

New College of Florida Board of Trustees
Approved Minutes
Teleconference Meeting of January 29, 2008

Members Participating: Benjamin Brown; Rev. Jerome Dupree; Gen. Rolland V. Heiser; Elaine Keating; Dr. Patrick McDonald; Col. Mickey Presha; Jane Smiley. **Participating via Teleconference:** Bob Johnson; Kenneth Misemer; Gen. Raymond E. Mason, Jr.; J. Robert Peterson; Dr. Vicki Raeburn. **Not Participating:** Warren Hudson.

Call to Order

Chairman Presha called the public meeting to order at 10:00 A.M. The meeting was noticed on January 19, 2008.

Establishment of Quorum

Chairman Presha asked the Assistant Secretary to verify that a quorum of Trustees was present, in person or via teleconference, and Ms. Janney did so.

Approval of Draft Minutes of November 15, 2007 Teleconference BOT Meeting

Trustee Heiser moved to approve the Minutes of the November 15, 2007 BOT Teleconference Meeting as presented, seconded by Trustee Johnson, and the motion carried unanimously.

Welcome

Chairman Presha welcomed Benjamin Brown, newly-elected president of the New College Student Alliance, to the Board as the student trustee.

Financial Report

Chairman Presha requested Vice President for Finance and Administration John Martin to present an updated summary of the financial situation, as outlined on the summary sheet provided to the Trustees. VP Martin began by explaining that the infusion of 2007-08 \$2.5 million of new recurring E & G funding approved for New College by the Legislature and the Governor in May 2007 has insulated NCF from the devastating cuts suffered by its sister institutions within the State University System (SUS), who are struggling to absorb them through such drastic measures as salary freezes and layoffs. He explained that the fiscal year began in July with the realization that the state tax revenue collections were falling significantly below revenue estimates used to guide development of the state's 2007-08 budget. The Governor's budget office instituted "holdbacks" of 4% for all state agencies including the SUS. A special session of the Legislature was convened that resulted in a recurring budget reduction, averaging 3.6% for the SUS, being implemented in November 2007. This translated to a \$670,000 cut to NCF's base budget for 2007-08. The Governor and the Legislature softened the cut somewhat by providing some one-time, non-recurring funds, plus a 5% tuition increase (recurring funds) to be implemented for spring semester 2008. NCF's share of the non-recurring funds was \$156,000 and the new tuition increase should generate approximately \$40,000 during spring semester. Nevertheless, the state's economy continues to lose ground. Effective with January 2008 revenue distribution to state agencies came a new round of "holdbacks," equating to an additional 3.8% annualized reduction in recurring E&G base funding (\$695,000) for NCF, leaving the projected new 2007-08 recurring funding available for distribution to be approximately \$1.2 million – about half as much as originally appropriated. At this point, NCF is able to afford recurring and non-recurring salary increases for faculty and staff, plus earmark funds for possible as many as three future faculty lines recruited during 2008-10, a Quality Enhancement Plan as part of SACS reaffirmation, and cover a few of the specific operating commitments. But the outlook is not good and another 4% reduction in base budget for NCF (\$670,000) may be ahead in 2008-09. VP Martin added that funding for PECO projects for capital construction (derived from gross receipts taxes on utilities) are significantly higher than previous projections for the SUS PECO allocation. As a result, the BOG added \$2.5 million to NCF's PECO request for 2008-09 to fund our fourth priority item, the seawall infrastructure replacement, increasing the NCF 08-09 PECO project total to \$9.4 million. Also, due to currently favorable low interest rates, the BOG predicts that NCF will receive approximately \$625,000 in capital improvement trust fund monies from a bond anticipated to be issued later in 2008. This is approximately \$275,000 more than originally projected. The College will benefit from these capital project windfalls.

Trustee McDonald asked about the College's \$2 million invested in the State Board of Administration's jeopardized investment pool. He understood that NCF was able to withdraw most of its funds. What about the remainder? VP Martin stated that the remaining funds, totaling approximately \$290,000 were still invested in the State Board's pool. Trustee McDonald asked if this amount was part of the funds still in quarantine? VP Martin responded that it was.

Trustee Mason suggested that in the future, routine items coming before the BOT be grouped into a consent agenda so that each item would not be subject to individual discussion. Chairman Presha concurred, and said it would be considered for the future.

- **Approval of Resolution Adopting BOG Student Financial Aid Code of Conduct as Guidelines**

General Counsel Steve Pfeiffer explained that as a result of nationwide issues raised with regard to student financial aid practices, particularly for engaging in practices involving kick backs to institutions/individuals for directing students to particular lenders, the Trustees are asked to consider adoption of a BOG Student Financial Code of Conduct as Guidelines. He explained that across the country, individuals have been charged with ethical violations and crimes in relation to the administration of financial aid programs. Investigations begun by the New York State Attorney General have extended to Florida and Florida institutions, and the Florida Attorney General and other law enforcement agencies have conducted similar investigations; institutions within the SUS have been criticized on account of their loan practices. Responding to these issues, the Florida Attorney General and Florida Department of Legal Affairs convened a working group, including representatives of the Board of Governors and SUS institutions including New College, to develop and adopt a Code of Conduct regarding practices at colleges and universities within Florida. The group developed the Student Financial Aid Code of Conduct and recommended that the Code be adopted as guidelines by the Florida BOG and the SUS institutions. The FBOG adopted the Code on December 6, 2007 and directed all SUS institutions to do the same. Mr. Pfeiffer stressed that NCF has not violated ethical or legal requirements in its implementation of student financial aid programs. Other than being surveyed regarding practices, there has been no investigation of practices at NCF and no allegation of improper conduct. The staff believes that adoption of the Student Financial Aid Code of Conduct will assist in ensuring that student financial aid programs are administered in a manner that is fair, nondiscriminatory, and advantageous to students. Trustee Misemer moved to adopt the BOG Student Financial Aid Code of Conduct as guidelines, seconded by Trustee Mason, and it was approved by unanimous vote.

- **Adoption of Regulation 2-095 Relating to Conflict of Interest**

General Counsel Pfeiffer stated that the College needs to establish a regulation on conflict of interest relating to Board of Trustees and individual trustees. The proposed regulation implements provisions of Florida law that set ethics and conflict of interest practices for state officers, and has been modeled after other conflict of interest policies adopted by SUS institutions. In accordance with the regulation development procedures adopted by the BOG, notice of adoption of proposed Regulation 2-095 was posted on the www.ncf.edu website for more than 30 days prior to this meeting and the complete text of the Regulation was also published on the web during the same period. Members of the public were invited to provide oral or written comment to the NCF General Counsel; none were submitted. Mr. Pfeiffer acknowledged that he had discussed the proposed regulation with Trustee Brown yesterday. Trustee Misemer moved to adopt Regulation 2-095 Relating to Conflict of Interest. Trustee Brown asked to comment on Provision 4c, which states:

“The BOT has legal authority to give direction to the President of the College. Unless specifically referred by the President, Trustees shall not intervene in relations with other administrators, faculty, staff or students. Complaints made to any Trustee shall be referred directly to the President.”

Trustee Brown, who is president of the New College Student Alliance, pointed out that he hears complaints from students all the time, in great numbers. He was concerned that as stated, the last sentence would cause great difficulty for the student body president. He suggested that amending the last sentence to read: “Complaints made to any Trustee *requiring action* shall be referred directly to the President.” Trustee Raeburn disagreed on the grounds that adding “requiring action” would require the Trustee to make a complete judgment call. Mr. Pfeiffer agreed that adding “requiring action” would lodge discretionary responsibility with the Trustees, but he expressed

his confidence that the intent of this policy is to keep the Trustees from interfering in the work of the College. The requirement of the Trustees is not to act, but to convey the issue to the President. Trustee Raeburn stated that she still thinks the question of whose judgment prevails remains open; her worries center on the person who made the complaint. Such a policy is difficult to enforce in the business world. General Counsel Pfeiffer repeated that the intent is to ensure not too close a relationship between the Trustees and the daily activities of the College. Chairman Presha recommended that the BOT adopt the Regulation as submitted and return to it in the future to amend it to the satisfaction of Trustees Raeburn. Trustee Raeburn stated that she seconded the motion under the terms that it be wordsmithed in the future, and the Regulation was approved as submitted.

- **Adoption of Regulation 4-5006 Relating to Acceptable Use of Computing Systems, Software, and the New College Network**

General Counsel Pfeiffer stated that this policy had been underdevelopment by Information Technology for several years. It has been published on the www.ncf.edu home page for more than 30 days in accordance with the BOG Regulations Development procedure. He received a number of comments from faculty members, which have been provided to the BOT with the Proposed Regulation 4-5006, relating to Provision 6b – Monitoring Use. He stated that the regulation proposes any monitoring be approved by the Provost with the General Counsel in writing, but he now understands that written material subject to public records requests, which might spur further investigation of computer use. He was troubled by the format and asked to hear from faculty. Trustee McDonald, Chair of the Faculty, noted that he thought the regulation quite liberal, compared to other SUS policies, but his problem is with the process – that it affects the faculty work environment. He drew attention to Provision 6d – Expectation of Privacy – and indicated he had difficulty reconciling 6b with 6d. He asked for time to mull it over. Mr. Pfeiffer stated that the BOT needed to adopt the regulation today, with the provision that it could be revised. Trustee Heiser so moved. Professor Mullins commented that he was comfortable with the original language. Professor Hernandez noted that her letter on behalf of the NCF Chapter of the United Faculty of Florida regarding this regulation was not in the packet of material provided to the public for this meeting and Mr. Pfeiffer apologized for the oversight and complimented her on her good comments. Trustee Raeburn seconded the motion to adopt Regulation 4-5006 Relating to Acceptable Use of Computing Systems, Software, and the New College Network and it was adopted unanimously.

- **Adoption of Revised Proposed Regulation 1-15 Relating to Inventions and Works**

Mr. Pfeiffer stated that as an attorney he is comfortable leaving this area of inventions and works to the existing laws, but the need for a New College regulation on these matters was expressed as part of the reaffirmation of accreditation process. Proposed Regulation 1-15 Relating to Inventions and Works was developed based on inventions and works policies established at other Florida SUS institutions and others nationwide. It follows copyright and patent law principles relating to ownership of inventions and works, depending on whether the invention and work was developed as part of an employee's job or was the result of effort that was independent to the employer's direction and resources. While Counsel Pfeiffer is comfortable leaving this area to the existing laws, the Collective Bargaining Agreement with United Faculty of Florida changes the law a little, so he has codified the existing law and published the regulation. Faculty members' comments were also taken under consideration. There is no legal question that a collective bargaining agreement prevails over any regulation, but faculty members are concerned that having a different regulation could cause future confusion. Faculty members want to use the same language in the regulation that is in the NCF-UFF Collective Bargaining Agreement. Mr. Pfeiffer noted that with three different collective bargaining agreements, NCF often has four different processes for dealing with the issue. He explained that the difference between the first Proposed Regulation 1-15 and Revised Proposed Regulation 1-15 is that in the revision, the academic works are within the ownership of the employee and not divided between the employee and the employer as calibrated by the amount of support provided. Mr. Pfeiffer read Paragraphs 3 and 4 (Development of Contract and Limitation of Rights) and proposed the reasons for including them: equity among employees of the College would be better served if policies relating to ownership of intellectual property are the same for members of the faculty bargaining unit and for other employees. Accordingly, the College recommends adopting a regulation for inventions and works that implements the same protections and processes for all employees that are in place for members of the faculty bargaining unit. The staff recommends the adoption of the Revised Regulation 1-15. Chairman Presha asked if it was common practice to have such a regulation for colleges and universities. Mr. Pfeiffer affirmed that it was common practice. Trustee McDonald asked for assurance that Paragraphs 3 and 4 were consistent with the NCF-UFF Collective Bargaining Agreement and received it from Counsel Pfeiffer, who noted the only changes from the Agreement were to make it apply to staff employees who are

not faculty. The provisions are all the same, but even if they were not, the Collective Bargaining Agreement would prevail. A motion to adopt the Revised Regulation 1-15 Relating to Inventions and Works was made by Trustee Dupree, seconded by Trustee Johnson, and approved unanimously.

- **Ratification of the Collective Bargaining Agreement Between New College of Florida and the Police Benevolent Association for 2007 – 2010**

Vice President Martin stated that he was very pleased to present this item. The PBA ratified a brand new Collective Bargaining Agreement on December 20, 2007. Lots of negotiating time went into arriving at consensus on this agreement to replace the one which was to have expired on June 30, 2006. The PBA failed to ratify a replacement contract on which tentative agreement was reached in 2006. Thus, the 2004-2006 PBA Collective Bargaining Agreement has remained in force up to this point. The most notable change in the new Agreement: salary increases add 2% to base salary, retroactive to December 30, 2007 plus a non-recurring lump sum bonus of \$2,000. The bonus is in addition to the \$1,000 non-recurring bonus payment funded by the state that was distributed to state employees on November 2, 2007. The College's wage and tax costs associated with this tentative agreement total approximately \$10,000 in recurring funds and \$35,000 in non-recurring funds. VP Martin categorized the PBA agreement as one of the best salary agreements in the SUS. Trustee Johnson congratulated Mr. Martin and Mr. Pfeiffer and moved approval of the Agreement. It was seconded by Trustee McDonald, and approved unanimously.

- **Ratification of the 2007-08 Update to the Collective Bargaining Agreement Between New College of Florida and the Florida Public Employees Council 79, American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME Local 591)**

VP Martin stated that this agreement covers the College's non-professional, non-supervisory support staff. The Collective Bargaining Agreement for 2006-09 provides for annual renegotiation of Wages, Benefits, and up to two additional articles chosen by each side. For 2007-08, AFSCME selected Wages (Article 7) and Leave of Absence/Holidays (Article 11) and Method of Filling Vacancies (Article 18). The most notable change was in Wages for 2007-08. The proposed agreement provides each bargaining unit employee with a 2% increase to base salary, retroactive to December 30, 2007, plus a non-recurring one time lump sum bonus payment of \$2000. The bonus payment is in addition to the \$1,000 non-recurring bonus payment funded by the state that was distributed on November 2, 2007. The College's wage/tax costs associated with this tentative agreement total \$56,000 in recurring funds and \$257,000 in one-time, non-recurring funds. Vice Chair Keating moved to ratify the Agreement, seconded by Trustee Misemer, and the motion carried unanimously.

- **Ratification of the 2007-2008 Revisions to the Collective Bargaining Agreement Between New College of Florida and the United Faculty of Florida for 2005-2008**

Trustee Mason moved to ratify the 2007-08 Revisions to the Collective Bargaining Agreement Between NCF and the United Faculty of Florida for 2005-08, seconded by Trustee McDonald. The agreement has been ratified by the bargaining unit members. Mr. Pfeiffer stated that the agreement includes New College meeting the 4% faculty salary increase goal included in the 2006-07 UFF agreement. It will be the most significant increase received this year by any faculty in the state, necessitated by the College's need to improve low entry level salaries and issues of salary compression against the backdrop of the Sarasota housing market. He thanked the UFF negotiating team: Uzi Baram, Anne Fisher, David Rohrbacher, and David Mullins, who served as Chair. Provost Savin, Director of Human Resources Mark Levenson, Assistant Vice President for Academic Affairs Julie Morris and he represented the College. He noted the UFF is now moving to a new kind of single team negotiating for the next contract, and training sessions have started already. Notable changes were two revisions to Article 17, changes in leave without pay and in domestic partner benefits, and in Article 23, salaries. Mr. Pfeiffer noted in the 2006-07 Collective Bargaining Agreement, the College agreed to implement an "equity model" salary enhancement package that achieves a non-binding 4% goal, using a minimum starting salary of members of the faculty as a base with percentage increases for years of service and promotions. The \$1000 one-time bonus paid by the state on November 2, 2007, allowed NCF faculty to reach the goal set in 2006, by raising the minimum starting salaries for faculty from \$51,500 to \$54,500. Each member of the bargaining unit will receive at least a 3% increase. Members of the unit who are not faculty members will receive the average increase. Increases are retroactive to December 30, 2007. The total cost in recurring dollars totals \$235,000. The agreement was unanimously approved by the BOT.

- **Adoption of the Academic Master Plan 2008-2018**

Provost Savin reminded the Board that he was charged with creating an Academic Master Plan at the February 3, 2007 BOT Meeting. He formed and chaired a committee, which included David Brain, David Banks, Malena Carrasco, David Harvey, Elzie McCord, Pat McDonald, Laura Mohai and Miriam Wallace. Rafael Montalvo served as facilitator and Julie Morris provided staff support. The Academic Master Plan Committee worked for the better part of a year, engaging faculty, student, and staff in a series of discussions and consensus-testing surveys. They first circulated a “Values and Issues” document which formed the ground to address issues. In the fall, a general set of strategies were prepared and circulated under the title “Improving Student Learning,” and presented for consensus testing. Seven major goals, with 125 supporting strategies, emerged. No strategy became part of the Academic Master Plan unless it achieved 85% support for the electronic consensus testing. The new Plan will help New College develop and implement its Strategic Plan for 2008-18. Trustee Heiser commended Provost Savin for his work and moved to adopt the Academic Master Plan 2008-2018, seconded by Trustee Dupree. Trustee Raeburn noted the Plan was complex; she hoped the Board could be walked through it at the next meeting. Professor Gilchrist, Chair of the Division of Natural Sciences, asked if Strategy A9.5, encouraging summer ISPs, meant that faculty contracts would be extended into the summer or if faculty summer work would continue on a “volunteer” unpaid basis, and if this situation had been discussed with the UFF? Provost Savin responded that this was an issue that would have to be dealt with in terms of implementation of Strategy A9.5. The Board voted unanimously to accept the Plan and gave Provost Savin and his team a round of applause.

Other Business

Chairman Presha noted that at a recent Governor’s Reception, he heard praise all around for New College of Florida as a “model for the state” of delivering high quality undergraduate education.

Trustee Johnson announced that the Car Museum property has finally been purchased, and Nell Eurich, early academic leader of New College and longtime Foundation trustee, passed away. President Michalson noted that the College would need to mark and remember Mrs. Eurich’s supportive presence.

He reminded the Trustees of this year’s President’s Day Speaker: James Simon, former Dean of New York Law School, at 4:30 pm in College Hall, who will discuss Abraham Lincoln and presidential powers.

Ms. Janney noted the Board would have a Strategic Plan to consider at the next meeting.

Professor Hernandez expressed the support of the NCF-UFF for the PBA team throughout their long negotiation and congratulated them on the Agreement.

Since there was no further business, the meeting was adjourned at 9:55 A.M.

Respectfully submitted,

Suzanne L. Janney
Assistant Secretary