

Shepherd University Board of Governors

Minutes of the Meeting of April 8, 2004

The Shepherd University Board of Governors met on April 8, 2004, in the Byrd Center for Legislative Studies, Shepherd University, Shepherdstown, West Virginia, in a regular meeting. Members present were: Lauri Bridgeforth, Vicki Douglas, Anders Henriksson, Jill McKay, Robert McMillan, Andy Michael, John Sherwood, and Dan Starliper. Lacy Rice and Brent Robinson participated by telephone. Also present were President David Dunlop, members of the executive staff, and others.

Chair Michael convened the meeting of the Board of Governors at 2:15 p.m.

1. **ADMINISTRATION OF OATH OF OFFICE FOR NEW BOARD MEMBER**

The oath of office was administered to Vicki Douglas, who is new to the Board, serving as a representative of the Community and Technical College of Shepherd.

2. **UPDATE OF SHEPHERD UNIVERSITY MASTER DEVELOPMENT PLAN**

M (Starliper) S (Henriksson), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the Shepherd University Master Development Plan Update and directs the President to submit it to the Higher Education Policy Commission for its approval.

3. **MINUTES OF THE MEETING OF MARCH 11 and MARCH 26, 2003**

M (Sherwood) S (Starliper), PASSED, that the minutes of the March 11 and March 26, 2004 meetings of the Board of Governors be adopted as presented in the agenda book.

4. **PRESIDENT'S REPORT**

Dr. Dunlop welcomed Vicki Douglas as a new member of the Board of Governors.

The President informed the Board that Governor Wise will be present for a ceremonial signing of Bill 448 which granted the name change to Shepherd University. The date will be announced when it is received from the Governor's office staff.

Dr. Dunlop provided an update on Shaw/Thacher asbestos problem and reported that air quality results continue to be good. Postings of new and current information are available at www.shepherd.edu.

The President stated that work on the infrastructure (roads, sewer, etc.) of the new residence halls continues and that the original fast-tracked timeline to bring the residences online in 2005 has been postponed until 2006, the date that will result from a normal construction schedule.

Dr. Dunlop will host an open meeting with staff and faculty on Wednesday, April 21 to provide updates of the Task Force on fundraising.

5. **PROVOST'S REPORT**

No report.

6. **SALARY POLICY**

Dr. Dunlop addressed the Finance Committee regarding the salary policy as it relates to non-classified employees. Mr. McMillan recommended that this issue be presented at the May 2004 meeting.

7. **FACILITIES DEPARTMENT CRITICAL RETENTION POSITION**

M (McMillan) S (McKay), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the position of Electrician as a non-classified critical retention position.

8. **NEW STUDENT HOUSING PROJECT, INFRASTRUCTURE, AND RELATED STUDENT FEE**

M (McMillan) S (Sherwood), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the establishment of a Capital Financing Fee of \$48.00, to be effective as of the Fall 2004 academic semester; and

RESOLVED, FURTHER, That the Shepherd University Board of Governors directs the President to take such other actions as are necessary to allow the Board of Governors to make further review and final determinations of the scope and size of the Student Housing, renovations and the Infrastructure projects as appropriate at subsequent meetings of the Board.

**INDUCEMENT RESOLUTION STATING THE REASONABLE
EXPECTATION OF
THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS TO
REIMBURSE SHEPHERD UNIVERSITY FOR
CAPITAL EXPENDITURES IN CONNECTION WITH THE
PLANNING, DESIGN, ACQUISITION, CONSTRUCTION AND
EQUIPPING OF A NEW STUDENT HOUSING PROJECT AND
ASSOCIATED PARKING LOTS, NEW WEST CAMPUS ROADWAYS
AND UTILITIES INFRASTRUCTURE, RENOVATION OF EXISTING
RESIDENCE HALLS,
AND OTHER CAPITAL IMPROVEMENTS**

**FOR USE BY SHEPHERD UNIVERSITY MADE PRIOR TO
THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS
AND TAKING OTHER ACTIONS IN CONNECTION WITH SAID
BONDS**

WHEREAS, Shepherd University (the "University") is an institution of higher education of the State of West Virginia governed by the Shepherd University Board of Governors (the "Board"), which is empowered and authorized by Chapters 18 and 18B of the Code of West Virginia, 1931, as amended, among other things, in furtherance of the public purposes of the University, to issue revenue bonds of the University to finance capital improvements at the University and as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in conjunction therewith, to pledge the revenues and receipts from certain student fee and other revenues of the University to secure the payment of such bonds and interest thereon;

WHEREAS, the Board has heretofore determined that the planning, design, acquisition, construction and equipping of a new student housing project and associated parking lots, new west campus roadways and utilities infrastructure, renovations of existing residence halls including without limitation Shaw Hall and Thacher Hall, and other capital improvements for use by the University (collectively, the "Project") will be undertaken at an estimated aggregate cost not to exceed \$25,000,000; and

WHEREAS, the Board desires to express its approval in concept of the issuance of tax-exempt revenue bonds in one or more series in an aggregate principal amount not to exceed \$25,000,000 to finance all or a portion of the costs of such Project (the "Bonds"); and

WHEREAS, the Board reasonably expects that the University will reimburse itself for all or a portion of the costs of the planning, design, acquisition, construction and equipping of the Project, such reimbursement to not exceed \$25,000,000, from the proceeds of the sale of the Bonds, which will be tax-exempt revenue bonds payable from certain student fee and/or other revenues pledged for such purpose; and

WHEREAS, the Board has determined to authorize the issuance of the Bonds to permanently finance the Project; and

WHEREAS, the Board has found and determined that the Project is desirable to provide improvements to the facilities of the University, for the benefit of its students and the citizens of the State of West Virginia (the "State"), and is necessary and appropriate for the public interest of the State and citizens and residents of the State and such financing and the approval of the issuance of the Bonds are for a public purpose of the State.

NOW, THEREFORE, BE IT RESOLVED BY THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS AS FOLLOWS:

Section 1. The Board hereby approves in concept the issuance of the Bonds in one or more series in an aggregate principal amount not to exceed \$25,000,000 for the purpose of financing all or a portion of the costs of the Project.

Section 2. The Board reasonably expects that the University will reimburse itself from the proceeds of the Bonds for certain capital expenditures made not more than sixty

(60) days prior to the date of adoption of this Resolution (and after date of such adoption, but prior to the issuance of the Bonds), in connection with the planning, design, acquisition, construction and equipping of the Project, such capital expenditures to be undertaken or incurred prior to the execution and delivery of the Bonds, which are reasonably expected to be executed and delivered within eighteen (18) months from the later of (i) the expenditure for payment of said cost, or (ii) the placing of the Project in service.

Section 3. This Resolution is intended to constitute a “declaration of official intent” pursuant to Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended.

Section 4. The source or sources of payment for such capital expenditures will be from the building and campus renewal fund of the University, and from the student housing fund of the University, and upon issuance of the Bonds, proceeds thereof not to exceed the amount of such capital expenditures will be applied to the reimbursement of the respective funds from which these expenditures were made.

Section 5. The maximum principal amount of the Bonds to be issued for the Project (including costs of issuance of the Bonds and related costs, but not including any original issue discount) and the maximum amount of reimbursable costs is \$25,000,000.

Section 6. The University shall provide written evidence of all reimbursement allocations within the time provided in Section 1.150-2 of the Treasury Resolutions, which written evidence may be satisfied by one or more requisitions submitted in connection with the subject financing.

Section 7. The marketing of the Bonds by the Underwriter to be subsequently designated by the University as hereinafter provided is hereby authorized and approved, including, but in no manner limited to the preparation and distribution of a preliminary official statement or other offering document in such form as may be approved by Edward Magee, the Vice President of Administration and Finance of the University, after consultation with the University’s legal counsel.

Section 8. The firm of Bowles Rice McDavid Graff & Love, PLLC is hereby appointed as Bond Counsel for the issuance and sale of the Bonds and the Board hereby approves and authorizes such Bond Counsel to prepare such documents as they deem necessary or appropriate for such purposes, provided that the fees and expenses of Bond Counsel shall be paid from the proceeds of the Bonds or other available funds of the University. All other costs of issuance shall be paid from the proceeds of the Bonds or other available funds of the University.

Section 9. The firm of Ferris, Baker Watts, Inc., is hereby appointed as “Underwriter” with respect to the issuance of the Bonds, who shall be hereby authorized to proceed with the preparation of all the necessary documents relating to the marketing and sale of the Bonds, all fees and expenses in connection with such services to be paid solely from the proceeds of the Bonds or other available funds of the University.

Section 10. The Bonds are special obligations of the University payable solely from the student fee and/or other revenues and other sources, if any, pledged for such purpose. The State and its counties, municipalities and political subdivisions shall not be liable for

the payment or performance of the Bonds. The Bonds, as to both principal and interest, shall not constitute a debt or pledge of the full faith and credit or taxing power of the State or any county, municipality or other political subdivision of the State and are payable solely and exclusively from the revenues, funds and other collateral pledged for their payment. The holders of such Bonds shall have no right to have taxes levied by the West Virginia Legislature or the taxing authority of any county, municipality or any other political subdivision of the State for the payment of the principal of or interest on such Bonds.

Section 11. None of the present or future employees, officers or board members of the Board or the University, or any person executing the Bonds or any of the documents relating thereto shall be personally liable for the Bonds or any other obligation relating to the issuance of such Bonds, or be subject to any personal liability by reason of the issuance of the Bonds.

Section 12. The Board finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board and that all deliberations of the Board which resulted in formal action were conducted during meetings open to the public, in full compliance with all applicable legal requirements.

Section 13. The issuance of the Bonds may be authorized by one or more future resolutions of the Board upon the approval of the various documents relating to such Bonds by the Board and its duly appointed legal counsel.

Section 14. This Resolution shall become effective on the date of its adoption.

9. HOUSING AND DINING FEE SCHEDULE

Dr. Sharon Kipetz presented information regarding the proposed housing and dining fee schedule.

M (McMillan) S (Starliper), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the new meal plan options and the changes in housing and dining fees as presented in the agenda book and directs the President to present further details and options as they become available.

10. BACCALAUREATE AND CTC FEE SCHEDULE

M (McMillan) S (Sherwood), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the increases in Baccalaureate and CTC fees as presented in the agenda book.

11. NEW BUSINESS

a. Name Change

M (Starliper) S (Sherwood), PASSED, that the following resolution be adopted by the Board:

RESOLVED, That the Shepherd University Board of Governors approves the name change from Shepherd College to Shepherd University.

12. PUBLIC COMMENTS

There were no public comments.

13. EXECUTIVE SESSION

M (Sherwood), S (Bridgeforth), PASSED, That pursuant to Section 4(b)(12) of Article 9A of Chapter 6 of the W V Code, the Board enter into executive session for the purpose of privileged communications with counsel.

At the conclusion of the executive session, the Board returned to open session. There being no further business, the meeting was adjourned.

Signed

Andrew D. Michael
Chair

Signed

Manny P. Arvon, II
Secretary