

**Shepherd College  
Board of Governors**

**Minutes of the Meeting of December 12, 2002**

The Shepherd College Board of Governors met on December 12, 2002, in the Cumberland Room, College Center, Shepherd College, Shepherdstown, West Virginia, in a regular meeting. Members present were: Manny Arvon, Anders Henriksson, Robert McMillan, Andrew Michael, Sarah Payne Naylor, Chair Barbara Pichot, Lacy Rice III, John Sherwood, and Dan Starliper. Also present were President David Dunlop, members of the Executive Staff, and others.

The Chair convened the meeting of the Board of Governors at 3:40 p.m., following the committee meetings.

**1. MINUTES OF THE MEETING OF NOVEMBER 14, 2002**

**M (Sherwood), S (Starliper) PASSED**, that the minutes of the November 14, 2002 meeting of the Board of Governors be adopted by the Board with the following amendments:

- A. On page 1-3, delete lines 2-4.
- B. On page 1-3, the first paragraph should read, "**RESOLVED, FURTHER**, That the Shepherd College Board of Governors directs the President to take such action as necessary to allow the Board of Governors to take final action on fees necessary to support the Capital Bonding Project at the December meeting of the Board."

**2. PRESIDENT'S REPORT**

Dr. Dunlop shared comments made by Governor Wise at his recent Statewide Town Meeting. Those topics included the State budget deficits of 3.4% in FY 03 and 10% in FY 04, the Governor's budget restructuring the use of technology to streamline work, and raising the cigarette tax. The President reported that a website has been made available and can be visited at [www.wv.gov.org](http://www.wv.gov.org) regarding this topic.

Dr. Dunlop informed the Board that the Bond Issue is on the agenda of the December 2002 HEPC Meeting. The President also touched on Series 5 (review of Presidents), the resolution regarding tuition/fee policies, the reclassification study in the physical plant group, and the salary policy for non-classified employees. Dr. Dunlop informed the Board that the current 3.4% budget cuts will be covered through existing and future salary savings, in addition to an accumulated 'nest egg' saved from the new tuition and fees brought in during the Fall semester because of an increase in enrollment.

3. **PROVOST'S REPORT**

Dr. Peter Checkovich advised the Board that new bids have been received for Berkeley County's renovation work that will allow the Community and Technical College's move to the Dunn Building. The bids will be opened December 19, 2002.

4. **SHEPHERD COLLEGE UNIFORM STATEWIDE COMPACT DATA REPORT**

On behalf of the Academic, Student and Campus Affairs Committee, Mr. Arvon presented the Uniform Statewide Compact Data Reports of Shepherd College and the Community and Technical College of Shepherd.

5. **ADMISSIONS POLICY**

On behalf of the Academic, Student and Campus Affairs Committee, Mr. Arvon presented an update on Series 23 of the Higher Education Policy Commission Rules. Institutions are required to develop admissions policies consistent with Series 23, and Shepherd is beginning the process to accomplish that.

6. **FINANCIAL STATEMENTS**

**M (McMillan), S (Sherwood), PASSED** that the Shepherd College Board of Governors accepts the *Financial Statements and Supplementary Information for the Year Ended June 30, 2002 and Independent Auditors' Reports*, as presented in the Agenda Book.

7. **KENNETH J. BOONE FIELD HOUSE UPDATE**

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

**Resolved**, that the Shepherd College Board of Governors approves an increase in the total Project Budget for the Kenneth J. Boone Field House to \$1,804,000.

8. **CAPITAL BONDING PROJECT AND RELATED STUDENT FEE**

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

**RESOLVED**, That the Shepherd College Board of Governors approves the establishment of a Capital Financing Fee, to be effective as of the Fall 2003 academic semester in the amount of \$69.00 per semester for all full time students.

**WHEREAS**, Shepherd College (the "College") has undertaken the planning, design, acquisition, construction and equipping of a new athletic building to be known as the Ken Boone Field House at Ram Stadium, the expansion and improvement of the Creative Arts Center, a new West Campus parking lot and other capital renovations, repairs and improvements (collectively, the "Project"); and

WHEREAS, by Resolution adopted on November 14, 2002 (the "Inducement Resolution"), The Shepherd College Board of Governors (the "Board") approved, and by this Resolution does hereby approve, the Project and the financing of the costs thereof through the issuance of student fee revenue bonds by the Board; and

WHEREAS, pursuant to the authority contained in Chapter 18B, Article 10 (the "Act"), this Board is authorized to issue revenue bonds (as hereinafter defined, the "Bonds") for the purposes of (i) financing the costs of planning, design, acquisition, construction and equipping of the Project, (ii) establishing a debt service reserve fund for the Bonds, and (iii) paying the costs of issuance of the Bonds and related costs; and

WHEREAS, this Board has determined to issue not to exceed \$6,000,000 in aggregate principal amount of its Student Fee Revenue Bonds, Series 2002 (the "Bonds"), for the purposes set forth above; and

WHEREAS, either the West Virginia Higher Education Policy Commission has previously approved the issuance of the Bonds and the Project or such approval will be a condition precedent to the sale and issuance of the Bonds; and

WHEREAS, the Bonds will be issued pursuant to the terms of and secured under a Bond Trust Indenture and Security Agreement dated as of December 1, 2002, or such other date as determined by an Authorized Officer, as hereinafter defined (the "Indenture"), between the Board and WesBanco Bank, Inc., as Trustee (the "Trustee"); and

WHEREAS, the principal of, premium, if any, and interest on the Bonds will be payable from and secured by the Pledged Revenues, as defined in the Indenture, and otherwise in the manner and to the extent provided for in the Indenture, and the Bonds shall be special obligations of the State and shall not constitute debts of the State;

WHEREAS, the Bonds will contain on the faces thereof provisions as aforesaid and as provided below; and

WHEREAS, there have been presented to the Board for authorization and approval certain documents as hereinafter described;

WHEREAS, it is in the best interest of this Board to grant to the President of the College and the Chairperson and Vice Chairperson of the Board (each, an "Authorized Officer") the power and authority to establish the final terms and provisions of and execute the Bonds, the Indenture and the Bond Purchase Agreement, each as hereinafter defined; and

WHEREAS, this Board finds and represents that it has full power and authority to issue the Bonds and to make the pledges for the payment thereof as in the Indenture and the Bonds more particularly set forth, and to execute and deliver the Indenture and such other documents hereinafter described and, on behalf of the owners of the Bonds, to grant a lien on and security interest in the Pledged Revenues described in the Indenture and the other funds pledged under the Indenture, all pursuant to the Act, and to execute and deliver such other documents and to take the actions contemplated thereby;

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

**Section 1. Findings and Determinations.** This Board specifically finds and determines as follows:

- (a) It has full power and authority to issue the Bonds and to make the pledges for the payment thereof as are described in the Preambles hereto and more particularly set forth in the Indenture, and to enter into the Indenture and the other agreements relating to the Bonds and the Project, and this Board has taken or will take by the adoption of this Resolution all actions necessary to authorize its proper officers to sign, seal and deliver the Indenture, the Bond Purchase Agreement, the Bonds and the other agreements relating thereto and to authorize or ratify the distribution of the Preliminary Official Statement and authorize the distribution of an Official Statement relating to the Bonds.
- (b) The Resolution is adopted pursuant to and in accordance with the provisions of the Act, and the Bonds shall be issued pursuant to the Act.
- (c) The Project is hereby approved, ratified and confirmed, and it is estimated that the cost of the Project will be \$6,000,000.
- (d) It is in the best interests of this Board and the College that an Authorized Officer have the power and authority to execute and deliver one or more certificates of this Board (whether one or more, the "Certificate of Determination") setting forth the final terms and provisions of the Bonds, the Bond Purchase Agreement and the other documents and agreements relating to the Bonds.

**Section 2. Bonds Authorized.** There is hereby authorized, subject to the provisions of the Resolution, the Certificate of Determination and the Indenture, the issuance by this Board of not to exceed \$6,000,000 in aggregate principal amount of the Bonds for the purposes of (i) financing the costs of the planning, design, acquisition, construction and equipping of the Project, (ii) establishing a debt service reserve fund for the Bonds, and (iii) paying the costs of issuance of the Bonds and related costs.

**Section 3. Details of the Bonds.**

- (a) The Bonds shall contain a recital that they are issued pursuant to the Act and shall be designated as provided in the Indenture.
- (b) The Bonds shall be in the aggregate principal amount not to exceed \$6,000,000 in the aggregate, bear interest at the rates, mature in the years and amounts, be subject to mandatory redemption, optional redemption and extraordinary redemption, and have such other terms as set forth in the Certificate of Determination relating to the Bonds.
- (c) The form of the Bonds and other details with respect thereto shall be as set forth in the Indenture.

**Section 4. Sale of Bonds.** The Bonds shall be sold by this Board to Crews & Associates, Inc. (the "Underwriters"), pursuant to the Bond Purchase Agreement to be executed and delivered by an Authorized Officer, substantially in the form submitted at this meeting, with such changes as the Authorized Officer executing the same may deem necessary or desirable, his or her execution of such document to be conclusive evidence of approval of such changes, at the purchase price set forth in the Certificate of Determination, plus accrued interest on the Bonds from their dated date to the date of delivery and payment for the Bonds, on the terms and conditions set forth in the Bond Purchase Agreement and upon the basis of the representations therein and herein set forth. Each Authorized Officer and the Secretary of this Board are hereby authorized and directed to carry out or cause to be carried out all obligations of this Board under said Bond Purchase Agreement, when executed, and the Chairperson of this Board is hereby authorized and directed to execute, and to request the Governor and the Secretary of State of West Virginia to execute, and to deliver the Bonds to the Trustee for authentication and to instruct the Trustee to deliver the Bonds to the Underwriters upon receipt of the purchase price thereof in accordance with the provisions of the Bond Purchase Agreement, and to execute and deliver all documents and instruments required in connection therewith.

**Section 5. Official Statement.** The distribution of a preliminary official statement with respect to the Bonds (the "Preliminary Official Statement"), in substantially the form presented to this meeting, is hereby authorized or ratified and approved. An Authorized Officer is hereby authorized and directed to execute and deliver a final official statement on behalf of this Board for the Bonds, which final official statement shall be in substantially the form of the preliminary official statement with such changes, insertions and omissions as may be required to reflect the terms of the sale of the Bonds and as the Authorized Officer executing the same may approve (the "Official Statement"). The execution of the Official Statement by an Authorized Officer shall be conclusive evidence of such approval. Copies of the Official Statement are hereby authorized to be prepared and furnished to the Underwriters for distribution.

**Section 6. Certificate of Determination for the Bonds.** Each Authorized Officer shall have the power and authority to execute and deliver the Certificate of Determination for the Bonds, which may include, without limitation, provisions (i) fixing the aggregate principal amount of the Bonds to be issued, not to exceed \$6,000,000, (ii) fixing the maturity schedule for such Bonds, including the amounts of serial bonds and term bonds, such maturities to be not prior to December 1, 2003, and not later than December 1, 2035, (iii) fixing interest rates or yields for such Bonds, such rates or yields not to exceed an average interest cost of seven percent (7%) per annum, (iv) fixing the amounts and times of mandatory redemption for such Bonds, (v) fixing optional redemption provisions for such Bonds, including times and redemption prices, (vi) fixing the purchase price for such Bonds, which may include underwriting and original issue discounts and premiums, or any thereof, and (vii) establishing the date of the Indenture if other than December 1, 2002.

**Section 7. Indenture; Other Documents and Actions.** The form, terms and provisions of the Indenture, substantially in the form presented to this meeting, are in all respects approved, and each Authorized Officer is authorized and empowered for and on behalf of this Board to execute, acknowledge and deliver the Indenture and any other document, certificate, instrument or agreement required by the Act, the Resolution, the Bond Purchase Agreement or the Indenture or otherwise necessary or convenient to carry out the transactions contemplated by this Resolution, the Bond Purchase Agreement or the Indenture. Each Authorized Officer, the Secretary and any other proper officers of this Board are further hereby authorized and directed to execute and deliver any and all papers and instruments, including but not limited to certificates required in order to comply with state and federal securities laws, regulations, practices and procedures upon distribution of the Official Statement or sale of the Bonds and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Resolution, the Bond Purchase Agreement and the Indenture.

**Section 8. Bond Counsel.** Bowles Rice McDavid Graff & Love, PLLC is hereby appointed as bond counsel for the Bonds.

**Section 9. Application of Bond Proceeds.** The proceeds of sale of the Bonds, including accrued interest, shall be applied as provided in the Indenture.

**Section 10. Special Obligations.** The Bonds shall be secured by the pledge effected by the Indenture and shall be payable and secured by a pledge of the Pledged Revenues, as defined therein, and any other funds or assets described therein. The Bonds, together with the interest thereon, are special obligations of the State and shall not constitute a debt of the State, and the credit or taxing power of the State shall not be pledged therefore, but the Bonds shall be payable only from the revenues and funds pledged for their payment as provided in the Indenture. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Bonds or for any claim based thereon, on the Resolution or on any of the documents executed in connection therewith against any official, member, officer or employee of this Board or the State or any person executing the Bonds, and neither members of this Board nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof.

**Section 11. Delivery of Bonds.** The Bonds shall be executed as provided herein and in accordance with the provisions of the Indenture and shall be delivered to the Underwriters in accordance with the provisions of the Bond Purchase Agreement.

**Section 12. Designation of Bonds as Qualified Tax-Exempt Obligations.** The Board hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of paragraph (3) of Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and represents that the Bonds do not constitute private activity bonds as defined in Section 141 of the Code and as determined in accordance with Section 265(b)(3) of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations, the interest on which is excludable (under Section 103(a) of the Code) from gross income for

federal income tax purposes (excluding, however, obligations described in Section 265(b)(3)(C)(ii) of the Code), including the Bonds will be issued by the Board or by any subordinate entity of the Board during the calendar year 2002, all as determined in accordance with the Code.

**Section 13. Effect.** This Resolution shall go into effect immediately upon adoption.

9. **TRAVEL REGULATIONS**

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

**RESOLVED**, That the Shepherd College Board of Governors adopts the revised *Policy 14, Travel*, as presented in the Agenda Book.


10. **CLASSIFIED EMPLOYEE SALARY STUDY**


Dr. Starliper and others presented additional information for the Board's review regarding the Classified Staff Salary Policy and the concerns of the Classified Employees Council.

11. **NEW BUSINESS**

There was no new business.

There being no further business, the meeting was adjourned.

  
Barbara H. Pichot  
Chair

  
Manny P. Arvon, II  
Secretary