



Item: AF: A-M

AUDIT AND FINANCE COMMITTEE
Wednesday, June 6, 2007

SUBJECT: ROLL CALL AND APPROVAL OF THE DRAFT MINUTES FOR THE APRIL 25, 2007 AUDIT AND FINANCE COMMITTEE MEETING.

PROPOSED BOARD RECOMMENDATION

Initiate roll call to document member participation and ensure appropriate quorum numbers are achieved and approve the April 25, 2007 meeting minutes.

BACKGROUND INFORMATION

Ms. Nancy Blosser, Chair	_____
Dr. William Bryant, Vice Chair	_____
Mr. David Feder	_____
Dr. Rajendra Gupta	_____
Mr. Bob Stillely	_____
Mr. Tony Teixeira	_____
Dr. George Zoley	_____
Mr. Norman Tripp (ex-officio)	_____
Dr. Frederick Hoffman (ex-officio)	_____



DRAFT MINUTES
AUDIT AND FINANCE COMMITTEE MEETING
Wednesday, April 25, 2007

Ms. Nancy Blosser, Chair of the Audit and Finance Committee, convened this meeting at 2:45 p.m. and roll call commenced documenting member participation and quorum requirements. The following Committee members participated:

Dr. William Bryant, Mr. David Feder, Dr. Rajendra Gupta, Mr. Austin Shaw, Mr. Bob Stilley, Mr. Norman Tripp and Dr. Frederick Hoffman.

The following Board of Trustees members participated:

Mr. Scott Adams, Mr. Armand Grossman, Ms. Lalita Janke (via telecom), Dr. Roy Levow and Ms. Sherry Plymale.

The following University officials participated:

Mr. Frank T. Brogan, President; Dr. Kenneth A. Jessell, Vice President for Financial Affairs; Mr. Morley Barnett, Inspector General; Ms. Jill Eckardt, Director-Residential Housing; Mr. Glenn Thomas, Executive Director, PK-12 Schools and Programs and Director, ADHUS; and, Mr. David Kian, General Counsel.

Additional Guests:

Ms. Marie Westbrook and Ms. Ilene Gayle, State of Florida, Office of the Auditor General.

Chair Blosser called for comments or corrections to the minutes of the February 21, 2007 Audit and Finance Committee. With none forthcoming a motion to approve the minutes without change was made and seconded. The motion passed unanimously.

To accommodate the attendance of the State Auditors, Chair Blosser requested an agenda change bringing forward the review of audits.

AF: I-4b. Review of Audits: Report #2007-148, Florida Atlantic University Financial Audit For the Fiscal Year Ended June 30, 2006.

Dr. Jessell spoke to the cleanliness of this audit in its reflection that the statements were presented fairly in all material aspects, that no matters involving the University's internal controls over financial reporting were considered material weaknesses, and that no instances of noncompliance over matters required to be reported under *Government Auditing Standards* were noted.

The University's financial position improved with net assets at \$468.6 million. Further examples of the state of the University's financial position are reflected in the bond ratings and interest rates of recent housing and parking bonds.

Upon Committee query, the state auditors confirmed confidence in the University's strong internal control over financial procedures and reporting. Continued discussion touched on the Operational Audit currently in progress and its projected completion date. The auditors were unable to provide a specific completion date but estimated a time around July 2007.

AF: I-4a. Review of Audits: Report #FAU06/07-2, Traffic and Parking Services for the Period August 1 through October 31, 2006.

Mr. Barnett addressed this audit noting the 13 recommendations made to address transaction accountability, segregation of duties, and employee/asset security issues. The Committee was advised that management would be addressing all concerns in the coming months. He then asked for questions or concerns on the information provided. None were forthcoming.

As an aside, Mr. Barnett and Mr. Tripp then reminded Members of the importance of participating in and responding to the 2007-2008 Audit Risk Assessment survey sent in March. Follow-up information will be sent to Members this week.

Chair Blosser reminded Members that the following fee increase proposals are informational only and require no vote. These issues will be brought before the Committee in June with all other fee increase requests for action at that time.

AF: I-1. Proposal to Increase Housing Rental Rates.

Ms. Eckardt began this presentation familiarizing Members with current and new housing and residential life offerings. Projects for 2007-2008 include:

- The First Year Experience Hall. A 604 bed facility for first time in college (FTIC) students that offers programming specific to college preparation needs. Noted was a study finding that students decide their academic futures within the first six weeks of participation. FTIC programming is geared to enhance their experience at FAU with retention in mind.
- Living Learning Communities (LLC). FAU will offer six learning communities that are residential experiences that bring together students with similar interest, i.e. music, engineering/computer sciences etc. Students live on the same floor of the residential facility, take the same classes, and receive additional programming and support related to those shared interests.
- Technology Upgrades. A multi-year project, last year residential lobbies were upgraded for wireless access. This year heritage Park, Indian River Towers and the Apartments will receive upgrades to the bedrooms.
- Major Facilities Projects. Include University Village Apartments infrastructure improvements; Honors College painting and lighting improvements; Algonquin Hall carpet and furniture, wireless access, lighting and security improvements; Indian River Tower painting and ERU repairs; and, the main Housing office reception construction.
- 12-Month Contracts. As was suggested at prior AFC meetings, 12 month contracts are now offered at Algonquin Hall and the University Village Apartments.

- Safety & Security Improvements. Algonquin Hall will have security cameras and card access systems installed; Heritage Park and Indian River Towers will have security cameras.

The requested increases in housing rental rates range from 1.4 percent at Heritage Park to 7.1 percent at Indian River Towers (single occupancy). Ms. Eckardt noted the auxiliary status of this entity that must maintain positive cash flow and meet minimum debt service coverage as required under bond covenants. Additionally, the income of \$687,700 provided by this increase will support the increased costs of utilities, salary and benefits, and the wireless project and security improvements projects noted earlier.

Discussion followed clarifying that rates are per semester; the salary support is for OPS/Student employees; and that funding allotted to security measures are adequate at this time. A recommendation was made to investigate thumb print/biometric access as a security measure to residential areas. Conversation also touched on Greek housing issues and involvement as an LLC, but with fraternity/sorority numbers so small it was not suitable to this format.

AF: I-2a. Proposal to Increase Fees for the Karen Slattery Educational Research Center for Child Development.

Mr. Thomas reacquainted Members with the preschool functionality of the Karen Slattery Educational Research Center for Child Development (ERCCD) serving 100 children, ages six months to five years, of FAU students and employees.

He noted this entity is an auxiliary that must be financially self-sustaining. As such, a review of the current budget projected need was undertaken. As part of the budget review, a local market survey was conducted, and Mr. Thomas noted that with the fee increase request, the cost remains less than that of the local market. Also noteworthy, the survey noted the limited offering of infant care and a lesser quality of staff qualifications compared to the programs offered at the ERCCD. This information was shared and analyzed during meetings with the Advisory Board and parents to discuss and obtain their input regarding these fee recommendations.

The revenue from these fees will equate to \$1,032,914 and provide some financial relief addressing staffing requirements, salary issues, accreditation, the state voluntary pre-kindergarten requirements, program design, and regional market realities.

Discussions ensued clarifying the revenues received from parents, the student credit hour fee and grants. Concern was expressed on the impact of these increases on student parents. This impact was acknowledged, but Members were advised of the mitigating funding aid provided by Student Government to student parents. Further conversations were held on topics such as the past and current lack of support by an early childhood Undergraduate program (currently being developed), the value of the programming offered to cost, class size limitations to cost, pre-school versus day care format, ERCCD's four gold star rating, and basic programming needs.

Chair Blosser then confirmed with Members that enough information had been received to enable each to make an educated decision on this request in the future.

AF: I-3. Proposal to Suspend 2007-2008 Activity Fees for Currently Enrolled Florida Atlantic University Schools Students.

Mr. Thomas addressed this item advising of a current surplus of funds and requesting the suspension for

one year of the activity fees for currently enrolled FAUS students. This fee would still apply to newly enrolling students.

The PowerPoint Presentation prepared for this issue was dispensed with as Chair Blosser expressed satisfaction that the documentation provided for advance review was concise and self-explanatory and, as such, no further information would be necessary to enable Member analysis for future action. A call to Members for any concerns or questions, and lack of response to the call, confirmed this belief.

Prior to addressing the next item, Dr. Jessell addressed strategic planning and budgeting objectives. He noted that doing things differently is a major component in achieving the objectives of the strategic plan. The successful functioning of auxiliaries', such as housing's living learning centers or food facilities renovations, have a direct effect on the wellbeing of the University and its ability to achieve strategic objectives. These types of programs are vital in recruiting, retaining and graduating students and will be highlighted for reflection as the 2007-2008 Operating Budget is developed.

AF: I-5. Presentation of the Third Quarter Status of Florida Atlantic University's 2006-2007 Operating Budget, July 1, 2006 – March 31, 2007.

To begin this presentation, Dr. Jessell advised of his intent to review only the highlights of each budget entity but welcomed any questions or clarifications.

Educational and General. This budget is comprised of General Revenue, Student Fees and Lottery. Dr. Jessell reviewed the original budget approved in June 2006, the budget status as of the third quarter, and budget projections to year end. He noted the increase in year end expenditures, versus the original approved budget, as a result of BOG budget amendments to date, i.e. salary increases, insurance costs and Centers of Excellence spending, etc.

Of particular interest this quarter, is a reduction of the projected \$2 million dollar student fee funding shortfall to \$800,000. Final reports on student enrollments and reinstatements have produced this result and will provide relief in the ability to offer a quality Summer program. Funding has already been redirected to Summer programming and preliminary reports on advance Summer registration show an approximate five percent increase over last year at this time. Actual registration numbers will be provided as it becomes available.

General Revenue and Lottery funding are projected to be fully achieved. This budget is on target.

Student Financial Aid. This budget includes financial aid from all sources including federal and state awards, and scholarships, as well as the fees required by the legislature. It is only a pass-through account where the monies are received and distributed to students. Revenues and expenditures are on target to projections.

Grants and Contracts-Sponsored Research. This budget includes funding from federal, state and local agencies, as well as, foundation and other private sources. It also includes the grant funding for the A.D. Henderson University school and payroll and clearinghouse functions for the FAU Foundation, Inc.

Members were reminded of cash flow timing issues associated with this budget. Reviews of this budget are on-going with Sponsored Research and Academic Affairs to ensure appropriate management of these flows. At the Strategic Planning Committee meeting earlier this morning, reduced research awards were discussed

and Dr. Jessell advised of the likelihood of budget reductions in the coming weeks as revenue and expenditure projections are modified.

Auxiliary Enterprises. These are the business services functions of the university that are required to operate on a self-sustaining basis, i.e., food services, housing, bookstore, telecommunications, traffic and parking, etc.

Revenues are slightly higher than expenditures are as these monies are received at the beginning of each semester. As such, little revenue will be received in the coming months but the expenditures will increase. This budget is on track to projections.

Athletics Local. Very little change has occurred since the figures provided at the Athletics Workshop on March 20, 2007. The figures provided at the Workshop were through March 15 and the numbers in this presentation are through the end of March. Currently a deficit in revenues to expenditures continues pending receipt of Summer student fees, which is the biggest component of the revenue flow. Projections continue that in the next few months as these fees are collected, the monies collected will fully meet the \$8 million projected budget component. The Athletics Department continues to work on development issues, i.e., ticket sales and corporate sponsorships and the figures presented here coincide with figures from the Workshop.

Student Government/Student Activities. This budget is in great shape with their administration remaining excellent fiscal managers.

Responding to query, confirmation was provided that expenditures would remain above revenues to year end as per the budgeted projections, in consideration of construction projects in progress and equipment needs as planned.

Concessions. This is a small budget associated with vending and soft drink machines revenues. Revenues are expected to remain on track to projections. Cuts have begun on expenditures to reflected adjustments that have to be made to meet current and future fiscal year planned expenditures. This budget remains on target to balance this year and in the future.

Dr. Jessell concluded this presentation. No questions or comments followed the conclusion of this agenda item.

AF: I-6. Update on 2007-2008 Legislative Appropriations and Budget Construction Process.

Chair Blosser confirmed with Dr. Jessell that this item is being withdrawn in consideration of the President's presentation during the Strategic Planning Committee meeting earlier today.

Discussion ensued prompted by recent notification of an academic enhancement fee being provided to institutions by 'level'. In answer to a query on who and how institutional levels were established, Dr. Jessell advised that he had not yet seen or investigated this notification. He reminded Members that the BOG had considered an experimental enhancement fee as requested by the University of Florida. He advised that perhaps this experiment on differential funding now appears to be expanding to include Florida State University and the University of South Florida.

Dr. Jessell assured Members that current legislative appropriations and the governance language associated with the differential funding would be provided when the information is received.

Chair Blosser advised Members the following item is presented in response to a request to Counsel to provide an overview of Board of Trustees' existing delegations of contracting authority to the President, including any limitations to that authority. Additionally, a system-wide comparison of contract delegations and policies was requested. The purpose to this request was to understand best practices system-wide on these issues. The documentation to this request is provided in the next agenda item.

AF: I-7. Discussion of FAU Regulations and Contract Authority.

Mr. Kian addressed this agenda item providing qualification to some of the information and answers to be provided during this review as all issues being covered can change. As mentioned with the governance bill, the entire governance structure of the state university-system may be modified. Two essential statutes currently in place relating to this issue, 1001.74 and portions of 1001.75, have now been declared unconstitutional by a Leon County circuit court as part of a governance law suit. The ramifications of that law suit are still pending. In the very near future, more information will be known on its affect on the organizational structure of the state universities and updates will be provided to the Board as they are known.

Under current Florida law, the statutory provisions that set forth university boards of trustees (UBOT) authorities include an express authorization for a UBOT to, among many other powers, enter into contracts on a wide variety of purposes. There is no legal entity known as Florida Atlantic University that has an authorized state delegation for contracting, only the UBOT.

As the University enters into thousands of contracts, realistically the UBOT could not possibly review and approve each one, therefore, pursuant to Florida law this Board has delegated contract authority to the administration; mainly to the President, in a broad form of delegation, and then to certain sub-delegations with specific limitations.

The broad delegation to the office of the President is found in two locations. The first and broadest is found in the second paragraph of Section 4.6 of the FAU BOT, Board Operations Policies and Procedures, stating, *The President shall have the authority to execute all documents on behalf of the University and the BOT consistent with law, BOT policies, and the best interests of the University.* This encompasses contracts and many other functions of the University; anything that requires a signature on behalf of the University.

Additionally, FAU Regulation 6.002 delegates contracting authority to the President, that contracting provision expressly references Florida Statute 1001.75, which also authorizes university presidents to sign contracts on behalf of the UBOT. Consistency exists between FAU regulation and Florida law providing university presidents contracting authority.

While other areas exist, the three primary and most significant areas where the President's delegated contract authorities are implemented on a daily basis, with sub-delegations of documentary/contracting authority are: Purchasing, Facilities and Personnel.

Purchasing handles a majority of the contracting load. The Purchasing Manual sets forth the policies and procedures for award of contracts, definitions that must be adhered to in various contracts, and provides sub-delegation of signature authority to various employees of the university, including the Purchasing Director, up to certain defined limits or for certain types of contracts. This manual has the greatest amount of detail of specific contracting authority.

Facilities has restricted authority, as granted from the authority delegated to the President. These restrictions confirm to University policies that relate to certain real property transactions, such as leases or sub-leasing, that require UBOT approval.

Lastly, through its regulations, the UBOT has implemented policies related to personnel. These policies are not nearly as contract specific as those of Purchasing. These provisions address personnel programs, benefits plans, processes and procedures that are specified in various chapters of the university regulations.

Mr. Kian noted the summary of employment classifications and some of the key provisions that apply to each class that was provided in the documentation. This information was included to highlight that regardless of the employee's specific form of employment, which is typically a notice of appointment, a legal contractual relationship exists between the University and that employee. Therefore it was appropriate to include an overview of the broader features of FAU's personnel program.

To facilitate the Board's assessment of system-wide contracting authorities, Mr. Kian then reviewed with Members the results of the state university-wide contracting survey. He noted the comparably broad based macro-structures of each. In general each institution had a comparable provision to FAU with respect to the three areas just reviewed. Also noted was a correction to dollar amount of FAMU's presidential authority to execute contracts for goods, equipment and services for any single contract as now being \$1 million rather than \$500,000. No other state university in Florida provides a specific dollar limit and term limit on the President's broad delegation of authority. Wherever limits appear they are within specific sub-contract type contracts.

Mr. Kian then concluded his presentation.

After evaluating the documentation provided, Chair Blosser proposed that a modification be made to the contracting authorities granted the president. Consulting with Mr. Kian, a draft resolution was created for discussion. Chair Blosser made a motion to amended Article IV., Section 4.6 of the FAU Board of Trustees, Board Operations Policies and Procedures to insert the following as the second sentence of the second paragraph: *** No contract for personal or employment services shall obligate the financial resources of the University for a period of more than twelve months beyond the delivery of a notice of termination, without consultation by the President with the Chair of the Board of Trustees.* The motion was seconded.

Trustee Tripp then offered Members another amendment to this Article drafted in consultation with Counsel. This sentence would come just before Chair Blosser's amendment, thereby becoming the second sentence of the second paragraph, to read: *** No such document may purport to limit any Board of Trustees member's individual discretion in discharging the responsibilities of a Trustee.*

Trustee Tripp explained the meaning of this amendment through example. An agreement is drafted where both management and an employee agree not to discuss employment issues further, that agreement would not be binding to members of the Board of Trustees. While such an agreement is allowed administratively, no agreement will bind any Trustee from further discussions or actions, publicly or otherwise, deemed appropriate in the exercise of their discretionary supervisory authority.

Discussions followed to illuminate the intentions behind the proposed amendments, noting that Chair Blosser's amendment will affect future hiring and be confined to the limited number of multi-year contracts or executive service employees. It will ensure that language contained within a severance agreement limits to one year any financial obligation by the University, without prior consultation with the BOT Chair. With Chair approval, exceptions can be made.

Additionally, while the University and the Board will be legally obligated by any contract administration signs, the language of an agreement will not bind a Trustee to silence or inaction inconsistent with the governance responsibilities of the Board. Understanding that Boards of Trustees are charged to govern and set the policies of an institution, with additional presidential employment responsibilities, these amendments can not prohibit a president from acting as deemed fitting; but will articulate the Board's ability to react as deemed fitting.

Further conversations involved the following:

- Current Non-binding Authorities. Sentiment was expressed that a limitation on the administration's ability to restrict Trustee conduct currently exists under Florida law but in a vague and formless manner. The proposed amendment would provide clarity to the Board's position in written format.
- Conflicts to Current Employment and/or Sunshine Laws. Neither will be adversely impacted. Members were reminded that in the recent past employment regulations had been developed and approved modifying the separation notice specifications to the various employee classifications. Within these regulations, the maximum notice period is 12 months.
- Trade / Research Confidentiality Agreements. Future contracts of this type will contain language mandating that the confidentiality provision apply to the President and those reporting to the President only. Should circumstances broaden to include BOT involvement, Trustee(s) would sign individual confidentiality agreements as warranted; an extremely rare occurrence as the university usually completes due diligence independently.
- Assurance to the Board that both amendments were created with direct consultation with FAU's General Counsel with the goal not to prohibit the President's contract authority, but to ensure those agreements did not in any way restrict the Board from fulfilling their responsibilities.
- Verification that severance provisions are typically considered part of the employment contract to which these amendments refer.
- Severance, settlement, pay out, quid pro quo scenarios were explained in context to this provision.

As a final note to these issues, Trustee Tripp reiterated that the President continues to have full contracting authority; micro-managing or dictating specifically what the President can or can not do is not the goal. These amendments are provided as guidance to rather than a restriction of the authorities given him.

Trustee Tripp then offered a formal motion to consider this second amendment. The motion was seconded.

Chair Blosser read aloud Section 4.6, paragraph two, as it will read with both proposed amendments. She then called for a motion to formally vote to recommend approval of both amendments to the full Board of Trustees. The motion was seconded. Voting commenced and passed unanimously with the follow results:

Ms. Blosser – Yay	Dr. Bryant – Yay	Mr. Feder – Yay	Dr. Gupta – Yay
Mr. Shaw – NA	Mr. Stillely – Yay	Dr. Zoley – NA	Mr. Tripp – Yay

** A copy of the proposed amendments referenced above is attached as Attachment A to these minutes.

With no other issues for discussion, Chair Blosser adjourned the meeting at 5:10 p.m.

Section 4.5

VICE CHAIR

The duty of the Vice Chair is to act as Chair during the absence or disability of the Chair.

Section 4.6

UNIVERSITY PRESIDENT AND CORPORATE SECRETARY

The University President shall serve as the Chief Executive Officer of the University. The University President shall be responsible for the operation and administration of the University, including efficient and effective budget and program administration, leading the University to accomplish its education missions and goals, monitoring educational and financial performance, consulting with the BOT in a timely manner on matters appropriate to its policy-making and fiduciary functions, and serving as the University's key spokesperson.

The President shall have the authority to execute all documents on behalf of the University and the BOT consistent with law, BOT policies, and the best interests of the University. **No such document may purport to limit any Board of Trustees member's individual discretion in discharging the responsibilities of a Trustee. No contract for personal or employment services shall obligate the financial resources of the University for a period of more than twelve months beyond the delivery of a notice of termination, without consultation by the President with the Chair of the Board of Trustees.** The President shall exercise such powers as are appropriate to his/her position in promoting, supporting and protecting the interests of the University and in managing and directing its affairs. The specific statutory powers and duties of the President are enumerated in Section 1001.75, Florida Statutes. The President shall serve as the principal liaison officer and official contact between the BOT and the faculty, staff and students of the university. The President may issue directives and executive orders. Such directives and orders shall not violate existing BOT policies. The President shall serve as an ex-officio, non-voting member of all BOT Committees.

The University President shall serve as Corporate Secretary of the BOT, and in the capacity of Secretary, shall be responsible for giving notice of all meetings of the BOT and its committees, setting the Agenda and compiling the supporting documents for meetings of the BOT in consultation with the Chair, recording and maintaining the minutes of any BOT or committee meeting, including a record of all votes cast, in accordance with Section 286.011(2) of the Florida Statutes, executing or attesting to all documents which have been executed by the BOT, and acting as custodian of the Corporate Seal. The Secretary may designate an individual to assist him or her in this role.