

MINUTES
OF THE BOARD OF REGENTS
WESTERN KENTUCKY UNIVERSITY

January 27, 2010

- **CALL TO ORDER**

Required statutory notice having been given, the first quarterly meeting of the Board of Regents of Western Kentucky University was held in the *Cornelius A. Martin Regents Room* of the Mass Media and Technology Hall on the Western Kentucky University campus. The meeting was called to order by Chair Jim Meyer at approximately 9:00 a.m., CST.

- **INVOCATION**

The invocation was provided by Dr. Dennis George, Dean of University College.

- **ROLL CALL**

The following Regents were present:

Mr. Jim Meyer, Chair
Ms. Yvette Haskins, Vice Chair
Dr. Melissa B. Dennison
Mr. Freddie Higdon
Mr. Jim Johnson
Mr. James Kennedy, Staff Regent

Dr. Patricia Minter, Faculty Regent
Mr. J. David Porter
Mr. Kevin Smiley, Student Regent
Mr. Rob Wilkey
Mr. Larry Zielke

Others in attendance included the following WKU Administrative Council members:

Dr. Gary A. Ransdell, President
Mr. Howard Bailey, Vice President for Student Affairs
Dr. Richard Bowker, Vice President for Research & Dean of Graduate Studies
Dr. Barbara Burch, Provost and Vice President for Academic Affairs
Mr. Tom Hiles, Vice President for Institutional Development

Ms. Ann Mead, Vice President for Finance and Administration
Dr. Richard Miller, Associate Vice President for Academic Affairs &
Chief Diversity Officer
Mr. John Osborne, Vice President for Campus Services and Facilities
Dr. Bob Owen, Vice President for Information Technology
Dr. Wood Selig, Director of Athletics
Ms. Robbin Taylor, Vice President for Public Affairs
Ms. Deborah Wilkins, Chief of Staff / General Counsel

In keeping with the policy of the Board, the agenda for the meeting and information and materials pertinent to items thereon had been mailed in advance of the meeting by the President to members of the Board.

- **APPROVAL OF MINUTES**

The minutes of the October 30, 2009, meeting were mailed to members of the Board prior to the meeting and were presented for adoption.

MOTION/APPROVAL:

Motion to approve the October 30, 2009, minutes was made by Dr. Patricia Minter, seconded by Mr. Larry Zielke, and carried unanimously.

1. ACADEMIC AFFAIRS COMMITTEE ACTION ITEMS

(Ms. Yvette Haskins, Chair)

Ms. Haskins recommended that the Board vote on action items 1.1 - 1.7 as a group, there were no objections.

1.1 Approval for a Center for Applied Economics

REQUEST:

Approval for the Center for Applied Economics in the Gordon Ford College of Business.

FACTS:

The WKU Center for Applied Economic Analysis (CAE) would be an extension of the Gordon Ford College of Business and Department of Economics, providing a bridge between faculty expertise and the regional community. The CAE would have a fourfold focus: 1) to serve as an informational bureau that collects and summarizes data on local and regional economic conditions; 2) to provide opportunities for students in the WKU Masters of Applied Economics to obtain experience in applied research; 3) to publish short, widely accessible reports and

commentary on economic, business, and public policy topics important for regional and state interest; and 4) to interface with the *Journal of Applied Economics and Policy*, a scholarly journal with an emphasis on publishing scholarly articles focusing on the applied research. Dr. Cathy Carey of the WKU Economics Department edits this journal.

The growth of South Central Kentucky makes the establishment of the CAE timely. Over the past decade, Bowling Green, Warren County, and Edmonson County have been recognized as a Metropolitan Statistical Area (MSA). However, the composition of the Bowling Green MSA speaks to the need for a more refined economic focus and understanding on the region. In reality, Warren County along with the adjacent counties of Allen, Barren, Butler, Edmonson, Logan, and Simpson form a business trading area recognized by both Rand McNally as well as the Bureau of Economic Activity. However, data for this area is difficult to find and is rarely analyzed.

The WKU CAE aligns with the missions and meets the institutional objectives of the Economics Department, the Gordon Ford College of Business, and WKU. Its relevance and emphasis on regional stewardship and student engagement make it a very appropriate outlet for the expertise in the WKU Department of Economics.

BUDGETARY IMPLICATIONS:

The Center for Applied Economics will be a self-sustaining, revenue dependent center with no institutional budgeting needs.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of the Center for Applied Economics.

1.2 Approval of an undergraduate certificate in American Sign Language Studies

REQUEST:

Approval of a new undergraduate certificate in American Sign Language Studies offered through the Communication Disorders Department in the College of Health and Human Services.

FACTS:

The American Sign Language Studies certificate broadens the student's knowledge of Deaf and Hard of Hearing individuals, with an emphasis on culture and communication. The ASL Studies Certificate will not qualify students to become licensed interpreters. A minimum of 12 semester hours, with a grade of 'C' or better must be obtained to successfully complete the certificate.

The American Sign Language Studies certificate is being developed in response to student, faculty and societal needs and interests. Because of the changing demographics in school populations and increased access for this diverse population, there are growing demands for ASL knowledge and skills. The increased interest of American Sign Language is due to its acceptance

as a foreign language and with its discovery students have a peeked interest in continuing to learning the language and culture. The knowledge and skills acquired through this program would be advantageous for students as they seek employment and engage themselves into their respective communities. This curriculum may lead students to seek further education to become a licensed interpreter. The state of Kentucky, specifically this region, as well as other parts of the country, are suffering a severe shortage of trained and certified interpreters.

BUDGETARY IMPLICATIONS:

Existing resources will be utilized. No additional funds are requested.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of a new undergraduate certificate in American Sign Language Studies.

1.3 Approval of an undergraduate certificate in Computer Literacy

REQUEST:

Approval of a new undergraduate certificate in Computer Literacy offered through the Business Division in the Bowling Green Community College.

FACTS:

This certificate provides the necessary skills for software use and the Internet. Students will gain the knowledge and skills that will help them become confident computer users. The emphasis will be on the practical application of computers. There are 3 courses (9 credit hours) leading to the Certificate.

Students will:

- Gain enough computer skills to succeed in college
- Become better prepared to achieve gainful employment in a computer-related field
- Become better prepared to find employment in any field
- Become better prepared to take and pass other certification exams (A+, IC³, etc.)

BUDGETARY IMPLICATIONS:

Existing resources will be utilized. No additional funds are requested.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of a new undergraduate certificate in Computer Literacy.

1.4 Approval of an undergraduate certificate in Occupational Safety and Health

REQUEST:

Approval of a new undergraduate certificate in Occupational Safety and Health offered through the Public Health Department in the College of Health and Human Services.

FACTS:

The certificate program in Occupational Safety & Health is designed to provide training for careers focused on the protection of human health from occupational hazards in the built and natural environments. Courses will require application of basic Occupational Safety and Health Administration (OSHA) principles and challenges, which will prepare students for diverse opportunities in safety and health, environmental management, and business careers.

Reason for developing the proposed certificate program:

- Provide industrial employees working in the occupational safety and health, and environmental health and safety fields an opportunity for focused training.
- Increase participation and interest in the Public Health and Environmental Health Science programs.
- Creates an additional option for students in programs such as interdisciplinary studies to have an optional area of focus and development.
- Allows students another option within the Public Health Department.
- Creates an opportunity for students working toward to a career with industry to have training in occupational safety and health.

BUDGETARY IMPLICATIONS:

Support for the program will be provided by DELO. The certificate will be offered as a cohort program, primarily targeting industry. Courses will be taught off-load by existing full time and adjunct faculty members in the Department of Public Health.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of a new undergraduate certificate in Occupational Safety & Health.

1.5 Approval of an undergraduate certificate in Worksite Health Promotion

REQUEST:

Approval of a new undergraduate certificate in Worksite Health Promotion offered through the Public Health Department in the College of Health and Human Services.

FACTS:

The certificate program in Worksite Health Promotion is designed to provide training for students and professionals who have an interest in developing worksite health promotion programs in the private sector. This certificate program will provide a comprehensive skill base for assessment, planning, implementation and evaluation of health promotion programs in a worksite environment.

Reasons for developing the proposed certificate program:

- Provide worksites an opportunity for focused training in the area of prevention and health promotion to insure the ability to provide a supportive environment for a healthy working population.
- Creates an additional option for individuals to increase their marketability in the workplace.
- Allows students another option within the Department of Public Health.
- Creates an opportunity for students working toward a career in different disciplines to have training in health promotion and prevention.

BUDGETARY IMPLICATIONS:

No additional funding is requested, as current faculty will teach the courses.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of a new undergraduate certificate in Worksite Health Promotion.

1.6 Approval of Honorary Doctorate Appointment – Dr. Vicki Phillips

REQUEST:

Approval of Honorary Doctorate Award to Dr. Vicki Phillips.

FACTS:

The University Honorary Doctorate Degree Committee reviewed the credentials of several outstanding candidates for the honorary degree and has recommended that this individual be awarded a degree at the next appropriate occasion.

Dr. Vicki Phillips is the Director of the Education initiative in the United States Program for the Bill & Melinda Gates Foundation. Her important task is to oversee work to improve early learning in Washington State; to ensure U.S. high school students graduate ready for success in college, career and life; and to improve access to college. Dr. Phillips has committed her career to increasing educational opportunities for young people. As a young person herself from Falls of Rough, KY she was a first generation college student. She received both her BS in Elementary Education and her MA in School Psychology from WKU. Later she received her Ed.D. from the University of Lincoln in England. Prior to her position at the foundation, Dr. Phillips has served in a number of important roles: middle school/high school teacher, Chief Executive Assistant in the Kentucky Department of Education, Deputy Director of the National Alliance for Restructuring Education, Executive Director and Director for organizations supporting the improvement of the School District of Philadelphia, Secretary of Education for Pennsylvania and superintendent of schools in both Lancaster, PA and Portland, OR. She has devoted her career to ensuring that young people achieve and meet their full potential.

BUDGETARY IMPLICATIONS:

No funds requested.

RECOMMENDATION:

President Gary A. Ransdell recommends that the honorary doctoral degree be awarded to Dr. Vicki Phillips.

1.7 Approval of Emeriti Appointments

REQUEST:

Approval of faculty emeritus status for recommended individuals.

FACTS:

Listed below are faculty members who have been recommended by the tenured faculty, department head, and college dean to be awarded emeritus/a status. They have served the university for at least ten years and have had distinguished records of achievement and service at the university.

Potter College of Arts and Letters

Department of History

Dr. Robert V. Haynes, Professor of History, Emeritus

College of Health and Human Services

School of Nursing

Dr. C. Sue Bryant, Associate Professor of Nursing, Emerita

BUDGETARY IMPLICATIONS:

No funds requested.

RECOMMENDATION:

President Gary A. Ransdell recommends that faculty emeritus status is awarded for the recommended individuals.

MOTION/APPROVAL:

Motion to approve action items 1.1 – 1.7 (as set forth above) was made by Mr. Larry Zielke, seconded by Mr. Rob Wilkey, and all carried unanimously.

ACADEMIC AFFAIRS COMMITTEE INFORMATION ITEMS

The following reports/updates were provided to the Board as information items:

Research Report – Dr. Richard Bowker

Navitas Contract – Dr. Dean Kahler

Enrollment Report – Dr. Dean Kahler

Winter Term Report – Dr. Don Swoboda

2. FINANCE AND BUDGET COMMITTEE ITEMS *(Mr. J. David Porter, Chair)*

2.1 Approval of Personnel Actions as of January 12, 2010

REQUEST:

Approval of faculty and staff personnel actions which have previously been approved through administrative channels. Actions include those as of January 12, 2010.

FACTS:

Personnel changes occur throughout the year and for numerous reasons such as new hires, promotions, reclassifications of existing positions, added duties, degree completions, and market adjustments. The attached report lists personnel actions with source of funds for the respective position and a code associated with each of the actions that include a change in salary.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of faculty and staff personnel actions.

MOTION/APPROVAL:

Motion to approve faculty and staff personnel actions was made by Mr. Larry Zielke, and seconded by Mr. Rob Wilkey.

DISCUSSION:

Dr. Patricia Minter: “Mr. Chair, I would like to move that one item be pulled from the agenda for separate discussion. On page 26, the item for Dr. Dean Kahler’s salary increase.”

Mr. David Porter asked for clarification on parliamentary procedure from Dr. Randy Capps.

Dr. Randy Capps: “Anyone may pull an item out for separate consideration. It only requires a separate request, not a motion. However, I would suggest that you amend the original motion to vote on the personnel actions, with exception of Dr. Dean Kahler’s on page 26.”

Amended motion to approve the personnel actions, with the exception of Dr. Dean Kahler’s on page 26, was made by Mr. Larry Zielke, seconded by Mr. Rob Wilkey, and carried unanimously.

Motion to enter into closed session for discussion related to a specific individual employee, as provided under KRS 61.810 was made by Mr. James Kennedy and seconded by Mr. Kevin Smiley.

Mr. Larry Zielke: “It is not appropriate to go into closed session. We are not discussing a personnel matter such as is exempted under the ill-convenience law of Kentucky. We are not talking about a dismissal, we are not talking about a reprimand, and we are not talking about any

adverse personnel action. All we are talking about is an increase in salary. That being the case, it is not appropriate to go into closed session. Therefore, I think the motion should be voted down.”

Mr. Rob Wilkey: “Well, I think the statute provides that you can go into closed session to discuss an item regarding a particular employee and not a class of employees.”

Dr. Randy Capps: “That is a legal issue, not a parliamentary issue. But in parliamentary law, you can go into closed session for any specified purpose as long as you do not take action in that closed session.”

Mr. Rob Wilkey: “That’s consistent with the Kentucky Open Records Act too, I believe.”

Mr. Larry Zielke: “We would never take action, but we’ve got a motion to go into closed session. That has to be voted on.”

Mr. Jim Meyer: “We have a motion, we have a second, and we have a comment. Is the University Counsel in agreement?”

Ms. Deborah Wilkins: “Mr. Chairman, I don’t, first of all, think that it is fair to pull this person out and discuss it publicly. But I think Mr. Zielke is right, I think it is the type of action that is exempt under the Open Records Act. We have been dinged on that once. I have to weigh in and say that I think Larry is right about that.”

Dr. Patricia Minter: “With that said, I voted against closed session at our last meeting because I don’t think we should go into closed session either. But I’m wondering why there was a change of heart this time?”

Ms. Deborah Wilkins: “We were voting on a contract, which includes appointment to a certain degree. We were following the statute.”

Dr. Patricia Minter: “We were not voting on a contract last time for Dr. Kahler. It was the same thing that was pulled off the action agenda. It was the contract for Dr. Wood Selig. Dr. Selig had a contract, but Dr. Kahler does not have a contract. It was an action item exactly as we see it today.”

Mr. Rob Wilkey: “I move the previous question on the motion for the Board to go into closed session.”

Mr. David Porter: “As I understand it, the current motion is for the Board to go into closed session, so we will now take the vote.”

Motion to enter into closed session did not carry.

Mr. Rob Wilkey: “Mr. Chairman, if I might, I’d like to make a motion that we approve the action item in the report pertaining to Dr. Dean Kahler. I had an opportunity to discuss a number of these issues with Dr. Ransdell and Dr. Burch. They provided me with what I thought was convincing evidence and support of the action that has been recommended. For that reason, I would move that we approve it.”

Ms. Yevette Haskins: “I second that motion.”

Mr. David Porter: “A motion to approve the personnel action item of Dr. Dean Kahler has been made to approve as is, and seconded.”

Mr. Larry Zielke: “I call the question.”

Dr. Patricia Minter: “You can’t do that.”

Mr. Larry Zielke: “Dr. Capps, can I not call the question?”

Dr. Randy Capps: “You can ask for the question anytime.”

Dr. Patricia Minter: “My hand went up for discussion on the motion.”

Mr. Jim Meyer: “In the spirit of cooperation, let us have a small discussion – not filibustering, but a small discussion. Let’s take 5,7,8 minutes and get that clear and then we’ll have the vote after that discussion. Patti, you have the floor.”

Dr. Patricia Minter: “I promise I haven’t prepared like Strom Thurman did back in 1957, so no filibustering. This is not personal. This is a principled matter, and I hope that all of you had the opportunity to read the petition that was presented to you last time from 260 mostly faculty but some staff speaking against the two actions, but we’re talking about one at this moment - two raises which were seen as deeply unfair, detrimental to morale, and did not reflect any new job responsibilities, no new credentialing, and everybody’s doing more work. One person said it very well. Maybe there were pre-existing agreements, but if so, the bad news about raises should have been phrased differently. If not, the raises are outrageous. For the majority who are working harder than ever and with fewer resources, to go without while the few get substantial raises has been very bad for morale and has harmed the faculty-administration relationship. I hope not irreparably. Others make the point that this is the right message that we send to Frankfort, that while state employees are suffering we give significant raises to administrative personnel who have no additional duties, no additional credentialing, and no title change. I’d like to point out one more thing. This is information that I think comes from two spots that will illustrate to you what the problem is as far as morale, and while, although this is not personal, nobody is questioning that Dr. Kahler does an excellent job, but so do we all, and we’re all doing it with fewer resources, we’re working harder, and any kind of raises are a distant hope. I hope it will

happen, but it's a distant hope. You have two things here. One is a message that I received from Mike Dale, who is here today, worked in Academic Affairs, on faculty salaries and benchmarks. Message was dated October 22, and he points out that in salary comparisons for fall 2008 and 2009, which is the best comparison he has, average faculty salaries all fall below benchmark, which benchmark is the midpoint. All fall below benchmark for our institutions in varying degrees, but basically we are not at benchmark. One of our major points in our strategic plan has been to get to benchmark on faculty salaries. We have not done so. The other point I'd like to present here comes from yesterday's Benefits Committee meeting, data presented by Kari Aikins who is the benefits manager, and if you want to know why people are angry, this is a staff table that tells you the story. When you look at the way insurance premiums have unavoidably gone up because of our expenses in the plan, when you see what percentage the family premium now is of an employee's salary, if you are in a lower pay band, it is well beyond the acceptable level – 58 percent of your salary goes to pay for family plan if you are a building services attendant, 38 if you're an office associate. By contrast, executive and administrative positions, it's only 11 percent if you're insuring other people. When you put this together with the 260 voices, and there are plenty of others who wanted to sign the petition and felt they could not for various reasons. The President said there was no money for raises. Dr. Kahler is getting a raise for doing his job. He does it well. We all do our jobs well. There should be more support for other initiatives and there should not be large raises for the few. I urge you in the strongest possible terms to vote no."

Mr. Rob Wilkey: "Thank you, Mr. Chairman. I know that Dr. Minter doesn't mean this to be personal, but it sure looks like it. If you look through the personnel actions that we have already approved, there are some in there that, in terms of the increases, are greater than the one for Dean Kahler, and I really don't know what the purpose is of singling this individual out and the actions being taken on his salary when others on a percentage basis are greater than his. I think that when we look through all of these actions that have been proposed, I had questions about them. I raised those with the President; I raised those with Dr. Burch. The explanation that I was given satisfied me that the action was warranted. It is I'm sure hard for others who do not have the in-depth explanation that I received to appreciate that these are warranted, but I believe under the circumstances that they are warranted, and that was the reason that I made the motion that we approve them. I think that we are in a precedence budgetary time, and I think the faculty and staff understand that, and certainly people in business understand that when you have 10 percent and 12 percent unemployment, revenues are down, and I think that we are blessed at this university to have the level of support that we have from a revenues standpoint under the current circumstances. I think that those are challenging and we'll continue to work on those, and I think we are also blessed to have the support of very dedicated faculty and staff, and I hope that those faculty and staff would understand that there are times when you just have to do these kinds of things. For that reason, I made the motion to approve this. I would ask the rest of the Board to do that without further discussion. Now I understand that Mr. Zielke has called for the question, but if it becomes necessary, you can adopt a motion for the previous question which would bring the matter to a vote."

Mr. Larry Zielke: “I call the question and move to end discussion.”

Motion to vote was made by Mr. Larry Zielke, seconded by Ms. Yvette Haskins, motion did not carry.

Mr. Jim Meyer: “Is there any additional discussion?”

Mr. James Kennedy: “The reason for my motion to go into closed session is covering more information, basically a portion of the communiqué that I happened to have the opportunity to share with President Ransdell and Mr. Meyer that I thought would be of benefit to share with the fellow Board of Regents as well, and personally, I do not feel that it is in the arena to have that discussion in an open forum. Therefore, that is the reasoning for my request, simply put.”

Mr. Freddie Higdon: “My reason for voting no was that I hate to see this Board reach a point where we’re not amenable to discussions. I won’t say it approaches the stage of heavy handedness, but I would like to feel that in this environment, we can make every attempt possible to reach consensus, and that means I would appreciate the opportunity to hear everyone’s comments. For that reason, I felt that, at least from my perspective going forward, I would like to register a sentiment that I would appreciate the opportunity to hear everyone’s opinion, especially in my case, where I’m a relatively new Board member and some of these actions have a history with the precedent that the previous Board may have set and I would like to have the opportunity to hear that. With that regard, I appreciate the opportunity, not only in this situation, but also in others, to have discussion as open and freely as possible.”

Mr. Rob Wilkey: “Mr. Chairman. I understand Mr. Higdon’s position on that. I think that this is a little different from my standpoint, which is the reason I made the motion. We have wallered around in this a bunch. We have discussed this till the cows came home, and I think everybody knows where everybody is on it. We have seen the petition, we have heard the arguments, and it’s unfortunate that we are not talking about a policy issue. If we were, we’d be here all day to talk about a policy issue. We’re talking about a specific staff person, a specific individual. I just don’t think it’s fair to continue to drag this out and castigate this individual when other actions that have been recommended have been adopted by this Board are no different. I just don’t think it’s fair for the individual involved. It may be personality issues, I don’t know what the problem is, but if we have a problem with an individual, I think it is incumbent on us as Board members to do as I did, and that is to call the President, to call Dr. Burch, and to say “I’ve got an issue with this individual” or this individual action that we may take and to try to gain a better understanding, rather than to have that discussed in an open forum, because I just think it’s unfair.”

Dr. Patricia Minter: “If I may, I would like to address that point. I think I take issue with one point. We can agree to disagree on the larger issue, but I do take issue with one point you made. I think we have made this abundantly clear that this is not personal. For those of you who were here this summer, I made a similar argument to defeat the raise that went through for Dean

Bonaguro. It is the same argument. This is the breaking point. It is unfortunate. I feel for this individual. This should not have come forward, but at some point, you have to draw the line. We asked that the line be drawn today. What differs in this personnel action, and there is one other on the Board agenda today, from others is that, and I've combed this pretty carefully, every other person who's getting a raise is getting one for reclassification, job title change, they've received a degree, they've received an additional credential. I think that's the point. We will see an agenda this summer where people receive promotions. That's the whole point. Raises for additional job titles, description changes, etc. etc., things that are actionable. We ask that this stop today, and you've certainly seen evidence of the devastating effect this has already had on faculty and staff morale. I hate to see them lose their faith in the Board. But I want to reiterate that it is not personal, and it is not fair to cast it as such."

Mr. James Meyer: "Let me make a comment here. All points are well taken, and I could not argue with any of the points, Rob. Freddie, Patti, James. I think this Board has tried very hard to set a tone to create empathy and sympathy with the faculty, everybody has that. I think that's one of the reasons why we tried to compromise with Dr. Kahler's raise. You all got a communiqué on this from the President that our recommendation was going to be to grant half the raise this year, and half the raise next year. Although that is not in keeping with what's went on with the faculty and staff this past year or two, it has come to this. We have had a lot of discussion on it, as Rob said, until the cows come home. I feel now it's time to come to a stand, make a vote. I think you may have an amendment there in addition to what's on our recommendation don't you, David? About what I said about the half raise this year and the half raise next year."

Mr. David Porter: "Yes. The request is that the Board approve a salary adjustment for Dean Kahler in the amount of \$28,500, with the adjustment being phased in as follows: an increase of \$14,250 effective January 1, 2010, and an increase of the same amount, \$14,250, effective January 1, 2011."

Ms. Yvette Haskins: "An additional \$14,000 will put it above the \$20,000 that is on the report."

Dr. Patricia Minter: "The motion is for this year only, and it's for \$9,200 annual action. It's not a two-year motion."

Mr. David Porter: "As I understood it from reading the report and talking with President Ransdell, that's technically what we are doing. He getting only a partial, and that was based on the additional duties he had undertaken in the office."

Dr. Patricia Minter: "But to clarify, this motion, what is on the floor at this moment is an annual personnel action. It would add \$9,200 to Dr. Kahler's base. It does nothing for the next academic year, the next fiscal year, other than this just becomes part of his base, part of his salary going forward, just like any other personnel action on here. But what's on the floor is not

a two-year motion. It's not a two-year phase in of anything. What's on the floor is \$9,200 added to base. For purpose of clarification, could Ms. Mead just state for the record, so everyone is 100 percent clear exactly, since this is her report, what this does? This puts X on X."

Ms. Ann Mead: "What you're approving, unless it's amended to show Board intent for the next fiscal year, is a salary increase effective January 1, 2010 to June 30, 2010, that the base salary os \$120,756."

Mr. Jim Meyer: "I believe there has been enough discussion."

MOTION/APPROVAL: Motion to approve the personnel action item for Dr. Dean Kahler was made by Mr. Larry Zielke, seconded by Ms. Yvette Haskins. Motion carried with Dr. Patricia Minter, Mr. James Kennedy, and Mr. Kevin Smiley voting nay.

2.2 Acceptance for filing 2009-10 Second Quarter Statement of Revenues and Expenditures

REQUEST:

Accept for filing the 2009-10 Second Quarter Statement of Revenues & Expenditures.

FACTS:

Total realized Educational and General (E&G) revenue, as a percentage of the budget, was very similar to the second quarter revenue of 2008-09. Revenues for tuition and fees are recorded when billed; thus, the actual revenue includes revenues for Winter Term and for the majority of Spring Term. State appropriations are distributed on a quarterly basis, but the distribution for each quarter does not represent 25 percent of the total due to the state's variable allocation schedule.

Restricted revenues and expenditures for grants and contracts were slightly higher than the second quarter revenues and expenditures of 2008-09 primarily due to the inclusion of additional grant projects. Other revenue includes revenue generated by individual programs such as Athletics, University Farm, and various revenue dependent programs. The amount of revenue and the timing of receipt vary, but program administrators know they must manage expenditures so as to not exceed receipts. It is noted that several programs have significant activity in spring and summer. The percent of budget for revenues in Auxiliary Enterprises is higher than the second quarter revenue of 2008-09 partly due to some contra-revenue entries that have not yet been posted. At the halfway point, Auxiliary Enterprises revenue and expense numbers are very solid. The two largest Auxiliary areas, the Dining Service and the Bookstore, are both slightly ahead of last year and last year was our best financial year ever.

The increase in the revised budget for the second quarter of 2009-10 is due to the allocation of net assets approved by the Board of Regents.

RECOMMENDATION:

President Gary A. Ransdell recommends that the Board of Regents accept for filing the 2009-10 Second Quarter Statement of Revenues and Expenditures.

MOTION/APPROVAL:

Motion for acceptance of filing the 2009-10 Second Quarter Statement of Revenues and Expenditures was made by Mr. Larry Zielke, seconded by Mr. Freddie Higdon, and carried unanimously.

2.3 Approval of revisions to the 2009-10 Operating Budget

REQUEST:

Approve the revisions to the 2009-10 Operating Budget.

FACTS:

The proposed revisions to the *Western Kentucky University 2009-10 Operating Budget* total \$13,595,221. Included in the budget revisions are \$10,789,559 in Net Assets (carry forward) from FY2009 and \$2,805,662 in additional revenue projected to be generated in excess of the FY2010 approved budget. Net Assets are generated by exceeding budgeted income estimates and under spending of budgets intended for carry forward commitments. Below is an explanation outlining the proposed uses of the unbudgeted carry forward funds:

- Academic Affairs' additional carry forward of \$1,109,607 will allow the establishment of a Summer School Reserve Fund, a potential distribution to colleges and departments based on their contributions to the success of the 2010 Summer School, and the establishment of a reserve for a possible state budget reduction. Should the funds not be needed for a budget reduction, they will be used for equipment and furniture purchases and for renovation and construction needs. In addition, \$253,250 in carry forward accruing to the University and allocated to Academic Affairs will be used for the Harlaxton apartment lease, Radcliff Center completion, internet connectivity and sign for Regional Campus at Owensboro, Provost search, Van Meter Hall art work, and band uniforms.
- Athletics' additional carry forward will be used for various projects such as football production cabling, elevator security, baseball home plate project, football press box, and gates on east side of football stadium. In addition, the carry forward will be reserved for unbudgeted operating needs.
- Campus Services and Facilities will use its unbudgeted carry forward of \$860,190 toward campus critical needs projects such as Cravens window repairs, fire alarm electrical

updates, and parking structure repairs. In addition, \$79,963 in carry forward accruing to the University and allocated to Facilities Reserve will be used for infrastructure repairs.

- Chief Diversity Officer will spend its additional carry forward on the establishment of a WKU Diversity Plan, stipends, Diversity Enhancement Committee-approved activities, an ADA Accommodations Reserve Fund, and activities such as An Evening on the Hill, The Come Up Program, and a Black History Month speaker.
- Information Technology plans to use its additional carry forward for implementing and/or improving technology support such as extended operations for IT Help Desk, graduate assistant salaries, and surveillance technology for the Bookstore and Parking/Transportation;
- Institutional Advancement's additional carry forward will be used for part-time salaries for one year at a critical time in the overall Capital Campaign, an additional Annual Fund appeal, and two Campaign Newsletters.
- Public Affairs will devote its additional carry forward of \$30,599 to the WKU Spirit marketing campaign. In addition, \$75,000 in carry forward accruing to the University and allocated to Public Affairs will be used for the media plan for Honors College.
- Research will spend its additional carry forward of \$128,193 on faculty scholarship awards and support for an incentive program for initial external grant proposal submissions and a planned incentive program for resubmissions. In addition, \$78,549 in carry forward accruing to the University and allocated to Research will be used for the transportation costs of a scanning electronic microscope.
- Student Affairs will use \$230,867 in carry forward accruing to the University for internalizing surveillance system, public service answering point emergency management needs, and Preston Center operating requirements due to opening building addition.
- University Wide carry forward will be utilized for miscellaneous reimbursements.
- Funds resulting from a 3% fee assessment to each division's carry forward will be used for infrastructure repair projects.
- Balances generated by revenue dependent programs and workshops are returned to the respective programs.

Additional requested revisions to the *Western Kentucky University 2009-10 Operating Budget* totaling \$2,805,662 include the following:

- \$1,200,000 in fall tuition is to be distributed to colleges and departments for reimbursed costs due to increases in academic productivity and enrollment growth for student credit hour production, majors, and graduates. Distributions will be made for progress relating to targeted Academic Quality and Quality Enhancement Program efficiency and productivity measures. Funds will be distributed to units for their efforts toward Strategic Plan priorities and will be used for additional staffing and priority initiatives. In addition, funds will be used for lighting systems for TV, CEC data management system, renovation expenses for ICSR, and temporary salary and benefit support for specific positions due to enrollment growth needs.
- \$140,000 in schedule change fees are to be used for unbudgeted staff positions, a graduate assistant for Spring 2010, Enrollment Management software needs, and recruitment printing expenses.
- \$64,000 IT cabling service fee will be used for operational support.
- \$2,500 in revenue dependent programs will fund program needs.
- \$1,179,162 in Student Life Foundation reimbursements are due to minimum wage student increases and dorm utility increases. This budget adjustment will align the WKU budget with the Student Life Foundation's budget.
- \$220,000 in miscellaneous revenue will be returned to the respective departments.

| <u>Sources</u> | <u>Proposed Revision</u> |
|--|--------------------------|
| Educational and General | |
| Net Assets | \$10,789,559 |
| Fall Tuition | 1,200,000 |
| Schedule Change Fee | 140,000 |
| IT Cabling Service Fee | 64,000 |
| CEBS, Library Media Education, Literacy Conference | 2,500 |
| Student Life Foundation Reimbursable | 1,179,162 |
| Other Sources | <u>220,000</u> |
| Total | \$13,595,221 |

Use

| | |
|--|---------------------|
| Net Assets | |
| Academic Affairs | \$1,109,607 |
| Academic Affairs University Allocation | 253,250 |
| Athletics | 445,380 |
| Campus Services and Facilities | 860,190 |
| Campus Services and Facilities University Allocation | 79,963 |
| Chief Diversity Officer | 126,079 |
| Information Technology | 29,972 |
| Institutional Advancement | 160,399 |
| Public Affairs | 30,599 |
| Public Affairs University Allocation | 75,000 |
| Research | 128,193 |
| Research University Allocation | 78,549 |
| Student Affairs University Allocation | 230,867 |
| University Wide | 2,000 |
| Infrastructure Repair Fund | 110,098 |
| Revenue Dependent and Workshops | <u>7,069,413</u> |
| Subtotal | 10,789,559 |
| Academic Affairs | 1,340,000 |
| IT | 64,000 |
| CEBS, Library Media Education, Literacy Conference | 2,500 |
| Student Life Foundation Reimbursable | 1,179,162 |
| Miscellaneous Reimbursements Campus Wide | <u>220,000</u> |
| Total | \$13,595,221 |

RECOMMENDATION:

President Gary A. Ransdell recommends that the Board of Regents approve the revisions to the 2009-10 Operating Budget.

MOTION/APPROVAL:

Motion to approve the revisions to the 2009-10 Operating Budget was made by Mr. Larry Zielke, seconded by Mr. Rob Wilkey, and carried unanimously.

3. EXECUTIVE COMMITTEE ACTION ITEMS (Mr. Jim Meyer, Chair)

3.1 Approval of Second Amended Employment Contract for Dr. C. Wood Selig

REQUEST:

Approval of the Second Amended Employment Contract between Western Kentucky University and Dr. C. Wood Selig.

FACTS:

Dr. Selig's Employment Contract with the University was extended through June 30, 2010, by the Board at its meeting on July 31, 2009. The President and Dr. Selig have negotiated a Second Amended Contract, which outlines the terms and conditions of Dr. Selig's employment as Vice President - Director of Intercollegiate Athletics at the University. A copy of the Second Amended Employment Agreement was included with the agenda material.

RECOMMENDATION:

President Gary A. Ransdell recommends approval of the Second Amended Employment Contract between the University and Dr. C. Wood Selig.

MOTION:

Motion to approve the Second Amended Employment Contract between the University and Dr. C. Wood Selig was made by Mr. Rob Wilkey, seconded by Mr. Freddie Higdon.

DISCUSSION:

Mr. Larry Zielke: "I move to amend the motion by deleting section 5.03 – Arbitration is unenforceable in the Commonwealth of Kentucky for an employment contract under clear Kentucky law – and to substitute the following language: 'The parties to this agreement agree to waive trial by jury for any claim arising out of or relating in any way to this agreement or breach of the agreement.' That is my motion."

Dr. Patricia Minter: "What page number, Larry?"

Mr. Larry Zielke: "It's on page 53. I've said it before that Kentucky law is very, very clear that under KRS 417050, it exempts from validity arbitration agreements in employment contracts. This is an employment contract. I think Dr. Selig is a wonderful individual, so I want the contract, but I can't agree to this arbitration provision."

Mr. Jim Meyer: "Do we have any input from University Counsel?"

Ms. Deborah Wilkins: "I am happy to discuss it outside of the Board meeting. I'm not sure I entirely agree with Mr. Zielke's interpretation. I'm absolutely comfortable with the amendment. I don't know that Dr. Selig will be comfortable with it."

Mr. Jim Meyer: "Do we have any further discussion?"

Dr. Patricia Minter: “I have spoken with President Ransdell before, and I would just like him to reiterate. Why on page 44 is there a bonus for a balanced budget? One of the things that has been pointed out to me by numerous people who are in supervisory positions on this campus is that balancing the budget is part of your job, and nobody gets a bonus for balancing their budget. If you don’t do it, you’re terminated from your supervisory position. I understand that deficit spending in athletics is a major problem nationwide, but I think there is a serious problem with putting that into a bonus structure where the Board and the President have oversight of this. If someone’s not balancing the budget, then maybe we need to look for a new Athletic Director.”

Mr. Jim Meyer: “Comment well taken. I would say this –every year that a budget gets balanced in athletics, it’s worth money. It’s worth money to the University, a great deal.”

President Gary Ransdell: “Let me respond. None of you were on the Board when Wood Selig was hired. But that was a major point of contention for the Board at that time, and I insisted and the Board insisted that that provision be in Wood Selig’s first contract over ten years ago because, prior to Wood Selig, a balanced budget in athletics was rare and in fact had not occurred for quite some time. And I don’t know the history of prior to my arrival, but we did not have a balanced financial profile in athletics before Wood Selig was hired. We’ve had a balanced budget since day one since his hiring, and I would rather administer with positive incentive rather than negative implication, in other words, you don’t balance a budget you get fired. I don’t know if there is anybody at this university that would get fired for failure to balance a budget. They might get fired for a combination of things, but financial stability is critical and that was the primary point of contention among faculty over ten years ago when we had a search for an Athletic Director. It gets the budget balanced, makes sure it is balanced, and I insist that that incentive be an important part of an Athletic Director’s contract at this University.”

Dr. Patricia Minter: “I applauded you at the time as Senate Chair when this contract was originally written that balancing the budget was extremely important. I applauded you for that. I still applaud both of you. I question, however, whether or not this should be part of incentive pay, and I would question your conclusion, when I say fired you might not be fired from your job, but you would be fired from a supervisory position if you ran a deficit in any department on this campus.”

President Gary Ransdell: “Most departments run a deficit. I mean, most departments don’t generate revenue that balances their budget. Most depend on the university to meet their budget. Very few departments generate revenues that offset expenses. Everybody runs a deficit – not everybody but most units run a deficit. They may not be...the University Budget is measured at the beginning of the year and the end of the year; of course they balance. But the Athletic Department has to generate revenues to make things balance. Few departments on this campus have that same fiduciary responsibility.”

Mr. Kevin Smiley: “There is something I was curious about, why this was included and if this is commonplace in contracts, but it’s the facilities clause. We’re obviously, you know, building

up our athletic facilities and that can be a good thing, but I just wondered why there were bonuses necessarily included for those. And I guess where I come at from this is, you know I can total up those numbers and I can see that's full tuition for four years. Why was that included in this contract?"

President Gary Ransdell: "Most of those facilities improvements are outside the University Budget. They are private support or television or ticket sales or other revenues generated by the Athletic Department. Some have included some base university funding, but most of the facilities are built with revenues generated by the Athletic Department. And in that world, incentives drive performance. And I didn't invent the rules, but that's the norm in athletic administration."

Mr. Jim Meyer: "Any more comments or discussion? If not, we have a motion to approve Dr. Selig's contract, as amended and it has been seconded."

MOTION/APPROVAL:

Motion to approve Dr. Wood Selig's contract, with the deletion of section 5.03, was made by Mr. Larry Zielke and seconded by Mr. Freddie Higdon. Motion carried with Dr. Patricia Minter and Mr. James Kennedy voting nay.

3.2 Approval of Transfer and Acceptance of Real Property

REQUEST:

The President requests authorization to waive rights to the parcel of right of way to be conveyed from Kentucky Transportation Cabinet (KYTC) to Warren County Kentucky and, simultaneously, also accept transfer of an adjacent parcel of right of way from the Kentucky Transportation Cabinet (KYTC).

FACTS:

WKU currently leases the Lost River Cave and Cave Valley to the Friends of Lost River. WKU's property line runs parallel to 31-W North, a right of way that has recently undergone substantial redesign and improvement. The reconfiguration of 31-W North resulted in some portions of the right of way owned by the KYTC no longer being useful or necessary for that purpose.

As a part of this improvement project, the KYTC approached WKU in reference to the existing right of way lines for the area. There is a stone wall that fronts the cave valley, approximately one-half of the wall lies on WKU's property and one-half on the KYTC's right of way. The wall itself is also part of the property being leased by WKU to the Friends of Lost River.

The KYTC no longer requires this portion of right of way property due to the improvements made to 31-W North. As a result, the KYTC desires to convey its interest in the property to WKU. In addition, a small parcel of KYTC right of way is located near the stone wall and in front of the water wheel area of the cave adjacent to the property which is currently owned by Warren County as a conservation easement. The KYTC has proposed to convey this small parcel of property to Warren County to be held as part of the existing conservation easement. The Warren County Fiscal Court agreed to and approved the proposed transfers at its meeting on December 4, 2009.

The proposed conveyances will effectively straighten WKU and Warren County's property lines along 31-W North. Three KYTC surveys reflecting each parcel are included with the Board material.

BUDGETARY IMPLICATIONS:

None.

MOTION/APPROVAL:

Motion to authorize the President to waive rights to the property which KYTC will convey to Warren County, Kentucky and, simultaneously, also accept transfer of the adjacent property from the KYTC was made by Mr. James Kennedy, seconded by Mr. Kevin Smiley, and carried unanimously.

3.3 Approval of Athletic Employment Contract for Mr. Willie Taggart

REQUEST:

The President requests approval of an Athletic Employment Contract between Western Kentucky University and Willie Taggart.

FACTS:

Coach Taggart accepted an offer of employment from the University as head coach of the football team December of 2009. The University and Coach Taggart have negotiated an Athletic Employment Contract which outlines the terms and conditions of his employment as head coach. A copy of the Employment Contract is included with this agenda material.

RECOMMENDATION:

The President requests approval of an Athletic Employment Contract between Western Kentucky University and Willie Taggart.

MOTION/APPROVAL:

Motion to approve the Athletic Employment Agreement between Western Kentucky University and Willie Taggart was made by Mr. James Kennedy and seconded by Mr. Kevin Smiley.

Mr. Larry Zielke moved to amend the motion to delete Section 5.08 pertaining to arbitration and substituting "All parties to this agreement agree to waive trial by jury for any claim arising out of or relating in any way to this agreement or breach of the agreement."

DISCUSSION:

Ms. Yvette Haskins: "Is there a way to change the language in all these contracts going forward in the future?"

Mr. Jim Meyer: "I believe that University Counsel has the message."

Ms. Deborah Wilkins: “If I could, I know this is coming across as a humorous issue, but our agreement and the way we have always negotiated this with coaches, which coaches have agreed to and their lawyers have agreed to, is that we prefer, or our hope is to arbitrate disputes and not be in court which is costly and time consuming and subject to all the publicity that goes along with that. I am happy for the amendment to be put in there. I don’t know that Coach Taggart will agree to it. Lawyers, that’s why there are so many of us, because we don’t agree on a lot of things. If that’s the Board’s wish going forward, then we will do that, but it is always my desire to resolve disputes outside of the courtroom. It’s pretty expensive.”

Mr. Larry Zielke: “My desire is that also, in fact we’ve not had any litigation from the Athletic Department that I know of and we’ve just gone through a change of a football coach and I’m not aware of any court actions. All I’m trying to do, and I take this serious, I’m like you, but when I know of a law, and as a practicing lawyer who actively litigates these clauses, I could not in good **conscience** sit here and approve an arbitration clause that I know from every soul of my body that the Kentucky courts would not enforce it. The law says, and it’s in black and white that arbitration agreements between employers and employees or between their respective parties are exempt. They are invalid in Kentucky.”

Mr. Jim Meyer: “All of your points are well taken.”

Mr. Kevin Smiley: “I have a comment that is unrelated to arbitration because I have no idea what you all are talking about. Go Tops and I look forward to seeing Coach Taggart on the sideline in the fall.”

MOTION/APPROVAL:

Motion to approve the Athletic Employment Agreement between Western Kentucky University and Willie Taggart, with the deletion of Section 5.08 pertaining to arbitration was made by Ms. Yvette Haskins, seconded by Dr. Melissa Dennison, and carried unanimously.

EXECUTIVE COMMITTEE INFORMATION ITEMS

The following updates/presentations were provided to the Board as information items:

- Campaign Update – Mr. Tom Hiles
- Construction Progress Update – Mr. John Osborne
- Legislative Update – Ms. Robbin Taylor
- Media/Marketing Presentation – Current Marketing

MEETING ADJOURNED FOR LUNCH AT APPROXIMATELY 11:40 A.M.

MEETING RECONVENED AT APPROXIMATELY 12:45 P.M.

4. PRESIDENT'S REPORT (*Dr. Gary A. Ransdell*)

President Ransdell provided the following to the Board as information items:

2009 Housing Occupancy distribution
2009 Sustainability Report
Campus Tree Inventory
NCAA Athletic Academic Performance Report
Regional Campuses Enrollment Report
Strategic Plan Report Card (FY2008-09)
Updated Strategic Plan (2010-2012)

OTHER BUSINESS

Chair Jim Meyer noted the upcoming calendar dates:

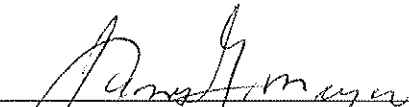
Committee Meetings – April 2
Board Meeting – April 22
Commencement – May 14-15
Special Budget Approval Meeting – June 25

ADJOURNMENT

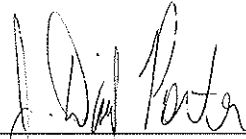
With no further business, motion to adjourn was made by Mr. James Kennedy, seconded by Mr. Kevin Smiley, and carried unanimously. Meeting adjourned at approximately 2:00 p.m.

CERTIFICATION OF SECRETARY

I hereby certify that the minutes herein above set forth an accurate record of votes and actions taken by the Board of Regents of Western Kentucky University in the first quarterly meeting held January 27, 2010, in the Cornelius A. Martin Regents Room in the Mass Media and Technology Hall on the Western campus, and further certify that the meeting was held in compliance with KRS 61.810, 61.815, 61.820, and 61.825 (enacted as Sections 2, 3, 4 and 5 of House Bill 100, 1974 Regular Session, General Assembly).



Mr. James G. Meyer, Chair
WKU Board of Regents
Approved on Jul 25, 2010



Mr. J. David Porter, Secretary
WKU Board of Regents
Approved on Jul 25, 2010