

Minutes of the  
**NIU Board of Trustees**  
**LEGISLATION, AUDIT AND EXTERNAL AFFAIRS**  
**COMMITTEE MEETING**  
April 29, 2010

**CALL TO ORDER**

The meeting was called to order by Chair Cherilyn Murer at 10:30 a.m. in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Sharon Banks-Wilkins conducted a roll call of Trustees. Members present were Trustees John Butler, Manuel Sanchez, Barbara Giorgi Vella, Student Trustee Matthew Venaas, Chair Cherilyn Murer and BOT Chair Marc Strauss. Not present was Trustee Myron Siegel. Also present were Trustee Robert Boey, Committee Liaison Kathryn Buettner and Board Parliamentarian Kenneth Davidson.

**VERIFICATION OF APPROPRIATE NOTICE OF PUBLIC MEETING**

Confirmation of Open Meetings Act public notice compliance was given by Parliamentarian Kenneth Davidson.

**MEETING AGENDA APPROVAL**

Trustee Strauss made a motion to approve the agenda. The motion was seconded by Trustee Vella. The motion was approved.

**REVIEW AND APPROVAL OF MINUTES**

It was moved by Trustee Sanchez and seconded by Trustee Strauss to approve the minutes of the February 4, 2010 meeting. The motion was approved.

**CHAIR'S COMMENTS**

Chair Murer welcomed University Advisory Committee representatives Mr. Jay Monteiro, President of the Operating Staff Council, and Dr. Bobbie Cesarek, President of the Supportive Professional Staff Council. This is Dr. Cesarek's last meeting as she is retiring soon, the Chair said, and we certainly will miss her at this committee meeting. Dr. Cesarek said that she is retiring after 33 years at the university. I have thoroughly enjoyed my opportunity to serve on behalf of the Supportive Professional Staff, she said, and be involved in the shared governance program at our institution. It is a fabulous process, and the opportunity to see the integrated work of everyone moving the university forward and keeping it vibrant has been just wonderful. "You and Mr. Monteiro have been exemplary, and you provide a very important voice not only to this committee but to this Board, Chair Murer stated, so, congratulations to you, and we wish you the very best." The Chair also introduced current Student Association President Robert Sorsby, who is also the Student Trustee-Elect for Fiscal Year 2011.

There are so many issues that have come up before the Legislation, Audit and External Affairs Committee, Chair Murer said. The legislation area is what drives our money and the audit area assures that we have been meticulous in its disbursement. In Springfield, since February, the General Assembly has considered hundreds of bills and passed a historic pension overhaul for new State employees that becomes effective January 1, 2011. Agenda Item 7.g. contains a detailed analysis of the Pension Code amendments enacted. We will not cover that item during our meeting but suggest that the Board become familiar with what has happened related to pension funds now and in the future. There was a contingent of the Board that went to Springfield with Dr. Peters and Ms. Buettner at the end of March to meet with legislators. The amount of money owed to this university by the State of Illinois is almost incredulous. At this moment, there is \$44 million outstanding. That is \$44 million outstanding in this fiscal year, which ends June 30. Managing within our budget is one thing, but when we try to manage within a budget that

does not receive the necessary funds, it becomes absolutely incomprehensible. We are very blessed to have such leadership as Trustee Sanchez indicated in his Finance Committee meeting. Those are not empty words that we all echoed. We are blessed to have the leadership of Dr. Peters and Dr. Williams as it relates to the fiscal management of the university.

## **PUBLIC COMMENT**

The Chair asked Board Parliamentarian Kenneth Davidson if any members of the public had registered a written request to address the Board in accordance with state law and Board of Trustees *Bylaws*. Mr. Davidson noted that he had received no timely requests.

## **UNIVERSITY REPORT**

### **Agenda Item 7.a. – 96th General Assembly Report**

We have discussed House Bill 4706 in the past, Ms. Buettner said. This bill would repeal the dependent tuition waivers for children of university employees. That has not progressed and remains in the Rules Committee. Given the rules in the House, this bill probably will not be dealt with during the spring session; however, it could come up again for a vote next year.

House Bill 5664, concerns installing sprinklers in Greek housing, which is a new concept. It passed the House and is now in the Senate for consideration. It indicates that automatic fire sprinkler systems need to be installed in all Greek housing structures built after January 1, 2011. For existing Greek housing, the systems have to be installed and operational by January 1, 2019. There is no funding to address this just as there was no funding to address the university residence hall sprinkler system mandates a few years ago. This bill is expected to pass.

Senate Bill 51, including procurement changes did pass the General Assembly. It is law and Dr. Cunningham is going to be giving a detailed presentation about that legislation, which takes effect July 1. So, at the end of this meeting, you will see how drastically procurement will change as of July 1 for this institution and every other public university and state agency. So, it is not only significant for this Board in terms of authority, but it is also significant for everyone of us on the campus who has to learn a new process by which we're going to be able to buy things now.

Senate Bill 642 is the borrowing bill we have talked about in the past. It is a bill that none of the universities are overly positive about. But because of the deficit in funds coming from Springfield, it is an option that the universities have requested from the legislature should funding not be available from the state to keep the doors open at the universities. So it is not something that we are advocating, but it is something that, as the President says, we can put in our tool chest if the State is further delinquent in paying its obligations to the university.

Senate Bill 1945, Pension Credit Service Leave of Absence, that bill did pass. It was signed into law and your summary of that legislation is contained in Item 7.g. in your Board books, and I would encourage you to review that.

Senate Bill 2887, Procurement Lease File Review, passed the Senate and is in the House right now. It is of concern to the university presidents and to the business officers like Dr. Williams who are responsible for negotiating leases under this Procurement Code. This is yet another issue of regulatory oversight and rulemaking that further diminishes the flexibility of the university.

Senate Bill 3222, Public University Tuition, passed the Senate, is now in the House and coming up for a vote on the House floor. This bill would extend the payment cycle under Truth-in-Tuition. Right now, Truth-in-Tuition says by statute if you come in as a freshman, you have four continuous semesters years to pay the same tuition as when you enter. Each university has added a grace period to that. At NIU, it has been an extra semester, meaning you basically have the same price for nine semesters. The bill that passed the Senate would extend the Truth-in-Tuition provisions so that a student who does not graduate within that nine semester timeframe on the initial Truth-in-Tuition would be able to come in at the tuition

level they would have been charged for the year following their initial entry tuition level. We do expect that bill to pass.

HR918 is a resolution sponsored by Rep. Pritchard that has already passed the House. It establishes a blue ribbon committee on higher education mandates within the Illinois Board of Higher Education to review the state mandates on public universities, and we intend to be very engaged in that committee. HR1020, some of you may remember, is a resolution sponsored by Rep. Pritchard that was passed to congratulate John La Tourette for the renaming of Faraday West. We presented Dr. La Tourette and his wife with that resolution about two weeks ago when they were on campus.

#### **Agenda Item 7.b. – Fiscal Year 2010 and Fiscal Year 2011 Budget Updates**

On the borrowing bill, Trustee Boey said, the State owes us \$40 million right now. We go to a bank and say we would like to borrow \$40 million, and the bank says, how are you going to repay it? We say, well the State of Illinois is going to backstop us on that one. How far do you think we are going to get with that process? Am I missing something? That is one of the major concerns for the universities, Ms. Buettner said. We know the reality. The presidents have been engaging in this discussion now for weeks because while it is an option, we are going to be met with the very grim reality from bankers regarding how we are going to pay it back.

Under the various forms this bill has taken, there are some rather difficult amendments attached to the current version that create obstacles. This would not permit us to borrow against expected State revenues, and that would be problematic. The State does not put the full faith in credit of the State behind any borrowing that a university would do under this bill. As we have said many times, we do not believe it is good public policy. Yet, it may be the only option available to us in the event that the State lapses \$40 million and then in the new fiscal year continues not to pay us. This lapse and this cash flow roll to the point where you have exhausted all your reserves, and you have drained all your income fund so you cannot meet payroll, then what happens?

Tied to the lapse in payment, Chair Murer asked if there is a mandated interest being paid on the monies owed. President Peters stated that provision is only for providers such as dentists, but not for State agencies. The other part of the borrowing bill is that there is interest associated with anything we would borrow. We tried in the current legislation to get the State to pay the interest on anything we borrow, and that has not gone anywhere.

#### **Agenda Item 7.c. – Congressional Report**

Because of the shortness of our time today, Chair Murer said, we will not discuss the congressional report during this morning's meeting, but this information is listed in the Board materials for review.

#### **Agenda Item 7.d. – Fiscal Year 2009 University Financial Audit**

Bob Albanese, Associate Vice President of Finance and Facilities, provided the committee with a summary of the university's Fiscal Year 2009 Financial Audit. First, I would like to introduce and thank our university Controller, Keith Jackson, and the entire Controller's Office for the outstanding job they do in putting together the financial data for the report, Mr. Albanese said. It is literally a six-month job for them. The Fiscal Year 2009 Compliance Audit is normally presented along with the Financial Audit. However, this year it is still being negotiated with the Auditor General, and we expect that to be released in May. While last year the financial audit had one audit finding, I am happy to report that this year we have zero financial audit findings. That is always a good thing.

I just want to make one point concerning our financial condition as I reviewed this report with the Controller's Office. During Fiscal Year 2009, the General Revenue appropriation from the State to NIU decreased by over \$1 million; however, we were still able to show an increase in net assets of \$6 million. In private companies, net assets is equal to book value. We were able to increase the book value of NIU by \$6 million when state support decreased by \$1 million. This means we were able to protect programs and operations in spite of reduced State support. In addition, this increase in net assets validates the pricing model we used for tuition and fees. A key factor as we move forward into much tougher times is that we have a pricing model for tuition and fees that is accurate and meets the needs of NIU.

It will be important to see the compliance audit, Chair Murer said, so we want to have access to that as soon as it is delivered. I was pleased to hear that we had no deficiencies in our audit, that is excellent.

#### **Agenda Item 7.e. – Amendment to Board of Trustees *Regulations Freedom of Information Act (FOIA) Laws***

The Freedom of Information Act (FOIA) has been stable for quite some time, the Chair said. But, there is a new law that has modified and expanded the Freedom of Information Act, and that means our legal department, which usually takes responsibility for FOIA, has been inundated with requests. What we are now doing is transferring the FOIA intake responsibilities to the senior administrator in University Relations.

The biggest difference in the FOIA Laws is that the response time requirement has changed from ten days to five days, Mr. Davidson said. When one of these requests comes in, we have to drop everything we are doing right then, though we might be working on higher real priority items for the university. There is strict oversight now by the Attorney General's Office that is an immediate path to review of anything that is done, and there are consequences for not meeting deadlines. Also, there have been changes in several of the exemption areas that have required some explanation within the organization. There has been a wide array of changes in the law, it is an unfunded mandate, and it is more strenuous and difficult for the public body to respond to it.

I appreciate the support of the President and Kathy Buettner in considering the proposal to relocate the primary responsibility for handling the dozens and dozens of requests that have come to the office since the amendment of the Freedom of Information Act, Mr. Davidson added. Because University Legal Services has been so burdened with increased FOIA requests and the limitations on the hours in the day, we asked for some relief on this. We also asked our colleagues around the state what the practice was at their universities, and we found that it was not uncommon for the public information function of the university to be the primary responsible office for handling intake of FOIA requests. So, coupled with our experience and the common practice elsewhere, it was favorably received by the President and Vice President Buettner to support our request for reorganization.

Mr. Davidson assured the Board that if any issues having potential legal aspects arose, he and Greg Brady would continue to be primary legal support for any questions that come up in the proper interpretation of any exemptions that should be applied. Also, the Attorney General's Office will be providing a training opportunity to a number of offices and staff throughout the university so that there is a more skilled cadre of people who deal with the various requests that may arrive.

Ms. Buettner explained that it would be her responsibility, primarily, to oversee FOIA requests. She said that several people are involved in the process including Brad Hoey, who has dealt with media requests, and Steve Cunningham, who is frequently involved in pulling requested data. Along with Ken Davidson and Greg Brady providing backup legal support, it has been this group that has been handling these issues for the last few months.

When asked how many requests were received per month, Mr. Davidson said that at least two or three requests are received on a daily basis and it has dramatically escalated since the first of the year when this law was passed. Some of these requests are things we can provide to media often without necessarily having to go through a FOIA request, which triggers an extensive administrative review that costs more time and more money for us to comply, Ms. Buettner said. Most of the requests are fairly straightforward in the sense that they may ask for something as simple as a copy of a contract. Those are legitimate document requests for which, in many cases, had they asked instead of filing the FOIA, we would have been able to just give them the information without triggering the entire FOIA review process. The vast majority are simple requests for copies of contracts that the university has entered into. In cases where a request involves a person's e-mails or something on a certain subject, that would automatically trigger the FOIA review process since that gets into legal issues.

There are also limitations on passing on the costs for copying of materials to the requester that we have to absorb, the President said. It is a public policy regulation that we are getting used to, and because it is

the law, we are accommodating. The FOIA function has morphed to more a research tool that the media has to do their legitimate stories, so it has become more of a University Relations function. We want them to just tell us what they want so we can get it to them quickly without getting involved in the legal process.

Trustee Butler asked why make the change, if the current process has been successful. We do contact the requester if it is an overly broad request and try to get them to narrow it if they are willing, Mr. Davidson replied. We negotiate when we can where we can, and where it is not possible, we go into the proper administration of the request. It is a workload problem. There is a great deal of material that has to be gone through page by page, line by line. I have one assistant who does this with me, and redacting is a big time consumer. As a point of clarification, Chair Murer said that what has been brought to the Board is a request to make what has been an informal process more formal by transferring some of the intake responsibilities to another department, which means the Board *Regulations* have to be amended.

This provision places the Vice President of University Relations in charge of the FOIA process, Trustee Butler said. It is a big change and as a Board member, I personally have been comforted by the fact that the University Counsel manages the FOIA requests. He asked who would do the redacting under this new scenario, and who would make the judgment as to what information needed to be removed. Ms. Buettner replied that for a standard contract not much judgment is required. There is a standard procedure of redacting all signatures and any kind of personal identification number, such as a Social Security number, a FEIN number or Taxpayer I.D. number, and that has been done in consultation with Mr. Davidson and Mr. Brady. When the requests are larger in scope and require things like university e-mails and such, they would immediately go to Legal.

The Chair asked Ms. Buettner to come back with an update on the process at the next committee meeting. One of the things we are depending upon is the good judgment of the University Relations leader, she said. It is important that it stays under Kathy's jurisdiction, at least until we are comfortable, because it does take judgment, and it means that she has to know when to call upon Mr. Davidson.

Chair Murer asked for a motion to endorse the amendment to the Board of Trustees *Regulations* regarding the Freedom of Information Act Laws to transfer some of the responsibilities to the senior administrator in University Relations. Trustee Sanchez so moved, seconded by Trustee Strauss. There were five "yes" votes, with Trustee Butler "opposed."

#### **Agenda Item 7.f. – Internal Audit Department Charter**

The chief audit executive must review the Internal Audit Charter with senior management and the Board of Trustees in order to comply with the Institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing, the Code of Ethics and the Fiscal Control and Internal Auditing Act of the State of Illinois. The periodic review has been completed and no changes are needed, Chair Murer said. The internal auditor has requested Board approval of the existing Internal Audit Charter in order to fulfill this requirement. Chair Murer asked for a motion to endorse the Internal Audit Charter with no changes. Trustee Boey so moved, seconded by Trustee Vella. Trustee Strauss asked that a change be made in the notification requirement in the third paragraph under the heading Northern Illinois University Internal Audit Department Charter to include "the Committee Vice Chair." The Chair asked for a second to the amendment to the motion made by Trustee Strauss. Trustee Sanchez seconded the motion. The motion was approved as amended.

#### **Agenda Item 7.g. – Public Act 96-0889 Illinois Pension Code Amendments Applicable to State Universities Retirement System (SURS) Participants Employed as of January 1, 2011 and Thereafter**

Chair Murer asked earlier in the meeting that Committee members familiarize themselves with this item.

#### **Agenda Item 7.f. – Procurement Reform Legislation Public Act 96-0795**

Chair Murer asked Dr. Cunningham to give the committee highlights of the Procurement Reform Law that will go into effect July 1, 2010. We heard in the Finance Committee meeting that this is a major change in the breadth and scope, she said, and we probably will need to have further discussion once it is put into

effect after July. What we are most concerned about is how it impacts the role and responsibilities of the Board of Trustees and any of the officers of the university

As Chair Murer mentioned earlier in the meeting with the SURS legislation, Dr. Cunningham said, this too reflects a major change in the nature of public policy in the State of Illinois, somewhat reflecting the fiscal crisis as well as the crisis with various issues in state government. I will briefly cover some of this in a PowerPoint presentation.

Senate Bill 51 was passed in the spring of 2009, Dr. Cunningham said, and we reported on the contents of this bill previously. At that time, higher education developed strategies to work with the Ethics Commission and other sectors of state government to seek to modify or amend the Senate Bill in order to make it fit with the procedures in higher education and also the authorities of the universities and the boards of trustees. The Governor amendatorially vetoed the bill with some changes, however, that veto was overridden by the General Assembly. Senate Bill 51 is very much unchanged from the way it was passed originally under the rubric of ethics reform and is very much tied to that agenda.

There are some key definitions, both under the current Procurement Code as well as following the enactment of this new statute. The Illinois Procurement Code was established in 1998 as a means to structure the purchases of large transactions in state government. It established bidding procedures, checks and balances, and a heavily regulated system of state procurement. At that time, the public universities developed a consortium called the Illinois Procurement Higher Education Cooperative (IPHEC), a participatory function housed at the University of Illinois to which all of the universities subscribe. IPHEC submits bids and maintains the *Procurement Bulletin*, an online bidding process for all types of transactions in higher education. It is designed to follow the Procurement Code and to assure compliance with the Code. It is very efficient and gives us opportunities to collectively bid on large commodities, goods and services. In 2005, as part of ethics compliance, a Procurement Policy Board was established to oversee the procurement activities of all state government, and that board has the ability to review all transactions, it can limit implementation of transactions for 30 days while it undertakes a review, and it can require hearings with respect to sole sources. The Procurement Code requires the appointment of a chief procurement officer for each sector of state government, including higher education. Under the current code, that individual was appointed by the university agencies, by the presidents through agreement, and that person has been the chief operating officer at the University of Illinois because of its association with IPHEC. The chief procurement officer, subject to the approval of the presidents and each agency, appoints a state procurement officer to assure compliance with the Procurement Code at the agency level, which is my role at Northern. The Executive Ethics Commission was established in 2003 with the State Officials and Employees Ethics Act. The Procurement Compliance Monitor is a new term that we will discuss later in the presentation. *Next slide please.*

There are three basic types of procurement: competitive, which is bid; sole source, where there is no other logical supplier; and emergency procurements for health safety and the protection of health facilities.

The current bid thresholds, which get us into the Procurement Code for these different types of transactions, are \$20,000 for professional artistic services; \$50,000 for supplies and general services; \$70,100 for construction and that goes up by inflation; and A&E services, \$25,000. The bottom section demonstrates what the annual procurement activity is in higher education subject to the code where there are around 2,600 bid transactions listed on the *Procurement Bulletin*, and 730 or 22 percent of those are sole source transactions and has a vendor named in a grant. We have these in almost every Board committee.

Dr. Cunningham went over an organization chart for how the procurement system works in higher education. Several new positions would be created under the enactment of SB51 and at least 26 new positions were added to oversee procurement in higher education.

Between now and July, all of state government, especially higher education, is collaborating with the Ethics Commission. We have developed subcommittees to work on different aspects of implementation. We are working very diligently to be prepared to operate under the new requirements, which are far more complex than those we now operate under. It will have the effect of transferring procurement authority to

the Chief Procurement Officer, who will report to an employee of the Ethics Commission, and that individual, through the State Procurement Officers that they too will appoint, will be the authorizing parties for all of our procurement transactions regardless of fund source as of the effective date of the act.

Basically, there is yet another state-imposed layer on us, Chair Murer said, and that layer is not physically here, whereas before the authority was physically here at the university. Dr. Cunningham stated that was correct and those authorities will have the ability to issue rules, procedures, void transactions and hold the progress of transactions pursuant to their roles. These rules are applied to us regardless of whether or not we receive any money from the state simply due to the fact that we are a state university. Again, it is independent of fund source. So whether it is appropriated funds, nonappropriated funds or grant funds, it is all covered under the Procurement Code.

Dr. Cunningham stated that he foresaw no need to make changes in the Board *Regulations* at this time as a result of this legislation. The Board *Regulations* set up internal protocols for authorizing procurement transactions, and those will still apply. These new rules mainly relate to how transactions are carried out after they are authorized.

#### **OTHER MATTERS**

We are committed to continue our discussion regarding domestic partner issues which will be deferred until our next LAEA meeting due to the shortness of time of this meeting, Chair Murer said.

#### **NEXT MEETING DATE**

The Chair announced that the next meeting of the Legislation, Audit and External Affairs Committee will be August 26 in DeKalb.

#### **ADJOURNMENT**

Chair Murer asked for a motion to adjourn. Trustee Strauss so moved, seconded by Trustee Boey. The meeting was adjourned at 11:25 a.m.

Respectfully submitted,

Sharon M. Banks-Wilkins  
Recording Secretary

