President William C. Merwin convened the orientation meeting of the University Board of Trustees in the Sprint Room of the Whitaker Building on the Florida Gulf Coast University Campus at 8:30 a.m., September 20, 2001 with the following members present:

Brian Cobb
Larry Hart
Renee Lee
Bernard Lester
David Lucas
Scott Lutgert
Gerri Moll
Harry Moon
Edward A. Morton
Jerry Starkey
Linda Taylor
Michael Villalobos
Magali Solimono

Members of the staff present were:

William C. Merwin, President
Dr. James Koch, Consultant
Susan Evans, Special Assistant to the President
Brad Bartel, Provost
Curtis Bullock, Vice President, Administrative Services
John Crowley, Vice President, Advancement
Tom Healy, University Lobbyist/Executive Director Alliance for Educational Leaders

1. Welcome & Introductions – Bill Merwin, FGCU President

President Merwin recognized that this is indeed an historic occasion. This is the first meeting of the Florida Gulf Coast University Board of Trustees. He welcomed everyone and said that he is looking forward to working with each Board Member.
President Merwin stated that America has had a difficult time during the past ten days. It has been a time of tragedy and a time for patriotism. We had an event on our campus that was misguided, and though, unintentional turned out very wrong. He further stated that this institution is obliged to support and defend the Constitution of the United States and we continue to do that. There has not been, nor will there ever be, a policy which would in any way abrogate the Constitution of the United States and most particularly freedom of speech. President Merwin reported that he spoke to the Director of the Library and she is most apologetic about this matter. She submitted a formal apology and we have been involved in a damage control mode for a number of hours now. President Merwin stated that he came back to campus and held a press conference.

President Merwin stated that as a campus, we came together and sang, and grieved together at an event held last week because of the terrorists attacks in New York and Washington DC. President Merwin spoke with most members of the Board of Trustees either directly or indirectly. President Merwin asked that a Resolution be adopted by this Board of Trustees that speaks to the issue of patriotism and righteous values. He apologized that this celebratory occasion was started on such a somber note.

President Merwin reported that when the Board of Regents sunset on July 1st, the Florida Board of Education (FBOE) was created by Statute Senate Bill 1162. They created eleven Boards of Trustees with twelve members who were appointed by the Governor and will be ratified by the Senate at the first meeting of the year. The Statute also created a Council of Educational Improvement and Research. This is a successor organization to the Post Secondary Education Commission. Those three bodies in turn have latticework of bureaucracies and administrations that go with the huge task ahead of revising the School Code which is approximately 900 pages.

President Merwin stated the authority of the Board of Trustees is expected to grow, but it will require legislation to do so. There are certain elements that are within the Bill that provide direct authority to the Board. He stated that there are many others that are out there, which will require some amount of lobbying through the State Legislature to devolve those authorities previously held by the Board of Regents to this body. President Merwin stated that for our Board to become the flexible, nimble, and responsive organization that is expected, we would need those additional authorities moved forward. He stated that as he looks at all that has happened, perhaps the best thing of all of this change is that it has returned to the student—a student-centered seamless kindergarten through graduate school program. It places a great deal of responsibility at the local level with us—this institution. It will work because it focuses on our students. He stated that as President of this institution since arriving a couple of years ago and recognizing that this is his 17th year of being a university president, every day of his life he thinks of students. He stated that
whatever policies, practices and rules are put into place, our guiding lights should always be how would this affect the students of this institution? Shortly behind that is this community in Southwest Florida—how can we best serve the citizens of Southwest Florida?

President Merwin reported that he pulled together the Superintendents of Schools of the five counties, Lee, Collier, Charlotte, Hendry, Glades, the Presidents of Edison Community College, International College, Barry University, Walden Institute, and IFAS and suggested to them that we should form an Alliance for all these education leaders. He said that we needed to do something that could be called seamless and reported that today that organization is moving along beautifully and becoming a model throughout the State.

President Merwin introduced Dr. Tom Healy, the Executive Director of the Alliance of Educational Leaders. He and Pat Riley have brought us together to look at workforce needs. Our future is dependent upon the workforce and the economy of Southwest Florida’s need to diversify itself over the next few years. This institution will be a leader in keeping that course. President Merwin stated that having that Alliance in place to assist in areas such as teacher shortages would address those kinds of issues.

President Merwin reported that we are still in a start up mode. We are in our fifth year as an institution and Dr. McTarnaghan did a wonderful job in getting the institution up and running in a very short period of time. We have a superb faculty, staff and he believes the Trustees, will be very pleased with what you are being delivered upon your arrival. There is a great opportunity during a start up—we don’t have baggage that older institutions have. There is not a great, long, tradition of 150 years of “this is how we always did it” and there are some downsides to that too. We saw some of those in the last couple of years—we are still making up policies, procedures and rules as we go along. He reported he thinks we are nimble; there is an opportunity for us to become the real leader in the State. He would like our institution viewed as one mothers and fathers want to send their kids to for a good, solid, baccalaureate education. At the same time we can provide graduate studies which will improve the workforce in our area. President Merwin has a single vision for the institution. That vision is that we become the school of choice to fulfill that kind of promise. He pointed out that the Board would have a number of responsibilities—focus on the mission of the institution and the Strategic Plan. For the last few years, the institution has put a draft in place awaiting the Board of Trustees’ arrival. The Board of Trustees will have plenty of input into that Plan and the Trustees will help frame the mission of this institution.

President Merwin stated that his job would change drastically as he now has a new boss as of the first of July and the Trustees are it. He did not believe the faculty and staff’s day-to-day lives would be affected by the change of Board of Regents to a Board of Trustees, but his life would. He now reports directly to
the Board and the Trustees have an obligation to hire, support and remove a president. He asked Dr. Koch, our consultant, to talk about the responsibilities and obligations that type of position has. President Merwin reported that another responsibility of the Board is to provide resources, financial and spiritual ones on days such as yesterday. The Board has the authority to approve new programs and to delete other programs that are not necessarily functioning well. More importantly, the Board assures accountability by holding the President accountable and the President holds his staff accountable. He stated that in a future meeting he would address what some of those measures of accountability will be.

President Merwin said that he is confident that our Board of Trustees at Florida Gulf Coast University will provide a great benefit to our students of today and tomorrow. At this time President Merwin introduced each member of the Board of Trustees beginning with Gerri Moll.

Trustee Gerri Moll stated that she joined the Foundation Board in 1997, has been involved in the University for quite a few years, and also was part of the Presidential Search Committee that found and selected Bill Merwin to lead this university a few years ago. She is pleased to be here.

Trustee Edward Morton introduced himself as the former Chairman of the FGCU Foundation and like Trustee Moll, has been affiliated with the University right from the beginning. He also chaired the selection of our Athletic Director and a variety of other programs on campus. He is a native to South Florida and spent three years on active duty as a Captain in the United States Military from 1969 to 1972.

Trustee Linda Taylor reported she has been involved in the University since its inception as a founding member of the Foundation Board and served as chairperson of the Foundation. She was the founding chairperson of the Golden Apple Teacher Recognition Program, the Foundation for Lee County Public Schools and also was a Trustee at Edison Community College. She has had a great deal of experience with education as a teacher with a minor in business and has put together several public/private business partnerships. She lives in the Ft. Myers area and feels it is a real honor and privilege to be part of this University and part of this historic event.

Trustee Bernard Lester stated that he is very pleased to be with this Board of Trustees and has been involved with the University from inception. One of the things in following up President Merwin’s remarks, is that the community has shown exceptional support for this University from the very beginning and without that we probably would not have been located here because there were other competing areas of the State that wanted the 10th University. The community showed support because they were interested in a program that was going to benefit not only the students, and place those students in the community,
but they saw their opportunity to be involved in how those students are trained and how they could work very closely with the University on various projects. He is very certain that the University has met that intent from the very beginning and he looks forward to being part of this Board as we develop those policies.

Trustee Brian Cobb introduced himself as a newcomer as far as FGCU is concerned and his background is in the broadcast business. He specializes in mergers and acquisitions of radio and television stations and also owns some. He has been heavily involved in the Naples Education and Children Foundation. He is excited to be here and plans to listen and learn from the information provided at this meeting.

Trustee David Lucas introduced himself as a resident of Ft. Myers since 1984 and is very pleased to be a part of this University. As a company and individually, he has supported FGCU through the golf tournament, which has been a significant fundraiser for the University. He is looking forward to learning about the system and any opportunities.

Trustee Larry Hart stated that he was born and raised in Lee County and spent the last twenty-two years in law enforcement and the last six years as Chief of Police for the City of Ft. Myers. He had decided to retire recently and is here to work with the University to assure that the students are our priority and that we continue to provide a high quality of education and support our president. He would like to assure that community needs are met and provide support for our students, and staff as well.

Trustee Harry Moon stated that he has been in the healthcare business for a good while and one of the great joys of his life has been the development and building of programs for institutions that will have lasting benefits. He feels this dovetails well with what we are working on here, to have Florida Gulf Coast University fulfill its destiny and its greatness and be a resource to this community. He also asked to take a moment to compliment President Merwin on his handling of the recent situation on campus. He feels greatness comes from overcoming adversity and we are fortunate to have a leader such as Bill Merwin in this capacity. He looks forward to working with all Board Members with great enthusiasm.

Trustee Scott Lutgert introduced himself as someone who has lived in the Naples area since 1970, moving from Chicago after receiving an MBA from the University of Chicago. He is a former math teacher which he enjoyed and his family has been in business in Southwest Florida for a number of years. His family has been a great supporter of education in the areas of Golden Apple and this University as well as other charities. He is happy to lend his time to help this institution.
Trustee Magali Solimano is the only elected member of this Board. She is from Pensacola, Florida and is a junior with a major in finance. Magali was elected Student Body President in May.

Trustee Renee Lee stated that she is the attorney for Charlotte County and is actually the only Charlotte County representative on this Board. She plans to fight long and hard for what Charlotte County wants. Education has always been an important factor for her, and she has remained involved in mentoring students, serving on advisory boards and serving as an adjunct professor at universities. She feels this Board has a responsibility to provide the best education we can to students and a healthy workforce for employers in the future. She looks forward to working with the others to accomplish this.

Trustee Jerry Starkey introduced himself as the CEO of WCI Communities and lives in Ft. Myers. His company employs approximately 4,000 throughout the State with about a fourth of those locally. He has had the pleasure of hiring many of the graduates and students that attend the University here. He is very happy to be a part of the Board. He believes those who have preceded the Board of Trustees have done an excellent job and we have a fine institution for our community. He looks forward to being part of it as we move forward.

Trustee Michael Villalobos stated he is a thirty year resident of Ft. Myers, raised and educated here and currently the President of the Hispanic Chamber of Commerce. They have worked this year with the University student population and staff. He and Dr. Healy will be traveling to the Dominican Republic in 4-5 days for a trade mission. He reiterated the sentiments of other Board members that this is an historic opportunity and he is very proud and thankful that he has the opportunity to be part of this.

2. Election of Board of Trustees Chair & Vice Chair

President Merwin stated that he is very pleased to be working with each member of this Board of Trustees. He moved to the business of election of the Chair and Vice Chair. He will then turn the gavel over to the Chair and we will proceed with the orientation session.

Acting as Chair, President Merwin introduced a motion of nomination. Trustee Moon stated that he would voice the name of Scott Lutgert as Chairman for discussion. President Merwin stated that the name of Scott Lutgert has been introduced as Chair of the Florida Gulf Coast University Board of Trustees. Trustee Hart seconded that motion. President Merwin asked for other nominations. Seeing no other nominations from the floor, President Merwin asked for a vote. Motion carried unanimously.
Chairman Lutgert stated that he is honored to serve as the Chairman of the Board of Trustees, takes that responsibility very seriously, that he appreciates the confidence. He would like the group to know that he hopes we will have a Board which allows participation from everyone and respects diverse opinions and feelings. He stated that once we make a decision he hopes we will move on for the best of the University.

Chairman Lutgert announced that the next order of business is the election of the Vice Chair of the Board of Trustees. Trustee Villalobos nominated Linda Taylor as Vice Chair. The motion was seconded by Trustee Lee. Seeing no other nominations, Chairman Lutgert called for the vote and motion carried unanimously.

Vice Chairman Taylor stated she takes this office very seriously and looks forward to working with Scott, the rest of the Board, and Bill to develop a world-class University here at Florida Gulf Coast University.

Chairman Lutgert requested a moment of silence for the victims of the recent tragedies and those involved in the rescue efforts.

Chairman Lutgert requested that President Merwin present a Resolution to address the recent incident on campus related to patriotism and then give Board members the opportunity to comment regarding this matter.

President Merwin stated that he asked the staff to develop a Resolution for consideration by the Board as follows:

Approved October 25, 2001
A Resolution of
The Florida Gulf Coast University Board of Trustees

WHEREAS, the Florida Gulf Coast University Board of Trustees recognizes that Florida Gulf Coast University is an institution of higher learning proud to be located in the United States of America; and

WHEREAS, Florida Gulf Coast University is dedicated to the democratic ideals that are at the very foundation of our great nation; and

WHEREAS, the United States and its citizens have suffered at the hands of terrorists whose September 11 actions on American soil were unsuccessfully aimed at undermining our freedom and democracy; and

WHEREAS, Americans have exhibited extraordinary unity and patriotism in the face of this adversity; and

WHEREAS, Florida Gulf Coast University trustees, students, administration, faculty and staff applaud the patriotic and heroic actions displayed by Americans far and wide;

NOW, THEREFORE BE IT RESOLVED that the Florida Gulf Coast University Board of Trustees expresses its complete support and highest regard for the patriotism that characterizes the United States, and affirms the University’s commitment to democratic ideals that are the envy of nations throughout the world. The spirit of America is strong and flourishing on the University campus in unity with all others who stand tall for this great country we call home.


SIGNED:

Chair
The Florida Gulf Coast University Board of Trustees

Trustee Lee moved to approve the Resolution. Trustee Moll seconded the motion. Trustee Morton stated that it is his hope that this incident has brought to light an issue that difference of opinion must not only be tolerated, but must be encouraged on the University campus and that means conservative points of view should not be vilified or held in any more or less esteem. He feels that this Country needs to begin reevaluating this era of political correctness in which we try not to run the risk of offending foreign
students as opposed to chilling the ability of someone’s right to express their own personal opinion. He feels that we must understand the fundamental principles that this Republic came from and it is not based upon a concept that is taken lightly by many of us.

Chairman Lutgert echoed Trustee Morton’s comments and said that he hoped we would not get to the point where we don’t stand for anything and certainly we do. Trustee Lee shared that she did receive a letter from Representative Lindsay Harrington regarding this incident and would like to enter this into the minutes (Appendix A).

President Merwin acknowledged that he had responded to the letter and noted that Representative Harrington was calling to our attention our responsibility as a University to respond as patriots as well as educated citizens. He has received over 400 emails and other forms of communication in the last 24 hours and has responded to each one. He has supplied copies of his blanket statement for all Trustees and appended a copy of the employee’s official apology.

Chairman Lutgert called for the vote and the motion carried unanimously.

Chairman Lutgert reiterated the historic opportunity this meeting has, and that one of the most significant things is that we now have across the State, local input and control for the University and this will give community members an opportunity for input. In particular, he feels we will now have more student participation through the Board of Trustees and our efforts should be toward the benefit of students. Mr. Lutgert then turned the program over to President Merwin.

3. President’s Report

President Merwin reported that the PowerPoint presentation he would display was designed to describe our institution briefly and historically and help the Board understand where we are today and a synopsis of where he thinks we ought to be going. He stated that Susan Evans would work with him on this presentation. President Merwin introduced Susan as the Liaison to the Board of Trustees and Special Assistant to the President and Board members should feel free to call upon her for assistance. (Appendix B)

Trustee Morton stated that the enrollment of FGCU has risen significantly and he believes that is attributable to the management of this institution that he has witnessed in the past twelve months. He feels the University has made an incredible effort to try and get the message of this institution out to the young people in this community.

Chairman Lutgert asked what was the current FTE enrollment? Dr. Bartel estimated 2400 FTE. He also asked which disciplines in Graduate enrollment had increased significantly. Provost Bartel stipulated that the 80% figure refers to the newly admitted student increase. There is a great surge in the College of Education and the College of
Business which is nearly at capacity. Health Professions has added some new programs that have seen increases as well. Provost Bartel stated that graduate students comprise approximately 20% of our total. President Merwin continued with the PowerPoint presentation to its conclusion.

Chairman Lutgert stated President Merwin’s progress here has been incredible and the focus on the School of Choice and quality education is to be commended. He also announced a ten-minute break at this point in the meeting.

Chairman Lutgert asked for introductions from members of the audience. After introductions Chairman Lutgert turned the meeting over to President Merwin for the introduction of our next speaker.

4. **Trustee Orientation: “Authority and Responsibilities of Trustees” - Dr. James Koch**

President Merwin introduced Dr. James Koch, President Emeritus of Old Dominion University where he served as President for eleven years. Prior to that time Dr. Koch served as President of the University of Montana which is where their paths crossed in the late 1980’s. He is a graduate of Northwest University and holds a Ph.D. in the field of economics. He has vast experience which includes a Vice Presidency for Academic Affairs, a Dean for the College of Arts and Sciences at Ball State University, and University of Rhode Island. Dr. Koch has worked with Boards of Trustees which is President Merwin’s reason for bringing him here today. He and Dr. James Fisher wrote a book about The President and The Board and its relationship. He has written extensively in this area. He had a strong relationship with the business community while serving at Old Dominion University. He was recognized as one of the more entrepreneurial university presidents in the country and always had a way of advancing the business community’s cause, while at the same time, advancing the causes of the university.

Dr. Koch addressed the Board of Trustees. His presentation is outlined in Appendix C. After the presentation, President Merwin asked for comments or questions from the Trustees for Dr. Koch.

Chairman Lutgert asked for questions or comments from Board members. Trustee Morton asked if it would be helpful to have a job description of the President in order to have a frame of reference that would guide Board members. Dr. Koch stated that a job description would be helpful with the caveat that it is an unpredictable job as shown by the last few days’ events, and that the job description must be broad enough to include the unanticipated.

President Merwin stated that there is currently a job description which is included in Statute, and that at the next meeting he will include a way of evaluating with some specific benchmarks and performance criteria. The Board will also receive a copy of the President’s compensation package in time for the next Board meeting.
Chairman Lutgert asked for clarification from Dr. Koch regarding his caution to Board Members related to candid evaluations not surfacing in public and the Sunshine Law and he asked how this would work. Dr. Koch stated that Florida is an exception to the rule because of the Sunshine Law. Clearly the Board should never come close to violating the law, however, it is unlikely that it is possible to have a candid evaluation in this circumstance. The really candid kind of evaluation could happen one on one when each member of the Board sits down with the President.

Trustee Cobb asked if it was possible to relay information to the Chair related to evaluation of the President. Dr. Koch stated that to his understanding that would be a violation of the Sunshine Law. Mr. Cobb then asked Dr. Koch if he felt there should be an Executive Committee. Dr. Koch said that he felt there should be an Executive Committee but this should not be in lieu of the Board. An Executive Committee is helpful to act between meetings of the full Board, recognizing that the entire Board will approve these actions at their next regular meeting. Dr. Koch advocated an Executive Committee comprised of Board officers and Committee chairs. He felt it should meet only as necessary. Dr. Koch stated that he recommends that Board members could meet with each other, but the meetings must be announced.

Susan Evans stated that if any items are discussed in-between meetings there must be a notice within reasonable time and that currently we use the University web site to notice the meetings. Board members should notify Susan Evans so that meetings can be noticed on the web.

Trustee Lester asked Dr. Koch for his recommendation on how the Committees should function. He asked if they should meet at the same time as the Board or would they be prior to the general Board meeting? Dr. Koch stated that large institutions have committees that meet weeks before Board meetings. Dr. Koch suggested the first day of the Board meetings could include committee meetings and then the Board as a whole would accept reports from the Committee.

Trustee Morton stated that the By-Laws of Corporation would lay out the road map to follow. Dr. Koch stated that it is important to have a set of guidelines that might not be called By-Laws which outline how the Board does business.

Chairman Lutgert stated that it would be important to place in the Practices and Procedures an amendment procedure by a simple majority because we are a new Board and as time goes on we will be learning about what we want to do.

President Merwin stated that the President’s staff sent out Practices and Procedures through the Transition Subcommittee and then under separate cover, Board members received a set of By-Laws. These were from a group that we have worked with in Coral Gables and they suggested an Executive Committee. Another consultant who wants the Board’s business sent these By-Laws and the Board has some choices to make. President Merwin is leaving this open for the Board’s decision.
President Merwin asked Dr. Koch for his opinion related to hearing from the public on issues germane to the agenda. He feels there needs to be some sort of procedure and that it needs to have a place on the agenda. Dr. Koch recommended the Board adopt a policy that charges the President with ensuring that the Board hears from a wide variety of individuals from campus and community. The Provost should be bringing in individuals from various academic programs to get a feel of what is going on. For other individuals who wish to address the Board, they should do that through the President. It is the President’s duty to schedule those individuals and if he decides he will not allow someone to speak, then this is something that should be discussed with the Chair of the Board.

Trustee Lee stated that she has experienced many of the matters discussed in Dr. Koch’s presentation. She would like to know how problems are corrected and by whom. Dr. Koch stated that the Board Chair should address these matters.

President Merwin asked Dr. Healy to address why the Transition Subcommittee did not recommend the formation of an Executive Committee at this time. Dr. Healy stated that because Board members are so close geographically, we could always get a majority of this Board together. It was felt by the group that it would be best for the Board to operate as a whole. President Merwin indicated that the way the committees are set up the committees would meet as a whole, and the Chairman would turn it over to the Chair of the Academic Student Committee. Then the Finance and Administrative Committee would do their business.

Trustee Taylor asked how you prevent Board members from taking a special interest and directing staff members outside the President. Dr. Koch stated that it must be stressed to every Board member that regardless of their responsibility they should be taking a University-wide view of things, secondly the Committee should understand that they are making a recommendation to the entire Board, and thirdly, it is inappropriate for a Board Chair to be in direct contact with an individual Vice President. A Board Chair or Committee Chair should be working through the President. President Merwin stated that he does plan to designate his Vice Presidents as staff liaisons to each Committee.

Trustee Morton asked whether we should or should not have a general counsel. He has read the State Statutes regarding indemnification and he would like to know if anything with respect to indemnification should or should not be included in the Practices and Procedures. Trustee Morton also wished to discuss the Board of Trustee’s relationship with the FGCU Foundation. Dr. Koch stated that legal representation for the Board is important. President Merwin acknowledged that every University in the System has legal counsel except FGCU. He indicated that the attorney assigned to us through a local firm, Mr. Whitesman, would be here this afternoon. President Merwin reported that he has requested funds for a full time attorney through the Secretary of Education and that matter has been taken under advisement. Mr. Whitesman will address indemnification.
Board members thanked Dr. Koch for his presentation. President Merwin announced that lunch would be served for Board members and the President’s immediate staff. Trustee photographs will be taken and then a tour of campus will be provided. Trustees should convene again at 2:10 p.m.

5. FGCU Board of Trustees – Discussion/Action Items:

Chairman Lutgert asked that the items designated for discussion at 3:30 p.m. be addressed now because Trustee Villalobos must leave early. Seeing no objection, Trustee Lutgert asked for discussion to begin on:

A. Discussion and Approval of Board Practices and Procedures

Trustee Cobb asked whether the Board would like to convene an Executive Committee. Chairman Lutgert felt that there should be an amendment procedure that would allow Trustees to amend these procedures by simple majority vote. Trustee Villalobos asked whether these should be submitted as By-Laws, Practices and Procedures or both with a general form of By-Laws or use this document as our By-Laws.

Chairman Lutgert introduced Guy Whitesman. Mr. Whitesman reported that the idea of stating explicitly that these may be amended by majority vote of the Trustees is a great idea. As far as adopting By-Laws, what Mr. Whitesman would suggest is to hold off on doing that and mark these as “interim” because the Board of Education will be making pronouncements from now and through its existence which will have an effect on Boards of Trustees for all universities and we may want to give ourselves some time to see what those pronouncements will be. A lot of what the Board of Regents has done has already transferred over to the Board of Education and it becomes their responsibility. The Statute indicates they have to make recommendations after the transition and further regulations and Statutory changes by January 1, 2002. What Mr. Whitesman would like is that at each meeting, we monitor what is going on at the Board of Education and how other Boards of Trustees are reacting. Mr. Whitesman stated that we are a body corporate which under state law means that we were automatically body corporate when the law went into effect. These practices and procedures are practically the same thing as By-Laws. Mr. Whitesman said he looked at this as an ongoing process and would give it six months to see how the Board of Education is going to effect what we are doing here before we spend a lot of time trying to finalize our constitution. These initial Practices and Procedures designed by the University staff are based on the Statute and what we have to do. They are subject to the Board of Education Policy, and we have a duty as a Board to look after the University now and to be flexible at the beginning.
Mr. Whitesman stated if the Board members wished to call these Interim By-Laws, it would not have any effect legally.

Chairman Lutgert stated that no matter what these are called, we must maintain flexibility and modify these on a frequent basis. Secondly, he stated that if there is anything substantive that is not in the document, the Board should deal with that matter. Trustee Morton stated that he would like something in the Policies and Procedures which addresses indemnification immediately. Mr. Whitesman stated that the Board of Trustees has the authority to indemnify and hold harmless its members and so you may adopt a resolution to that effect. He reported that the Board also has the ability to purchase D & O insurance. Mr. Whitesman’s suggestion is that today the Board resolve to indemnify and hold yourselves harmless for all matters except criminal behavior and intentional malfeasance to the fullest extent allowed by law and that the Board consider requesting the University and its staff to explore the availability of directors and officers insurance with other units, for example Mr. Bullock indicated that the FGCU Foundation has insurance and we may be able to add this Board. Mr. Whitesman noted that the other possibility might be an interlocal agreement with the other Boards of Trustees if that might bring costs savings.

Trustee Morton moved that we adopt Counsel’s language for indemnification of the Board. Motion was seconded by Trustee Villalobos.

Trustee Moon asked where we stand in terms of sovereign immunity. Mr. Whitesman reported that we are a State agency and sovereign immunity would cover our actions. Mr. Whitesman believes that at most state agencies and universities the State Risk Management Self Insurance Program will handle 90% of those kinds of things. It is not unusual for Boards like ours to consider D & O insurance.

Trustee Lee stated that there were some exceptions made to the indemnification and it was limited to criminal activity and malfeasance. Mr. Whitesman stated that we would not want to use public funds to defend a Board member who actually conducted criminal activity or intentionally created a problem. Mr. Whitesman recommends a very broad indemnification until he is able to present a couple of alternatives and maybe send those ahead of time for the October meeting. Trustee Lutgert called the question. Motion carried unanimously.

Trustee Morton asked what the counsel’s opinion is related to the efficacy of a general purpose business resolution which empowers the Chairman and President to conduct business on behalf of the Corporation. Chairman Lutgert stated that there is substantial statutory regulation that governs the power and duties both for the President, the Board of Trustees, the Chair and Vice Chair. Trustee Morton asked what is the efficacy of having the Assistant Secretary,
Susan Evans, execute documents. Mr. Whitesman responded that by Statute the University President has the authority to approve, execute and administer contracts on behalf of the University Board of Trustees and does not believe it is necessary to take any other action.

Chairman Lutgert suggested that the staff and Mr. Whitesman put together a summary of items that relate to the duties and powers of the Board of Trustees for the next Board of Trustees meeting.

President Merwin stated that he plans to seek approval by the Board of each contract that comes through. He referred to the recent Naples Center contract which is currently being done through the Foundation, but it appears that there may be some advantage to that contract going through the State and Vice President Bullock will provide a resolution at the next meeting on that matter. It is President Merwin’s understanding that in the meantime he has the authority to conduct the transaction.

Trustee Morton acknowledged that the purpose of his comments was to make that authority of the President unequivocal. He wanted to have the matters that the Chair would be doing clearly articulated. Chairman Lutgert agreed that it would be helpful to have this information supplied at the next meeting. Trustee Lee agreed that once the Board approves any and all documents that are related to a transaction, it should be able to be signed by the President. President Merwin indicated that it would also be important that the Board officially approve the appointment of the President at the next meeting. Along with that, President Merwin would share performance instruments and benchmark indicators on ways in which the Board could evaluate the President. He will also share the compensation package of the President at the next meeting.

Mr. Whitesman indicated that in Statute 229.008(5) it does delegate the power to the President that is vested in the Board. Chairman Lutgert agreed with President Merwin that since the Board is responsible to hire and evaluate the President it would be appropriate for us to review and affirm this situation. Chairman Lutgert suggested that The Board move item 3. Public Input to later in the normal meeting and put that after New Business.

Dr. Healy asked Board members to turn to page 3., where it says “Appearance Before the Board” “everyone will be granted a reasonable opportunity to be heard on the agenda items.” The idea for this is that if someone wants to speak on agenda item 4, the Chair would recognize him or her before the Board takes a vote. Dr. Healy advised that if someone wants to address an item that is not on the agenda, they would make a request under page 4 “a person desiring to appear before the Committee shall make such a request to the President” and they would make that request to President and
the President would decide if that is an issue that needs to be addressed at the end of the Board meeting or at the next Board meeting.

Trustee Villalobos pointed out that this is listed as a separate item and when we have agenda items we will have public input. He feels that any item this Board will decide upon, the Board should give the public reasonable opportunity to speak on the agenda item.

Chairman Lutgert agreed with this and said there needs to be clarification on this and that public input on each agenda item is absolutely appropriate. Chairman Lutgert felt that public input could be placed between items 7 & 8 prior to the remarks. President Merwin indicated that staff would develop a procedure for public input. Trustee Lee moved to amend the agenda to place public input between items 7 & 8 seconded by Trustee Moll. Motion carried unanimously.

Trustee Villalobos made a motion that an amendment procedure of a simple majority of the members present which has a quorum be added to the Practices and Procedures. Seconded by Trustee Starkey. Motion carried unanimously.

Trustee Lee asked that on page 2, item G. (1) it indicates “ that the Board may use telephone conference calls and other communication and media technology to conduct Board business in the same manner as if the proceeding was held in person “ Trustee Lee asked how we comply with the Sunshine Law when conference calls are used. Mr. Whitesman answered that the mechanism would be the same and we would need to make public facilities available for the public to attend. He said that it does not excuse us from following the Sunshine rules. Mr. Whitesman stated that this section allows a Board meeting by teleconference but does not allow a Board member to attend by teleconference. He stated that if the Board approve a member’s attendance by telephone conference at the very beginning of the meeting, it would be possible to do so.

Chairman Lutgert outlined the committee structure of the Board of Trustees. He reported that there are two committees of the Board, and as Chairman, he is responsible for the appointment of the chairs of the committees and also for the members of each committee. Mr. Lutgert asked that Board members let him know or Trustee Taylor know which committee you have interest in, and they will make those assignments.

Trustee Solimano referred to committee descriptions and responsibilities on page 3, Section 5. (B), Academic/Student Affairs Committee, “shall review and recommend for consideration by the Board, policies related to academic functions of the University, she moved to add “between academic and functions “and student” since the Committee is Academic and Student Affairs
Committee. Motion was seconded by Trustee Lee. Motion carried unanimously.

Trustee Lucas asked if there should be separate committee meetings on separate days. He wondered if committees would be constrained by the full Board attendance. Trustee Cobb felt that initially the Board could see how this works and then decide later if this approach is working. Chairman Lutgert felt that the full Board is actually the Executive Committee and we should keep this structure in the foreseeable future. Trustee Lester stated that if we do it that way, we are operating as a whole with someone other than Chairman Lutgert as Chair and perhaps this is what we want to do. Trustee Lester feels that if the committees are split in two with six members each, those members would become more adept in what is going on in that area and would report back to the Board. Otherwise he feels all of the Board members will be on both committees. Trustee Starkey felt that there is merit to having two separate committees from the beginning even if there is full discussion allowed at the meeting but all of the committee’s business is not likely to be conducted in the time allotted here and the committees most likely will need to notice interim meetings between Board meetings.

Chairman Lutgert stated that procedures actually allow for Committee Chairs to call the Chair and give notice of the meeting so that the interaction between Board members is in the Sunshine. Trustee Moll stated that she would like to see us tighten up the agenda and enable the Board to get down to a one-day meeting.

President Merwin answered Trustee Cobb’s concern that using the former Board of Regents’ model, on a whole, only the committee members participated in the committee meetings, but the advantage was that all the staff was there and he believed that a sense of community eventually developed and nothing was secret. He felt it would be good to see this model in operation for a while and then change it if it does not work for this Board.

President Merwin outlined potential agenda items for the next agenda to include By-Laws; there will be three or four programs that will need to be proposed. That will be the work of the Academic Student Affairs committee. Also, the signing of a lease agreement for the Naples Center, performance standards for evaluation of the University President, and the information for confirmation of the President will be other items. President Merwin has asked that Curtis Bullock give a complete description of the fiduciary operation of the institution and Dr. Koch will go through his workshop with the Board on these matters.

Trustee Taylor asked if the President has a contract and does the Board need to assume that contract. President Merwin stated that by Statute the Board already has affirmed that contract through Statute 1116. Trustee Cobb
asked if at some point the Board should review the statutory responsibilities and affirm them. Trustee Lutgert stated that the Board would adopt some benchmark standards for the performance of the President in addition to reviewing his contract and his compensation. He felt there ought to be some accountability standards that the Board reviews to evaluate his performance. President Merwin stated that the staff is preparing this material now and will make certain the Board receives this before the next Board meeting.

Trustee Moon asked if there is any reason that the Board should not affirm or reaffirm the President’s appointment today. Chairman Lutgert responded that there was no reason this could not be done at this meeting. Trustee Moon moved to reaffirm President Merwin’s appointment. Seconded by Trustee Moll. Motion carried unanimously. Mr. Whitesman requested that the minutes reflect that the Board affirmed the appointment of President Merwin rather than approved a contract it has not studied.

Chairman Lutgert requested that the Board hold committee meetings in conjunction with the full Board and after the Board has had some experience with that method, we can see if a change needs to be made to separate meeting dates.

Trustee Hart asked that as we prepare the final Interim Practices and Procedures document, he hopes the it will be uniform with State Statute so we are not going back and forth. Mr. Whitesman stated that it would be easy to intersperse the statutory basis for what is in the document.

Trustee Taylor asked if a Compensation Committee would be comprised by the full Board. Chairman Lutgert stated that at the moment that would fall under the Administrative/Finance Committee.

Trustee Villalobos asked when the committee chairs and members would be appointed. Chairman Lutgert announced that he would like to do that prior to the next meeting and would like everyone’s preference of which committee you have interest in for committee appointment. Mr. Whitesman asked that Susan Evans receive the calls related to committee interest.

Trustee Moll moved to approve the Interim Practices and Procedures as amended. Motion was seconded by Brian Cobb. Trustee Morton stipulated that this is a work in progress and will be amended in due course. Motion carried unanimously.

B. Discussion and Approval of Meeting Schedule (Appendix D)

President Merwin stated that the University calendars have been cleared for these dates including his own and the room has been secured for this purpose which is one advantage of approving this list. Chairman Lutgert said
that he hoped to be able to get these meetings down to one full day. Trustee Lee noted that she does have some potential conflicts with some of these dates. Chairman Lutgert stated that three consecutive meetings missed are not acceptable and the Chair must write a letter to the Governor. Trustee Lee asked if there are excused absences. Mr. Whitesman said that if there is a way to know ahead of time that a member is able to attend by telephone, then the Chair and staff can check to see if it’s possible to accommodate attendance by conference call.

Trustee Lucas moved that the Board accept the proposed meeting schedule. Motion was seconded by Trustee Lee. Mr. Whitesman recommended that a procedure be established with regard to the attendance of meetings by conference call with known schedule conflicts. Motion carried unanimously.

C. Discussion of Board Committees

Chairman Lutgert announced that there was no approval needed on this item, just discussion.

D. Discussion and Approval of University Seal

Chairman Lutgert asked Trustees to review the copy of the proposed University Seal. Trustee Moll moved that the Board approve the University Seal as proposed. Motion was seconded by Trustee Lee. Trustee Lee asked whether the Seal should reflect Ft. Myers, Florida and is there a school motto.

Audrea Anderson, Associate Vice President for Advancement answered that the Seal was formed through the use of the date the University was established, and the words, Knowledge, Truth, and Wisdom, those words came directly from the vision and mission statement of the University. Ms. Anderson also responded that the staff attempted to include elements that would reflect a general statement about the University’s emphasis on the environment. She also mentioned that if we put Ft. Myers on the Seal, we would not reflect our entire service district which includes five counties.

Trustee Taylor reflected on President Merwin’s comments that we should keep our University student centered and she thinks we have an opportunity by creating a brand new seal that could emphasize somewhere in the seal that we are student centered. Trustee Taylor did not see any reflection of this on the proposed seal. Ms. Anderson will take that particular recommendation to the artist and ask for a mortarboard silhouette. Motion was tabled.

E. New Business (Agenda Items for October Meeting)
Chairman Lutgert asked for any new business items and any items for the next meeting. President Merwin looked again to the Legislative Session, which begins in January this year because of redistricting, and there are three programs which need approval. The Board of Regents approved the programs but the staff wanted the Trustees to review and approve these programs as well. President Merwin reported that the budget and fiduciary responsibilities of the Board would also be part of the next agenda. He will also have a copy of the President’s job description and compensation package. Dr. Healy will dovetail Mr. Bullock’s report with information regarding the procedures in Tallahassee for budget approval and discuss the role of the Trustees in this budget procedure process.

Trustee Solimano asked that the review and approval of student fees be added to the October agenda. The fees can then be presented to the Legislature in January.

Trustee Starkey referred to regular reports that the Board will want to review, particularly the reports related to enrollment and employment demographics as well as the academic distribution. Trustee Morton agreed that the Board would need a “scorecard” of sorts with several touchstones that would be helpful as a tool for the Board’s use. President Merwin mentioned that staff is working on this idea and will have this type of report on a quarterly basis.

Trustee Villalobos asked for discussion at the next meeting about the Foundation and its role with the Board of Trustees. Vice President Crowley stated that he will be addressing this item in his presentation tomorrow morning and he will be making suggestions at the October meeting about the official relationship between the Board of Trustees and the FGCU Foundation Board.

Trustee Villalobos asked that Board members receive the SACS audit accomplished two years ago. President Merwin will assure that Board members receive a summary on the SACS report. Trustee Villalobos thanked the Board members and stated he needed to leave the meeting at this point due to a prior commitment.

Trustee Solimano stated that under the powers of Statute 229 one of the powers of the Board is to review the student judicial process. Trustee Solimano asked that at the next meeting committee appointments be made to begin this process and the committee composition include one-half students. Chairman Lutgert agreed that this would be placed on the next agenda.

Trustee Taylor asked if President Merwin will cover the Florida Board of Education update and President Merwin agreed he would cover this item in his report.
Trustee Cobb asked that Trustee Solimano provide the names for this committee appointment.

Trustee Moon asked for clarification of this Board’s relationship to other State Boards and the Florida Board of Education. Chairman Lutgert responded that it is the Board’s intention to invite Mr. Handy and Secretary Horne to the next meeting if at all possible for an interaction on this subject.

6. Florida’s Ethics, and Sunshine Law Requirements

Chairman Lutgert turned the meeting over to President Merwin to introduce Mr. Guy Whitesman and Ms. Susan Evans to report on the Sunshine Law, conflicts of interest and the legal implications for the Board.

Susan Evans reported that the University has a procedure for public records requests. They are sent to her as the custodian of the records and she reviews those requests to determine what is legally permissible to release. There are some exceptions related to students, and the Foundation Board’s identity of donors is protected. In terms of public records for this Board, the meetings are open and the minutes are a requirement of the Sunshine Law and those will be available to the press. Susan stated that public records’ requests can come from any member of the community. She stated that open meetings include any discussion between two members of the Board.

In terms of media relations, Susan referred to Dr. Koch’s recommendation for a communication policy of the Board and she stated that the current procedure allows for her to speak to the press on the President’s behalf. The Board may wish to consider a policy that delineates that responsibility to their Chair. Susan will continue to email Board members alerting them to any situations on the horizon or report on current events so that Trustees are not surprised. She cautioned Board members not to say anything to a reporter that you would not mind reading as a headline the next day. Board members should realize that reporters would always attend meetings. There is nothing wrong with a Board member delaying a response to a reporter until they are able to study the question posed.

Susan Evans referred to three areas in Statute, Chapter 112 that is for Public Officers and the Board received their financial disclosure forms after they were appointed. Included are copies of the forms (Appendix E) that the Commission on Ethics uses. These are the three that Susan finds are used most often. If Board members have any concerns regarding conflicts of interest, please contact Mr. Whitesman. Susan stated that as public officers, Board members have the responsibility not to accept gifts that would help members make decisions that come before the Board. Gift forms are to be filed quarterly and staff will send these to Board members.
Susan reported that the law does allow for each Board member to meet with the President separately regarding his annual evaluation. There does need to be a public meeting and proceeding where the evaluation is taken up. The Board cannot delegate one person to complete the President’s evaluation. Social occasions are possible, but no discussions can be held that relate to matters that will come before this Board in the foreseeable future. Susan reported that emails and correspondence are all subject to Sunshine Law. The President is not considered as a Trustee and individual conversations can be considered out of the Sunshine. Also, any document stamped “draft” is still subject to Sunshine Law and can be reviewed by the media as communication that has been shared. Some limited access records include faculty evaluations, sexual harassment, and student records while staff evaluations are open to the public.

Guy Whitesman recommended Board members review the Government in the Sunshine Manual and Board members will recognize that all meetings are open to the public and cannot be conducted in private.

7. Government Relations – Dr. Tom Healy

Dr. Tom Healy outlined the various functions of the Government Relations Office (Appendix F).

8. University Ombudsman and Equal Opportunity

Dr. Charles McKinney reviewed the functions of the Office of Educational Services and Equal Opportunity & Diversity Programs (Appendix G)

9. Inspector General – Linda Ciprich


10. Intercollegiate Athletics – Carl McAloose, Director of Athletics

Mr. McAloose described the area of athletics and its relationship to the campus community (Appendix G).

Chairman Lutgert thanked everyone for their reports and reminded everyone that we will reconvene Friday morning at 8:30 a.m.

4:30 p.m. Adjourn
Friday, September 21

8:30 a.m. Meeting reconvened. Chairman Lutgert asked to add a time for public comment before adjournment. There was no objection to this request.

11. Academic Affairs Division – Dr. Brad Bartel, Provost & Vice President of Academic Affairs

President Merwin introduced Provost Brad Bartel and Dr. Bartel reviewed a PowerPoint presentation outlining the areas and activities related to the Academic Affairs Division (Appendix I).

Chairman Lutgert offered a 10-minute break and indicated the meeting will reconvene at 10:30 a.m.

Chairman Lutgert referred to Trustee Morton’s comments in earlier session related to the formation of a ROTC Program at FGCU and an annual Patriotism Celebration on campus. Trustee Morton moved that the Board request that President Merwin and staff conduct a feasibility study to determine the ability to form an ROTC Program at FGCU and within that spirit, at some time during the academic year, include a celebration which could highlight the principles of its veterans. The motion was seconded by Trustee Lee. Motion carried unanimously. President Merwin stated he would be happy to follow through on both items included in this motion.

12. Administrative Services Division – Curtis Bullock, Vice President For Administrative Services

President Merwin introduced Vice President for Administrative Services, Mr. Curtis Bullock. Mr. Bullock made a PowerPoint presentation outlining the major functions in the Administrative Services area (Appendix J).
13. University Advancement Division—John Crowley, Vice President
For University Advancement

President Merwin introduced Mr. John Crowley, Vice President for Advancement. Mr. Crowley outlined the areas of the FGCU Foundation Board and University Advancement (Appendix K).

14. Public Comment

Chairman Lutgert asked for if there are any individuals in the audience who would like to make comments he asked that their comments be kept to three minutes. There were no comments from the public.

15. Chair’s Closing Remarks, Adjourn and Lunch

Chairman Lutgert asked for President Merwin’s comments. President Merwin encouraged Board members to attend The Alliance Summit on October 10, 8:30 a.m. at the Three Oaks Center. This meeting is an important event and Board members will get information related to this important event.

Chairman Lutgert stated that he had the privilege to talk with students yesterday and he was impressed with their vitality and this opportunity gave him the ability to see that the future of this country is in good hands. He also complimented President Merwin and staff for the great job done and this will make the Board’s job easier. He also has great confidence in the Board of Trustees’ ability to work as a team to continue to improve this University and make a very good University a great University. He is honored to be serving with all the Trustees and he is looking forward to his work with each and every one of them. The next meeting is October 25 and 26, 2001. Please give Susan Evans or Chairman Lutgert preferences for Committee assignments. Seeing no further business the meeting was adjourned at 12:05 p.m., Friday, September 21, 2001.
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**BOARD OF TRUSTEES ORIENTATION**
**SPRINT ROOM/WHITAKER BUILDING – FGCU CAMPUS**
**SEPTEMBER 20-21, 2001**

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