FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES

AUDIT AND COMPLIANCE COMMITTEE WORKSHOP

Tuesday, September 10, 2019

COHEN CENTER, ROOM # 213
Florida Gulf Coast University

Meeting Minutes

The workshop was a voluntary attendance opportunity for the Audit and Compliance Committee and the other members of the FGCU Board of Trustees.

Members:
Present: Trustee Joseph Fogg III – Chair; Trustee Darleen Cors; Trustee Leo Montgomery; and Trustee Stephen Smith.

Others:
Trustees: Trustee Josh Ballin; Trustee Ashley Coone; Trustee Richard Eide, Jr.; Trustee Blake Gable; Trustee Jamie MacDonald; Trustee Robbie Roepstorff; and Trustee Kenneth Smith.

Staff: President Mike Martin; Provost and Vice President for Academic Affairs James Llorens; Vice President for Administrative Services and Finance, and Executive Director of FGCU Financing Corporation Steve Magiera; Vice President and Chief of Staff Susan Evans; Vice President and General Counsel Vee Leonard; Vice President for Student Success and Enrollment Management Mitchell Cordova; Senior Vice President for Strategy and Program Innovation Mike Rollo; Director of Internal Audit Bill Foster; Director of Equity, Ethics and Compliance, and Title IX Coordinator Precious Gunter; Director of Operations Tiffany Reynolds; Assistant Director of Board Operations Tiffany Jackson; Project Manager Melissa Pind; and Executive Assistant to the Vice President and Chief of Staff Bruna Ugolotti.

Item 1: Call to Order, Roll Call, and Opening Remarks
Chair Joseph Fogg called to order the September 10, 2019 Audit and Compliance Committee Workshop on Senate Bill 190 (SB190) at 12:56 p.m. He stated attendance at the workshop was voluntary; therefore, roll call would not be taken, and no action would be taken by the Committee. He welcomed non-Committee-member Trustees from the Board. He stated that the workshop was noticed as a public meeting of the Committee. He called on President Michael Martin for opening comments.
President Martin thanked Chair Fogg for organizing this workshop. He stated the policy environment in which FGCU functioned was a perpetual work in progress, and he believed it was appropriate to pause and understand how the rules might be changing. He thanked Vice President for Administrative Services and Finance Steve Magiera and Vice President for Student Success and Enrollment Management Mitch Cordova for making today’s presentation in an effort to explain what this particular piece of legislation may mean for FGCU.

Chair Fogg noted the idea for the workshop emanated from the Audit and Compliance Committee conference call meeting in June. He called on Mr. Magiera and Dr. Cordova to present the on Senate Bill 190.

**Item 2: Workshop on Senate Bill 190 (Presentation and Discussion) (TAB #1)**

Mr. Magiera reported he and Dr. Cordova reviewed Senate Bill 190 (SB190), removed anything unrelated to universities, and compiled a list of talking points intended to highlight the items they felt to be pertinent to FGCU. He noted that he and Dr. Cordova still had many questions regarding SB190 and had asked the Board of Governors (BOG) for clarification on a number of items; the BOG was attempting to obtain clarification as well.

Mr. Magiera stated the first section he would review was Auditor General Duties. He explained the Legislature was instructing the Auditor General to audit carryforward funds annually. He explained auditors often did cycle auditing; however, the Legislature was requiring carryforward funds be audited annually rather than in cycles. He briefly explained carryforward funds and the process for submitting the University’s plan to use carryforward funds to the BOG for approval.

He reported the BOG-appointed accounting firm of Crowe LLP would review internal controls regarding carryforward funds at each university in the State University System (SUS). He noted Crowe LLP started its evaluation site visit at FGCU yesterday and would be finished before the week’s end. The firm will present a preliminary report on all the universities to the BOG in October.

Chair Fogg asked if the Audit and Compliance Committee was allowed to substantially rely on the audit prepared by Crowe. Mr. Magiera responded in the affirmative.

Mr. Magiera stated the next section was the Legislature’s instructions to the BOG regarding Trustee training. He explained the BOG was required to develop and annually deliver a training program for members of each university’s boards of trustees that addressed the role of the Trustees in governing resources and protecting the public interest as stewards of those resources. He noted Trustees were required to participate within one year of appointment or reappointment. He said, as Board Chair Gable previously stated, there would be a Trustee Summit at the end of October. He explained the training programs must include:
• Statutory, regulatory and fiduciary obligations of the board.
• Internal control process and accountability for the president and other administrative officers.
• College affordability – minimize costs of fees, textbooks and materials.
• Creating university rules and regulations.
• Institutional ethics and conflicts of interest.
• Best practices for BOT governance.
• Understanding national and state current issues in higher education.
• Any other responsibilities the BOG deems necessary.

He noted that when implemented, this training program would be a presentation from the BOG to the Trustees.

Chair Fogg noted that he was particularly interested in seeing how the BOG would address point 2, “Internal control process and accountability for the president and other administrative officers.” He stated that with existing Sunshine Laws, he was not sure how point 2 was possible and where the Trustees would obtain the information.

Mr. Magiera stated the BOG was going to define the data components and methodology used to implement Preeminent Research (1001.7065) and Performance-Based Funding (1001.92). He noted each university would conduct an audit and the results were to be submitted to the BOG Office of Inspector General. He reminded the Board that in the past several years, the university had used an outside firm to perform the audit of performance-based funding numbers. He said the FGCU Office of Internal Audit would conduct the audit internally this year.

He stated the BOG was required to enter into an agreement with the Department of Economic Opportunity that allowed access to individual reemployment wage records for the purpose of auditing and evaluating higher education programs offered by state universities. He noted he was unsure of exactly what this requirement meant, or if it would be in the best interest of the University.

He noted regarding Public Education Capital Outlay (PECO), the BOG would authorize and submit a prioritized list of projects that gave priority to previously approved projects which had not been completed, as well as the top two priorities of each university. He explained the BOG was to develop a points-based system based on the following criteria:

• Whether the project was funded previously by the Legislature.
• Whether the project represented a building maintenance project or repair of utility structure which was necessary to preserve a safe environment.
• Whether the project addressed the greatest current year need for space. For example, classroom space, research space, etc.
• Whether the project reflected a ranked priority of the submitting university.
• Whether the project represented the most practical and cost effective replacement or renovation of an existing building.
For new construction, remodeling or renovation project—whether it had a prior
appropriation, whether it had funding from other sources, or whether the
institution allocated funding equal to a percentage of the total project costs.

He noted universities were permitted to apply for funding for two projects; however, only
one was chosen for funding. Therefore, FGCU had only been applying for one project -
Academic Building 9 (AB9).

He stated SB190 included a section regarding new construction funding. He explained
the Legislature required for preeminent universities six percent of construction to be
budgeted from university funds for new construction; for emerging preeminent
universities four percent was required; and for all other state universities two percent of
construction cost was required to be budgeted for new construction.

He stated the project achieving the highest score for each criterion would be awarded
the maximum points. He noted new construction, remodeling, or renovation projects
that have not received an appropriation in a previous year would not be considered for
inclusion on the prioritized list.

He stated there were some rules which he had questions about such as “A plan is to be
provided to reserve funds in an escrow account into which shall be deposited each year
an amount of funds equal to one percent of the total value of the building for future
maintenance.” He said that the University would need to get a definition of
“maintenance,” and if that included electric bills, building cleaning, etc. He stated that if
FGCU followed the rule as it was currently written, it would drive up the carryforward
balance due to always putting in the one percent without knowing when it could actually
be used. Chair Fogg stated he understood FGCU was not required to follow these rules
until the BOG interpreted the rules and provided written instruction to FGCU. Mr.
Magiera concurred.

Trustee Robbie Roepstorff stated FGCU was required to be compliant with all Statutory
laws. She asked if Senate Bill 190 was in effect. Chair Fogg explained the Bill
indicated the “BOG shall make rules...” and he would not be surprised if the BOG went
back to the Legislature and requested a re-draft. Trustee Roepstorff stated she was
concerned about FGCU being caught in the middle and she asked if this Bill was
effective now. Mr. Magiera responded in the affirmative; however, he said this particular
section discussed new construction that had not previously received an appropriation so
this would not apply to AB9.

Mr. Magiera reported the Legislature also directed the BOG to look at space utilization.
He stated the space utilization method used in Florida was not consistent with the
national method, and this hurt FGCU. He explained space utilization reviewed how
much classroom space FGCU should have, how many teaching labs, etc., based upon
the size of the student body. He stated the formula being used in Florida was
detrimental to the SUS compared to other states. He explained, for example, that
FGCU was permitted a certain amount of classroom space, a certain amount of
research lab space, and a certain amount of teaching lab space; however, FGCU did not need the permitted amount of research lab space, but could use additional teaching lab space and classrooms. He noted it would be beneficial to use some designated research lab space for teaching labs; however, this was not permitted. He said that FGCU needed to get the Legislature and the BOG to allow the University to shift between the permitted space categories, and they were working to get that done.

He reported regarding the Oversight section, SB190 said the Chancellor might investigate allegations of noncompliance with any law or BOG regulation and determine probable cause; following this, the Chancellor shall report its determination of probable cause to the BOG, which may require the universities’ boards of trustees to document compliance. He noted the same rule applied to findings by the Auditor General, which meant a university was acting without statutory authority, or contrary to general law.

He called on Dr. Cordova to present the next section.

Dr. Cordova reported SB190 specifically stated each state university shall execute at least one “2+2” targeted pathway articulation agreement with at least one Florida state college. He reported FGCU currently was in the process of developing a memorandum of understanding (MOU) with the State College of Florida (SCF), specifically creating a 2+2 Targeted Articulated Pathway Program; the program is called “Destination FGCU: SCF/FGCU Targeted Pathways Transfer Program.” He explained the existing MOU with Florida SouthWestern State College (FSW) was being adapted to meet SB190’s provision. He stated there were nine programs that were specifically targeted for this articulation agreement:

- BA Biology
- BS Biology (Pre-professional concentration)
- BA Communication (Communication Studies)
- BA Communication (Public Relations concentration)
- BS Health Sciences
- BS Management (General Management concentration)
- BS Management (Human Resource Management concentration)
- BS Management (Sports Management concentration)
- BS Marketing

He explained FGCU created the draft MOU, and SCF currently was reviewing the draft. He noted FGCU was working to prepare the MOU for both institutions’ Presidents and General Counsels to sign. He noted an implementation MOU would then be signed by senior leadership in Student Success & Enrollment Management (SS&EM) and Academic Affairs at both institutions; both documents would address the specific criteria outlined in SB190. He stated FGCU would be updating the existing MOU with FSW to ensure it reflected the new changes identified in SB190, including updating the programs that they would specifically target. He said conversations had already begun between FGCU and FSW.
Trustee Jamie MacDonald asked that because a large population of FGCU students came from Broward County, would any consideration be given to the possibility of an articulation agreement with Broward College. Dr. Cordova responded in the affirmative. He explained once the articulation agreements were completed with FSW and SCF, they would be used as a template to partner with other state colleges across Florida.

Trustee Ken Smith asked if it would be possible for FGCU to create targeted programs in nursing and teaching with the state colleges. President Martin said he thought this was an excellent idea. Discussion ensued regarding the possible benefits of targeted 2+2 programs for teaching, nursing, and others.

President Martin noted the two-year graduation rate for an Associate of Arts (AA) degree in Florida was seven percent. He stated the three-year graduation rate for an AA in Florida was slightly above 31 percent. He stated FGCU made money with lower division coursework that subsidized the upper division coursework; therefore, FGCU needed the lower division students. He stated FGCU needed approximately 2,600 freshman students to enroll every fall to cover the bonds on the residence halls; therefore, it was important to consider the balance between transfers who were unlikely to live in the residence halls, and freshmen who were almost certain to live in the residence halls. He stated this balance was imperative. He explained FGCU wished to transfer students in, but not at the expense of the minimum level of first-time-in-college (FTIC) students necessary to fill the residence halls. Dr. Cordova reported 80 percent of freshman FTIC students lived in South Village.

Mr. Magiera presented the section on Excess Hours. He stated each university must calculate an excess hour threshold for each student based on the number of credit hours required for the degree. He noted if a student changed degree programs, the excess hour threshold must be adjusted only if the new degree required more credit hours than the previous degree. He stated the schedule was as follows:

- Fall 2009 – Summer 2011: 120 percent was permitted (144 hours); if a student went above 144 hours, the student was required to pay 50 percent more for each credit hour.
- Fall 2011 – Summer 2012: 115 percent was permitted (138 hours); if a student went above 138 hours, the student was required to pay 100 percent more for each credit hour.
- Fall 2012 – Spring 2019: 110 percent was permitted (132 hours); additional credit hours required to be paid at 100 percent more.
- Summer 2019 – Thereafter: 120 percent was permitted (144 hours); additional credit hours required to be paid at 100 percent more.

He noted SB190 required state universities to refund up to 12 excess credit hours if the first-time-in-college (FTIC) student completed the degree in four years after the initial start at the university.
He stated FGCU provided baseline notifications regarding excess hours to newly admitted, or returning students, at the end of the first term. He reported students were informed of the excess hours policy, individual thresholds, and attempted credit hours. He noted students with undeclared majors were calculated based on a 120-hour-credit program (the average) and then it was recalculated when a degree program was selected. He stated FGCU issued warning notifications to students who had attempted at least 90 percent of the credits required toward the degree. He reported students were reminded of the policy and encouraged to meet with an advisor. He reported despite those efforts, last year there were 387 students billed for excess hours, totaling $401,419.

Trustee K. Smith asked how excess hours were handled for students pursuing minor degrees. Dr. Cordova explained students were limited to two minors and these were calculated into the hours. Trustee K. Smith asked what happened when a student switched majors. He stated he felt charging students for excess hours was poor practice. He noted he understood the reasoning in theory, but in reality, students should be encouraged to find their life path and passion. He noted graduating high school students rarely knew what they wanted to do in life. Trustee Roepstorff noted this was why career centers were being initiated at the high school level -- to provide internships, and help high school students gain experience regarding life choices and career possibilities.

Trustee K. Smith asked how many other states had similar excess hour policies. President Martin said he had not yet experienced another state that had such a rigid cap on excess hours. Discussion ensued regarding excess credit hours, the desire of the Legislature to graduate students as quickly as possible, and the issues that could come from excess credit hours, such as when students changed their majors.

Dr. Cordova presented the next item. He reported SB190 was filled with Bright Futures language. He reported Bright Futures was the program set up by the Florida Lottery. He noted there would be two big changes in Bright Futures with SB190; one was the new criteria for receiving Bright Futures scholarships, and the other was the maximum number of credits a student could earn with Bright Futures funds.

He stated FGCU had Bright Futures Academic recipients and Bright Futures Medallion recipients. He stated that currently the Bright Futures Academic recipients were required to have a GPA of 3.5 or higher and a SAT score of 1290 or above, or an ACT score of 29. He stated the new Bright Futures SAT criteria required students to be in the 89th national percentile rather than achieve a certain score. He noted under the new 89th percentile criteria, 34 additional FGCU students (or 1.2 percent of the cohort) would now become eligible for the Bright Futures Academic scholarship. He stated the previous SAT criteria for the Bright Futures Medallion required a SAT score of 1290 and with the new SAT requirement set at the 89th national percentile, 74 additional FGCU students from the Fall 2018 cohort (or 2.6 percent of the cohort) would qualify for the Bright Futures Medallion scholarship.
He reported regarding the change of the 45-credit-hour maximum, Bright Futures Academic and Bright Futures Medallion students were now allowed to take more than 45 credit hours a year. He noted the State was rewarding ambitious students who wished to complete more than 45 credit hours annually. He said last year at FGCU, 58 percent of the Bright Futures Academic students took 30 credits or more, and three students took 45 or more credit hours. He said 53 percent of Bright Futures Medallion students took 30 credits or more, and 11 students took 45 or more credit hours.

Mr. Magiera presented SB190’s Carryforward section. He discussed the following SB190 requirements:

- Each University shall maintain a minimum carryforward balance of at least seven percent of its state operating budget. Failing to maintain the seven percent required submission of a plan to the BOG to get it refunded within the next fiscal year.
- Each university shall submit a spending plan for any moneys in excess of the seven percent. This is to be completed by September 1, 2020 and each September 1 thereafter.
- Universities may now commit funds to a Public Education Capital Outlay (PECO) project for which an appropriation has previously been provided that requires additional funds for completion. Mr. Magiera explained FGCU’s AB9 was an example.
- Completion of a renovation, repair, or maintenance project up to $5 million per project and replacement of a minor facility that does not exceed 10,000 gross square feet in size up to $2 million.
- Completion of a remodeling or infrastructure project including a project up to $10 million per project. The project must be survey recommended.

Mr. Magiera stated for the last five years there was no funding available for infrastructure, and he was pleased to see a method to obtain possible infrastructure funding being implemented. Additional SB190 carryforward requirements were noted as:

- Completion of a repair or replacement project necessary due to damage caused by a natural disaster.
- Operating expenditures that support the university mission and that are nonrecurring.

He reported the BOG’s staff met with the universities’ CFOs to define what was nonrecurring, which could be difficult. He explained many universities used carryforward monies to fund summer school, and although summer school happened every year and could be defined as recurring; summer programs differed every year and could also be defined as nonrecurring. He continued:

- Any purpose specified by the board or in the General Appropriations Act.
He noted he asked the BOG what “board” this requirement referred to; the BOG was unsure and would ask the Legislature. He continued:

- Annually by September 30, the CFO of each university shall certify the unexpended amount of Education and General Expenses (E&G) funds.
- A university may spend the minimum carryforward balance of seven percent if a demonstrated emergency exists and the university’s board of trustees and the BOG approve the plan.

He stated FGCU as a university located in Florida was subject to hurricanes. He stated he was unsure if FGCU would have enough time to get FGCU Board of Trustees (BOT) approval and Board of Governors’ approval for emergency expenditures prior to spending.

He noted many of the questions regarding SB190 would be clarified as the BOG continued its discussion with the Legislature. He stated as he was updated, he would keep the FGCU BOT and the Audit and Compliance Committee updated.

**Item 3: Closing Remarks, and Adjournment**

Chair Fogg thanked President Martin and the staff for today’s presentation of important information, and adjourned the workshop at 1:45 p.m.

Minutes prepared by Transcription Experts, and reviewed by Tiffany Jackson, FGCU Assistant Director of Board Operations.

Agenda Items:

A. See Tab #1


B. Handouts