

**West Liberty University
Board of Governors**

Minutes

December 10, 2014

Attendance:

Beverly Burke, Joe Carey, Richard Carter, Sandra Chapman, George Couch, Les DeFelice, Patrick Ford, Brian Joseph, Patrick Kelly, Evan Newman, Frank Noble, Ann Thomas

Unable to Attend:

Administration/Faculty/Staff:

Robin Capehart, Scott Cook, Linda Cowan, Brian Crawford, John Davis, Mary Ann Edwards, John Gompers, Scott Johnson, John McCullough, Jim Stultz, Jack Wright

1. Call to Order:

Chair Couch called the meeting to order at 4:04 p.m.

2. Chairperson Comments:

Chair Couch invited all Board members to attend commencement being held Saturday, December 13th; one of the largest fall commencements WLU's had in a few years. He also congratulated Evan Newman on the first Winterfest held on December 3rd and appreciates his work on behalf of the students. He encouraged the Board members to assist the Foundation with a charitable contribution by the end of the calendar year.

3. Swearing in New Board Member:

Chair Couch introduced incoming Board member Patrick Ford to the meeting and issued the Oath of Office. Chair Couch invited Mr. Ford to make comments as a newly installed Board member. Mr. Ford said that he appreciates this honor and looks forward to working with the members of the Board and its involvement in the Northern Panhandle and the State of West Virginia.

4. Consent Agenda*:

The Consent Agenda consists of the minutes of the full Board of October 15 and 29, 2014, and the Executive Committee of November 25, 2014.

A motion that the West Liberty University Board of Governors approve the minutes of the full Board of October 15 and 29, 2014, and the Executive Committee of November 25, 2014, was then made by Brian Joseph and seconded by Ann Thomas; motion passed unanimously.

The honorary degree relates to the commencement speaker on Saturday. Richard Lucas, President and CEO of Main Street Bank, is also the Chair of the WLU Foundation Board. With his accomplishments the University thought he would be an appropriate speaker. This degree has been approved by the Honorary Degrees and Recognition Committee.

A motion that the West Liberty University Board of Governors approve the conferral of an honorary Doctor of Humane Letters degree to Richard A. Lucas was then made by Richard Carter and seconded by Les DeFelice; motion passed unanimously.

5. Action Items*:

a. Audit Report

Mr. Wright introduced Nancy Gunza and Lori Finegan with Clifton, Larson, Allen LLP to present the independent audit report for the 2014 Fiscal Year. This is their first year as auditors for WLU, and they handle audits for all state institutions of higher education, per contract and mandate of the Higher Education Policy Commission. A positive report was issued.

A motion that the West Liberty University Board of Governors approve the independent audit of the Fiscal Year 2014 Financial Statement was then made by Brian Joseph and seconded by Patrick Kelly; motion passed unanimously.

b. Campbell Hall Lawsuit Settlement

Mr. Wright gave the background on the Campbell Hall lawsuit. Mr. Scott Johnson, Sr. Assistant Attorney General represented WLU during mediation and joined the meeting via conference call. Mr. Johnson agreed with Mr. Wright that this is a case about disputed costs for work and materials between the contractor, subcontractor and University, and that Mr. Wright and Mrs. Hooper did a fantastic job working with him in this case.

A motion that the West Liberty University Board of Governors hereby approve the Settlement of all claims between Gito, Inc. dba Nello Construction Co., and West Liberty University relating to the Campbell Hall Construction Project in accordance with the terms and provisions set forth in that certain "Settlement Term Sheet," dated the 18th day of November, 2014, executed by both parties, as set forth in Exhibit "A" attached here was then made by Richard Carter and seconded by Brian Joseph, Sandra Chapman abstained; motion passed.

The President of West Liberty University and/or the Chief Financial Officer, John E. Wright, III is hereby authorized to initiate all actions and execute all documents and instruments to carry into effect and finalize the terms of said settlement.

c. University Place II Agreement

Mr. Wright gave a brief background on the current lease of University Place I and its profitability. University II is an opportunity to bring in more revenue and to provide modern, attractive, competitive upper class student housing. The lease is identical to University Place I with the exception that it is \$50 more per bed, per month. This is a one-year lease with the option for a second year.

A motion that the West Liberty University Board of Governors approve authorization for the President of West Liberty University, in accordance with the laws of the State of West Virginia and the rules and regulations of the Higher Education Policy Commission, to enter into a lease of the apartment building located at 551 Van Meter Way (nee Chatham Street), West Liberty, West Virginia, effective July 1, 2015 and not to exceed two years was then made by Beverly Burke and seconded by Brian Joseph; motion passed unanimously.

6. Informational Items:

a. Policy 32 – Sexual Discrimination and Other Unlawful Discrimination (revision)

Mr. Davis stated that the revisions were made principally due to changes to federal laws. Generally, revisions to Board policies are out for 30-day comment to the constituent groups, but that is not necessary in this instance. The changes made are simply procedural and were approved by the Executive Committee two weeks ago.

b. President's Report

President Capehart distributed several handouts, the first being the campus report follow-up, Proposed Changes – 2-Week Comment Period for Campus Community. The Cabinet members had met on a number of occasions to address the budget and revenue expenses issues. Several ideas have been discussed, those being: Per credit-hour undergraduate overload, per credit-hour graduate overload, and first-year and transfer (out-of-state) undergraduate resident discount programs.

Also discussed was the academic organization handout. Part of the proposed reorganization would be to have four, instead of five colleges and one school. As WLU grows its graduate programs, the reduction would help fund an office of graduate studies.

A parking committee was formed to address the parking issues on campus, as contained in the Proposed Changes handout. Parking has been a problem for years and numerous recommendations were made. President Capehart asked if there were any questions.

Evan Newman stated that he expects push back from the student body with regard to increasing the overage charge for credit hours. President Capehart stated the information is out for

comment and looks forward to the comments. The next step would be to reduce the information to the form of a policy. When asked what other schools in the state are doing on this issue, President Capehart stated that they are doing the same thing. The alternative would be for students to take as many hours as they want and raise tuition 4 to 5%. The information will be advertised well in advance of going into effect for students. A discussion followed.

When asked if the academic reorganization was part of the Master Plan, it was stated that it was not, but it does complement the plan. It is only out for comment at this time and these comments are appreciated.

Mr. Stultz distributed an article on OASIS, a consolidated program to handle all business operations one place mandated by the State of West Virginia. He continued with background on the program which has been fraught with difficulties since its launch in December 2011. Higher Education has unique differences that were not taken into consideration. Mr. Wright stated that the financial end of OASIS, which is one system that does not fit all, has changed the entire accounting code system. There is no conversion from the current Banner system to OASIS. Banner will still exist but OASIS will be 100% for financials.

c. Faculty Senate Update

Dr. Linda Cowan, Chair of Faculty Senate, gave a brief history of the Senate, how they're organized, terms, and elections. New to the Senate are graduate faculty representatives. Faculty Senate meets on the third Tuesday of every month the University is in session, excluding May and December. The Board is invited to attend these meetings, which are open to the public, at 3:30 p.m. in Arnett 202. Much of the recent activity has dealt with policy changes and updates.

7. Executive Session (if needed)

None.

8. Action Items from Executive Session*

None.

9. Adjournment:

Chair Couch asked if any further business was required. There being none the meeting adjourned at 4:59 p.m.

A motion that the West Liberty University Board of Governors adjourn the December 10, 2014 meeting was then made by Ann Thomas and seconded by Evan Newman; motion passed unanimously.

George Couch

Chair

Sandra Chapman

Secretary

SETTLEMENT TERM SHEET

This Settlement Term Sheet is intended to be an enforceable agreement by and between Gito, Inc. d/b/a Nello Construction Co. ("Nello") and West Liberty University ("WLU") subject to the contingencies set forth in paragraph 9 below. It is agreed by and between the parties hereto as follows:

1. Nello will submit an Application for Payment upon execution of this Agreement in the amount of \$511,599.38 to WLU along with a Final Conditional Waiver and Release of Liens and Claims (in the form attached hereto as Exhibit 1); and WLU shall make payment to Nello in the amount of \$476,599.38 (the Contract balance of \$511,599.38 less \$35,000.00). Upon receipt of Nello's Application for Payment, WLU will proceed to file with the State for prompt payment.
2. The punch list is attached hereto as Exhibit 2. The "top coat on the walking path" and all electrical items listed on Exhibit 2 have been completed and accepted. Nello will complete all other punch list items, except the "window replacement," within 60 days of the execution of this Agreement.
3. WLU and Nello will meet with Nello's window replacement sub-contractor within two weeks after execution of the Agreement to determine when, how, and time frame for window replacement pursuant to the punch list. Nello agrees to be responsible for appropriate temporary protection and relocation of needed class, laboratory, and office equipment as well as for damage to real or personal property inside and outside the building caused by the window replacement.
4. WLU will release the remaining \$35,000 upon completion of the window replacement. Upon receipt of Nello's invoice/s WLU will proceed to file with the State for prompt payment.
5. WLU agrees to pay Nello, in addition to the \$511, 599.38 in paragraph no. 1 above, the change orders on attached Exhibit 3 totaling \$25,216.30 (#92, #93, #94, #95, #96, #97, #98 and Corr. #0713 and Corr. #01005).
6. WLU agrees to pay Nello, in addition to the \$511,599.38 in paragraph no. 1 above, Change Order No. 99 dated 09/29/2014 for \$18,513.63. WLU agrees to pay Nello, in addition to the \$511,599.38 amount in paragraph no. 1 above, \$300,000 in full and final satisfaction of all claims, including Claim No. CC-13-0597 filed by Nello with the Court of Claims of the State of West Virginia, related to the project.

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