

SPECIAL MEETING
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION

System Administration, Las Vegas
4300 South Maryland Parkway, Board Room

Friday, August 24, 2018

Video Conference Connection from the Meeting Site to:
System Administration, Reno
2601 Enterprise Road, Conference Room
and
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Members Present:

Mr. Kevin J. Page, Chairman
Dr. Jason Geddes, Vice Chairman
Dr. Andrea Anderson
Dr. Patrick R. Carter
Mrs. Carol Del Carlo
Dr. Mark W. Doubrava
Mr. Trevor Hayes
Mr. Sam Lieberman
Mrs. Cathy McAdoo
Mr. John T. Moran
Mr. Rick Trachok
Mr. Anthony L. Williams

Members Absent:

Ms. Allison Stephens

Others Present:

Dr. Thom Reilly, Chancellor
Ms. Crystal Abba, Vice Chancellor, Academic and Student Affairs
Dr. Constance Brooks, Vice Chancellor, Government and Community Affairs
Mr. Chet Burton, Chief Financial Officer
Mr. Dean J. Gould, Chief of Staff and Special Counsel to the Board
Mr. James Martines, Acting General Counsel
Dr. Federico Zaragoza, President, CSN
Dr. Kristen Averyt, President, DRI
Ms. Joyce M. Helens, President, GBC
Mr. Bart J. Patterson, President, NSC
Dr. Karin M. Hilgersom, President, TMCC
Dr. Marta Meana, Acting President, UNLV
Dr. Marc A. Johnson, President, UNR
Dr. Vincent R. Solis, President, WNC

Faculty senate chairs in attendance were: Dr. Darin Dockstader, CSN; Dr. Richard L. Jasoni, DRI; Dr. Abby Peters, NSC; Mr. Mike Holmes, TMCC; and Mr. Douglas Unger, UNLV.

Chairman Page called the meeting to order at 9:00 a.m. with all members present except Regent Stephens.

1. Information Only – Public Comment –

The following people spoke in support of faculty compensation, non-formula budgets and the supplemental budget request: Mr. Kent Ervin, Legislative Liaison, Nevada Faculty Alliance (NFA); Mr. John Nolan, NFA and UNR College of Business; and Mr. Joey Ray, NFA and UNR College of Business.

The following people spoke in support of the Events/Auditorium/Technology Space (EATS) at TMCC: Ms. Mina Ozkan, Eldorado Resorts; Ms. Candy English, Eldorado Resorts; and Ms. Angela Bigotti, Van Woert Bigotti Architects.

Mr. Don Dehar, UNLV Osher Lifelong Learning Institute Program Participant, voiced his concern that the Institute's open house that was just held was so heavily attended it was dangerous for him in his wheelchair. Mr. Dehar also noted that the student union should not be charging for a cup of water.

Mr. Douglas Unger, UNLV Faculty Senate Chair, reported UNLV and CSN are still experiencing serious recurring Workday issues. Some problems are due to needed training, but many are due to the implementation. UNLV is losing teachers, researchers and staff because of onboarding delays and the ability to make offers. He recommended Workday management put additional support teams in place and to hold them more accountable for their product.

Ms. Elaine Bunker, UNLV Associate Director of Composition, stated UNLV understands what has been gained through Workday. The transitional stage has been difficult. While some processes have been streamlined others are now more difficult. More training is needed. More support and accountability are needed from Workday management.

Vice Chairman Geddes led the Pledge of Allegiance.

2. Action Taken – NSHE Student Logo Design Contest – The Board approved Logo 3 (Mr. Vivek Bhardwaj) as the winning submission for the NSHE Student Logo Design Contest. *(Refs. BOR-2a, BOR-2b, BOR-2c and BOR-2d on file in the Board Office.)*

Chancellor Thom Reilly reported 66 designs were received and three finalists are presented for the Board's consideration. The logo will not replace the System seal that is used on legal documents, contracts and official notices. The logo will be used on letterhead and business cards. Chancellor Reilly presented the three logos:

- Logo 1 – Ms. Emily S. Duke
- Logo 2 – Mr. Erwin Carpio
- Logo 3 – Mr. Vivek Bhardwaj

2. Action Taken – NSHE Student Logo Design Contest – (Continued)

Regent Del Carlo appreciated all the student submissions. She felt all the logos were clean, modern and sophisticated.

Regent Del Carlo moved approval of Logo 2 (Mr. Erwin Carpio) as the winning submission for the NSHE Student Logo Design Contest. Regent Lieberman seconded.

Regents Hayes and Carter supported Logo 1 and Logo 3.

Regent McAdoo liked the stars featured in Logo 3 because NSHE creates rising stars. NSHE is also easily identified.

Regent Anderson thought all the submissions were excellent, but she also preferred Logo 3.

The motion failed via a roll call vote. Vice Chairman Geddes and Regents Del Carlo, Lieberman and Moran voted yes. Chairman Page and Regents Anderson, Carter, Doubrava, Hayes, McAdoo, Trachok and Williams voted no. Regent Stephens was absent.

Regent Lieberman moved approval of Logo 3 (Mr. Vivek Bhardwaj) as the winning submission for the NSHE Student Logo Design Contest. Regent McAdoo seconded. The motion carried via a roll call vote. Chairman Page, Vice Chairman Geddes and Regents Anderson, Carter, Doubrava, Lieberman, McAdoo, Moran and Williams voted yes. Regents Del Carlo, Hayes, and Trachok voted no. Regent Stephens was absent.

3. Approved – Procedures and Guidelines Manual Revision, Distribution of Student Registration Fees, Academic Years 2019-20 and 2020-21 – The Board approved the *Procedures and Guidelines Manual* revision, distribution of student registration fees for Academic Years 2019-20 and 2020-21. (Ref. BOR-3 and supplemental material on file in the Board Office.)

Chief Financial Officer Chet Burton presented the distribution of student registration fees for Academic Years 2019-20 and 2020-21. TMCC requested a change to its distribution as provided in the supplemental material. Student registration fees that are part of the State Supported Operating Budget are a key component of the NSHE budget request that is due to the Governor's Finance Office by August 31, 2018.

3. Approved – Procedures and Guidelines Manual Revision, Distribution of Student Registration Fees, Academic Years 2019-20 and 2020-21 – (Continued)

Vice Chairman Geddes moved approval of the *Procedures and Guidelines Manual* revision, distribution of student registration fees for Academic Years 2019-20 and 2020-21. Regent Del Carlo seconded.

Regent Trachok stated that he was concerned that TMCC's new distribution, even though more in line with requirements, was far out of line with the other institutions as it relates to the increase in the Capital Improvement allocation.

Regent Trachok offered a friendly amendment to pull TMCC's distribution and vote on it separately.

Vice Chairman Geddes stated that it was his understanding that the distribution portion must be approved for the September 1 deadline. Chief Financial Officer Burton clarified that a report from each institution as to how the increase will be utilized will be presented at the October meeting.

Vice Chairman Geddes and Regent Del Carlo accepted the friendly amendment.

Motion carried. Regent Stephens was absent.

Vice Chairman Geddes moved approval of TMCC's distribution of student registration fees for Academic Years 2019-20 and 2020-21. Regent Doubrava seconded.

Vice Chairman Geddes reiterated that this needed to be approved before the September 1 deadline and the rest can be debated at a later date.

President Hilgersom supported the amendment. It has been a work in progress. The community colleges need solutions related to capital improvement projects that are necessary for program excellence. President Hilgersom recommended that the business officers, working with NSHE finance, complete an analysis of student tuition and fees in light of the new performance-based funding model.

Motion carried via a roll call vote. Chairman Page, Vice Chairman Geddes and Regents Anderson, Carter, Del Carlo, Doubrava, Hayes, Lieberman, McAdoo, Moran and Williams voted yes. Regent Trachok voted no. Regent Stephens was absent.

4. Approved – 2019-21 Biennial Operating Budget, Supplemental Funding Request and New Performance Pool Targets – The Board approved the 2019-21 Biennial Operating Budget including the base, maintenance and enhancement components, as well as the supplemental funding request and revised performance pool targets. *(Ref. BOR-4 and supplemental material on file in the Board Office.)*

Chancellor Reilly reviewed the summary of to-date Board approved maintenance and enhancement requests approved at the June 2018 meeting. The NSHE Supplemental Budget Request letter to be sent to Governor Brian E. Sandoval is included in the reference material and includes a \$20 million request to address faculty salary compression issues over a three-biennium period and a ranking of the non-formula funding enhancements. Chancellor Reilly reported the Performance Pool Working Group has recommended a two percent increase to the metrics for years seven and eight of the program. These goals must be achieved for the institutions to earn back 20 percent of their State Supported Operating Budget general fund allocation as mandated by the NSHE funding formula model.

Chief Financial Officer Burton thanked the Board and institutions for their support during the budget building process.

Chancellor Reilly added NSHE presented its top three ranked capital projects to the State Public Works Board (SPWB). The Governor's staff was complimentary of NSHE's presentation.

In response to a request from Vice Chairman Geddes, Chancellor Reilly stated the estimated costs of each of the capital projects have increased dramatically. The escalating costs are of great concern and the SPWB will have to make very tough decisions.

Regent Lieberman moved approval of the 2019-21 Biennial Operating Budget including the base, maintenance and enhancement components, as well as the supplemental funding request and revised performance pool targets. Regent Carter seconded. Motion carried. Regent Stephens was absent.

5. Information Only – UNLV School of Medicine Future Capital Projects – UNLV Acting President Marta Meana presented an update related to future capital projects for the UNLV School of Medicine, including a PowerPoint titled, "School of Medicine Building Medical School/Health Sciences Library." *(Ref. BOR-5 on file in the Board Office.)*

Regent Williams was very happy with the Governor's commitment to addressing the physician shortage, particularly in specialty areas. The library is a key part in creating a centralized student hub.

Regent Doubrava asked for clarification on the class sizes. Dr. Barbara Atkinson, Founding Dean, University of Nevada, Las Vegas School of Medicine, stated the different class sizes reflect a capacity of students in a complete buildout.

5. Information Only – UNLV School of Medicine Future Capital Projects – (Continued)

In response to a question from Chairman Page, Dean Atkinson stated she and the school are comfortable with the two-pronged approach. The team believes this will be adequate for both projects.

Executive Director David Frommer, Planning and Construction, clarified the library has a variety of settings, such as small and large group, thus the seating capacity is based on those different settings.

Regent Lieberman noted he was supportive of the collaborative effort that will move the program and university forward.

The meeting recessed at 9:58 a.m. and reconvened at 10:11 a.m. with all Regents present except Regent Stephens.

6. Information Only – Financial Aid Program, CSN – Vice President of Student Affairs
Juanita Chrysanthou presented a PowerPoint titled, “College of Southern Nevada Continued Eligibility for Federal Title IV Financial Aid Funds”, which included a brief history of CSN’s Program Participation Agreement (PPA) with the U.S. Department of Education and current status of CSN’s financial aid program, specifically the provisional approval of CSN’s PPA and the recent financial aid verification audit by the Department of Education Office of Inspector General. *(Ref. BOR-6 on file in the Board Office.)*

Regent Williams stated financial aid is extremely important to the students in his district and he applauded CSN’s efforts in getting the program back in compliance.

In response to a question from Chairman Page, Vice President Chrysanthou stated she believed Institutional Research was responsible for submitting the documentation. Vice President and Provost Patty Charlton stated at the time Institutional Research reported to the Academic Affairs Office. Chairman Page stated this has been a recurring issue at CSN which has resulted in payments made to the Department of Education. The students will be impacted if CSN is unable to provide financial aid.

Regent Del Carlo agreed that all the institutions should have best practices associated with financial aid and asked that the proper controls be put in place to make sure deadlines are not missed.

President Federico Zaragoza noted systemic improvements under a best practices system have been made and the Financial Aid Office is under new leadership which will make CSN more responsive.

7. Information Only – Workday Update – Chief Financial Officer Chet Burton, Chief Information Officer Robert Moulton, iNtegrate 2 Project Director Chris Mercer and Workday’s Principal Value Manager Mike Dietz presented an update on Workday (iNtegrate 2) progress and achievements to date, via a PowerPoint titled “Workday@NSHE Board Presentation: August 2018.” *(Ref. BOR-7 on file in the Board Office.)*

7. Information Only – Workday Update – (Continued)

In response to questions from Chairman Page and Vice Chairman Geddes, Project Director Mercer stated the increase in on-demand payments was related to a variety of factors, such as December is year end, so employees are looking for taxation adjustments. Chief Financial Officer Burton added the reasons for on-demand checks are also tracked.

Vice Chairman Geddes stated a dialogue with the classified employees should be established.

In response to a question from Vice Chairman Geddes, Project Director Mercer stated initiatives to increase training opportunities and support are key. Every six months Workday provides an update that makes changes to the interface and functionality.

Regent Williams stated the System must make sure change management resources are in place. The end users need to know when and what changes are happening, how those changes will affect them and what resources are available.

The meeting recessed at 11:15 a.m. and reconvened at 11:44 a.m. with all members present except Regent Stephens.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski

8.1 Action Taken – Open Session – The Board approved to enter into a closed session for the purpose of hearing an appeal of Mr. Mark Peplowski from employment action taken by CSN. (*Ref. BOR-8a on file in the Board Office.*)

Acting General Counsel James Martines stated this is an appeal filed by Mr. Mark Peplowski of employment action taken against him by CSN. *Board of Regents' Handbook* Title 2, Chapter 6 sets forth the rules and procedures for disciplinary procedures of the faculty. The Code provides that the President is the final decision maker on employment actions. In cases of termination for cause, the Code allows for appeals to the Board of Regents.

On February 2, 2018, CSN Acting President Martin terminated the employment of Mr. Peplowski upon the recommendation of a Special Hearing Committee. Mr. Peplowski then filed a timely appeal.

Under the Nevada Open Meeting Law (specifically NRS 241.030, 241.033 and 241.034), closed sessions of a public body may be held to “consider the character, alleged misconduct, professional competence, or the physical or mental health of a person...”. The charges that led to Mr. Peplowski’s termination involve considerations of his character, alleged misconduct and professional competence.

Mr. Peplowski has retained counsel and is represented by Mr. Harold Gewerter.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.1 Action Taken – Open Session – (Continued)

Prior to conducting a closed personnel session, a public body must give written notice to the person that is the subject of the session as required by NRS 241.033. The notice was served on Mr. Peplowski for this matter as required by NRS 241.033 and has been submitted for the record.

No action may be taken during the closed session. When the closed session has concluded the Board will reconvene in open session to consider and decide the appeal of Mr. Peplowski.

If any of the Regents have a conflict of interest that may prevent them from participating in the appeal, they are asked to step out of the room during the closed session so there is no appearance of impropriety.

Pursuant to NRS 281A, Chairman Page disclosed he has a long-standing business relationship with Mr. Peplowski. Chairman Page has rented campaign A-frames from Mr. Peplowski during his last two campaigns. Chairman Page stated he does not currently have any ongoing business relationship with Mr. Peplowski but believes it is appropriate to recuse himself from this matter as required to avoid any appearance of impropriety. Therefore, Chairman Page will not participate in the closed session or vote on the agenda item. Since NSHE policy states the Chairman will run the closed session, Chairman Page appointed Vice Chairman Geddes to act in the capacity as Chairman during the closed session.

Pursuant to NRS 281A, Regent Anderson disclosed she has known Mr. Peplowski for many years. He taught at the CSN Boulder City Center when she was the administrator. Regent Anderson stated that Mr. Peplowski has provided her support on several campaigns and she has purchased campaign signs from him. Regent Anderson stated she does not currently have any business relationship with Mr. Peplowski but believes it is appropriate to recuse herself from this matter as required to avoid any appearance of impropriety. Therefore, Regent Anderson will not participate in the closed session or vote on the agenda item.

Pursuant to NRS 281A, Regent Doubrava disclosed he has a business relationship with Mr. Peplowski. Regent Doubrava stated he has purchased campaign signs from Mr. Peplowski. Regent Doubrava stated he does not currently have any business relationship with Mr. Peplowski but believes it is appropriate to recuse himself from this matter as required to avoid any appearance of impropriety. Therefore, Regent Doubrava will not participate in the closed session or vote on the agenda item.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.1 Action Taken – Open Session – (Continued)

Regent Lieberman disclosed he has a personal relationship with Mr. Peplowski and members of his extended family, but no business relationship. Regent Lieberman stated he will participate in the process and vote on the agenda item.

Regent Moran disclosed he has a business relationship with Mr. Peplowski but did not feel it precluded him from participating in the process.

Regent Hayes moved to enter into a closed session for the purpose of hearing an appeal of Mr. Mark Peplowski from employment action taken by CSN. Regent Del Carlo seconded. Motion carried. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

Pursuant to NRS 241.033(5), Vice Chairman Geddes announced those authorized to attend the closed session.

The meeting recessed at 11:52 a.m. and reconvened at 2:10 p.m. with all members present except Regents Anderson and Stephens.

8.3 No Action Taken – Open Session – Following the closed session, the Board reconvened in open session to consider and decide the appeal of Mr. Mark Peplowski. *(Ref. BOR-8b on file in the Board Office.)*

Acting General Counsel Martines reported the Board of Regents conducted a closed session to hear arguments on the appeal submitted by Mr. Peplowski of his termination of employment by CSN.

Pursuant to the NSHE Code, Title 2, Chapter 6, Section 6.13.2(d), the Board's action is limited to:

- 1) dismissing the charge – i.e. overturning Mr. Peplowski's termination;
- 2) affirming the charge – i.e. upholding Mr. Peplowski's termination;
- 3) imposing a lesser sanction; or
- 4) ordering a new hearing.

Acting General Counsel Martines stated that in the course of discussing this matter and taking action the Board should not discuss, in open session, anything related to Mr. Peplowski's "character, alleged misconduct, professional competence, or physical or mental health" including facts learned during the closed session.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.3 No Action Taken – Open Session – (Continued)

Vice Chairman Geddes clarified that Chairman Page and Regents Anderson and Doubrava have recused themselves. Regents Lieberman and Moran have disclosed their relationship, but feel they can participate freely.

Regent Trachok moved that the Board impose a suspension, without pay, through the start of the spring semester in January 2019, for Mr. Mark Peplowski. Regent McAdoo seconded.

Regent Hayes asked if there was a legal way to state that if Mr. Peplowski makes a similar error in judgment that he be dismissed with no appeal. Acting General Counsel Martines did not believe there was a way to do that since the Code only allows four specific actions. If Mr. Peplowski had another incident, CSN would then have to proceed with separate charges.

Regent Anderson entered the meeting.

Regent Moran asked what would happen if Mr. Peplowski pleads guilty to a lesser charge or is convicted of a felony. Acting General Counsel Martines stated if additional charges arose, CSN would have to begin a new employment action.

Regent Moran offered a friendly amendment to add a restitution component.

Acting General Counsel Martines did not believe the definition for restitution in the Code being “the requirement to reimburse the legal owners for a loss due to the defacement, damage, fraud, or theft or misappropriation of property” was appropriate in this matter.

Regent Moran believed this was a misappropriation of intellectual property and did fall within the parameters. Acting General Counsel Martines believed these were costs incurred by CSN in preparation of an employment matter.

Regent Moran asked that a methodology is put in place for the System to recoup fees when appropriate. Vice Chairman Geddes reminded Regent Moran that after the last personnel session there was an agreement that amendments needed to be made to Chapter 6.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.3 No Action Taken – Open Session – (Continued)

Motion failed via a roll call vote. Regents McAdoo, Moran and Trachok voted yes. Vice Chairman Geddes and Regents Carter, Del Carlo, Hayes, Lieberman and Williams voted no. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

Regent Del Carlo moved to affirm CSN's decision to terminate Mr. Mark Peplowski. Vice Chairman Geddes seconded.

The motion failed via a roll call vote. Vice Chairman Geddes and Regents Del Carlo, Hayes, Lieberman and Williams voted yes. Regents Carter, McAdoo, Moran and Trachok voted no. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

Regent Carter moved to order a new hearing by CSN. No second was received.

Regent Trachok was troubled as he did not think the punishment was commensurate with the crime.

Regent Trachok moved that the Board impose a one-year suspension, without pay, through the 2019 fall semester for Mr. Mark Peplowski. Regent Moran seconded.

Motion failed via a roll call vote. Regents Carter, Hayes, Lieberman, McAdoo, Moran and Trachok voted yes. Vice Chairman Geddes and Regents Del Carlo and Williams voted no. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

In response to a question from Vice Chairman Geddes, Acting General Counsel Martines stated it was his understanding that if the Board cannot come to a decision, the decision of the campus will stand. Chief of Staff and Special Counsel Dean J. Gould agreed.

Regent Trachok moved to table until the November 2018 meeting. Regent Moran seconded.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.3 No Action Taken – Open Session – (Continued)

In response to a question from Regent Moran, Acting General Counsel Martines stated he did not believe the parties could stipulate a restitution amount.

Chief of Staff Gould asked Regent Trachok that if the parties reach a consensus prior to the November meeting, would he want them to return to open session and discuss it with the Board. Regent Trachok stated it would not need to come back to the Board since the parties settled the matter.

Regent Trachok amended his motion to table until the November 2018 meeting, adding that if the parties reach a mutual resolution prior to the November meeting, they do not have to report back to the Board of Regents but instead the parties should report to the Chancellor and Board Chairman. Regent Moran seconded.

Motion failed via a roll call vote. Regents Carter, Hayes, Lieberman, McAdoo, Moran and Trachok voted yes. Vice Chairman Geddes and Regents Del Carlo and Williams voted no. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

Acting General Counsel Martines clarified that without direction by the Board and from the Code the campus decision will stand. The Code does provide for a decision to be made within a reasonable amount of time after the Regents' hearing. If the item was continued until the next meeting, that would allow additional time for legal research to determine if there is something specific to cite.

Regent Moran did not understand why the Board would not want to take time to procedurally protect the integrity of the System in this matter.

Regent Trachok moved to table until the October 2018 meeting. Regent Carter seconded.

Vice Chairman Geddes believed the Chapter 6 procedures are well defined and CSN took an appropriate action.

Regent Hayes did not think there was any harm in tabling to October and allow counsel to research.

8. No Action Taken – Appeal of Employment Action Taken by CSN with Respect to Mark Peplowski – (Continued)

8.3 No Action Taken – Open Session – (Continued)

In response to a question from Vice Chairman Geddes, Acting General Counsel Martines stated that a Regent not present for today's closed session would not be allowed to vote in October.

Motion failed via a roll call vote. Regents Carter, Hayes, Lieberman, McAdoo, Moran and Trachok voted yes. Vice Chairman Geddes and Regents Del Carlo and Williams voted no. Chairman Page and Regents Anderson and Doubrava abstained. Regent Stephens was absent.

9. Information Only – New Business – Vice Chairman Geddes requested the Chancellor and legal staff review the appeal process in the Code and the Board's involvement in the process.

10. Information Only – Public Comment – Mr. Hieu Le, UNLV Student, thanked the members of the Board of Regents for all they do.

The meeting adjourned at 2:48 p.m.

Prepared by:

Angela R. Palmer
Special Assistant and Coordinator
to the Board of Regents

Submitted for approval by:

Dean J. Gould
Chief of Staff and Special Counsel
to the Board of Regents

Approved by the Board of Regents at its October 19, 2018, meeting.