about a pretty significant chunk they were still looking for and still fighting for. Frankly, they're taking a look at their numbers. Had they spent the \$28,000 on rent and utilities that year they would be in default. They didn't have enough cash to cover that. So this was not something they're happy about. Also, he wanted to say that the paper was very appreciative of the work that Mr. Smith and Mr. Rajan have done.

As for the question about printing this agreement, Mr. Thomas said it was his intent to publicize every detail about this, and he would welcome the SOB's voice as well. He couldn't say whether that would be as news coverage or on the opinion page via a letter directly from him describing the situation to the

community. But hopefully, as soon as they have a resolution on the table, his intent was to make it known.

Mr. Coley said there was one other question he would like to ask to both parties. This was not an uncommon occurrence throughout the nation and a lot of newspapers had this problem. They normally pride themselves with being very creative and innovative, and one model being contemplated throughout the nation was for what heretofore were private newspapers looking more like public newspapers. That might be a model. He asked if the Daily Cal expected things to get an awful lot better with their advertising, where they get most of their revenue.

Mr. Thomas said he was correct, and their advertising up until that year made up 99% of the paper's revenue. But for the last 40 years, they have been operating a for-profit paper, and as they could see, that wasn't working out. They have non-profit status and they're a non-profit organization. But they haven't taken advantage of that model as an option. But the paper was now turning to that and was looking at supplementing a much more significant portion of its budget with charitable contributions, and in the long-term, looking at an endowment-based model to support continued operations.

Mr. Coley said they might want to look more closely, or more creatively, at the ASUC. That was the population the paper served and the reason the paper was here. That was evidenced by the ASUC having the greatest vested interest for the paper to survive, without having the paper spend all its energy looking at how to cut 10-11-12% of its budget. He thought there were some ideas that could be generated to show the way to the rest of the newspaper industry and community about how this could be done.

Mr. Thomas said that a year ago the number of things that were off the table were now on the table. They've been looking at cutting publication dates to four days a week, something they would have never considered. Similarly, he thought they could all understand, at least on a basic level, in inherent conflict of interest with a joint operation between the paper and the organization the paper was probably most responsible for in terms of editorial coverage. Mr. Coley said that was the basis of his question, in terms of having the SOB represented on the paper's Board. Those dots didn't connect for him, but he was sure they must connect for the paper.

Mr. Thomas said there was a disincentive, and the paper did have a concern with a conflict of interest, which the paper fully acknowledges. But that was the situation they're in, and they're happy with this as a short-term arrangement. It was in the paper's best interest to make sure this was a short-term arrangement and that they don't revisit this in the future. And hopefully, this will be a lesson or experience they won't go through again.

Mr. Coley said he really wanted to encourage the paper to look at this as an opportunity to get outside the box the paper was in and to think about some new models that would not provide a conflict of interest, and would provide an opportunity to look at all this public piece and the ASUC being the body that helped to underwrite that cost in whatever way. Mr. Thomas said that as Mr. Permaul mentioned in his report, there are ongoing discussions and an ongoing partnership on the revenue side of the organizations, with revenue partnerships. They're hosting different companies and events on campus as well as the plasma screen program. In the future, he thought there were a lot of different ways they can cooperate in this area. But that didn't alter the conflict of interest.

Mr. Reid asked if there was a conflict of interest between the SOB giving the paper this money. If he was on the SOB, he would like some advertising space. He asked how this decision would be played in the

coverage. Mr. Smith said that has been discussed multiple times, and perhaps Mr. Thomas could discuss that briefly.

Mr. Rhoads said he had a comment about that. It was more appropriate to have a news article than an editorial because this was news, and it should be treated as other businesses in the Student Union. It was prominent news.

Mr. Thomas said that this arrangement could not dictate the paper's coverage, and everybody had to understand that. They've had a lot of conversations about this. He was present at the SOB meeting as the President of the company, not as the editor of the paper. Unfortunately, he did serve a dual role, and he was the only person had a dual role. But he wasn't at the SOB meeting to discuss editorial coverage.

Mr. Rhoads said that was his opinion, and he didn't say that as a demand.

Mr. Thomas said that as for the question that was asked, the paper doesn't let that happen on its side, and in their way of dealing with that was full disclosure, making sure that all conflicts of interest were clear. That's what they always try and do. It would be an interesting question to ask the Board whether it was always pleased with the paper's editorial coverage, particularly over the past year. The paper wouldn't let this be a concern on its side.

Mr. Rajan said it was equally true that it should be a priority for the SOB to also not let that happen. The subject of the Board dictating editorial coverage was a huge part of the negotiations. They don't want a puppet of a paper. That's not the paper they worked so hard to support. Mr. Thomas said the paper's Board does not have influence or control over the paper's editorial coverage, which was decided by students.

Mr. Smith said he would entertain a motion to approve the agreement, with the edit surrounding Mr. Coley's recommendation clarifying the terms in 2). The motion was to accept the Daily Cal agreement that was drawn up, with an amendment that item 2) be clarified with regard to the terms of the loan. The motion was seconded by Mr. Rajan.

THE MOTION TO APPROVE THE DAILY CAL AGREEMENT, WITH ITEM 2) TO BE CLARIFIED,  
PASSED WITH NO OBJECTION.

#### ASUC-CONTROLLED COMMERCIAL SPACES

Mr. Permaul said the ASUC has not, in the Commercial Activities Agreement, re-identified the spaces that are considered to be commercial spaces for almost ten years. So he will bring back to the Board, during the summer, a revised set of spaces that are currently identified as commercial spaces, so the Board could take action on that and revise the CAA.

#### BUDGET REVIEW

Mr. Smith said that given that it was almost midnight, he would request that they push the review of the budget back to the summer meeting. Mr. Permaul said they'd have to, because they'll have to withdraw the Panda Express revenue from the budget and revise the budget for the Associate Vice Chancellor.

Mr. Rhoads asked if that had to be approved before June 30 and the next fiscal year. Mr. Permaul said that in theory, it did. The Board was supposed to vote the budget up or down, although that couldn't be done that evening because they don't know the result of the Panda vote.

Mr. Rhoads asked if the budget Mr. Permaul was going to show them was in more detail than the one posted online. Mr. Permaul said it wasn't. Mr. Rhoads said he would request that they see a more detailed budget. He could give Mr. Permaul what he'd like to see in more detail. There were some things he wasn't completely convinced, of, or didn't really understand. There was a page and a half for the entire Auxiliary budget, and he didn't feel that was the entire budget.

Mr. Rajan asked if there was a way to get the budget electronically before they vote on it. Mr. Daal asked if could have it two weeks in advance of the meeting.

#### SUMMER MEETING

Mr. Smith said they had to talk about the next meeting date. The only potential date he saw before the summer starting was May 19, where they could reconvene to discuss the Bear's Lair issue. He asked if that was a timeline that seemed reasonable to work with.

Mr. Daal asked about next month. Mr. Smith said he wouldn't be there. Mr. Rhoads said that Mr. Smith was technically on the Board until June 30. Mr. Smith said he could get a proxy. Mr. Rhoads said having a teleconference was also possible. In either case, Mr. Rhoads said he could chair the meeting.

Mr. Smith asked what the timeline was where they could have all these steps done about the Bear's Lair Food Court. He'd said out an e-mail.

After discussion, it was determined that the next Board meeting would be Tuesday, May 26.

Mr. Daal asked if they could start the meeting earlier, since classes will be over. Mr. Smith said he would send an e-mail about this, but the meeting would be tentatively scheduled for 4 p.m.

Mr. Smith said he would like to thank everyone for staying at the meeting and would entertain a motion to adjourn. It was so moved and seconded by Mr. Rhoads and Mr. Rajan and passed with no objection.

This meeting adjourned at 11:59 p.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

**DECISIONS OF THE BOARD**

Procedures

- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07     Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's first Board meeting as undergraduate representative.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06      Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06      Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06      Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05     Mr. Dally joined the Board as undergrad representative.
- Dec. '05      Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05      Elected Ms. Putnam-Smith as Chair of the Board.
- June '05      Voted to have committees, after the August meeting, agree upon meeting Times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05      Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.

- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

### Vendors

- May '09 Voted down approval of the proposed Panda Express contract.**
- May '09 Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.**
- May '09 Revised the agreement with CampusLink to end its monopoly on Student Union advertising.**
- May '09 Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.**

Vendors (cont'd)

- April '09 Amended the Panda Express contract and voted to renegotiate.
- April '09 Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09 Approved the Tully's Coffee contract.
- Feb. '09 Voted to approve the CUBS contract.
- Feb. '09 Voted to move forward with the Tully's contract.
- Jan. '09 Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08 Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08 Approved Action Vending proposal to increase vending prices.
- Sept. '08 Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. '08 Heard the terms of a possible Panda Express contract.
- June '08 Approved the concept of bringing the Brazil Café to the ASUC.
- June '08 Approved a Letter of Intent to negotiate with Panda Express.
- May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07 Heard a presentation by CUBS.
- Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06 Approved a five-year lease option exercised by the Jupiter Pub.
- Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.



Vendors (cont'd)

- Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
- Sept. '05 Approved used of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05 Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05 Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04 Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04 To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04 Approved a five-year extension for the STA Travel lease.
- June '04 Approved the Resolution In Support of Follett Contract Performance Review.
- June '04 Approved changes to the terms of the Pub's lease.
- April '04 Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04 Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04 Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04 Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04 Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04 Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03 Heard from John Martin, operator of the Pub.

Vendors (cont'd)

- Nov. '03 The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03 Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03 Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03 Approved a five-year lease with the Daily Cal.
- July '03 Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04 Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. 04 Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04 Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03 Formed a subcommittee to further consider the Daily Cal lease.
- May '03 Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- May '09 Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.**
- Dec. '08 Work began on the seismic retrofit of MLK.
- Oct. '08 Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.

Student Union/Pauley Ballroom (cont'd)

- June '07      Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.
- May '05      Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05      Voted to explore options for the expansion of the Art Studio.
- Oct. '04      Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03      Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03      Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03      Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03      Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- April '06      Approved the 2006-7 Auxiliary budget.
- April '05      Approved the 2005-6 Auxiliary budget.
- Sept. '04      Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.
- May '04      Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
- April '04      Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.

Budget (cont'd)

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|----------|--|
| Feb. '03 | Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."  |
| June '03 | A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.   |
| May '03  | Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in Eshleman starting at 6 p.m., rather than 8 p.m. |

## STORE OPERATIONS BOARD MINUTES

May 26, 2009

Present: (Members and others)

Haitham Alloun (the Coffee Spot)	Arnoldo Marquez (Taqueria)	Mark Rentz (Bookstore)
Ron Coley (Board member)	Michelle (ASUC OP)	Dave Rhoads (Board mbr.)
Miguel Daal (GA President)	John Myers(incoming Bd. Mbr.)	Will Smelko (ASUC Pres.)
Barbara Davis (Board member)	Christina Oatfield (ASUC Sen.)	Jordan Smith (Board mbr.)
Jeff Deutsch (Bookstore)	Alberto Ortega (Board member)	Tom Spivey (Auxiliary)
Chris Franco (ASUC Sen.-elect)	Krystal Pasco (ASUC EVP)	Marilyn Stager (ASUC Aux.)
Dani Haber (ASUC EAVP)	Nadesan Permaul (Auxiliary)	Chris Tan (Gelateria Naia)
Victoria Harrison (Board member)	Nish Rajan (Board member)	John Tran (ASUC AAVP)
Matt Marks(Food Court vendor rep)	Chris Reid(Food Court Vendors)	Tu Tran (ASUC Senator)
		AnnVu(HealthyHeavenlyFood)

### **SUMMARY OF THE MEETING**

The meeting was called to order by Dave Rhoads at 5:17 p.m.

#### **PUBLIC COMMENT**

Christina Oatfield, ASUC Senator, said the Berkeley Student Food Cooperative has started to have general membership meetings. It decided to use some grant money to hire professional financial assistance for their business plan. They're looking at vacant spaces on Telegraph, but was interested in space on campus. They'll determine whether space on Telegraph or on campus was optimal.

Jeff Deutsch, Store Director, introduced Mark Rentz, the new Assistant Store Director at the Cal Student Store. He had retail experience and a strong legal background. Mr. Deutsch said he was really excited to have him. He knew the Auxiliary will be working closely with him. Mr. Rentz said it was nice to meet them.

#### **PROPOSED AMENDMENT TO THE NAIA LEASE**

Naia has requested an amendment to its lease to serve sushi and salads. The campus health inspector will inspect this as with other food servers. The Berkeley terms from the Panda lease that relate to food would be applied. Service would start 60 days after the amendment was signed, approximately at the beginning of instruction.

The ice cream would stay the same. There was no exclusivity for the new menu items and there would be no point-of-sales system.

By unanimous voice-vote, the Board approved the lease amendment to Naia, allowing the sale of sushi and salads.

PUBLIC COMMENT

Mr. Marks said he and Mr. Reid, representing Bear's Lair vendors, would present proposed terms for leases. They've discussed this with students, Board members, and the vendors. The three Bear's Lair vendors would offer to be green-business certified by January 1, 2010 and to provide organic and vegetarian options. For any improvement to the outside of the Food Court, vendors would match whatever the Auxiliary paid, and increase that by an additional 10%.

Rents at that time were \$4,000 for Mr. Alloun and \$2,000 for Ms. Vu and Mr. Marquez. The proposal was for to pay \$4,000 a month in base rent. Mr. Marks said that the length of the lease was another stumbling block. In the beginning, when they decided to go to RFP, a lot of students were talking about a five-year lease. A shorter lease would pass the buck to another Board. A five-year lease would guarantee solid revenue for the Auxiliary. The vendors would put in point-of-sales and would have revenue sharing: 1% at \$400,000 in sales; 2% at \$500K; 3% at \$600K; and 4% at \$700K.

The vendors haven't had long-term leases in the last decade, which hasn't given them incentive to make investments. Five years would allow them to know what did and didn't work.

A concern was raised about the length of the lease and having more aggressive revenue sharing percentages.

As for Lower Sproul renovation, it would be a staged project, with Eshleman Hall likely to be removed first.

Any corrections or security considerations that were triggered with a lease renewal would be automatic and weren't considered as capital investments. Two spots didn't have pull-down gates and individual operating spaces would be clearly indicated. With security gates, the Food Court would be accessible during vendors' non-business hours. Any code requirements would also have to be met as part of a renewal.

The Auxiliary would expect hours of operation to be as they were in the other lease. There would be some options for that, but the Auxiliary wanted operation during evening hours, special events, and weekends.

PUBLIC COMMENT (cont'd)

Ms. Vu, Healthy Heavenly Foods, said some vendors have been there 20 years. She'd have to improve her kitchen, and it wasn't worth it for a two-year contract.

Mr. Alloun, the Coffee Spot, said he thought he was currently at about \$500,000 in sales, and thought that within four to five months, he'd be at \$700,000. The only thing he needed was a five-year term. He was willing to spend maybe \$100,000 in there. To get to higher sales, they'd need extensive renovation. He knew renovating his space would take quite a bit of money.

### BEAR'S LAIR FOOD COURT LEASES

The meeting entered into executive session to discuss lease terms for Bear's Lair Food Court vendors.

Back in open session, it was noted that the Board knew the terms it was looking for. Members of the Board will meet with the vendors when everyone was available. They were confident this will work out.

### ASUC/GA REVENUE SHARING AGREEMENT

The ASUC and the GA have agreed to share commercial activities revenue, as outlined in a Resolution the ASUC and the GA passed earlier that month. The Resolution calls for several amendments to the Commercial Activities Agreement. The Board and the Chancellor had to approve the changes.

By unanimous voice-vote, the Board approved changes to the CAA to allow for the GA and the ASUC to share commercial revenue.

### LEASE EXTENSION FOR THE DAILY CAL

In the decision that was negotiated last month for the Daily Cal lease extension, nothing was set in terms of cost. There were questions about utility and custodial costs. Rent would be tied to the CPI. A complete list of the terms the students negotiated will be sent to the Auxiliary, to be formally developed and presented.

### LEASE EXTENSION FOR CALPIRG

CALPIRG's lease terminates on June 30. CALPIRG had made a proposal based on incorrect assumptions about who could make decisions on its terms. The group currently pays \$206, and the Auxiliary proposed a five-year lease at \$429 a month and Administrative Full Costing and utilities, for 300 square feet, room 303. The contract was first signed in the '90s.

### LEASE EXTENSION FOR THE DAILY CAL (cont'd)

The paper would pay \$3,860 per month plus utility and custodial costs, at \$1,201 per month. They had to clarify the paper paying the real utility and custodial costs. The paper proposed keeping custodial costs at the current level, so it publishes five days, not three.

### ACTION ITEMS

#### Proposed Changes to Commercial Spaces In ASUC-Controlled Commercial Space

Changes to the CAA were the being proposed in two exhibits to the Agreement. It would correct the actual commercial spaces and the actual commercial activities. These were out of date by about eight years. If passed, they'd be sent to the Chancellor for approval.

Commercial space was being added, rather than changing existing space to commercial space, so ASUC approval wasn't needed.

The CAA specified businesses that were no longer at the ASUC, and they had businesses and commercial spaces that weren't listed.

Because the proposed changes had legal implications, it was suggested that a decision be deferred. With no objection, the proposal was tabled.

EXECUTIVE SESSION

The Board entered into executive session to discuss a personnel matter involved with the budget.

TULLY'S DELAY

Capital Projects has some concerns with the design for the Tully's coffee kiosk. The Auxiliary has been dealing with this design for a year and had been preparing to approve the design and move forward. The ASUC has followed every step the campus has required, and there seemed to be a communications issue within Capital Projects. The new concern was having wheels on the kiosk so it could be moved. The Auxiliary was asking Mr. Brostrom and Mr. Coley to step in on this.

LEASE EXTENSION FOR CALPIRG (cont'd)

The Auxiliary was requesting a five-year lease at \$429 a month, with AFC costs passed through at \$25.75, and a utility fee based on 300 square feet.

By unanimous voice-vote, the vote approved the terms for the CALPIRG lease extension.

DATE OF THE SUMMER SOB MEETING

The summer SOB meeting was scheduled for Wednesday, July 8 at 5 p.m.

The meeting adjourned at 9:28 p.m.

**End Summary of the Meeting**



This regular meeting of the Store Operations Board was called to order by Dave Rhoads at 5:17 p.m. in the ASUC Senate Chamber.

Mr. Rhoads said the Board has two members joining them by teleconference, Mr. Ortega and Mr. Smith. He would note that Mr. Smith couldn't speak, and could type only. So if there was anything Mr. Smith



wanted to mention, Mr. Rhoads said he would relay that to the Board. Mr. Rhoads said that both Mr. Smith and Mr. Ortega would be considered as being legally present.

### APPROVAL OF THE AGENDA

Mr. Rhoads said he would entertain a couple of motions to rearrange the agenda. He would like to consider Approval of the Agenda and Approval of the Minutes before hearing public comment. Copies of the agenda were available. He would also like to suggest considering the proposed amendment to the Naia lease after public comment, and to consider the review of lease terms for the Food Court vendors right after they consider Naia. Also, there's been a request to handle the proposed amendment to the Naia lease before handling anything else, for personal reasons of the owner of Naia. Mr. Rhoads said he would entertain a motion to approve those changes to the agenda. It was so moved and seconded by Mr. Rajan and Ms. Harrison and passed with no objection.

### PUBLIC COMMENT

Christina Oatfield, ASUC Senator, introduced herself and said she wanted to make a quick announcement on behalf of the Berkeley Student Food Cooperative. They've started to have general membership meetings, and last night decided to allocate some of their grant money to hire professional financial assistance in order to solidify their business plan. They're looking at vacant spaces on Telegraph, but were still very much interested in a space on campus. That's something their financial professional will help them decide upon, as to which was optimal. But they were still very much interested in campus space.

Jeff Deutsch, Bookstore Director, said he wanted to quickly introduce Mark Rentz, the new Assistant Store Director at the Cal Student Store. He was joining them with retail experience and a strong legal background. Mr. Deutsch said he was really excited to have him. He knew the Auxiliary will be working closely with him. Mr. Rentz said it was nice to meet them.

A speaker asked if they could take care of Naia if there was no public comment on Naia, and then hear public comment on the Food Court. They could get public comment with Naia out of the way, for the sake of continuity, and then hear public comment on the Bear's Lair Food Court.

Mr. Rhoads asked if he wanted to make a presentation. The speaker said he did. Mr. Rhoads asked if the Board would mind hearing public comment on Naia, and dealing with the Naia terms, and following that, have a discussion of the Bear's Lair Food Court and have a short presentation by a couple of visitors. Mr. Rhoads moved to place public comment following Naia's proposed amendment. The motion was seconded by Ms. Harrison and passed with no objection.

PROPOSED AMENDMENT TO THE NAIA LEASE

Mr. Spivey said Naia has approached the ASUC and requested an amendment to its lease in order to serve sushi and salads. An amendment has been proposed for the license to allow that. He asked Chris Tan to attend the meeting that evening, one of the two owners of Naia, to talk to the Board and answer questions. Mr. Spivey said he had a list of the menu items he'd pass around. The amendment to the lease was really straightforward, saying Naia was allowed to sell these items. The campus health inspector will inspect this as he does with other food servers and give Naia a license to sell. Mr. Spivey said he just wanted to check with the Board to see if this was okay with them.

Mr. Permaul said that just to clarify, after discussion and review by the Board, they'd need a motion to approve the amendment. They applied "the Berkeley terms" to the Naia amendment, i.e., the terms from the Panda lease that relate to food. That included using green utensils and looking for healthy food options, which was why the food options were divided up as they appear, with the healthy food options indicated. He just wanted to clarify that the Berkeley terms were applied to this change in the lease as it relates to the food.

Mr. Rhoads asked if they were looking at adjustments to the Berkeley terms. Mr. Permaul said they weren't.

Ms. Davis asked when they'd start serving the new menu. Mr. Tan said they'd start 60 days after the amendment was signed.

Ms. Oatfield said that some of the service providers have exclusivity clauses in their contracts that prevent other vendors from selling similar food items. She asked if that would go into effect with these changed items. Mr. Spivey said that Mr. Tan wasn't asking for an exclusive, just an addition. It wouldn't impact anybody from selling these items.

Mr. Rajan said it wasn't necessarily about this agreement, but he would like to know about Naia's plans to move forward in the current climate. He asked if that was something Mr. Tan was prepared to talk about at that time or if those questions should be held for later. Mr. Tan said that what was on the table was just to open the space and offer an expanded menu.

Mr. Rhoads asked if he planned to open by next fall. Mr. Permaul said Naia would open 60 days from the signing of the amendment. So it would be as soon as that could be executed and signed by the ASUC President and the Chancellor, if required. It would be approximately at the beginning of instruction.

Ms. Harrison asked about the current end date of the Naia contract. Mr. Permaul said he believed it was 2011, with an option.

Mr. Smelko if the Auxiliary gets point-of-sale information from Naia. Mr. Permaul said they don't, not with the current contract.

Mr. Zuo asked if that was Naia's option. Mr. Permaul said all the options were Naia's. It was a standard University contract.

Ms. Davis asked if there will be any changes with the ice cream or if that will stay the same. Mr. Tan said that will stay the same. Mr. Tan asked what changes she was envisioning. Ms. Davis said she was just asking because she liked it before.

Ms. Oatfield said that for whatever reason the lounge was closed, she asked if there was any way for students to have access to that space to study or hang out, even if a business wasn't open and running. Mr. Tan asked if she meant within the 60 days before they open. Ms. Oatfield said that was correct, or if something didn't go according to schedule and Naia didn't open for business right at the start of school. Mr. Tan said that during the 60 days they'll need access to the space. So that would present a few challenges. There have also been some security concerns, even with the space closed. They're open to having it available as suggested, and they just had to be conscious of these things.

Mr. Zuo said that with the advent of the new opening of Yogurt Land, he asked how Naia would compete with them in the future. Mr. Tan said that was part of the reason for the expansion of the menu.

Mr. Rhoads said that seeing no further discussion, the question was called on approval of the additional terms of Naia's agreement.

Mr. Permaul asked if the Board would like to see the amended language. Mr. Spivey distributed amended contract terms to Board members.

Mr. Rhoads asked if everyone was done looking over the language and if people were prepared to come to a vote. Seeing no objection, Mr. Rhoads said he would call the question on the lease amendment to Naia.

**THE MOTION TO APPROVE THE LEASE AMENDMENT TO NAIA, ALLOWING NAIA TO SELL SUSHI AND SALADS, PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Rhoads asked people to please allow Mr. Spivey to pick up copies of the terms of the revised contract.

PUBLIC COMMENT (cont'd)

Mr. Rhoads said they had 30 minutes for public comment. He would like to entertain a motion to allow Mr. Marks and Mr. Reid Marks ten minutes for their public comments. It was so moved and seconded by Mr. Tran and Ms. Harrison and passed with no objection.

Mr. Marks said he would like to welcome Mr. Zuo, Mr. Smelko, and Mr. Tran to their first meeting as voting members of the Board. This has been a long process for students who have been attending meetings. The three new members haven't been around for some of it, but it's taken a long time.

Mr. Marks said they were at the meeting to attempt to finally get the Bear's Lair Food Court contracts ironed out. What they've decided to do that evening was to present terms to the Board. They've discussed this with a lot of students, Board members, and with the vendors. They came up with sort of their own proposed contract that they felt best satisfied all of the interests involved. One interest they tried to satisfy was the ASUC operating at a \$200,000 deficit. They also tried to satisfy what many students want, i.e., more sustainable business practices being employed in the Bear's Lair Food Court.

In a recent survey done about concerns in the Bear's Lair Food Court, the number one student concern was to have low prices. So that was another interest that needed to be satisfied. The vendors themselves were also an interest that needed to be satisfied. So they have low prices, greening, ASUC revenue, and vendors being able to actually operate a viable business. They also had the concerns of students who weren't there that evening but who, a number of times, have voiced the value of having vendors in there who speak English as a second language and who speak, as their primary language, Arabic, Spanish, and Vietnamese. They also had to consider the value of immigrant students on campus actually seeing a model of a viable business owned and operated by successful immigrant people.

Mr. Marks said he would like to breeze through some other things that have been talked about. One item was having Bay Area Green Business Certification. All three Bear's Lair vendors were offering to be green-business certified by January 1 of 2010.

Mr. Reid said that at any point during which they're presenting stuff on the Board, they'd very much like to hear Board members' questions, concerns, or critiques, anything, or if they want more information. Their involvement was appreciated.

Ms. Oatfield said the list for Green Business Certification was very long, so they might just say that the vendors would be on the list.

Mr. Marks said another thing they'd like to do was for each of these three vendors to, at all times they're open, provide a completely organic and vegetarian option. Another thing that's been talked about was the outside of the Food Court. A lot of suggestions have been made that the outside of the Food Court was actually sort of the root of all of their problems and that it wasn't a very nice place for people to go. There were also issues with possible upcoming redevelopment. The students were proposing that whatever the Auxiliary and the ASUC decided that needed to be done out there, that the vendors would match whatever amount of money the Auxiliary wanted to put in to the outside of that Food Court. And the vendors have actually offered to increase that by another 10%. So whatever the Auxiliary and the ASUC put in, the vendors would match, plus 10% more.

In terms of rents, Mr. Marks said there's been a lot of numbers thrown around that deal with square footage and a lot of other things. Basically, students have looked at what the vendors were paying currently. Mr. Alloun pays \$4,000 a month in base rent. Ms. Vu and Mr. Marquez each pay \$2,000 a month in base

rent. The students were proposing to increase everyone to \$4,000 a month in base rent. In terms of looking at where these figures came from, if they look at square footage, it was sort of a quagmire. There were questions as to whether to charge just for internal space, whether to charge for some percentage of seating area, whether to divvy that up, etc. The students kind of knew what they wanted and went through all these figures, although there were numbers that were somewhat contradictory.

Mr. Marks said the Bear's Lair Pub actually pays \$4,000 a month. He realized that was an old contract and that people were trying to do new stuff there. But it was a pretty good gauge. With these proposed changes, the Auxiliary could have three "Bear's Lair Pubs" in their Food Court. He thought anyone there could assume that if they were a new business and wanted to do business and were told they'd pay the same rent if they had the Bear's Lair Pub, with the whole patio, which takes an ID to get into, as well as the whole bar area and the kitchen, at \$4,000, or they could have the Coffee Spot or Healthy Heavenly Foods, that what the Pub had was a pretty good deal. The Auxiliary would get "three Bear's Lair Pubs" in there with these changes.

Mr. Permaul said he would make one correction for the minutes, and said the Bear's Lair Pub pays \$4,600 a month. Mr. Marks said he wasn't aware of that.

Mr. Marks said that the length of the lease was another stumbling block. In the beginning, when they decided to go to RFP, a lot of students were talking about a five-year lease. Recently, there's been some discussion about whether they knew enough to enter into a long lease at that time, which could trap the Auxiliary into something that could have been better negotiated from the start if they had more time or information. Basically, the students have seen how the Board operates. The students thought that setting this up with a shorter lease would pass the buck to another Board. And that really wouldn't do what they thought it would. They wouldn't get there, and have more information, and be able to make the perfect contract at that point. They're going to sentence a new Board, in two years, to go through this same, tedious process all over again. So the students were proposing a five-year lease, with a five-year option. One reason they want a five-year lease is to guarantee a very, very solid base rent; and they'll go over all the numbers a little later in the discussion. They're guarantying a really good amount of money for a solid amount of time. In this time of deficit, with businesses going under left and right, these vendors were really the only businesses that were proven to work there. So the Auxiliary would guarantee itself a solid base rent for five years.

The vendors would also put in a point-of-sales system, so it will be known exactly how much was being made in the Bear's Lair Food Court. Accompanying the point-of-sales system would be a revenue sharing system. This was basically a way to deal with the fact that maybe they'll get into this deal and then after two years, the Board would know more and maybe wish there was a different deal. Mr. Marks said they want to nip that in the bud, and the vendors want a point-of-sales-system at the very beginning, so the Auxiliary knew how much they're making. With revenue sharing, if the vendors made a killing in there, and the Auxiliary might wish it knew that in the beginning, so things would be set up so that the Auxiliary would actually make a killing as well. So basically, the proposal by the vendors was to do revenue sharing on total revenue for the year.

If any vendor made \$400,000 in one year, they'd start revenue sharing at 1%. That would mean the Auxiliary would get an extra \$4,000 from any vendor who made \$400K in a year. At \$500,000, the vendors

would raise the revenue sharing amount to 2%, which would be \$10,000 extra the Auxiliary would get from each vendor per year. At \$600,000, the revenue sharing amount would be raised to 3%, or \$18,000 a year extra the Auxiliary would get per vendor. And at \$700,000, the amount would be increased to 4%. That gets to be pretty ridiculous, from the vendors' point of view. But that would be \$28,000 a year. Mr. Reid said that was on top of the \$40,000.

Mr. Reid said that just to clarify, there's been some confusion about operating eight months out of the year, and then the other four months out of the year. Eight months out of the year, Mr. Alloun pays \$4,000 in rent per month. And for four months, he pays half that, or \$2,000. Added up over the span of 12 months, they get \$40,000 total yearly from Mr. Alloun. And that's what the vendors were proposing, that everybody would pay on top of that, then, with revenue sharing. So if vendors start getting up to \$400,000, they'd pay an extra \$4,000.

Mr. Reid said that with this revenue sharing model set up, there was no concern that he could foresee. He was interested in whether anybody had concerns with possibly get locked into a bad deal. They'd basically be locking themselves into a great deal. That got them into the question of why the Auxiliary had to lock itself into anything, and why they couldn't just have a two-year contract and revisit it, and get it done with. One problem with the Bear's Lair Food Court is that they've never been locked into a long-term relationship in the last decade. That has not really given the vendors incentive to make investments in what the students want, and to really turn the Food Court into something.

Mr. Reid said that what the vendors were proposing to do was to make investments in the Food Court. They'd turn it into a green Food Court. The vendors would have five years of guaranteed tenure, so it would be in their best interests to figure out what the students want, to invest in what the students want upfront, and for the agreement to give the vendors enough time to reap the benefits of making those investments. If the Board gave the vendors a two-year contract, it would take two years to really figure out whether green investments were helping their businesses, how much it was helping, and how much they should do more of that. Mr. Reid said they're not really going to have time to figure anything out. After two years, they'd know enough. Vendors will actually be able to see what has and hasn't worked. And then they'd have another three years to continue with that. If they don't enter into that relationship, it was actually in the vendors' best interests to basically bleed the place dry for two years. Since the vendors might be out of there in two years, they would have no incentive to do what the students want. All they'd know was that the SOB changed every year. The vendors don't have a great history of communication with this Board, or with the previous Board Senator following through with its own economic interests, their interests, or the interests of the students.

Mr. Reid said that the five-year tenure was extremely important for the interests of the students. But such a relationship the Board would enter into was not necessarily for the vendors. It was to make sure that the Auxiliary entered into a relationship with its vendors that would motivate the vendors to pay attention to the students.

Mr. Reid said that one other consideration was capital investments, and how much vendors would pay for renovations of private and public spaces. Mr. Reid said they were hoping to maybe open the floor up for another 10 or 15 minutes, if possible, to have a discussion about what was positive about this, what things

everybody was comfortable with as to what was being presented, and what things needed to be tweaked, thrown out, or added.

Mr. Rhoads said he liked everything being presented. He had a little concern about the length of the lease and the revenue sharing. He thought they could be more aggressive than the numbers vendors were thinking about. He thought in any negotiation, they should at least start with something a little more aggressive than \$4,000 in revenue sharing over an entire year. That's not that much of an incentive. The vendors had to think about the reason for a point-of-sales-system and if the reason was to encourage the partnership between the landlord and the tenants in making more revenue and giving more benefit as a service to students and the community. Four percent over \$400,000 was not much of an incentive and for something to benefit everybody.

Mr. Reid said that to quickly address that, they actually just came up with these numbers ten minutes before they walked in there, in order to have a rough outline if something that approximates revenue sharing. Mr. Alloun said he also wanted to mention that Mr. Alloun feels he's already very close to \$400,000.

Mr. Alloun said he felt that these numbers were logical, and thought that if the Board gave the vendors a chance to prove that they could do this, they could. If he didn't meet the numbers the Board was looking for, he wasn't a good vendor at that point. But if the Board was willing to work on this, with the numbers they were talking about, at 1%, 2%, or 3%, if these weren't logical to the Board, he would ask them to come up with a logical number. Again, these numbers were not far off, and the vendors were already almost there. And they're going green, organic, and sustainable. That will help the business. They're talking about \$6-700,000, which was very doable. If he didn't get to those numbers in two years, he wasn't a good vendor, and the Auxiliary should find somebody else.

Mr. Smelko said that if he was reading the chart correctly, it looked like Yali's, even at the \$650,000 mark, started out initially at 8.5%. And for some others, at the \$300,000 mark it starts at 3%, and then jumps up. And the chart showed other businesses, between \$650K and \$750K, where it was 9.5%. Those numbers were pretty high. But the Board had to take into account that Senate was relative. Mr. Reid said that was an excellent point. They've heard of 12% in doing revenue sharing, which was sort of the upper bound. The interesting question was what the base rent was at Yali's, even though these businesses weren't Yali's, or the Free Speech Café, and the vendors didn't have the same exposure that the FSM had.

Mr. Rhoads said Yali's didn't take meal points, but took the Cal 1 debit card, which the Bear's Lair vendors do. The rent was structured a little differently. The University as a landlord got most of its rent through revenue sharing, whereas the Auxiliary had a little different model, where they see revenue sharing. They see most of their rent coming through base rent, not point-of-sales revenue sharing. That's why the Auxiliary's revenue sharing percentages would be less than the University's for tenants. And he thought that was appropriate.

Mr. Reid asked if that was clear. What they could do was to lower the base rent and raise the revenue sharing amount. The Board could treat those so that it came out to be the same, or higher. Mr. Rhoads said they were then talking about unknowns for everybody involved, because they don't know how much they could project, not as well as they could predict base rent. They want consistent prediction of their

income. The way the Board was proposing to do it was much easier. That's why he thought a two-year contract, or one five-year contract, would be better because they know that in a certain amount of time they could go ahead and look at what their tenants were making, and then make a more accurate decision on a lease based on that information. He thought that in retail industry, that's pretty much what happened.

Mr. Permaul said the Auxiliary would like to give its opinion in closed session. These are terms of a contract, so the Auxiliary would expect to go into executive session to talk about this.

Ms. Harrison said they were just asking questions, to get a sense of the students. Mr. Permaul said he just wanted to let the Board know that the Auxiliary did have an opinion.

Mr. Smelko said he definitely saw the argument behind a five-year lease. They had to figure out a good time limit. A five or ten-year period would allow for investments. A part of him felt that in a way, that might be even a little dishonest, or misleading, or net detrimental to the businesses, in that they'd create a long-term contract and get them to invest valuable money into a space that could potentially very quickly change on them. During Panda Express, he was perfectly content because if the place was torn down, Panda would have invested all that money and it wouldn't go anywhere. But this was something to consider, that other side of it, knowing that the Board would make the vendors feel they'd be there for ten years, when, in three or four years, after they invested all this money, the building was torn down.

Mr. Reid asked if the MLK Student Union was slated to be demolished if next year's referendum passes. Mr. Permaul said that if the referendum passes, the entire building will be gutted, but it would have the same footprint. The existing space would be completely gutted. Mr. Reid asked if there was any idea as to how long that would last. Mr. Permaul said it would have to be a staged project. It's very likely that Eshleman Hall would be removed first, and a building would be constructed where Eshleman is, with that being the location of probably additional retail space. The next stage would be doing MLK or Cesar Chavez, one of those two buildings, which would also be gutted. So it would be a staged process.

Mr. Reid said that one thing they were thinking about was adding some language in the contract about what would happen if this time next year, the vendors went ahead with improvements, then what would happen if there was demolition. The vendors were thinking about language that would have the vendors move themselves, but would give them an option on a new area in that new space. So once it was gutted, the current vendors would have the first option, because they'd have a lease that was continuing; and the lease could be renegotiated after five years. Mr. Marks said that was a way to ensure continuity of revenue. Mr. Reid said there was some concern as to what the incentive was for doing anything if there was a two-year limit. It did sort of seem that the two-year idea was kind of like a band-aid, with the Board having to come back and take care of it at another time. Mr. Reid said that in his view, that would mean they'd kind of leave this stagnant, sitting there with no real decision on it, for another two years. He wasn't sure if that was in anybody's interests.

Mr. Marks said that for those who just came on to the Board, the whole decision to go to RFP was to really invigorate Lower Sproul itself. It was kind of decided that the Bear's Lair Food Court wasn't perfectly working as well as it could, and the Board wanted to do something that would not only invigorate



the Bear's Lair Food Court, but the entire area, which was seen as sort of having its potential definitely unfulfilled. So the two-year term still didn't give much motivation to anybody to make this a thriving area for the people they were there to serve, the students.

Mr. Reid said that one thing they haven't gotten to was capital investments in the Pub space area. Mr. Marks mentioned talk of the vendors matching improvement money from the Auxiliary dollar for dollar, or even having the vendors pay a little more than that, for outside improvements. However, there's really been no discussion of doing internal improvements, although it seems like if they're talking about a two-year contract, and if the concern was that this place would get gutted anyway, it wouldn't make a whole lot of sense to make capital improvements. Mr. Permaul said that any corrections or security considerations that are triggered with a lease renewal would be automatic. They weren't considered to be capital investments. Vendors would have to do them as part of the renewal of the lease.

Mr. Reid asked what those changes would be. Mr. Permaul said that two of the vendors' spots were non-secured and didn't have pull-down gates. The Auxiliary would also expect to revise the spaces in order to clearly indicate where vendors' operating lines were. And with security gates installed, that would make the Food Court accessible during vendors' non-business hours. The Auxiliary would also expect any code requirements to be met from the University, whether that was improvement of the hoods or enlargement of drainage. Those things would have to be done as a part of a lease renewal.

Mr. Permaul said they also haven't spoken about hours of operation. The Auxiliary would fully expect vendors to have the same terms indicated in their other lease for hours of operation. They would need to come to the table with that. There were some options for that, but the Auxiliary fully expected wanting evening hours, special events, weekends, and other kinds of access for those locations for their clients.

Mr. Reid said that raised in his mind two things. It seemed like the primary way they derived the \$4,000 a month base rent was from discussions with Board members. It seemed there was some consensus on going with square footage, charging about \$3 a square foot, and counting the square footage as the entire interior area, incorporating the seating area divided by three. If the Auxiliary charged people \$3 a square foot for the seating area in addition to vendors' private space, with the ASUC still owning that and coming in to do its events whenever it wanted, it was an interesting dynamic. If they look right next door at the Bear's Lair Pub, it pays \$4,600 a month and has as much space as anyone in the Bear's Lair Food Court area, if not more, and had that space all to itself. Nobody could come in and do their events there. He thought that factored into how much rent they pay. He felt there was a certain level of how much the Auxiliary or the ASUC could ask of these vendors. But the Auxiliary was still not going to offer them a long-term contract. He asked how much the Auxiliary could ask for without giving such a contract.

Mr. Marks said that just as a last question for those who weren't quite convinced about a five-year deal, he asked what the numbers would have to look like for a five-year deal. Mr. Permaul said those were the kinds of terms they'd discuss in closed session. The Board may have a variety of different points of view. But those were issues to be discussed in closed session.

Mr. Smelko said it wasn't even the vendors for five years, but just flexibility versus non-flexibility, and the possibility of investing \$20,000 in a new kitchen that would get torn down. That was something to consider.

Mr. Marks said the other option was going to RFP, if they couldn't figure out something there. It was difficult to guarantee revenue for the next two years while they may have this place being demolished. So people had to keep that in mind when they figure this out.

Ms. Vu asked to make a comment. Mr. Rhoads said they could end this discussion and go to public comment.

Mr. Reid said that just to wrap up, they had a rough sketch of the model. He hoped everybody had in their head a better model, one that was much clearer. Having been there on April 14 and May 6, and not having reached a decision on this, and now, being there on May 26, he thought there was a question of time. They had to take this seriously that evening, no matter what they come up with, and needed to have something that was reasonable. This went far beyond just the interests of the vendors themselves and was actually quite significant for the interests of the ASUC itself in terms of its revenue. These vendors, after Follett and after the Reg Fees, were one of the most significant revenue sources for the Auxiliary. He thought the longer they postpone this, the more difficult it was going to be for everybody. He wanted to thank them.

Mr. Rhoads said they had about six minutes left in the time they set for public comment.

Ms. Vu said that first, she was sorry for all of them because their contract took too much of their time and gave everybody a headache, trying to figure out how to give the vendors a contract. She understood businesses had to make money, and she had to make money for herself, for employees, and for the school. They've been there for 20 years, and loved to work and do everything to make it a good business. She had to improve her kitchen, and for a two-year contract, it wasn't worth it, or one and a half years. With money to improve her kitchen, there was no money left. Before the year 2000 she had to move equipment to another place, and it cost her more money. To make it very beautiful and maybe bring more business to her stand, they'd love to pay more revenue. The money they pay there every month, like for the parking lot, for health inspections, fire insurance, pest control, cleaning the grill, there were too many bills after \$4,000 for base rent.

For right now, Ms. Vu said she would ask them to just give the vendors five years, and the ability to continue this business, she would promise them they'll do the best they could. But she would ask them to give her more of a lease, like five or ten years, so there was more time to improve her business. She's been there for 20 years. Mr. Permaul sits in the hot chair, and has been there only a few years. The vendors have had so many landlords over the years. She would ask them to please give the vendors this one chance to do five more years and they'll try the best they could. They get many staff e-mails that make good things happen. The vendors have waited a long time for the contract. Tully's has been easy to do, but for the vendors, it's been very difficult, and has been for such a long time. She wanted to thank them for listening to her and to thank them so much for everything.

Mr. Alloun said he ran the Coffee Spot. He said that Mr. Marks and Mr. Reid presented the Board with something that has been discussed all the time. The vendors were willing to go 100% green. He thought that would improve his business. He sees his competition, people coming in with different containers,

because they support green businesses. He thought this would be a big role in increasing the business and revenue for the ASUC. They'll have organic options. Eighty percent of what they had was pretty much healthy. He was willing to do fair-trade coffee, organic coffee, whatever it took. And to be a sustainable business, of course. He was the one who has paid this amount of money since the year 2000. He has talked to Board members and told them he was willing to give them more. But what he needed was the length of the lease. He didn't want to put it in writing, but he would guarantee that everything but his rent would be doubled if they work with him, more than \$4,000. That will be doubled within six months if he got cooperation from the Board and marketing from them. He thought he was at about \$500,000 in sales, and he thought that with four to five months, he'd be at \$700,000. So the Auxiliary was looking at \$28,000 in revenue from percentage. The only thing he needed was the terms of the lease, five years. That was the only way they could really motivate him to stay there and show them what they could do there. He knew the place could do a lot more than it was doing right now. But it needs focus, motivation, and money. And he was willing to do all that. But he needed a written contract and for the Board to be willing to give him the five years. If they thought something would happen and that the building would be demolished, that would be in the lease, and he was willing to take that chance. If that happened, they wouldn't have to say that they'd buy the vendors out. He was willing to sign that if that happened, the Auxiliary wouldn't be liable. The vendors would be willing to back up the lease or be relocated. Whatever it took. They wanted to work with the Board. If the Board didn't think the vendors were the right people, or the revenue wasn't right, they'd be very happy with the revenue. That is what they were looking for. He was willing to give it and he knew he could do it. He wasn't saying this for them to give him the lease. They'd start with \$4,000 a month and they'd get a year to double that amount and go 10%, 20%, whatever they were looking for. It was doable. He was saying that because he's been there for a while. He knew what he was doing and he knew what the numbers were, and what numbers the Auxiliary was looking for. He just hoped they consider this. A two-year option was not going to motivate him to do anything. And he really wanted to invest money in that place, because that was the only way they could go up and reach the \$700,000 number. They'd have to invest money and do whatever it took to reach the \$700,000. It was doable, and he'd guarantee that and put it in writing. He wanted to thank them very much for their time.

Mr. Smelko said that when they talk about investments, and that they knew what would be successful, he asked what specific things they were talking about in, say, a five-year timeframe. He asked what Mr. Alloun thought he'd be able to do in order to reach those numbers. If he was at \$400,000 right now, or whatever it was, around that mark, he asked what the actual investments were that he talked about, so he had a clear image of how he'd bump up sales by \$200,000, what he thought would help add more revenue to the businesses. Mr. Alloun said they need to invest money in the interior. That needed to be done.

Mr. Alloun said he agreed with Mr. Permaul, who said the place needed to be done. It looked Mickey Mouse, and they need to invest actual money in there. He was willing to bring in an architect and a licensed contractor, who would work with the Auxiliary, work with the Board. He wanted to have the best looking place possible in there. The money wouldn't be an issue. He was willing to spend maybe over \$100,000 in there. The exterior also needed to be done in order to reach that amount of money. If they're looking at fixing the chairs and tables, and patching this or that, they'd be limited to what they could really make in there. What they really needed was extensive renovation. He knew that would cost him, but that was the only way to reach that number, in his opinion. And he's been there for so long. The

place used to be a dump. He wanted to show them his books. In 1992, he used to do \$400 a day. That was nothing. In order to be able to survive in this market, they had to do over a couple of thousand dollars a day at minimum, in order to survive and be able to pay rent. So again, business has been going up. But they face competition. In order to compete with the competition, they had to get with the game. Going green will help them. He didn't think it would hurt them, and thought it would help them. He was giving students the option of organic, and thought that will help him. It was good for the environment and it was also good for business. To do extensive renovation he thought would also help them. And they couldn't just do the inside and leave the outside the way it was, and they had to do both. If the Auxiliary was willing to put the money in, like the vendors said they would match the Auxiliary dollar for dollar, and also give them 10% on top of that. The three vendors talked about it, and it was doable, and they could do it. It wasn't going to take that much money to do the outside. For the inside, for his space, he knew it was going to take quite a bit of money. He was willing to do that if the Board was willing to give him a contract. He was willing to sign whatever the Board wanted him to sign. It would be on good faith. They shouldn't think of looking at Yali's contract. They couldn't compare him with Yali's. People who go to Yali's need to spend \$10-15 to eat there. Mr. Alloun said five guys could go to Yali's and spend what 20 guys would spend at his place. That was the difference. If he charged the same price as Yali's, he'd get the clientele that Yali's was getting. He had no problem giving the Auxiliary 20%, if he could afford it. He was willing to help the students. If he could afford to give them 20%, he would. He's never complained. Possibly doubling his rent, everything he pays, he does the business and never complains. And it was fine. If he could do the business, he'd reach those numbers and he'd make the Board satisfied. They could put it in his contract, that if he didn't reach those numbers within the first or second year, then they could terminate his contract. And he'd sign that. He had no problem with that. He knew he could do it. He wasn't taking a gamble and knew he could do it. He just needed the Board's help.

Mr. Reid said the improvements Ms. Vu and Mr. Alloun were talking about, a large portion were not improvements that would go down the drain if there was reconstruction in the Student Union, since they were talking about food service improvements.

#### BEAR'S LAIR FOOD COURT LEASES

Mr. Rhoads said they would move out of public comment and into formal discussion of the lease terms for the Bear's Lair Food Court vendors. He'd open the floor up to comments, questions, or concerns.

Mr. Permaul said they need to go into executive session. Mr. Rhoads asked if that was the consensus. He asked if anybody wanted to address anything outside executive session. Ms. Harrison said they need to move into executive session.

Mr. Rhoads said he would entertain a motion to move into executive session, with Mr. Spivey included. Mr. Permaul asked if they had to exempt ASUC Executives. Mr. Rhoads said it was okay for the current Executives who were just sworn in to be there.

Ms. Reed asked if he and the vendors could stay. Mr. Rhoads said they couldn't.

Ms. Pasco asked about allow incoming Senators to remain. Mr. Rhoads said they haven't been sworn in yet. Everyone not a member of the Board had to leave. When the Board discussed contractual terms and negotiations, that had to be done privately before anything was publicly released.

This meeting entered into executive session.

Back in open session, Mr. Rhoads said he would like to thank people who waited for the Board to return to open session. He would apologize for being in executive session for so long. But they now know exactly the terms of what they're looking for. They wouldn't state them at that time, but they weren't far from what they talked about earlier, and what vendors thought about. They'll come to the vendors next week once they can sit down at a meeting when everyone was available. Mr. Permaul will handle the time that meeting will be held. Mr. Rhoads said he and Mr. Permaul will sit down with the vendors next week and talk about the terms. They're very confident that this will work out well.

Mr. Alloun said they had one problem, he was leaving and Mr. Marquez was going to Mexico that evening. The vendors didn't expect the Board to reach an agreement from speaking to them and reading in the Daily Cal that it wasn't doable.

Mr. Permaul asked when Mr. Marquez was coming back. Mr. Alloun said he didn't know. It's been on his agenda for almost six months. If people could give him something to go home and read, he was on board for what they wanted. He wasn't playing hard to get. He'd do whatever it took to get this done, and if people had time, they could show him something that evening.

Mr. Permaul asked when he was coming back. Mr. Alloun said it would be in three weeks. Mr. Marquez said he was coming back in four weeks. Mr. Permaul said that in three weeks they could get together and talk about this. Mr. Alloun said he could provide a phone number. Mr. Permaul said they want to do this face to face in three weeks. When he returns, they'll sit down, in three weeks from next week. Mr. Alloun said that would be great. He asked if there was a way for him to see what kind of budget he'd have. Mr. Permaul said they'll all sit down and have a dialogue at that time. Mr. Alloun said he appreciated all the effort. He wished they'd done this sooner, but better late than never. And if people had any questions, they should let him know.

Mr. Permaul said the Board attempted to work with the figures the vendors provided, and he thought they've come up with a reasonable proposal.

Ms. Oatfield said that for the record, she thought the Board was holding the vendors in suspense for the next three weeks, and she wanted to apologize for that. Mr. Alloun said he appreciated that. He knew Ms. Oatfield spent a lot of time and effort on this. The tenants have been month-to-month for so long that it wouldn't hurt them for another month, as long as with have the Board's word on that, and the numbers they'd give were logical. And he was just speaking for himself.

Mr. Permaul said they'll sit down and negotiate.

Mr. Alloun said the numbers he gave were just his own numbers. He didn't speak for the other vendors, and they didn't speak for him. He wanted to thank the Board for its time, and said he appreciated it.

Mr. Rajan said he had to leave at 9 p.m. and asked if there was anything of prime importance that needed to be done. He would like actionable items to be next. Mr. Permaul said they have a motion for Daily Cal and for CALPIRG, so the Board should take those next.

### ASUC/GA REVENUE SHARING AGREEMENT

Mr. Rhoads said they need approval of GA and ASUC sharing revenue. Mr. Daal said revenue sharing is an agreement between the ASUC and the GA to share commercial activities revenue according to a certain sharing plan, which was outlined in a Resolution that was passed by the ASUC and the GA earlier that month. [See appendix.] He's given a copy of the Resolution to all Board members. He had additional copies. The Resolution calls for several changes, amendments, to the Commercial Activities Agreement. The amendments need to be approved by the Store Operations Board and sent to the Chancellor for final approval and execution. He called for any motion to approve.

A motion to approve was made and seconded by Mr. Smelko and Mr. Zuo. **THE MOTION TO APPROVE ASUC/GA REVENUE-SHARING AGREEMENT PASSED UNANIMOUSLY BY VOICE-VOTE.**

### LEASE EXTENSION FOR THE DAILY CAL

Mr. Permaul said the Auxiliary had two questions about the decision that was negotiated last week. Nothing was set in terms of cost. When people approached the Daily Cal, they had two questions about last week's decision. When they approached the Daily Cal manager, she said the Board had authorized her to pay the same utility costs that she had paid previously, and the same custodial costs, without a change in service. Mr. Permaul said he did not understand that to be the action of the Board, although he had to admit, he didn't understand much of what was being proposed in general. He understood that the rent would remain the same and the terms for the rental agreement would be the same. So the rent would be tied to the CPI. He understood the terms give the vendor three years to pay back on all those terms. But he didn't understand that the vendor would be given a break in paying custodial costs and utilities, which are, in fact, costs currently absorbed by the Auxiliary at that time. But that was what the manager of the Daily Cal told them, because the Board "approved" quote unquote the exact terms that they negotiated. So Mr. Permaul said he wrote Mr. Rhoads and Mr. Smith and asked them what they agreed to with the Daily Cal, but he hasn't heard back from them.

Mr. Rajan said he was trying to find it in the e-mail that Bryan Thomas wrote, but Mr. Rajan said he believed it was agreed that part of the utilities, because they had no other information, was supposed to be a place holder. That was his understanding, and what Mr. Thomas thought as well. He asked if Mr. Rhoads could confirm that Mr. Smith understood this in the same way. If that was the case, then he shared Mr. Permaul's point of view. Mr. Rhoads said that Mr. Smith was teleconferencing and said that Mr. Smith agreed.

Mr. Rajan said he would guess the best way to move forward was to make this a take-it-or-leave it offer. Hopefully, Mr. Rajan could get a hold of Mr. Thomas and explain this to him, and they could start grant process. He thought they got most of it done, and they'd need to know about this thing.

Mr. Permaul said that if people could send him and Mr. Spivey a complete list of the terms so that they could build it into a lease agreement, it could be formally developed and presented. Mr. Rajan said he understood that Mr. Thomas was no longer the editor, and asked if he was still around. Zack Williams said he was.

Mr. Rajan said that when they mention "terms," he'd guess that what they had to do was to figure out what the list of terms were that the Board and the Daily Cal had to agree, because he didn't think they knew. The prime focus was just talking about the debt, so to speak, and they resolved that and agreed that they would go into another lease for two years, or whatever it was. But he didn't think they ever intended to negotiate the actual specifics of the lease and believed they were going to leave that up to the Auxiliary. That was his understanding. If Diane Rames understood that incorrectly or differently, Mr. Rajan said they need to make sure that he, Mr. Thomas, and Mr. Smith were on the same page and make sure they agreed that that was what their understanding was.

Mr. Permaul said that he and Mr. Spivey would send Mr. Rajan what they thought the terms were for the extension in terms of taking what they currently have and extending it with the changes of the pass-through costs and send it to Mr. Rajan, so they could talk to Mr. Thomas and Will Kane, the new Editor-in-Chief, and with Ms. Rames, so she was on the same page.

Mr. Rajan asked if the people negotiating would sort of take the lead in figuring out all the terms. Mr. Permaul said the Auxiliary would normally do that, and would expect to do that. Mr. Rajan said he thought that was their expectation, as well as the negotiators'. It was unclear to him whether, when they give him the terms, if that's what they'd be. Mr. Permaul said that was just for his conversation with Mr. Thomas. If they come back to the Auxiliary, the Auxiliary will take it forward. Mr. Rajan said he'd find the letter and they'd start with that. Mr. Permaul said they didn't, then, need a motion on this that evening.

Mr. Rhoads said that Mr. Smith said that was okay with him as well.

#### LEASE EXTENSION FOR CALPIRG

Mr. Permaul said that CALPIRG's lease terminates on June 30. He spoke about this with Karen Warren, from CLL, in the Dean's office, because CALPIRG has asked for a complete, wholesale change of its

agreement with the campus. CALPIRG's proposal was based on a series of assumptions about who could make decisions on its terms. Ms. Warren has rejected that and said lease negotiations should be completely separate from anything that the campus was doing with regard to CALPIRG's terms and she encouraged the Board to go forward with its own recommendations on a lease agreement with CALPIRG.

Mr. Spivey said the Auxiliary was proposing \$429 a month. The group currently pays \$206. They came up with square footage square footage costs from what they charge tenants in the building, the Daily Cal. They have no utilities. CALPIRG is located in room 303.

Mr. Daal asked if the Board should consider passing through the same things they considered passing through for the Bear's Lair vendors. He thought they embarked on a new model. Mr. Permaul said the Auxiliary doesn't clean that room. Mr. Spivey said he'll figure out what Administrative Full Costing was for 300 square feet, and AFC and utilities will pass through.

Ms. Davis asked when CALPIRG signed its first contract. Mr. Permaul said it started in the 1990s. Ms. Davis asked why it was up at that time, and asked what the length of time was for the contract. Mr. Permaul said they'd recommend a five-year contract, and the Auxiliary had no reason not to give CALPIRG a five-year contract. Ms. Davis asked if CALPIRG would have the same Lower Sproul contingency clause as everyone else. Mr. Spivey said it was established in 1994. All utilities have been paid by the ASUC.

#### LEASE EXTENSION FOR THE DAILY CAL (cont'd)

Mr. Rajan said that about the Daily Cal, the only thing that he could see, and what the Board agreed to pass last month, was a line saying the Daily Cal should pay a total of \$3,860 per month to the ASUC for rental payment. The Daily Cal shall pay its utility costs, currently at \$1,201 per month. Mr. Rajan said he wouldn't interpret that to mean that it would always be \$1,201 per month. It wasn't indexed. Mr. Permaul said that was how Ms. Rames interpreted it, and they need to clarify that the paper had to pay the real utility and custodial costs. She proposed initially keeping the custodial costs at the same level they currently were, or the paper would drop to three days per week of service rather than five. The Auxiliary was open to that. Mr. Spivey said the \$1,201 was utilities and custodial. Mr. Permaul asked if Mr. Rajan was going to ask Ms. Rames to pay the ASUC, then. Mr. Rajan said he wasn't sure, and they'd figure that out.

Mr. Permaul said the contract currently says that the Daily Cal's rent will be tied to the Consumer Price Index. So it would go up or down depending on whatever the CPI was. Mr. Spivey said that was in the original agreement.

Mr. Rajan said he thought it was worth pointing out that he didn't expect that what they'd agree to with the Daily Cal would be standard for what the Board would agree to for most other businesses, because the



notion, he thought, was that the Board was willing to subsidize the paper. Mr. Permaul said Mr. Rajan just had to tell the Auxiliary what the terms were.

### ACTION ITEMS

#### Proposed Changes to Commercial Spaces In ASUC-Controlled Commercial Space

Mr. Permaul said there were two action items, exhibits in the Commercial Activities Agreement. One was to correct the actual commercial spaces and the other was to correct the actual activities. They're out of date by about eight years. So he would like to pass them out, Exhibits A and B, for activities and for the spaces.

Mr. Daal said that when they say "AFC," they always mean the current AFC, however it changed. Mr. Spivey said it was 4% this year and will be 6% next year.

Mr. Daal asked if these were proposed. Mr. Permaul said they were current and proposed. What this would do was to bring the Commercial Activities Agreement up to date. Both of these were proposed. There was a motion to approve at the top of each of them.

Mr. Rhoads said he understood the CAA contained exactly what vendors were located where, but he thought it was more important to note in the CAA where businesses were located, not who was in them. He wasn't sure it really mattered for the sake of the Agreement who was in what space. Mr. Permaul said these do not do that. One specifies spaces and the other specifies vendors. Mr. Rhoads said he wasn't convinced that the Commercial Activities Agreement needed to specify what vendors the Auxiliary had contracts with. He would ask those with more institutional knowledge to please feel free to argue that against him. But it was more important that the Board understand the spaces being used.

Ms. Harrison asked what the process was to implement the amendments. Mr. Permaul said the Board had to vote on them, after which they'd be forwarded to the Chancellor. Ms. Harrison said she recalled there being a specific process for changing commercial activities space as well as for changing the commercial activities. So Mr. Permaul was saying the Board had to approve the changes, and then that had to go to the Chancellor. She asked if changes had to be approved by the ASUC President. Mr. Permaul said the ASUC President didn't have to approve these changes. Ms. Harrison said that if the Auxiliary changed space from student activity space to commercial activity space, she thought the ASUC had to agree. Mr. Permaul said they're adding spaces and not changing existing spaces. The changes being proposed just update the entire list.

Ms. Davis asked about activities in the basement. Mr. Permaul said that publications were still located there, as well as the OCF.

Ms. Harrison asked what the spaces were prior to them being CAA spaces. Mr. Permaul said they were not listed. Some were activity spaces, but weren't listed. The 2nd floor of the Student Union, where Tully's was going, was not a commercial activities space previously. Ms. Harrison asked if the agreement speaks to the fact that when space wasn't designated as commercial space by the CAA, then it was, by default, student activity space. Mr. Permaul said it doesn't say "by default."

Mr. Rhoads said that at the end of the entire Agreement, it says that amendments may be proposed by a two-thirds vote of the Board and shall take effect by ratification of the Senate and the Chancellor. Any amendment to the Charter, if it conflicts with the ASUC CAA, then the CAA shall control. Mr. Permaul said that was the Charter, not the Agreement. Mr. Rhoads said the Agreement states that the ASUC offers the following commercial services. The student bookstore, the underground rec center, Special Services, Black Lightning, the Art Studio, mail order, reservations, class ring sales, food services, restaurants, jewelry store, kiosks, and others. Mr. Permaul said he didn't break them out and just listed in the Exhibits the commercial activities.

Ms. Davis asked to have the exhibits read. Mr. Rhoads read Exhibits A and B.

Mr. Permaul said Exhibit B, for activities space, states that the remaining space in the Student Union, Eshleman Hall, and Anthony Hall, was student activity space, although that didn't mean it couldn't be changed. Ms. Harrison said she was just trying to understand the process of changing things.

Mr. Daal said that Section 19 states that the Agreement may be amended or modified by a writing signed by the party against whom enforcement was sought.

Mr. Coley asked what was driving this. Mr. Permaul said the CAA specified a whole set of businesses that were no longer at the ASUC, and they now had businesses that weren't listed. Secondly, it lists a series of spaces that were commercial spaces, but others have been added since that time that were not listed. When the Board took action on those spaces, they should be part of the agreement. Mr. Coley said that based on the legal implications this had, that they'd need to take more time and look into what was happening there and ask the Board if there was more information to have. There was no urgency other than the fact that the Agreement was outdated. Mr. Permaul said that was correct. Mr. Coley said that if the Agreement was outdated, his recommendation would be to defer any action on this. People could look at it over the next month or two, or whatever time period, and follow the process. He thought they needed to go through the Agreement and make clear to the Board what the actual process was for updating it, which has not been communicated yet.

Mr. Rhoads said they would table, then, the proposal. Mr. Permaul said that was correct.

### EXECUTIVE SESSION

Mr. Permaul said they need to go into closed session to discuss a personnel matter involved with the budget. Mr. Rajan moved to go into closed session, with an exception for Mr. Spivey. The motion was seconded by Mr. Smith and passed with no objection. This meeting entered into closed session.

TULLY'S DELAY

Back in open session, Mr. Permaul said that the Capital Projects Department on the campus has indicated to the Auxiliary that it had some concerns with the design for the Tully's coffee kiosk. This was a little frustrating since the Auxiliary has been dealing with this design for a year.

Mr. Daal asked who in Capital Projects was objecting. Mr. Permaul said it was the Vice Chancellor. The issue has now been moved to Vice Chancellor Brostrom and Associate Vice Chancellor Coley and to Vice Chancellor Denton. The Auxiliary was notified by the project manager last week that Vice Chancellor Denton was unhappy with the work the manager has been doing on the design and rejected it. But they had already moved well beyond that and the Auxiliary, in fact, had been preparing to approve the design and move forward. Mr. Permaul said he wanted to make it clear to the Board that the ASUC has followed every step the campus has required. There seemed to be a communications issue within Capital Projects over this. He just wanted to let the Board know that the Auxiliary will try and resolve this as quickly as possible. The vendor called them that day and wants to move forward. The vendor didn't understand what the most recent delay was. The Auxiliary was working with the vendor to calm them down and hoped to get this resolved as quickly as possible.

Mr. Smelko asked if he could be a little more specific about what the concern was. Mr. Permaul said Vice Chancellor Denton wants wheels on the kiosk in the Student Union so it could be moved from location to location. When asked where it would be moved to, he didn't have an answer. But he wanted the ability to move the kiosk. If it wasn't moved, he wanted it to have full plumbing and electrical, which would be terribly expensive.

Mr. Daal asked how big the wheels had to be.

Mr. Permaul said that in addition, the Vice Chancellor did not want any sign facing out on the Student Union, towards Bancroft Way, that would indicate there was a Tully's coffee shop. Mr. Permaul said he didn't know why. The Auxiliary was now asking Vice Chancellor Brostrom and Mr. Coley to step in and help the Auxiliary get through this.

Ms. Davis asked if the Tully's project was in jeopardy. Mr. Permaul said that as he wrote to Vice Chancellor Brostrom that day, if Vice Chancellor Denton disapproves of both locations proposed, if the Fire Marshall approved of one, and the Vice Chancellor disapproved of the other, then the Vice Chancellor was basically killing the project. That's why they're asking Mr. Brostrom to step in and talk to him.

Mr. Daal asked if he could also ask to have Harry LeGrande to step in. Mr. Permaul said he thought that question should be posed to Mr. Coley. Mr. Coley said that he and Mr. Brostrom would work on this a little bit.

Mr. Permaul said the Auxiliary was working on this and trying to get it resolved, and most importantly, trying to keep the vendor. It just took so long at Berkeley to get anything done. It was amazing.

LEASE EXTENSION FOR CALPIRG (cont'd)

Mr. Rhoads said he didn't recall if the Board approved the CALPIRG lease. Mr. Spivey said the Auxiliary was requesting to move forward with that lease. It would be \$429 a month and AFC costs would be passed through at \$25.75, and then the Auxiliary would get a utility fee based on square footage of that 300 square feet. There would be a five-year extension. Mr. Rhoads asked if they'd still increase the rent each year after. Mr. Permaul said they'll include a CPI term. Mr. Daal said the Board, however, decided not to go forward on this issue earlier because there was something the Auxiliary was going to look into. Mr. Permaul said that dealt with the Daily Cal, not with CALPIRG. Mr. Daal said that Ms. Davis asked a question that couldn't be answered. Mr. Spivey said that question was about when the lease started.

Mr. Rhoads said he would entertain a motion to approve the CALPIRG contract. It was so moved and seconded by Mr. Smelko and Mr. Smith. **THE MOTION TO APPROVE THE TERMS FOR THE CALPIRG LEASE PASSED UNANIMOUSLY BY VOICE-VOTE.**

Ms. Davis asked about the situation where whoever handled negotiations was unable to come to terms for the space. Mr. Permaul said if there's no agreement, the space would be vacant and would go to students.

DATE OF THE SUMMER SOB MEETING

Mr. Rhoads said the next SOB meeting will be in the new fiscal year and with a new Board. Mr. Permaul said he would recommend meeting the first or second week of July. He noted that the new Board's year begins on July 1. After discussion, it was decided to have the summer SOB meeting on Wednesday, July 8 at 5 p.m.

Ms. Davis asked if there were plans for a new faculty member. Mr. Permaul said there was, and the Auxiliary was working on one.

Mr. Daal asked if the Board would hear and approve a budget for the Auxiliary, and prior to that, if the Board would vote by e-mail on personnel matters. Mr. Permaul said the vote was on the OSA restructure.

Mr. Rhoads said people should also keep an eye out for anything dealing with negotiations with the tenants.

A motion to adjourn was made and seconded and passed with no objection.

This meeting adjourned at 9:28 p.m.

These minutes respectfully submitted by,  
Steven I. Litwak, Recording Secretary

The following Resolution was authored by Miguel Daal, GA President, 2008-9, and was sponsored by President Roxanne Winston, Executive Vice President Krystle Pasco, and Senators Hussain, Mairena, Raffi, Tran, and Zuo:

**RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA)**

WHEREAS, when graduate and undergraduate students work collaboratively on a project in the pursuit of a mutual goal, the success of that project is all the more likely; and

WHEREAS, graduate students comprise approximately one-third of the student population on the Berkeley campus; and

WHEREAS, ASUC commercial activities revenue has been relatively flat for the past ten years, which is inconsistent with inflation, since if the revenue had kept up with inflation, the total revenue would have been \$1,000,000 more than it is today; and

WHEREAS, the residual commercial activities revenue returned to ASUC student government was \$0 for fiscal year 2007-2008 and is projected to be \$0 for fiscal year 2008-2009; and

WHEREAS, it is fiscally beneficial to develop ASUC businesses that are attractive to graduate students; and

WHEREAS, it is fiscally sensible to encourage greater patronage of existing and future ASUC commercial businesses in general; and

WHEREAS, it is important and necessary to create incentives for graduate students to invest time and money in order to ensure the present and future profitability of student government commercial activities; and

WHEREAS, an agreement to share commercial activities would make it worthwhile for the GA to proceed with its plans to make available the Anthony Hall patio as rental space and to pursue the idea of situating a coffee vendor cart in front of Anthony Hall; and

WHEREAS, an agreement to share commercial activities revenue would make it worthwhile for the GA to promote graduate student patronage of Lower Sproul businesses; and

WHEREAS, graduate students are at Berkeley for longer please do so of time, and consequently have a more expansive institutional memory, which is crucial for successfully managed business; and

WHEREAS, it would bring about fiscal equity and financial responsibility for commercial activities revenue to be shared as equally and as family as student fees currently are; and

RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

WHEREAS, in their document titled "Graduate Provisions Regarding Lower Sproul Redevelopment," graduate students indicated that GA investment in a Lower Sproul campaign should be consistent with returns graduate students could see on that investment; ; and

WHEREAS, a plan to share only those revenues generated by graduate student patronage would be inconsistent with the goal of maximally increasing revenue because it would only yield revenue generated by a subset of students; and

WHEREAS, a plan to share only those revenues generated by graduate student patronage would be intractable to implement; and

WHEREAS, a revenue sharing agreement aimed at increasing overall ASUC commercial activities revenue would be an appropriate action to attempt to jumpstart revenue growth after ten years of essentially constant revenue; and

WHEREAS, revenue received by the GA from student government commercial activities would enable it to better serve its constituency by increasing its capacity to fund student groups and advocacy, and to adequately support a wide range of programming aimed at improving student life and services; and

WHEREAS, the proposed sharing agreement seeks to enlarge revenue rather than divide up an already small residual, given the \$274,000 minimum sharing threshold; and

WHEREAS, the \$274,000 minimum sharing threshold corresponds to slightly more than the maximum residual revenue ever returned to student government (in Fiscal Year 1999-2000) ; and

WHEREAS, a residual revenue return in excess of \$274,000 minimum sharing threshold would benchmark the accomplishment of the GA and the ASUC collaboratively working toward a more successful commercial activities enterprise; and

WHEREAS, the proposed amendments to the Commercial Activities Agreement are constant with the intent to share revenue and to encourage greater graduate student involvement in commercial activities for the purpose of establishing financial equity and optimizing fiscal returns; and

WHEREAS, the proposed sharing agreement is responsible since it is accompanied by a proposal to share expenses;

THEREFORE BE IT RESOLVED, that the ASUC and the Graduate Assembly agree to recommend amendments to the Commercial Activities Agreement as follows (altered/added text appears in italics):

RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

- L. The ASUC Senate and the Graduate Assembly approved a Resolution recommending amendments to the Commercial Activities Agreement which create a greater stake for the Graduate Assembly in the success of ASUC commercial activities. Both parties agree that increasing the Graduate Assembly's stake is fair and creates incentive for the Graduate Assembly to work with the ASUC toward successful commercial activities. This Resolution is attached hereto as Exhibit H and made a part hereof.
- 1.2.3 *The President of the ASUC, the Executive Vice President, and the President of the Graduate Assembly, or their designates, shall be ex officio voting members of the Board.*
- 4.1 ASUC and GA accounts.
    - A. *Student government fees and revenue. Two separate bank accounts shall be established, one designated as the ASUC Student Fee Account and one designated as the Graduate Assembly Student Fee Account. Student Registration Fees and other non-commercial funds generated by the respective branches of student government shall be deposited as appropriate into each of the aforesaid accounts. Student fees shall be deposited into each account in accordance with Section 4.1.1 below.*
    - B. *Commercial Revenue. Two separate bank accounts shall be established, one designated as the ASUC Commercial Revenues Account and one designated as the Graduate Assembly Commercial Revenues Account. Revenue from student government commercial activities shall be deposited as appropriate into each of the aforesaid accounts. Student fees shall be deposited into each account in accordance with Sections 5.3, 5.3.1, and 5.3.2.*
- 4.1.1 *Fair Share Percentage. The ASUC fair share percentage is the number of enrolled undergraduate students as a percentage of all enrolled students for the previous academic year (September through May). The Graduate Assembly fair share percentage is one hundred percent (100%) less the ASUC fair share percentage.*
- 4.2 Accounting. The Auxiliary shall provide accounting services for the ASUC and ASUC Commercial Activities. Both the Student Fee Account (s) and the Commercial Revenue Account (s) shall be established and maintained with two groups of signatories. The signatories of Group "A" shall be the President and Executive Vice President of the ASUC. The signatories of Group "B" shall be the Director of the Auxiliary and his/her designee(s). Checks drawn in the amount of \$1,000 or more shall

RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

require two signatories, at least one of which shall be from Group "A." A stop payment order with respect to checks of \$1,000 or more shall require two signatures, at least one of which shall be from Group "A." The bank(s) at which these accounts are maintained shall issue duplicate monthly statements to both the ASUC and the Auxiliary. *For purposes of the Graduate Assembly Student Fee Account and the Graduate Assembly Commercial Revenues Account, the Graduate Assembly President shall be a signatory of Group "A."*

- 4.3.1 Any official of the ASUC, *any Delegate, Chair, or Officer of the GA*, and any member of the Board may at all reasonable times during regular business hours inspect the books and records of the Auxiliary and make copies and extracts therefrom and may discuss the affairs, accounts and finances of the Auxiliary with its managers and employees, and the University will furnish to the ASUC, *the Graduate Assembly*, and the Board, statements which are accurate in all material respects regarding the operations of the Auxiliary, its rental income, its Operating Expenses, and, to the extent known to the University, the operations of third-party providers of ASUC Campus Commercial Activities, all at such times and as often as shall be reasonably requested.
- 5.1....In order to control Operating Expenses, the Auxiliary's budget for any fiscal year shall not, without the express, prior written consent of the Chancellor, *the ASUC Senate, and the Graduate Assembly*, exceed the budget for the preceding fiscal year plus an amount equal to the product of the budget for the preceding fiscal year multiplied by the sum of five percent plus the percentage increase in the Consumer Price Index for All Urban Consumers (I 982-84=1 00) of the Bureau of Labor Statistics (or any comparable successor thereto) for such a fiscal year.
- 5.3 ASUC Commercial Activities Income After Repayment of ASUC Debt. After the ASUC Debt is fully repaid, all income received by the University or the ASUC from third-parties conducting ASUC Commercial Activities shall be paid as follows:
  - 5.3.1 Such third-parties shall make periodic payments to the University sufficient in the aggregate to cover the estimated Operating Expenses for the then current fiscal year of the Auxiliary; and
  - 5.3.2 *Such third parties shall pay the balance of their contractual payment obligations ("student government payments") directly to the student governments as follows:*
    - A. *If the total annual student government payments are \$274,000 or less, then they shall be deposited into the ASUC Commercial Revenues Account.*



RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

*B. If the total annual student government payments are greater than \$274,000 and less than \$600,000, then the Graduate Assembly fair share percentage of the difference between the total annual student government payments and \$274,000 shall be deposited into the Graduate Assembly Commercial Revenues Account, with the remainder being deposited into the ASUC Commercial Revenues Account.*

*C. If the total annual student government payments are greater than \$690,000, then the ASUC fair share percentage of the total annual student government payments shall be deposited into the ASUC Commercial Revenues Account, with the remainder being deposited into the Graduate Assembly Commercial Revenues Account.*

The Director of the Auxiliary may propose for the Board's approval that one or more of the third-party providers of the ASUC Commercial Activities divide payments between the ASUC and the University so as to affect the intent of this Section 5.3, based on the Auxiliary's budget.

- 11.2 Appeal to the Chancellor. If resolution of a dispute cannot be achieved through the measures described in Section 11.1, above, the President of the ASUC *and the President of the Graduate Assembly* may appeal directly to the Chancellor, whose decision shall be final. Any such appeal shall be in writing, setting forth the basis for the appeal. The Chancellor may, but shall not be objected to, meet and confer with the President of the ASUC regarding such appeal. Any decision of the Chancellor hereunder shall be in writing, shall be delivered to the President of the ASUC and to the Board, and shall be accompanied by a written statement of the basis for such decision.
15. All notices, requests, demands, and other communications given or required to be given under this Agreement shall be in writing, delivered personally, by registered or certified mail, return receipt requested, or via overnight commercial courier services as follows:

University:  
Office of the Vice Chancellor, Business and Administrative Services  
California Hall  
University of California, Berkeley  
Berkeley, CA 94720

ASUC:  
Office of the President, Associated Students of the University of California  
200 Eshleman Hall

RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

University of California, Berkeley  
Berkeley, CA 94720

ASUC Senate:  
200 Eshleman Hall  
University of California, Berkeley  
Berkeley, CA 94720  
Attention: Executive Vice President

*Graduate Assembly  
Anthony Hall  
University of California at Berkeley  
Berkeley, CA 94720  
Attention: Graduate Assembly President*

Any such notice sent by registered or certified mail, return receipt requested, shall be deemed to have been duly given and received two (2) business days after it is mailed with postage prepaid. Notice sent in any other manner shall be effective upon actual receipt thereof.

BE IT FURTHER RESOLVED, that approval of this bill last neither imply or engender changes to current revenue or expense allocation agreements or practices except where specifically defined in this or future agreements.

BE IT FURTHER RESOLVED, that if approved, this bill will be forwarded to the Store Operations Board for approval and, with the approval of the Board, shall be forwarded to the UC Berkeley Chancellor for final approval and contract amendment execution.

BE IT FURTHER RESOLVED, that a committee whose name shall be called the Revenue Sharing Committee be created under Title III of the ASUC Financial By-laws consisting of the ASUC President, the GA President, one Senator, and one graduate student member of the Store Operations Board.

BE IT FURTHER RESOLVED, that the Revenue Sharing Committee shall be charged with producing a Report on Commercial Activity Revenue Sharing due on February 29th (every four years) to both the ASUC Senate and the GA Delegate Assembly, which analyzes relevant changes in circumstances since the last report and which makes recommendations regarding how to continue progress toward the goals of this Resolution.

BE IT FURTHER RESOLVED, that in years when the Report on Commercial Activity Revenue Sharing is not due, the Committee is charged with monitoring progress toward the goals of this

RESOLUTION IN SUPPORT OF SHARED COMMERCIAL ACTIVITIES REVENUE BETWEEN THE ASUC AND THE GRADUATE ASSEMBLY (GA) (cont'd)

Resolution and, if the Committee decides it is necessary, may issue an interim Report on Commercial Activity Revenue Sharing due on or before February 28th of the current academic year.

BE IT FURTHER RESOLVED, that the prevue of the Revenue Sharing Committee and subject of the Report on Commercial Activity Revenue Sharing may encompass consideration of any sharing of ASUC and GA expenses insofar as such sharing is related to the goals of this Resolution and the financial circumstances of the time.

BE IT FINALLY RESOLVED, that the ASUC Senate delegates all necessary authority to the ASUC President to make any necessary change to the agreement in order to secure approval by the Chancellor and the Store Operations Board.

DECISIONS OF THE BOARD

Procedures

- May '09**      **Last meeting of Victoria Harrison and Barbara Davis, long-time members of the Board.**
- May '09**      **Approved proposed changes to the CAA that would have the ASUC and the GA share commercial revenue.**
- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07      Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's first Board meeting as undergraduate representative.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06      Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06      Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06      Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05      Mr. Dally joined the Board as undergrad representative.
- Dec. '05      Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05      Elected Ms. Putnam-Smith as Chair of the Board.

Procedures (cont'd)

- June '05 Voted to have committees, after the August meeting, agree upon meeting times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.
- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

Vendors

- May '09**      **Approved an amendment to the Naia lease, to allow the sales of sushi and salads, with Naia to reopen in the fall.**
- May '09**      **Approved a five-year lease extension for CALPIRG, with new lease terms.**
- May '09      Voted down approval of the proposed Panda Express contract.
- May '09      Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.
- May '09      Revised the agreement with CampusLink to end its monopoly on Student Union advertising.
- May '09      Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.
- April '09      Amended the Panda Express contract and voted to renegotiate.
- April '09      Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09      Approved the Tully's Coffee contract.
- Feb. '09      Voted to approve the CUBS contract.
- Feb. '09      Voted to move forward with the Tully's contract.
- Jan. '09      Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08      Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08      Approved Action Vending proposal to increase vending prices.
- Sept. '08      Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. 08      Heard the terms of a possible Panda Express contract.
- June '08      Approved the concept of bringing the Brazil Café to the ASUC.
- June '08      Approved a Letter of Intent to negotiate with Panda Express.

Vendors (cont'd)

- May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07 Heard a presentation by CUBS.
- Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06 Approved a five-year lease option exercised by the Jupiter Pub.
- Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
- Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
- Sept. '05 Approved used of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05 Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05 Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04 Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04 To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04 Approved a five-year extension for the STA Travel lease.
- June '04 Approved the Resolution In Support of Follett Contract Performance Review.

Vendors (cont'd)

- June '04      Approved changes to the terms of the Pub's lease.
- April '04      Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04      Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04      Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04      Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04      Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04      Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03      Heard from John Martin, operator of the Pub.
- Nov. '03      The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03      Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03      Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03      Approved a five-year lease with the Daily Cal.
- July '03      Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04      Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. 04      Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.



Vendors (cont'd)

- July '04      Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03      Formed a subcommittee to further consider the Daily Cal lease.
- May '03        Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02        Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02        Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- May '09        Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.
- Dec. '08        Work began on the seismic retrofit of MLK.
- Oct. '08        Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.
- June '07        Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.
- May '05        Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05        Voted to explore options for the expansion of the Art Studio.
- Oct. '04        Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03        Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.

Student Union / Pauley Ballroom (cont'd)

- May '03      Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03      Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03      Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- April '06      Approved the 2006-7 Auxiliary budget.
- April '05      Approved the 2005-6 Auxiliary budget.
- Sept. '04      Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.
- May '04      Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
- April '04      Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.
- Feb. '03      Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."
- June '03      A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.
- May '03      Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in

## STORE OPERATIONS BOARD MINUTES

July 8, 2009

Present: (Members and others)

Rebecca Coleman (Board member)	Alberto Ortega (Board member)	Dave Rhoads (fmr. Bd. mbr.)
Ron Coley (Board member)	Matt Marks (vendor rep.)	Will Smelko (ASUC Pres.)
Miguel Daal (GA President)	Arnoldo Marquez (Taquería)	Tom Spivey (Auxiliary)
Leon DeLeon (incoming Senator)	John Myers (Board member.)	Marilyn Stager (Auxiliary)
Jeff Deutsch (Bookstore Manager )	Rahul Patel (incoming Senator)	Jeff Stein
Meghana Dhar (ASUC Senator)	Nadesan Permaul (Auxiliary)	Tu Tran (ASUC Senator)
Danny Kodmur	Jonathan Poullard (Dean, CLL)	Ann Vu (Healthy Heavenly Food)
Yoni Landau	Tara Raffi (ASUC Senator)	Yishi Zuo (ASUC Senator)
Christina Oatfield (ASUC Senator)	Nish Rajan (Board member)	

### **SUMMARY OF THE MEETING**

The meeting commenced the beginning of the fiscal year and was called at 5:12 p.m.

#### Elections for Chair and Vice Chair

By unanimous voice-vote, the Board approved Mr. Rajan as the Chair.

It was noted that Section 4.3 of the SOB Charter states that if the chair or vice chair is a student, the other position should be held by a University or faculty representative.

By unanimous voice-vote, the Board elected Mr. Poullard as Vice Chair.

#### Welcome and Introduction of New Members, Status of New Faculty Member Search

Prof. Myers was welcomed his first meeting as a Board member, filling a two-year faculty seat.

The Academic Senate Committee on Committees has nominated three other faculty to sit on the Board. One has declined the nomination.

The Board also welcomed Mr. Poullard to the Board, filling a two-year administrative seat.

The Board thanked Mr. Rhoads for his two years of service on the Board.

As for the other administrative position on the Board, Vice Chancellor Brostrom hoped to have the position filled by the start of the academic year.

### Budget of the ASUC Auxiliary

Mr. Permaul introduced the bSpace page that exists for the Board, available from the University's Web page Materials for meetings could be found under "Resources," and e-mail could be sent under to all members under "Messages."

A graph was presented, showing the ten-year budget trends of the Auxiliary. The Auxiliary had to lay off employees that year and will have about a \$270,000 deficit, which will be dealt with through Operations Reserves. There will be a \$270,000 deficit in 09-10, based on new expenses.

Expenses were below revenues from 03-04 through 07-08. But that was due to vacancies in some key positions.

By 10-11, the Auxiliary believed with Food Court leases and RFPs for vacant spaces, it will be in the black. If planned resources were not available, there could be additional shortfalls.

As seen in the Year-End Report from that past year's Chair and the Vice Chair decisions the Board made in fall '08 were changed in spring '09, having a substantive impact on their deficit.

If they'd been at full capacity, they would have run into the deficit earlier. Positions filled were the Associate Director, Budget Officer Art Studio Manager, Student Union Director, all revenue positions. Other positions filled were the GA's Funding Advisor and the Manager of student publications. These were not positions that could be left leave vacant.

The Board had to grow revenue 3-3.5% a year, a figure used by the University uses. The Auxiliary has failed to do that. Board decisions that spring had an impact in keeping revenues flat and even below projections.

Over \$250,000 for maintenance that past year, and it was all used by mid-year.

An argument over STIP income between the campus and student government could have another impact.

The final figure for the maintenance line item was \$350K, or \$100K over budget. Money was taken from building reserves.

The campus was also requiring the Auxiliary to have a capital program for Eshleman. There will also be a seismic project in MLK that will impact revenue.

It was discovered that prior to the Auxiliary ASUC business operations had a workers' comp fund that was never touched and has grown to about \$400K. The Auxiliary was proposing to transfer \$100K to the incoming government, with the remainder to be used for business interruption from seismic work. If funds were available, ASUC student government in fall '10 would also get \$100K. Operating reserves were down to \$400K, after having spent \$500K in two years.

The Board decision that prompted shortfall was the Panda Express decision. Panda would result in net revenue of \$250,000 and additional foot traffic, between 1,000 and 1,200 visits per day.

Other UC campuses take approximately six months to bring in a business and get it running. It took two years to get to a vote on Panda, a year and a half for Tully's, and two years to bring in TSW.

The Board was behind the curve in approving the budget. But due to other issues, the Board never got to it. It should have happened in February or March.

Revenues were expected to be flat next year and up the year after. Berkeley was undergrad manage ASUCs and had negotiated settlement with the campus, rather than being part of the University.

The proposed budget would cut the GA Funding Advisor position by .5, to a .5 FTE. The GA offered to cover .3 of the .5 that was cut and requested the Auxiliary to cover the remaining .2 from reserves, for one year. Absent a deficit in 10-11, they'd go back to 1.0. By unanimous voice-vote, the Board approved Auxiliary funding of the GA SAO position at .8 FTE for the coming year.

By unanimous voice-vote, the Board approved, as amended, the 2009-10 Auxiliary budget.

#### End-of-the-Year Report

An end-of-the-year report was submitted by Mr. Rhoads and Mr. Smith, containing events that occurred in the past year and recommendations.

Recommendations included creating a mission statement and year-long, achievable goals at the first fall meeting; filling the faculty and administrator Board vacancies; continued meetings of student members; continued student meetings with administrators and faculty Board members; having more financial documents and information prior to meetings; increasing the frequency of meetings; examining the use of the Workers' Compensation fund; clarifying the roles of Senators and non-members; not having decisions take so long.

#### Daily Cal Contract

The Board heard from Will Kane, the new Editor-in-Chief and President of The Daily Californian. At the May 5 meeting, the Board approved creating an agreement with the Daily Cal. The paper would have three years to pay back its "loan" of \$14,244.50. Custodial services will go from six to three nights a week, keeping that payment the same. Electricity will be monitored, with the paper billed for what it uses. The agreement will go to Real Estate Services. There would still be an SOB member on the paper's Board.

With no objection, the Board authorized the Auxiliary to formulate a one-year lease extension for the Daily Cal, through 2012.

With no objection, the Board approved Mr. Zuo to be the SOB member of the Daily Cal Board.

#### Presentation By Bear's Lair Food Court Vendors

Matt Marks made a presentation on behalf of Food Court vendors. The Food Court has worked for a long time, while many other businesses there have failed.

The vendors agree things need to change. Each will have an organic option, will be green-business certified, invest up to \$33K for Food Court improvements, and have revenue sharing, where each party shares in the success of the Food Court. He thought they all agree on that.

Mr. Marks said they'll come in next semester with things are done and see a whole new Food Court, with the same friendly faces who have been there a long time and have proven to be successful businesses on campus that can generate revenue and not fail.

The offer the Board made was a little high. A survey showed that students' highest priority was low cost, and the proposed terms would affect that. Under the proposal, vendors would make about \$13K, for 60-hour weeks.

The vendors were okay with the proposed percentage of sales. For marketing, they asked for revenue they provide to go directly to student groups instead of first to the Auxiliary. The vendors' standard four-month rental discount was reduced to three months, and they request four. They also request working with the Auxiliary not to have standardized fronts, to something everybody liked. The vendors were asking the general insurance aggregate be back at \$2 million.

It was noted that the Board created a subcommittee to consider terms and negotiate with the vendors. Mr. Marks' presentation would be given to the subcommittee. The vendors' counterproposal was coming to them at a general SOB meeting, rather than to the subcommittee.

Ms. Oatfield made a motion to return to public comment, and a question was raised by what authority she had to make a motion.

The Board met in closed session to discuss vendor contract terms.

### Food Court Update

Around two weeks ago, the subcommittee presented the SOB's terms and a letter of intent to the food vendors. The vendors were told they could raise another proposal to the subcommittee.

A motion was made to vote on the vendors' counterproposal at that time. A question was raised as to whether that motion needed public notice. The motion to vote on the vendors' counterproposal passed by hand-vote 6-2-2.

By a hand-vote of 6-1-2, the Board voted to present the Board's contract to Food Court Vendors, to be voted on at the next Board meeting, and to go out to RFP if the vendors didn't agree with those terms.

### Food Cooperative Update

The Food Co-op has been having general membership meetings and subcommittee meetings on a weekly basis. In the Spring Semester they raised \$106,000 and were still fundraising. They've secured an active and experienced advisory board and have about 100 members on their general membership list and about 500 people on their newsletter list.

The Co-op submitted non-profit Articles of Incorporation to the State and will soon be its own legal entity.

They were interested in being on campus and had several options, such as having a deli/café or deli/grocery in Naia. Naia owners were interested in selling the lease to the Co-op a deli. STA Travel space could be a seating area. The he Postal Annex could be storage or an office area.

The Co-op would like input from the Board on its visions and intentions for these vacant spaces, and in the process to secure them.

Jeff Stein, Co-op business analyst, said a market research survey was sent to over 1,000 students about food options and shopping behavior. Financial models were being made. The Co-op wanted to have a dialogue with the Board about more creative ways to market space on Lower Sproul.

An ROI will be ready by the end of July.

It was noted that the Auxiliary needed to look at the ROI and the financial model before it was brought to the Board.

With no objection, the Board approved a motion to create a policy whereby vendors would have to submit an ROI to the Auxiliary before a proposal came to the Board.

It was noted that the Auxiliary would have to approve any agreement Naia makes in its space.

With no objection, items under New Business on the agenda would be considered at their next meeting.

#### Subcommittee to Amend the SOB Charter and By-laws

With no objection, the Board approved for formation of a subcommittee to amend the SOB Charter and By-laws, to be submitted within two weeks before the first Board meeting of the Fall Semester. It may encompass a vision statement; clarification of the roles of student, administrator, and faculty members; clarification of the relationship between the Board and the Auxiliary; By-law revisions; separating the functions of political and fiscal accountability of Board members; and sustaining a relationship of trust among Lower Sproul primary stakeholders.

With no objection, the Board approved the composition of the subcommittee: Mr. Smelko, Ms. Coleman, Mr. Permaul, and Mr. Daal.

The meeting adjourned at 8:06 p.m.

### **End Summary of the Meeting**

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This meeting of the Store Operations Board, commencing fiscal year 09-10, was called to order by Dave Rhoads at 5:12 p.m. in Stephen's Lounge, MLK, Jr. Student Union.

### ELECTIONS FOR CHAIR AND VICE CHAIR

Mr. Rhoads the first item on the agenda was the election of a chair and vice chair since he and Jordan Smith were no longer technically on the Board. He called for nominations for the position of chair, who would take over that evening.

Mr. Coley nominated Mr. Rajan. The motion was seconded by Mr. Myers. Seeing no other nominations, Mr. Rhoads said they would vote on the nomination. **THE MOTION TO APPROVE NISH RAJAN AS CHAIR OF THE BOARD PASSED UNANIMOUSLY BY VOICE-VOTE.**

With Mr. Rajan chairing the meeting, he said they would move on to the election of Vice Chair. He called for any nominations.

Mr. Coley nominated Mr. Poullard, who respectfully declined, conditionally. Mr. Coley said that Mr. Poullard didn't want to deny anybody the opportunity to be vice chair. Mr. Rajan nominated Mr. Poullard. Mr. Poullard said he would prefer the position to be filled by a student, as the Board was run for the Auxiliary by and for students.

Mr. Rajan said he thought it would also be very good to have an administrator on the Board. The nature of the Board has evolved quite a bit since its inception, and that was something they were still trying to figure out. Even though students were expected to provide a lot of the leadership involved, and do so, they do need perhaps more guidance. In that sense, it would be very useful to have a vice chair who could provide that guidance and maybe some institutional knowledge.

On a point of personal privilege, Ms. Coleman said that Section 4.3 of the SOB Charter states that either the chair or vice chair of the Board should be a student, with the other a University or faculty representative. So the vice chair, in this case, had to be University or faculty rep, according to the Charter. Mr. Rajan said he would like to thank Ms. Coleman for that.

Mr. Poullard said he would guess they had no option.

Mr. Rajan called for an objection to the nomination. **THE MOTION TO APPROVE MR. POUILLARD AS VICE CHAIR PASSED WITH NO OBJECTION.** Mr. Rajan said he would like to congratulate him.

### APPROVAL OF THE AGENDA

Mr. Rajan called for a motion to approve the agenda. Mr. Permaul said he would like to make one amendment, and would request that at some point, for 15 minutes, the Board go into executive session to discuss the issue of the Food Court. That would be for item 8), and he would request going into executive session in advance of that discussion. The motion was made and seconded by Mr. Rajan and Mr. Poullard.



Mr. Myers asked what the topic of executive session would be. Mr. Permaul said he would like to discuss the terms of the Food Court lease with the Board.

The motion to amend the agenda passed unanimously by voice-vote.

Mr. Ortega moved to amend the agenda to add, after New Business, an item to create a task force to update the SOB By-laws, and to have the By-laws updated by the next meeting. Additionally, he would like to hear a five-minute presentation from the vendors immediately before the closed session.

Mr. Rajan said they would divide the motion. The first motion would be to amend the agenda to add an item on creating a subcommittee to update SOB By-laws. The motion was seconded by Mr. Poullard and passed unanimously by voice-vote.

The motion to hear a presentation by Food Court vendors before moving into closed session, between items 7) and 8), was seconded by Mr. Rajan and passed unanimously by voice-vote.

#### WELCOME AND INTRODUCTION OF NEW MEMBERS, STATUS OF NEW FACULTY MEMBER SEARCH

Mr. Permaul said he would like to welcome Prof. Myers officially to his first Board meeting, to begin his two-year term. They welcome him and appreciate him joining them.

Mr. Permaul said he also wanted to give an update on the status of adding another faculty member to the Board. Three more faculty members have been nominated by the Academic Senate's Committee on Committees, and he's contacted them. Only one has responded to that point, and the others might be away from the campus. The faculty member regretted that he had to decline, but had other commitments. So they're waiting for the two other faculty members who have been proposed to be Prof. Myers' compatriot on the Board.

Mr. Permaul said this was the first meeting for Dean Poullard, who starts his two-year term. Mr. Permaul said he would like to thank the Dean.

Mr. Permaul said he would like to thank David Rhoads for his two years of service, and said Mr. Rhoads has gone through heck and high water. On behalf of the whole Board and everybody who has worked with him, Mr. Permaul said he would like to thank Mr. Rhoads very much. They had a gift for him. (Applause)

Mr. Coley asked about the other administrative position on the Board. Mr. Permaul said Vice Chancellor Brostrom was contemplating the other position. He's informed the Board that he wanted to make a careful appointment and was still reviewing his options. The Vice Chancellor regrets that he did not have someone for this first meeting of the new year. But he hoped to have someone in the position by the time the academic year starts. Mr. Permaul said he would apologize for forgetting to mention that.

#### APPROVAL OF THE MINUTES

Mr. Rajan said he would like to entertain a motion to approve the minutes from the May 5 and May 26 meetings. It was so moved and seconded by Mr. Zuo and Mr. Myers. THE MOTION TO APPROVE THE MINUTES FROM THE MAY 5 AND MAY 26, 2009 SOB MEETINGS PASSED WITH NO OBJECTION.

#### PUBLIC COMMENT

Mr. Rajan said they allocated 20 minutes on the agenda for public comment, with two-minute comments per person, with extension to require approval by voting Board members. So if someone needed their time extended, he would ask them to please approach a Board member.

Mr. Rajan said that with no public comment, they'd move on in the agenda.

#### 2009-10 BUDGET OF THE ASUC AUXILIARY

Mr. Permaul said that before starting the presentation, Mr. Permaul said he wanted to mention that he wrote Board members about the bSpace page that exists for the Board. He wanted to show them what it looked like. If they go to the University's Web page and type in "bSpace," it will take them to the location seen on the screen. If they use their CalNet authentication, it will admit them because they're on the roster for the bSpace page. As he indicated in his correspondence with them, under "Resources," materials will be placed for the Board for various meetings. And if they go to "Messages," they could add messages, which will be recorded and preserved on the Web site. So control of information was available to the Chair and members of the Board.

Mr. Permaul said bSpace is a site they could use to manage the business of the Board. So people could add information appropriately, and they could always ask him to add information. Mr. Permaul said he just wanted to let them know that as members of the Board, they now have an online, Web-based repository for the information for each Board meeting. As it develops and grows, he'll let them know about it.

Mr. Myers asked if they should use bSpace for e-mail to him and others. Mr. Permaul said they could e-mail him directly, but they could use bSpace to let the rest of the Board know what they're sending to him. It's like a macro, and under "Messages," they could select "all participants," and all of them would get a copy of what was being sent.

Mr. Permaul said he sent out to all of them the picture being shown on the screen, showing the ten-year budget trends of the ASUC Auxiliary. It basically shows what he's been saying to the Board for the last three years.

When he arrived there in '06-07, it was clear that the expenses of the Auxiliary would run into the revenue of the ASUC. Finally, the borrowed time the ASUC had been living on since 1998, in terms of its commercial revenue, came to an end. As a result, the Auxiliary has had to lay off employees that year.

They will have about a \$270,000 deficit, which they'll deal with through the Operations Reserve. They will have another \$270,000 deficit in 09-10. But that was based on new expenses coming to the Auxiliary, which he detailed to the Board in his correspondence. He could go back over that if they needed him to. They're also using the Operations Reserve to bail out the budget for 09-10. So that was over \$500,000 from the Operations Reserve that the ASUC Auxiliary will have to use in order to prevent itself from being in deficit, and therefore being in violation not only of University policy, as an Auxiliary budget, but also in violation of the spirit of the Commercial Activities Agreement that students signed with the Chancellor in 1998.

Mr. Permaul said the picture on the screen was of the ASUC Auxiliary budget. It shows in green, the revenues of the ASUC since 1998. Below, it shows the expenses. It looks as if the ASUC Auxiliary had expenses well below the revenues from approximately 03-04 all the way through 07-08. So they might wonder why the Auxiliary was having problems financially. The reason was that there were some vacancies in key positions in the Auxiliary that artificially allowed them to transfer funds to the students during those years, even though if those positions had been filled, as they could see in the dotted line, the Auxiliary would have spent as much money as it was making, and, in fact, was spending more.

So over a period of time, the ASUC was basically living on borrowed funds. By the time they get to 07-08, as he predicted the year he arrived, there was a crash between revenues and expenses. The red colored space was the deficit that they have for the year just concluded and for the coming year. In 10-11, the Auxiliary believes that the combination of new resources that it is proposing, and those which the Board has said it was going to undertake, with, e.g., leases for the Food Court and using RFPs for vacant spaces that they currently have, should bring the Auxiliary back into the black. So the Auxiliary was predicting and expecting that to be the case.

If they don't have their planned resources available, they will have additional shortfalls. For example, they were supposed to have opened the Tully's Coffee shop in April. They will not open it now until August, due to a series of issues that have come from the campus. That meant that for two months past August, the Auxiliary will collect no revenue. So they are now months behind, at the beginning of the fiscal year, in collecting revenue from Tully's, and will be behind for the whole year. So they'll have to adjust the year to accommodate that.

Similarly, if the Board doesn't make decisions with regard to RFPs and doesn't meet the terms and conditions that were proposed at its last meeting, they will have additional shortfalls in revenues. He just wanted the Board to recognize that every decision it made vis-à-vis a change in the proposal of revenue it has already adopted will have an impact down the road, not only in 09-10, the year they're going into, but in 10-11, the year they're projecting.

The University requires the Auxiliary to present its budget for three years, the year they're in, the year they're going into, and to project the third year. Mr. Permaul said the Auxiliary could not run a business like the Auxiliary and the ASUC's commercial business operations with manic decisions that impact their business operations.

If they look back at the report that was presented by the Chair and the Vice Chair from that last year, they will see that the Board made decisions in the fall of '08 and changed them in the spring of '09. That has had substantive and material effects on the deficits of the ASUC, the Auxiliary, and in projections of revenue down the line.

Going back to the chart, Mr. Permaul said the blue line showed revenues trends over ten years. The red line was the expenses of the Auxiliary. The hatched line was the artificial savings that the ASUC enjoyed in the past because the Auxiliary was not at full capacity in staffing. If they had been at full capacity, they would have run into the issue of expenses and revenues earlier. And that finally happened once they filled the positions.

Mr. Permaul said the positions that were filled were the Associate Director's position, the Budget Officer and Manager of Finance, the Director and Manager of the Art Studio, and the Director of the Student Union. All those were revenue positions. The Funding Advisor at the Graduate Assembly was added, as was the Manager and advisor to student publications. This was one-third of the ASUC's Student Affairs operations. These were not positions he could leave vacant. They had to be filled. So in essence, the failure of the ASUC to build revenue during those ten years forced the Auxiliary to live on this borrowed time.

Mr. Permaul said he told the Board at the very beginning, when he arrived there, that they should be growing their revenue by 3-3.5% a year. That's a figure that the University uses when it indexes its budget each year. And the Auxiliary has failed to do that. The Board's decisions that past spring have clearly had an impact, keeping revenues flat and even below the revenue projections they need, to continue to grow and meet their expenses. Now they're in a position, because of the current State budget, where employees are not receiving salary increases. So for a substantial number of their 25 to 26 employees, there won't be increases. But for every bargaining unit employees there are contracts that require salary increases. So the Auxiliary will see its expenses for salaries and benefits continue to grow.

The same thing was true with maintenance. That past year the Auxiliary budgeted over \$250,000 for maintenance. They completely utilized that budget by December, by mid-year. That was because the elevators went down in Eshleman Hall twice and they had major maintenance issues throughout the rest of the facility, including leaks they had to repair and other kinds of issues. That was the reason they maintain the reserves that they do, and it was also the reason why they had to generate additional revenue to cover those expenses.

Mr. Permaul said the campus and the ASUC and GA were currently in an argument over STIP income. That's income that the Auxiliary was using to augment its reserves so that additional cash would not have to be used out of their operating budget or out of revenues of the ASUC, or put towards reserves. Unless that issue is resolved in favor of the ASUC, that would have another impact on the ASUC's total revenues and expenses.

Mr. Poullard said that it was mentioned that they ran out of the \$250,000 budgeted for maintenance in '08, and asked how much more they spent in that fiscal year. Mr. Spivey said they spent over \$350,000, a total of \$100,000 extra, over that line item. Mr. Permaul said they took that money out of their building reserves. This was another reason they keep those reserves.

Mr. Permaul said the campus has also required the Auxiliary to put together a capital program for Eshleman. All of them would love to think that they were going to rebuild the Student Union complex within the next two years. But unless the students approve a referendum in the spring, MLK will remain as it is. It has yet to be determined what will happen to Eshleman. There was a seismic project scheduled for MLK, which was about \$8 million. And next year they have a \$1 million seismic project in Eshleman scheduled for the fall. They also have a \$1.5 million problem with the roof in MLK, and they

have had a series of leaks. They have an \$800,000 project, coming from Life Safety funds, to try and deal with the leaks that go through this building. But if that doesn't solve the problem, the Auxiliary will have to invest more money there. For Capital Programs, which the campus requires the Auxiliary to lay out, uses Auxiliary's reserves over a period of ten years to ensure that the building was in operating condition. He had copies for everybody who would like them.

While some people have claimed that the ASUC Auxiliary was sitting on, quote unquote, "A lot of money," that money was all earmarked.

Mr. Permaul said there was one fund that was not earmarked. They discovered by going through University policy, that before the Auxiliary came into existence, the old ASUC business operation had a workers' comp fund. Mr. Permaul said that he and his predecessor have never touched it. It was earning STIP all those ten years, and grew to a level of about \$400,000.

Mr. Permaul said he was proposing for that meeting that the Board transfer \$100,000 from the old workers' comp fund to the government that was coming into power, and that the Auxiliary retain the remainder to cover any impacts on business interruption that could result from the seismic project next spring and summer. And if the ASUC didn't have to use those funds, then the ASUC student government coming in in the fall of '10 would also get another \$100,000. But as for the rest of it, the Auxiliary would recommend retaining it. The operating reserve will now be, at the end of this coming fiscal year, down to \$400,000. Considering that the Auxiliary spent \$500,000 in two years, he would not recommend that reserve going any lower.

Mr. Poullard said that Mr. Permaul alluded to decisions that prompted the Auxiliary to start having difficulty or shortfalls. He asked what those decisions were. Mr. Permaul said in particular, it was the Panda Express decision. Panda would have brought in an additional net revenue of \$250,000, just from the agreement itself. And on top of that, Panda Express was predicting somewhere between 1,000 and 1,200 visits per day, which Panda considers low. That would have brought foot traffic into the Student Union. He'd give them an example. The Auxiliary opened The Scholar's Workstation downstairs. Since January they have done \$2.5 million worth of computer sales. If they ask the Manager of the Cal Student Store, who was present that evening, that money was not the big issue for TSW, because there's a very small margin on computer sales. But what was a big issue was that for every single one of those transactions, there was a new body in the Student Union who was not there the year before. It's the foot traffic that drives not only service, but also revenue. It was his understanding was that commodity sales were up considerably, and those were all in the areas adjacent to TSW. The same thing will happen when they open Tully's upstairs. But it was that kind of business analysis they needed. If they maintain themselves with small businesses, which they want to do, they also had to balance them with businesses like Follett, and Tully's, and like Panda Express. Because if they don't, they couldn't maintain their financial model. That was the kind of thing he was trying to explain.

Mr. Coley said a good response to that question with respect to lost revenue opportunity, and something that Mr. Permaul did not speak to, was the fact of how long it has taken to get to not making decisions. And the other point Mr. Permaul probably should have focused people's attention on was the very serious valley that was there. Mr. Permaul didn't mention that at all. What people needed to understand was that the valley on the chart not only represented less expenses, but also represented less service, much, much less service. And that was the real driver there. When Mr. Permaul was hired, which Mr. Coley said he took credit or blame for, Mr. Coley said he gave Mr. Permaul a directive, that those positions needed to

be filled with highly capable people. For example, they look at their note service, which had been losing money during that particular period of time. It was now a very positive net plus for the University and for the ASUC, not only in terms of revenue, but also in terms of reputation and in terms of service to the students. The Art Studio was losing an awful lot of money. Normally, in the absence of someone like Ms. Stager, they wouldn't know how much money they had, or what expenses they did or did not have. Additionally, if they look at someone like Mr. Spivey, there was no one there to be able to maintain all of the maintenance, and maintain the facilities and operations. And the same applied to Peter Quintin, with Reservations, a position that had been vacant. Mr. Permaul said he would like to point out that when he arrived there, reservations in the Student Union were at 50% of occupancy, and they had lost all major campus entities from holding events there, including the Chancellor's office holding events there. They are now at 90% of occupancy and the Chancellor's Office and the other major organizations on the campus now hold events there once again.

Mr. Coley said that for his last note, in the deepest part of the trough, for well over half a year, even the Director's position was vacant. So that gives people a little bit more context in terms of those positions that needed to be filled in order to just break even with respect to the services that need to be provided by the ASUC. What he envisioned with the approval of Mr. Permaul, and in fact, the mandate for filling that position, with all the things at work, was to certainly break even, but to generate more revenue. But decisions that were made did not happen to run favorably for that to occur.

Mr. Permaul said he would point out that if they go to any other UC campus, it took approximately six months to bring a business in and get it up and running. And as they talk about the RFP later on that evening, that's what they were predicting, that it should take about six months to have a new business in operation and working. At Berkeley, it took them two years to get to a vote on Panda Express. It took them a year and a half to get to negotiations on Tully's. And it took them two years to bring TSW into the Student Union. Berkeley was a very unusual place. And partly that was not just as a result of legitimate concerns of students who used the political process with the Board, but was also due to the University's bureaucracy, which had a much more acute type of vetting process than one would find at any other campus in the UC System.

Mr. Myers said he read somewhere in Mr. Permaul's notes that the Chancellor has already passed this budget. He asked what the Board's role there was, and if they were sort of rubberstamping things. Mr. Permaul said they were behind the curve. The University goes through its administrative process in a particular, timely fashion. The budget is presented in January and February, and by March, it's reviewed, and the Vice Chancellor had to take it, as a part of his overall budget, to the campus budgeting session that takes place in May. For three straight meetings, Mr. Permaul said he had the budget on the agenda, starting in March. Because of other issues, the Board never got to it. So the Board was now well behind the curve. Administratively, the Board should be doing the same thing the campus was doing, and reviewing that budget during the February-March timeframe.

Mr. Coley said he would augment that answer. There are two separate budget processes, with basically two different purposes, just because of the nature of the ASUC. And the ASUC is the only organization on campus that has that sort of dual activity. For the ASUC Auxiliary, what they end up with for the Administration was more of a gross budget, to determine the big picture, such as whether they're in deficit, whether they'll be able to make their targets, whether they have enough revenue, what was happening with those kinds of things. That was a macro perspective. The budget the Board approves was the micro perspective, where they look at every nook and cranny, all those kinds of things. But they both serve very different purposes and they both serve very, very important purposes.

Mr. Myers said the prediction for revenue projection, for 09-10, for 10-11, at the very end, seemed to be very optimistic. He asked if it was too optimistic. Mr. Permaul said that was a good point. They figured in several things. They hope the economy will recover. Mr. Permaul said that Jeff Deutsch knew he was a pain every week, asking if people were coming in and buying. And Mr. Deutsch continues to assure him that while new textbook sales were down, and while used textbooks were flat, the sales of commodities were up, and the sales of computer sales were dramatically up. So they're hoping that the economy for their demographic will continue to improve. They would expect that by the next fiscal year, when the national economy improves, and the local economy improves, that the ASUC will see improvement.

Mr. Myers said that he was saying, then, was that revenue would be flat for next year, and then should be up the year after that. Mr. Permaul said that was correct. They'd have added all the new revenue they project from the various instruments that the Board has predicted that the Auxiliary would have in place. A reasonable assumption would be that they could move beyond the threshold of debt. But certainly, if the Board doesn't make prudent decisions, the Auxiliary could be right where they are now, or be in a portion of the current situation.

Mr. Poullard said that seemed to run afoul of what was coming out of the Governor's office and from the State. There were two different messages. He's been in meetings all semester and all summer with regard to where they were fiscally, as an institution. So he asked how it was that the ASUC would somehow counter that. He didn't understand. Mr. Permaul said that was where the ASUC at Berkeley was unique among all the UC campuses. The agreement between the Chancellor and the students was literally that, a negotiated settlement. And the Chancellor has respected not the STIP, but the overall budget of the ASUC. The has also not imposed upon the ASUC the same terms that he's imposed on the rest of his Auxiliaries and other administrative functions, because he was treating the students' money at Berkeley as if it actually was the students' money. Mr. Permaul said he has been talking to his colleagues at Santa Barbara, Davis, UCLA, and elsewhere, and they don't live this life. The ASUCs on those campuses were part of UC, from their Chancellors' perspective, and so they were experiencing the same kinds of Draconian cuts that the rest of the Berkeley campus was taking. He asked Mr. Poullard if that answered his question. Mr. Poullard said it did.

Mr. Myers asked if the \$400,000 kitty was possibly under threat by the campus, and asked if the campus has said it wanted that. Mr. Permaul said the only question right now was the issue of STIP, or the Short-term Interest Pool. A portion of ASUC funds are invested by the campus automatically in order to gain dollars. And in good years, the ASUC got as much as \$250,000 worth of interest on those accounts. That past year the amount was down to about \$90,000, due to the nature of the national economy. But the Chancellor believed that it was the campus' prerogative to sweep those dollars, and he was sweeping them up across the campus. The Chancellor was now in a dialogue with the President of the GA and the President of the ASUC over that issue. And the Chancellor was looking at it in a different way.

Mr. Coley said Mr. Permaul didn't address the issue. He said that Mr. Myers wasn't asking about STIP, but the reserves in general. Mr. Permaul said at this point the campus has not approached the Auxiliary about the reserves in general. He would defer to Mr. Coley on this.

Mr. Coley said he obviously couldn't tell them what the Chancellor will ultimately do. The Chancellor has prerogative. By comparison, Mr. Coley said he has several departments, Auxiliaries that report to him, and when he talks to the Chancellor about all the other departments, the Chancellor looks at him

with that special look in his eye. But when he talks to the Chancellor about the ASUC, there's a different look. So Mr. Coley said he felt threatened for his other departments. That money was subject to being taken away, or portions of it. But he has not gotten any signals about that for the Auxiliary. And one of the best signals he got was that realizing the \$400,000 Mr. Permaul talked about in Workers' Compensation. Ten years ago the ASUC was required to put away money for Workers' Comp because of the structure that existed at the time. When that structure changed and the CAA was created in '98, the change did not take effect the money that was put away in reserves for Workers' Comp. The University took on the responsibility, and all ASUC employees became University employees, and the University took on Workers' Comp. And that \$400K accumulated interest during that period of time. If the Chancellor were interested in taking money, that was a very ripe target. And this just happened in the past month or month and a half, and the Chancellor did not take that money at that point. That was just some context.

Mr. Permaul asked if there were any other questions about the presentation or with the budget materials that he sent.

Mr. Permaul said what he would ask the Board to do was to advance a motion approving the Auxiliary budget for 2009-10 and its projection for 2010-11, and if it had any caveats.

Mr. Rajan said that prior to that, he'd like to ask about the Graduate Assembly's Funding Advisor position. It was apparently at .5 FTE. He asked if Mr. Permaul could explain what would happen with that position next year under this budget. He understood a lot of the Workers' Comp would be used to support various activities and get them out of the "valley" that Mr. Coley talked about, and provide services that were needed. He asked why this Funding Advisor position was not considered one of those services.

Mr. Permaul said he would explain this and make it very clear to them. He proposed reducing the GA SAO II Advisor position by .5, to be .5 FTE. The President of the GA came back to him and said the GA would prefer to not have that reduction, and that to the extent possible, the GA would cover another three-tenths of that .5 the Auxiliary proposed cutting, making the position a .8 FTE, or eight-tenths of a full-time equivalent position. The President of the GA then went to Ron Coley and made an appeal. Now that they found Workers' Comp on top of the funds in operating reserves, the President respectfully requested that they fund the remaining .2 FTE so that this position was not reduced at all for the coming year. Mr. Permaul said that's how they cobbled this together: .5 from the Auxiliary, .3 from the GA, and .2 from reserves. And for one year, that position would be a full FTE. If the Auxiliary could get out of its deficit for 10-11, then they'd go back to 1.0 FTE per the agreement undergrads and graduates agreed to, and that the SOB approved, that the Auxiliary would pick up the full amount. The GA used to pay .5 for that position, and now the Auxiliary picks up all of it. But if the Auxiliary doesn't have enough dollars to get beyond this point, they'll go back and look again at reduction of positions. As they knew, Mr. Permaul said he let employees go that year, which was a very painful experience. But they had to do it in order to realign the resources to make sure they could get to this budget cycle and that they'd still be there next year if they don't meet revenue expectations.

Mr. Rajan said that it seemed like there will be residual coming back, which was maybe arbitrarily fixed at \$100,000. He asked if there was any justification for why either the various contingencies and Workers' Comp weren't being used to support this position. He believed all these various numbers had play, and asked why that play was not being used to support this position. Mr. Permaul said that was a good question. He put together the Workers' Comp and the Operating Reserve and treated them as one sum of



money, \$500,000, out of about \$1.2 million that automatically went to pay off the two deficits for these two fiscal years. That left about \$730,000. He was proposing that they hold \$400,000 for the Operating Reserve. That brought them down to about \$343,000. They're covering with .2 of the position, \$12,000. That brought the total down to \$331,000. He would then suggest that they hold \$131,000 for any impacts that might result on revenues from the seismic project next spring and summer. That left them with \$200,000. He was proposing to use \$100,000 for the ASUC this year and \$100K next year. If they're in a financial hardship, the Board might tell him next year to not give the government that much money next year. It would be the Board's prerogative to call for additional funds to cover the position of the SAO and to tell him not to reduce the position, and to fund it with these funds.

Mr. Rajan said that as a point of clarification, for next year, he meant this coming fall. Mr. Permaul said this coming fall he hasn't covered, and it was the fall for the following year. Mr. Rajan asked if it would be the Board's prerogative, for that coming fall, to tell him to increase the Auxiliary's support of the position to more than the \$12,000, up to \$20,000, and even further. Mr. Permaul said it would be. He would not recommend that action.

Mr. Rajan asked why, for instance, keeping \$831K for Capital Planning Contingency worsens say keeping \$125K or \$120K for capital purposes. He asked how that allocation went. Mr. Permaul said he had no idea of what the impact could be on their revenues. They are doing so well in Reservations, , e.g., and when they lose this facility next spring to capital construction, that will mean all the rooms there, including Pauley Ballroom, the kitchen, and the four rooms on the next floor, will all be out of operation. The total amount of revenue the Auxiliary could lose could be even greater than \$131,000. He was trying to be conservative. But he also held the other \$100,000 for the fall. So he wouldn't even transfer those funds to the next student government until it was known whether they have gotten out of that circumstance. He was just trying to be very prudent.

Mr. Rajan said he understood and was just concerned that this simply repeats the revenue model Mr. Permaul has shown them, where realistically there are services that were being cut and residuals being given back because they were understaffed. And this was an exact parallel. It could be said that the GA was being understaffed and they weren't getting the services from the Auxiliary, with those savings now accruing as a residual, although it really wasn't a residual. Mr. Permaul said that was certainly a reasonable argument. It was weighing the transfer of funds to a hardship that the current ASUC student government was facing for this coming fiscal year against potentially other services that could be provided elsewhere in the organization. So it was a decision that needed to be made amongst and between governments, they might say.

Mr. Daal said that at the meeting with Ron Coley that Mr. Permaul mentioned, attended by several people present is the SOB meeting, Mr. Coley's advice to them was to request a cost share with the Auxiliary that was commensurate with the portion of the job that was consistent with what the CAA provides that the Auxiliary should do. The Commercial Activities Agreement suggests that the Auxiliary provides the function of Student Affairs Officers. Mr. Permaul said that was correct.

Mr. Daal said that looking at the job description in a very conservative way, he would estimate that 30% of the job was straight up, pure Student Affairs Officer function. He wondered if somebody on the Board would move that the contribution of the Auxiliary to the GA SAO, which has been reduced from 50% to a current proposed 20%, be modified to increase the Auxiliary contribution by 10%, to be commensurate with the 30% Student Affairs function the position had. That would be the motion that he would suggest.

Mr. Permaul said that in the puts and takes of the budget, since they don't have additional funds, if that motion were to pass, which he had no stake in at all, then the Auxiliary would reduce the amount transferred to ASUC student government by that 10%. Mr. Daal said he thought that was up to the Auxiliary because the Board didn't have that type of say over the Auxiliary's budget. But the other option was to decrease the Contingency Fund. Mr. Permaul said that was the other option. He'd probably be very conservative about that. Mr. Daal said the increase of 10% would amount to approximately \$6,000. Mr. Permaul said what he could do was to reduce the \$100,000 that would go to the government of 2010, since currently they don't know what circumstances will be like in 2010. So they could take that 10% from that contingency. Mr. Daal said that was entirely at the Auxiliary's pleasure.

Mr. Poullard said they had ten more minutes for this.

Mr. Rajan said he would propose changing the budget to increase the funding of the GA SAO by 10%, and to take that commensurate money from the residual that was being saved to give the student government next year, which would be disbursed in two years, or one full year from now. The motion was seconded by Mr. Ortega.

Mr. Rajan called for any discussion, and hearing none, said they would come to a vote. **THE MOTION TO APPROVE THE AMENDMENT TO THE AUXILIARY BUDGET PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Rajan said the Auxiliary's budget, then, will be amended to reflect the amendment. Mr. Permaul said he would take the appropriate actions, and would ask Ms. Stager to do that.

Mr. Rhoads said it seemed that people think the Auxiliary and the Board were just starting to think of that \$400,000 Workers' Compensation fund. As he said in the End-of-Year Report, the Board really had to make sure that the \$400,000 was used appropriately, and to really understand what it was used for. He just wanted to caution the Board on that. He would ask them to please keep in mind what those funds were for.

Mr. Permaul said he would request a motion to approve the Auxiliary budget for 2009-10. It was so moved and seconded by Mr. Rajan and Mr. Zuo.

**THE MOTION TO APPROVE THE ASUC AUXILIARY BUDGET FOR 2009-10, AS AMENDED FOR THE GA SAO POSITION, PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Permaul said he would like to thank them very much.

Mr. Rajan said he gave Will Kane a call so the Board could discuss the Daily Cal lease, and Mr. Kane should be there shortly. Mr. Rajan moved to amend the agenda to hear the Year-End Report before the Daily Cal contract. It was so moved the motion was seconded by Mr. Poullard and passed with no objection.

END-OF-THE-YEAR REPORT

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Begin End-of-the-Year Report

Store Operations Board  
Year-end-Report  
July, 2009

Significant Events:

*July '08:* Daily Cal discusses financial difficulties; presentation by Brazil Café; STA moves out of Lower Sproul; discussion on relocation of Scholar's Workstation; unanimous approval of LOI for Panda Express.

*September:* Daily Cal proposal on rent reduction; unanimous approval of LOI for Tully's; discussion of seismic work for summer '09; discussion of contract for Panda Express.

*October:* OCF moving to Eshleman Hall; reviewed relocation proposal by CUBS, reviewed proposal by Kaplan; discussion with Jim Carruthers of B&D on Lower Sproul retail environment; CampusLink update; discussion of Naia contract and the legal issues involved.

*November:* Daily Cal proposal of advertising space in lieu of rent, the Board declined the offer; two-year extension for Cal Lodge manager Daniel Borge; unanimous approval of termination of CampusLink contract; unanimous approval of price increase to vending machines.

*December:* Continued discussions with Daily Cal over rent; unanimous approval to go to RFP on the three spaces in the Bear's Lair Food Court.

*January '09:* Start of interest in public comment; campus approval of Tully's site and design; Real Estate Services working with Panda Express to draft a contract; Board voted to continue negotiations with Panda Express; Board votes to continue negotiations with Tully's.

*February:* Lengthy public comment; Board unanimously approved CUBS contract; amendment to Tully's contract; Board unanimously approves moving forward with Tully's contract; continued work on RFP contract development.

*March:* Executive session meeting with Panda Express representatives; unanimous approval of Tully's lease; Real Estate Services finalizing Panda Express lease.

*April:* Motion to approve Panda Express lease failed 4-5-0; motion to renegotiate with Panda Express passed 5-2-2; unanimous approval to give BLFC vendors first right of refusal on their space and present each tenant with lease, RFP to follow if terms not met; creation of subcommittee to create terms for BLFC lease.

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End-of-the-Year Report (cont'd)

*May 5th:* Motion to approve Panda Express lease failed 3-6-0; Board approval on negotiations with Daily Cal, Auxiliary to recoup half of its rent through a loan and garners a voting membership on Daily Cal's Board 'til loan is repaid; continued discussion on BLFC tenant terms.

*May 26<sup>th</sup>:* Motion to approve ASUC/GA revenue sharing agreement passes unanimously, Board agrees on terms to negotiate with existing Bear's Lair Food Court tenants and begin negotiations, renewal of lease (five years) for CalPIRG from \$206 to \$429 per month not including utilities/full costing, motion to update commercial space language in CAA is tabled.

Recommendations:

- The Board should create a mission statement and establish clear, year-long and long-term achievable goals for the SOB at the first fall meeting to guide its decision making for the year.
- Fill all of the vacancies on the Board (one faculty, one administrator).
- Continue meetings of student members before each SOB meeting.
- The Board must be open to all opportunities to increase revenues, including chain businesses.
- The Board must be aggressive in finding long-term solutions to increase revenue each year.
- The Board should have better access to, and be more proactive towards, reviewing all financial documents and information pertinent to its current issues.
- The Board should consider increasing the frequency of meetings to improve efficiency in the meetings and to keep board members more engaged and focused on the current issues facing the Board.
- The Board should examine the use of the former ASUC Workers' Compensation Fund. This fund should be reserved for what the board feels is appropriate. Some suggestions include: forwarding to the ASUC and GA as a carry-over for each of the next year or two while commercial revenues are down, and investment in the Student Union and/or Bear's Lair Food Court.
- The Board should clarify roles of Senate and non-members. This is important because meetings can become very challenging if Senators and non-SOB members essentially take over discussion. Senators are non-voting members, but they cannot make motions.

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End-of-the-Year Report (cont'd)

- As previous end-of-year reports have stated, decisions take too long and the Board is ineffective or worse as a result. Many times this is a result of misinformation or lack of information. To solve this continuing problem, the Board should consider more frequent meetings, hire outside consultants if needed, have legal counsel available who can potentially attend meetings, and communicate more frequently with fellow Board members.
- The Board should seek legal counsel with any questions regarding their interpretation of the Commercial Activities agreement.

End End-of-Year Report

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Mr. Rhoads asked if everyone saw the Year-End Report. He wouldn't for the sake of time, go through the events. People could see what happened in the past year. But he would go through the recommendations.

Mr. Rhoads said the first recommendation was for the Board to create a mission statement and establish clear, year-long and achievable goals for the SOB at the first fall meeting, in order to guide its decision making for the year. This was something they didn't have that past year. They had some ideas of what they wanted to accomplish, but obviously, without a good planning document and some goals that were approved by the entire Board, things were a little bit all over the place. So he thought this would be really beneficial for the Board to have a bit of a planning document, and not just a statement possibly, but an actual plan with timetables and lines of action.

Another recommendation was to fill all the vacancies on the Board, one faculty and one administrator. That was really important in order to keep everyone engaged.

The third recommendation was to continue meetings with student members for each SOB meeting. The student members seem to have met a lot that past year to get consensus and just understand what was going on. That helps the Board have a bit more of a cohesive voice from the student members' side, at least before each meeting. It was for the students to understand things. He thought that was a really good thing.

Mr. Rhoads said another thing he might include was to keep students meeting with the Administration, the administrators, and the faculty members of the Board. He was sure that happened a lot. But they've found that to work really well. He would like to mention those meetings included, Mr. Smelko, Mr. Zuo, and Mr. Tran, and also Ms. Coleman. He knew Barbara Davis and Victoria Harrison won't be on the Board next year, but they were really two good resources. The same was true for Mr. Myers, Mr. Poullard, and Mr. Coley. So he would suggest that students meet with them outside of Board meetings. Students would end up with a lot more understanding of how things work and what was going on.

Mr. Rhoads said another recommendation was that everybody had to be proactive and have better access to financial documents and information pertinent to meetings before they actually happen. That has been

a bit of a problem in making decisions at meetings because Board members just didn't understand what was going on. That was a huge problem with the Board, which had to make decisions on a monthly basis. That now seemed to be getting better with digital binders, but Mr. Rhoads said he would urge people to actually review those before the meeting.

Another recommendation was to increase the frequency of meetings. He has always thought for the past two years that meetings should be held every two weeks, as needed, to discuss more items that the Board kept having to address. Having two-hour meetings once a month was just not enough, and was pretty ludicrous.

Another recommendation was to examine the use of the Workers' Compensation fund. Its function should be reserved for what the Board felt was best. He really thought that simply because it was used for student governments before the Auxiliary was created, and not to fill some gaps, although filling the gaps might be an option if they interpret filling a gap as service being provided. So that was a decision that the Board and student governments must make. Additionally, reinvestment in the Student Union and the Bear's Lair Food Court would be beneficial.

Mr. Rhoads said the Board should also clarify the roles of Senators and non-members. This was important because meetings have been very challenging, and it was really important to keep the meetings efficient. They need to make sure that they understand what the roles of members were.

Mr. Rhoads said another recommendation was that decisions take too long. They all know this, but that led to not being prepared at meetings and not meeting with each other before that happened. He thought that once these things happened, decisions would be a lot easier to make, or if not "easier," better understood among most of the parties. If students just know the information, they'd be better able to act on the information and make decisions.

Mr. Rhoads said that concluded the Year-End Report. People could see the timeline on the report. He asked if Mr. Permaul could possibly have this posted on the Web site, not bSpace, but the general Web site.

Mr. Permaul said that as he went through the report that day, he realized there was no mention of the TSW opening. And if they look at the actual language of the CAA, it calls for a review of the performance of their businesses, of the commercial activities of the ASUC. So while decisions already had to be recorded for the Chancellor, as that was another responsibility of the Board, he thought he should also mention that TSW was opened and successful and that it's been in the operation for six months. He also thought the End-of-Year Report should also mention that STA Travel closed and that the Auxiliary was relocating CUBS. He would apologize for not focusing on this earlier, but he was looking at the decisions, and wasn't looking at it in terms of performance. But he thought the Board might want to include those as well. He didn't think the Board had to approve the report regarding the one-sentence bullets.

Mr. Rhoads said that was correct, and said it could be updated.

Mr. Permaul said he did think the Board should be posted on the Web site, so that everybody could read that.

Mr. Daal said that in response to Mr. Rhoads' report, and also as a take-away from a student-member meeting that occurred last night, including all student members, absent Mr. Tran and Ms. Coleman.

They have put together a proposed motion to take a look at the current Charter, which including the By-laws of the Board, in order to address all of the issues that Mr. Rhoads brought up in terms of efficiency and such. He took the liberty of writing down the motion and made copies. He wondered if someone would move to have a brief recess, perhaps, to pass out the motion that calls for the creation of a sub-committee to make recommendations on revising the SOB Charter.

On a point of information, Mr. Permaul said they have this now on the agenda under New Business, so they might have time to make copies for everyone while they take care of other business.

Ms. Coleman said she would like to request that she be e-mailed the motion. Mr. Rajan said they would do that. Mr. Daal said he would do that at that time.

Mr. Rajan called for any further questions for Mr. Rhoads.

Mr. Myers said this wasn't a good question, but he was curious by what Mr. Rhoads meant by the roles of the Senate and non-members, and if that could be clarified. He asked if Mr. Rhoads could comment on that, and comment on what he meant by clarifying the roles of the Senate and of non-Board members. Mr. Rhoads said that for quite some time the Board had been operating on the assumption that Senators were basically Board members without the ability to vote. That meant that Senators could interact and basically make motions at Board meetings and participate in debate. Mr. Rhoads said that from what he read in the CAA, it appeared to be that Senators were ex officio members of the Board and had the ability to be present at all Board meetings, and could be present during executive session, or closed sessions. It didn't appear to him that Senators had as much as a role as seated voting members of the Board. He thought the Board should begin a practice next year that was more aligned with the By-laws and the Commercial Activities Agreement. When he was a Senator nearly two years ago and started on the Board, when he started attending meetings of the Board, the Board basically let him make motions and comments and stuff like that as a Senator. And as it turns out, that probably should not have occurred. And the Board operated under that assumption for the past two years. Senators have more experience with Robert's Rules than do members of the Board, so that made things much more difficult, especially lately.

Mr. Myers said this wasn't a recommendation to eliminate public comment. Mr. Rhoads said it absolutely wasn't. At least that's what he was proposing. It just made it difficult to handle the meetings because Board members didn't fully grasp or use Robert's Rules to the degree that Senators did. And since the Board was supposed to use Robert's Rules to some degree, with Senators knowing Robert's Rules so much better, they were able to kind of manipulate meetings.

Mr. Myers asked how this recommendation would be implemented, and if there would be a motion at some point. Mr. Rhoads said that what he and Mr. Smith wrote were simply recommendations to the Board. Basically, the Board will have to decide how it will carry out these recommendations, most specifically, the one on the Senate and with members of the Board.

Mr. Rajan said speaking time had expired. They could move to extend this topic or proceed with the agenda. Seeing no motions, he would like to thank Mr. Rhoads for the report.

DAILY CAL CONTRACT

Mr. Rajan said the Board would hear from Will Kane. Mr. Kane said introduced himself and said he was the new Editor-in-Chief and President of The Daily Californian, taking over from Bryan Thomas, who was the Editor-in-Chief the last 12 months or so. Most of the Spring Semester Mr. Thomas spent negotiating with Mr. Permaul and the SOB a rent agreement with the SOB that would address some of the issues the Daily Cal had with outstanding rent at that time. At its May 5 meeting, the Board voted to approve an agreement between the Daily Cal and the SOB, and at this point, they were there to update the Board briefly on how they were going about implementing that. His understanding was that Mr. Permaul could interrupt him with the exact details, but they're going to amend the Daily Cal's lease agreement, which goes through 2011, to instead, go through 2012, which will mesh with the agreement between the SOB and the Daily Cal. That gives the paper three years to pay back a "loan," if they could call it that, of \$14,244.50. Mr. Kane said that was the gist of the agreement. They're using this as an appendix for that amendment. They've been going to the Real Estate office on campus and the hope is that they'll take the spirit of the agreement and apply that to the new lease agreement.

Mr. Permaul asked if he and Mr. Spivey agreed to the full payment of custodial services. Mr. Kane said they agreed to modify payment of custodial services. He believed they went from six nights a week to three nights a week, in order to keep the paper's payment the same.

Mr. Permaul asked if they're going to monitor electrical use. Mr. Kane said they will. The Auxiliary will install an electrical monitor so they know specifically how much electricity the 6th floor is using, and the paper could be billed for exactly what it uses.

Mr. Permaul said this requires the Auxiliary to go back to Real Estate Services, make an amendment the agreement, and bring that back to the Board for its approval. So at its next meeting, they hope to have an amended agreement with the terms that Mr. Kane just enunciated.

Mr. Rajan called for any questions.

Mr. Myers asked if there was still a Board member on the paper's Board of Directors. Mr. Kane said it was. That was part of the agreement that was passed at the May 5 meeting. Until the Daily Cal pays back that loan in full, the \$14,000, a non-elected member of the SOB will sit on the Daily Cal's Operations Board.

Mr. Rajan moved to endow the ASUC Auxiliary with the power to contact Real Estate Services and formulate a lease extension in keeping with the spirit of the agreement made last year and to bring that back to the Board for approval. The motion was seconded by Mr. Myers. **THE MOTION TO AUTHORIZE THE AUXILIARY TO CONTACT REAL ESTATE SERVICES TO FORMULATE A LEASE EXTENSION WITH THE DAILY CAL PASSED WITH NO OBJECTION.**

Mr. Rajan said that while Mr. Kane was there, he would move to add something related to this agenda, to actually elect at that time, if the Board was ready, the student member to the Daily Cal Board. He asked if Mr. Kane would explain a little about this member of the Daily Cal Board.

Mr. Kane said the SOB member on the Daily Cal Board will be one of two people on the Board who are not elected by either the GA or the ASUC, and two student members. They would become a member of the paper's Operations Board, which oversees the operations of the Daily Californian. It meets about



once every six weeks and that Board member would be invited to attend all of the paper's Board meetings and be on the Board listserve, and everything else, and participate.

Mr. Rajan said that if he understood that, the terms of that agreement pretty much limits the position to Mr. Zuo and Ms. Coleman. Mr. Kane said that was his understanding.

Mr. Rajan asked if either Mr. Zuo or Ms. Coleman were interested. Mr. Zuo said it sounded interesting. He really wanted to see the Daily Cal succeed and he saw the paper as part of the checks and balances on student government. So he would like to be a part of the paper's Board.

Mr. Rajan asked if Ms. Coleman would rather not be nominated for this position. Ms. Coleman said that was correct.

Mr. Tran moved to nominate Mr. Zuo for the position. The motion was seconded by Mr. Rajan. **THE MOTION TO APPROVE MR. ZUO AS THE SOB MEMBER TO SIT ON THE DAILY CAL'S BOARD, PASSED WITH NO OBJECTION.**

Mr. Rajan said that Mr. Zuo will now be the SOB representative to the Daily Cal Board. He would ask Mr. Kane to please keep him in the loop. Mr. Kane said he would do that.

#### PRESENTATION BY BEAR'S LAIR FOOD COURT VENDORS

Mr. Rajan said they would hear a five-minute presentation by Bear's Lair Food Court vendors. Mr. Marks said he would ask for a motion to have the presentation at 15 minutes. Mr. Poullard said he would prefer to keep this at five minutes and to keep this moving forward. Mr. Marks asked if there were any other opinions on that.

Matt Marks introduced himself and said he's been working with the vendors over the last couple of months. He's just a student. Present were Arnoldo Marquez, who runs the Taquería Tacotento, and Ann Vu, who runs Healthy Heavenly Foods. Haitham Alloun was not present and was on vacation.

Mr. Marks said that Mr. Marquez and Ms. Vu have been on business 20 years on this campus, successfully. The Taquería has been there for over 20 years, and Mr. Marquez has been running it for five years.

Mr. Marks said he's been in contract negotiations for a long time and they got the most recent offer. He asked if everybody on the Board has had a chance to read the contract. He was asking not about the vendors' counter-offer, but the contract that the Board voted to offer. Mr. Permaul said the Board received copies of the terms to be offered to the vendors. Mr. Marks asked if everybody on the Board has had a chance to read those terms. He asked if anybody had read them. He noted that people have read them. He was just trying to get for the four and a half minutes he had, to streamline his presentation. He asked for a show of hands of people who have read the contract. He asked who hadn't read the contract.

Mr. Marks said they agree on a lot of stuff. The Food Court has been working for a long time. While STA Travel has failed, while the Daily Cal has some serious issues, while the Postal Annex has failed,

while Gelateria Naia has, he would say, failed, the Food Court has continued to pay rent at that time of economic crisis, with businesses failing all around them. So this was something the Auxiliary should want to keep.

The vendors agree that things need to change. Ms. Vu definitely agrees with contract talks about each vendor having an organic option. They're going to be green-business certified, they're going to use compostable materials, similar to what the Free Speech Movement Café has. Vendors will invest up to \$33,000 in improvements in the Food Court. Everyone agrees that it's kind of a shabby area at that time. They'll have a fair-trade coffee option and they'll do revenue sharing, where each party shares in the success of the Food Court. He thought they all agree on that.

Mr. Marks said they'll come in next semester with things are done and see a whole new Food Court, with the same friendly faces who have been there a long time and have proven to be successful businesses on campus that can generate revenue and not fail.

The Board's numbers were just a little bit high. One thing the new members of the Board probably haven't seen is the survey that was done independently by students. If people haven't seen the survey, he would ask them to take a guess as to what students' number one concern was in the Bear's Lair Food Court, and said it was low cost, low price. It's a little bit of a different place.

Mr. Marks said the new contract the Board offered has taken a lot of stuff into account, and the vendors really appreciated that. Cost for students will be affected. ASUC revenue was also a concern that needed to be addressed. Vendors' costs will be protected to a certain extent. The vendors' ability to have a viable business model and the greening stuff has gotten a lot of play in this.

Mr. Marks said that if they look at their numbers in the hand out he just gave them, if they say there's \$300,000 in sales, 33% of that was in inventory. Anyone familiar with the restaurant business knew that inventory was between 28-35%, and the vendors gave a low estimate. Payroll was \$60,000. The Board was asking for \$46,000 in rent. All the numbers were right there. After everything was said and done, the vendors would get about \$13,000, and the owners have about 60-hour weeks that they work. They own and run owner-operated businesses. That doesn't even take into account improvements to the common area, which could be \$6,000. That breaks it down to \$7,000 in income, given the proposal. Mr. Marks said he would ask Board members to please keep this document when his presentation was done.

Mr. Marks said he would go through the contract, and asked if everybody had a copy.

The vendors were completely okay with the proposed percentage of sales. They ask, in order to help with marketing, that for the percentage of sales be put in a fund that goes directly to student groups instead of being laundered through the Auxiliary. This will help the vendors generate more customers. Student will know that this was money went directly back to student groups. It wasn't as abstract as money going to "the Auxiliary."

Mr. Marks said he didn't know why the rent was dropped. The vendors used to have a four-month discount, and have had that discount forever. It was down to three months. The campus' own real estate agent, Helen Levay, has said that a four-month discount was legitimate. Mr. Marks said he's given that report to the Board on two separate occasions. He would assume in a dream world, the Board had a file of his.

So the Auxiliary offered a discount of three months, and the vendors were asking that to be put back to the normal four months.

As for capital investments, improvements, the Auxiliary asked for standardizing all the fronts. All the vendors were saying was that they didn't want to be standardized in there, but would love to work with the Auxiliary to make sure their fronts were something the Auxiliary and the vendors liked.

Mr. Marks said he's been told that insurance was not negotiable. The vendors were asking that the general aggregate be back at \$2 million, which was what it was in a lot of other contracts. He talked with Mr. Permaul earlier, who said that wasn't up to him. Mr. Permaul said the President recommends a \$5 million contract for normal businesses. But based on their own language, there was some room for negotiation. The Auxiliary would approach Risk Management to see to what extent they could do that. Mr. Marks said he would like to thank him.

In the section, "Food Service Trends and Surveys," the proposed contract states that the tenant shall revise menus or methods of serving customers based on trends recognized by industry experts or by surveys the Auxiliary did.

Mr. Rajan said the speaker was out of time. He asked if there was a motion to extend time for the speaker. Mr. Tran moved to extend speaking time by three minutes. The motion was seconded by Mr. Rajan and failed by hand-vote 4-4-1.

Mr. Ortega said he thought the Board created a subcommittee to look at these things and negotiate with the vendors. He would like to move that the vendors' proposal be sent to that subcommittee, to make those recommendations to the Board once everything has been finalized, as agreed at the previous meeting. The Board at the last meeting agreed that a subcommittee would deal with all these negotiations, so the Board would only approve or not approve a final recommendation. He thought the vendors' proposal should be sent to that subcommittee and dealt with there. He would make that a motion. The motion was seconded by Mr. Coley.

Mr. Rajan said the motion was to have Mr. Marks make his presentation to the subcommittee of the Board dealing with this specific issue.

On a point of order, Mr. Permaul said that at least one member of that subcommittee was no longer a member of the Board.

Mr. Ortega asked if he could recommend a timeframe for this to occur.

Mr. Rajan said he would like to divide the motion. First, a motion was made to have Mr. Marks give this presentation, or an expanded version of the presentation, to the subcommittee charged with negotiations on the contract. The motion was seconded by Mr. Smelko.

Mr. Poullard asked how that would happen, because he thought this presentation was going to prepare the Board for when it met in closed session. If another presentation would be given, he asked why the Board would have a closed session.

Mr. Rajan said that as a point of information, perhaps they could get some clarity on what decision will come out of closed session and the Food Court update. Mr. Permaul said the Auxiliary would like to

give its opinion in closed session on the capital proposal and the terms that were previously mentioned, and how they have come to this process. He asked Mr. Rhoads what his opinion was.

Mr. Rhoads said it was his understanding that the subcommittee was to review the proposal to the vendors, and then the vendors' counterproposal in response. The subcommittee would then make a final recommendation to the Board. He believed the current situation they were in that evening happened because the counterproposal came on the day they were having a general SOB meeting. The idea was to have either a counterproposal in to the subcommittee a week before the Board meeting that evening, or a few weeks after the meeting that evening, because that was when they figured they'd hear back from the tenants and when a decision would be made on whether or not to keep negotiating or to accept or decline the counteroffer. It was his understanding that would not happen at a general Board meeting.

Mr. Smelko said it was his opinion that they did charge the subcommittee with this negotiation process. He thought it was more effective to let that process play out than to try and handle this right now as a general Board. The subcommittee would come back with a recommendation.

Mr. Tran asked if they could do that and schedule a meeting in two or three weeks and have the Board consider it maybe in two or three weeks.

Mr. Rajan said the motion was to refer the presentation to the subcommittee.

Mr. Tran said he wanted to propose a motion to have another meeting in two or three weeks. Perhaps they should vote on the first motion first.

Mr. Ortega asked if they could vote on this after the closed session. He would rescind his motion and introduce it after the closed session.

Ms. Coleman said she had a motion to go back to public comment.

Mr. Rajan said he would recognize Ms. Coleman's motion.

Ms. Oatfield said the motion to go back to public comment was to allow Mr. Marks to wrap up the presentation. The motion was seconded by Ms. Coleman.

Mr. Coley asked on what authority Ms. Oatfield was making that motion. If she didn't have the authority she couldn't make that motion. Mr. Rajan said he didn't know enough to say that at that time, but they could take a recess and figure it out. He was supposed to arbitrate on this and he could take a recess and discuss this.

On a point of information, Mr. Permaul said the By-laws refer to members of the ASUC Senate as ex officio members of the Board who may sit in on meetings, including closed session. The By-laws do not state that they have any of the privileges of Board members. He thought that the issue that was raised earlier in a report that was presented by the former Co-Chairs, and which was expanded upon by Prof. Myers, was that there was no clear indication that members of the ASUC or other members of student government could make motions at Board meetings, which was the reason that came up.

Mr. Rajan that while he understood that, he still could not, as Chair, confirm that to be true.

On a point of order, Ms. Raffi said that Sen. Oatfield's motion was out of order because there was already a motion to extended time for the speaker. That motion failed. Mr. Rajan said it hasn't failed. Ms. Raffi said that Mr. Tran's motion failed.

On a point of information, Mr. Smelko said he thought it would be faster to vote on the motion and figure out the rules later based on a consensus.

Mr. Rajan said that seeing no motion for a recess, they will vote on the motion. The motion to extend the presenter's speaking time by three minutes failed by voice-vote. Mr. Rajan said the speaker's time had expired.

On a point of personal privilege, Ms. Raffi said that while she could still user her ex officio powers, she had to go to class, but she wanted to make a quick announcement before she left. She ate at a place called "Tender Greens" in Los Angeles and what really struck her about them was the high quality of food. She spoke to the owner who was actually looking to expand up in Northern California. She just wanted to tell members of the Board and people in the audience that if they eat somewhere that they thought was good, they shouldn't hesitate to talk to the owner and give them contact information. Those could be valuable contacts.

Mr. Rajan said the Board would move into closed session for 15 minutes, to discuss vendor contract terms. This meeting entered into closed session. Back in open session, Mr. Rajan moved to extend closed session by five minutes. The motion was seconded by Mr. Ortega and passed with no objection. The meeting returned to closed session. Back in open session, Mr. Rajan moved to extend closed session by ten minutes. The motion was seconded by Mr. Tran and passed unanimously by voice-vote. This meeting returned to closed session.

### FOOD COURT UPDATE

Back in open session, Mr. Rhoads said that about two weeks ago, the subcommittee presented the terms that the SOB was comfortable with, along with the letter of intent, to the food vendors. In presenting the terms, the subcommittee expressed that vendors would have a chance to bring back another proposal before the Board. Mr. Permaul asked if that proposal was to come to the subcommittee. Mr. Rhoads said that was correct. The update is that two vendors were present that evening. They have yet to hear back formally from the third vendor. Ms. Harrison wasn't present, so she wouldn't add to the report, but Mr. Permaul and Mr. Spivey could add to the report.

Mr. Permaul said that Mr. Rhoads' report was accurate. Mr. Permaul said the only thing he would add was that the Coffee Spot designated a specific individual to be its representative in negotiations. That rep attended the initial presentation of terms. Mr. Permaul said he was subsequently contacted by the rep who said he had no problems with the terms. But the rep thought they would come back with a counter-offer, but their written expression was that they had no problems with the terms as presented. That's where they were.

Mr. Permaul said he went to the Coffee Spot that day and one of the workers there indicated that both men, the owner and his son, were in Jordan. The whole family was meeting there and could not attend

the Board meeting that evening, and would have their representative coming to the Board meeting that evening. So Mr. Permaul said he would separate the Coffee Spot from the presentation that was made earlier in open session.

Mr. Rajan said he would like to thank Mr. Permaul for the update.

Mr. Zuo moved to add an agenda item, to vote on the status of contract negotiations with Food Court vendors. Mr. Rajan said the motion was to make a decision on the Food Court vendors' counterproposal at this meeting.

Ms. Coleman objected. She sent a letter to the ASUC listserv about what she was talking about in terms of giving public notice, according to Robert's Rules.

Mr. Rajan asked if Ms. Coleman could read that section. Ms. Coleman said the subheading was "Giving notices of motions." It states that previous notice was usually required before a main motion could be made at a meeting when proposing to change something that was the result of a previous meeting. And there's a breakdown of the different classifications of motions. She thought the motion that was made should be classified as a main motion. She didn't necessarily object to the motion substantively, but she thought it was important to give sufficient notice. That was her objection to the motion.

Mr. Zuo said that the part that Ms. Coleman was reading from was prefaced by "usually," and later on talks about amendments to the By-laws, which the Board wasn't doing.

Ms. Coleman said it says "such as," and it wasn't limited to amendments to the By-laws, but dealt with something previously adopted, anything of a serious nature, which she would assume the Chair had ultimate discretion over. The Chair could determine whether something was a main motion or a secondary motion. But it wasn't limited to amendments of the By-laws.

Mr. Rajan said Ms. Coleman's objection was noted. He would state that the motion to amend the agenda had to pass by a two-thirds vote on the Board to make it on to that evening's agenda.

Mr. Permaul said he was ruling, then, that he didn't consider it a main motion. Mr. Rajan said that what he was ruling was that he would allow this motion on the agenda with a two-thirds approval of the Board. Mr. Permaul said the Chair could do that, and it was the Chair's discretion. But by doing that, he was automatically disagreeing with Ms. Coleman's position, which was that this was a main motion. Mr. Rajan said that that's what it was, that's what it was.

Mr. Ortega said he thought that what Mr. Rajan was saying that was that a main motion to be made took a two-thirds vote to approve it.

Mr. Rajan said the motion Mr. Zuo just made to include a decision on the Food Court counterproposal to make it on that this agenda would require a two-thirds vote to pass, six votes out of nine.

The motion to amend that evening's agenda to include a motion to make a decision on the Food Court counterproposal passed by hand-vote 6-2-2. Mr. Rajan said that as a result, the Board would allow a motion on the vendors' counteroffer. He asked if anybody would like to make a motion. He said the motion was on the agenda.

Mr. Zuo moved to present the contract, as it was, to the vendors, the Taquería el Tacotento and Healthy Heavenly Foods, which will be voted on at a meeting to be determined by the SOB. If the terms are not agreed upon, the Auxiliary will go out to RFP for those spaces.

Mr. Rajan said that to clarify, Mr. Zuo moved to present the terms as they were, without accepting the counteroffer, to the Taquería el Tacotento and Healthy Heavenly Foods. There will be a period of one week to accept, or the Auxiliary will go out to RFP. There will be a Board motion in a week to decide that issue. He asked if that was correct. Mr. Zuo said it was.

Mr. Coley said that was not just limited to these two vendors. Mr. Rajan said that was correct. Everything he said included the Coffee Spot. He asked Mr. Zuo if that was correct. Mr. Zuo said it was.

The motion was seconded by Mr. Smelko.

Mr. Coley asked if he could restate the motion for the record because of its relevancy. Mr. Zuo asked Mr. Rajan to restate the motion. Mr. Rajan said that Mr. Zuo made a motion to not accept the counterproposal that evening to all three Bear's Lair Food Court vendors. Vendors were given a time of one week where they will either have to accept the terms as they stand or the Board will choose to go out to RFP on the basis of the terms presented.

Mr. Zuo moved to present the contract, as it was determined by the Board previously, to the vendors, the Taquería el Tacotento, Healthy Heavenly Foods, and the Coffee Spot, which will be voted on at a meeting to be determined by the SOB. If the terms are not agreed upon, the Auxiliary will go out to RFP for those spaces.

**THE MOTION TO PRESENT THE BOARD'S CONTRACT TO THE BEAR'S LAIR FOOD COURT VENDORS, AS THE CONTRACT WAS PREVIOUSLY PRESENTED, TO BE VOTED ON AT THE NEXT BOARD MEETING, AND TO GO OUT TO RFP IF THE TERMS WERE NOT AGREED UPON BY THE VENDORS, PASSED BY HAND-VOTE 6-1-2.**

Mr. Rajan asked Mr. Permaul to make the Bear's Lair Food Court vendors aware of what the Board has decided. Mr. Permaul said he would do that.

### FOOD COOPERATIVE UPDATE

Ms. Oatfield said they heard from her at the last meeting about what the Food Co-op was up to and she'd give them a quick status. They had a couple of requests from the Board to make this process easier for everyone. Just to remind them, they're a start-up, sustainable food co-op/grocery/deli/café, run primarily by students, with the help of some full-time staff, and open to the community at-large as well. They're looking at three different locations. One was the northwest corner of Lower Sproul Plaza, which excited a lot of their members. They think there was input in being more hooked into the student community, despite some concerns about the traffic and the process of being on campus.

The Co-op has been meeting multiple times a week. They have general membership meetings and a lot of subcommittee meetings on a weekly basis. During the Spring Semester they secured \$106,000 in

grants to start up. They're still fundraising because they expect that their cost for starting up will be much more than what they've raised. They're having a big fundraising month at that time, where most of their members were on the ground fundraising in various ways. They've secured an active and experienced advisory board that is working with the group on all kinds of things. They have legal counsel, a contractor, multiple real estate agents, multiple architects, professional design services, professional event management, and they'll also include a couple of restaurant owners from the Bay Area. They have about 100 members on their general membership list and about 500 people on their mass newsletter e-mail list.

They've been outreaching to CalSO, talking to them three times a week. Just yesterday they met with some other food co-op grocery stores that do \$13 million in sales every year, and got a lot of great advice from them. They're even willing to loan the Food Co-op some money, it seemed like, which was exciting.

Ms. Oatfield said they have submitted their non-profit Articles of Incorporation to the State of California, so they will soon be their own official legal entity. They also have an internship program.

Ms. Oatfield said she wanted to introduce Jeff Stein, their business analyst, who was helping them to write a business plan, in addition to their general contract proposal. They're specifically interested in being on campus, and if that was the case, there were a few different options. A lot of those options depend on what the Board was willing to do for the Food Co-op, as well as how much money they'll be able to raise in the next couple of months. One option was to have a deli and a café in the Naia space. It was brought to their attention that the Naia lounge could potentially be a good space because it was already set up for food service prep. Naia's owners have expressed interest in selling the lease to the Food Co-op, pending the Board's approval. They could operate a deli and a café in the Naia space, they could operate a deli and a grocery in the Naia space, and then also rent the STA Travel space to have a seating area. That might involve taking down part of a wall to open up that area. Another option would be to operate just a deli and grocery in the Naia space and not have very much room for seating, unless the Board would allow outdoor seating in the Plaza area. So there were a lot of different options for them being on campus. They also need to notice that the CUBS space was vacant and there was a Postal Annex space that was vacant, and was now a reservations office, apparently until another vendor comes in. The Food Co-op was interested in the Postal Annex potentially being an additional storage or office area the Co-op, since Naia was pretty small for all of their goals.

Ms. Oatfield said they were coming to the Board that evening because they want input from the Board on what their visions and intentions were for some of these vacant spaces. Given that the Board took a while to make decisions at times, she would like as much input as they were willing to give the Co-op; and doing that offline was possible, and would be fantastic.

The Co-op was also interested in figuring out the process they'd have to go through to secure these spaces. In the past year they've seen the Board leaning in the direction of taking everything out to RFP. They have also seen the Board go through a negotiation process, kind of bypassing the RFP process. So the Co-op didn't really know what the Board was interested in doing at that time. Mr. Rhoads brought up earlier that the Board really needed to sit down and figure out what its goals were, and maybe set some deadlines for those. Filling vacant spaces in the Lower Sproul area was something the Board wanted to do. The Food Co-op would love to have a timeline and a process for that so that this could be quicker for everyone on both ends and so the Co-op could clearly understand what the options were and the



timelines for coming on to the campus, if the Board would like to have this sustainable Co-op on Lower Sproul.

Ms. Oatfield said she would introduce Jeff Stein, who was the Co-op's business analyst working on their business plan. He'd give the Board an update on where the business plan was at. Ms. Oatfield said she and several members of the Food Co-op were present and if they want to ask any questions, they were totally open to answering them.

Mr. Stein introduced himself and said he was a management consultant and actually did his MBA at that other school across the Bay. He was very impressed with this group of students and with what they've done in terms of activism and organizing around this Real Food, local, organic, sustainability idea. His work as a consultant revolved around helping sustainable businesses. So he was drawn to trying to help out with this project. He's done a lot of business plans for all sorts of different lines, including a lot in the organic food sector and in retail. That was his goal there. It will basically be a basic business plan in terms of making market, competitive, and financial analyses.

Mr. Stein said they just sent out a market research survey to more than 1,000 students to really get more direct data and feedback from the students as to what they were looking for in terms of better food options on and near campus, and also to really understand their current shopping behavior, and how much of they actually do versus what they say they like to do. This was a very data driven process.

They were also building financial models for each of the sites. He just wanted to mention that they were looking at two sites on Telegraph Ave. They're looking at the Naia space on Lower Sproul and they're also looking at various scenarios in terms of keeping Naia space or also STA space. Unfortunately, he didn't have the business plan to show the Board that evening, but it will be done by the end of July. They basically wanted to give the Board a heads-up.

Mr. Stein said that one preliminary thing he could share with them was that the Lower Sproul location was really attractive. It was a fantastic location, being right by the Plaza, which was its biggest strength and was also part of trying to bring a green vision to campus. But its biggest strength was also its biggest weakness in terms of very poor visibility of the actual, physical space, being down below Sproul Plaza. So as for like the idea of an urban garden, it didn't say that in the resolution, but the Co-op wanted to have a dialogue with the Board about more creative ways to market the space. There's been a lot of trouble with past tenants being in there and there being a lack of traffic. The Co-op thought there was more opportunity to have more leeway to do more creative marketing, like having more signage and really raising visibility to take advantage of the Sproul Plaza foot traffic there. It was a very good vision the Food Co-op had.

Ms. Oatfield said the Board having another meeting before the end of the summer would be really helpful because the Co-op's business plan will be done in a few weeks and they could give the Board much more specific information.

Mr. Permaul asked if they've put together any form of an ROI yet, a return on investment. Mr. Stein said that was in process, and will be ready by the end of July. Mr. Permaul said they need to come to the Auxiliary, which was the fiduciary agent of the ASUC. The Auxiliary needed to sit down and look at the Co-op's return on investment and its financial model. Before they even bring it to the Board, the Auxiliary would want to know that they have at least a three-year model that could be shown, as they would

with any other contract or any other lease. They hope this can work, and the Auxiliary was willing to sit down with the Co-op and work on this to ensure that it achieves that goal.

Mr. Oatfield said they're working on their business plan to get it concrete and ready to go. She'd be more than happy to sit down. Mr. Permaul said they have a meeting coming up, but the next meeting may not occur until late August or September. He just wanted to make sure about the Co-op proposal. He also understood they're negotiating with Naia. Ms. Oatfield said that Naia wanted a non-disclosure agreement and the Co-op was gathering signatures on that and the conversation was going forward.

Mr. Permaul asked if the Co-op would bid on an RFP for any other spaces. Ms. Oatfield said they would, and said they were interested in expanding to some other vacant spaces, because the Naia space itself was a little small for what the Co-op wanted to accomplish. They discussed having STA Travel and having an independent seating area for the Co-op, with the CUBS space being more of a visible storefront space. Mr. Permaul said they need to say that directly to him. If they wanted to expand into that additional space, they would basically be bidding on it, and it would mean the Co-op would have to be able to generate the revenue that would cover what that space would earn if it was rented out to someone else. That was a huge order.

Mr. Rajan said this issue was out of time, and he would entertain a motion to extend. Mr. Poullard moved to extend by five minutes. The motion was seconded by Mr. Ortega and passed with no objection.

Mr. Poullard said that since the Board was trying to be consistent and give anyone who works with this entity good operating principles, he would move that everyone who wanted to be a vendor from this point forward, had to submit their ROI to the Auxiliary before the proposal came to the Board. If it didn't go to the Auxiliary, it would not come to the Board. The motion was seconded by Mr. Ortega.

Mr. Rajan said he would accept the motion, that from now on, the operating procedures of the SOB would stipulate that any entity that requests either space or support from the SOB will present an ROI model to the ASUC Auxiliary before coming to the Board.

**THE MOTION TO HAVE AS AN OPERATING PRINCIPLE FOR THE SOB THAT ANY PERSPECTIVE VENDOR HAD TO SUBMIT AN ROI TO THE AUXILIARY BEFORE THE MATTER CAME BEFORE THE BOARD PASSED WITH NO OBJECTION.**

Mr. Permaul said he just wanted to continue their conversation. The Auxiliary has already been approached by one person to donate money to the Co-op. Mr. Landau said it would be matched. Mr. Permaul said he was still considering that proposal. He would very much like to sit down and see how the business plan could be crafted, since the Co-op had a substantial amount of revenue for its first year in place. They now had to see how they could extend that over a three-year model.

Mr. Zuo said it was mentioned they were intend in the Naia lounge and the STA space. He asked about the chances of being successful with just Naia. Mr. Stein said they're analyzing different configurations. A larger vision was a grocery, deli, and café. And to put that all into the 2,000 square feet in Naia would be much more of a challenge. They'd have to eliminate groceries.

Mr. Spivey said Naia was the largest space the Auxiliary had available. Mr. Stein said they were also looking at 3,500 square foot spaces on Telegraph. There are different configurations they're trying to figure out. If they only have 2,000 square feet at Naia, they'd have to figure out what would be the best to go with. And a major part of that was the ROI.

Mr. Permaul said that one piece of information was that Naia did not have permission to negotiate with the Co-op in confidentiality, outside of the Auxiliary. The Auxiliary needed to know the terms and conditions of any agreement Naia would make in its space. That was under the current lease. So Naia didn't have permission to do that. The Co-op could just say to them that the Auxiliary will not authorize anything until it knows all the terms and conditions.

On a point of clarification, Mr. Rhoads asked if that meant that the Auxiliary had to be privy during the negotiations. Mr. Permaul said it did. Mr. Rhoads asked if, on the other hand, that meant that the Auxiliary had to be aware of any final agreement. Mr. Permaul said that if they wait until the final agreement, that tends to be a decision they'd either accept or reject. The Auxiliary should be a part of the discussion. If the parties were talking about terms between each other, he didn't have a problem with that. But the Auxiliary needed to be a part of talk about the business model, what was provided in terms of services, anything that would affect the space, all those types of things, or any modifications to the space. The Auxiliary needed to be a part of that.

Mr. Rajan said they were out of time. He would like to thank the Berkeley Food Co-op representatives for coming to the SOB meeting. He knew the SOB was very supportive of any student endeavor and he was sure that the SOB was looking forward to working with the Food Co-op in the future.

Mr. Rajan said they were ten minutes away from the end of their meeting and they had an agenda that went over ten minutes. He would entertain a motion to either extend the meeting or to reorganize the agenda in such a way that the business would be completed in the time allotted.

Mr. Coley said he would recommend that Mr. Rajan adjust his definition of time. His view was that irrespective of when the meeting started, the meeting was scheduled to end at 8 o'clock. Mr. Rajan said he would rephrase his comment, and said the meeting was three minutes past done. For any new business to happen, the agenda had to be amended and time had to be added, or he would entertain a motion to adjourn.

Mr. Permaul suggested the subcommittee has already said it was going to hold another meeting in a week. He would suggest that that was a reasonable time for the items under New Business and moving them to the next agenda. Mr. Rajan called for any objection to that.

#### SUBCOMMITTEE TO AMEND THE SOB CHARTER AND BY-LAWS

Mr. Ortega moved to consider the motion they had earlier, and consider something by Mr. Daal.

Mr. Rajan moved to extend time by six minutes and consider the agenda item that was included, creation of the subcommittee to provide a mission statement for the Board. The motion was seconded by Mr. Zuo.

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Begin motion to the Store Operations Board for proposition on July 8, 2009, written by Mr. Daal

It is moved to create a temporary subcommittee of the SOB which is charged to, within two weeks prior to the Board's first Fall 2009 Semester meeting, deliver to the Board for its approval and subsequent approval of the Chancellor, recommended amendments to the Charter of the SOB which may encompass:

- A. A vision statement for the Board, including a description of the hierarchy of values the Board shall use to guide all its decisions;
- B. Clarification of the role and expectations placed upon the student, administrator, and faculty Board members;
- C. Clarification of the relationship between the Board and the ASUC Auxiliary;
- D. Specific By-law and structural revisions which are aligned with the aforementioned values and which seek to enhance the efficiency of the Board (e.g., enhancing swiftness and consistency in decision making, sustaining institutional memory);
- E. Separating the functions of political and fiscal accountability of Board members, actions, and discussions; and
- F. Sustaining and promoting a relationship of trust between all Lower Sproul primary stakeholders

End motion to the Store Operations Board for proposition on July 8, 2009, written by Mr. Daal  
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Mr. Rajan said they had the text of the motion for a subcommittee, and he would move that motion. The motion was seconded by Mr. Smelko. **THE MOTION TO CREATE A SUBCOMMITTEE FOR REVISING THE SOB CHARTER AND BY-LAWS PASSED WITH NO OBJECTION.**

Mr. Rajan said the final order of business would be to determine the members of the subcommittee. Mr. Smelko nominated himself. Ms. Coleman nominated herself. Mr. Ortega nominated Mr. Permaul. Mr. Poullard nominated Mr. Daal.

Mr. Rajan saying that barring any objection, nominations were closed. **THE MEMBERSHIP OF THE SUBCOMMITTEE WAS APPROVED WITH NO OBJECTION: MR. SMELKO, MS. COLEMAN, MR. PERMAUL, AND MR. DAAL.**

Mr. Rajan said the subcommittee was charged by the text of the motion .

Mr. Rajan said he would entertain a motion to adjourn. It was so moved and seconded by Mr. Poullard and Mr. Ortega and passed with no objection.

This meeting adjourned at 8:06 p.m.

These minutes respectfully submitted by,  
Steven I. Litwak, Recording Secretary

DECISIONS OF THE BOARDProcedures

- July '09 Welcomed to the Board Prof. Myers and Dean Poullard.**
- July '09 Elected Mr. Rajan and Mr. Poullard as Chair and Vice Chair.**
- July '09 Established a subcommittee to consider amendments to the SOB Charter and By-laws.**
- July '09 Approved an operating principle of perspective vendors submitting an ROI to the Auxiliary before having the matter come to the Board.**
- May '09 Welcomed Mr. Zuo and Ms. Coleman to the Board, undergrad reps in two-year and one-year terms respectively.
- May '09 Approved proposed changes to the CAA that would have the ASUC and the GA share commercial revenue.
- Dec. '08 Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07 Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07 Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07 Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07 Mr. Smith's first Board meeting as undergraduate representative.
- May '07 Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06 Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.
- Nov. '06 Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06 Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06 Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.

Procedures (cont'd)

- April '05 Mr. Dally joined the Board as undergrad representative.
- Dec. '05 Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05 Elected Ms. Putnam-Smith as Chair of the Board.
- June '05 Voted to have committees, after the August meeting, agree upon meeting Times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.
- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.
- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

Vendors

- July '09**      **Approved a one-year contract extension for the Daily Cal, through 2012.**
- July '09**      **Approved Mr. Zuo as SOB rep to sit on the Daily Cal Board.**
- July '09**      **Voted to present the SOB's contract to Food Court vendors, and to go to RFP if the terms were accepted.**
- May '09        Approved an amendment to the Naia lease, to allow the sales of sushi and salads, with Naia to reopen in the fall.
- May '09        Approved a five-year lease extension for CALPIRG, with new lease terms.
- May '09        Voted down approval of the proposed Panda Express contract.
- May '09        Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.
- May '09        Revised the agreement with CampusLink to end its monopoly on Student Union advertising.
- May '09        Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.
- April '09       Amended the Panda Express contract and voted to renegotiate.
- April '09       Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09      Approved the Tully's Coffee contract.
- Feb. '09        Voted to approve the CUBS contract.
- Feb. '09        Voted to move forward with the Tully's contract.
- Jan. '09        Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08        Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08        Approved Action Vending proposal to increase vending prices.
- Sept. '08       Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. 08        Heard the terms of a possible Panda Express contract.

Vendors (cont'd)

- June '08      Approved the concept of bringing the Brazil Café to the ASUC.
- June '08      Approved a Letter of Intent to negotiate with Panda Express.
- May '08      Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07      Heard a presentation by CUBS.
- Nov. '07      Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06      Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06     Approved a five-year lease option exercised by the Jupiter Pub.
- Feb. '06      Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
- Sept. '05     Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
- Sept. 05      Approved used of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05      Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05     Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04      Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04      To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04      Approved a five-year extension for the STA Travel lease.
- June '04      Approved the Resolution In Support of Follett Contract Performance Review.



Vendors (cont'd)

- June '04        Approved changes to the terms of the Pub's lease.
- April '04       Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04      Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04      Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04      Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04        Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04        Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03        Heard from John Martin, operator of the Pub.
- Nov. '03        The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03        Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03        Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03        Approved a five-year lease with the Daily Cal.
- July '03        Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04        Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. '04        Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04        Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03        Formed a subcommittee to further consider the Daily Cal lease.

Vendors (cont'd)

- May '03 Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- May '09 Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.
- Dec. '08 Work began on the seismic retrofit of MLK.
- Oct. '08 Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.
- June '07 Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.
- May '05 Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05 Voted to explore options for the expansion of the Art Studio.
- Oct. '04 Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03 Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- July '09**      **Approved the 2009-10 Auxiliary budget.**
- April '06      Approved the 2006-7 Auxiliary budget.
- April '05      Approved the 2005-6 Auxiliary budget.
- Sept. '04      Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.
- May '04      Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
- April '04      Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.
- Feb. '03      Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."
- June '03      A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.
- May '03      Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in

## STORE OPERATIONS BOARD MINUTES

July 16, 2009

Present: (Members and others)

Rebecca Coleman (Board member)	Danny Kodmur (UC staff)	Nadesan Permaul (Auxiliary)
Miguel Daal (GA President)	Yoni Landau (Food Co-op)	Nish Rajan (Board member)
Jeff Deutsch (Bookstore Manager )	Arnoldo Marquez (Taquería)	Will Smelko (ASUC Pres.)
Christopher Franco (incoming Sen.)	John Myers(Board member)	Tu Tran (ASUC Senator)
Victoria Harrison (Board member)	Christina Oatfield (ASUC Sen.)	AnnVu(HealthyHeavenlyFood)
		Yishi Zuo (ASUC Senator)

### **SUMMARY OF THE MEETING**

The meeting was called to order 5:20 p.m. in Stephen's Lounge.

#### Update on the Daily Cal

An addendum to the Daily Cal contract was distributed, prepared by Real Estate Services. There will be a Letter of Understanding (LOU) rather than amending the contract. The lease will be extended for three years to allow the Daily Cal to pay the back rent it owes the Auxiliary. Current rent is maintained. Custodial service will be reduced and the paper will pay the real cost of utilities it uses.

#### Update on Tully's Update

A rendering of the Student Union Tully's coffee shop was made available. The hope was to have it open by the start of classes in the fall. It should have a much better AirBears connection there than other coffee shops. Current kiosks will be replaced by CampusLink's new presentation.

The ASUC and GA Presidents have requested turning this area into a lounge, with comfortable furniture, which the Auxiliary has agreed to purchase. It will be very attractive. Follett has agreed to work on this area and make it very inviting.

#### Update on Naia

There was a misunderstanding with the Food Co-op, and Mr. Tan, of Naia, understood that any sublease or sale of lease had to go through the Board. The non-disclosure agreement Mr. Tan discussed with the Co-op was for his own personal financial data.

Mr. Tan wants to open Naia by the start of school, selling sushi and salads, and possibly soup and soft yogurt. Being open late-night hours, especially when the ASUC Library was open, has been discussed. They'll put together a marketing campaign when it re-opens.

### Final Annual Report from the Board

The Year-End Report, which recites the Board's actions that past year, will be forwarded to the Chancellor's Representative, Vice Chancellor Nathan Brostrom, with a cover letter from the current Board Chair. By unanimous voice-vote, the vote approved the final End-of-Year Report, from last year's Board, as amended, passed unanimously by voice-vote.

### Public Comment

Scott Prosterman, expressed concern about the fairness shown to Bear's Lair Food Court merchants. While the merchants didn't meet the deadline for a counterproposal, it meant they had to accept or reject a doubling of their rent. He suggested giving them another 30 days to negotiate. He noted that minority business owners with limited English capacity might have greater protections for eviction than other tenants.

### Update on the Food Co-operative

Yoni Landau said the Food Co-op hadn't been aware they had an item on the agenda. Naia and the Food Co-op were still trying to negotiate a deal, and they'd see in a month if Naia opens. The Food Co-op that past week raised approximately \$2,000. They'll hire a full-time program director by the end of the month. They've done surveys at several locations. Things were going well. Nobody knew whether Naia would open or not, and the Co-op was interested in using that space.

It was noted that the Board decided to go to RFP for any vacant spaces.

### Change of the By-laws Subcommittee's Charge

By unanimous voice-vote, the charge of the By-laws Subcommittee, which was established at the last SOB meeting, was amended, to include By-laws. The Subcommittee should forward its recommendations two weeks prior to the Board's first meeting of the 2009 Fall Semester.

### Daily Cal Lease Addendum Approval

By unanimous voice-vote, a Letter of Understanding between the Daily Cal and the SOB was approved.

### Presentation by John Katsnelson

The Board heard a presentation by John Katsnelson, speaking on behalf of Arnoldo Marquez, of the Taquería. They agree with most of the terms of the proposed contract, and Mr. Marquez would be happy to improve his business and do better advertising. But with the changes to be made, he'd need a longer lease, preferably for five years, with an option to renew. He was also requesting that the \$400,000 sales clause be negotiated for revenue sharing. In addition, Mr. Marquez wanted to address was the \$5 million for insurance, which seemed far above the amount needed. He also wanted to bring continue to have decreased rent in January, which was the case in June, July, and August.

It was noted that the Auxiliary will argue to Risk Management that a \$2 million insurance policy was appropriate.

### Food Court Update

The Board met in closed session to discuss the Food Court.

### Public Comment (cont'd)

Mr. Prosterman said the perception was that the Auxiliary was doubling vendors' rent in order to kick them out and bring in a chain that could pay more rent. He was requesting a 30-day freeze in order to give the owners a chance to renegotiate.

A speaker said his main concern was to have a fair process. Ms. Vu has provided food there for 19 years and was an effective member of the Cal community. He understood a deadline was given on June 22 in a sort of take-it-or-leave-it situation, with no room for negotiation. He would request that vendors be given 30 days to be able to make a final determination.

It was noted that vendors were invited by the negotiating Subcommittee to submit concerns and issues, and none were presented. Vendors understood the terms being proposed, and were spoken to on numerous occasions by different people.

A motion was made that came out of the Board's discussion in closed session. It would empower the ASUC Auxiliary to do five things. A five-year lease and five-year lease extension would be rejected. The time to reach the \$400,000 threshold in sales would be moved out every month businesses were impacted by the seismic retrofit. The vendors would also have four months of reduced rent, for the first two years of the lease, with January included, as requested by the vendors. But after the three-year option kicks in and financial benchmarks were met, January rent would be paid in full. Also, the Auxiliary will try and reduce the \$5 million in insurance requirement down to \$2 million. Finally, the Administrative Full Costing Fee from the campus could be variable over the timeframe of the lease and will be a direct pass through from the Auxiliary.

A final answer was required by 5 p.m. the following day, with no further renegotiations. If the vendors don't agree, the Auxiliary would move forward with the RFP process.

By unanimous voice-vote, the Board approved the amendments to lease terms.

### Discussion and Board Approval of RFP for Spaces Other Than the Food Court

The meeting entered into executive session to discuss RFPs.

The Board authorized going to RFP for non-Food Court spaces, pending one final approval of the terms to be e-mailed out. Terms will be presented for these spaces, including the Postal Annex, the CUBS space, and STA.

### Meeting schedule for the Board in the 09-10 year

The SOB Charter recommends meeting on Tuesdays. It was recommended that the Board meet as needed, and at least once a month. The Senate meets Wednesdays and has committee meetings on Mondays, and Thursdays don't work for the GA.

The next Board meeting was tentatively scheduled for September 8 at 6 o'clock, in Stephen's Lounge.

### Virtual Vending

Mr. Permaul will send out the virtual vending concept. It's been reviewed by Vice Chancellor Brostrom. Tully's would have an option of selling food online to deliver or for people to pick up. This online concession would be under the Auxiliary since it currently has soft drink and food vending.

The meeting adjourned at 7:09 p.m.

## **End Summary of the Meeting**

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This regular meeting of the Store Operations Board was called to order by Nish Rajan at 5:20 p.m. in Stephen's Lounge. Mr. Rajan said they didn't have quorum at that time, so perhaps they could listen to a few presentations and then make decisions once they had a quorum. Since they wouldn't really follow the agenda until a quorum was attained, he would suggest that they hear about the Daily Cal and the recent approval of the lease addendum, without having any motions on it, hear about Naia's plan to reopen, and hear an update on Tully's. He asked if that was okay with everybody.

### UPDATE ON THE DAILY CAL

Mr. Permaul said they received a draft letter from Bryan Thomas, and he believed everybody on the Board received a copy. Mr. Permaul said he distributed copies of the addendum to the Daily Cal contract, prepared by Bob Evans, of the Real Estate Services office. This was the way the campus decided to handle this change. They'll have a Letter of Understanding (LOU) rather than having an amendment to the contract. What they're doing in essence was to agree to extend the lease for three years in order to allow the Daily Californian to pay off the back rent the paper owes to the Board, and to fulfill an agreement to maintain the current rent and also the current costs of custodial service by reducing the number of days of service the paper will receive. The paper would also pay the real cost of the utilities it uses. This agreement, which was shown on the screen, was simply a letter that was drafted. Mr. Permaul said he conferred with Bob Evans and all the elements of the letter were correct. All that was needed was a motion from the Board, when they have quorum, to adopt this, and then they could move forward with the appropriate signatures. If there were any questions by the Board, he would ask them to please let him know.

Ms. Coleman asked if the addendum could be e-mailed to her. Mr. Permaul said he would get back to her.

Mr. Rajan said they wouldn't make a decision on this until a little bit later.

### UPDATE ON TULLY'S

Mr. Permaul said the screen showed a rendering of the Tully's coffee shop that will be coming in to the Student Union, hopefully by the beginning of classes that fall. They're working feverishly, he and Assistant Vice Chancellor Rob Gayle, and they have been personally walking through every step of this project. They hope to bring it to fruition and have construction underway within that month, and to have their opening by the beginning of classes. The campus Fire Marshall and Environmental Health and Safety have been extremely supportive. So the Auxiliary was looking forward to this.

Mr. Permaul said he would talk about some features to this that he thought people would find very interesting. They could see the staircase going down to the lobby of the Student Union. The Tully's kiosk will be at the base of the staircase. There will be a computer bar along the windows, with plug-in outlets. They have a much better AirBears connection with the campus Internet than any of the local restaurants do, so they expect to have a much better connection for students, faculty, and staff who come there. And outside, they'll have fixed tables and chairs so that people could also sit outside and have their coffee. And behind the staircase, where CampusLink was located, CampusLink will put in a whole new set of kiosks. The current kiosks will be completely ripped out in the next few days and replaced by CampusLink's new presentation.

The ASUC President and the GA President have requested that they turn this area into a lounge, with comfortable furniture that would make it very appealing to folks, including after hours as well. The Auxiliary has already agreed to purchase the furniture. So this area should be a very nice presentation. They do have to avoid any tables, chairs, and foot traffic that come from the width of the staircase all the way to the doors. And they have also agreed to make sure they do that with event control devices, such as the ones people see in a bank. It will simply create the spaces where people can be. This area will be very attractive.

In addition, Mr. Permaul said that Follett has agreed to take the entrance to the Cal Student Store that was across from this area, where people will be queuing, and transform it into a very attractive, appealing, and inviting entrance. So the Auxiliary thought they'll have a very successful Tully's operation in the very, very near future.

Mr. Permaul said he just wanted to share with them the rendering that was sent to Capital Projects and the Auxiliary. He called for any questions.

### UPDATE ON NAIA

Mr. Permaul said he met with Chris Tan yesterday, from Naia and made it clear to Mr. Tan that he could not sublease or sell his lease to anybody without going through the Board. Naia has already gone through this process with the Board, and Mr. Tan understood that. Mr. Permaul said he thought there was a misunderstanding with the Food Co-op. Mr. Permaul said he wrote Sen. Oatfield that afternoon explaining that what Mr. Tan was talking about when he spoke of a non-disclosure agreement was his own personal financial data, which was proprietary information. It was that information that Mr. Tan did not want to



disclose, unless people who will working with him sign an NDA. But if he was interested in doing anything with the leases, or with public information that had to do with the arrangements between the ASUC and Naia, that had to go through the Auxiliary. So that's what they agreed to.

Mr. Tan wants to open by the time school starts. He will sell not only sushi and salads there, but was considering a partnership for soup, such as with a company like the San Francisco Soup Company. Mr. Tan was also looking at a soft yogurt machine as well. They also talked about being open during late-night hours, especially during the portion of the semester when the ASUC Library was open late in the evening, and turning Naia into a library/lounge area that served food. That would be marketed. It would also be open on football game days. A better job of marketing the gelateria will be done. Mr. Permaul said he brought Mr. Tan up to meet Karyn Houston, the ASUC's marketing person. They'll get together and put together a campaign to re-introduce Naia to the campus when it re-opens. That was notwithstanding any discussions happening with the Food Co-operative. But they're planning as if Naia will move on and open up, because that's what Naia had to do. So that's where they were with Naia at this point.

Ms. Oatfield asked if something could be added to the agenda in order to verify some things. Mr. Rajan said that now that they had a quorum, they could move into the formal agenda.

As the first order of business, Mr. Rajan said he would like to welcome them to the SOB meeting.

#### APPROVAL OF THE MINUTES

Mr. Rajan called for any objection to approval of the minutes from the May 5 and May 26 meetings. THE MINUTES OF THE MAY 5, 2009 AND MAY 26, 2009 MEETINGS WERE APPROVED WITH NO OBJECTION.

#### APPROVAL OF THE AGENDA

Mr. Rajan said he would like to propose two changes to the agenda. He would like to strike item 4) and item 12), as they have already been discussed. He would also like to move up item 13) before item 10). He called for any objection to the amendments.

Mr. Permaul said he had one change. John Katsnelson was present on behalf of Arnolando Marquez and will speak during the time that Mr. Marquez had on the agenda.

Mr. Rajan said they'd also include a very quick item on amending the charge of the SOB By-laws Subcommittee that was passed last meeting. That would occur right before item 10).

Mr. Rajan called for any objections to the proposed amendments to the agenda. THE AGENDA, AS AMENDED, WAS APPROVED WITH NO OBJECTION.

FINAL ANNUAL REPORT FROM THE BOARD

Mr. Rajan said they needed to approve the final copy of the Board's annual report, from the past year. [See Appendix A.] Mr. Permaul provided copies.

Mr. Permaul said he sent out copies of the final annual report that afternoon. He went over the Year-End-Report very carefully with David Rhoads. Mr. Permaul said he made only one suggested change, dealing with the item on May 26. Mr. Permaul said he asked Mr. Rhoads to change the term "negotiations" to "present terms." Mr. Permaul said he also eliminated the concept of negotiation after Food Court tenants. That was the only change he proposed to the document. The rest of it was rather straightforward. The Year-End Report was a recitation of all the events that took place during the course of the past year that the Board took action on. It will be forwarded to the Chancellor's Representative, Vice Chancellor Nathan Brostrom, with a cover letter from the current Chair of the Board. At an appropriate time, Mr. Permaul said he believed Ron Coley has requested that he have a chance to review it before it got advanced. So the Board would need to take action on approval of the Report.

Mr. Rajan said he would entertain a motion to approve the final Annual Report of last year's Board.

Ms. Coleman said she would like to make an amendment, to add the words "non-voting ex officio members" after "Senate" under the subheading "Recommendations," to read as follows:

- "▪ The Board should clarify roles of Senate, *non-voting, ex officio members*; and non-members. This is important because meetings can become very challenging if Senators; *non-voting, ex officio members*; and non-SOB members essentially take over discussion. Senators *and non-voting, ex officio members* ~~are non-voting members, but they~~ cannot make motions. "

Mr. Permaul asked if that would be under, "The Board should clarify the roles of the Senate and non-voting ex officio members." Ms. Coleman said it was just to make sure that the same restrictions apply to Senators as to other people on the committee. Mr. Permaul said he added that language.

Mr. Rajan called for any objection to Ms. Coleman's amendment, and seeing none, said it was adopted. THE MOTION TO APPROVE THE AMENDMENT PASSED WITH NO OBJECTION.

Ms. Oatfield said she had a question about clarifying the difference between Action Items and Discussion Items in Board agendas. Just from her observation, there's been some confusion recently about when there were deadlines to make final decisions on things and when it was just a time to discuss something. She hoped for the sake of a lot of different parties, that it was clearly stated whether something was an action item or was just for discussion.

Mr. Rajan asked if she would like to turn that into a specific motion. Ms. Oatfield said she would, to add, after the last bullet point. "The Board should better specify Action Items and Agenda items on Board meeting agendas."

Ms. Coleman moved to so amend. The motion was seconded by Mr. Rajan. THE MOTION TO APPROVE THE AMENDMENT PASSED BY VOICE-VOTE.

Mr. Rajan said that barring objections, he would entertain a motion to approve the final Annual Report, as amended. He moved to approve. The motion was seconded by Mr. Myers. THE MOTION TO APPROVE THE FINAL END-OF-YEAR REPORT OF THE STORE OPERATIONS BOARD, FROM LAST YEAR'S BOARD, AS AMENDED, PASSED UNANIMOUSLY BY VOICE-VOTE. [See Appendix A for the amended version.]

### PUBLIC COMMENT

Mr. Rajan said they'd have 20 minutes maximum for public comment, with each speaker limited to two minutes. He would keep a speakers' list.

Scott Prosterman introduced himself and said he was a member of the Cal community, helping people to get in. His concern was the fairness being shown towards the merchants who now inhabit the Bear's Lair Food Court. He had some serious concerns. He was initially going to represent one or more people there, but a different determination was made. Mr. Prosterman said he appreciated Dr. Permaul making himself available on the phone yesterday, and said that Dr. Permaul was very candid in answering questions. Mr. Prosterman said he would hate to see the Auxiliary's position compromised. He was also concerned that the process by which these folks agreed to or didn't agree to the lease terms may not have been entirely fair. He understood they were given a deadline to meet for a counterproposal, and that they did not meet that deadline, which was a mistake on their part. At the same time, it led the merchants to a predicament of having to accept or reject lease terms that doubled their rent. That couldn't be fair.

Mr. Prosterman said there were a number of issues there that he thought the Board should reconsider. Ultimately, he would encourage someone on the Board to make a motion to reconsider this and ultimately give the merchants another 30 days to negotiate. He realized that was a problem for the Board, but there was something the Board ought to consider. He believed there was a point of law involved in this situation that was pretty clearly germane. He wasn't an attorney, but he did consult with Joshua Genser, who Ann Vu retained on her behalf. In speaking with Mr. Genser, he said that minority business owners with limited capacity of English, who began learning when they actually got here, might have quote "greater protections" for eviction than other tenants. According to Mr. Genser, that was because this was public property and the merchants were minorities with language limits. By extension, as minorities, they were also entitled to greater protections than other tenants in doing business. So with that in mind, and with this point of law, Mr. Prosterman said that from what he could tell, that has not been fully considered. So Mr. Prosterman said he would encourage the Board to have a 30-day cooling off period and to give the merchants a chance to renegotiate something with the Board. Yes, the merchants made a mistake, and yes they may have missed some deadlines, but he thought the Board had to account for their limited English capabilities. And yes, they're very bright people.

Mr. Prosterman said that one comment in addition to what Dr. Permaul said in their conversation was that the Board has done surveys and that students want brand names. Mr. Prosterman said he didn't know if that was necessarily true considering how forcefully UC students rejected having Panda Express on campus. His impression was that they would much rather have a unique taquería that Mr. Marquez has rather than Chipotle, which was all over the place. They would much rather have the wonderful and charming Healthy Heavenly Foods that Ms. Vu presents, than Panda Express or other large chains, which wouldn't have what Ms. Vu had.

Mr. Prosterman said there were other comments he wanted to make. Mr. Rajan said he could always send them by e-mail. Mr. Prosterman said he wanted to thank them very much.

A speaker said he had a question as to whether there would be an opportunity for public comment towards the end of the meeting for items that were discussed at that meeting. Mr. Rajan asked if he could be more specific. The speaker said he was particularly interested in the same topic. Mr. Rajan asked when he'd like public comment to happen. The speaker said he would like to have it after the Board has discussed this, and prior to any final determination that evening by the Board.

Mr. Rajan said he would recommend that the speaker approach a member of the Board, look at their agenda, and ask for a motion to change the agenda as he wished.

Mr. Rajan said that seeing no other speakers, public comment was closed. Perhaps they'd hear something later.

#### UPDATE ON THE FOOD CO-OPERATIVE

Yoni Landau said the Food Co-op hadn't been aware they had an item on the agenda. They had some brief updates and would also like to field questions. In response to Chris Tan and the non-disclosure agreement, Mr. Landau said the Food Co-op was clear that the non-disclosure agreement was about Mr. Tan's proprietary financial information, not the terms of the lease. Mr. Landau said he thought there's been some miscommunication. He didn't want to shed ill will towards the gelateria, and they'll see in a month whether it opens or not. Naia and the Food Co-op were still trying to negotiate a deal. So they'd see about that in a month.

As for updates with the Food Co-op, Mr. Landau said that in the past week they have fundraised approximately \$2,000. At the end of the month, they'll hire a full-time program director. The Co-op will have its business plan, with pro formas, market research, etc. The Board met Jeff Stein last week, their business analyst and that position was underway. Also, they have given out surveys at several locations. Things were going lovely, and according to plan. Things were looking good so far. All the help they've retained so far has been pro bono, except for Mr. Stein. For the most part, that was the update, and Mr. Landau said he would love to field any questions people have.

Mr. Smelko asked what he meant when he said that Naia was still trying to negotiate a deal with the Co-op, and a contact. He asked what Mr. Landau meant, "negotiate a deal." Ms. Oatfield said that Naia expressed to the Food Co-op that Naia was interested in selling out the rest of its lease to the Co-op. There was talk of a non-disclosure agreement and they ended up not signing it. They never actually went into any really serious negotiations about selling out the lease. The Food Co-op was cautioned by the Auxiliary and some other people to not do that. So the Co-op decided not to do that. But Naia had expressed interest in that.

Mr. Landau said he thought they were all in a funny position because none of them was really sure whether Naia was going to be open or not. And obviously, the Co-op was interested in using that space, and potentially other campus space, as well as other locations they're looking at.

Mr. Permaul said he made it very clear to Chris Tan that if Naia didn't open, the Board would probably take some action at its next meeting to go to RFP on that space, because Naia has already been extended a period of time of time by the Board, since July of last year, in pursuit of the agreement with Panda Express. That agreement went by the wayside. The Board has now taken action on RFPs and made it very clear at the last meeting that any vacant spaces that became available would go to RFP. Mr. Permaul said he made it clear to Mr. Tan that if the Naia space became available, that the Auxiliary would go to RFP on it. He continues to get significant interest from a variety of different businesses that were interested in at least looking at the ASUC. Whether they would actually bid on spaces wasn't clear. Even that day, as he was walking across campus, a faculty member asked for his card because of a potential business venture that wanted to look at coming to the campus. So Mr. Permaul said he thought there was going to be some interest as they move towards the end of the year and as the economy recovers.

Mr. Landau said that as for advice in terms of them moving forward, he felt that Naia had a little bit of a stranglehold on the space. The Board might go out to RFP, but the Food Co-op was ready to open in January, and was ready to start renovations for that timeline. He's talked to all the right people, so he was wondering how they should move forward once they have a business plan in a couple of weeks.

Mr. Rajan said they'll need to have that discussion offline. He asked if Mr. Landau could talk with Mr. Permaul about that directly, and asked if that was okay with both parties and the Board.

Mr. Permaul said he would just make one comment. The Board has already instructed them on this, and that evening they're going to discuss going to RFP for their other spaces. So they will have spaces that should be available, at least for RFP consideration, in the future.

Mr. Tran moved to add public comment after item 8), for five minutes. Mr. Rajan said he would like to add to the amendment, and for the sake of efficiency, would like to consider immediately changing the By-laws Subcommittee's charge and the Daily Cal lease addendum approval. He thought these items will be non-controversial and quick to do, and they were action items as well. He would like to tack the amendments to the agenda on to one vote. The motion to amend was seconded by Mr. Smelko. **THE MOTION TO AMEND THE AGENDA PASSED UNANIMOUSLY BY VOICE-VOTE.**

Mr. Rajan said the agenda was amended as follows. There would be five minutes added after the Food Court update, which he believed will be in closed session. The Board would consider immediately at that time the change to the By-law Subcommittee's charge and the Daily Cal lease addendum approval.

#### CHANGE OF THE BY-LAWS SUBCOMMITTEE'S CHARGE

Mr. Rajan said the By-laws Subcommittee was established at the last meeting. Mr. Daal said there was a very brief written statement. Unfortunately, the changes don't show up clearly on the document, so he would point them out. In the last clause of the top wording, it says "Recommended amendments to the Charter of the SOB and the Commercial Activities Agreement, which may encompass...." The words "and the Commercial Activities Agreement" were added.

Mr. Daal said the other change was in item D), where inclusion of specific By-laws was added. It used to be By-laws and structural revisions. He believed that was all.

Mr. Rajan asked if there was any discussion of these changes to the Subcommittee's charge.

Mr. Myers asked when the Subcommittee was supposed to report on this. Mr. Rajan said it says they're supposed to forward recommendations two weeks prior to the Board's first meeting of the 2009 Fall Semester. Recommendations will be forwarded to members in advance of that meeting, so at that first meeting, they could be discussed.

Seeing no other comments, Mr. Rajan said he would entertain a motion to amend the charge of the By-laws Subcommittee. It was so moved and seconded by Mr. Tran and Mr. Rajan. **THE MOTION TO APPROVE THE AMENDMENT TO THE CHARGE OF THE BY-LAWS SUBCOMMITTEE PASSED WITH NO OBJECTION.** [See Appendix B.]

#### DAILY CAL LEASE ADDENDUM PROPOSAL

Mr. Rajan suggested taking a minute for people to skim over the proposal again. [See Appendix C.]

Mr. Rajan called for any discussion on the Letter of Understanding between the Daily Cal and the SOB. To speak to it a little bit, he thought it reflected fairly what they wanted per the original agreement between the Daily Cal and the SOB. The only change he would recommend was that instead of having Bryan Thomas sign it, that they have Will Kane sign it, if Mr. Kane was amenable to that change.

Mr. Rajan said he would entertain a motion to endow him with the power to sign the LOU. It was so moved and seconded by Mr. Smelko and Mr. Rajan. **THE MOTION TO APPROVE THE LETTER OF UNDERSTANDING WITH THE DAILY CAL, APPROVING THE ADDENDUM TO THE LEASE AGREEMENT, PASSED UNANIMOUSLY BY VOICE-VOTE.**

#### PRESENTATION BY JOHN KATSNELSON, FOR THE TAQUERÍA

Mr. Rajan said they would hear a presentation by John Katsnelson, who would speak on behalf of Arnoldo Marquez.

Mr. Katsnelson said he wanted to speak on behalf of Mr. Marquez, putting Mr. Marquez' comments in plain English. Mr. Katsnelson said he would start out by saying that they agree with most of the terms of the proposed contract. Mr. Marquez would be happy to improve his business to do better advertising and wished to voice his concerns regarding specific details. Most importantly, with all the changes to be made in the stores, Mr. Marquez would need a longer lease to be useful for business.

Mr. Rajan asked if he could speak up a bit, as people were having trouble hearing.

Mr. Katsnelson said that Mr. Marquez asked him to speak for him that evening. Mr. Marquez was in agreement with most of the terms of the proposed contract and was happy to improve his business and do better advertising. He was excited to do that.

Mr. Katsnelson said that Mr. Marquez did wish to voice his concerns about a few specific details. Most importantly, Mr. Marquez felt that with all the changes to be made to the stores and the higher rents, he'd need a longer lease to reach the impacts of improvements on Lower Sproul. If the renovation of Lower Sproul took a substantial amount in the next two years, that would not give him an ample opportunity to improve sales. Time closed because of remodeling may cause customers to find somebody else, and it will take time for the remodels to re-attract those customers. Therefore Mr. Marquez was asking for a longer lease, preferably five years, with an option to renew, and requests that the \$400,000 sales clause be negotiated. Mr. Marquez was happy to consider still sharing revenue, but such a change would make it more worthwhile.

Another point Mr. Marquez wanted to address was the insurance clause in the contract. The figure of \$5 million for general and aggregate insurance seemed far above the necessary amount needed. Mr. Marquez also wanted to bring to the Board's attention the month of January. He felt that a substantial number of students were out of town, and he actually closes between December 15 and January 15. To have a truncated rent for that month, as well as June, July, and August, which was currently in the contract, seemed fair. Mr. Katsnelson said that was the entire statement.

Mr. Permaul said he could make one comment, that they'll currently look at the insurance issue. As he said at the last Board meeting, the Office of the President has specified \$5 million, but that was because they presume that commercial activities on college campuses and restaurants were large enough in terms of their gross revenue to require that level of insurance. But since the Board was dealing with businesses that were smaller than that, the Auxiliary will certainly argue to Risk Management that a \$2 million insurance policy would be more appropriate, if they had businesses that fit those categories.

Mr. Prosterman said he also had experience as a food vendor. He sold Indian food at Oracle Arena last year and the insurance requirements there were considerably less.

Mr. Tran said significant renovation to MLK will probably not happen for another five or six years down the road. If that was the case, he asked if Mr. Marquez would accept a five-year contract. Earlier, he wanted more than five and was assuming that Lower Sproul would be renovated in two years. Mr. Katsnelson said that Mr. Marquez would like a five-year contract and an option to renew.

Mr. Permaul said they have currently offered two of those three. He said that Mr. Marquez was suggesting a five-year lease and a five-year option. They could talk about that.

Ms. Oatfield asked if he was asking about the Lower Sproul renovations or the MLK seismic retrofit. Mr. Tran said he was talking about Lower Sproul renovation. Ms. Oatfield said that MLK will be seismically retrofitted. Mr. Permaul said that will happen next year. Mr. Katsnelson said that was another concern Mr. Marquez was trying to express.

Mr. Rajan said that seeing no further questions, they'd move to the next item on the agenda.

## FOOD COURT UPDATE

Mr. Permaul said he would appreciate discussing this item in closed session. He didn't think it would take 20 minutes, as noted on the agenda, but it might.

Mr. Rajan said he would entertain a motion to move into closed session. It was so moved and seconded by Mr. Smelko and Mr. Myers, and passed unanimously by voice-vote. This meeting entered into closed session.

Back in open session, a motion to extend executive session for ten minutes was made and seconded by Mr. Smelko and Mr. Rajan and passed with no objection. This meeting returned to executive session. Back in open session, a motion to extend closed session for five minutes was made and seconded by Ms. Harrison and Mr. Smelko and passed with no objection. This meeting returned to closed session.

#### PUBLIC COMMENT (cont'd)

Back in open session, Mr. Rajan said they would begin five minutes of public comment.

Mr. Prosterman said one other comment the vendors mentioned might be reflected by something he overheard. The way he first learned about this was when he was having lunch in the Food Court one day last week and overheard a young lady say to Ms. Vu, "This is ridiculous. They want to double your rent so they could kick you out and bring in a big chain, who could pay more rent." Unfortunately, that was the perception that was being generated, and he thought that was something the Board should consider as well.

Mr. Prosterman said that as he noted, he was requesting that one of them offer a motion to pull everything back and have a 30-day freeze, to give the owners a chance to renegotiate their terms. He thought John Katsnelson did a good job articulating things on Mr. Marquez' behalf.

A speaker said he would like to thank the Board for allowing them the opportunity for public comment. He had a quick point, and very simply, he's an alumni student and had an idea of services in the Food Court. His main concern was simply that there be a fair process that was provided. He would like to state that given, for example, that Ms. Vu has provided food there for 19 years, she has been an effective member of the Cal community, whether people wanted to recognize her officially or not. So she therefore had the right of service, and has given a significant portion of her life to giving that service to Cal students. He may not have gotten all the terms accurately, and he would allow for that, but his concern, as far as he understood it, was with a deadline that was given on June 22. It was sort of a take it or leave it situation, without any room for negotiation. Given that there was a very significant contribution being made by both of these people, who seem to be fine, upstanding characters, and members of their community, that they, as the previous speaker mentioned, be afforded the opportunity to be certain of what they're doing and for what was right for them and for their businesses and their livelihood, and that they be given 30 days to be able to make a final determination. He would request that this be something that the Board would move on and make a motion about before making any final determination with regard to their subsequent leases.



Mr. Rajan said that the speaker's time had expired. He asked if Mr. Permaul wanted to respond. Mr. Permaul said that with the terms that were presented to the vendors, they were specifically invited by the Subcommittee that met with them to submit, at any given time before the deadline, qualifications, concerns, or issues, none of which they presented. And by the way, the vendors understood the terms. They were spoken to on numerous occasions by different individuals. So it was not a matter of them not understanding. The Board subsequently gave the vendors another week to respond. At least two of the vendors made it very clear they understood things. One of them came up and apologized for not having responded in a timely way the first time. So they understood what was going on.

Mr. Permaul said he thought the Board has been very clear. It's put everything in writing and has offered the vendors support and assistance in understanding the terms. It's never been the case where they have not, and to suggest they have not, wouldn't, he thought, stand up on just a prima facie basis. The Auxiliary has all the evidence to the contrary. He just wanted to make that clear as a point of information. There has never been a situation where the vendors have not been directly spoken to by a variety of members of the community, and by both himself and the Associate Director. Mr. Permaul said the vendors have come to their offices and have spoken to him and Mr. Spivey. So the vendors know what was going on.

Mr. Rajan said that time for discussion had expired. Barring any motions to extend time, Mr. Rajan said he would offer a motion that came out of the Board's discussion in closed session. The motion would empower the ASUC Auxiliary to do five things. It will outright reject the five-year lease and the five-year lease extension. The Board feels that the terms in the timeframe as specified in the current lease was fair. The ASUC Auxiliary will also be empowered to move out the clock for every month that the vendors were affected by the seismic retrofit. So reaching the \$400,000 retrofit threshold will be moved out for every month the businesses were impacted by the seismic retrofit, or any other impact to MLK. For the first two years of the lease, the vendors will have four months of reduced rent. January will be included in those four months, as was requested by the vendors. However, once the three-year option kicked in, and all the financial benchmarks have been met, the January rent will be paid in full. So they'll be back to only three months of reduced rent.

Also, the Auxiliary is empowered to work with the campus to try and reduce the \$5 million in insurance requirement down to \$2 million. The Auxiliary believed that was a possibility, and the Auxiliary will do its best to try and manage that campus requirement.

Finally, the vendors will be made aware of the fact that the administrative full costing fee could be variable over the timeframe of the lease. And the AFC Fee will be a direct pass through from the Auxiliary. Mr. Permaul will follow-up on all of these.

Mr. Permaul said he would explain that to Mr. Marquez, just so he understood fully. Administrative Full Costing is a charge that the campus sends to the ASUC. It's a pass through, which meant, in other words, that when the Auxiliary got it, the vendors would get it. When that fee goes up for the Auxiliary, it goes up for each of their vendors as well.

Mr. Permaul said they were just mentioning this to make it clear to the vendors that AFC, Administrative Full Costing, which was part of the lease terms that vendors have already seen, could be variable from the campus, as a result of the financial circumstances the University was facing, and the increasing rent charged to all of its departments. The Auxiliary is one of those departments, and will pass that through. That was part of the lease terms. He asked if there was anything that Mr. Marquez didn't understand.

## Discussion and Board Approval of RFP for Spaces Other Than the Food Court

Mr. Rajan said the Board has decided that these are the terms that will be negotiated. A final answer is required by 5 p.m. tomorrow. There will be no further renegotiations. Mr. Permaul said it was 5 p.m., and would have to be in writing. The Auxiliary will send out a message and would need a response by tomorrow at 5:00 p.m.

Mr. Rajan said he introduced the motion and called for a second. The motion was seconded by Mr. Zuo. Mr. Rajan called for any discussion.

Ms. Harrison said that if any of the vendors don't respond in the affirmative by 5 o'clock tomorrow, she would like to make sure that the Board was directing Mr. Permaul to move forward with the RFP process. Mr. Rajan said he would accept that amendment. Mr. Smelko said no response was considered a "no." Mr. Permaul said that if someone did not respond, that was considered a "no" to the terms. And if he didn't receive a response, or received no response by 5 p.m. tomorrow, the Board was empowering him to go out to RFP.

Mr. Rajan asked if the motion was clear to everybody. Hearing no further discussion, he said they would come to a vote.

THE MOTION TO APPROVE THE AMENDMENT PASSED UNANIMOUSLY BY VOICE-VOTE.

Mr. Rajan said the ASUC Auxiliary was so empowered.

### DISCUSSION AND BOARD APPROVAL OF RFP FOR SPACES OTHER THAN THE FOOD COURT

Mr. Permaul said this discussion had to be in closed session because of the nature of the RFP process, which had to be confidential. This meeting entered into executive session.

Back in open session, Mr. Rajan said that for the sake of the minutes, he would state that the product of closed session was an acceptance of the proposed terms from the Auxiliary to the Board. The Board now authorizes the Auxiliary to go to RFP on these spaces, with these terms, pending one final approval of the terms that will be e-mailed out to the Board. An electronic motion will be submitted and they'll have text for the RFP to be continued; and that will be done ASAP, for Bear's Lair Food Court spaces.

Mr. Permaul said that as they complete them, there will be RFPs for all the other spaces.

Mr. Rajan said the terms presented were for the Bear's Lair Food Court spaces, which will kick in as needed. There will be further terms presented for the other spaces, which include the previous Postal Annex, the CUBS space, and the previous STA space.

Mr. Rajan called for any discussion, and seeing none, said they would continue with the agenda.

### Meeting schedule for the Board in the 09-10 Year

Mr. Rajan said the SOB Charter recommends the Board meet on a Tuesday. As much as they know of their academic schedules, for those who were there, he asked if meeting on Tuesdays worked for them. Mr. Permaul said he thought the Board should entertain the notion of not meeting every two weeks, but as needed, although at least once a month. But he thought the Board should also consider the schedules of its members, and thought they should ask people when they're available. People can't meet on Wednesdays, because that's when the ASUC Senate met. And Monday nights were usually when Senate committee manages are held. So the Board could meet on Tuesdays or Thursdays. Mr. Rajan said that Thursday wouldn't work with the GA. Mr. Permaul said Tuesday nights, then, tended to be the best time.

Mr. Rajan said he thought scheduling would be better and more efficiently done through a questionnaire on meeting dates for the rest of the year. They understand there will be meetings as needed.

Mr. Permaul suggested that the Board pick a date in September for its next meeting. They only needed to have one summer meeting, and they've already had two. August looked like a bad month to meet because of Senate Training and a whole variety of different activities, culminating with the start of instruction on the 26th. Those things make August a difficult month. But he thought they should set a date in September.

Mr. Rajan asked about having their next meeting on September 8. Mr. Permaul said that looked like a good date. Mr. Rajan said they would tentatively hold student September 8 for the next Board meeting.

Mr. Permaul said they'd still have a chair for Chief Harrison if she would like to attend and sit as a guest. She's promised to haunt their lives. Ms. Harrison said that was correct.

Mr. Rajan said he would confirm that date. And of course, all members of the Board realize that if necessary, meetings could be held before or after that time.

Mr. Permaul asked if they should suggest meeting at 6 o'clock. Mr. Rajan said they would have that as a placeholder, and all of that was negotiable.

Mr. Permaul said he thought Stephen's Lounge has worked very well for the Board, in part because they could project things. And maybe they'll continue to meet there. Prof. Stephens would be honored that they were using his lounge.

Mr. Rajan called for any discussion, and seeing none, said they would move to the final order of business, which he would ask to be postponed. So they would not discuss New Business because from what he heard from the Food Co-op, the Co-op would like to table the Food Court Resolution until the next meeting of the Board.

## VIRTUAL VENDING

Mr. Permaul said he would send out the virtual vending concept. Vice Chancellor Brostrom has reviewed it and liked the concept and Mr. Permaul said he would send that out to all of them. Mr. Rajan asked if he would like to state what the concept was.

Mr. Permaul said the notion was Tully's was coming in with an online sales option, which Panda would have done. This would allow them to sell food online and deliver it to people in their offices, or for them to pick up the food. Tully's liked the concept very much. The Auxiliary was approached by the San Francisco Soup Company with the idea of possibly doing online sales. What the Auxiliary proposed to Vice Chancellor Brostrom was that since the ASUC currently has soft drink vending and food vending on the campus, that the Auxiliary would also like to have the concession on virtual vending food. The Vice Chancellor liked the concept very much. So the Auxiliary will move forward with a business case model for Mr. Brostrom to review. Mr. Permaul said he'll bring that back to the Board as well. The Auxiliary hoped their colleagues in the Bear's Lair Food Court will consider it as well, because the Auxiliary thought it was another way for them to expect their business as well.

Mr. Rajan said that barring any objection, he would entertain a motion to adjourn.

A motion to adjourn was made and seconded and passed with no objection.

Mr. Rajan said he would like to thank the Board members there for showing up and staying at the meeting.

This meeting adjourned at 7:09 p.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

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Begin amended motion to the Store Operations Board for proposal on July 8, 2009, written by Mr. Daal

It is moved to create a temporary subcommittee of the SOB which is charged to, within two weeks prior to the Board's first Fall 2009 Semester meeting, deliver to the Board for its approval and subsequent approval of the Chancellor, recommended amendments to the Charter of the SOB and the Commercial Activities Agreement, which may encompass:

- A. A vision statement for the Board, including a description of the hierarchy of values the Board shall use to guide all its decisions;
- B. Clarification of the role and expectations placed upon the student, administrator, and faculty Board members;
- C. Clarification of the relationship between the Board and the ASUC Auxiliary;
- D. Specific By-law and structural revisions which are aligned with the aforementioned values and which seek to enhance the efficiency of the Board (e.g., enhancing swiftness and consistency in decision making, sustaining institutional memory);
- E. Separating the functions of political and fiscal accountability of Board members, actions, and discussions; and
- F. Sustaining and promoting a relationship of trust between all Lower Sproul primary stakeholders

End motion to the Store Operations Board for proposal on July 8, 2009, written by Mr. Daal  
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Begin Amended End-of-the-Year Report

Store Operations Board  
Year-end-Report  
July, 2009

Significant Events:

*July '08:* Daily Cal discusses financial difficulties; presentation by Brazil Café; STA moves out of Lower Sproul; discussion on relocation of Scholar's Workstation; unanimous approval of LOI for Panda Express.

*September:* Daily Cal proposal on rent reduction; unanimous approval of LOI for Tully's; discussion of seismic work for summer '09; discussion of contract for Panda Express.

*October:* OCF moving to Eshleman Hall; reviewed relocation proposal by CUBS, reviewed proposal by Kaplan; discussion with Jim Carruthers of B&D on Lower Sproul retail environment; CampusLink update; discussion of Naia contract and the legal issues involved.

*November:* Daily Cal proposal of advertising space in lieu of rent, the Board declined the offer; two-year extension for Cal Lodge manager Daniel Borge; unanimous approval of termination of Campus-Link contract; unanimous approval of price increase to vending machines.

*December:* Continued discussions with Daily Cal over rent; unanimous approval to go to RFP on the three spaces in the Bear's Lair Food Court.

*January '09:* Start of interest in public comment; campus approval of Tully's site and design; Real Estate Services working with Panda Express to draft a contract; Board voted to continue negotiations with Panda Express; Board votes to continue negotiations with Tully's.

*February:* Lengthy public comment; Board unanimously approved CUBS contract; amendment to Tully's contract; Board unanimously approves moving forward with Tully's contract; continued work on RFP contract development.

*March:* Executive session meeting with Panda Express representatives; unanimous approval of Tully's lease; Real Estate Services finalizing Panda Express lease.

*April:* Motion to approve Panda Express lease failed 4-5-0; motion to renegotiate with Panda Express passed 5-2-2; unanimous approval to give BLFC vendors first right of refusal on their space and present each tenant with lease, RFP to follow if terms not met; creation of subcommittee to create terms for BLFC lease.

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Amended End-of-the-Year Report (cont'd)

*May 5th*: Motion to approve Panda Express lease failed 3-6-0; Board approval on negotiations with Daily Cal, Auxiliary to recoup half of its rent through a loan and garners a voting membership on Daily Cal's Board 'til loan is repaid; continued discussion on BLFC tenant terms.

*May 26<sup>th</sup>*: Motion to approve ASUC/GA revenue sharing agreement passes unanimously, Board agrees on terms to present terms with existing Bear's Lair Food Court tenants and begin negotiations, renewal of lease (five years) for CalPIRG from \$206 to \$429 per month not including utilities/full costing, motion to update commercial space language in CAA is tabled.

Recommendations:

- The Board should create a mission statement and establish clear, year-long and long-term achievable goals for the SOB at the first fall meeting to guide its decision making for the year.
- Fill all of the vacancies on the Board (one faculty, one administrator).
- Continue meetings of student members before each SOB meeting.
- The Board must be open to all opportunities to increase revenues, including chain businesses.
- The Board must be aggressive in finding long-term solutions to increase revenue each year.
- The Board should have better access to, and be more proactive towards, reviewing all financial documents and information pertinent to its current issues.
- The Board should consider increasing the frequency of meetings to improve efficiency in the meetings and to keep board members more engaged and focused on the current issues facing the Board.
- The Board should examine the use of the former ASUC Workers' Compensation Fund. This fund should be reserved for what the board feels is appropriate. Some suggestions include: forwarding to the ASUC and GA as a carry-over for each of the next year or two while commercial revenues are down, and investment in the Student Union and/or Bear's Lair Food Court.
- The Board should clarify roles of Senate, non-voting, ex officio members; and non-members. This is important because meetings can become very challenging if Senators; non-voting, ex officio members; and non-SOB members essentially take over discussion. Senators and non-voting, ex officio members cannot make motions.

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Amended End-of-the-Year Report (cont'd)

- As previous end-of-year reports have stated, decisions take too long and the Board is ineffective or worse as a result. Many times this is a result of misinformation or lack of information. To solve this continuing problem, the Board should consider more frequent meetings, hire outside consultants if needed, have legal counsel available who can potentially attend meetings, and communicate more frequently with fellow Board members.
- The Board should seek legal counsel with any questions regarding their interpretation of the Commercial Activities agreement.
- The Board should better specify Action Items and Agenda items on Board meeting agendas.

End End-of-Year Report

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Begin Daily Cal Letter of Understanding for Lease

July 13, 2009

Bryan Thomas, Editor-in-Chief and President  
The Daily Californian  
PO Box 1949  
Berkeley, ca 94701

Re: Letter of Agreement for Lease at 600 Eshleman Hall, University of California, Berkeley, CA

This shall serve as a Letter of Understanding (LOU) between the parties to the above Lease amending the terms as described below:

1. Effective July 2009, Landlord shall provide custodial service to Tenant's leased premises three (3) days per week instead of five (5) days per week and Tenant's electrical utility costs shall be adjusted accordingly based on Tenant's actual usage.
2. Landlord's ASUC Store Operations Board shall forgive a portion of Tenant's past deferred rental payments (hereinafter "Deferred Rent") in the sum of \$14,244.50, accumulated between October 2008 and June 2009.
3. Tenant agrees to pay Landlord's ASUC Store Operations Board the remainder of the Deferred Rent in the sum of \$14,244.50, accumulated between October 2008 and June 2009. This portion of the Deferred Rent can be repaid by Tenant in installments on a payment schedule to be determined by Tenant's Board, with no interest. However, if tenant does not pay the Deferred Rent in full by July 31, 2012, then Tenant shall incur and pay an additional three percent (3%) annual interest on the outstanding amount, such interest to be calculated from the effective date of this LOU.
4. In consideration of the arrangements described herein, tenant will allow one of Landlord's ASUC Store Operations Board members to sit on the Tenant's Board for the duration of Tenant's Deferred Rent repayment schedule. The parties agree that the selected Board member must meet the following requirements:
  - a) The Board member must be a currently registered UC Berkeley student.
  - b) The Board member will be selected by Landlord's ASUC Store Operations Board.
  - c) The Board member cannot be an elected official within the Associated Students of the University of California or the Graduate Assembly.
  - d) The Board member will have full voting rights on Tenant's Board.
  - e) The Board member's term may end when Tenant's Deferred Rent has been paid in full to Landlord's ASUC Store Operations Board.
5. It is the intention of the parties to negotiate in good faith and enter into a new three (3) year lease agreement under the current lease terms (as detailed below), with the express understanding that any

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Daily Cal Letter of Understanding for Lease (cont'd)

and all rights and obligations of such a lease would only come into existence if and when a new lease agreement is executed by the parties:

- a) Tenant's monthly rent would be \$3,860.00 per month, plus utilities.
- b) During the new lease term, Tenant would agree to run a complimentary full-page Daily Cal advertisement for Landlord's ASUC Store Operations Board for each of the thirty (30) weeks of instruction during the fall and spring semesters.

6. Except as previously amended above, the Lease between the parties remains in full force and effect.

The parties shall sign below to acknowledge acceptance of the terms and conditions of this LOU:

Signed:

TENANT: THE DAILY CALIFORNIAN

\_\_\_\_\_  
 Bryan Thomas Date  
 Editor-in-Chief and President

LANDLORD: ASUC STORE OPERATIONS BOARD

\_\_\_\_\_  
 Nish Rajan Date  
 Board Chairman

LANDLORD: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

\_\_\_\_\_  
 Helen Levay Date  
 Real Estate Services Manager

End Daily Cal Letter of Understanding for Lease  
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## STORE OPERATIONS BOARD MINUTES

October 13, 2009

Present: (Members and others)

Haithan Alloun (Coffee Spot)	Arnoldo Marquez (Taqueria)	Peter Quintin (Auxiliary)
Rebecca Coleman (Board member)	John Myers (Board member)	Will Smelko (ASUC Pres.)
Miguel Daal (GA President)	Christina Oatfield (ASUC Sen.)	Tom Spivey (Auxiliary)
Jeff Deutsch (Bookstore Manager )	Alberto Ortega (Board member)	Stacey Templeman (Bus. Svcs.)
Matt Marks (Student-at-large)	Rahul Patel (Senator)	Tu Tran (ASUC EVP)
Oscar Mairena (fmr. Senator)	Jonathan Poullard (Board mbr.)	Anna Vu (Healthy Heavenly)
		Yishi Zuo (Board Member)

### **SUMMARY OF THE MEETING**

The meeting was called to order at 6:18 p.m. in East Pauley Ballroom.

#### Approve Draft Version of Bear's Lair Food Court RFPs

Mr. Tran recused himself from this RFP process.

Ms. Oatfield said she would leave the room during executive session in case there was a conflict of interest due to her involvement in the food collective.

The meeting entered into closed session to discuss the RFPs.

Back in open session, the Board decided to vote electronically on approval of the Bear's Lair Food Court RFPs.

#### Consideration of Evaluation Criteria and Weights for RFPs

The Board formed a committee to evaluate criteria and weights for RFPs with Ms. Coleman, Mr. Zuo, Mr. Poullard, Mr. Rajan, Mr. Spivey, and Mr. Patel. Mr. Poullard will coordinate the committee. It will report to the Board by the December meeting.

#### Bear's Lair Food Court Contracts

Ms. Vu, of Healthy Heavenly Foods, said it's been really difficult for the past 20 years having the restaurant survive. Vendors were being treated differently. Tully's pays less. She pays \$3,450 now. Naia pays \$2,800. A new contract would have her pay \$6,800. The locations were also very different. She had 400 square feet. Other vendors had more. It wasn't fair for her. She said December 15 was her last day. Dr. Permaul asked her to stay until June, and she could, for the same rent, \$3,450 a month.

Mr. Marquez, of the Taqueria Tacontento, said his clients want quality food, service, and most importantly, affordable prices. The new rent would force him to raise prices substantially. He didn't feel it was fair because he'd pay more than Tully's, Naia, and the Pub, and he'd get a shorter lease than anybody.

Matt Marks said he was there as a student and a client of the Bear's Lair.

Tully's pays \$3,000 for rent, \$200 for utilities, and \$200 for cleaning, \$1,500 less than what Bear's Lair Food Court vendors were being asked to pay. A corporation was paying far less than small, immigrant-owned and operated businesses. He asked if Tully's has ever been audited for water and electricity. Cleaning costs of \$200 a month was about a half hour of cleaning a day, and it seemed more time would be needed. So it seemed like Tully's was being subsidized.

Naia paid \$1.33 per square foot and was the biggest subsidy on campus. It closed for a year in violation of its contract. Naia's other space isn't part of its square footage, but that space was counted for Bear's Lair vendors.

Tully's lease was for nine years, five years with two two-year options. Naia and the Pub were five and five. Food Court vendors got different leases.

Mr. Marks said people who value low prices haven't been taken into consideration. This was a question of who the Auxiliary served. Food Court vendors were just asking for equitable treatment and should have five-year options, like Naia and the Pub.

The job of the SOB was to solicit input from the student body, from each segment of campus. One survey specifically for the Food Court showed that students want low prices.

Mr. Spivey said every lease was different. A lot depended on the investment into the space, square footage, space offered to customers to sit down, and the length of the lease. Healthy Heavenly Foods had a food court and a kitchen and Tully's was a kiosk stuck in the Union. Naia invested a tremendous amount of money and was still paying back the Auxiliary. Kitchens have hood requirements and cleaning fees and inspections that Tully's doesn't have.

#### Extension of Healthy Heavenly Foods' Lease through the Spring

By unanimous consent, the Board approved the extension of Healthy Heavenly Foods' lease until May 31, 2010.

#### Discussion of the PinkBerry Yogurt Cart on Campus

The presenter, from the ASUC President's office, couldn't attend the meeting.

#### Lounge Seating for Tully's

Tully's is not allowed to move things under the stairs. The Auxiliary was working on making Oski's Lounge. The Fire Marshall had to approve what was there. The Auxiliary was redesigning the lounge since the Fire Marshall rejected furniture the Auxiliary had proposed.

A question was raised as to why lounge space wasn't counted in Tully's square footage, but Food Court vendors were charged for seating. It was noted that the Food Court vendors would love to give the Food Court space to the ASUC and call it "Oski's Lounge."

In response, space by Tully's has the Stanford axe, had to be kept clear, and had another vendor there. It was all relational. A motion to extend speaking time failed by hand-vote 2-4-0.

#### Extension of the Due Date for SOB Charter Revision

By unanimous consent, the Board extended the due date for SOB Charter revision to November 17.

#### Campus Link Update

Campus Link has a contract with the Auxiliary, which has had lots of trouble with the company in the three years it's been there. It's been in default of payment quite a few times. The agreement was amended about six months ago and the Auxiliary engaged Capital Projects, which worked with Campus Link, to demolish the kiosk. To date the Auxiliary has not been paid and Campus Link was in breach of its contract for not building the kiosk within 60 days. The company also hasn't paid the \$6,000 it owes to the Auxiliary. The Auxiliary was looking for other plasma screen options and vendors to approach, or going into the plasma screen business itself.

Campus Link was forgiven \$10,000 it owed from the previous year, in order to be given another chance. They brought the matter to the Board. But the company wasn't performing.

Replacing Campus Link could require an RFP.

With no objection, the Board approved a motion to table consideration of terminating the Campus Link contract until the lease was posted on bSpace, with an electronic vote to be held.

#### Daily Cal Lease Amendment

In conjunction with agreements between the SOB and the Daily Cal, the Auxiliary asked Real Estate Services for an amendment to the lease. It basically takes the items of the agreement and extends the lease to 2012. Rent will be \$3,860 plus Administrative Full Costing fee, 6% at that time, for a base rent of \$4,091.60. The Consumer Price Index each year is added to adjust the rent in subsequent years. In addition, an electrical monitor on the meter was installed and the paper will be charged for the actual electricity it uses. Past rent of \$14,244.50 will, for the period of this extension, be deferred. The Auxiliary was recommending that past rent be due on the day the lease expired, September 30, 2010. With no objection, the Board approved the Daily Cal lease amendment.

The meeting adjourned at 7:57 p.m.

### **End Summary of the Meeting**

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This regular meeting of the Store Operations Board was called to order by Miguel Daal at 6:18 p.m. in East Pauley Ballroom, Martin Luther King, Jr. Student Union.

### APPROVAL OF THE AGENDA

Mr. Daal called for any changes to the agenda. Mr. Spivey requested tabling action item #8 as Mr. Permaul wasn't present and Mr. Spivey said he wasn't briefed on it. Mr. Daal said they'd also switch the order of items #4 and #3. He called for a motion to amend the agenda. It was so moved and seconded Mr. Poullard and Mr. Ortega and passed with no objection.

### APPROVAL OF DRAFT VERSION OF BEAR'S LAIR FOOD COURT RFPs

Mr. Daal asked if they needed to go into closed session. Ms. Templeman said that if they discuss the details of the RFP they'd need to go into closed session. To approve it, they'd stay in open session.

Mr. Tran said he would recuse himself from this process. He asked if that meant he'd have to leave the room if they go into closed session. Mr. Daal said it would.

Mr. Daal said they'll probably want to discuss the RFPs, so they'd have to meet in closed session. He called for a motion to do so, with Mr. Spivey remaining. It was so moved and seconded.

Ms. Oatfield said she wanted to state on the record that she was going to leave as well, just in case there were conflicts of interest due to her involvement in the food collective.

The motion to meet in closed session passed with no objection. This meeting entered into closed session.

Back in open session, Mr. Daal said the Board decided that they would have an electronic vote later that week regarding approval of the Bear's Lair Food Court RFPs. It will probably take place by Friday.

### CONSIDERATION OF EVALUATION CRITERIA AND WEIGHTS FOR RFPs

Mr. Daal said they'd form a committee to evaluate criteria and weights for RFPs. Mr. Poullard asked how many people were needed. Mr. Daal said he'd like a balance. Ms. Templeman said four or five would be fine, and it shouldn't be more than six.

Mr. Daal asked who would be interested in participating on a committee to discuss the evaluation criteria weights. The following members indicated an interest: Ms. Coleman, Mr. Zuo, and Mr. Poullard. Mr. Daal said that Mr. Rajan and Mr. Spivey would also be included.

Mr. Daal called for a motion to convene an ad hoc committee to propose evaluation criteria and weights for RFPs for the Food Court, due by the December Board meeting.

Mr. Patel asked if there could be Senators on it. Mr. Daal said there could be. Mr. Patel asked to be on the committee.

The motion was seconded by Mr. Zuo.

Mr. Zuo asked who would be in charge of coordinating the meeting. Mr. Poullard said he would do that.

THE MOTION TO APPROVE AN AD HOC COMMITTEE TO CONSIDER EVALUATION CRITERIA FOR THE FOOD COURT RFPs, TO REPORT BACK BY THE DECEMBER BOARD MEETING, PASSED BY UNANIMOUS CONSENT: MS. COLEMAN, MR. ZUO, MR. POUILLARD, MR. RAJAN, MR. SPIVEY, AND MR. PATEL.

### BEAR'S LAIR FOOD COURT CONTRACTS

Ms. Vu, of Healthy Heavenly Foods, said she first wanted to thank them very much for everything. For the past 20 years it's been really difficult to make the restaurant survive and to make good food for the students.

Some people knew this and some didn't, about the different treatment for the Bear's Lair Food Court. They have the same landlord, but Tully's Coffee pays less. At that time she pays \$3,450. Naia pays \$2,800. If she signed a new contract, she'd have to pay \$6,800, double Tully's Coffee, or Naia. And the locations were very different. She only had 400 square feet. Mr. Alloun has 750 square feet and has a second business for free. He pays less rent now. Mr. Marquez has 600 square feet. It wasn't fair for her. She'd have to bring in more money to sign the contract, and would only make .75¢ or \$1.00. It wasn't worth it. She's already said December 15 was her last day. But Dr. Permaul told her to stay until June. She was happy to stay, if she could stay at the same rent, \$3,450 a month. She'd promise that even if she was there for one day, she'd work hard and make food that costs less and made the students happy.

Ms. Vu said that before, there were four vendors who paid \$3,500. Now two are combined and there are only three. Others pay less, and she had only 400 square feet. She felt it was unfair and was giving up and leaving. But she wanted to thank them for having a business there for almost 20 years. The business helped her to raise her kids. She always worked hard to make the business successful. She wanted to thank them.

Mr. Marquez introduced himself and said he was the owner of the Taqueria Tacontento. Ck ck He was there to talk about the contract that has been offered to him. He operated a business model where the priority was to serve the needs of his clients. He's been in business for over five years in the Bear's Lair Food Court. His clients have told him they want good quality food, plus service, and most importantly, affordable prices.

Mr. Marquez said that with the rent he was being asked to pay, he'd be forced to raise his prices substantially and he couldn't guarantee to stay in business. He didn't feel the contract being offered was fair because he'd be paying more than Tully's, Naia, and the Pub. But he was getting a shorter lease than anybody. He's done everything the students want, and he didn't feel the contract reflected the great job

he's done. It wasn't fair to him and most importantly, it wasn't fair to the students. He wanted to thank them very much for letting him speak.

Matt Marks said he wasn't going to make a presentation that day, but would come to them as a student and as a client of the Bear's Lair. He wasn't sure if anybody really knew if there's ever been a look at the contracts of Naia, Tully's, and the Pub, and if there's been a look at the contract offered to the Bear's Lair Food Court. He doubted it.

Tully's is paying \$3,000 for rent, \$200 for utilities, and \$200 for cleaning. That was \$1,500 less than what the Bear's Lair Food Court vendors were being asked to pay. In this economic crisis, the Auxiliary asked for a corporation to come in and help them, and yet the corporation was paying far less than small, immigrant-owned and operated businesses. It was sort of classic disaster capitalism. As Naomi Klein would say, a preconceived notion used a crisis to put itself in. Mr. Marks said he was sure there's been plenty of rationale that's been passed around.

Mr. Marks said he would ask if Tully's has ever been audited for its water and electricity. It would be an interesting scandal if Tully's was actually stealing money from the University. He wasn't claiming that a scandal was taking place, but the fact that they were leaving it open to that possibility was relatively amazing.

A monthly cost of \$200 in common-area maintenance worked out to about \$7.00 a day, about a half hour of cleaning every day as a result of Tully's traffic. It seemed that more than a half hour would be needed, and seemed like Tully's was being subsidized. And last year Mr. Permaul said they weren't there to subsidize businesses.

Naia pays \$1.33 per square foot, and Naia was the biggest subsidy on campus. It was allowed to close for a year in violation of its contract. But they were Trojan horse to bring in Panda Express, so of course Naia could do what it wanted, and got special treatment.

Mr. Marks said the business was being subsidized per square foot. The Auxiliary claims Tully's is just a little spot, but as it expands, that wouldn't be counted as part of its square footage. Naia's other space wasn't counted as part of its square footage. For the Bear's Lair Food Court, they do count that space as square footage. It was an interesting double standard that was continuously applied.

Mr. Marks said he meant no disrespect to anybody there, but he found it extremely problematic that the Dean of Students and the ASUC President and Vice President were voting for this. If anything he said sparked their interest, he would love to tell them more about it. He didn't think the Board was doing this on purpose, but he wasn't sure people really understood what was going on.

Tully's got a nine-year lease, five years with two two-year options. Naia was five and five; the Pub was five and five. Bear's Lair Food Court vendors, who have been there for 20 years, were getting different leases. Once again, these are questions he didn't necessarily expect the Board to address that evening, although he'd love to hear an answer to any of those questions.

Mr. Marks said they're in an economic crisis, and the lion's share of the burden was being borne on the backs of the most disadvantaged and the least privileged members of their community. The fact that the ASUC would mirror the University's issues was quite problematic for him. This was something for them to think about, especially the Dean of Students. Mr. Marks said he thought a certain segment of campus



was being thought of. There are three first-generation, immigrant-owned and operated businesses, on the entire campus. If any of them were lost, he could guarantee that they wouldn't be replaced. The RFP process was absolutely impossible for someone who owned and operated a business to fill out and compete in the sort of way that this competition would be put forth.

Mr. Marks said that another segment of campus that hasn't been taken into account are people who value low prices for their food. And another was students who want to come and see their own image on campus, and extend learning beyond the campus, as the Auxiliary's Web site claims to want to do. These vendors allowed students to see a mirror of themselves being successful in America, owning and operating a successful business. That was extremely valuable and was learning beyond the campus, and would never be replaced.

Mr. Marks said this wasn't even really his opinion. He thought they could all agree that the RFP process had no space for someone who works 13 hours a day, six days a week, especially if they don't have a lot of money to hire a high-priced lawyer. Tully's did have that money, and they came and probably made a grand presentation with lots of glitter and gold. A lot of students don't have time to make those presentations; and the current vendors didn't have time to make that kind of presentation.

Mr. Marks said this brings up the question of who the Auxiliary served, and whether they serve those with enough money to come and make presentations with glitter and gold or if they serve low-income students and the businesses that provide services for those low-income students, as well as those who are silenced and who were constantly excluded from the large majority of the decision-making process.

In all his presentations, what he's been asking for was for low-income students to be protected and for certain cultures on the campus to be protected. What came out of this was that the Auxiliary wanted more and more money. For Mr. Marquez, Mr. Alloun, and Ms. Vu it was saying they didn't have to keep prices low, but they did have to make a certain amount of money. Those two things were contradictory. Their ability to stay was not dependent on how they served students, but how much money they made. So it wasn't valued that burritos at the Food Court were the cheapest in a two-mile radius. The only thing that came out of this was that the bottom line was valued.

Mr. Marks said he would suspect there was nothing in the RFP about having a first-generation, immigrant-owned and operated business, and whether that was valuable. These have been there for 20 years which, for the UC Berkeley paradigm, was quite amazing. It looked one of them was going to be lost one, and that the other two will have to raise prices, and maybe stop what has been a tradition in the Food Court, where low prices have been a real priority. It used to be that when vendors raised their prices they had to come to the Board and give tons of documentation as to why prices were being raised. Now they have to give tons of documentation on meeting a certain revenue ceiling. That was a distinct change in the way the Board has operated.

Mr. Marks said he didn't think the Board, many of them, were fully informed as to what was really going on. In a time of crisis, a corporation was brought in, and the only public computers on campus that people could use without have a UC Berkeley ID are gone. And now a second corporation was in the Student Union that wasn't even paying as much. And the smallest and most vulnerable businesses had to bear the burden of the economic crisis, as well as himself. He'll be asked to pay \$1 more for all of his food. The money wasn't coming from vendors, but was coming from students. The Board shouldn't see this as an attack on the vendors, but the Board asking students to pay more money so that the Auxiliary

could help students. That logic needed to be analyzed very carefully. And the Board needed to really think about whether it was forcing its own paradigm or if it was taking into account the students' needs, even those not in the discourse of the dominant culture.

Mr. Marks said there was still time to change the lease and to give the vendors longer terms. No one was asking for better terms, and people just were asking for equitable treatment. The Food Court vendors should have five-year options, just like Naia and the Bear's Lair Pub.

There's going to be construction down there. They didn't want to give long leases because they didn't know what will happen with the space. Mr. Marks said he was really interested in how the RFP will be worded. If Healthy Heavenly Foods left, he asked who they would get to come in on a five-year lease. Maybe that's why the RFP has taken such a long time. Going to RFP last year, the space needed investment. Now that the vendors are staying, the reason they can't get a longer lease is because it's assumed the space will get torn down. That really reeked of the basic fact that the Auxiliary didn't want these vendors there.

Mr. Marks said the job of the SOB was to solicit input from the student body, and not just in a survey, but from each segment of campus, about what they value. He didn't think that has really been done. The one survey done specifically for the Bear's Lair Food Court showed that students wanted low prices. But low prices have been thrown out the window. Mr. Marks said that was really why he was there. It wasn't a presentation for the Bear's Lair Food Court, but as a low-income student who was interested in prices and who liked the culture of the Bear's Lair, and who knew it was the only place that had that culture.

Most importantly, he would ask the Board to be reasonable in the rent they charge these vendors, and maybe gradually increase it, instead of doubling it. This was a relationship, and the vendors have offered to have organic options, vegetarian options, green business certification, and to source local produce. No one else had those requirements. Mr. Marks said he wanted to thank them for listening.

Mr. Daal called for any further discussion of the Bear's Lair Food Court contracts.

Oscar Mairena introduced himself and said he was a former ASUC Senator and also worked with a campus unit, EOP. The previous speaker mentioned the EOP community, which specifically works with low-income, first-generation college students. The Board may not think about how something like raising the rent for the vendors in the Bear's Lair could affect everyone, except perhaps needing revenue for the ASUC; and he completely understood that. But such an action would have a very disparate affect on certain students on the campus, i.e., low-income students and others. He works downstairs in Chavez, so he sees a lot of the same students who come in to use EOP services go into the Bear's Lair and eat that food. And they always eat that food, because it was the most accessible food for them, and wasn't as expensive. And the prices used to be a lot more affordable. But with the hikes in rent, people were starting to see eating there as not being feasible for specifically low-income students.

Mr. Mairena said he's also been made aware of the fact that inequity was going on for these vendors. Tully's was more conveniently placed and paid less rent than the vendors downstairs pay. And the Food Court didn't have a lot of publicity and wasn't very open to the public, and people don't see it right away. So it's more difficult for them to get a flow of people coming in. It's an issue of inequity for these vendors when Tully's was conveniently placed and paid less rent than the vendors downstairs. He didn't see why the downstairs vendors should pay more than Tully's. He would encourage the Board to think about

low-income students, and students in general. He was sure all of them knew about the UC walkout. Students were taking matters into their own hands, and he would encourage the Board to not disrespect the students' opinions, with students prioritizing affordability, by increasing Food Court vendors' rent, which affects students who were trying to support these businesses.

Mr. Daal called for any further discussion on the Food Court contract, and seeing none, said they would move on.

Ms. Coleman said the main point was the disparity between how much the Bear's Lair paid in comparison to others. Mr. Poullard asked if Mr. Spivey could respond to that. Mr. Spivey said that every lease was different. When they negotiate, a lot depended on the investment into the space, the square footage, and space offered to customers to sit down. It also had to do with timing of the lease negotiations, the length of the lease. Each lease was different.

Mr. Poullard asked if it was true that with regard to square footage, the lease was determined by how much was being utilized. Mr. Spivey said that was correct. It's the type of business in a space and how it could succeed at a particular rent. The Credit Union was very small, 90 square feet, but people come to the business for a service. It's not easily accessible, but it draws people. To compare Tully's to Healthy Heavenly Foods was a little bit different to explain. One has food court and has a kitchen and the other is a kiosk stuck in the Union. It was a lot different to compare them.

Mr. Poullard said that what he dislikes about this campus was that people tell their side of the story only. But he wanted to hear the whole story, so that as they have conversations, people were on the same page. He thought it was convenient that they always leave out pieces of a story when it doesn't fit their story. So if they have a conversation, they should have a full conversation, with all of the facts on the table. To him, it was critical to understanding the full spectrum of how decisions got made. It may look as if on their surface that they were disproportionate or unfair. He would ask how they define that which is fair. They don't have all the information. He thought it was important for the Board to make sure that when they have these discussions, everything was out in the open. They might not agree, but at least they'd all have the same information in terms of full disclosure. He thought it was important for the Board to talk about how the lease was negotiated. How it was negotiated was different from how the leases were negotiated for the Credit Union, or for the Food Court, or for Naia. He asked what the differences were.

Mr. Spivey said that Naia invested a tremendous amount of money and was still paying back the Auxiliary. It had to do with what was being invested in the space, how long the lease went, the monthly rent, and what the vendor was paying in other fees. The kitchens have hood requirements. So when Ms. Vu talks about paying \$6,000, or \$4,800 a month, she's paying for hood cleaning fees, inspections, a lot of other things that Tully's, for instance, doesn't have. Having a base lease and having four or five requirements to maintain was different from having a base lease and not having those requirements. So it depended on the placement and also the investment of the operation.

Mr. Poullard said that as a Board member, he was more than willing to have this conversation with anyone. People make presumptions about one's position or what they know or don't know. They can have a much more in-depth conversation about why things were the way they are and how they make decisions that were in the best interests of not one particular community, but of all communities. They might decide, for example, that they think it's critically important of how they have businesses there, which their subcommittee was looking at now, how they approve RFPs. One thing will be whether they want a

certain percentage of types of businesses. The Board might say that they'd have different types of requirements that allow that to be the case. The Board had the power to do that. Mr. Spivey said that was correct.

A speaker asked who would pay the most per square foot. Mr. Poullard said that was one of the questions, one piece. At least for him, it wasn't just about who paid the most. He wanted to know what the practices have been in making those decisions. If the Board wasn't happy with those decisions, they could get to change them. Mr. Spivey said that was correct. Mr. Poullard said that before they make those decisions, they need to have a full conversation, as opposed to part of a conversation. There are requirements for some vendors as opposed to other vendors, which might require a higher percentage of rent.

Mr. Marks asked what those requirements are. Mr. Poullard said he was more than willing to have this conversation with anyone, and if they couldn't have it in the context of a Board meeting, they could have it elsewhere.

Mr. Mairena asked if, for Tully's, they were also talking about all of the area around the stairs as part of Tully's agreement. Mr. Spivey said Tully's wasn't allowed to approach between the bottom of the stairs and the door. Their section was where their ropes are. That was the demarcation. Tully's put tables and chairs in the lounge and they were pulled out because Tully's wasn't allowed to go there.

Mr. Daal said that seeing no further questions, they would move on.

#### EXTENSION OF HEALTHY HEAVENLY FOODS' LEASE THROUGH THE SPRING

Mr. Daal said they would move on to Healthy Heavenly Foods' lease extension, and asked if there was a recommended time to terminate the lease. Mr. Spivey said he would say it would end May 31.

Mr. Daal called for a motion to extend the lease period of Healthy Heavenly Foods until May 31, 2010. It was so moved and seconded by Mr. Zuo and Ms. Coleman. THE MOTION TO EXTEND THE LEASE OF HEALTHY HEAVENLY FOODS UNTIL MAY 31, 2010, PASSED BY UNANIMOUS CONSENT.

#### DISCUSSION OF THE PINKBERRY YOGURT CART ON CAMPUS

Mr. Smelko said that Ronald Chang was going to make a presentation but had some family issues that came up, and couldn't be there.

#### LOUNGE SEATING FOR TULLY'S

Mr. Daal asked what was preventing Tully's from filling the lobby in a safe way of seating. Mr. Spivey said it's not a "safe" way. This came to a point when Tully's started to put in furniture underneath the

stairs. That was not part of the original drawings in the contract, and Tully's was supposed to work within the demarcation line. They have permission to have tables outside by the windows as long as they don't block the stairwell. But Tully's was not allowed to move things under the stairs. That's something the Auxiliary was working on, to build Oski's Lounge.

Mr. Daal asked about the other side of the lounge, between the stairs and the MCC entrance. Mr. Spivey they're working to make that a lounge area. They put in a proposal. The campus Fire Marshall says they can't use any furniture that has material. The Auxiliary had found something they thought was fireproof, but the Fire Marshall didn't approve. So the Auxiliary was redesigning it. They'll probably have furniture in place for the spring opening.

Mr. Poullard asked if that was a function of Tully's or of Oski's lounge. Mr. Spivey said the ASUC was taking ownership of Oski's Lounge for students to study and read. Right now, people can't read there because the lighting was bad.

Mr. Patel asked what would prevent students from going to Tully's and not purchasing anything, but having a seat in the lounge. Mr. Spivey said nothing prevented that. If somebody wanted to buy a burrito or Subway sandwich and eat in the lounge, they could do that. Food wasn't restricted there.

Mr. Patel said that if a student could purchase something from Tully's and sit in the lounge, he asked why the lounge space wasn't counted in Tully's contract. Mr. Spivey said it wasn't negotiated in the contract because Mr. Permaul wanted to keep that as a student study center. They wanted to put up posters of student life relating to the ASUC, and to have that space be part of the ASUC and the Auxiliary.

Mr. Poullard asked if originally that space was supposed to be for Tully's. Mr. Spivey said it wasn't a space for Tully's. Mr. Poullard said that when Mr. Spivey mentioned that Tully's brought in furniture, but the Auxiliary made them take it out. Mr. Spivey said Tully's encroached in that area with furniture, tables and chairs. Mr. Poullard asked if Tully's never had a design to have couches. Mr. Spivey they never did.

Mr. Poullard said he spoke with Mr. Permaul about the need to have fire resistant furniture in that area. Mr. Spivey said that Mr. Quintin tried to get the right furniture in there. The Fire Marshall doesn't want upholstered furniture under the stairs, so the furniture would have to be wood.

Mr. Patel said he goes to the Bear's Lair Food Court very often and sees many students without any food studying at the tables. He asked why vendors of the Bear's Lair Food Court were being charged for that space if Tully's wasn't being charged for similar space. Mr. Spivey said it's a space afforded to them for their customers. It's actually quite large, 1,000 square feet for their customers.

Mr. Patel said that space was also used very often ended as a study space, and students who study there don't necessarily consume food. Mr. Spivey said that was correct.

Mr. Poullard asked if Mr. Patel was suggesting that space in the Bear's Lair not be charged to the vendors with space there. Mr. Patel said that might be precisely what he was suggesting, but secondly, he asked why that space wasn't also owned by the ASUC, meaning vendors wouldn't be charged for that space. If Tully's has Oski's Lounge right next to it, where students could study, whether or not they buy anything from Tully's, he saw the same situation in the Bear's Lair Food Court. Yet, Food Court vendors were being charged for that space, while Tully's wasn't being charged. He asked why the ASUC doesn't take

ownership of the space in the Bear's Lair Food Court and not charge the vendors for it by raising their rents.

Mr. Daal said time allotted for this item had expired. Ms. Coleman moved to extend the discussion by five minutes. The motion died for lack of a second.

Mr. Patel said he knew there's been discussion over the role of ex officio Board members and he didn't know if he was allowed to second motions. He seconded the motion to extend speaking time. The motion to add five minutes to this agenda item passed by hand-vote 4-2-0.

Mr. Patel yielded time to Matt Marks. Mr. Marks said this was a serious issue. The vendors would love to give the Food Court space to the ASUC and call it "Oski's Lounge." Naia pays \$1.33 per square foot, two and a half times less than Food Court vendors pay, and they didn't want to pay for that whole space. The Pub didn't pay for the outside area that is sectioned off, where students aren't allowed to go if they're under 21. This was a valid question that deserved debate, whether the Food Court space should be taken over by the ASUC and made into a study lounge, eating space, music space, e.g., and not charge the vendors. That's a proposal that could be made. He asked why one space should be treated very differently than other spaces.

Mr. Tran asked if there were any legal or quantitative or qualitative differences between making it the ASUC Auxiliary's lounge versus the vendors' lounge. Mr. Spivey said Tully's space has the Stanford axe, and it's space that had to be kept clear. There's also Campus Link, a vendor that has a kiosk in that area, and that contract was still in force. The Board will vote on Campus Link that evening. There are a couple of things in that space that are programmed there by contract.

Mr. Poullard asked what their design was for Campus Link, and if they were going to put that back up in a different space. Mr. Spivey said they'll program plasma screens and kiosks. Mr. Poullard asked if that was going to happen on that wall. Mr. Spivey said that was correct. Mr. Quintin said there are three standalone units that look like ATM machines. Mr. Spivey said that space was also in use, and the Board will talk about this in item 9.

Mr. Poullard asked about the contract with Campus Link. Mr. Quintin said Campus Link was in material breach of the contract, and has been notified. Mr. Spivey said that was the next item. He was just saying it was all relational, what's in that area.

Mr. Patel asked if that meant the Campus Link kiosk will be charged for that entire space around the stairs. Mr. Quintin said that was not the case. The furniture will come out of building funds. The campus Fire Marshall didn't like upholstered furniture, so the Auxiliary was back to the drawing board. But they still intend to make that into a lounge space. That's what it was when the building was constructed.

Mr. Marks asked if Mr. Tran's question was answered as to why it couldn't be done in the Bear's Lair. Mr. Tran said it was.

Mr. Daal asked if there was a motion to extend time for this discussion. Ms. Coleman moved to extend speaking time by seven minutes. The motion was seconded by Mr. Patel. The motion to extend speaking time failed by hand-vote 2-4-0.

EXTENSION OF THE DUE DATE FOR SOB CHARTER REVISION

Amount of time extend the due date for SOB Charter revision until November 17 was moved and seconded by Ms. Coleman and Mr. Poullard.

Mr. Zuo asked if it's been hard to get people to meet to talk about this. Mr. Daal said it has been, and everybody has been busy.

THE MOTION TO APPROVE THE EXTENSION PASSED BY UNANIMOUS CONSENT.

Mr. Daal said item 8 was tabled, proposal for electronic signage sponsorship.

CAMPUS LINK UPDATE

Mr. Spivey said that Campus Link is a contract they currently have. They've had lots of trouble with Campus Link since it's been there, for three years. Campus Link has been in default of payment quite a few times. There were code problems with the original kiosk that was built against the walls in the Union. Extension cords were plugged into extension cords and roll down fire doors didn't roll down. So he took drastic action two years ago and closed it down, and brought the issue to Campus Link to rectify the kiosk. Campus Link has a new CEO and about six months ago they agreed to amend the agreement. He was the old CEO came back. Basically, the Auxiliary has gotten an agreement to have the kiosk removed and to have a group plan for large screens and pedestals for customers to use in that area. The Auxiliary engaged Capital Projects, which worked with Campus Link to demolish the kiosk. To date the Auxiliary has not been paid, and they're seeking payment from Campus Link again. Campus Link was now in breach of its contract for not building the kiosk within 60 days, per its agreement with the Auxiliary. So the Auxiliary was now at the turning point. Mr. Quintin is the Student Union Director and has been working with Campus Link, Capital Projects, and construction workers in that area to handle this project.

Mr. Quintin said they're at a junction point with Campus Link. A decision had to be made as to whether or not to continue the contract. The vendor was in serious breach and did not install things within the timeline signed in March, and hasn't paid the \$6,000 it owes to the Auxiliary. And last year the Board forgave \$10,000 of past due charges for Campus Link. Campus Link has been a very big issue, but they also have the fact that there is a new landscape in the lobby that's changing. Campus Link itself didn't have very dynamic or cutting edge content. The question was whether to keep it as a service when it really wasn't the most appropriate. Right now they just need to have a vote.

Mr. Spivey said Campus Link was in material breach, and if the Board wanted the Auxiliary to terminate the contract and work with Business Contracts, they'd seek out other venues. Mr. Quintin has been working very hard at looking for other plasma screen options and other vendors to approach. There's also a possibility of the Auxiliary going into the plasma screen business for itself, or have a vendor do it and pay the Auxiliary a percentage. The Auxiliary could come back to the Board within 30 days and give them options. But at this point, they're not sure if they'll be able to collect the \$6,000 this year.

Mr. Poullard asked about forgiving \$10,000. Mr. Spivey said that was from the year before. Mr. Poullard asked why it was forgiven. Mr. Spivey said they wanted to give Campus Link another chance. They brought the matter to the Board. But the company wasn't performing.

Mr. Daal asked what the action item was. Mr. Spivey said it was to terminate the lease due to material breach. Mr. Daal asked if there were any arguments for retaining the lease. He said they were out of time for this discussion. Ms. Coleman moved to extend speaking time by five minutes. The motion was seconded by Mr. Zuo and passed by unanimous consent.

Ms. Coleman asked if he brought the lease that Campus Link was violating. She thought Board members should read it.

Mr. Myers asked if replacing Campus Link would require an RFP. Mr. Spivey said that was a possibility, and they could actually bid this out in looking for a new vendor. Mr. Spivey said he didn't have the lease with him and would apologize for not bringing it.

Ms. Coleman moved to table this action item. She thought it was important to read the lease before making a decision. The motion was seconded.

Mr. Spivey said they have a lease, although it's not the signed document.

Mr. Poullard said he had no reason to mistrust what Auxiliary staff were reporting about Campus Link.

Ms. Coleman said it didn't have anything to do with lack of trust and it was just her fiduciary duty as a member of the Board to read all of the documents that go through there before the voting on it.

Mr. Zuo asked if they could vote on this electronically like they've done with other items. Mr. Daal said the motion was to table consideration of terminating the lease until the lease was posted on bSpace.

Ms. Coleman said they should have 72 hours before a vote was held.

Mr. Daal said that after the lease is posted on bSpace, the Board would have an electronic vote. They'd be able to vote by Friday. He said the motion was to table consideration of canceling the Campus Link contract until it was posted on bSpace for at least 72 hours, after which somebody could make a motion about Campus Link, and the Board could vote on it electronically.

The motion to table was seconded by Mr. Tran.

THE MOTION TO TABLE CONSIDERATION OF THE CAMPUS LINK CONTRACT, WITH AN ELECTRONIC VOTE TO BE HELD ON TERMINATION, PASSED WITH NO OBJECTION.

#### DAILY CAL LEASE AMENDMENT

Mr. Spivey said he submitted the proposed language for the lease amendment and distributed it. This was in conjunction with the July 13 letter, from an agreement between the SOB and Will Kane, the former



Editor-in-Chief of the Daily Cal. Pursuant to the agreements made in the letter, Mr. Spivey said he asked Real Estate Services for an amendment. He passed around Standard Amendment Lease #1 to the Board. It basically took the items in the agreement and amended the Daily Cal lease to extend the lease to 2012. It agrees that the Daily Cal rent will be \$3,860 plus Administrative Full Costing fee, which was 6% at that time, and is \$231.60. So the paper now pays \$4,091.60 as the base rent. The new lease also adds the Consumer Price Index each year to adjust the paper's rent in subsequent years. They put an electrical monitor on the meter on the 6th floor and will charge the paper for the actual electricity it uses. They'll start to use that this month. The paper will be charged \$616 for three days of custodial service, by agreement. The ASUC also has a letter of agreement to defer the rent of \$14,244.50 for the period of this extension.

The only thing that was needed on this was whether the Board wanted a pre-payment schedule for this amendment, or if they wanted a lump sum at the end of the lease. Real Estate Services has asked for a payment schedule. If they look at the second page, it says "deferred rate repayment schedule inserted here." So the Board had a couple of options. It wasn't very clear in the letter as to when the rent would be collected. It basically says the paper could pay it back at any time with no interest. The paper did not say when it would do so. Mr. Spivey said it was his feeling they should amend the lease to say that that money was due the day of the expiration of the lease. That would mean a lump sum payment on September 30, 2012.

Mr. Spivey said he would recommend that the Board approve this amendment to the lease that was negotiated by the Board and to insert a repayment schedule to make it due in a lump sum at the end of the lease, September 30, 2010.

Mr. Zuo moved to approve. The motion was seconded by Mr. Myers. **THE MOTION TO APPROVE THE STANDARD AMENDMENT OF DAILY Cal LEASE, TO EXTEND THE LEASE TO SEPTEMBER 30, 2010, WITH A LUMP SUM REPAYMENT ON THAT DATE OF PAST DUE RENT, PASSED WITH NO OBJECTION.**

Mr. Daal said that concluded their agenda.

Mr. Spivey said he would like to collect the RFPs that people had.

Mr. Myers said that he would like the record to show that if faculty stay on the Board, they get a Nobel Prize, which he was looking forward to.

This meeting adjourned at 7:57 p.m.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary

DECISIONS OF THE BOARD

Procedures

- Sept. '09 Heard a presentation from Business Services on RFP procedures.
- Sept. '09 Voted to have \$20,000 from ASUC reserves, held by the Auxiliary, to be used for the Lower Sproul campaign.
- July '09 Welcomed to the Board Prof. Myers and Dean Poullard.
- July '09 Elected Mr. Rajan and Mr. Poullard as Chair and Vice Chair.
- July '09 Established a subcommittee to consider amendments to the SOB Charter and By-laws.
- July '09 Approved an operating principle of perspective vendors submitting an ROI to the Auxiliary before having the matter come to the Board.
- May '09 Welcomed Mr. Zuo and Ms. Coleman to the Board, undergrad reps in two-year and one-year terms respectively.
- May '09 Approved proposed changes to the CAA that would have the ASUC and the GA share commercial revenue.
- Dec. '08 Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07 Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07 Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07 Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07 Mr. Smith's first Board meeting as undergraduate representative.
- May '07 Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06 Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.

Procedures (cont'd)

- Nov. '06 Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06 Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06 Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05 Mr. Dally joined the Board as undergrad representative.
- Dec. '05 Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05 Elected Ms. Putnam-Smith as Chair of the Board.
- June '05 Voted to have committees, after the August meeting, agree upon meeting Times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.
- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.

Procedures (cont'd)

- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

Vendors

- Oct. '09 Extended the lease of Healthy Heavenly Foods through May, 2010.**
- Oct. '09 Extended the Daily Cal lease to September 30, 2012, adding CPI and electrical monitoring.**
- July '09 Approved a one-year contract extension for the Daily Cal, through 2012.
- July '09 Approved Mr. Zuo as SOB rep to sit on the Daily Cal Board.
- July '09 Voted to present the SOB's contract to Food Court vendors, and to go to RFP if the terms were accepted.
- May '09 Approved an amendment to the Naia lease, to allow the sales of sushi and salads, with Naia to reopen in the fall.
- May '09 Approved a five-year lease extension for CALPIRG, with new lease terms.
- May '09 Voted down approval of the proposed Panda Express contract.
- May '09 Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.
- May '09 Revised the agreement with CampusLink to end its monopoly on Student Union advertising.
- May '09 Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.
- April '09 Amended the Panda Express contract and voted to renegotiate.

Vendors (cont'd)

- April '09 Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09 Approved the Tully's Coffee contract.
- Feb. '09 Voted to approve the CUBS contract.
- Feb. '09 Voted to move forward with the Tully's contract.
- Jan. '09 Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08 Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08 Approved Action Vending proposal to increase vending prices.
- Sept. '08 Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. '08 Heard the terms of a possible Panda Express contract.
- June '08 Approved the concept of bringing the Brazil Café to the ASUC.
- June '08 Approved a Letter of Intent to negotiate with Panda Express.
- May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07 Heard a presentation by CUBS.
- Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06 Approved a five-year lease option exercised by the Jupiter Pub.
- Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
- Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.

Vendors (cont'd)

- Sept. '05      Approved use of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05        Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05      Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04        Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04        To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04        Approved a five-year extension for the STA Travel lease.
- June '04        Approved the Resolution In Support of Follett Contract Performance Review.
- June '04        Approved changes to the terms of the Pub's lease.
- April '04        Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04      Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04      Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04      Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04        Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04        Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03        Heard from John Martin, operator of the Pub.
- Nov. '03        The Daily Cal lease was signed, and printing of the ASUC government page began.

Vendors (cont'd)

- Nov. '03 Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03 Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03 Approved a five-year lease with the Daily Cal.
- July '03 Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04 Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. '04 Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04 Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03 Formed a subcommittee to further consider the Daily Cal lease.
- May '03 Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- May '09 Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.
- Dec. '08 Work began on the seismic retrofit of MLK.
- Oct. '08 Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.
- June '07 Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.

Student Union / Pauley Ballroom

- May '05 Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05 Voted to explore options for the expansion of the Art Studio.
- Oct. '04 Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03 Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- July '09 Approved the 2009-10 Auxiliary budget.
- April '06 Approved the 2006-7 Auxiliary budget.
- April '05 Approved the 2005-6 Auxiliary budget.
- Sept. '04 Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.
- May '04 Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
- April '04 Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.
- Feb. '03 Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."



Budget (cont'd)

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|----------|--|
| June '03 | A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.   |
| May '03  | Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in |

## STORE OPERATIONS BOARD MINUTES

November 17, 2009

Present: (Members and others)

Haitham Alloun (Coffee Spot)	Eunice Kwon (Senator)	Nish Rajan (Board member)
Rebecca Coleman (Board member)	Oscar Mairena (fmr. Senator)	Chaney Saephan (Senator)
Ron Coley (Board member)	Matt Marks (Student-at-large)	J. P. Shami (Senator)
Miguel Daal (GA President)	Arnoldo Marquez (Taqueria)	Will Smelko (ASUC Pres.)
Lean Deleon (Senator)	John Myers (Board member)	Tom Spivey (Auxiliary)
Richard Esquivel (community mbr.)	Christina Oatfield (Senator)	John Tran (ASUC AAVP)
Christopher Franco (Senator)	Alberto Ortega (Board member)	Tu Tran (ASUC EVP)
Anish Gala (Senator)	Rahul Patel (Senator)	Anna Vu (Healthy Heavenly)
Chris Kantor (Community member)	Nadesan Permaul (Auxiliary)	Yishi Zuo (Board Member)
Minji Kim (Senator)	Jonathan Poullard (Board mbr.)	

### **SUMMARY OF THE MEETING**

The meeting was called to order 6:03 p.m.

#### Public Comment

Alex Dubilet said he and a lot of students at the meeting were there to express their support for Bear's Lair businesses. People wanted answers to all of the questions posed to the SOB.

Richard Esquivel, President of La Raza Networks, a civil rights organization said these blue-collar, minority vendors had a 20-year history there. The process was non-transparent. The businesses were offered leases designed to make them fail. They were already paying market rates, from a report given leadership but not to the entire Board. He was asking for a review of the entire process that, and has asked Regent John Garamendi to investigate.

Mr. Rajan said he would recognize ex officio member's motions, but would require their motions to be seconded by a member.

It was noted that people in the Food Court who were making banners would be kicked out at 6:00 by the police. A question was raised as to whether the Board could prevent that.

Continuing public comment, Jessie Hock this issue that affected students immensely, with food quality and affordability and the type of businesses the campus supports. People will publicize what was happening and should have input to avoid any sort of confrontation.

A motion was made to keep the Food Court open. It was noted that the motion violated the terms of current leases and that while the Board didn't have that authority, a recommendation could be made.

Matt Marks asked who advocated the police to, at 6:00, evict people from the Food Court. He asked why a 2007 report suggesting these vendors were paying market rate was hidden from the Board; why Starbucks in a survey was said to be voted number 1, when it was actually the Coffee Spot; and why there was no bid process for Tully's. Leadership has lied to and manipulated the Board, and withheld information.

Ann Vu said it was really unfair for her. She wanted a long-term lease and would pay what Tully's pays.

Haitham Alloun said he was the longest tenant of the ASUC, since 1987. He wanted to thank the SOB and the Auxiliary for his lease extension, up to five years. He was very happy with his new terms.

Arnoldo Marquez said there seemed to be an intention of leadership to get businesses to leave. They were given a 125% price increase for new leases. Tully's has more space than Food Court vendors. They were denied leases for three years, and couldn't spend for renovations.

Chris Kantor said that if the Board prioritized process over decency, the people there wouldn't show the Board decency.

It was noted that people were welcome to speak to any member of the Board.

A motion to extend public comment for five minutes passed by hand-vote 5-4-0.

Juan Garcia said he was a member of the Executive Board of CUE, which will show its support for the Food Court.

Maria Goodridge said students on strike were refugee to accept the privatization of the campus. The Bear's Lair Food Court was part of their community.

A motion to extend public comment by three minutes passed by hand-vote 5-4.

Vincent Lui wanted access to Bear's Lair food services and their high-quality food. The ASUC Auxiliary has not been representative of students and hasn't performed its tasks according to the ASUC. It's been a very hidden process, similar to contract negotiations with Panda Express. More input was needed from students.

#### Presentation on Bear's Lair Leases and a Response to Ahn Vu's Points In The Daily Cal

Mr. Permaul said the Board asked about the process of offering leases to Food Court vendors. Student members of the SOB that past year negotiated terms to the vendors, which were offered to each vendor in June '09. Two vendors accepted the terms and one didn't. The two vendors were concerned with the length of the lease, extension options, and months of partial payment. The Board adjusted the lease to extend its length and altered option and the months of partial payment.

In October, the Coffee Spot signed. The other vendor who had accepted the terms in June decided not to sign, and was given a month to express any concerns; and he did not. One week prior to the deadline, the vendor asked for an extension, and the Board granted a week. No concerns were brought to the Board.

Healthy Heavenly Foods did not agree to the lease and the Board noticed Ms. Vu in the summer that her lease had expired and her space would be available for RFP.

The Tully's contract was negotiated and approved by the Board before terms were offered to vendors. All leases are distinct and are based on a variety of factors, such as costs for improvements, risk, location, and other conditions. Tully's paid up to \$150,000 for physical improvements to a location that had never been used commercially before.

The Board unanimously approved terms in September '08. In May, each vendor told the Board months they'd be happy to make significant physical improvements and pay larger rents. Based on those promises, the Board overturned its December 2008 decision to go out to bid and negotiate new terms.

An all-student subcommittee discussed terms and presented them to the Board. These were the terms offered in June '09.

Vendors proposing to strike have ovens and hoods, and they cook there. The equipment creates costs that not all vendors have.

A question was raised as to why the Food Court was closed at 6:00 with the backing of the police force. The response was that the leases stipulate how the Food Court may remain open. There's a process.

Continuing the presentation, cost per square foot was: Healthy Heavenly Foods, \$2.32; Taqueria, \$2.11; Coffee Spot, \$2.35; the Pub, \$2.10; Tully's, \$50.00; Naia, \$1.11; CUBS, \$27.78.

These amounts are based on square footages. Food Court vendors only pay full rent for eight months, and pay 50% for four months.

Square footage was: Tully's, 60; Healthy Heavenly, 420; Taqueria, 620; the Coffee Spot, 440; the Pub, 2,208, Tully's, 60; Naia, 210, CUBS, 90.

In response to a question, Tully's square footage didn't include the Pauley kitchen space Tully's renovated and uses, and didn't include the seating area. The kitchen belonged to the ASUC.

A question was asked why rents were doubled if an '07 report by Mr. Spivey said price per square foot should be \$2.75. The response was that no rents approach \$2.75. Vendors pay for other things like utilities, access to a common area, and the custodians. Some pay other costs such as fees associated with Environmental Health and Safety for cooking.

A suggestion was made that numbers being given weren't right.

Previous base rent was: Healthy Heavenly Foods, \$1,707; Taqueria, \$1,707; Coffee Spot, 3,413. Current base rent was \$3,895.50

It was suggested that a figure of 60-square feet for Tully's was too small, and that numbers being presented were wrong. A question was raised as to where the square-foot numbers came from.

It was suggested that the '07 report from Mr. Spivey contrasted the information that the Board was given and was never given to the Board. In response, it was noted that the Board got the report two years ago, to other Board members. And it was amended in a report the Board received from Brailsford & Dunlavey that past spring.

#### Presentation by Nick Peterson, Capital Projects

Nick Peterson, Project Manager in Capital Projects, reported on seismic work to be done in MLK and Eshleman. The Student Union was currently seismically "poor."

The Tilden Room was not adequately tied to the rest of the building and the north end of Pauley Ballroom was not adequately braced.

Work on King will commence at the beginning of the Summer Session, to be finished three to four months.

The 3rd floor was the most significantly visible portion for improvement. The 4th floor will not have any real impact. Work will be done in the meeting rooms, which was why they'll work during the summer.

Work in MLK will start in late May, 2010 and hopefully be done in October.

For Eshleman Hall, it was rated "poor." Lower Sproul could be re-done, but Eshleman will probably be around for the next four to 12 years. At some point it will be replaced. It was built in '65, before good earthquake code. "CalTrans wraps" will go around the columns.

A couple of minor improvements will be done on floors 2 through 6.

There was now a 6.2% probability that in ten years, Eshleman will fail in an earthquake. With the ten column jackets, they reduce to 2.6%, and reduce it to 1.9% all measures are done. A new building would have a 0.5% probability of collapsing in the next ten years.

MLK is an historically significant building and as much as possible will be kept. It won't be removed like they want to do with Eshleman. It will be brought up to a seismically "good" level.

Money put into MLK for the seismic upgrade will remain and become long-term value, no matter what happens with reconfiguring Lower Sproul.

Seismic work will have a minimal impact on the Food Court that will be scheduled with the occupants.

If they knew Lower Sproul will be re-done, the retrofits wouldn't be done any differently.

Most work in Eshleman will be to the exterior. The building will remain fully functional while work goes on.

#### Scope and Composition of the Food Subcommittee

A motion was made to establish Food Subcommittee to establish more stable relations with vendors, tasked with calculating fair market rent, utilities, fees, CAM, etc. and to design criteria to achieve parity across all leases in future negotiations.

It was noted that in the spring, the Board engaged in speculation on CAM, utilities, etc., things it had no expertise in, that they ended up with a flawed model. There was concern that the motion would engage the Board in operational elements of the businesses, which it had no expertise to do. The Food Subcommittee might, e.g., investigate the quality of services being provided.

It was noted that this subcommittee would deal with negotiations between the Auxiliary and vendors. The Board was asked by various constituencies to step in.

A concern was expressed that this was a duplicative process that could also create a confrontation between the Auxiliary and the Board. The responsibility of the Board was to establish policy and assess performance and standards, not ascertain business practices.

By a vote of 5-4-0, the Board voted to establish the Food Subcommittee.

A motion was made to nominate all Board members to be done the Subcommittee, while also identifying point people.

A request was made to have a student-at-large member on the Subcommittee.

There was a question whether this would create two parallel processes at the same time. In response, it was stated that the Subcommittee would provide information to set policy.

The motion to have all Board members part of the Subcommittee failed 2-6-0.

A motion was made to comprise the Subcommittee with a student member of the Board, a student-at-large, a faculty member, and an administrator

A motion was made to add an Auxiliary administrator to the Subcommittee.

By a vote of 5-4-0, a five-member Food Subcommittee was established, with a non-Auxiliary administrator, a student-at-large, a student Board member, a faculty member, and an Auxiliary rep.

It was noted that students had a lot of questions for the SOB. It was suggested that the President and the Executive Director set up different times when students could meet with them.

It was suggested that the SOB may be working with bad numbers

A motion to extend time for public comment failed by hand-vote 2-7-0.

#### Report from the RFP Criteria Subcommittee

The Subcommittee that weighted RFP elements met and will have a motion to the Board at its December meeting.

Allocation of \$30,000 from the Auxiliary Reserves for a Pricing Study of Lower Sproul Maximum Build-Out Options

Build-out options for Lower Sproul that students were proposing would increase student space by tens of thousands of gross square feet. These options were eliminated in January, 2009 by the Design Review Committee. But Capital Projects was willing to consider returning these options, an extra floor to the Eshleman replacement and an extra floor to the structure going around MLK. A feasibility study would cost \$30,000.

By a hand-vote of 9-0-1, the Board approved the allocation of \$30,000 from Auxiliary reserves to study Lower Sproul maximum build-out options.

Closed Session to Discuss the Bear's Lair Strike and the Board's Response

The Board met in closed session to discuss the Bear's Lair strike as well as CUBS and CALPIRG.

With no objection, the Board approved a 50% reduction in CUBS' rent for the summer months it was closed.

With no objection, the Board approved charging CALPIRG a \$500 deposit for its site.

It was noted that CUBS' 50% reduction was because CUBS didn't have access to the space due to University issues.

Regarding the strike by Food Court vendors, the Board will ask the vendors about their intentions and based on that, formulate a response.

With no objection, the Board approved a letter to Mr. Marquez offering a lease extension for the Taqueria through May.

This meeting adjourned at 8:54 p.m.

**End Summary of the Meeting**

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This regular meeting of the Store Operations Board was called to order by Nish Rajan at 6:03 in the Senate Chamber.

Mr. Rajan said that if any people had comments they wished to make to the Board, he would ask them to please give their name to Mr. Poullard. They're keeping a speakers' list.

## PUBLIC COMMENT

Mr. Rajan said the floor was open to public comment.

A speaker asked about the agenda. Mr. Rajan read the agenda items the Board would cover.

Mr. Poullard said the first speaker was Alex Dubilet.

Mr. Dubilet said this was the first time he's been at a Board meeting. He and a lot of students at the meeting were there to express their support for Bear's Lair businesses. He was curious, as were many people there, about answers to all of the questions posed to the Store Operations Board. If these questions could get answered during this meeting, as a graduate student there and as a patron of these businesses, he would really appreciate it. These are questions that are of concern not only to the businesses that they all love and patronize, but were also questions of corporations versus small and local businesses. He thought it would be nice to get answers to questions, and if that happened, he'd really appreciate it.

Mr. Poullard said the next speaker was Richard Esquivel. Mr. Esquivel introduced himself and said he was President of La Raza Networks, a civil rights organization in Northern California. The vendors have a 20-year history there. They're blue-collar, minority vendors who have been involved in a process that was formally non-transparent. Mr. Esquivel said he's an Hispanic 500 business owner and he wanted to be a Fortune 500 owner. That's why he was in the Bay Area. This whole process was about information that was given to the Board by the leaderless efforts of the Directors who run this. If these businesses were offered leases that were designed to make them fail, the outcome was obvious. Unfortunately, what was not obvious was that ASUC leadership has not been given the information.

First, the vendors already were paying market rates. That was from a report that was given to ASUC leadership, but not given to the entire body. The vendors counter offered with a proposal to pay what Tully's was offered. And Tully's has a 20-minute history there. And that was a counter to what Naia's was currently paying.

Mr. Esquivel said the vendors, in a recession, were being asked to pay a percentage of profits. People can't pick up a copy of the Daily Californian without seeing mention of the affects of the recession. Apparently, ASUC leadership didn't know about it. The Daily Californian, which was in this building, got a 50% reduction in rent. The vendors weren't asking for subsidies and were asking for a fair and transparent process.

Mr. Esquivel said he was asking for a review of the entire process that, to date, has been totally non-transparent. He's asked John Garamendi to investigate. Mr. Esquivel said he will share e-mails with Mr. Garamendi's office about what this process has been to date. It has been bogus and was designed to offer these vendors a ticket to the outside. And they deserve better than that. He wanted to thank them.

## APPROVAL OF THE AGENDA



Mr. Rajan said they would interrupt the public comment to approve the agenda. All members should have a copy.

Ms. Oatfield said that per a request from a student, she would move to hear Auxiliary Director Permaul's report before hearing any further public comment so that people who participate in the public comment could have more directed and constructive comments for the Board.

Mr. Poullard said that Ms. Oatfield wasn't a Board member. Mr. Rajan said she was an ex officio member, so he would recognize ex officio member's motions; but he would require those motions to be seconded by a member of the Board. And of course, ex officio members would not vote on any issue at hand.

Mr. Rajan said he would second the motion to move Mr. Permaul's presentation before the 25-minutes that remained for public comment.

Mr. Permaul said his report that evening consisted of three comments about perspective businesses coming to the ASUC that were not currently there. He wasn't sure what the value might be to hear his report at that time.

Ms. Oatfield said she would rescind her motion.

Mr. Rajan said he would like to amend the agenda by adding an item 8), a closed session discussion of the current events around the Bear's Lair Food Court. The amount of time was open-ended, and he'd put it at 20 minutes. The motion to amend the agenda was seconded by Mr. Tran and passed with no objection. THE MOTION TO APPROVE THE THAT EVENING'S AGENDA, AS AMENDED, PASSED WITH NO OBJECTION.

Mr. Patel said it's been brought to his attention that there were folks in the Bear's Lair Food Court making banners that were going to be kicked out at 6:00 by the police, who were going to lock the doors. He asked if he could make a motion to prevent that from happening.

Mr. Rajan said he wasn't sure if that was within the purview of the Board. Mr. Patel said he just wanted to make sure that it doesn't happen. He didn't know if this was within the purview of the Board or not. Mr. Rajan said he didn't believe it was within the purview of the Board. He believed it had to do with the legal, contractual details of the lease itself. He'd assume the people who were executing the order to close the Bear's Lair were doing so under some legal issue. Unless Mr. Patel could specifically point out some violation, Mr. Rajan said he couldn't move forward on that.

A speaker asked if the Board could make a motion to not close the Food Court down. Mr. Rajan said it could, and that would have to be made and seconded by a member of the Board. He needed to hear a motion or they'd return to public comment. Seeing no motion, he said they were back in public comment.

PUBLIC COMMENT (cont'd)

Mr. Poullard said the next speaker was Jessie Hock. Ms. Hock said she would like to speak as a member of the Berkeley student community and on behalf of that community. This was an issue that affected students immensely, whether or not they knew about it. The first way was the quality and affordability of the food that was available to them on campus. The second had to do with the environment on campus and the type of businesses and entrepreneurship the campus supports, and the type of communities the campus supports. The third way was something that has been said before, about the transparency of the process going on with regard to contracts being decided for the Bear's Lair.

As a Berkeley student, Ms. Hock said she wanted to eat food that was healthy and affordable, and she wanted to know how the vendors got there. People in the Berkeley student community at-large don't know what was happening there. They don't know about the contracts being made. This information hasn't been publicized. What's happening wasn't transparent. If students knew more about this they'd be doing something about it. What she could promise to the Board and to everybody there was that whatever happened in the course of these decisions, if large corporations are put in, the student body would learn about it and will protest it. She didn't believe that the students of UC Berkeley will stand by as they are fed unhealthy, unaffordable food served to them by the employees of large corporations instead of small business owners running their own businesses, making diverse and healthy food at really low prices. People will publicize what was happening. It was the responsibility of the Board and of everybody on it to make this information transparent now, to involve the community in discussion now, to let people know what was happening, and to let them have input, so that this doesn't turn into any sort of confrontation and so they could all create the community that they want at this University. If that didn't happen, it will be publicized and there will be protests. She, for one, will not buy food from a Starbucks where there is now Taccontento, or where there is now the Coffee Spot, or Healthy Heavenly Foods. And there are thousands of students who will similarly not do that.

Ms. Coleman moved to keep the Bear's Lair Food Court open. She said the motion was consistent with the Board's Charter in that the Board had oversight over all ASUC commercial operations. So the motion was within their power.

Mr. Rajan said a motion was made to keep the Bear's Lair Food Court open past 6 p.m.

On a point of order, Mr. Permaul said that was in violation of the terms of the leases that currently exist with the Food Court. The Board did not have the authority to impose itself on existing lease language. That would be inappropriate.

Mr. Rajan asked if that applied to even a recommendation. Mr. Permaul said a recommendation could be made.

Mr. Rajan said the motion was to recommend that the Bear's Lair Food Court stay open past 6 p.m. He called for a second. The motion died for lack of a second.

Mr. Rajan said they would return to public comment.

Mr. Poullard said the next speaker was Tetsuya. Tetsuya said he came to the meeting because he went to Healthy Heavenly Foods and the lady there was nice and he enjoyed the company. He hasn't even been

going there very long, since maybe last semester. The lady said her lease was \$3,000 and was being raised to \$6,000. She said she would give him chicken soup, the best. Last year people were thinking of selling it off to Panda Express. They're giving her a hard time all the time. It would be terrible if she went and if her food went. Tetsuya said he came to the meeting for her and her food.

Mr. Poullard said there were no other speakers and asked if anybody else would like to make a comment.

Matt Marks said he would like to ask who advocated for the police to be brought at 6 o'clock to evict people from the Bear's Lair Food Court that day. That's never happened before. All of a sudden, now that people in the Bear's Lair Food Court wanted to make banners in solidarity with the strike, and wanted to open up the space, after the Board has told the vendors it wanted them to be open later, the police were called. Either Nad Permaul or Tom Spivey told someone to go do to the Food Court and tell people that the police would be brought there to kick them out. Mr. Marks said that was unacceptable. That was students' space. The Auxiliary had no control over what happened in students' space. Students let them have control. The Auxiliary was really on the precipice of not being legitimate at all.

People need answers as to why a report from 2007 was hidden from the Board that suggested that these vendors were paying market rate, and proved they were the highest paying vendors in the whole Food Court. People need answers as to why Mr. Permaul said that Starbucks was the number one coffee spot voted in the survey, when the actual winner of that survey was Haitham Alloun. Board members have that survey in their possession.

Mr. Marks said that people need to know why Tully's got to come in with no public bid process, as required in the Commercial Activities Agreement, which was violated. And Tully's was given a first right of refusal for all future coffee spaces. That violated the CAA for nine years. And this Board approved that unanimously. And now, they're using the RFP with police to actually evict vendors who have been there for 20 years. They haven't used an RFP where it was required, and now they're saying they have to use the RFP where it wasn't required at all. And they're using police in student space to go against student wishes. As far as he was concerned, Mr. Marks said the Board had one chance to redeem itself that evening. He thought before public comment went on, they need answers to some of these questions. These questions have been asked and they've never been answered. This shouldn't be a place where people come in and speak to a void, where Board members take it in and then ask them to leave. He wasn't leaving that evening until these questions were answered. He didn't understand what was going on there. The vendors have offered the exact same contract as Tully's, plus a little more. And the Board wasn't letting them do it. But with Tully's, they're quoted in the Daily Californian as it being a great contract. It looked like what was great was that a corporation could come in, but with a small, immigrant owned and operated business, that offers a better contract, then the response was no, that they had to have an RFP. That was exactly what happened. Quote "rules and regulations" were supposed to be applied impartially, but they're applied very partially. And certain people win and certain people lose. And that wasn't okay in student space. He really thought the Board could choose.

The campus was about to have a three-day strike, and Mr. Marks said the Board could either strike against their own student space and kick people out, or join people and strike against UC together. But they shouldn't go down with the ship. Mr. Permaul and Mr. Spivey have lied over and over again. They've manipulated the Board, have withheld information, and have violated the Commercial Activities

Agreement; and the Board could not claim ignorance. They now know, and they have the responsibility to vote accordingly.

Mr. Rajan said that people attending the meeting could not take over the meeting. He would ask them to please give the Board a chance. He said Mr. Alloun was the next speaker.

Ann Vu said it was really unfair for her, like Mr. Marks just pointed out. She thought the owners support her. He came to her place and talked about the price she had to pay, and said it was ridiculous, and was an unfair contract. He told her she couldn't accept it. She would beg them. She's a slave. She wasn't fighting for something, but she wanted to have a fair contract, and just wanted to pay like Tully's pays, for a long-term lease, nine or ten years. She'll pay what Tully's pays. She wanted it to be fair and she didn't want a cheap lease. She wanted to continue. She gave up her contract in July because she couldn't stay longer, until midnight. She gave up her business three months ago.

The students need a place to do something, and the police came and kicked them away. She thought that was ridiculous. They have to support the students as much as they could, and it was the students who were suffering. They were increasing the students' fees 30%, and were increasing her vendors 125%. She asked how the student would survive, and thought they'd die. America was going down. She didn't think it was a good idea for the government. She didn't speak English well, but she couldn't get the reason to not support the students. She will close the business in one week and supply food for the students to go on strike. She wanted to thank them very much.

Mr. Poullard said the next speaker was Haitham Alloun. Mr. Alloun introduced himself and said he had a written statement to read. He's been a vendor of the ASUC Food Court since 1987. He was the longest tenant of the ASUC, and the Coffee Spot has provided food service and good cheer to Cal students for over a generation.

Mr. Alloun said he was there that evening to thank the ASUC Store Operations Board and the Auxiliary for the extension of his lease, to remain for up to five years, and hopefully beyond, at the Student Union. He recently signed a lease, and he wanted to tell the Board that he was very happy with his new lease and its terms. He looked forward to planning his renovation and has hired an architect to do that. He also wanted to respond to allegations that were made in the Daily Cal about supposedly bad, backroom deals between himself and the ASUC Store Operations Board. Nothing could be further from the truth. As the Board knew, when he came before the Board initially, he and others said they were prepared to pay more rent and to make improvements in their businesses. And he has lived up to those comments to signing his lease. No hanky-panky business has taken place in his part, and he resented any suggestion from any of his neighbors in the Food Court that he was a traitor or a puppet. He knew what he was and knew what he was doing. He's a successful businessman there, and has other locations and other businesses in Oakland. He knew a good deal and a fair deal when he saw one. So he was very happy with his lease terms.

Mr. Alloun said that again, he was saying this for himself only. He didn't speak for his neighbors and spoke for his business and for what he's been doing there for a generation. And again, he wanted to thank the Board very much for the opportunity for him doing business there. He had nothing else to say. Actually, he had a lot of things to say, but he thought he'd pass on that. He wanted to thank them for the opportunity.

Mr. Poullard said the next speaker was Arnolando Marquez. Mr. Marquez introduced himself and said he's been the owner of the Tacontento business in the Bear's Lair for the last five years. It's a business that's been in his family for a total of 20 years. Along with Ann Vu and Haitham Alloun, they have provided food for reasonable prices on the Berkeley campus for 20 years. They all have been put through a very difficult process by ASUC leadership in order to keep their businesses open. There seemed to be an intention of that leadership for getting the businesses to leave and to not continue their businesses.

Mr. Marquez said the businesses there were told that they would be invited to be in their spaces and given 125% price increase for their new leases. There was an attempt to bring Panda Express to the students. The businesses, pre-existing minority vendors, were being asked for price hikes that would increase their average business costs to over \$6,000 monthly. Tully's coffee was given a contract without a bidding process for a total of nine years, with provisions that were not offered to Food Court businesses. Tully's, which has no experience on campus, was given more space than was given to Food Court vendors in the initial leases for a rate at \$3,400 a month. Tully's was given a delay in profit sharing while Food Court businesses were being asked to pay a percentage of profits now, and to reach a minimum of \$400,000 in sales per year. Naia and other businesses in the Bear's Lair were allowed to close for over a year, in violation of their leases. Naia was now paying about \$2,800 and has more space than Bear's Lair businesses currently have, with similar long-term guarantees in the lease and no provisions to share profits.

Mr. Marquez said the current vendors, including himself, were denied long terms for three years. It would be difficult for any established business to look at spending money for renovation without the same lease terms that were offered to a new corporation. It was an example of illegitimate leadership trying to run the businesses in the Bear's Lair out of business. The Daily Californian was given a 50% reduction in its rent due to the economy. Apparently everyone was aware of the fact that the economy was in a recession except for the leadership of the ASUC Auxiliary. The Board directed the request for a contract that would run the vendors out of business. A report that showed the vendors were currently paying market rate was not provided to the Board. There has been a lot of information not provided to the Board, and vendors weren't being offered similar contracts to new vendors that had little history serving the UC community. Mr. Marquez said the vendors wanted to thank all of the community members who have supported them in their efforts to have negotiations. Contracts have been offered to corporations that don't have the history vendors have. Anything less than a fair and open process was an attempt to run vendors out. Vendors have all worked very hard over the first 20 years to maintain businesses that provide a cultural food experience for their diverse Berkeley community at affordable prices. They hope to continue their businesses, by letting the public know that they have been involved in a process that was very unfair to them. He wanted to thank the board very much for the opportunity to speak to them.

Mr. Poullard said the next guest speaker was Bradley Wolf. Mr. Wolf introduced himself and said he was a senior there. He's been going to Tacontento for the past four years. The thing that was really different about the restaurant was that they treated him like a person, not just a number. Mr. Wolf said he knew they were in a recession, but he would implore the Board to reconsider the actions taken against the vendors, and to give them an opportunity to further their businesses, and to reward, enable, and protect the friendly atmosphere.

Mr. Rajan said the time for public comment was closed. Ms. Coleman moved to extend public comment by five minutes. The motion to extend public comment died for lack of a second. Mr. Marks said this was bullshit. Mr. Rajan asked him to hold his comments.

Chris Kantor said a lot of people were in the room in support of these businesses. And it was those people who were in control of the meeting. He asked people to stand up if they support businesses in the Bear's Lair, the immigrant-owned businesses being pushed out. This wasn't about process. If the Board prioritizes process over decency, the people there wouldn't show the Board decency. The Board was part of this community. If they want to walk this campus with them, they should look speakers in the eye and listen to them when they speak to the Board. There are people there who want to speak. The Board will hear them, and will hear them because the people there will make the Board hear them.

Mr. Rajan said people were welcome to speak to any member of the Board. This was the incorrect forum. The Board was entrusted with enacting business. The Board has dedicated 25% of its agenda to public comment. He would ask people to please allow the Board to do the business it needed to do to make this a successful University.

A speaker asked if five minutes more of public comment was too much.

Mr. Tran said he would second the motion to extend public comment. The motion to extend public comment by five minutes passed by hand-vote 5-4.

Juan Garcia introduced himself and said he was an alumni of UC Berkeley. He graduated last year and went there for three years. He was also a member of CUE, Clerical University Employees. They are the ones who called for a three-day strike. He wanted to extend his support to the Bear's Lair Food Court and to Tacontento and Healthy Heavenly Foods. CUE was also facing all of the same questions to the University that they work for. CUE has been trying to bargain in good faith for over a year and has offered a pretty rational contract, and the University has refused to bargain with them. The University offered its last contract, and it was really unfair. CUE was okay with furloughs, which is a salary reduction program, but the campus hasn't promised the Union not to have layoffs. So CUE has moved for an unfair labor practice. And it looked like the Bear's Lair Food Court has also moved that as well.

Mr. Garcia said the ASUC had the power to change this, and it didn't have to do what the University has chosen to do. CUE will not stop its actions. As a member of the Executive Board of CUE, Mr. Garcia said he was at the Board meeting to show his support. If the Board doesn't support the vendors, CUE will also try its best to show its support for the Bear's Lair Food Court, which has also chosen to strike in solidarity. So they were there for them, as the vendors were there for the strikers. He hoped the Board kept in mind that this question will not end that evening, regardless of what happens, and CUE will keep on fighting.

Mr. Poullard said there was one more speaker. Maria Goodridge introduced herself and said there was a strike on Wednesday because their University was being privatized. The students of the ASUC Auxiliary were supposed to represent the students. What the strikers were representing on Wednesday was the refusal to accept the privatization of their campus. Shutting out underrepresented communities, the Bear's Lair Food Court, was part of their community. The community was in solidarity with them. The strikers were fighting for what was right. If the Board acts against this, they would be acting against everything they're supposed to represent. She would ask them to keep that in mind. If the Auxiliary privatizes those food spaces, they might as well be a UC Regent.

Mr. Rajan said that public comment was closed.

Presentation on Bear's Lair Leases and a Response To Ahn Vu's Points In The Daily Cal

Ms. Coleman moved to extend public comment by another ten minutes. Mr. Tran moved to amend the motion, and to extend by three minutes. The motion was seconded by Mr. Smelko and passed by hand-vote 5-4.

A speaker said she wanted to hear the rationalization for why the Bear's Lair Food Court would be asked to be open later than 6:00 on some occasions and then today, was forced to be closed at 6:00. That was all she had to say.

Mr. Rajan said that as a point of information, if people would like specific questions answered, they should approach a member of the Board and ask them to ask them.

Vincent Lui introduced himself, and said he was a fourth-year transfer student. He's wanted to have access to Bear's Lair food services. They offer high-quality food. They're immigrant-owned businesses. He thought before the process moved forward, they had to make sure the process was fair and public. Just looking at allegations made that the process has been undemocratic and that survey results were unfairly modified shows that the ASUC Auxiliary has not been representative of students and hasn't performed its tasks according to the ASUC. It didn't make sense that it would go against student interests seeing that the ASUC, by definition, was supposed to be representative of the students. He thought that it has been a very hidden process. Similar analogies can be made to the process with contract negotiations with Panda Express, which students rejected last semester. And now the Auxiliary was trying the same tactics again. He asked how far the Auxiliary thought it could make it to bring corporate businesses in without having student input and making sure students support the new businesses. If they don't have student support, he asked if the campus or students would really benefit. It would be a bad business practice to bring in a business that couldn't be supported by Students. He thought that more input was needed from students, and to make sure that the process was transparent enough so that they could all see that their interests were represented and that people were being treated fairly. They should make sure they were doing their job in the right way, using the right business ethics.

Mr. Rajan said public comment was now closed and they would move to the next item on the agenda.

PRESENTATION ON BEAR'S LAIR LEASES AND A RESPONSE TO AHN VU'S POINTS IN THE DAILY CAL

Mr. Permaul said the Board asked him to prepare a presentation on the process that the Auxiliary went through to offer leases to the ASUC Bear's Lair Food Court vendors. So he would recapitulate what came out of the minutes of the Board's meetings.

The Store Operations Board voted to offer terms to the Food Court vendors, which the students on the Board, that past year, negotiated. These terms were offered to each vendor in June of 2009 by the Auxiliary in the presence of two Board members, Chief Victoria Harrison, and former student Co-Chair, David Rhoads. Two of the vendors accepted the terms; and one did not. They were asked at that time by the Board if there were issues or concerns. The principle concern expressed to the Board by the two

vendors who accepted the terms was the length of the lease, the extension options, and the number of months of partial payment when school was not in session. The Board adjusted the lease language to extend the length of the lease and to alter the terms of the option and the months of partial payment.

In October, after the language was completed by the campus, one of the vendors, the Coffee Spot, signed. The Auxiliary was working with the Coffee Spot on physical improvements and the owner has expressed his satisfaction with both the new lease and with the professional relationship with the Auxiliary. The other vendor, who accepted the terms in June, decided not to sign, and then, in October, was given a full month to express any concerns he had, and did not. Mr. Permaul said he and Tom Spivey approached the vendor for the full month and asked if he had any issues that he wanted to bring before the Board. He did not. One week prior to the deadline for signing the lease, he then asked for an extension, which the Board granted for one full week, so that he could engage a lawyer who was familiar with Spanish and who would be able to help him bring concerns to the Board. He did not bring any concerns to the Board.

Mr. Permaul said the Healthy Heavenly Foods vendor did not agree to the lease and the Board noticed Anna Vu all the way during the summer that her lease had expired and that her space would be available for RFP, at her choice, because she did not want to accept the terms that were offered.

The Tully's contract was negotiated and approved by the Board in advance of the terms offered to the Food Court vendors. All leases are discreet and distinct and are based on a variety of factors, such as costs for improvements, risk, location, and other conditions. The Tully's lease was approved just as the economy crashed. Tully's paid up to \$150,000 for physical improvements to a location that had never been used commercially previously, and to meet campus requirements. And they were assuming a risk of a new business location that was untested.

Mr. Permaul said the Board voted to approve the terms unanimously on September 23, 2008. Each of the Bear's Lair vendors spoke to Board months later, in May of 2009, insisting they would be happy to make significant physical improvements and to pay larger rents to remain in their locations. Based on those promises, the Board overturned its December 2008 decision to go out to bid on all the spaces and to negotiate new terms for an extension of the vendors' leases.

Mr. Permaul said he thought this was an important portion of this report so he would like the Board to listen closely. A subcommittee of the Board made up exclusively of students discussed the terms and presented them to the Board. The Board adopted those new terms after a significant and extended debate. And the offers were made, as he pointed out earlier, in June of 2009, well after the Tully's lease was negotiated and approved. One of the vendors has lived up to the commitments to sign the lease from the Board from last spring.

Mr. Permaul said the Bear's Lair vendors proposing the strike have ovens and hoods, which allow them to cook on-site. That equipment creates costs for them which vendors, such as the Coffee Spot and Tully's, do not pay at their current locations. These critical amenities were the only vendor spaces where cooking could take place in the entire Student Union complex. That also makes their sites much more attractive in the marketplace.

Mr. Permaul said a recent proposed vendor who did not get Board approval was willing to pay almost \$1 million for physical improvements to get similar conditions at their proposed site.



The Board asked him to show the costs per square foot for each of the leases. Mr. Permaul said they have brought that information.

On a point of information, Mr. Patel said that to repeat what was asked earlier, he asked why the Bear's Lair Food Court was asked to remain open past 6:00 on other occasions, yet it was closed at 6:00 that evening, with the backing of the police force. He thought it would be nice to know that. Mr. Rajan asked if any member of the Board would like to answer that question. If not, he'd take a stab at it. Mr. Rajan said he believed the leases themselves probably stipulate that the businesses cannot stay open past 6:00. The Board would like to get that changed, and when it is changed, and they have that new content in, he was sure the Bear's Lair Food Court would be allowed to stay open past 6:00.

Mr. Patel said that didn't address the first part of his question, as to why the Food Court was asked to stay open past 6:00 before, which would also violate the lease agreement.

On a point of information, Mr. Permaul said the leases that the vendors currently have stipulate exactly how the Bear's Lair Food Court may remain open. There's a process which he was sure all members of the ASUC Senate know about, as to how to reserve space in the Student Union. And those terms and conditions were the same.

Mr. Rajan said they would now move to the rest of the presentation.

Mr. Permaul said the screen showed in highlights the column in which the cost per square foot was identified. For Healthy Heavenly Foods it's \$2.32; for the Taqueria, it's \$2.11; for the Coffee Spot it's \$2.35; for the Pub, it's \$2.10; for Tully's it's \$50.00; for Naia, it's \$1.11; and for the CUBS Credit Union, it's \$27.78.

Mr. Permaul said these amounts were based on the assigned square footages in their leases for which they pay rent, and the rent which they pay. It was all calculated on the sheet, so people could see what the total rent was in the last column for each of the vendors. The total rent for the year is divided by the total number of months. As they could see from the screen, Food Court vendors only pay full rent for eight months. There are four months of the year they only pay 50% in rent.

There was a comment made earlier that Tully's has more square footage than any other vendors. Tully's has a total of 60 square feet in its business. All the other vendors, as they could see, were listed. For Healthy Heavenly, 420; Taqueria, 620; the Coffee Spot, 440; the Pub, 2,208, Tully's, 60; Naia, 210, CUBS, 90. Those were all the amount of space located within their leases. These were the answers the Board asked.

Mr. Smelko asked if these were current costs per square foot. Mr. Permaul said the figures on the screen were current costs.

Mr. Permaul said that for the Food Court vendors, the three of those, those were the new rents they would be paying, the proposed rents.

Ms. Oatfield asked if he could explain the 60-square foot space for Tully's and asked if that included the space in Pauley kitchen upstairs that they use or the seating area. It seemed like the seating area was being factored in for some of the other vendors. She asked how the Auxiliary came to that 60-square foot

figure. Mr. Permaul said that that Tully's kitchen belongs to ASUC Reservations office. Tully's granted the Auxiliary funds to renovate the space. Tully's doesn't own it and it wasn't part of Tully's rent.

Ms. Coleman said she had a report that Auxiliary Associate Director Tom Spivey, wrote in 2007. It states that campus Real Estate Services suggested that the price per square footage should be \$2.75. She asked if the Auxiliary could please give the Board the rationale for why the Auxiliary more than doubled the rent. Mr. Permaul said none of them approach \$2.75.

Ms. Coleman said the Auxiliary more than doubled rents rather than raising them to \$2.75. She asked if he could explain the rationale for that. Mr. Permaul said he didn't understand the question. They did not raise rents to \$2.75 per square foot.

Mr. Rajan asked people to please direct questions to the Chair. He said the question has been asked whether Healthy Heavenly Foods actually pays more than \$2.75. Ms. Coleman said the new lease offered to the vendors more than doubled the rent. The original recommendation they got from campus Real Estate Services suggests that they raise the cost to \$2.75. She was asking why the Auxiliary didn't do that and why the Auxiliary more than doubled their rent instead of just raising it to \$2.75. Mr. Permaul said he thought they already answered that question. The rent was not raised to that amount. The proposed rents were what were being displayed. The other fees the vendors pay are things like utilities and access to the common area, for the custodians. The Food Court has a custodian that works specifically for them, that the vendors requested and hired. Other spaces in the building don't have that. Tully's doesn't have its own custodian and was willing to use whatever services that the Auxiliary provides it during the course of the day. The other vendors have their own employees keep the area around their locations clean. The Food Court has its own set of conditions and circumstances. They also pay for the extra utilities that are associated with their ovens and hoods. And they pay other costs that weren't part of the rent. Those are separate fees. And then there are fees associated with Environmental Health and Safety that had to do with grease going down vendors' food traps. These are discrete businesses and they all have different terms and conditions based on what they do.

Ms. Coleman said she was asking about why their base rent was more than doubled. Mr. Permaul asked why she was asking him, and said that question should go to the Board. Ms. Coleman said the reason she was directing the question to the Director of the ASUC Auxiliary was because he was making a presentation at that time.

On a point of information, Mr. Smelko asked if Ms. Coleman was asking about per square foot, and why that was doubled. What he was looking at, he thought the price per square foot was mentioned, \$2.30, \$2.11, etc. The previous price per square foot was \$1.93, \$1.75, and other numbers, and those have been increased, but not to \$2.75. The proposed cost per square foot was less than that number. That's what was being proposed, and those numbers don't even get up to \$2.75.

Ms. Coleman said that didn't answer her question. They more than doubled the amount per square foot vendors were being charged for base rent rather than raise it up to \$2.75, which was what Real Estate Services recommended originally.

Ms. Vu said that what was on the screen wasn't the right math. There was something wrong with the figures.

Mr. Rajan said this was not the right venue for that.

Mr. Smelko asked if someone could clarify if he was correct on this. He felt that increasing the cost per square foot to \$2.75 would actually make it more expensive than what was being proposed. Mr. Permaul said that was correct.

Mr. Rajan said that according to the spreadsheet he had, that Chief Harrison compiled, it seemed like before, for base rent, Healthy Heavenly Foods rent was paying about \$1,707, as was the Taqueria. The Coffee Spot was paying a base rent of about \$3,413. Now for base rent, all of them pay about \$3,895.50. Base rent computed by square foot did not seem to increase to the \$2.75 amount, even though the rent doubled. He asked if that answered her question.

Ms. Kwon said the room was at capacity and the police weren't allowing more students to come in. She asked if they could possibly move to the Bear's Lair or allow more students to come in. She moved to move the meeting to the Bear's Lair in order to accommodate people who want to attend this meeting. The motion was seconded by Ms. Coleman.

Mr. Zuo said he thought they could allow people to come into the Senate Chamber.

Mr. Rajan asked if the purpose of the motion was to prevent the Board from doing business. The Board would be happy to adjourn at that time. If the purpose of your comment was to provide input to the Board, the Board would welcome that. He would ask people to not be disruptive. He didn't think he could allow people to come in if that would violate the Fire Code. He could entertain a motion to move the meeting and he has done so. They were still in discussion of that motion. He called for any further discussion, and seeing none, said they would move to a vote.

On a point of order, Mr. Poullard said the problem was solved, and they could move on with the meeting. They've had more folks in this room, so they'll let people in. He knew people were really hot and upset, frustrated, confused, and anxious. He still hoped that they were a community that would at least attempt to have respect even when they disagree with each other.

Mr. Kantor asked if that included calling the cops on each other. Mr. Poullard said he was asking that in this space, where they're trying to have a meeting, that they try and respect each other as they try and have this conversation.

Mr. Rajan asked if Mr. Permaul had anything else left for his presentation. Mr. Permaul said the question was posed as to why the Auxiliary did this. The Auxiliary did nothing. It was a group of students that Mr. Rajan chaired who sat down and negotiated these terms. The Board adopted them without any input from the Auxiliary. The Board debated them and in closed session, came up with these terms. And the Board sent Chief Harrison and David Rhoads to make sure that the terms that the Board negotiated were presented to the vendors. That's precisely what occurred. And the amount of the leases and the cost per square foot was specifically negotiated by the Board. He believed Mr. Rajan was the one taking the notes. So there was absolutely no veracity to any suggestions that the Auxiliary had anything to do with the creation of these terms.

Mr. Esquivel said that the Auxiliary was making statements that were totally incorrect. Mr. Rajan asked him to please approach a member of the Board if he wanted to speak. Mr. Esquivel asked if they could go to public comment. Mr. Rajan said he would stay after the meeting to try and take as many questions as they could. They would move to the next item on the agenda. He would apologize, because he knew people wanted to say a lot of things to the Board, but the Board still had a lot of business to do.

Ms. Coleman moved to extend time on this item by five minutes. Mr. Smelko moved to amend the motion to three minutes. The motion was seconded by Ms. Coleman and passed by hand-vote.

Ms. Coleman said that Mr. Permaul presented the amount per square foot that each tenant was charged, and asked if he could give them the proposed amount presented to each tenant. She would like to know what the new leases will show for the base rent per square foot. Mr. Permaul said the screen showed the new leases, for Healthy Heavenly, the Taqueria, and the Coffee Spot. All the rest were existing leases that were currently in place.

Ms. Coleman yielded time to Matt Marks. Mr. Marks demonstrated 60 square foot by pacing out a square of that amount of space. He asked if Tully's was paying for such a tiny, little square of space. He asked where these numbers came from. He went out and measured the Bear's Lair Food Court, and they were all being asked to pay for a huge amount. If their space was divided and their base rent was divided, it's \$3.02. He would ask the students on the Board to realize that the Auxiliary Director was bringing them meaningless numbers that had no basis in fact. He asked if student Board members had no questions for Mr. Permaul. People had information that Mr. Permaul has hidden. Mr. Marks said he didn't understand why students on the Board were accepting this. The numbers being presented were completely wrong. People could go with a tape measure right now and see the numbers were completely wrong. It was unbelievable.

Mr. Rajan said time for the speaker had expired.

Mr. Rajan said he would cede a minute to Mr. Esquivel. Mr. Esquivel said he had a copy of the report that Mr. Spivey issued in 2007 which totally contrasts the information the Board was given. The report suggests that the vendors were already paying market rate. One recommendation was that Mr. Alloun pay X amount of dollars, that the vendors be increased to a rent of \$5.50, which would put them in fair market value. The information that Mr. Permaul was suggesting was bogus. Mr. Esquivel said that was why he asked Regent John Garamendi to investigate the whole process. The leadership of this Board, unfortunately, was giving them information that was not being questioned. The report that Mr. Spivey wrote has never been issued to the Board. He asked how, on that basis, the Board could make recommendations when the information wasn't correct. Mr. Esquivel said he was willing to share Mr. Spivey's report.

On a point of information, Mr. Permaul said the Board received that report two years ago. None of the people in this room were here when that report was presented. He believed it was also amended and adjusted by the report that Mr. Rajan and the students received from Brailsford & Dunlavey that past spring, when the consultant did an analysis of the Food Court. So Mr. Permaul said he thought the Board needed to speak up to the fact that that it had other, additional information that was brought to the table.

Ms. Vu said she had something she wanted to say. Mr. Permaul always lies. He says, "Don't worry."

Mr. Rajan said this was not a place for people to rally and was a forum for input to the Board. He wanted to thank them.

Mr. Rajan said they would move to the next agenda item.

PRESENTATION ON SEISMIC IMPROVEMENTS BY NICK PETERSON, CAPITAL PROJECTS

Nick Peterson introduced himself and said he was a Project Manager in Capital Projects and was present to talk about two plans for seismic improvements.

Oscar Mairena said a policeman was there for one issue. Mr. Mairena said he overheard the policeman say, "The issue is over, now I can leave." And then he stepped out. The police weren't there for a capacity issue but because of this particular question.

Mr. Rajan said Mr. Mairena was out of order. He would ask him to please allow the Board to continue its processes and to not disrupt the meeting.

Mr. Mairena asked if they could get some training for the Board to learn Robert's Rules.

Mr. Peterson said he was Projects Manager in Capital Projects and he was there to present a couple of plans for seismic improvements they're doing to buildings for the ASUC.

Mr. Peterson said the first project was in the MLK Student Union. The building was currently considered "poor" in the SAFER scale. If people want more information, they could go to the Web site and read about the SAFER Program, which is a program for upgrading existing buildings to reasonable seismic safety. Basically, it fell under three things that were not very good about the building.

First, the Tilden Room, a little chapel structure on the roof, was not adequately tied to the rest of the building and there was a risk of collapse there. Secondly, the north end of Pauley Ballroom, which is a very large assembly room on the north end of the building, with the big glass windows that looks out to the Campanile, was not adequately braced. It could rattle in an earthquake and there was a risk that it could swing over and be a problem with all the windows shattering out. There was a real danger with that. And the final problem with MLK was some general stiff walls throughout the building that weren't adequate to take the load that would happen during a moderate earthquake.

Mr. Peterson said that MLK was built in 1961, and a lot has happened with seismic codes since that time. MLK is 5 stories high, about 106,000 gross square feet. It was actually a steel-frame building, and inside the concrete columns were actually steel beams. The architects were Donald Hardison and Vernon DeMars.

The plan now is that this work will commence in King at the beginning of the Summer Session. They hope to get it all wrapped up within three to four months. Certain parts will take a little bit longer.

Every time they do a seismic upgrade to a building, it triggers a certain level of accessibility upgrades and general code improvement upgrades that are required. That was actually good. The building will be better, and besides being stronger seismically, it will also function better. The screen showed the basement level, the parking area. There are a couple of toilet rooms that were being converted to 100% accessible toilet rooms. There were a couple of columns that come down that deal with the bracing of Pauley Ballroom and a ramp on the side that doesn't quite comply with accessibility codes at that time. They'll bring that up to provide fully accessible access from the garage level.

Mr. Peterson said that just going up the building, from the basement, on the 1st floor the retrofit scheme, the screen showed Upper Sproul Plaza and Lower Sproul, the Bear's Lair Food Court, and the Store. The red lines show where the actual work will happen. Once it's all done, no one will even notice it. But it

will strengthen existing structural components. The finishes will be replaced just as they were originally, so people won't see the big braces. The one exception to that will be in Pauley Ballroom, which he'd show in a minute. The red walls will have plates that will be buried in the ground that will tie into the floor, that will attach the floor to the shear walls.

The screen showed the lobby, behind the entry stairs, where it will be strengthened, with at least two columns added.

The 3rd floor plan was the most significantly visible portion. In Pauley Ballroom there will be a large brace that takes the racking of the front wall and keeps it from deflecting. It will actually gather all the roof forces and bring them down to the truss being shown, and then send them down two stories to a big foundation in the ground. From the outside, people won't even see it. It will continue to look the same. All the windows shown will also be replaced.

On the 4th level there's really no impact except that they have to get at the meeting rooms. That's why they want to do this work during the summer, when these rooms aren't heavily used. They'll do some attachments to beams and some other work, and strengthen some connections and beams on the perimeter of the building, on the east and west sides.

Mr. Peterson said the next screen showed the Tilden Room. Hyperbolic paraboloid structures sit on a column, so they're like a cantilever structure and flop around. They will be stiffened by putting a steel casing around the support columns, and then attaching those to the floor columns. The room will then be much more rigidly connected to the building and they won't move when the building shakes. It will keep them from flopping around.

Mr. Peterson said that was pretty much what will happen. In MLK, they'll start in late May, 2010, and hopefully be done with maybe a little impact through October. That was the current strategy.

For Eshleman Hall, the same architects did the building, as they did the whole complex, including Cesar Chavez and Zellerbach. For the seismic evaluation and short-term retrofit, Eshleman was rated "poor" for seismic safety. There's actually a plan underway that Capital Projects was trying to do, to re-do Lower Sproul Plaza. Of course, whether they'll re-do Lower Sproul wasn't 100% certain. It was really up in the air. But the idea was that Eshleman will probably be around for the next four to 12 years. They're not sure. But at some point it will be replaced by a newer building. The idea was what to determine what could be done to mitigate the worst structural aspects of the building. Again, it was built in 1965, well before some of the really good earthquake code, and it's a stiff, reinforced concrete, with masonry. The strength of a building comes from the core structures being shown that go all the way up. They could see the staircase coming down. There's a big discontinuity when they get to the ground floor. The walls shift over and there are support columns. It's kind of the weak zone of the building. The idea was to put again some "CalTrans wraps" around the columns. These are steel forms that are filled with grout and then stiffened, so the columns doesn't take too much compression and blow out. That's the concern, that when Eshleman deflects and moves, and all the forces come down, these columns will blow out and fail. This work will keep that from happening. And they go all the way across the building.

Mr. Peterson said that one thing to keep in mind was that they don't need to do the columns being shown because the structure of the building was so strong, it will span between these columns. That was the good thing about the current design. There were very strong spanning members holding up the floors.

The screen showed, again, how they'd make the steel casing around the column. It will be the same color. The only thing noticeable was that a few of the columns will look a little bit bigger and will be round instead of square.

Mr. Peterson said the particular large girder being shown holds up all the columns coming down. One of them doesn't continue. So the girder was holding up six floors of columns there, and attached to a wall. There's a concern that that joint may not hold if things start moving a lot. So they're going to have a column to support that and then box it in so it matches the rest of the building.

The next screen showed the basement, and how it would be supported with a double bracket. Mr. Peterson said there were a couple of minor improvements that will happen on floors 2 through 6, where there's an opening on the east, where the forces from the beam being shown are a little bit much in this span. So they'll reinforce it. The screen was an elevation showing a steel channel going across. The actual ceiling in the rooms that they see was the suspended ceiling that was being shown.

The next screen showed existing conditions and probability figures. It was straight theoretical, but it showed that currently, there's about a 6.2% probability that in ten years, Eshleman will fail in an earthquake. With the ten column jackets, they reduce that in half, 2.6%, and reduce it further, to 1.9%, if they do all the measures. It's not quite as good as a new building, which would have a 0.5% probability of collapsing in the next ten years, but it's much better than it now is. Mr. Peterson said that concluded his report and he would like to thank them for listening.

Mr. Rajan called for any questions.

Mr. Daal asked what level of earthquake would be required to cause a concern for safety said in MLK and Eshleman in their current condition, not retrofitted. Mr. Peterson said that was a really good question. Unfortunately, he wasn't up on all of the structural aspects. The campus' consulting structural engineer could answer real specific questions like that on Wednesday. He could get that question to the consultant. He thought that by code, buildings were supposed to be able to withstand a certain magnitude of earthquake. That's what the SAFER Program measures against, trying to bring buildings to that level. In essence, it's as good as if it was a new building.

Mr. Poullard said that as they look to re-do Lower Sproul, he asked if the renovations to MLK will be consistent with what Mr. Peterson was proposing. Mr. Peterson said he's only had brief conversations with his colleagues over in PEP. His understanding was that MLK was a significant building historically, and the idea was to keep it as much as possible. There may be some interior changes, but they're not going to remove it as they want to do with Eshleman. So it will remain. There may be some transitional elements that happen on the terrace to tie it together, but the main building will stand. That's why they're bringing the building up to the SAFER "good" level.

John Zilber introduced himself and said he was from Capital Projects. No matter what happens with all the plans regarding Lower Sproul, all the money they're putting into MLK for the seismic upgrade will stay and will be incorporated into those plans. So the retrofit will become long-term value. Nothing they're putting in MLK will get modified in any substantive way. No matter what decisions are made as to how to use the Student Union or reconfigure Lower Sproul, these structural elements will remain. So the value will be there.

Mr. Tran yielded time to Mr. Esquivel. Mr. Esquivel asked if the renovation of Lower Sproul will require Bear's Lair businesses to close. Mr. Peterson said at this point the plans for re-doing the whole Lower Sproul were pretty uncertain. With King, seismic work will have a minimal impact in the dining area. They have to get in and open up some of the floors, and that will be scheduled with whoever the occupants are.

Mr. Esquivel asked if there was a possibility these businesses could be required to close during the retrofit. Mr. Zilber said that was something they'd have to ask the ASUC.

Mr. Daal said that with regard to making seismic retrofits that are consistent with Lower Sproul plans, to ask the question differently, if they knew that the plan would be executed, he asked if they would make retrofits that were different. Mr. Peterson said that at that point, they wouldn't. The most significant problem was Tilden, and that wouldn't change at all. Pauley Ballroom wasn't going to change either, on the north side of the building. As far as he knew, no one has said Pauley Ballroom was going to change. The other changes were just systemic to the building. They're things they'd want to do anyway. His understanding was that 99% of the building was staying pretty much the way it is. He personally has not seen the proposed plans for Lower Sproul, but when they look at them, he thought they'd show the building standing pretty much as it currently was.

Mr. Daal said that when the retrofit was being done to Eshleman, he asked how much of the building will be out of commission. Mr. Peterson said that was a good question. One thing he didn't show with Eshleman was, again, some accessibility upgrades. They'll complete re-do the toilet rooms on the 2nd and 3rd floors and make them totally accessible. Everything else that would happen was pretty much external to the building, except for the cross-ties, which will be done floor-by-floor. The idea was to start in December and do the jacketing of the columns, and then the support column. The building will remain fully functional while that's going on. And with the Student Union, during the summer, the ASUC Store will remain fully functional. There will be some impact on the 2nd floor, but they'll put up barriers and keep as much of it going as possible during that work.

#### SCOPE AND COMPOSITION OF THE FOOD SUBCOMMITTEE

Ms. Coleman said her motion was to establish a permanent Standing Committee of the SOB that would deal solely with food issues. It would be charged with educating itself about what constitutes fair market rent for each business. She felt in the past the Board has made some decisions without having all of the information it needed, and the Board was charged with establishing policy and setting standards for oversight of ASUC commercial activities. The Board hasn't been able to fulfill that to the best of its ability. She felt establishing this committee would really strengthen the Board. That was the basis for her motion to create the food committee.

Mr. Rajan asked if there was a motion. Ms. Coleman said she could e-mail the details to Board members.



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Begin motion by Ms. Coleman

I would like to make a motion to convene the "Food Subcommittee" of the SOB, effectively created in Section 7, Financial Reports, of the draft RFP ("Tenants are strongly encouraged to work with the ASUC to continually improve their offerings to the student community"), for the purpose of establishing stronger and more stable relations between the Board and vendors. This Committee would be immediately tasked with standardizing the calculation of fair market rent, utilities, fees, CAM, etc. as well as designing a stable set of criteria, expectations, and set of variables, by which to strive to achieve parity across all leases in future negotiations with vendors by working with consultants and members of the academic business community at Cal. I anticipate that the outcome of this neutral, fact-finding group's work would help restore the Board's credibility as well as to increase uniformity from year to year.

End motion by Ms. Coleman  
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On a point of information, Mr. Permaul asked how the Food Committee will establish fair-market rent, utilities, fees, CAM, etc. Mr. Rajan said he would assume it would do something similar to what was done with the sort of process that was used before, when they went out to RFP to see what all the various spaces were worth. It would incorporate the decision of the RFP, and just maintain perhaps a current set of terms in case this issue ever came up again.

Mr. Permaul said it was precisely because they went through that bizarre series of circumstances this past spring, where the Board engaged in speculation on everything from CAM to utilities, things it had absolutely no expertise or knowledge in, that they ended up with a model that actually, for all intents and purposes, was flawed. If they were, for example, to put meters on each of the businesses there, like they have with the Daily Californian, their CAM cost and utilities would rise significantly. It raises concerns for him. the Board, was engaged in policy. He asked if this wasn't trying to insert itself into the operational element of the businesses, which it had no expertise or skill to do. That's why the SOB and the CAA fully delineated those responsibilities. If the Food Committee were to investigate the quality of services being provided, that would make complete sense to him, because those were judgments about the nature of the services that were being provided to the constituencies that were utilizing them. But when it came to business operations, as he pointed out in his presentation, the Auxiliary had virtually no input into the deliberations which led to these current lease proposals. They have implemented them at the request of the Board and at its direction. But as he's said to members of the Board on more than one occasion, the notion that they would be engaged in day-to-day operations was inconsistent with good business practices.

Mr. Rajan said he believed the purpose of the food subcommittee would be to exactly deal with the issue that came up before, where negotiations between the Auxiliary and current vendors, perhaps didn't break down, but reached an impasse. The Board was asked by various constituencies that it represents to step in and try to move the process along. In doing so, as Mr. Permaul rightly pointed out, the Board had very little expertise on this matter. And if this situation were ever to come up again, the Board may have as equally poor expertise as before. The creation of this committee would just be to replicate maybe the efforts of the Auxiliary. But at least it would give the Board enough context to think about parameters that would need to be considered in moving forward. It was quite possible this will never come into use, and if that was so, it would simply replicate the work of the ASUC Auxiliary. It should be no big deal,

because at the end of the day, any decisions would be made by the full Board, with information from both the ASUC Auxiliary and this independent process.

Mr. Rajan asked if Mr. Permaul was worried that setting up this parallel process would cause concerns. Mr. Permaul said he believed this was a duplicative process. He also thought that depending on the composition of the Board in any given year, that it could create a confrontation between the Auxiliary and the Board. He thought that was totally inappropriate. Once again, he'd go back to the CAA, which suggests that the responsibility of the Board was to establish policy. Its business should be in assessing performance and standards, and not ascertaining what business practices were appropriate in leases of this sort.

Mr. Tran called the question. The motion was seconded by Mr. Zuo. The motion to end debate passed by hand-vote 5-0-0.

The motion to convene the food subcommittee of the SOB tied at 4-4-0. Mr. Rajan said he would vote in favor of the motion. **THE MOTION TO ESTABLISH A FOOD SUBCOMMITTEE PASSED BY HAND-VOTE 5-4-0.**

Mr. Rajan said they could, at that time, discuss the composition of the Food Subcommittee, or leave that to another meeting. It seemed that with the amount of concern that's been raised about the Food Subcommittee, he'd be happy to entertain the motion to determine its membership.

Mr. Daal nominated all Board members to the subcommittee. The motion was seconded by Mr. Smelko.

Mr. Rajan said the purpose of the Food Subcommittee was to prevent the sort of fiasco that happened previously. It was clear that the Board as a whole did not have the tools to deal with this issue, nor did it have a point person to deal with it. For instance, he chaired the subcommittee that had to come up with these terms. He knew very little about that because he let Dave Rhoads figure out everything. Mr. Rhoads did a ton of work in one month to figure out everything and he was the point person, along with Victoria Harrison, who took this up and did it. He thought they should identify a group of people within this group who will take point on this and complete this process, incorporating all the lessons learned from these last two years, and ensure that those lessons were carried forward. He thought it was important to convene a small, substantial, and powerful Food Subcommittee composed of both students, faculty members, and administrators. It was clear that they don't know what the scope of the Food Subcommittee is and they'll need more discussion on it. But he thought it was important and he didn't think it was a role the Board has carried out very well. He thought this role for a subcommittee was apropos.

Mr. Daal asked why the Board couldn't identify the point people and have the entire Board be the subcommittee. Mr. Rajan said that would be fine. He didn't see the distinction. Mr. Daal said that Mr. Rajan, then, wasn't opposed to having the entire Board be the subcommittee. The reason he gave for not having the entire Board to be the subcommittee was that Mr. Rajan wanted key point people to do certain functions. And the Board could appoint point people. Mr. Rajan said that was fine, if every member of the Board was willing to be on the hook, and basically answer with numbers the questions people have.

Mr. Patel said that since a lot of discussion around the Board and information provided by the Board has escalated for the Auxiliary or the Board, he asked if they could somehow have a concerned student-at-large member on this committee who would also serve as providing further student access into the operations of the Board. Mr. Rajan said it was up to the Board to determine the scope and composition of the Subcommittee.

Mr. Smelko said he wasn't sure about the distinction with the status quo. He asked how they could get the support necessary to make this a relevant and functioning Subcommittee and happen with point people. He would ask what distinction this would bring. Mr. Rajan said he believed establishing this Subcommittee would identify the point people.

Mr. Tran said he would propose people to sit on this Subcommittee, a student from the Board, a student-at-large, an administrator, and a faculty member. He would move to change membership of the entire Board to the four people he named.

Mr. Daal said he would not accept that as a friendly amendment, but would suggest that the Board vote on it.

Mr. Zuo said they should have an odd number of people. He also agreed that the Committee should be limited to three or five people.

Mr. Rajan said they were under discussion of Mr. Daal's motion to make the entire Board the Subcommittee.

Mr. Poullard asked Ms. Coleman if it was her idea that the Subcommittee would work in tandem with or separate from the Board. They are not an operational Board, but a policy board. That was their job, to be policy people, not operational. They have now moved to operations, which was kind of what the Auxiliary was supposed to do, and to bring information for that the Board to digest. He asked if, with Ms. Coleman's motion, they would have two parallel processes going at the same time.

Ms. Coleman said the Subcommittee would provide information that the SOB needs to set policy, to make policy decisions. It's like with the ASUC Senate, which has three standing committees that feed information for the Senate. For something to pass, the Senate had to vote on it. She would imagine this Subcommittee would follow the same process.

Mr. Rajan asked if there was any further discussion to make all members of the Board to be members of the Food Subcommittee.

The motion to make all members of the SOB members of the Food Subcommittee failed by hand-vote, 2-6-0.

Mr. Tran moved to create a Food Subcommittee of four members, with a student member of the Board, a student-at-large member, a faculty member, and an administrator. The motion was seconded by Mr. Zuo.

Mr. Smelko said that if this failed, he would move to reconsider. He thought the cause was good and thought it would let people off the hook. He thought the Board was already small enough as it was. Some students, faculty or administrators were looking for other people to know things. In two years they wouldn't know who will be on the Board. They already should be doing these things. He didn't know why it would draw people to want to do more if they weren't doing it already, or if people were already doing it, they're doing the job they should. He thought it was the status quo of what things should be.

Mr. Daal moved to amend the motion to draw the distinction between ASUC Auxiliary-related staff and directors and the rest of the administrators, and to add to that list an ASUC administrator staff an

administrator. Mr. Daal said they're working on Mr. Tran's motion. He asked if Mr. Tran would accept that motion as a friendly amendment. Mr. Daal asked if someone from the ASUC would have time to participate. Mr. Permaul said they would.

Mr. Daal said the motion to amend was to have five members: an administrator not affiliated with the ASUC Auxiliary, a student member of the Board, a faculty member of the Board, a student member at-large, and an ASUC Auxiliary representative on the Food Subcommittee. These would be the point people on leases and food practices.

Mr. Ortega said he wanted to comment on Mr. Smelko's question as to why all the Board couldn't be part of this. One concern he had was that if they have a number that was so large that it would need to make the same quorum as the Board needed, and would basically need to be a meeting of the Board. It should be a small subcommittee that could work in the same way, but more efficiently.

Mr. Rajan said that seeing no further discussion, they'd come to a vote. **THE MOTION TO APPROVE HAVING A FIVE-MEMBER FOOD SUBCOMMITTEE PASSED BY HAND-VOTE 5-4-0: A NON-AUXILIARY ADMINISTRATOR, A STUDENT-AT-LARGE, A STUDENT BOARD MEMBER, A FACULTY MEMBER, AND AN AUXILIARY REP.**

Mr. Rajan said that in the interests of time, unless there was an extension, they would discuss the composition of the Food Subcommittee at a different meeting. He called for any objection, and seeing none, said they would move to the next agenda item.

Mr. Patel said there were hundreds of students that had a lot of questions for the SOB. He thought it would be due diligence to go back to Mr. Permaul's presentation and ask those questions. If this was not the place for students to get answers, he would ask where that place was. He didn't see anywhere else where students could get answers to the questions they have. He moved to go back to Mr. Permaul's presentation to get those questions answered. The motion was seconded by Ms. Coleman.

Mr. Rajan said he didn't think this was the appropriate forum. He understood where all of them were coming from. They'd be asking the Board these questions in this open forum where they were trying to get business done, and they were beyond the time they already allocated for this. That takes away from the efficiency of the Board. If people would like, they could approach any member of the Board at any time. They're all students, administrators, and faculty who were always on this campus and they could answer questions people had.

Mr. Coley said he would recommend that the President and the Executive Director set up some times when students can come and meet with them, maybe two or three different times that were convenient for the students, and set an hour aside so that all their questions could be answered.

Mr. Zuo said he agreed with Mr. Rajan, and said the Board needed to get this done and not have a five-hour meeting. They're not the ASUC Senate. He was willing to stay a half hour, 45 minutes, or an hour after the meeting to talk about this. But he didn't think this was the time to debate community members. He would make himself available, but he would ask to do that afterwards, and not during the meeting.

Mr. Patel said the last time he checked, this was an open meeting. He thought the point of an open meeting was to actually have an open meeting. If this wasn't the space to have these discussions or points

brought up, he would ask where it was. He hasn't found it anywhere else. That's why there the hundreds of students coming in there to make these statements and ask these questions. They're being treated like they don't even exist. There are cops not letting people in, or trying to push them out. And the Board was having presentations about retrofitting. He understood the idea about efficiency, but if the Board sacrificed student input about their own student commercial space, then he would question the point of the Board.

Mr. Franco said discussions taken offline of the Board wouldn't be in the minutes. To ensure transparency of the Board, which was a platform that all of them who ran that year had, and to make this a priority of the ASUC being transparent, he wanted this discussion at least to be in the minutes and accessible to people who didn't have the privilege, necessarily, to be there in this space to discuss this with folks there. He knew all of them were very busy people. Whatever comment people had to say should be accessible to everyone. This was a very practical suggestion.

Mr. Tran moved to have a straw poll on going back to public comments. A straw poll was taken. The straw poll was 2-7-0.

Mr. Patel yielded time to Mr. Kantor. Mr. Kantor said there was a bigger issue, there, which was the SOB may be proceeding with bad information. There were a lot of problems with the numbers presented by Mr. Permaul. Mr. Kantor said he didn't think anyone there has looked at those numbers and felt comfortable with them the way they've been delivered to the Board. The Board moved right past that agenda item, leaving those questions unanswered. The Board will move forward with decisions about the operation of this space when they had a chance for all of this input. All of the people there were telling them that they think those numbers were wrong. The Board had some obligation to verify the numbers for themselves. He asked if people stood by the numbers that Mr. Permaul put up there. He asked if Mr. Permaul even stood by his own numbers. Mr. Kantor asked how Mr. Permaul measured them and what he measured them with, and if it was a ruler, a tape measure, the blueprints. Mr. Kantor asked where the numbers came from, and Mr. Permaul just threw them up there. Mr. Permaul highlights the information he wanted the Board to see and ignored the other computations, how the work was done. And Board members were supposed to accept them. But there was a grave disparity. They have hundreds of people telling them those numbers look wrong. The Board should verify them. They could go over and measure them that evening. If the numbers were wrong, he asked about guarantying that the proposed terms were the actual square footage.

Mr. Rajan said that speaking for the Board, he thought the Board would respect the decisions of past Boards and stand by them. He said they would consider the next agenda item.

Mr. Rajan said he would apologize, and said the Board had to vote on the actual motion, to move back and extend time for public comment by five minutes for the presentation of Bear's Lair leases by Mr. Permaul.

The motion to extend time failed by hand-vote 2-7-0.

#### REPORT FROM THE RFP CRITERIA SUBCOMMITTEE

Allocation of \$30,000 From Auxiliary Reserves for A Pricing Study of Lower Sproul  
Maximum Build-Out Options

Mr. Poullard said the Subcommittee, which dealt with the weighting of the RFP elements, met a few weeks ago. The meeting was attended by himself, Ms. Coleman, Mr. Zuo, Mr. Patel, and Mr. Spivey. Mr. Rajan couldn't make it. They looked at weights that were proposed on how to move forward to the RFP process. They made some modifications to that. Ms. Coleman wanted them to go back in and look at how they might get more feedback about the process. They all agreed to that. They're going to meet again on Friday, November 20 to make their final deliberations about the weighting of the RFP criteria. They'll make a formal motion to the Board at its December meeting. Mr. Poullard said he will not be at that meeting, but he will make sure the Committee was staffed properly and will get that information to the Chair to be considered at the December meeting.

ALLOCATION OF \$30,000 FROM THE AUXILIARY RESERVES FOR A PRICING STUDY OF  
LOWER SPROUL MAXIMUM BUILD-OUT OPTIONS

Mr. Daal said the Lower Sproul Student Center campaign is underway. The students involved would be interested in including some build options for the Master Plan, which was proposed over the summer. The build-out options would increase the spaces available for students and student activities by tens of thousands of gross square feet. These options were eliminated from the plan at a January, 2009 meeting of the Design Review Committee. But due to student tenacity, Capital Projects was willing to consider returning these options to the plan. Specifically, these options include adding an extra floor to the Eshleman replacement building and adding an extra floor to the glass laminate, the glass enclosure that would go around the renovated MLK in the Lower Sproul redesign.

Since they were excluded from the Master Plan in January, these options did not receive a cost estimate from the architect, or the feasibility study necessary for them to be costed and included to the project, which tells them how much the project will cost and how much money was needed at what point in its construction.

Mr. Daal said the architect, MRY, has given support for the cost estimate and feasibility study of the additional floor of Eshleman and the additional floor of glass enclosure around MLK. He moved to allocate up to \$30,000 since their cost estimate was \$30,000 for those two options. The motion was to allocate up to \$30,000 from the ASUC Auxiliary unrestricted reserves, to go towards a cost estimate and feasibility study of those maximum build-out options for the new Lower Sproul student center. The motion was seconded by Mr. Poullard.

Mr. Permaul said he just wanted to say that he spoke to both Presidents, of the Graduate Assembly and the ASUC. There is funding available that could be made available for this purpose. These funds were involved as a result of the furlough program that the ASUC Auxiliary was participating in, and those funds remain with the ASUC. So they could allocate those funds on a one-time basis in this fiscal year without any impact on the current operating budget of the ASUC.

Mr. Myers said this was new to him. He asked how long the feasibility study would take and who would do it. Mr. Daal said Moore Ruble Yudell, of Santa Monica, is the architect. The cost study would take less than two months. Mr. Myers asked if they didn't have to get other bids on this. Mr. Daal said this would be an addition. Mr. Permaul said it would be an extension to existing work that was done.

Mr. Rajan called for any further discussion, and seeing none, said they would vote.

THE MOTION TO ALLOCATE \$30,000 FROM THE AUXILIARY RESERVES FOR A PRICING STUDY OF LOWER SPROUL MAXIMUM BUILD-OUT OPTIONS PASSED BY HAND-VOTE 9-0-1.

Mr. Permaul said he thought the last item on the agenda, on food carts and electronic advertising, could be put off until the next meeting.

CLOSED SESSION TO DISCUSS THE BEAR'S LAIR FOOD COURT STRIKE AND THE BOARD'S RESPONSE

Mr. Daal said he would ask non-members of the Board to please leave the room for closed session. He said that some members of the Board will still be there after closed session if people still had questions for them.

Mr. Rajan moved to have Mr. Permaul and Mr. Spivey remain for the closed session. The motion was seconded by Mr. Smelko and passed with no objection.

This meeting entered into closed session.

Back in open session, Mr. Rajan said he would summarize what happened in closed session. They discussed Tully's and CUBS rent relief. They decided to postpone Tully's, pending new information. They discussed a 50% reduction in the summer rent for CUBS.

Mr. Rajan said he would entertain a motion to approve a 50% reduction in the summer rent of CUBS. It was so moved and seconded. THE MOTION TO REDUCE CUBS' RENT 50% FOR THE SUMMER MONTHS IT WAS CLOSED PASSED WITH NO OBJECTION.

Mr. Rajan said they have also decided that CALPIRG will have to pay a \$500 deposit for its site.

Mr. Rajan said he would entertain a motion to approve that. It was so moved by Mr. Tran and was seconded. THE MOTION TO APPROVE CHARGING CALPIRG A \$500 FOR A DEPOSIT FOR ITS SITE PASSED WITH NO OBJECTION.

Mr. Coley he didn't have an objection, but the way CUBS was phrased was a little problematic. This was compensation or relief to CUBS for not having access to the space due to University issues. They needed to cast that in a way that indicates they're not just giving away rent for half the summer.

Mr. Rajan asked if he would like to reconsider the motion, or if his comments on the minutes would suffice. Mr. Coley said he was indifferent. Mr. Rajan said he hoped Mr. Coley's comments on the minutes were sufficient.

Finally, Mr. Rajan said that in closed session, the Board discussed how to move forward with the Bear's Lair Food Court strike. They have decided they will first formally ask the vendors what their intentions were, and based on that response, formulate a decision, perhaps at a special meeting.

Mr. Permaul said they also need to review by Wednesday at 5 p.m. the letter to Arnaldo Marquez that notices him on the same terms and bases that they noticed Ms. Vu during the summer.

Mr. Rajan said that hearing no comments, they could assume that as a verification of the letter.

Ms. Coleman said that regardless of what they say their intentions were, she asked if they'll send Mr. Marquez the letter on Wednesday. Mr. Permaul said that was correct. The letter goes the day after Wednesday. Mr. Rajan said the letter offers him a lease extension through May. Mr. Permaul said it offers him an extension through December. If they would like to offer him an extension through May, people should make that comment to the Board Chair.

Mr. Rajan moved to have the lease extension offered through May, to be in accordance with Ms. Vu's lease. The motion was seconded by Mr. Poullard. **THE MOTION TO EXTEND THE TAQUERIA EL TACONTENTO LEASE THROUGH MAY PASSED WITH NO OBJECTION.**

Mr. Rajan said they had no further business and would adjourn. He would like to thank people to saying so long.

This meeting adjourned at 8:54.

These minutes respectfully submitted by,

Steven I. Litwak  
Recording Secretary



DECISIONS OF THE BOARD

Procedures

- Nov. '09**      **Established a Food Subcommittee for the Bear's Lair Food Court.**
- Sept. '09      Heard a presentation from Business Services on RFP procedures.
- Sept. '09      Voted to have \$20,000 from ASUC reserves, held by the Auxiliary, to be used for the Lower Sproul campaign.
- July '09      Welcomed to the Board Prof. Myers and Dean Poullard.
- July '09      Elected Mr. Rajan and Mr. Poullard as Chair and Vice Chair.
- July '09      Established a subcommittee to consider amendments to the SOB Charter and By-laws.
- July '09      Approved an operating principle of perspective vendors submitting an ROI to the Auxiliary before having the matter come to the Board.
- May '09      Welcomed Mr. Zuo and Ms. Coleman to the Board, undergrad reps in two-year and one-year terms respectively.
- May '09      Approved proposed changes to the CAA that would have the ASUC and the GA share commercial revenue.
- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07      Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's first Board meeting as undergraduate representative.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.

Procedures (cont'd)

- Nov. '06 Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06 Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06 Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05 Mr. Dally joined the Board as undergrad representative.
- Dec. '05 Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05 Elected Ms. Putnam-Smith as Chair of the Board.
- June '05 Voted to have committees, after the August meeting, agree upon meeting Times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.
- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.

Procedures (cont'd)

- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

Vendors

- Nov. '09 Reduced CUBS' rent 50% for the summer months the space was inaccessible due to University issues.**
- Nov. '09 Decided to charge a \$500 deposit to CALPIRG.**
- Nov. '09 Offered to extend the lease of the Taqueria through May, 2010.**
- Oct. '09 Extended the lease of Healthy Heavenly Foods through May, 2010.
- Oct. '09 Extended the Daily Cal lease to September 30, 2012, adding CPI and electrical monitoring.
- July '09 Approved a one-year contract extension for the Daily Cal, through 2012.
- July '09 Approved Mr. Zuo as SOB rep to sit on the Daily Cal Board.
- July '09 Voted to present the SOB's contract to Food Court vendors, and to go to RFP if the terms were accepted.
- May '09 Approved an amendment to the Naia lease, to allow the sales of sushi and salads, with Naia to reopen in the fall.
- May '09 Approved a five-year lease extension for CALPIRG, with new lease terms.
- May '09 Voted down approval of the proposed Panda Express contract.
- May '09 Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.
- May '09 Revised the agreement with CampusLink to end its monopoly on Student Union advertising.

Vendors (cont'd)

- May '09 Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.
- April '09 Amended the Panda Express contract and voted to renegotiate.
- April '09 Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09 Approved the Tully's Coffee contract.
- Feb. '09 Voted to approve the CUBS contract.
- Feb. '09 Voted to move forward with the Tully's contract.
- Jan. '09 Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08 Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08 Approved Action Vending proposal to increase vending prices.
- Sept. '08 Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. '08 Heard the terms of a possible Panda Express contract.
- June '08 Approved the concept of bringing the Brazil Café to the ASUC.
- June '08 Approved a Letter of Intent to negotiate with Panda Express.
- May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07 Heard a presentation by CUBS.
- Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06 Approved a five-year lease option exercised by the Jupiter Pub.

Vendors (cont'd)

- Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
- Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
- Sept. '05 Approved used of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05 Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05 Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04 Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04 To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04 Approved a five-year extension for the STA Travel lease.
- June '04 Approved the Resolution In Support of Follett Contract Performance Review.
- June '04 Approved changes to the terms of the Pub's lease.
- April '04 Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04 Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04 Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.
- March '04 Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04 Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04 Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.

Vendors (cont'd)

- Dec. '03 Heard from John Martin, operator of the Pub.
- Nov. '03 The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03 Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03 Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03 Approved a five-year lease with the Daily Cal.
- July '03 Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04 Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. '04 Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04 Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03 Formed a subcommittee to further consider the Daily Cal lease.
- May '03 Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

- Nov. '09 Allocated \$30,000 out of Auxiliary reserves to fund a study on a maximum build-out option for Lower Sproul redevelopment.**
- May '09 Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.
- Dec. '08 Work began on the seismic retrofit of MLK.

Student Union / Pauley Ballroom

- Oct. '08 Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.
- June '07 Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.
- May '05 Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05 Voted to explore options for the expansion of the Art Studio.
- Oct. '04 Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03 Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- July '09 Approved the 2009-10 Auxiliary budget.
- April '06 Approved the 2006-7 Auxiliary budget.
- April '05 Approved the 2005-6 Auxiliary budget.
- Sept. '04 Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000 from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.
- May '04 Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
- April '04 Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.

Budget (cont'd)

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|----------|--|
| Feb. '03 | Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."  |
| June '03 | A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.   |
| May '03  | Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in |



## STORE OPERATIONS BOARD MINUTES

December 8, 2009

Present: (Members and others)

Huda Adem (Senator)	Khira Griscavage (Board mbr.)	Chris Reid (Comm'ty. mbr.)
Diana Amusin (Auxiliary)	Oscar Mairena (fmr. Senator)	Dave Rhoads (fmr. Bd. mbr.)
Ariel Boone (Senator)	Matt Marks (Student-at-large)	Chaney Saephan (Senator)
Ruben Canedo (Student-at-large)	Arnoldo Marquez (Taqueria)	J. P. Shami (Senator)
Rebecca Coleman (Board member)	Cynthia Nava (Senator)	Will Smelko (ASUC Pres.)
Ron Coley (Board member)	Christina Oatfield (Senator)	Tom Spivey (Auxiliary)
Miguel Daal (GA President)	Alberto Ortega (Board member)	Stacey Templeman (UC)
Lean Deleon (Senator)	Krystle Pasco (fmr. EVP)	Tu Tran (ASUC EVP)
Jeff Deutsch (Bookstore Mgr.)	Rahul Patel (Senator)	Anna Vu (Healthy Heavenly)
Richard Esquivel (community mbr.)	Nadesan Permaul (Auxiliary)	Yishi Zuo (Board Member)
Christopher Franco (Senator)	Nish Rajan (Board member)	

### SUMMARY OF THE MEETING

This meeting concluded the Fall Semester. It was called to order by Nish Rajan at 6:10 p.m.

#### Introduction of a New Board Member

Khira Griscavage, from the office of the Vice Chancellor for Administration, was welcomed to the Board.

#### Public Comment

Ms. Oatfield said members of the Berkeley Student Food Collective was interested in starting out with operating a food cart on campus, and then maybe building up their revenue to move into a larger space. A food cart was already being considered, and perhaps the Collective could also operate one. Also, she was glad the SOB seemed to be having a tone of compromise with Bear's Lair vendors.

Mr. Esquivel said he's been dealing with the University for the past 40 years. He was appalled at the process that transpired over the summer. He was prepared to ask the State for an investigation. It's been non-transparent.

Joseph said he was a long-time customer of the Bear's Lair vendors and hoped the Board gives them a fair shake. They were part of the campus community.

Discussion of the Taqueria Lease

A motion was made to meet in executive session to discuss the Taqueria lease, including in closed session Mr. Permaul, Mr. Spivey, Mr. Rhoads, and Ms. Templeman. A motion to exclude Ms. Templeman passed by hand-vote 4-1-0.

The meeting entered into executive session.

The students present at the student caucus submitted a Resolution on the Taqueria and its lease. A motion to amend was made, to extend the lease until May '10 and to go out to RFP on January 11, '10.

An objection was raised that the amendment was contrary to the spirit of the original motion. The Chair ruled that the amendment might remove some rights of minority members of the Board, so by his understanding of Robert's, he'd require a two-thirds vote to approve the amendment.

A motion to overrule the Chair failed by hand-vote 1-5-2.

The amendments were approved 6-0-0.

A motion was made to have a new second Resolved Clause, and to amend the final Resolved Clause, to give the Taqueria until January 10 to accept the terms as they were offered in July, and to go out to RFP for the Taqueria space on January 11, '10 if there was no response or the response was negative.

The amendments were approved with no objection.

The Resolution, as amended, was approved by roll-call vote, 6-1-1. The Resolution extends the Taqueria's lease until May 31, 2010; the Taqueria was given until January 10, 2010, to accept the terms as they were presented in July. A negative response or no response would have the Auxiliary issue an RFP on January 11, 2010, the terms of which will be determined by the Board in the next few weeks.

Because the RFP was still in progress, there could be no discussion in open session of the actual scorecard. Weighting of RFP elements wasn't supposed to be public.

A suggestion was made to return to public comment to get some opinion from the audience on what they'd like to see on the scorecard.

Public Comment (cont'd)

A question was raised as to whether it would be legal to hear input on the scorecard after the RFP was released.

It was noted that items listed in the RFP were public and could be weighted: thoroughness of the proposal; bidder's experience; financial resources; feasibility of the proposal; bidder's financial capability; compatibility with other tenants and the campus community; design; operations; sustainability; and for finalists, the proposed menu items. These were items that were given to bidders. The Board would decide which factors were most important, and was at that time seeking people's comments.

It was noted that there were also other items under the broader criteria, like a subtext, that could be used for weighting. These were not seen by the bidders, who only saw the larger categories.

The Board at that time was asking for input to weigh those points against each other. That will be the scorecard they use to evaluate the bids. The Board will determine the scorecard in closed session.

A subcommittee, that included ASUC Senate representation, went over this for many hours. The Board was asking for additional comment at that time.

The categories that could be weighted, without going into the points, dealt with food and menus; operations; personnel; capital investment; and sustainable practices. These were categories of requirements all bidders had to respond to.

It was noted that at the subcommittee meeting, Mr. Permaul told them that the only thing they could share with the public or the campus community were the more general categories. So people didn't get input on possible weightings of the subcategories.

The Board had until the 18th to decide on weightings. That's when bids were due.

It was noted that the community was getting mixed statements. The subcommittee didn't have all the information on what to get input about.

It was noted that the Board could seek the input of students up to December 18.

A speaker noted that the elected body was not getting accurate information, with drastic consequences as to how this all played out.

The subcommittee was advised to not seek a public process, or seek the input of students on the categories and the subcategories. So there was zero input into the process, and people on the subcommittee were the only ones who had any input on the weighting.

Ms. Templeman noted that evaluation committees do not actually discuss with larger groups their weighting or scoring. The SOB was showing an unprecedented degree of openness in attempting to reach out.

### RFP Scorecard

The Board voted to meet in executive session, to assign weights to the categories.

It was noted that while the Board was voting on weights, those weights weren't due until the 18th. There was miscommunication and a lack of transparency.

This meeting entered into executive session.

Back in open session, it was noted that the Board discussed the weights of the sample scorecard and came to an agreement on final terms for the RFP.

Summary of the Meeting (cont'd)  
Introduction of a New Board Member  
Public comment

- 4 -

The meeting adjourned at 9:38 p.m.

## **End Summary of the Meeting**

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This regular meeting of the Store Operations Board, concluding the Fall Semester, was called to order by Nish Rajan at 6:10 p.m. in the Senate Chamber.

### APPROVAL OF THE AGENDA

Mr. Rajan said there was one amendment to the agenda, the introduction of a new SOB member. He called for a motion to approve the agenda. It was so moved and seconded by Mr. Zuo and Mr. Smelko. THE MOTION TO APPROVE THE AGENDA FOR THE MEETING THAT EVENING, AS AMENDED, PASSED WITH NO OBJECTION.

### INTRODUCTION OF A NEW BOARD MEMBER

Mr. Rajan said he would like to introduce their new Board member, Khira Griscavage, from the office of the Vice Chancellor for Administration. They're very excited to have her, and he wanted to thank Ms. Griscavage for attending and being a part of the Store Operations Board. Ms. Griscavage said she would like to thank him.

### APPROVAL OF THE MINUTES

Mr. Rajan said he would entertain a motion to approve the minutes from the November meeting. It was so moved and was seconded by Mr. Smelko and Mr. Zuo. THE MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 17, 2009 BOARD MEETING PASSED WITH NO OBJECTION.

### PUBLIC COMMENT

Mr. Rajan said he would ask people to add their name to the speakers' list, which Mr. Zuo was keeping. Each speaker would be given three minutes. If people could prioritize new information for the Board

instead of giving a point of view, that would be appreciated. But of course, all members of the public were welcome to say whatever they'd like. Mr. Zuo will keep time.

Mr. Zuo said the first speaker was Christina Oatfield. Ms. Oatfield said she was present that evening with other members of the Berkeley Student Food Collective. They noticed that the Store Operations Board was considering going out to an RFP to have a food cart on campus, and she knew there's been talk of having a yogurt company operate a food cart on campus. She didn't know too many details about that. But a lot of the Collective's membership was starting to think that it would be really cool if the SOB, through the RFP process, allowed for multiple food businesses to get a contract for operating a food cart. Their membership was really interested in starting out with operating a food cart on campus, and then maybe building up their revenue to move into a larger space. But there seemed to be increasing interest and energy around trying out a food cart for a while. So she would encourage the Board to think about crafting an RFP in a way that would not only allow this yogurt company to get a contract, since there seemed to be some people interested in it, but for the Food Collective to maybe get a contract as well. And maybe there was some other great company out there that could also get one. That was just something to consider.

On a more personal note, Ms. Oatfield said she's also heard that there was a potential amendment to the Taqueria's lease. She was really glad that the SOB was entering into possibly kind of a tone of compromise with the Bear's Lair Food Court vendors. She was really eager to see them get more fair and reasonable contracts.

Mr. Zuo said the next speaker was Richard Esquivel. Mr. Esquivel said he appreciated the opportunity to address the Board. He had a chance to meet Arnoldo Marquez in April. And as a UC alum, he's had the opportunity to deal with the University for the past 40 years, including at the Chancellor's level. So he was not unfamiliar with the way the University did business.

Mr. Esquivel said that as a co-founder of MEChA, as a former Hispanic 500 business member, as a UC Davis alumni, as a parent of two UC Santa Cruz graduates, he couldn't even begin to tell the Board how appalled he was at the whole process that transpired over the summer. It was not unusual for the University to do business when students go home. He has been involved with the community for 40 years, and knew John Garamendi when he was Lieutenant Governor. Mr. Esquivel said he inquired into Mr. Garamendi's office, so Mr. Esquivel said he was prepared, as campus Assembly delegate for the Democrat Party, to ask for an investigation of the entire process to date. He thought it's been the most non-transparent thing he's seen; and he's a businessperson. People have questions about market value. Everything he's heard to date was non-transparent, and everything he's seen to date can be refuted. As he said last night at the meeting, when the people there go home they'll have to look at themselves in the mirror. There wouldn't be an Ethnic Studies Department, or Asian-American, Latino, or African-American Studies, if it weren't for students like himself who questioned when they were given misinformation and information that was misdirected. There wouldn't be the ethnic diversity they have. Berkeley is the birthplace of ethnic studies, along with S.F. State.

Mr. Esquivel said that what he saw that day was a group of students who were educated, but really naïve as to what the process was. He didn't blame them because they've been misdirected and misinformed. And the vendors, who were minority and blue-collar, have been maligned. He had an article that was ten years old, and from it, they could see that Ann Vu was kicked to the curb ten years ago. The vendors

have spent hundreds of thousands of dollars in investments in their businesses. He asked if any Board members have gone and talked to vendors' employees, or if Board members care about those employees. Ms. Vu has a Mexican laborer who has worked in the Bear's Lair for 15 years, a K-through-12 generation.

Mr. Esquivel said he was going to call for an investigation. He would send to the Board letters of support they have from various State leaders. To Mr. Permaul, Mr. Esquivel said he was a government major himself. He appreciated the opportunity to address them and wished them the best of luck, and a good evening.

Mr. Rajan said the floor was open to further speakers.

Mr. Rajan said he would like to point out that the next item on the agenda will require the Board to meet in closed session. That was not intended to be a way to limit debate or to be opaque. But the Board had to discuss lease terms being negotiated. That might be a long discussion, so if people had any comments they would like to make, he would suggest that they make them at that time.

A speaker asked if people will get kicked out. Mr. Rajan said that unless somebody was an ASUC Senator, a GA Delegate, a member of the Board, or was material to the discussion, in terms of an ex officio capacity, he was afraid they would be asked to leave.

Mr. Marks asked if he would get kicked out. Mr. Rajan said somebody would have to make a motion to include him, and have cause for that.

A speaker asked if students were going to get kicked out of their own space. He asked what the Board would do. Mr. Rajan said this was student space, and the students there were trying to conduct business as the Store Operations Board. What they'll do is discuss lease negotiation terms. They wouldn't want to tip their negotiations to the outside because there was a public bid process going on. If their terms leaked, they wouldn't get as strong a bid. It has been recommended to them to hold these discussions in closed session. He was happy to justify in open session any decisions they make as long as they didn't have anything to do with the specifics of the terms. Closed session would not be on the record, and meeting in executive session was necessary.

Mr. Marks asked if he could go over what they'll do. Mr. Rajan said the Board will be in open session for the item on the RFP scorecard. But he would rather address the public comment issue first.

Joseph introduced himself and said he was a long-time customer of the vendors in the Bear's Lair Food Court, and he knew there were a lot of other students like himself. He knew the Board was currently in the process of deciding the terms of the contract that they'll offer to the vendors. He would just like to say that he hoped the Board made an utmost effort to give the vendors a fair shake. He would be hesitant to assume that the best decision would be one that would put new pressure on the vendors. They have served the campus community for a long time, and were a part of that community. Many people in that community enjoy being able to go there and see familiar faces and get a bite to eat. He would just like the Board to consider that. He wanted to thank them.

Matt Marks said he would like the Board to just remember that they don't serve Tully's or Mr. Marquez, but that they serve the students.

#### DISCUSSION OF THE TAQUERIA LEASE

Mr. Rajan said that if there were no further comments, they would move to the next item on the agenda, a discussion of the Taqueria lease. The motion that was sent only to SOB members, via e-mail, was sensitive and included privileged information. He would entertain a motion to go into executive session. He would also entertain that motion to include Stacey Templeman, Tom Spivey, Nad Permaul, and possibly Dave Rhoads, when he arrived.

Ms. Coleman said that with all due respect to Ms. Templeman, she wasn't sure how Ms. Templeman was material to this conversation. Mr. Rajan said that they'll be discussing the specifics of the RFP process, and he believed the timeline and the expediency of how they handle that was of utmost importance. Ms. Templeman would be able to provide an idea of how long each change to the process would take, and how long it would take as is.

Ms. Coleman said the RFP didn't really seem germane to the contract, but if those issues came up, maybe they could decide at that point in the meeting to invite her back. Ms. Coleman said she would make that an amendment to the motion to meet in executive session.

Mr. Rajan said the motion was to go into executive session, to include Mr. Permaul, Mr. Spivey, and Mr. Rhoads. He would ask Ms. Templeman to say somewhere close by. The motion to amend was seconded by Mr. Zuo and passed by hand-vote 4-1-0.

Mr. Rajan said he would ask people not included to leave at that time. This meeting entered into executive session.

Back in open session, Mr. Smelko moved to extend closed session for ten minutes. The motion was seconded by Mr. Daal and passed with no objection. This meeting returned to closed session. Back in open session, Mr. Rajan moved to extend closed session for five minutes. The motion was seconded by Mr. Daal and passed with no objection. This meeting returned to closed session. Back in open session, Mr. Smelko moved to return to executive session for two minutes. The motion was seconded by Mr. Ortega and passed with no objection. This meeting returned to closed session.

Back in session, the students present at the student caucus, Mr. Zuo, Mr. Daal, Mr. Ortega, Ms. Coleman, and Mr. Rajan, submitted a Resolution on terms for the Taqueria lease. Mr. Daal said the amendment to the Resolved Clause from closed session would have it read:

“Resolved, that the lease on the Taqueria is extended until May 31, 2010.”

“Be It Finally Resolved, that the Board shall issue a new RFP on January 11, 2010 for the Taqueria space.”

Ms. Coleman moved to recess for five minutes. The motion was seconded by Mr. Daal and passed with no objection. This meeting was recessed.

Back in session, a motion was made to approve the amendment to the Resolution. The motion to amend was seconded by Mr. Smelko.

Ms. Coleman said she didn't think the amendment was in the spirit of what the original motion was and therefore it wasn't friendly to the original Resolution, and the Board shouldn't vote on it at that time. She thought it effectively replaced the Resolution with a new motion, and that would require public notice and time for the Board to really consider the effects of what it was voting on. She didn't think the Chair should allow a vote on it.

Mr. Rajan said he would fall onto his old straw man, without assuming it was the right straw man, but for the sake of procedural efficiency, he would allow the motion, as he has in the past.

Ms. Oatfield said they just had a long conversation about how the Board wanted to improve its business practices, and this was really problematic, entertaining illegitimate motions the second they leave executive session. Mr. Rajan said he would acknowledge that this decision might remove some rights of minority members of this Board, so he'd ask for a two-thirds vote of the Board to accept this, which was the best that he could do, in his understanding of Robert's Rules.

Mr. Daal moved to recess for five minutes. The motion was seconded by Ms. Coleman and passed by hand-vote with six yeas. This meeting was recessed.

Back in session, Mr. Rajan said a motion was made to amend the past RFP. An objection was raised. He ruled that for the sake of efficiency, he would accept the motion to amend. He has also asked for a two-thirds vote to approve the amendment.

Ms. Coleman moved to overrule the Chair. The motion was seconded by Mr. Rajan. The motion to overrule the Chair failed by hand-vote 1-5-2.

Mr. Rajan said they'd vote on the motion as amended. The Whereas Clauses would remain the same, but the Resolved Clauses were amended.

Ms. Coleman asked if the Board would vote to affirm that at that time. Mr. Rajan said they would. He ruled that the amendment was acceptable, and now they'd vote to amend.

Mr. Patel asked if Mr. Daal could read the terms again of the amendments. Mr. Rajan reread the amendments. The Resolved Clause was for the lease of the Taqueria, which would be extended until May 31, 2010, and the Final Resolved Clause was that the ASUC Auxiliary be directed to issue a final RFP for space #2, he believed, for January 11, 2010. He asked Ms. Templeman if an RFP could be issued by then. Ms. Templeman said it could be.

**THE MOTION TO APPROVE THE AMENDMENTS PASSED BY HAND-VOTE 6-0-0.**

Mr. Rajan said they would discuss or vote on the Resolution, as it was amended.



Mr. Smelko moved to call the question. The motion to end debate was seconded by Mr. Tran. Mr. Zuo objected, and asked for an explanation on what they were calling the question on, and the consequences.

Mr. Rajan said this will also serve as a summary of the results of closed session. The reason this discussion could not have been made in open session was because the motion contained specific terms for the lease extension offered to the Taqueria. They talked through whether they could do this. The Board determined that it could legally do this. They talked through whether they should do it. They have determined that it was possibly poor practice and that the new lease may or may not be any fairer. That's where the discussion ended. The question was then raised about what would happen if this motion failed. Some alternatives were considered. If this motion were to fail, the directive of the Board, in his opinion, would be to go to an RFP under the current terms and at as accelerated a time table as possible, in the next week. The motion was amended to give the Board a little bit more time and to give them some leeway, if needed, to change the terms of the RFP to make it more inclusive, which was, at least right now, the feeling of the Board, although a decision has necessarily been made yet. The Board will make a decision about that electronically. But the lease, with this amendment, would go out January 11, 2010.

A speaker asked if a student member could give a line of reasoning about why they should not do this. He noted that people were away for over an hour. Mr. Rajan said he thought he just did that. He asked if any student member of the Board like to make a response. Mr. Rajan said he would answer the question personally afterwards; but the question has been called and there was no debate. And actually what he did was out of order. Unless the Board wanted to take that up, they would now actually move to a vote.

Mr. Ortega asked if he could introduce an additional amendment to that. Mr. Rajan said it was too late.

Mr. Rajan said the motion was to move to a vote. The motion to call the question was 4-3. Mr. Rajan said he would vote against the motion, and the motion to call the question failed 4-4-0.

Mr. Rajan called for further discussion.

Mr. Ortega moved to further amend the Resolution, to add an additional clause that would give the Taqueria up to January 11 to agree to the terms that they had before.

Mr. Rajan said he couldn't specify those terms. They're in the Whereas Clauses.

On a point of information, Mr. Permaul said that if the Board did that, even with the very language it used previously to give an extension to the Taqueria, it would allow Mr. Marquez to seek counsel on the language and to understand the terms and conditions. That would be consistent with decisions the Board has made previously, and it wouldn't be open to question. They could add that language and give Mr. Marquez to the 11th of January to agree to the terms of the previous lease.

Mr. Rajan said that if he understood Mr. Ortega's motion correctly, he was asking for the old terms, not the new ones, as discussed in closed session. Mr. Ortega said he was. He thought that was the best the Board could do at that point.

Mr. Rajan said there would be another Resolved Clause inserted between the Therefore and the Final Resolved Clause to read:

"Resolved, that the Taqueria be given until January 10 to accept the terms, as they were offered in July."

Mr. Daal said that was in contradiction to the motion that he made. He said they would need to modify the last clause.

Mr. Rajan said the final clause would read:

“Finally Resolved, that upon receiving a negative or no answer, the ASUC Auxiliary is directed to issue a final RFP for Space #2 on January 11, 2010.”

Mr. Daal said he would accept Mr. Ortega’s motion as a friendly amendment, for the sake of efficiency. Mr. Rajan called for any objection.

Mr. Zuo asked where in this timeframe they'd edit the terms of the RFP for the space. Mr. Rajan said nothing would change, and they'd still do this over Winter Break. They'd prepare for the possibility and do it anyway. Mr. Rajan said he'll be doing it anyway.

Mr. Daal said he had a question about the lease. Mr. Rajan asked if they had to enter into closed session. Mr. Daal said he wasn't sure which lease this modification pertained to and whether it was to the one proposed in the original Resolution or the one that the Board proposed in July. Mr. Rajan said it was the one proposed in July. Mr. Daal said it was the rent figure from July. Mr. Rajan said it was.

Mr. Rajan asked if there were any objections to Mr. Ortega’s amendment. THE MOTION TO APPROVE THE AMENDMENT, AS STATED BY MR. RAJAN, PASSED WITH NO OBJECTION.

Mr. Rajan said they would come to a vote on the Resolution, as amended. Just to summarize, it would have the lease of the Taqueria extended until May 31, 2010; the Taqueria would be given until January 10, 2010, to accept the terms as they were presented in July. However, if there is a negative response, or no response from the Taqueria, the Auxiliary is directed to issue an RFP on January 11, 2010, the terms of which will be determined by the Board in the next few weeks.

Ms. Coleman asked for a roll-call vote. A roll-call vote was taken:

YES	NO	ABSTAIN
Mr. Coley	Ms. Coleman	Mr. Rajan
Mr. Daal		
Ms. Griscavage		
Mr. Ortega		
Mr. Smelko		
Mr. Zuo		

THE MOTION TO APPROVE THE RESOLUTION, AS AMENDED, PASSED 6-1-1.

On a point of information, Mr. Permaul said that because the RFP was still in progress, there could be no discussion of the actual scorecard itself. Mr. Rajan said that was correct, unless the discussion was in closed session. Mr. Permaul said that was correct. Mr. Rajan said he should apologize and should have noted this before. Item #3 will also have to be in closed session because it discusses the actual weighting

of the scorecard for the current RFP, which was currently out. The Board wouldn't want any vendors to have an idea of what the Board's mindset was on that. The bids would be accepted on December 18. Mr. Spivey said that information wasn't supposed to be public.

Mr. Ortega said that before they go into closed session, he asked if they could get some opinion from the audience on what they would like to see on the scorecard, and if people had any input on how to value the RFP.

Mr. Zuo moved to go back to public comment until 8:30. The motion was seconded by Mr. Ortega and passed with no objection.

PUBLIC COMMENT (cont'd)

Mr. Rajan asked if anybody would like to offer feedback to the Board on Mr. Ortega's question specifically, or anything else.

Mr. Marks asked if that would even be legal after having put out the RFP. He asked if it would be legal to say that low prices, owner-operated businesses, and diversity were valued, parameters whose weight was hashed, or financial investments and money for the ASUC. Mr. Rajan asked if he was talking about the old lease or the new one.

Mr. Marks asked if it would be legal for the Board to hear people's opinion that they wanted 3 billion points given to low prices, owner-operated businesses, and ethnic diversity, and a negative 10 points for revenue going to the Auxiliary.

Mr. Spivey said the Board was asking for input to the scorecard and the weighting.

Mr. Rajan said if he understood the question correctly, the actual fields of the scorecard have already been determined. What the Board will be talking about was the weighting. The fields were public.

Ms. Templeman said the items listed in the awards section were public and these were the things that the bid could potentially be weighted upon: the thoroughness and completeness of the proposal as it responds to the RFP requirements; the scope, extent, applicability, and quality of the bidder's experience; the financial resources and references of the bidders; the feasibility of the proposal; the bidder's financial capability; the compatibility of the proposed operations with the surrounding tenants and the campus community; quality, feasibility, and character of the proposed design; evaluation of professional qualifications and backgrounds of personal involved in the operations, including student hiring programs; and sustainability. There was one item that had to do more with the finalists than the initial stages: the quality, appearance, and taste of the proposed menu items.

Ms. Templeman said those were the items that were given to bidders upon which to evaluate their bids. It would be up to the Board to decide which of those factors were the most important. She believed the Board was seeking people's comments at that time about which of those factors people felt were most important.

Mr. Rajan said that from what he understood Ms. Templeman said it wouldn't be possible to weight the amount of rent bidders give, or their performance terms, by one point and weights something else, like sustainability or low prices, at another. Ms. Templeman said it would be possible. The Board could give a very low weight to the feasibility of the design and give sustainability a very high weight.

Mr. Marks asked where diversity fit in. Mr. Spivey said an RFP Committee was formed by the Dean, with students on it, just to work on weighted standards. So this was something the group already went over. He was at that meeting, but his job was just to make sure that what was asked for in the weighting was in the bid, to make sure bidders had that information. That was done and now, basically, public comment was being sought.

Mr. Rajan said the question was where diversity fit in to the bid. He asked if diversity was part of the weighted scorecard. Ms. Templeman said she would assume that "compatibility with the campus community" would cover that.

Mr. Marks said that right now, then, the Board was asking for people's opinion on how much "compatibility" should involve diversity. So technically, legally, they could hear comments.

Mr. Spivey said there was also discussion that pertained to specific items, such as diversity or affordability, which weren't mentioned in the broader criteria. That would be under the criteria, in something like a subtext. With that, they can weigh the criteria. But it still wouldn't necessarily state that those things were of importance to the potential bidders because they wouldn't see that, and only saw the larger categories. Mr. Rajan said that was correct.

Mr. Patel said those things were completely irrelevant to the RFP because bidders couldn't see that. Mr. Rajan said that was correct, bidders could not see the weights. Mr. Marks said that more importantly, bidders couldn't see the definition of quote "compatibility." They're vulnerable if the RFP came out and somebody saw owner-operated businesses as being important. And that was the question, if public comment at that time was pertinent or if there's already been a conclusion.

Mr. Zuo said the items in the RFP itself were public and were very, very broad. As long as their weights fell into those very broad categories, they were not liable for anything. That was his understanding.

Mr. Rajan said that in a broader sense, what the Board was requesting at that time was input to weight those points against each other. They listed a set of points, and now they'll sit down and weight them. When they finalize that, it will be their scorecard when they evaluate the bids. It would be very hard for them to quantify whether something should be weighted by 100 or 1, unless they've thought about it. Maybe that opinion could be quantified, and the Board would welcome that opinion. But he didn't know if people's time was better used studying.

A speaker asked if the Board will do this quantifying in closed session. Mr. Rajan said they would, and they had to. The speaker said the Board, then, was asking people to quantify on the spot, in the next five minutes, what the Board will be doing in the next 30 minutes. Mr. Rajan said he wasn't asking people to do anything. He was offering people the chance to give their opinions.

Mr. Zuo said they discussed student opinion in a committee. He and Mr. Patel were on it. They went over this for many hours, at student meetings, to discussing the bid. They invited other Senators as well.

So students' elected representatives were there to give weights. The Board was willing to hear more detail at that time. It wasn't as though community members didn't know about this, and people had a chance to talk about it.

Mr. Permaul said he would read the categories so people in the audience could hear them, without going into the points. Food and menus was the first grouping. It included menu and description of services; ethnically and culturally diverse food options; nutrition information on the menu; seasonal and organic food; and local food purchases within 250 miles.

The next category was operations. It included hours of operation; night, day, and weekends; types of payment accepted; POS cash register system.

The third category was personnel. It included site manager; student employment and training.

The fourth category was capital investment. It included facility concept; drawings for space; build out; signage; and financial investment.

The final category was sustainable business.

On a point of order, Mr. Patel said they had a discussion before about how the only legal expression of the RFP was the larger categories. So if it wasn't legal to express the subcategories then, he asked why it was legal now.

Ms. Templeman said she was expecting only to hear the master categories, which were the ones that were also listed in the bid submittal. Those are the highlighted categories and were a matter of public record on the bid. If they refer to Section 3 of the bid, the things Mr. Permaul read out were all in the high-level categories of the requirements that all bidders were required to respond to. So no information was disclosed that was not available to the public and to all bidders at that time. No information that has not already been disclosed to any possible bidder can be added to public discussion. So basically, as long as they don't discuss anything that wasn't already within in the RFP, they were okay. That's why they try, in general, to limit the discussion in public, because it was hard not to stray from what was in writing. All of the things Mr. Permaul mentioned were, in fact, items that were in writing in this bid.

Mr. Patel said his specific statement was to Mr. Permaul. When they had that subcommittee meeting, Mr. Permaul addressed them and told them that the only thing they could share with the public, and the only thing they could share with Senators and other members of the campus community, to receive input, was the bucket of categories, the more general categories. Mr. Patel said his concern was that he wasn't able to share those subcategories to get input on their various weightings. He felt that was unfair because he didn't think he was able to accurately address the subcategories, and he was only able to look at the broader scope. People didn't really understand what things meant, and he felt that he couldn't explain to them the subcategories under each category. And now they're stating this on the record and it was completely legal, and all of a sudden, everything has changed. But this was after the weighting process. So it was really pointless for him to access his constituencies for their input and not be able to share this with them. That was an unfair process.

Mr. Permaul said the community was being asked at this time to give input. It was just said earlier that this has not been decided. So there was still an opportunity for that subcommittee to sit down and discuss

this issue further. He wasn't sure why that was suddenly being precluded. Not only were the people in the room being offered an opportunity, but Mr. Patel had the opportunity to go back and discuss this with his constituents.

On a point of information, Mr. Patel said criteria were to be decided that evening. He asked if that was correct. So he asked how there was time. Mr. Rajan said that was correct, the Board had to make a decision that evening. Ms. Templeman said that wasn't necessarily the case. The Board had until the 18th, when bids were due.

Mr. Mairena said that Board members just stated that public comment couldn't be made about the weight. The people as a community who were present were just told they couldn't address that, and a committee already did that. But the committee didn't get the entire information. He would like to get some concrete and congruent intel from the Board, because right now, they were getting mixed statements as a community. He didn't even know if he had the right to say something, and now they were just told by Board member Zuo that the committee couldn't say anything.

Mr. Rajan moved to extend time for public comment by five minutes. The motion was seconded by Mr. Smelko and passed with no objection.

Mr. Rajan said he would respond. Mr. Permaul just read out a set of categories that will be weighted. A subcommittee of the Board has met and has solicited feedback from some members of the campus, specifically the ASUC Senate, for instance, to help the Board do a good job figuring out those weights. But ultimately, what those weights will end up being is a decision of the Board. And that wouldn't be made, in closed session, until the bids were due. The community was welcome to offer input on what they thought the weights should be. But the Board just couldn't tell the community what those weights were until the bids were due.

Mr. Marks said it sounded like the Board was completely empowered to seek the input of the people in the room, and the rest of the 30,000 students, before December 18, to seek public input on that one criteria, compatibility with the campus community. Somebody could make a motion to do that. And that would be a public process. They could write an op-ed. in the Daily Cal and send out mass e-mails. All that input could come to the Board. And that wouldn't be in closed session and would be completely public information. The campus community would know all the stuff the Board got between now and the 18th. It was finals, and a lot of stuff has gone wrong to this point, but as far as where they might be able to compromise, someone could make a motion to do that because the Board had complete leeway. It sounded like they could give 1 billion points to diversity, if that's what they wanted. They could call a special meeting of the Board, on the 16th or 17th. It would be a long session, because if the Board really did its due diligence, it would get a lot of input and then they would actually have the capability and the leeway, legally, to define the feeling of the campus community. And the campus community would know exactly what the Board based that decision on. So when the criteria did become public later, the Board could be held accountable with that information. People would have the weighting the Board eventually used. It wouldn't make him happy, and it sounded like in a crappy situation, but it was the best they could hope for.

Mr. Rajan said he was asking for more concreteness. He asked if Mr. Marks was saying they would take these categories, put them up online perhaps, have people download them, fill them in as they would like to see them filled in, and that would be brought back to the Board. Mr. Marks said that rather than

putting it on the Web site, they would actually do active outreach, saying the Board had made an important decision, had kind of screwed up, but now wanted input from the community. That would be a really cool compromise and would make this a very public process. In the rubble that was left over from this period, they could try and build something a little bit better. And then there's the accountability process. People would have all that information, including the weighting, after the Board gave that to the public. So they could either get mad at the Board or hug them.

Chris Reid said it sounded like Tom Spivey gave people inaccurate information, and on the basis of that inaccurate information, people weren't able to do their due diligence.

Mr. Rajan said he would try and nip this in the bud. At the end of the day, this Board has been appointed and elected to carry out decisions on students' behalf. If students didn't trust them to do that, and it was clear that they didn't, then they should really be looking into replacing them. But Board members were doing their jobs. It was unfair to blame Mr. Spivey or anybody on this issue.

Ms. Nava said she would recommend that the Chair allow the public to finish their statements.

Mr. Reid said that granted, he was coming back after a few months and wasn't a student any more, but he had experience with this. He didn't mean to berate Mr. Spivey personally and he wasn't questioning Senators' or Mr. Rajan's integrity about being elected representatives who were supposed to represent the students. Mr. Reid said he would just like to have it clear whether Mr. Spivey made a mistake and gave inaccurate information. Mr. Reid said he's had long experience in the past with administrators on the Board or the Auxiliary giving extremely inaccurate information to the elected body. The problem he had wasn't with the elected body. The problem was with the elected body not getting accurate information, which had drastic consequences as to how this all played out.

Mr. Rajan asked if there was a motion to extend time for public comment. Mr. Patel moved to extend time by five minutes. The motion was seconded by Mr. Smelko and passed by hand-vote 2-1. Mr. Rajan said they had five more minutes of public comment.

Mr. Patel said that to recapitulate what he said, as a subcommittee, they were advised to not seek or go through a public process, or seek the input of students at-large, and the student community on campus. They were also advised not to go to the Senate to receive its input on the categories and the subcategories, as Mr. Permaul just read them, at a meeting. They were advised to invite the Senators to a subcommittee meeting on the 20th, and for the discussion to happen there, at that meeting. But for circumstances that were not in their control, that didn't happen. So essentially, what happened there was absolutely zero input into the process. And therefore people on the subcommittee were the only ones who had any input on the weighting as well as on the precise and specific categories highlighted in the RFP.

Mr. Spivey asked to add two points of order. The instructions at the meeting were from the Dean of Students. The Dean jumped up and went to a conference call. Mr. Spivey said his only role was to make sure that when the group came up with a subheading, that it was included in the RFP. He was being accused of manipulating a group that was completely comprised of students. Mr. Patel said it was not completely comprised of students. Mr. Spivey said he did not come up with these terms. Mr. Rajan asked people to please address the Chair.

Mr. Spivey said the advice was from the Dean of Students, to get Senators together to get a broader base, advice to come from the Senate, and to come up with the criteria. His job as an Auxiliary manager was to

actually make sure the criteria the Board just heard about was, indeed, in the RFP. That was his role. He did not come up with any advice.

Ms. Templeman said that if she could add some information, it was policy, standing practice, and a requirement, that evaluation committees do not actually discuss with larger groups their weighting or scoring. It was an unprecedented degree of openness that she thought she's seen of the SOB in attempting to be much more open and reaching out greater to the community than she's seen in the past. So she could understand why there could be some degree of confusion. But again, the evaluation committee was supposed to meet privately and quietly to discuss the criteria. They're supposed to take thought of their constituency when they do that, and bear that in mind. It was definitely a great degree of openness that she was seeing, as in requesting public comment. It was unusual.

Mr. Patel said he completely agreed with the point made that it was the duty of the members of that subcommittee to seek input from their respective constituencies. But what he was saying was that it was a very limited amount of input they could gather because they were only given the bucket of categories and they were told that was all they could address the student body with. And that was all they could address the Senate with. Mr. Patel said he was saying he understood there was usually not a space for public input in processes like this, but his statement would be that maybe that was a problem. Since the SOB was supposed to be in control of the commercial operations of the ASUC, which was representative of the student body, maybe they needed to rethink how they go about that, or maybe rethink this methodology they have.

Mr. Zuo said that just to clarify, some things that were said, it was true the Auxiliary told them they shouldn't talk about these things in a group of hundreds of people. Now that the SOB was talking about some of these things, and it was in the minutes, maybe that was not okay. But they're doing that to satisfy the community there. That shouldn't be held against the Board. Two wrongs didn't make a right. The Board was just trying to do what people at the meeting wanted, which was to talk about this. They couldn't use that against the fact that they're not actually supposed to talk about these things. It was good business practice. Otherwise, the weights were skewed, which was unfair. People who read the minutes would have an advantage.

Mr. Rajan said he would entertain a motion to extend public comment. Mr. Patel moved to extend public comment by five minutes. The motion died for lack of a second.

### RFP Scorecard

Mr. Rajan said they would now move to the next item on the agenda, which was to determine the RFP scorecard. As discussed, this will require meeting in closed session. So he would entertain a motion to meet in closed session. It was so moved and seconded by Mr. Smelko and Mr. Zuo. The motion to meet in executive session passed with no objection.

Mr. Patel said that before going into closed session, he asked if Mr. Rajan could clarify what exactly would happen in closed session. Mr. Rajan said a set of categories was listed. They will assign weights to those categories. He didn't think those weights had to add up to 100, necessarily, but obviously there will be percentage numbers that will be normalized. These weights will then be the template they use for every bid that comes in.



Ruben Canedo asked if those will be due on the 18th. Ms. Templeman said they would be. The speaker asked why they couldn't have public comment to discuss that. Some members of the Board didn't know about this. Mr. Rajan said it's been on the agenda for quite a while. Mr. Canedo said somebody said they're ranking that day, and Ms. Templeman said the due date was the 18th. So there was miscommunication by Board members who couldn't communicate to the community about what was going to happen that evening. There was so much miscommunication, the speaker asked how the Board could make a decision without the community's full knowledge of what was going on that evening. That was a lack of transparency. Whether they care or not was another thing.

Mr. Rajan said that was understood, but they still had to get business done. Mr. Rajan said they'll go ahead and meet in closed session. He would ask non-Board members to leave at that time, and he would entertain a motion to exclude Ms. Templeman and Mr. Spivey from executive session.

Mr. Patel asked if he could elaborate on that at that time, because after executive session, people probably won't be there. Mr. Rajan said they had to make these decisions soon. They're going to have to make a decision by the 18th. They're doing the best they could in a short timeframe. This was the third meeting for this particular item. It's been on the agenda for a long time. It was on last month's agenda. Mr. Rajan said he could do this rant and then stop, and wouldn't engage anymore, because the Board needed to get work done.

Mr. Marks asked the minutes to note that the reason this was the third time and nothing got done was because all three times it was done wrong. It wasn't efficient to keep doing the same thing over and over again. The Board had a problem with process.

Mr. Rajan said the Board was in executive session and he would ask him to please let the Board work.

Mr. Rajan said that before they go into executive session, he'd make a motion to include Mr. Spivey and Ms. Templeman in executive session. He moved to enter into executive session with Mr. Spivey and Ms. Templeman to remain during executive session. The motion was seconded by Mr. Smelko and passed with no objection. This meeting entered into executive session. Mr. Patel asked the record to show that he objected to that motion.

This meeting entered into closed session to discuss the scorecard.

Back in open session, Mr. Rajan said he would entertain a motion to adjourn. It was so moved and seconded. The motion to adjourn passed with no objection.

Mr. Rajan said he would apologize for keeping people an hour and a half past when they scheduled the meeting to adjourn.

Mr. Rajan said that to outline what the Board discussed in closed session, they talked about the weights of the sample scorecard and came to an agreement on the terms. These will be the final terms for the RFP. It was noted that a future RFP will include comments from students, and the validity of that will be under debate for the next RFP.

This meeting, concluding Fall Semester, adjourned at 9:38 p.m.

These minutes respectfully submitted by,  
Steven I. Litwak, Recording Secretary

DECISIONS OF THE BOARD

Procedures

- Dec. '09**      **Welcomed to the Board Khir a Griscavage.**
- Nov. '09      Established a Food Subcommittee for the Bear's Lair Food Court.
- Sept. '09      Heard a presentation from Business Services on RFP procedures.
- Sept. '09      Voted to have \$20,000 from ASUC reserves, held by the Auxiliary, to be used for the Lower Sproul campaign.
- July '09      Welcomed to the Board Prof. Myers and Dean Poullard.
- July '09      Elected Mr. Rajan and Mr. Poullard as Chair and Vice Chair.
- July '09      Established a subcommittee to consider amendments to the SOB Charter and By-laws.
- July '09      Approved an operating principle of perspective vendors submitting an ROI to the Auxiliary before having the matter come to the Board.
- May '09      Welcomed Mr. Zuo and Ms. Coleman to the Board, undergrad reps in two-year and one-year terms respectively.
- May '09      Approved proposed changes to the CAA that would have the ASUC and the GA share commercial revenue.
- Dec. '08      Asked the Auxiliary to look into whether confidential contract documents could be delivered to members prior to Board meetings.
- Nov. '07      Welcomed Marilyn Stager to the Auxiliary, Business Services Officer.
- Sept. '07      Welcomed to the Board Prof. Cluff and Mr. Ortega, GA rep.
- Aug. '07      Elected Mr. Dally and Mr. Nguyen as Chair and Vice Chair for 07-08.
- May '07      Mr. Smith's first Board meeting as undergraduate representative.
- May '07      Mr. Spivey's first Board meeting as ASUC Auxiliary Associate Director.
- Dec. '06      Amended the Commercial Activities Agreement, to list the Blue & Gold Yearbook under Exhibit A, Part B, Number 11, to allow the Yearbook to receive student addresses from the Registrar's Office.

Procedures (cont'd)

- Nov. '06 Elected Mr. Dally as Vice Chair of the Board and elected to have Ms. Putnam-Smith serve as Chair for the remainder of her term, ending at the conclusion of Spring Semester, '06-7
- July '06 Mr. Permaul's first Board meeting as Auxiliary Director.
- June '06 Unanimously endorsed the efforts of the Chancellor and the UC President to utilize programs such as the Designated Suppliers Program, or other means of preventing the use of sweatshops in the production of University apparel and goods.
- April '05 Mr. Dally joined the Board as undergrad representative.
- Dec. '05 Asked the Finance Committee to discuss with Internal Audit the ASUC's Use of the BFS accounting system.
- Dec. '05 Elected Ms. Putnam-Smith as Chair of the Board.
- June '05 Voted to have committees, after the August meeting, agree upon meeting Times, during normal business hours, and for the Finance Committee to meet at least quarterly, and for each committee to have representation of faculty, staff, and students.
- June '05 Re-elected Mr. Cohen as SOB Chair and elected Ms. Putnam-Smith as Vice Chair.
- Feb. '05 Mr. Miles and Mr. Williamson joined the Board.
- August '04 Formed an ad hoc committee to study increasing efficiency in information technology.
- July '04 Elected Elliot Cohen as Acting Chair of the SOB, for 2004-5.
- April '04 Considered and amended ASUC Auxiliary Budget Principles.
- Jan. '04 Agreed to send another letter to the ASUC Senate and the GA asking to resolve the question of GA representation on the Board.
- Dec. '03 Voted to send a letter to the ASUC and the GA asking to resolve the question of GA representation.
- Oct. '03 Approved the establishment of ad hoc committees: Commercial Operations, Auxiliary Services, and Finance.
- Aug. '03 Heard a report on the establishment of the Space Assessment Committee for Eshleman and MLK.

Procedures (cont'd)

- June '03 Elected Ms. Quindel and Mr. Bucklin as Board Chair and Vice Chair, 2003-4.
- June '03 Formed a Subcommittee on Committees to determine a committee structure for the Board.
- June '03 Agreed to hold a Board members orientation by August 30.
- May '03 Agreed on the need for a Board members orientation to be held before the start of the school year.
- Dec. '02 Enhanced Board minutes by adding "Decisions of the Board."

Vendors

- Dec. '09 Passed a Resolution to extend the Taqueria lease until May 31, 2010; gave the Taqueria until January 10, 2010, to accept terms that were presented in July. A negative response or no response would have the Auxiliary issue an RFP on January 11, 2010,**
- Dec. '09 Determined weights for the Bear's Lair RFP scorecard.**
- Nov. '09 Reduced CUBS' rent 50% for the summer months the space was inaccessible due to University issues.
- Nov. '09 Decided to charge a \$500 deposit to CALPIRG.
- Nov. '09 Offered to extend the lease of the Taqueria through May, 2010.
- Oct. '09 Extended the lease of Healthy Heavenly Foods through May, 2010.
- Oct. '09 Extended the Daily Cal lease to September 30, 2012, adding CPI and electrical monitoring.
- July '09 Approved a one-year contract extension for the Daily Cal, through 2012.
- July '09 Approved Mr. Zuo as SOB rep to sit on the Daily Cal Board.
- July '09 Voted to present the SOB's contract to Food Court vendors, and to go to RFP if the terms were accepted.
- May '09 Approved an amendment to the Naia lease, to allow the sales of sushi and salads, with Naia to reopen in the fall.
- May '09 Approved a five-year lease extension for CALPIRG, with new lease terms.

Vendors (cont'd)

- May '09 Agreed to a three-year lease extension for the Daily Cal, and on terms to repay deferred rent payments, with an SOB member to sit on the Daily Cal Board until repayment.
- April '09 Amended the Panda Express contract and voted to renegotiate.
- April '09 Agreed to present draft contracts to the Coffee Spot, the Taqueria el Tacotento, and Healthy Heavenly Foods, going to RFP's if necessary.
- March '09 Approved the Tully's Coffee contract.
- Feb. '09 Voted to approve the CUBS contract.
- Feb. '09 Voted to move forward with the Tully's contract.
- Jan. '09 Voted to continue negotiations with Panda Express and Tully's Coffee.
- Dec. '08 Voted to go out to bid for all Bear's Lair Food Court vendors.
- Nov. '08 Approved Action Vending proposal to increase vending prices.
- Sept. '08 Agreed to Daily Cal terms for deferment and reduction of rent.
- Sept. '08 Heard the terms of a possible Panda Express contract.
- June '08 Approved the concept of bringing the Brazil Café to the ASUC.
- June '08 Approved a Letter of Intent to negotiate with Panda Express.
- May '08 Approved Letters of Intent to: renegotiate leases with Bear's Lair Food Court vendors, ESI (English Language Institute), the Daily Cal; to negotiate leases with a flower vendor, a bicycle vendor, Panda Express, and a major coffee vendor; and to amend the Coffee Spot lease for coffee cart operations at Anthony Hall.
- Dec. '07 Heard a presentation by CUBS.
- Nov. '07 Received "Roadmap to Redevelopment at the ASUC: A Conceptual Draft for Physical Improvements to ASUC Commercial Operations."
- June '06 Unanimously approved having Mr. Rolle look for someone to manage the Lodge, with the same relationship as with the previous manager, removing restrictions for a leaseholder.
- March '06 Approved a five-year lease option exercised by the Jupiter Pub.

Vendors (cont'd)

- May '09 Voted down approval of the proposed Panda Express contract.
- May '09 Voted to go to RFP, on June 30, for the STA Travel space, and any other spaces that become vacant in the coming year.
- May '09 Revised the agreement with CampusLink to end its monopoly on Student Union advertising.
- Feb. '06 Authorized pursuit of a judgment against the previous Cal Lodge leaseholder on behalf of the ASUC and the ASUC Auxiliary.
- Sept. '05 Authorized the Chair to write a letter to Associate Vice Chancellor LeGrande about the rate and usage of the Cal 1 Card.
- Sept. '05 Approved use of an inspector suggested by the Alumni Association to inspect the Cal Lodge, to authorize pursuing an agreement for the Alumni Association to manage the Lodge.
- May '05 Approved the further exploration with Daryl Ross of placing a green café at the southeast corner of the Student Union.
- March '05 Heard a presentation by Daryl Ross and agreed to investigate the possibility of a "green" restaurant in the southeast corner of the Student Union.
- Nov. '04 Approved the transfer of ownership of The Taqueria to the owner's nephew.
- July '04 To advertise the Store, the ASUC worked to give CalSO counselors a \$5 gift certificate and RAs a 15% discount card.
- June '04 Approved a five-year extension for the STA Travel lease.
- June '04 Approved the Resolution In Support of Follett Contract Performance Review.
- June '04 Approved changes to the terms of the Pub's lease.
- April '04 Authorized negotiations for a 12-month contract with the current Bear's Lair tenant, and to terminate the lease if negotiations failed, and to issue an RFP.
- March '04 Agreed to a four-with pilot project for the New York Times Readership Pilot Project.
- March '04 Rejected contract proposals submitted by Pub management, called upon the Commercial Operations Committee to initiate a student survey on use of Pub space, and approved sending out an RFP for the space.

Vendors (cont'd)

- March '04 Recommended signing the Follett contract, dated Feb. 26, '04.
- Jan. '04 Agreed to publish a letter in the Daily Cal to the general campus community promoting Auxiliary businesses.
- Jan. '04 Voted to send a letter of apology to the Bookstore manager for the content of a flier for the ASUC Bookswap.
- Dec. '03 Heard from John Martin, operator of the Pub.
- Nov. '03 The Daily Cal lease was signed, and printing of the ASUC government page began.
- Nov. '03 Heard a presentation on Coca-Cola business practices in Colombia.
- Aug. '03 Amended the Daily Cal lease to have a code of conduct for the paper discussed by the campus community at-large.
- July '03 Approved a five-year lease with the Daily Cal.
- July '03 Authorized an engineering study of the Cal Lodge, for use in negotiations with the lessees.
- Nov. '04 Approved a two-year lease extension, begin Jan. 1, '05, to the Taqueria and Healthy Heavenly Foods.
- Aug. 04 Decided to offer the Pub, after consulting with counsel, a reduction in rent, with conditions.
- July '04 Heard a counter proposal from the Pub regarding a contract revision. Authorized the Director to seek legal counsel.
- June '03 Formed a subcommittee to further consider the Daily Cal lease.
- May '03 Heard a presentation by Coca-Cola representatives on the company's business practices in Colombia.
- Dec. '02 Added a fair-trade coffee option into the lease of the Coffee Spot.
- Dec. '02 Authorized a letter to Coca-Cola expressing the Board's concerns with allegations of human rights abuses in Colombian bottling plants, and requested a company representative speak to the Board.

Student Union / Pauley Ballroom

Student Union / Pauley Ballroom

- Nov. '09 Allocated \$30,000 out of Auxiliary reserves to fund a study on a maximum build-out option for Lower Sproul redevelopment.
- May '09 Learned that due to a possible FEMA grant, phase 3, of the Student Union seismic project would be postponed until the summer of 2010, including the Pub, and the Store, and the Multicultural Center.
- Dec. '08 Work began on the seismic retrofit of MLK.
- Oct. '08 Heard from, gave feedback to, Brailsford & Dunleavy, on Lower Sproul redevelopment.
- June '07 Approved up to \$35,000 for Student Union improvements, estimates, and studies, including the Tilden Room, Pauley Ballroom, and the Food Court.
- May '05 Voted to approve the LoSpro lounge proposal for the space in the Student Union occupied by the Bearcade.
- May '05 Voted to explore options for the expansion of the Art Studio.
- Oct. '04 Authorized ASUC President Leybovitch, with matching funds from H&D, to spend up to \$2,500 for a Student Union/food service survey.
- May '03 Approved agreement with the Chancellor's proposal on the multicultural lounge; to enter into negotiations on costs and the Auxiliary's role in managing the facility; and to approve a negotiating committee. Current Officers will negotiate, with new Officers to shadow them until current Officers leave.
- May '03 Approved having Mr. Cordi and Mr. Rolle submit a proposal to support student use of Pauley Ballroom by the June SOB meeting.
- April '03 Received a proposal, as part of the 2003-2004 budget, to allocate 20,000 for the Senate and the GA to use for Pauley Ballroom fee waivers.
- Feb. '03 Approved a subcommittee to look into policies for Pauley Ballroom and for fee waivers.

Budget

- July '09 Approved the 2009-10 Auxiliary budget.
- April '06 Approved the 2006-7 Auxiliary budget.
- April '05 Approved the 2005-6 Auxiliary budget.
- Sept. '04 Approved a motion to state that the Board alone had authority to shift funding; to determine 03-04 residual profit at \$103,208; and to transfer \$50,000



Budget (cont'd)

from residual profit to the Auxiliary Contingency Fund, making up for a qtr of that amount to the ASUC to balance its 04-05 budget.

- May '04      Approved a motion to urge the future SOB, 04-05, to consider as a high priority, fully funding one position for the OSA and a half OSA position for the GA.
  
- April '04     Approved the ASUC Auxiliary FY 2004-5 budget, including a transfer to the ASUC of \$50,000 from Auxiliary Contingency Reserves.
  
- Feb. '03      Received "ASUC Auxiliary Revenue and Expense Report, July-December 2003."
  
- June '03      A committee was formed to balance the Auxiliary budget. The Subcommittee on Committees will determine if this should be an ad hoc committee.
  
- May '03      Approved the 2003-4 budget, and charged the Auxiliary Services Committee to determine cuts to balance the budget. Absent a recommendation by August 30, agreed to staff the security desk in