THE COMMONWEALTH OF VIRGINIA

THE VISITORS OF JAMES MADISON UNIVERSITY

Volume XXXXIV No. 2

**Minutes of the Meeting of January 18, 2013**

The Visitors of James Madison University met on Friday, January 18, 2013 in the Festival Conference and Student Center Board room on the campus of James Madison University. Mr. Joseph Funkhouser, Rector, called the meeting to order at 1:15 pm.

**PRESENT:**

Allen, Susan

Bartee, Ken

Battle, Mike

Cuevas, Pablo

Devine, Ron

Fiorina, Carly

Forbes, Lois, Vice Rector

Funkhouser, Joseph, Rector

Gilliam, Leslie

Rainey, Don

Rexrode, David

Thomas, Mike

Mosser, Jacob, Student Member 2012-13

Harper, Donna, Secretary

**ABSENT:**

DuVal, Barry

Smith, Steve

Thompson, Fred

**ALSO PRESENT:**

Alger, Jonathan, President

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

King, Charles, Senior Vice President for Administration and Finance

Langridge, Nick, Acting Vice President for University Advancement

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

Egle, Don, Public Relations

McGraw, David, Speaker, Faculty Senate

Klein, Matt, President, Student Government Association

Wheeler, Susan, University Counsel

**APPROVAL OF MINUTES**

On motion of Mr. Devine, seconded by Mrs. Forbes, the minutes of the September 28, 2012 meeting were approved.

**COMMITTEE REPORTS**

**Athletics Committee**

Mr. Ron Devine, Chair, presented the report of the Athletics Committee. The minutes of the September 28, 2012 meeting were approved. (Attachment A)

Mr. Devine reported on the following topics from the committee meeting:

1. Review of fall teams and their accomplishments;
2. Received a report on the academic achievements of the student athletes;
3. The Compliance Office summarized the rules education for athletic department members, as well as internal and external constituencies; and
4. Reviewed the majors for student athletes.

On motion of Mr. Devine, seconded by Mr. Bartee, the Athletics report was accepted.

**Audit Committee**

Mrs. Susan Allen, substituting for the Chair, presented the report of the Audit Committee. The minutes of the September 28, 2012 meeting were approved. (Attachment B)

Mrs. Allen reported on the following topics from the committee meeting:

1) Mr. Eric Sandridge of the Auditor of Public Accounts reported on the results of the annual   
 audit ended June 30, 2012 via teleconference:

* 1. the financial statements were presented fairly, in all material respects;
  2. there were no material weaknesses in internal control over financial reports; and
  3. there were no instances of noncompliance or other matters required to be reported under Government Auditing Standards.

2) Mr. Tom Duval reported on the financial audit for WMRA-FM Radio. An unqualified   
 opinion was issued on the statements for the year ended June 30, 2012.

On motion of Mrs. Allen, seconded by Mrs. Gilliam, the Audit report was accepted.

**Development Committee**

Mrs. Leslie Gilliam, Chair, presented the report of the Development Committee. The minutes of the September 28, 2012 meeting were approved. (Attachment C)

Mrs. Gilliam reported on the following topics from the committee meeting:

1. Mr. Brian Frerking, Associate Athletic Director for Development, reported annual giving is 13% up over the past year and a new membership campaign for 2013 will be called the Letterwinner Chapter Competition aimed at reconnecting with former student athletes;
2. Mr. Jeff Gilligan, Senior Director for Major Gifts, reported increases in all areas of fund-raising;
3. Mr. Nick Langridge, Acting Vice President for Advancement, reported on SACS accreditation that requires the Foundation agreement to establish the president’s control of fund-raising activities.

On motion of Mrs. Gilliam, seconded by Mr. Devine, approved the affiliation agreement of the Foundation and the university. (Attachment D)

On motion of Mrs. Gilliam, seconded by Mr. Devine, approved the affiliation agreement between the Real Estate Foundation and the university. (Attachment E)

1. Mr. Steve Smith, Associate Vice President, reported on alumni statistics including a profile of JMU graduates;
2. Mr. Andy Perrine, Associate Vice President, discussed the “case of giving” framework; and
3. Mr. Langridge provided updates in the JMU Foundation including the naming of Mr. Tom Schaeffer as the President for the Foundation.

On motion of Mrs. Gilliam, seconded by Mrs. Forbes, the Development report was accepted.

**Education and Student Life**

Mrs. Lois Forbes, Vice Rector and Chair, presented the report of the Education and Student Life Committee. The minutes from the September 28, 2012 meeting were approved. (Attachment F)

Mrs. Forbes reported on the following topics from the committee meeting:

1) Dr. Reid Linn, Dean of the Graduate School, gave a presentation on graduate education;

2) Ms. Marsha Mays-Bernard, Associate Vice President and Ms. Valarie Ghant, Director for   
 the Center for Multicultural Student Services, presented an overview of the programs and services offered   
 by the Center;

3) Heard reports from the Student Member of the Board, the Student Government Association   
 and the Speaker for the Faculty Senate.

On motion of Mrs. Forbes, seconded by Mr. Devine, the Education and Student Life report was accepted.

#### Finance and Physical Development Committee

Mr. Ken Bartee, Chair, presented the report of the Finance and Physical Development Committee. The minutes from the September 28, 2012 meeting were approved. (Attachment G)

Mr. Bartee reported on the following from the committee meeting:

1. Mr. John Knight, Assistant Vice President, reviewed the financial report;
2. Mr. Knight reported the 2012 audit has been completed;
3. Mr. Knight gave an update on the University’s auxiliary services reserve;
4. Mr. Knight presented a review of the University debt portfolio for fiscal year 2013;
5. Mr. Knight briefed the committee on a proposed bond resolution for $50 million for student housing;

On motion of Mr. Bartee, seconded by Mrs. Forbes, approved the following bond resolution:

RESOLUTION OF THE RECTOR AND VISITORS OF

**JAMES MADISON UNIVERSITY**

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 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 Acts, 2011 Acts and the 2012 Act, 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 **New Construction – Student Housing, Phase I Project Number 17949**; 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 $50,000,000 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.

The undersigned Secretary of the Board of Visitors of **James Madison University** does hereby certify that the foregoing is a true and correct copy of a resolution adopted at a meeting of the Board of Visitors of **James Madison University** duly convened and held on January 18, 2013 at which a quorum was present and voting, and that such resolution is now in full force and effect.

1. Mr. Charles King, Senior Vice President for Administration and Finance presented the proposed 2013 summer tuition and fees;
2. Mr. King presented the Governor’s 2013-24 budget and three budget amendments; and
3. Mr. King advised the committee the JMU Foundation had acquired the property at 593 University Blvd.

On motion of Mr. Bartee, seconded by Mr. Devine, the Finance and Physical Development report was accepted.

**PRESIDENT’S REPORT**

Mr. Alger presented information on the following: (Attachment H)

1) An update on the visits for the Listening Tour, “Why Madison”;

2) Information on the task forces currently in progress;

3) Academic Leadership Searches;

4) Review of the progress on the institutional accreditation with SACSCOC;

5) December 2012 commencement;

6) Admissions/Enrollment outlook;

7) Momentum in Fundraising; and

8) JMU Recognitions, including a presentation by JMU’s Relay for Life.

**STRATEGIC PLANNING UPDATE**

Dr. Mark Warner, Senior Vice President for Student Affairs and University Planning and Dr. Brian Charette, Associate Vice President for University Planning presented information on the strategic planning process and the work of the Environmental Scan and Internal Analysis teams in preparation for the Madison Futures Commission. (Attachment I) Board members offered suggestions for enhancing the planning process.

**DISTRUPTIVE TECHNOLOGIES: CURRICULUM DELIVERY**

Dr. Jerry Benson, Provost and Senior Vice President for Academic Affairs, Dr. Teresa Gonzalez, Vice Provost, Ms. Sarah Cheverton, Director, Center for Instructional Technology, and Dr. Carol Hurney, Director for the Center for Faculty Innovation presented information on the on-line delivery of courses and the implications for James Madison University. (Attachment J) The board discussed the opportunities and implications for the use of such technology in course development and implementation and its role for JMU.

**PROPOSED SUMMER 2013 TUITION AND FEES**

Mr. Charles King, Senior Vice President for Administration and Finance presented the proposed summer tuition and fees.

On motion of Mr. Bartee, seconded by Mrs. Fiorina, the following summer 2013 tuition and fees were approved:

*Tuition and Educational & General Fees (per credit hour)*

VA Undergraduate $300

Non-VA Undergraduate $817

VA Graduate $411

Non-VA Graduate $1,085

*Distance Learning Courses (per credit hour)*

VA Undergraduate $350

Non-VA Undergraduate $867

VA Graduate $431

Non-VA Graduate $1,105

*Student Services Fee (per credit hour)*

VA Undergraduate $23

Non-VA Undergraduate $23

VA Graduate $23

Non-VA Graduate $23

*Room & Board (per week)*

Room $100

Board $107

**GOVERNOR’S 2013-14 BUDGET UPDATE**

Mr. Charles King, Senior Vice President for Administration and Finance shared information on the Governor’s annual budget recommendations for higher education and the budget amendments submitted to the General Assembly. (Attachment K)

**PRESIDENTIAL INAUGURATION UPDATE**

Mr. Joseph Funkhouser, Rector, shared information on the schedule of events associated with the presidential inauguration to be held the week of March 11-16, 2013. (Attachment L)

Rector Funkhouser then called for the board to move into Closed Session. Mrs. Forbes 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, and status changes of various faculty members, administrators and appointees, as well as the award of tenure to faculty members;

2) pursuant to Section 2.2-3711-A-3 of the Code of Virginia to discuss the acquisition/disposal of real property; 3) pursuant to Section 2.2-3711 A-7 of the Code of Virginia to consult with legal counsel and be briefed by staff members/consultants pertaining to litigation.”

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

Following the closed session, Mr. Funkhouser 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:**

Allen, Susan

Bartee, Ken

Battle, Mike

Cuevas, Pablo

Devine, Ron

Fiorina, Carly

Forbes, Lois

Funkhouser, Joseph

Gilliam, Leslie

Rainey, Donald

Rexrode, David

Thomas, Mike

Mr. Funkhouser then asked if there were any motions to come forward.

On motion of Mr. Devine, seconded by Mrs. Forbes, approved the personnel action report.

On motion of Mr. Bartee, seconded by Mr. Devine, approved the purchase at 45 East Fairview Drive at a price of $345,000.

**ADJOURNMENT**

There being no further business, on motion of Mrs. Forbes, seconded by Mr. Devine, the Board voted to adjourn. The meeting was adjourned at 4:44 pm.

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Joseph Funkhouser, Rector  
  
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Donna L. Harper, Secretary