THE COMMONWEALTH OF VIRGINIA

THE VISITORS OF JAMES MADISON UNIVERSITY

Volume LIII No. 4

**Minutes of the Meeting of June 1-2, 2017**

The Visitors of James Madison University met on Thursday, June 1 and Friday, June 2, 2017 at the Boar’s Head Inn in Charlottesville, Virginia. Mrs. Vanessa Evans-Grevious, Rector, called the meeting to order at 10:23 am.

**PRESENT:**

Battle, Mike

Bolling, William

Coleman, Warren

Evans-Grevious, Vanessa, Rector

Grass, Jeff

Gray, Matthew

Hutchinson, Lucy

Jankowski, Maria

Johnson, Deborah

Major, Lara

Rice, Edward

Rothenberger, John

Thomas, Mike

Welburn, Craig

Kaufmann, Eric, Student Member 2017-18

Harper, Donna, Secretary

**ABSENT:**

Herod, Maribeth

**ALSO PRESENT:**

Alger, Jonathan, President

Benson, A. Jerry, Provost and Senior Vice President for Academic Affairs

King, Charles, Senior Vice President for Administration and Finance

Langridge, Nick, Vice President for University Advancement

Warner, Mark, Senior Vice President for Student Affairs and University Planning

Wyatt, Bill, Senior Director of Communications & University Spokesperson

Piper, Mark, Interim Speaker, Faculty Senate

Wheeler, Susan, University Counsel

Hurt, Jewel, Student Government Association President

**APPROVAL OF MINUTES**

On motion of Mr. Rice, seconded by Mr. Battle, the minutes of the April 7, 2017 meeting were approved.

**BOND RESOLUTION FOR STUDENT HOUSING**

Mr. John Knight, Assistant Vice President for Finance presented a bond resolution for student housing. On motion of Mr. Bolling, seconded by Mr. Thomas, approved the following bond resolution: (Attachment A)

WHEREAS, there have been passed by the General Assembly of Virginia and signed by the Governor acts entitled “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2016” (the “2016 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2015” (the “2015 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2014” (the “2014 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2013” (the “2013 Act”),

“Commonwealth of Virginia Higher Educational Institutions Bond Act of 2012” (the “2012 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2011” (the “2011 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2010” (the “2010 Act”), “Commonwealth of Virginia Parking Facilities Bond Act of 2009” (the “2009 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2009” (the “2009 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2008” (the “2008 Act”), “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2007” (the “2007 Act”), and “Commonwealth of Virginia Higher Educational Institutions Bond Act of 2006” (the “2006 Act” and, together with the 2007 Act, 2008 Act, 2009 Acts, 2010 Act, 2011 Act, 2012 Act, 2013 Act, 2014 Act, 2015 Act and the 2016Act, the “Acts”);

WHEREAS, pursuant to the Acts, the Treasury Board of the Commonwealth of Virginia (the “Treasury Board”) is authorized, by and with the consent of the Governor, to sell and issue bonds or bond anticipation notes of the Commonwealth of Virginia (the “Commonwealth”) for the purpose of providing funds, together with other available funds, for paying the cost of acquiring, constructing, renovating, enlarging, improving and equipping certain revenue-producing capital projects at certain institutions of higher learning of the Commonwealth and for paying issuance costs, reserve funds and other financing expenses (the “Financing Expenses”), all in accordance with the provisions of Section 9(c) of Article X of the Constitution of Virginia;

WHEREAS, for **James Madison University** (the “Institution”), such revenue-producing capital projects include Construct Student Housing, Capital Outlay Project Number 18197 (each individually, a “Project” and, collectively, the “Projects”); and

WHEREAS, the Treasury Board is proposing to sell and issue bonds or bond anticipation notes pursuant to the Acts for such revenue-producing capital projects, in one or more series;

NOW, THEREFORE, BE IT RESOLVED BY THE RECTOR AND VISITORS OF JAMES MADISON UNIVERSITY:

Section 1. The Board of Visitors of the Institution (the “Board”) requests the Treasury Board to sell and issue bonds (the “Bonds”) or bond anticipation notes (“BANs”) in an aggregate principal amount not to exceed $55,000,000 to finance all or a portion of the costs of each Project plus Financing Expenses (for each individual Project, the “Individual Project Bonds” or “Individual Project Notes” and, collectively, the “Individual Project Borrowing” and for all Projects, the “Project Bonds” or “Project Notes” and, collectively, the “Project Borrowings”). The Individual Project Borrowings will be identified by amount by the State Treasurer upon issuance of any Bonds or BANs.

Section 2. With respect to each Project, the Board (a) covenants to fix, revise, charge and collect a fee and other rates, fees and charges, for or in connection with the use, occupation and services of such Project and (b) pledges such rates, fees and charges remaining after payment of (i) the expenses of operating such Project and (ii) the expenses related to all other activities funded by the fee (“Individual Project Net Revenues”) to the payment of the principal of, premium, if any, and interest on the Individual Project Borrowing relating thereto. The Board further covenants that it will fix, revise, charge and collect such rates, fees and charges in such amounts so that Individual Project Net Revenues will at all times be sufficient to pay, when due, the principal of, premium, if any, and interest on the related Individual Project Borrowing and on any other obligations secured by such Individual Project Net Revenues (such payments collectively the “Required Payments”). Each Individual Project Borrowing shall be secured on a parity with other obligations secured by the Individual Project Net Revenues relating to such Individual Project Borrowing (other than any obligations secured by a prior right in Individual Project Net Revenues). Any Individual Project Net Revenues pledged herein in excess of the Required Payments for an Individual Project Borrowing may be used by the Institution for any other lawful purpose.

Section 3. It is hereby found, determined and declared that, based upon responsible engineering and economic estimates and advice of appropriate officials of the Institution, as shown on the Financial Feasibility [Study/Studies] attached hereto as Exhibit[s] A [\_\_], with respect to each Project, the anticipated Individual Project Net Revenues pledged herein will be sufficient to pay the Required Payments for such Project so long as the aggregate amount of net debt service on the Individual Project Borrowing for such Project actually payable in any bond year does not exceed the amounts assumed in the Financial Feasibility Study relating thereto.

Section 4. The Board covenants that the Institution will furnish the Treasury Board its general purpose financial statements, within 30 days of their issuance and receipt, audited by a firm of certified public accountants or the Auditor of Public Accounts which shall include a schedule of revenues and expenditures for auxiliary enterprise systems. If Individual Project Net Revenues for any Project are insufficient to pay Required Payments for such Project during such period, the Institution shall provide evidence of a plan to generate Individual Project Net Revenues for such Project sufficient to make such Required Payments in the future.

Section 5. The Board covenants that so long as any of the Project Notes are outstanding, the Institution will pay to the State Treasurer, not less than 30 days before each interest payment date, an amount estimated by the State Treasurer to be due and payable on such date as interest on the Project Notes. The Board covenants that so long as any of the Project Bonds are outstanding, the Institution will pay to the State Treasurer, not less than 30 days before each interest or principal payment date, the amount certified by the State Treasurer to be due and payable on such date as principal of, premium, if any, and interest on the Project Bonds.

Section 6. The Board covenants that the Institution will pay from time to time its proportionate share of all expenses incurred in connection with the sale and issuance of any series of Bonds that includes Project Bonds or Project Notes and all expenses thereafter incurred in connection with the Bonds, including without limitation the expense of calculating any rebate to the United States of the earnings derived from the investment of gross proceeds of the Bonds, all as certified by the State Treasurer to the Institution.

Section 7. The Board covenants that the Institution will not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”), or otherwise cause interest on the Bonds to be includable in the gross income of the owners thereof for federal income tax purposes under existing laws. Without limiting the generality of the foregoing, the Institution will pay from time to time its proportional share of any rebate to the United States of the earnings derived from the investment of the gross proceeds of the Bonds.

Section 8. The Board covenants that the Institution will proceed with due diligence to undertake and complete the Projects and that the Institution will spend all of the available proceeds derived from the sale of the Project Borrowings for costs associated with the Projects and appropriated for the Projects by the General Assembly.

Section 9. The Board covenants that the Institution will not permit the proceeds of each Individual Project Borrowing to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds being used with respect to any output facility within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code. The Institution need not comply with such covenants if the Institution obtains the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income of the owners thereof for federal income tax purposes.

Section 10. The Board covenants that for so long as any of the Bonds are outstanding the Institution will not enter into any operating lease, management contract or similar agreement with any person or entity, other than a state or local governmental unit, for all or any portion of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that entering into such agreement will not cause the interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

Section 11. The Board covenants that for so long as any of the Bonds are outstanding, the Institution will not sell or dispose of all or any part of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such sale or disposition will not cause interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

Section 12. The officers of the Institution are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the sale and issuance of the Bonds.

Section 13. The Board acknowledges that the Treasury Board will rely on the representations and covenants set forth herein in issuing the Bonds, that such covenants are critical to the security for the Bonds and the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, that the Board will not repeal, revoke, rescind or amend any of such covenants without first obtaining the written approval of the Treasury Board, and that such covenants will be binding upon the Board so long as any of the Bonds are outstanding.

Section 14. This resolution shall take effect immediately.

**CONSTRUCTION PROCUREMENT APPROVAL PROCESS**

Mr. Charles King, Senior Vice President for Administration and Finance presented the new legislation related to capital outlay. (Attachment B)

On motion of Mrs. Johnson, seconded by Mr. Thomas, approved the following construction procurement approval resolution:

**WHEREAS**, effective July 1, 2016, James Madison University began operating as a Level II Pilot Institution with Capital Outlay authority; and

**WHEREAS**, under the Level II MOU and Pilot Program (Chapter 780), James Madison University has delegated authority relating to the procurement of goods, services, insurance and construction; and

**WHEREAS**, resolutions related to the Restructured Higher Education Financial and Administrative Operations Act providing procurement authority for Capital Outlay (professional and construction services) were approved by the Board of Visitors on June 3, 2016; and

**WHEREAS**, a resolution for approval of the construction procurement approval process for capital project delivery was approved by the Board of Visitors on September 30, 2016; and

**WHEREAS**, procurement procedures for professional and construction services are identified in documentation adopted by James Madison University; and

**WHEREAS**, the 2017 General Assembly passed legislation (Title 2.2 Chapter 43.1) regulating the types of construction procurement methods available for public institutions of higher education; and

**WHEREAS**, the legislation requires James Madison University to update its Construction Procurement Approval Process for Capital Project Delivery; and

**WHEREAS**, the legislation also requires that James Madison University submit the updates to its Construction Procurement Approval Process for Capital Project Delivery to the Department of General Services for review and recommendations; and

**WHEREAS**, the Department of General Services has reviewed and provided recommendations, which recommendations have been incorporated into James Madison University’s updated Construction Procurement Approval Process for Capital Project Delivery; and

**WHEREAS**, the appropriate university personnel have updated the Construction Procurement Approval Process for Capital Project Delivery and submitted the same to this Board for approval, which approval is granted; and

**WHEREAS**, with the approval of these updated procedures, James Madison University confirms that all of the required Board-level policies and procedures are in place to implement the new legislation on July 1, 2017;

**NOW, THEREFORE, BE IT RESOLVED**, that the university adopts the proposed updates to the Construction Procurement Delivery Approval Process for Capital Project Delivery.

**2017-18 BUDGET**

Mr. Charles King, Senior Vice President for Administration and Finance, presented the proposed   
2017-18 budget for the university. On motion of Mr. Thomas, seconded by Mr. Rice, approved the budget. (Attachment C)

The board recessed for lunch and reconvened at 1:15 pm.

**BRANDING UPDATE AND COMPREHENSIVE CAMPAIGN UPDATE**

Andy Perrine, Associate Vice President for Communications and Marketing, introduced the purpose and current landscape of branding for the university. Snavely Associates presented the background and research that fostered their brand proposal.

Rector Evans-Grevious then called for the board to move into Closed Session. Mr. Coleman made the following motion:

“I move the board go into closed session to discuss the following matters:

1) pursuant to Virginia Code Section 2.2-3711.A.8, to discuss and consider matters relating to gifts and fund-raising activities.”

The motion was seconded by Mrs. Johnson and the Board moved into closed session.

Following the closed session, Mrs. Evans-Grevious then stated the following:

**During the closed session, the board discussed only matters lawfully**

**exempted from open meeting requirements and only those types of matters**

**identified in the motion for the closed session.**

**RECORDED VOTE: the following is an affirmative recorded, member by**

**member vote:**

Battle, Mike

Bolling, William

Coleman, Warren

Evans-Grevious, Vanessa

Grass, Jeff

Gray, Matthew

Hutchinson, Lucy

Jankowski, Marie

Johnson, Deborah

Major, Lara

Rice, Edward

Rothenberger, John

Thomas, Mike

Welburn, Craig

Mr. Charles King presented historical and background information on JMU’s tuition and fees.

Mr. John Knight. Assistant Vice President for Finance, presented options that other institutions have implemented. The board discussed the implications and possibilities of a long-range budget plan for tuition and fees.

The meeting then recessed until Friday morning.

Mrs. Evans-Grevious called the meeting to order at 8:33 am on Friday, June 2, 2017. Mr. Bolling was not in attendance on June 2nd.

**MASTER PLAN REVIEW**

Mr. Charles King, Senior Vice President for Administration and Finance, introduced representatives from Moseley Architects who shared their proposed 10-year Master Plan Update. (Attachment D)

**KEY INSTITUTIONAL GOALS**

Mr. Brian Charette, Special Assistant to the President, presented the status on the 2016-17 goals and the proposed 2017-18 key goals. (Attachment E)

**ELECTION OF OFFICERS**

Mrs. Deborah Johnson shared the report of the Nominating Committee and on motion of Mrs. Johnson, seconded by Mr. Rice approved the following slate:

Rector – Vanessa Evans-Grevious

Vice Rector – Warren Coleman

Secretary – Donna Harper

Rector Evans-Grevious then called for the board to move into Closed Session. Mr. Coleman made the following motion:

“ I move the Board go into closed session to discuss the following matters: 1) pursuant to Virginia Code Section 2.2-3711.A.1, to discuss personnel matters involving promotions, retirements, hiring, resignations, salary adjustments, performance, and status changes of faculty members, university administrators and appointees;

2) pursuant to Section 2.2-3711.A.3 of the Code of Virginia, to discuss the acquisition of real property located in Harrisonburg, Virginia; and

3) pursuant to Section 2.2-3711.A.7 of the Code of Virginia, to consult with legal counsel pertaining to actual litigation.”

The motion was seconded by Mr. Thomas and the Board moved into closed session.

Following the closed session, Mrs. Evans-Grevious then stated the following:

**During the closed session, the board discussed only matters lawfully**

**exempted from open meeting requirements and only those types of matters**

**identified in the motion for the closed session.**

**RECORDED VOTE: the following is an affirmative recorded, member by**

**member vote:**

Battle, Mike   
Coleman, Warren

Evans-Grevious, Vanessa

Grass, Jeff

Gray, Matthew

Hutchinson, Lucy  
Jankowski, Maria

Johnson, Deborah  
Major, Lara

Rice, Edward  
Rothenberger, John

Thomas, Mike

Welburn, Craig

Mrs. Evans-Grevious then asked if there were any motions to come forward.

On motion of Mr. Thomas, seconded by Mr. Battle, approved the personnel action report.

On motion of Mr. Thomas, seconded by Mr. Coleman, approved the purchase at 911 Forest Hills Road at a purchase price of $308,000.

**ADJOURNMENT**

There being no further business, on motion of Mr. Coleman, seconded by Mr. Battle, the Board voted to adjourn. The meeting was adjourned at 1:49 pm.

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Vanessa Evans-Grevious, Rector

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Donna L. Harper, Secretary