

**MEMORIAL UNIVERSITY OF NEWFOUNDLAND**

**BOARD OF REGENTS**

The regular meeting of the Board of Regents was held on Thursday, December 6, 2012, at 4:00 p.m., in the Board Room of the University, Room A-2029.

**PRESENT:**

Ms. Eleanor Swanson, Vice-Chair  
Dr. Gary Kachanoski, President and Vice-Chancellor  
Dr. David Wardlaw, Provost and Vice-President (Academic)  
Dr. Susan Dyer Knight, Chancellor  
Ms. Sheila Ashton, by invitation  
Mr. Steve Belanger  
Mr. Gilbert Bennett  
Ms. Pat Coish-Snow, by invitation  
Ms. Michelle Daye, by invitation  
Ms. Pegi Earle  
Dr. Rex Gibbons  
Ms. Noreen Greene-Fraize  
Mr. Jim Hickey  
Mr. Asan Mohideen  
Dr. Luke Pike  
Mr. Tony Roche, by invitation  
Ms. Kathleen Roul, by invitation  
Ms. Donna Stone  
Mr. George Tucker  
Mr. Edmund Walsh  
Mr. Michael Walsh  
Ms. Tina Scott, Secretary

**APOLOGIES:** Ms. Mary Cormier, Mr. Brian Dalton, Mr. Kent Decker, Ms. K. Hollett, Mr. Jim Keating, Ms. Kim Keating, Mr. Bill Matthews, Ms. Meghan McCarthy, Dr. Vinod Patel.

**PRESENT BY INVITATION:**

Dr. Christopher Loomis, Vice-President (Research), Mr. Glenn Blackwood, Vice-President (Marine Institute), Dr. Mary Bluehardt, Vice-President (Grenfell Campus), Mr. Darrell Miles for Mr. Kent Decker, Vice-President (Administration and Finance), Mr. Glenn Collins, Interim Executive Director, Office of the Board of Regents.

**5941. MEETING CALLED TO ORDER**

The meeting was called to order at 4:00 p.m. by Ms. Eleanor Swanson, Acting Chair.

Meeting called to Order (cont'd)

Ms. Swanson advised that there currently exists 12 vacancies on the Board. Those members whose term of office has expired have been recommended for reappointment to the Minister of Advanced Education and Skills. Members were then reminded that at a meeting held on July 5, 2012, the Board of Regents agreed to invite nominated student representatives as well as other members recommended by the Board to the Lieutenant Governor in Council for membership on the Board, to attend meetings of the Board, noting that as per Clause 44 of the Bylaws of the Board of Regents, "*all persons invited to attend a Meeting shall be permitted to speak but shall not have a vote on any motions put before the Board*". In this regard, the Executive Committee at a meeting held on November 22, 2012 agreed to recommend to the Board that it proceed in the same manner for the today's meeting. The Board was in general agreement with this approach. Ms. Swanson then noted that because of these vacancies, changes were made to the Chairs of the Board Committees as follows:

Audit and Risk Committee: Ms. Pegi Earle  
Campus Planning and Development Committee: Dr. Rex Gibbons  
Human Relations Committee: Mr. George Tucker  
Finance Committee: Dr. Rex Gibbons

Ms. Swanson noted that the University will continue to work with Government to fill the vacancies which currently exist.

**5942. APPROVAL OF THE AGENDA**

The agenda for the meeting was approved.

At the request of Dr. Kachanoski, a replacement document for Agenda Item 5.a "Registration Progress Report" was distributed around the table.

At the request of Dr. Wardlaw, an additional item from the Human Relations Committee was added to the discussion agenda entitled "Appointment of the Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies. The information for that item was also distributed around the table.

Following approval of the agenda, Ms. Swanson provided members and those present by invitation with the opportunity to declare if they were in a conflict of interest position or a potential conflict of interest position with regard to any agenda items.

**5943. MINUTES**

The Minutes of the regular meeting of the Board of Regents held on October 18, 2012 were approved by the Board.

5944. ACTING CHAIR'S REPORT

A. Executive Committee

Ms. Swanson advised that the Executive Committee met on November 22, 2012 to finalize the agenda for today's Board meeting.

B. Correction to the removal of the Special Program Fee for the Master of Nursing Nurse Practitioner and removal of Post Masters Nurse Practitioner Graduate Diploma Special Program Fee

Ms. Swanson reminded members that at a meeting of the Board held on October 18, 2012, approval was given to remove a "special program fee" of \$12,000 from the Master of Nursing Nurse Practitioner (MNNP) Program. The October Board submission contained a typo on the fee amount. The \$12,000 should have read \$12,813. Additionally, a second special program fee, also of \$12,813 should have been removed for the Post Masters Nurse Practitioner (PMNP) Graduate Diploma. This MNNP and PMNP are essentially the same Program with the Masters designation being awarded to students who entered the Program with a Bachelor's degree and the Graduate Diploma being awarded to students who entered the Program with an RN designation. In an email poll conducted on November 15, 2012, the Executive Committee approved the correction to the removal of the Special Program Fee for the Master of Nursing Nurse Practitioner and removal of Post Masters Nurse Practitioner Graduate Diploma Special Program Fee.

C. Student Appeal

Ms. Swanson reminded members that at a meeting held on September 6, 2012, the Board established an ad hoc committee to consider an appeal of the decision of the President whereby the student appealed the sanction which was imposed by the President in respect of a sexual harassment complaint.

Ms. Swanson reported that the ad hoc Committee, comprised of three members of the Board of Regents, adjudicated the appeal following the rules and procedures established by the Committee. Following extensive discussion and review, the ad hoc Committee could find no reviewable error in Dr. Kachanoski's decision. The Committee determined that the findings of fact were grounded in the evidence before the President, appropriate procedures were followed, there were no jurisdictional errors and the Sexual Harassment Policy was appropriately applied. As such, the Committee concluded that Dr. Kachanoski's decision should be upheld and that the penalty assigned to the respondent was just and fair. Ms. Swanson noted further that this means that all the terms and conditions outlined in Dr. Kachanoski's decision remain in full force and effect. The student and the complainant have been advised of the Committee's decision and have also been advised that within the University, no further appeal is possible.

5945. **PRESIDENT'S REPORT**

A. Registration Progress Report for Winter Semester 2013

The Board received and reviewed a registration progress report for the Winter 2013 as of November 23, 2012 outlining positive growth in enrolments and registrations as of that date.

Dr. Kachanoski also provided the Board with highlights of his recent activities since the October 2012 Board meeting.

B. Proposed review of the feasibility and desirability of establishing a Faculty of Law at Memorial University

Dr. Kachanoski advised that there have been two formal considerations by the University regarding the viability of establishing of a Faculty of Law at Memorial. The Harris report in 1976 (adopted by Senate in January 1977) determined that a demonstrated need did not exist at the time and recommended that the situation be reviewed in three years time. Further, the Bruce report in 1987, while endorsing the establishment of a Faculty of Law as a general principle, recommended in a split decision not proceeding at that time with a Faculty of Law. (A non-professional Department of Law or an inter-departmental major program in legal studies was also not recommended.) However the Bruce committee did also recommend that "should the financial situation of the Province improve to the degree that the present activities are adequately funded, the establishment of a Faculty of Law should be the next major priority of the University."

Dr. Kachanoski reported that in July 2012, Justice A.E. Faour made a presentation to the Canadian Bar Association, NL Branch that reviewed the 1987 Bruce report, described his assessment of the need for, and advantages of, a Faculty of Law in Newfoundland and Labrador, and provided first order financial estimates for the creation and operation of an academic unit the size of the current Faculty of Law at UNB. A summary of Justice Faour's considerations in his advocacy for reconsideration of establishing a law school at MUN was provided in the background documentation. This document concludes with his statement that a task force to revisit this matter is needed and should include representation from MUN, government, the Law Society, Canadian Bar Association (CBA), and the judiciary.

On June 8, 2012, The Law Society of Newfoundland and Labrador passed the following motion (1 dissenting vote): "that Benchers support a review of the concept of a law school for Newfoundland and Labrador".

On July 25, 2012, the Executive Committee of the CBA - Newfoundland and Labrador Branch passed a resolution whose principle component is:

"Then be it resolved that the Executive Committee of the CBA - Newfoundland and Labrador Branch supports, in principle, a review of the concept of a Faculty of Law at Memorial University of Newfoundland as proposed by the Committee that would include an assessment of how such an academic institution would further advocacy and improve access to justice in the province of Newfoundland and Labrador."

Proposed review of the feasibility and desirability of establishing a Faculty of Law at Memorial University (cont'd)

On Oct. 4, 2012, the Chair of the Board of Governors of the Law Foundation, Jeffrey P. Benson, Q.C., wrote to the Chief Justice of Newfoundland and Labrador, the Honourable J. Derek Green, concerning the establishment of a Faculty of Law at Memorial to indicate that the Law Foundation supports further study of this matter and would also provide financial support for such a study.

Given the recent expressions of interest from the legal profession and the judiciary and that the last formal review of this topic occurred 25 years ago, it seems appropriate at this time to undertake a review, led by the University, of the feasibility of establishing a Faculty of Law at Memorial.

Following a discussion, the following resolution was passed:

**RESOLVED:**

That the Board of Regents approve the proposed review of the feasibility and desirability of establishing a Faculty of Law at Memorial with the following considerations:

1. That the President establish a University Task Force to carry out a formal review of the feasibility and desirability of establishing a Faculty of Law at Memorial.
2. That fiscal and other resources needed to support the review be determined and assigned in advance of the review.
3. That a communications plan be developed to announce and publicize the proposed review.

**CONSENT AGENDA**

Noting that the items were dealt with in detail in meetings of the appropriate committees, it was moved by Dr. Gibbons, seconded by Ms. Earle and carried that the consent agenda, comprising the resolutions listed in 5946 through 5948 below be approved as follows:

**5946. CAMPUS PLANNING AND DEVELOPMENT COMMITTEE**

A. Update on Progress of Capital Projects

The Board received a summary report of the following capital projects currently underway or being planned:

St. John's Campus

- New Residence
- Residence Renovations
- Newfoundland & Labrador Centre for Interdisciplinary Research in Human Genetics and Faculty of Medicine Building Extension, HSC
- Ocean Science Centre - Cold Water Supply

Update on Progress of Capital Projects (cont'd)

- Dr. Jack Clark Building and the S.J. Carew Building expansions
- Queen's College upgrade
- Aboriginal Centre
- Core Sciences Facility

Grenfell Campus

- Academic Building Atrium
- New Residence
- Environmental Research Laboratories Enhancement

The Board was advised that projects are on time and on budget unless otherwise noted.

**5947. HUMAN RELATIONS COMMITTEE**

A. Appointments Report

The Board received the Appointments Report for actions taken since October 18, 2012 noting that the actions have been taken under delegated authority as provided in the Terms of Reference for the Human Relations Committee.

This item was received for information only and did not require a resolution of the Board.

B. Policy Directives for the Memorial University Pension

The Board received background information and agreed with the draft pension plan directives for transmittal to government for review and approval of the Minister of Advanced Education and Skills in accordance with the *Memorial University Act* and as outlined in the background documentation.

C. Approval of a Policy on Workplace Accommodation

The Board received background information and agreed with the proposed Workplace Accommodation Policy and associated procedures and as outlined in the background documentation.

**5948. SENATE MATTERS**

The Board received reports of items of business considered by Senate at its regular meetings held on September 25 and October 9, 2012. Approval was given to the following items requiring Board approval under Section 56(h) (course of study) and 56(s) (making or altering a rule or regulation) of the Act:

A. September 25, 2012

- Item 4 Report of the Senate Committee on Undergraduate Studies  
(No. 4.1 - 4.8)

Senate Matters (cont'd)

Item 5 Report of the Academic Council of the School of Graduate Studies  
(No. 5.1 - 5.4)

Item 6 Report of the Senate Committee on Undergraduate Studies  
(No. 6.1 - 6.2)

B. October 9, 2012

Item 18 Report of the Academic Council of the School of Graduate Studies  
(No. 18.1)

Item 19 Report of the Academic Council of the School of Graduate Studies  
(No. 19.1 - 19.3)

**DISCUSSION AGENDA**

**5949. AUDIT AND RISK COMMITTEE**

A. Endorsement of the updated "Fair Dealing Policy for Universities" and updating of related documents in the "Use of Copyright Materials Policy"

The Board received and reviewed background documentation pertaining to the endorsement of the updated "Fair Dealing Policy for Universities" and updating of related documents in the "Use of Copyright Materials Policy".

Dr. Wardlaw reminded members that at its meeting on May 19, 2011, the Board approved the *Use of Copyright Materials* policy and specifically endorsed the Association of Universities and Colleges of Canada (AUCC), Fair Dealing protocol and associated FAQs as supporting documents. Since that time, Bill C-11 (*The Copyright Modernization Act*) and Supreme Court of Canada decisions in 2012 have significantly changed the conditions under which copyrighted materials can be used in support of teaching and learning under the Fair Dealing Provisions of the *Copyright Act*.

Board members were then advised that Memorial has received the "Fair Dealing Policy for Universities" from AUCC which applies fair dealing in non-profit universities and provides reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the decisions of the Supreme Court of Canada. A legal opinion (November 2012) prepared by Glen Bloom (Osler, Hoskin & Harcourt LLP) for the AUCC recommends adoption of the "Fair Dealing Policy for Universities" by AUCC member institutions outside Quebec noting that a copy of the policy and opinion were provided in the background documentation. It was further noted that there is considerable merit in AUCC members adopting a common fair dealing policy and it is anticipated that most institutions will adopt the "Fair Dealing Policy for Universities".

Members were further advised that the Vice Presidents' Council endorsed the AUCC's Fair Dealing Policy for Universities at its November 27, 2012 meeting. The Senate Committee on Copyright was also consulted in a meeting held on November 30, 2012 on these developments and on the updated "Fair Dealing Requirements".

Endorsement of the updated "Fair Dealing Policy for Universities" and updating of related documents in the "Use of Copyright Materials Policy" (cont'd)

Following a discussion, the following resolution was passed:

**RESOLVED:**

That the Board of Regents approve the AUCC "Fair Dealing Policy for Universities" (October 2012) as a related Memorial Fair Dealing Requirements document to support Memorial's Policy, *Use of Copyright Materials*, replacing the current "AUCC Fair Dealing Policy" set out in the current Related Documents: Fair Dealing - Background, Fair Dealing Compliance Requirements, and Fair Dealing and Interlibrary Loans as outlined in the Board background documentation. Further, it is understood that other related documents to the policy will be revised accordingly.

**5950. CAMPUS PLANNING AND DEVELOPMENT COMMITTEE**

A. Core Science Facilities Site Selection

The Board received and reviewed background information pertaining to the Core Science Facility site selection.

In providing the Board an update, Dr. Kachanoski advised that in the 2012-13 provincial budget, the university received financial support from government for the planning phase of core sciences infrastructure. Planning has commenced for the new facility with one of the first steps being the identification of a site or sites for this development.

Mr. Miles then advised that the consulting firm of Brook McIlroy was selected to assess potential site options and make recommendations pertaining to sites being considered for the new construction. Brook McIlroy was chosen to carry out this work as it completed the new master plan for the university in 2007. Four potential sites / combinations of sites were identified through this work.

Mr. Miles explained that the work of Brock McIlroy was presented at a number of consultation sessions held on Friday October 5, 2012, during which feedback was received from the university community. A special session was also conducted for the Faculty of Business Administration on October 19, 2012 to address specific concerns. A website was also set up to allow input from personnel and the public to take part in the consultations.

The steering committee overseeing the planning phase of this project compiled the consultation feedback and presented a discussion document including recommended options for the discussion and decision of Vice Presidents' Council (VPC). It was noted that members of the Steering Committee include:



Core Science Facilities Site Selection (cont'd)

Dr. Ray Gosine, Associate Vice-President (Research)  
Mr. Kent Decker, Vice-President (Administration and Finance)  
Dr. Mark Abrahams, Dean of Science  
Prof. Andy Fisher, Associate Dean of Engineering (Undergraduate)  
Mr. Bruce Belbin, Assistant Deputy Minister, Dept. of Advanced Education and Skills  
Mr. Keith Bowden, Executive Director (Works), Dept. of Transportation and Works  
Mr. Darrell Miles, Director of Facilities Management

At its November 6<sup>th</sup>, 2012 meeting the VPC reviewed the submission by the Core Sciences Steering Committee and made a recommendation to the President. VPC endorsed the option of two building sites, one located west of the Smallwood Centre and the other south of the Business building, provided that a compelling case could be made that the advantages of the two-site option would sufficiently outweigh any projected incremental cost over and above the cost for a single site option. Otherwise, VPC agrees that a single site west of the Smallwood Centre is the preferred site. The two building sites being considered were identified in the master plan as future locations for academic buildings. It was then noted that in order to address the question of the cost of constructing two buildings versus one, the planning work being conducted by Stantec has been expanded to include an analysis of this issue.

This item was received for information only and did not require a resolution of the Board.

B. Purchase of 100 Signal Hill Road (The Battery)

The Board received and reviewed background documentation pertaining to the purchase of 100 Signal Hill Road, The Battery.

Dr. Kachanoski reminded members of the Board that at a meeting held on October 18, 2012, an update with respect to the purchase of the Battery Hotel was provided. He advised that subsequent to the signing of a Purchase and Sale Agreement for \$9.5 million, the Administration has commenced the following due diligence work in accordance with the direction of the Board of Regents:

- Phase I environmental Assessment - Pinchin LeBlanc
- Phase II environmental Assessment - Pinchin LeBlanc
- Hazardous Materials Survey - Pinchin LeBlanc
- Building and Fire Systems Assessment - SNC Lavalin
- Accessibility Assessment- SNC Lavalin

Dr. Kachanoski noted that the reports from these various studies will be available prior to the end of the 60-day due diligence period. In accordance with the MUN Act, the letter to the Minister requesting approval by the Lieutenant Governor in Council was forwarded to that office on November 23, 2013 with a request for the Minister to respond by December 14, 2012. It was further noted that the due diligence date is January 1, 2013, with closing to take place on January 15<sup>th</sup>, 2013.

Purchase of 100 Signal Hill Road (The Battery) (cont'd)

Mr. Miles then provided the Committee with an illustration of the site and outlined some of the details and challenges currently being considered.

This item was received for information only and did not require a resolution of the Board.

**5951. HUMAN RELATIONS COMMITTEE**

- A. Appointment of Dr. Cecilia Reynolds as Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies, and Professor in the Department of Gender Studies effective April 1, 2013

The Board received and reviewed background documentation pertaining to the appointment of Dr. Cecilia Reynolds as Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies and Professor in the Department of Gender Studies effective April 1, 2013.

The Board was advised that based on a comprehensive and thorough search process for the Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies and with the support of the Search Committee, the Provost has recommended the appointment of Dr. Cecilia Reynolds to the President and Vice-Chancellor. The recommendation has been accepted by the President. Dr. Reynolds is currently Full Professor and Dean of the College of Education at the University of Saskatchewan. She is one of the co-authors of the Association of Canadian Deans of Education Accord on Indigenous Education, has published four books, seventeen book chapters, twenty-four articles in refereed and/or professional journals and has authored five technical reports. Dr. Reynolds currently serves on the editorial board of the New Zealand Journal of Educational Leadership, and is Chair of the Learning Partnership's national selection committee for Canada's Outstanding Principals. The Terms and Conditions of the appointment were provided in the background documentation.

Following a detailed discussion, the following resolution was passed:

**RESOLVED:**

That the Board of Regents approve the appointment of Dr. Cecilia Reynolds as Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies, and Professor in the Department of Gender Studies effective April 1, 2013 and as outlined in the background documentation.

**5952. ANY OTHER BUSINESS**

1. National Day of Action and Remembrance on Violence Against Women

Dr. Kachanoski reminded members that today is the anniversary of that terrible day on December 6, 1991 when 14 women died when a shooter staged an attack at Montreal's École Polytechnique. The shooting came to be known as the Montreal Massacre. In 1991, Parliament declared December 6 the National Day of Action and Remembrance on Violence Against Women. Each year in remembrance of the Montreal Massacre and in recognition of Canada's National Day of Remembrance and Action to End Violence Against Women, Memorial and members of the St. John's community participate in a vigil.

In this regard, Mr. Michael Walsh advised that the vigil would begin at 6:30 p.m. in the S.J. Carew Building and would consist of a candlelight procession by Memorial University students, readings and dedications, music performed by the School of Music's SUNCOR Quartet, information and booth displays.

2. Date of Next Meeting

The next regularly scheduled meeting of the Board of Regents will be held on February 7, 2013.

**ADJOURNMENT**

The meeting adjourned at 5:55 p.m.

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**CHAIR**

\_\_\_\_\_  
**SECRETARY**

\_\_\_\_\_  
**DATE**