

Minutes of the  
NIU Board of Trustees  
**LEGISLATION, AUDIT AND EXTERNAL AFFAIRS COMMITTEE**  
June 5, 2007

**CALL TO ORDER**

The meeting was called to order by Chair George Moser at 10:00 a.m. in Room 233 of NIU Hoffman Estates. Recording Secretary Sharon Banks-Wilkins conducted a roll call of Trustees. Members present were Trustees Myron Siegel and Marc Strauss and Chair Moser. Also present were Committee Liaison Kathryn Buettner, Board Parliamentarian Kenneth Davidson and President John Peters, who joined the meeting in progress.

**VERIFICATION OF APPROPRIATE NOTICE OF PUBLIC MEETING**

Confirmation of Open Meetings Act public notice compliance was given by Parliamentarian Kenneth Davidson. The presence of a quorum was noted.

**MEETING AGENDA APPROVAL**

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

**REVIEW AND APPROVAL OF MINUTES**

It was moved by Trustee Strauss and seconded by Trustee Siegel to approve the minutes of the March 6, 2007 meeting. The motion was approved.

**CHAIR'S COMMENTS**

When we scheduled this meeting, Chair Moser said, we were all hoping the General Assembly would have approved the Fiscal Year 2008 budget and have adjourned in Springfield. Unfortunately, that is not the case. Ken Zehnder, who is in Springfield this morning, is continuing to work on funding for Stevens and the university's share of the FY08 higher education budget. Lori Clark will be providing an update on the substantive legislation enacted in Springfield to date this spring as well as other pending legislation still on the calendar for consideration. Kathy Buettner will give an update on the higher education budget in Springfield as well as congressional action in Washington. John Lewis will provide us with an update on the development of the Northern Illinois Proton Therapy Treatment and Research Center, and Bob Albanese will provide the FY06 Compliance Audit Report.

Chair Moser then recognized University Advisory Committee representatives Sara Clayton, President of the Operating Staff Council, and Bobbie Cesarek, President of the Supportive Professional Staff Council.

**PUBLIC COMMENT**

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

**Agenda Item 7.a. – 95<sup>th</sup> General Assembly Report**

Ms. Lori Clark of External Affairs reported that the General Assembly was in overtime session in Springfield. Several bills that relate to higher education have passed through both houses. House Bill 166, which deals with pregnant peace officers and fire officials, is awaiting the Governor's signature. That will have an impact on smaller forces, such as the university police and fire department for female

officers who may be pregnant. House Bill 223, the Educational Partnership Act, allows universities to pay for pre-service teacher candidates for tutorial services at the same time they are receiving either academic or clinical experience. House Bill 237 relates to library records confidentiality. Under certain circumstances related to probable cause, it would require the university to release library records to sworn law enforcement officers. And there are a variety of bills related to the procurement code.

Senate Bill 313 relates to remedial course work. A provision of that bill states that a student cannot take their core course work if they are determined to need remedial education. The most important bill that has passed and that we are watching very closely is Senate Joint Resolution 5, Ms. Clark said. SJR5 mandates that the Illinois Board of Higher Education create a Task Force on Higher Education and the Economy. There has been a lot of discussion in Springfield in both houses about the need for master planning in higher education. There seems to be a lot of concern about fragmentation in the system and the need to improve coordination, teaching, learning, as well as accountability. Related to that is House Bill 1648, which is still pending, that would establish a P-20 Council.

There are a couple of bills that we think may be finished for this year. One is House Bill 1434, which relates to Harper Community College's ability to offer bachelor's degrees. It did not leave the Senate. There may be a chance that the sponsor will try to put it through a different committee. However, all of higher education is carefully tracking that bill. A bill was introduced by Rep. Aaron Schock of Peoria that would have allowed Illinois Central College, the community college in Peoria, to own and operate community college housing dorms. It did pass out of the House, but the Senate did not pass it.

Finally, there are several bills related to textbooks that have been introduced by Senator Mattie Hunter. Right now they are both in Rules Committee. One would create a task force to look at the whole issue of textbooks and the cost of textbooks. The other is actually the universities' requirements related to publishing those textbooks.

#### **Agenda Item 7.b. – FY08 Illinois Higher Education Budget**

As far as the FY08 budget goes, Ms. Buettner said, we are still waiting on the outcome of the General Assembly negotiations and discussions. The Governor's budget was released in March, after our last meeting. The recommendations we gave you at the previous meeting were issued by the IBHE, which recommended a 1.5 percent GR increase to the university budgets for FY08. The Governor's budget recommendations called for a 1.9 percent increase in the GR budget. Obviously, it is nowhere near what we need to keep growth and quality moving forward as we have been able to do over the last few years, despite the budget cuts. But it is a start, and we are encouraged by that. Speaker Madigan's budget, which was passed by the House last week but was not adopted by the Senate, called for a two percent GR increase for the universities. While we are not taking great leaps in terms of larger percentages, the fact that the Speaker's budget was a tiny bit higher than the Governor's shows that there is real support on both sides of the aisle in Springfield for maintaining at least a positive one to two percent increase in the GR base for the universities for 2008. So, despite the outcome of the budget negotiations, I believe we will have a positive increase in our base budget for 2008.

The reports in your books are sourced from IBHE tables. Basically, in the Governor's budget, the universities received a 1.9 percent increase in budget, community colleges received a 1.7 percent increase and ISAC received a 2.7 percent increase. There were cuts to institutional grants and other things making it a 2.3 percent increase overall for higher education. The universities are broken out across the board at 1.9 percent. I am also pleased to report that the extra CHANCE funding we have sought for the past few years, which was received as a separate line item, has been rolled into our base for 2008.

Also included in your packet are charts that describe the capital budget put forth by the Governor. We did not expect the Stevens project to be high enough on the list to be funded if the Governor had followed the list number for number. We are pleased to note that the entire Stevens project was included for funding in the Governor's budget recommendations for 2008. We have been working very diligently with the leaders, the different caucuses and the budget staff to maintain that. As this Board and this campus know, we have not had a capital budget in the last four years in Illinois. So we hope that after four years we will have a capital budget and, if we do, that Stevens funding will be included. At the end of the

Governor's capital budget list are Opportunity Returns projects for Western Illinois University, Southern Illinois University and University of Illinois at Urbana-Champaign. As you will recall, four years ago when the Governor took office, he divided the state into eleven economic development zones. DeKalb is located in the Northeast Zone, which is the largest zone and includes the City of Chicago and its metropolitan areas. Over the last few years, there has never been any agreement among the legislative leadership and the Governor on what should constitute the capital program for the Northeast Zone. Therefore, there is nothing listed for the Northeast Zone. I doubt they will come to agreement yet again this year, so we will continue to put forth project efforts separately through the Capital Development Board and the Board of Higher Education.

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

I just returned from Washington last week, Ms. Buettner said, and want to report on a couple of issues we have been talking about as a committee for the last two or three years. One is the Higher Education Reauthorization legislation. We are close to making history in this country in the sense that this bill has been over three years in reauthorization and is still not completed, and it is highly unlikely at this point that it will be completed this calendar year. As you know, the Congress is now governed by Democrats. Some felt that would move the bill along. Unfortunately, extraneous circumstances such as the student loan scandal out of New York and the Virginia Tech tragedy have carried over into Washington, and more emphasis is being placed on campus safety and security.

We have had regulation at the department level of the accreditation process for colleges and universities across the country. And we now are in the process of going through budget reconciliation in Washington with the House and the Senate, and that is an intensive process in and of itself. So, what we are seeing is the Higher Education Reauthorization issues that are normally put together in one large bill being parceled out in time spent on campus security, student loan issues and reaccreditation issues, instead of putting them together and passing a law in both chambers that will go to the White House for signature. In addition, we now have the reauthorization of the No Child Left Behind Act, which after four years, has come up again and is occupying the Congress's attention. That will take precedence over the Higher Education Reauthorization as well, given the politics and the interests in the country regarding that bill. So I believe that we will have some sort of Higher Education Reauthorization legislation pass next year. We were told last week not to expect a bill that does not contain student loan regulation, additional student loan regulations, additional regulations regarding campus safety and security issues, and some dramatic accreditation reform issues also to be included in the Higher Education Reauthorization. In the meantime, the House has passed a version of the Sunshine Act, and the Senate is acting on that regarding the student loan issues.

The appropriation cycle is also underway in Congress. Given the fact that the Democrats now control Congress and the Republicans control the White House, the White House has been very firm in indicating that they expect Congress to uphold the budget rules they sent over in terms of the total dollar amount per appropriation bill. And if Congress were to exceed the dollar amount the administration has suggested for the appropriation bills, it would result in an automatic veto. Congress has not taken that threat idly and has put an additional \$4 billion in spending in the first bill they are working on which is the Military Quality of Life appropriations legislation for VA medical care for returning Iraq and Afghanistan soldiers. This is, of course, in excess of what the White House has indicated that they would authorize. If you take Iraq off the table, which is hard to do because it factors into everything we are doing policy-wise and spending-wise, the second major issue that they expect to be at odds on is the Labor HHS appropriations bill. Congress is expected to substantially exceed the OMB caps that were sent over for that particular program and that bill. And that will set off a firestorm across the country with a potential override that could be the biggest fight ever in the history of Congress given the politics of the overrides necessary on that Labor HHS bill.

#### **Agenda Item 7.d. – Northern Illinois Proton Therapy Treatment and Research Center Project Update**

We sent out an RFP for equipment purchase and had two responders – a company called IBA out of Belgium and Varian/ACCEL out of Germany. At meetings here on campus May 15 through May 17, a technical advisory committee made up of scientists and engineers from Fermi; Argonne; Loma Linda Medical Center; M.D. Anderson; MPRI in Bloomington, Indiana; Indiana University; and Northern held

three-hour sessions with each of the vendors. We have another meeting scheduled with the vendors on June 27. While the technical advisory committee was meeting with the vendors, there was also an administration finance group, chaired by Dr. Williams, that several of us from the university were involved in, as well as external counsel and an external finance consultant. The external finance consultant is unique in that, to our knowledge, he is the only financial consultant that has actually put together an organization and finance package for a not-for-profit proton therapy center in the United States. M.D. Anderson is a for-profit center. The University of Pennsylvania is being funded internally by the medical school.

Illinois is one of a handful of states that still have a Certificate of Need process in place. Certificate of Need simply means that any major health facilities project in excess of \$6 million, I believe, has to go through the Illinois Health Facilities Planning Board. Ms. Buettner explained that this process has been extended through legislative authorization. On Friday, June 1, the General Assembly passed the final piece of legislation reauthorizing the Health Facilities Planning Board until August 31, 2008. Included in that reauthorization was a section related specifically to proton therapy.

We filed a Letter of Intent with the Health Facilities Planning Board on April 12. You cannot file a completed application in less than 60 days after the Letter of Intent. So, technically, we can file our application on June 11. Our intent would be to file in the late third or early fourth quarter of this year.

In the *Northern Now* magazine, which you may be receiving in your mailboxes very shortly, Ms. Buettner said, is a detailed article on the proton project. It features interviews with several alums from Northern who were treated with proton therapy at Loma Linda University in California. I was pleased to see it because it will make other NIU alums aware of what we are doing as well.

#### **Agenda Item 7.e. – Fiscal Year 2008 Compliance Audit Report**

First, I would like to thank Keith Jackson, the university controller, and Sharon Downen, the university internal auditor, for their fine work in managing both the internal audits during the year and the audit process at year end, Bob Albanese, Assistant Vice President for Finance said. I am pleased to report to the committee that the Illinois Auditor General released the university's Fiscal Year 2006 Fiscal and Compliance Audit in March 2007. The Fiscal Year 2006 audit contains four material findings of which two are repeat findings. To put this in some perspective, in Fiscal Year 2006, the range of material findings was from a high of 12 for Chicago State University to a low of three for ISU. NIU with four was second lowest. The two new findings relate to financial statement presentation issues, one involving offsetting amounts in both current assets and current liabilities, and the second finding involving the timing of capitalizing assets. The underlying causes of both issues have been eliminated. We have taken a look at our internal process and made adjustments so these will not be repeat findings in Fiscal Year 2007. The repeat findings relate to the unofficial withdrawal policy for students receiving federal student aid and the university not requiring all employees to submit timesheets as required by the State Officials and Employee Ethics Act. The withdrawal policy issue has been resolved through some internal adjustments to our procedures. The university is working with other state universities to resolve the timesheet issue.

I know it sounds great to be the next to lowest on the list, Trustee Siegel said, but that does not give me any comfort. So that I have it in the minutes, he said, you are telling us that finding 06-1 will not be a repeat next year, and the capital asset reporting will also not be a repeat next year. I believe that in previous minutes, you will find I was told that the unofficial withdrawal policy would not be a repeat this year. But it is, and I do not understand why. I understand the timesheet issue because it is a statewide issue. But I was told last year that this had been resolved and whatever needed to be done apparently was not.

Controller Keith Jackson explained that when we started implementing the new student PeopleSoft system, we had hoped that software would eliminate the student withdrawal problem. However, it became very evident as we started to go through that process that we would not have that system in place in time to alleviate the problem. We did come up with a workaround, but it was too late to eliminate the finding for that fiscal year. We now have in place a permanent workaround that we may continue to use no matter what the new PeopleSoft Student System allows us in the future.

I assume in the future when you make a commitment that we are not going to have a repeat finding such as 06-1 and 06-2, Trustee Siegel said, that if you are not going to be able to meet that commitment for some reason, you are going to notify the chair of the committee so they will know in the future to get involved. Mr. Albanese stated that that is now a protocol that will be in place.

When we started out 12 years ago, Chair Moser said, we had 34 findings. So we scheduled meetings every month until we eliminated the exceptions. And a couple of years ago, we had zero findings. So we want to get them back down to zero. That is a top priority of this committee.

It is certainly a top priority for NIU and Finance and Facilities, Mr. Albanese said. We sit down periodically during the year, review the audit process of where we are and whether changes need to be made. We will put in the additional reporting step that if something is not implemented during the year, we will notify both the administration and the Board.

## OTHER MATTERS

Chair Moser called on General Counsel Ken Davidson and Assistant Vice President for Human Resources Steve Cunningham to give an update on the Employment Conduct and Accountability Policies.

This is an area of legal and ethics responsibilities, which is a product of both the Board's interest and the State Employees and Officers Ethics Act, Mr. Davidson said. There was a requirement in that statute for a compilation of all the standards that related to various personnel kinds of requirements, including travel, conditions of employment and so on to be collected and filed with the Board of Higher Education about two years ago, and we met that requirement. And what we recognized in that process was that there was a rather wide set of locations where one would have to go to discern what all these standards are. The wisdom of the Board's action in having us compile these in a set of guidelines was a tremendous service to the organization. I have given a preliminary review to the working draft that Steve and Human Resource Services have put together, and find the working draft to be very good. There are about three areas in the draft where I still need to do a little fine tuning. Also, recently there has been a Workplace Violence Prevention standard that needs to be added to the compilation. So it is very close to completion and I just want to say compliment HRS and Steve on what I have seen thus far.

As we shared with the committee a couple of meetings ago, Dr. Cunningham said, this will put Northern in the forefront. Having organized and integrated the wide-ranging policy infrastructure that relates to employment – state board, federal, university – we will have most of them referenced and linked, and then those individual links can be updated from time to time. As Ken said, we have several new policy initiatives under, including workplace violence and new policy work on information, both printed and electronic security, which we will be able to include as well. We are scheduled to have this in near final form for you at the September meeting. The information will be primarily online because it is comprised of links. It would be much too thick and heavy if we printed all the policies.

Trustee Siegel asked if there would be a way to track whether not the appropriate people have seen the policy, reviewed it and accepted it. We will use this, Mr. Cunningham stated, as we take employees through Compliance Training, through Affirmative Action and Diversity Resources. We will make copies available in departments as well as full copies available where employees might not have access to a computer. The policies themselves are individual authorized at whatever level is appropriate. There are some Board *Regulation* references as well as state and university policies, each of which has somewhat different forms of authorization.

In reply to a question from Trustee Siegel regarding implementation of this policy, Mr. Cunningham stated that they would be prepared to report on the specifics in September and would probably have some significant campus communication when it is completed as well. He also said that employees who are on contract annually sign an acceptance of their appointment for the fiscal year. In signing that contract, they acknowledge that they are accepting the different conditions of employment mentioned earlier. With collective bargaining, most of these policies have already been implemented through the normal reopener process. When we do have special updates like the recent Workplace Violence Policy, to the extent that

they do substantially affect terms and conditions of employment, we have a duty to consult and, if necessary, negotiate with the labor organizations. This is something we do routinely.

The only other comment I wanted to make, Ms. Buettner said, relates to our Chicago office presence. I want to ask Lori Clark, who is spearheading our Chicago presence, to give us a sense of where we are physically located in Chicago and some of the plans for the Chicago experience. We moved two months ago, Ms. Clark said, to 205 West Wacker, Suite 616. We have two offices and a conference room as well as a workroom. Our building is located right across the river from the Merchandise Mart, and there is a lot of public parking in the area. We are right by the financial center, the Thompson Center, and other government centers. There is a lot of interest and a lot of activity with the university in Chicago, so we have formed sort of a task force to look at what a broader Chicago presence might look like. So this office is an interim step, and we wanted to keep it small and very cost effective at this point. We are going to be in the process of meeting throughout the summer. We have various areas such as Outreach, Academic Affairs, the Foundation, External Affairs and the Alumni Association involved in looking at what the actual physical needs would be for a bigger Chicago presence. We hope to be able to come forth with a more detailed plan by the end of the summer.

We had an Ethics Officer Conference sponsored by the Illinois Executive Ethics Commission last month, Mr. Davidson said, and there are rules proposed which are now beginning to get some play in the media concerning how investigations are conducted by the Executive Inspector General's Office. There will most likely be some comments by the General Counsel and Ethics Officers of the state universities on that. So there is a structuring and an improvement to the investigative process that has gained the attention of the Executive Ethics Commission based upon comments and concerns by the universities. You may be seeing more discussion on this subject in the print media.

I came across a company out of Germany that was attempting to register the NIU trademark, Mr. Siegel said, and forwarded the information to Mr. Davidson. In my searches, I could not find where NIU had recorded or registered the trademark. From the best I can tell, it is a common law trademark. So, from this audit committee standpoint, I wondered if there was a reason we have not registered the mark. I cannot tell you that there has been a specific reason, Mr. Davidson said. I have made inquiry and tried to trace the institutional history on this. It has been very rare, actually, that the formal registration actions have ever been initiated. It is not a part of the policy structure, and it is not in the Board of Trustees *Regulations* or the old Board of Regents policy structure. Right now we are handling that through reliance on the common law ownership. As far as I am personally aware, there is only one registered mark of the NIU Board of Trustees out there, and it relates to an operating unit rather than the corporate NIU. Intercollegiate Athletics handles the marketing of the apparel trademark materials. I am in contact indirectly with the Limited Resources Group, which is the current contractor that Intercollegiate Athletics has assisting with that. And we are working towards developing an opposition letter to the Beverly Hills Sportswear Company that has registered its intent to claim this NIU trademark by formal registration.

Trustee Siegel asked if it was at all possible for Mr. Davidson to report back on that issue at the next LAEA Committee meeting and what things we should be or should consider registering. Trustee Siegel also recommended an attorney who deals with intellectual property matters, and Trustee Moser agreed with the recommendation.

My understanding in these matters is, Trustee Strauss said, that use trumps the registration. So, it is worth taking a look at. You cannot register until you have had first use. So, we may have many different forms of mark, some of which we are not currently using, and that would be the area that I would be more concerned about versus a principal mark in consistent use. I am more concerned about a situation where you get a claim that there has been an abandonment of the mark than I about being able to register one in consistent use.

## **ADJOURNMENT**

Chair Moser asked for a motion to adjourn. Trustee Strauss so moved, seconded by Trustee Siegel. The motion was approved. The meeting was adjourned at 11:01 a.m.

Respectfully submitted,

Sharon M. Banks-Wilkins  
Recording Secretary