

Shepherd University Board of Governors

Minutes of the Meeting of July 30, 2013

The Shepherd University Board of Governors met on July 30, 2013 in Room 202, Ikenberry Hall, 301 North King Street, Shepherdstown, West Virginia. Members participating by phone were: John Beatty, Jason Best, Marcia Brand, Gat Caperton, Alana Gondeck, Holly McCall, D. Scott Roach, Mark Rudolph and John Younis. Also present were Shepherd University President Suzanne Shipley, members of the executive staff and others. Board member Diane Shewbridge was absent from the meeting.

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

The oath of office was administered by Chair Gat Caperton to Alana Gondeck, new member to the Board.

2. **PUBLIC COMMENTS**

No public comments were made.

3. **REFUNDING OF INSTITUTIONAL BONDS**

M (Rudolph), S (Brand), PASSED, all members participating by phone were polled, that the following resolution be adopted by the Board:

RESOLUTION OF THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS

A RESOLUTION AUTHORIZING THE REFUNDING ("REFUNDING") OF ALL OR A PORTION OF THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS STUDENT FEE REVENUE BONDS, SERIES 2003, THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS INFRASTRUCTURE REVENUE BONDS, SERIES 2004B AND/OR THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS REVENUE BONDS (SHEPHERD UNIVERSITY RESIDENCE FACILITIES PROJECTS), SERIES 2005 AND THE ISSUANCE BY THE SHEPHERD UNIVERSITY BOARD OF GOVERNORS OF NOT TO EXCEED \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SHEPHERD UNIVERSITY BOARD OF GOVERNORS REFUNDING REVENUE BONDS, IN ONE OR MORE SERIES, TO EFFECTUATE SUCH REFUNDING (THE "BONDS"); AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL INDENTURE TO A BOND TRUST INDENTURE WITH RESPECT TO THE BONDS; AUTHORIZING THE SALE OF THE BONDS TO PIPER JAFFRAY & CO. PURSUANT TO A BOND PURCHASE AGREEMENT RELATING THERETO AND THE EXECUTION AND DELIVERY OF SUCH BOND PURCHASE AGREEMENT; AUTHORIZING OR RATIFYING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT RELATING TO THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION WITH THE BONDS INCLUDING BUT NOT LIMITED TO AN ESCROW AGREEMENT, A CONTINUING

DISCLOSURE AGREEMENT AND A TAX REGULATORY AGREEMENT; DELEGATING TO THE PRESIDENT OF SHEPHERD UNIVERSITY AND THE CHAIRPERSON AND VICE-CHAIRPERSON OF SHEPHERD UNIVERSITY BOARD OF GOVERNORS CERTAIN RESPONSIBILITIES IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS; AND TAKING OTHER ACTIONS IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS AND THE REFUNDING.

WHEREAS, to improve the quality of student life and academic culture, enhance student services and respond to students' needs, and to comply with its Master Plan, Shepherd University (the "University") has previously undertaken certain capital projects and has financed all or a portion of the costs relating to those projects through the issuance of the following bonds: (a) The Shepherd University Board of Governors Student Fee Revenue Bonds, Series 2003, issued on January 22, 2003, in the original principal amount of \$5,990,000, \$4,930,000 of which remains outstanding, (b) The Shepherd University Board of Governors Infrastructure Revenue Bonds, Series 2004B, issued on September 9, 2004, in the original principal amount of \$3,405,000, \$2,140,000 of which remains outstanding, and (c) The Shepherd University Board of Governors Revenue Bonds (Shepherd University Residence Facilities Projects), Series 2005, issued on May 24, 2005, in the original principal amount of \$22,925,000 (the "Series 2005 Bonds"), \$20,090,000 of which remains outstanding (collectively, the "Bonds to be Refunded"); and

WHEREAS, the University has been advised that debt service savings can be achieved by refunding all or a portion of the Bonds to be Refunded; and

WHEREAS, the University proposes to refund all or a portion of the Bonds to be Refunded and to pay issuance and related costs through the issuance of tax-exempt Refunding Revenue Bonds by The Shepherd University Board of Governors (the "Board") in an aggregate principal amount of not more than \$30,000,000, in one or more series (the "Bonds"); and

WHEREAS, pursuant to the authority contained in Chapter 18B, Article 10, Chapter 18B, Article 19, Chapter 18, Article 23 and Chapter 13, Article 2G (collectively, the "Act"), the Board is authorized to issue the Bonds (as described herein) for the purposes of (i) refunding all or a portion of the Bonds to be Refunded, and (ii) paying the costs of issuance of the Bonds and related costs; and

WHEREAS, the Board has determined to issue the Bonds for the purposes set forth above; and

WHEREAS, the University has requested that the West Virginia Higher Education Policy Commission approve the issuance of the Bonds and the refunding of all or a portion of the Bonds to be Refunded; and

WHEREAS, the Board has previously issued the Series 2005 Bonds pursuant to that certain Bond Trust Indenture dated as of May 1, 2005, by and between the Board and WesBanco Bank, Inc., as Bond Trustee (the "Original Indenture"); and

WHEREAS, the Board has also previously issued its Revenue Bonds (Shepherd University Wellness Center Project) Series 2007 on October 30, 2007 in the original aggregate

principal amount of \$20,090,000 (the “Series 2007 Bonds” and together with any of the Series 2005 Bonds not refunded as part of the Refunding, the “Prior Bonds”) pursuant to that certain First Supplemental Bond Trust Indenture dated as of October 1, 2007, by and between the Board and WesBanco Bank, Inc., as Bond Trustee (the “First Supplemental Indenture”) supplementing and amending the Original Indenture; and

WHEREAS, the Bonds will be issued pursuant to the terms of and secured under the Original Indenture, on parity with the Prior Bonds, pursuant to a Second Supplemental Indenture (the “Second Supplemental Indenture”) to the Original Indenture to be entered into by and between the Board and WesBanco Bank, Inc., as Bond Trustee (the “Trustee”), in connection with the issuance of the Bonds; and

WHEREAS, the principal of, premium, if any, and interest on the Bonds will be payable from the Auxiliary Fees and Auxiliary Capital Fees, as defined in the Act, collected by the University, including but not limited to the revenues of all dormitories, student housing facilities, food service facilities, student union facilities, athletic facilities, transportation facilities and motor vehicle parking facilities of the University, and the Required Educational and General Capital Fees, as defined in the Act, imposed on students of the University and collected under the Act for the purposes of supporting debt service, capital projects and campus maintenance and renewal for the University’s educational and general educational facilities, exclusive of that component part of the Required Educational and General Capital Fees of the University that constituted registration and tuition fees in effect as of March 21, 2004, and imposed and collected under the Act for the purpose of supporting debt service of systemwide bond issues, as further set forth in the Original Indenture, as supplemented and amended by the First Supplemental Indenture and the Second Supplemental Indenture (collectively, the “Indenture”); and

WHEREAS, the Bonds will be secured, on parity with the Prior Bonds, by a pledge of the Auxiliary Fees and Auxiliary Capital Fees, as defined in the Act, collected by the University, including but not limited to the revenues of all dormitories, student housing facilities, food service facilities, student union facilities, athletic facilities, transportation facilities and motor vehicle parking facilities of the University, and the Required Educational and General Capital Fees, as defined in the Act, imposed on students of the University and collected under the Act for the purposes of supporting debt service, capital projects and campus maintenance and renewal for the University’s educational and general educational facilities, exclusive of that component part of the Required Educational and General Capital Fees of the University that constituted registration and tuition fees in effect as of March 21, 2004, and imposed and collected under the Act for the purpose of supporting debt service of systemwide bond issues, the revenues pledged to secure the payment of the Bonds being more particularly described in the Indenture and other amounts held under the Indenture (the “Pledged Revenues”), all such pledges to be subject to all prior pledges thereof, if any, and otherwise in the manner and to the extent to be 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, as required by the Act and as provided below; and

WHEREAS, it is in the best interest of the Board to grant to the President of the University and the Chairperson and Vice Chairperson of the Board (each, an “Authorized Officer”) the power and authority to establish the final forms, terms and provisions of and to

execute the Bonds, the Second Supplemental Indenture, the Bond Purchase Agreement, the Preliminary Official Statement and Official Statement, each as herein defined, and related closing documents and certificates, including without limitation a Certificate of Determination, an Escrow Agreement, a Continuing Disclosure Agreement and a Tax Regulatory Agreement; and

WHEREAS, the 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 described herein and more particularly set forth in the Indenture and the Bonds, and to execute and deliver the Second Supplemental Indenture and such other documents hereinafter described and, for the benefit of the owners of the Bonds, to grant a lien on and security interest in the Pledged Revenues, 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 SHEPHERD UNIVERSITY BOARD OF GOVERNORS AS FOLLOWS:

Section 1. Findings and Determinations. The Board specifically adopts the findings and determinations in the Recitals and further finds and determines as follows:

(a) It has full power and authority to issue the Bonds, to refund all or a portion of the Bonds to be Refunded, and to make the pledges for the payment thereof as described herein and in the Indenture, and to enter into the Second Supplemental Indenture and the other agreements relating to the Bonds and the refunding of all or a portion of the Bonds to be Refunded, and the Board has taken or will take by the adoption of this Resolution all actions necessary to authorize the Authorized Officers to sign, seal and deliver the Second Supplemental Indenture, the Bond Purchase Agreement, the Bonds and the other agreements relating thereto, including without limitation an Escrow Agreement, a Continuing Disclosure Agreement and a Tax Regulatory Agreement, 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) This 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 refunding of all or a portion of the Bonds to be Refunded is hereby approved, ratified and confirmed, the determination of which of the Bonds to be Refunded are to be ultimately refunded to be made by the President of the University after consultation with the University's underwriter and/or financial advisors.

(d) It is in the best interests of the Board and the University that an Authorized Officer have the power and authority to approve the forms of various documents and to execute and deliver one or more certificates of the Board (whether one or more, the "Certificate of Determination") setting forth the final terms and provisions of the Bonds, the Second Supplemental Indenture, 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 this Resolution, the Certificate of Determination and the Indenture, the issuance by the Board of the Bonds for the purposes of (i) refunding all or a portion of the Bonds to be

Refunded, the determination of which of the Bonds to be Refunded are to be ultimately refunded to be made by the President of the University after consultation with the University's underwriter and/or financial advisors; and (ii) 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 to be provided in the Second Supplemental Indenture as executed by an Authorized Officer.

(b) The Bonds shall be in the aggregate principal amount not to exceed \$30,000,000 in the aggregate, issued in one or more series as tax-exempt bonds, 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, and as more particularly set forth in Section 6 hereof.

(c) The form of the Bonds and other details with respect thereto shall be as set forth in the Second Supplemental Indenture as executed by an Authorized Officer.

Section 4. Sale of Bonds. The Bonds shall be sold by the Board to Piper Jaffray & Co. (the "Underwriter"), pursuant to the Bond Purchase Agreement to be executed and delivered by an Authorized Officer, in such form 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 the form of such Bond Purchase Agreement, at the purchase price set forth in the Certificate of Determination, on the terms and conditions to be 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 the Board are hereby authorized and directed to carry out or cause to be carried out all obligations of the Board under said Bond Purchase Agreement, when executed, and the Chairperson of the 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 Underwriter 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 preparation and distribution of a preliminary official statement with respect to the Bonds (the "Preliminary Official Statement"), in such form approved by an Authorized Officer, are hereby authorized or ratified and approved. Each Authorized Officer is hereby authorized and directed to execute and deliver a final official statement on behalf of the Board for the Bonds, which final official statement shall be in 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 such 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 Underwriter 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 \$30,000,000, (ii) fixing the maturity schedule for

such Bonds, such maturity to be not later than June 1, 2035, (iii) fixing interest rates for such Bonds, such rates not to exceed 5.5% per annum, (iv) fixing the amounts and times of mandatory redemption for such Bonds, if any, (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; (vii) determining the number of series of the Bonds to be issued and the series name and/or designation for each such series; and (viii) designating which of the Bonds to be Refunded, or portions thereof, are to be refunded.

Section 7. Second Supplemental Indenture; Other Documents and Actions.

Each Authorized Officer is authorized and directed to approve the form, terms and provisions of the Second Supplemental Indenture and each Authorized Officer is authorized and empowered for and on behalf of the Board to execute, acknowledge and deliver the Second Supplemental Indenture and any other document, certificate, instrument or agreement required by the Act, this 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, including without limitation an Escrow Agreement, a Continuing Disclosure Agreement and a Tax Regulatory Agreement, each of the foregoing to be in such form as may be approved by the Authorized Officer executing the applicable document, certificate, instrument or agreement, the execution thereof to be conclusive evidence of such approval. Each Authorized Officer, the Secretary and any other proper officers of the Board are further hereby authorized and directed to execute and deliver any and all papers, instruments, and certificates required in order to comply with state and federal securities and tax 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 this Resolution, the Bond Purchase Agreement or the Indenture.

Section 8. Bond Counsel. Bowles Rice LLP 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, if any, shall be applied as provided in the Second Supplemental Indenture as executed by an Authorized Officer.

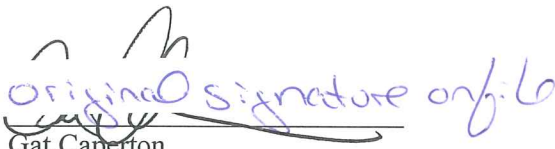
Section 10. Special Obligations. The Bonds shall be secured by the pledge effected by the Indenture and shall be payable and secured by a pledge of the Pledged Revenues as described herein and as set forth in the Indenture and any other funds or assets described in the Indenture. The Bonds, together 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 therefor, 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 this Resolution or on any of the documents executed in connection therewith against any official, member, officer or employee of the Board or the State or any person executing the Bonds, and neither members of the Board nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof.

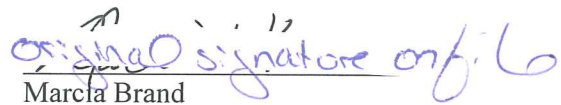
Section 11. Delivery of Bonds. The Bonds shall be executed as provided herein and in accordance with the provisions of the Indenture and shall be delivered to the Underwriter in accordance with the provisions of the Bond Purchase Agreement.

Section 12. Written Direction of the Governor. In accordance with the provisions of West Virginia Code Section 5-1-28, the Bonds may not be issued until such time as the express written direction of the Governor to issue the Bonds has been obtained. Each Authorized Officer together with the University's General Counsel, Vice President for Administration and Finance, Underwriter and Bond Counsel are authorized and directed to take all actions necessary to obtain the express written direction of the Governor to issue the Bonds and all prior actions taken by the foregoing in connection therewith are hereby ratified and approved.

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

4. **NEW BUSINESS**
None.


original signature on file
Gat Caperton
Chair


original signature on file
Marcia Brand
Secretary