Florida Gulf Coast University Board of Trustees  
April 20, 2004

SUBJECT: Student Housing Rental Rate Increase for Fall 2004

PROPOSED BOARD ACTION

Approve student housing rental rate increase as presented

BACKGROUND INFORMATION

Dr. Joe Shepard will present rental rate recommendations and request an increase of $100 for doubles and single occupancy rooms per semester. The proposed student housing rental rates beginning fall term 2004 would be $2200 per semester for single occupancy, and $1800 per semester for double occupancy. A payment plan modification is also proposed to allow rental payments to be spread across the semester for those students who must earn funds during the semester in order to make rental payments. The FGCU Financing Corporation Board of Directors approved these changes on February 13, 2004.

There has not been an increase in student housing rates since fall 2002. These amounts represent less than 3% per year increase for the 2-year period 2002-2004. In order to keep pace with inflation and the rising costs of personnel, operations and routine maintenance needs, this increase is requested.

Supporting Documentation Included: Rental Rate Proposal for 2004-2005

Legal Review: General Counsel Wendy Morris (March 23, 2004)

Prepared by: Vice President for Administrative Services Joe Shepard

Submitted by: Vice President for Administrative Services Joe Shepard
MEMORANDUM

TO: Dr. Joe Shepard
   VP for Administrative Services

FROM: Dr. Pam Schreiber
   Director of University Housing

RE: Rental Rate Proposal for 2004-2005

DATE: February 9, 2004

Per our recent discussion, I am forwarding to you additional options for 2004-2005 rental rates for on-campus accommodations.

The following outlines those increases considered as well as the proposed increase.

Current Rates (not including RHA fee):
- Single bedroom $2,100
- Double bedroom $1,700

Options for Rate Increases:
- 4.8% $2,200 (s) w/RHA fee = $2,210
- 5.0% $2,205 (s) w/RHA fee = $2,215
- 5.5% $2,215 (s) w/RHA fee = $2,225
- 5.9 % $2,224 (s) w/RHA fee = $2,234
- 6.0% $2,226 (s) w/RHA fee = $2,236
- 6.2% $2,230 (s) w/RHA fee = $2,240

Suggested Increase:
- 5.9% for double bedroom = $1,800 ($1,810 w/ RHA fee); $100 increase in current rate
- 4.8% for single bedroom - $2,200 ($2,210 w/ RHA fee); $100 increase in current rate
Payment Plan Recommendation:
I also seek your support in adjusting the payment process. I propose that, effective Fall 2004, students have the option to pay the semester housing charge in four equal installments due on the following dates: (Fall) August 1, September 1, October 1, November 1; and (Spring) January 2, February 1, March 1, April 1. As of November 2 and April 2, a late payment fee of $100.00 on any amount owed greater than $50.00 would be assessed on a student’s account.

This arrangement would eliminate the need for the current Payment Plan Agreement. We believe this option is beneficial to students, especially those who need to earn money as the semester progresses to pay the costs associated with attending the University. Finally, we believe that this payment option is more similar to off-campus leases but in contrast, results in no payment due in December or May.

Accepting Payments:
Effective Fall 2004, we intend on directing all students to the Cashiers Office to make payments. For security reasons, we have been taking payments in the administrative office (2nd floor Commons) and not at the Main Reception Desk. This, as well as the increasing number of students living in residence, has increased the workload for the Program Assistant. Allowing students to pay in four installments will further increase the workload and directing students to the Cashiers Office will assist with this issue. We discussed this proposed change with the Cashiers Office and they are supportive and foresee no resulting difficulties. In addition, the change will significantly reduce the number of check logs we send to that office, saving both staff’s valuable time. We realize this may be less convenient for students but does carry the advantage that the payment is posted immediately.

I look forward to your comments on the items discussed above.

Cc: Isaac Brundage
    Michelle Lassiter
Florida Gulf Coast University Board of Trustees  
April 20, 2004

SUBJECT: Settlement of Lawsuits and Claims

PROPOSED BOARD ACTION

Authorize the President or designee, after receiving the advice of the General Counsel, to approve the settlement of any lawsuit or claim involving the University, its officers, employees, agents or representatives in an amount not to exceed $100,000, when so doing is in the best interests of the University. In determining the settlement amount, all consideration paid or received must be valued except that amounts paid by University insurance policies shall not be included.

BACKGROUND INFORMATION

Section 1001.72(1), Florida Statutes, designates the FGCU Board of Trustees as a public body corporate “with all of the powers of a body corporate including the power . . . to sue and be sued, and to plead and be impleaded in all courts of law or equity.” To protect the interests of the University, it may be necessary or desirable from time to time to settle lawsuits and claims in the name of the FGCU Board of Trustees. Most lawsuits and claims initiated against a university are routine in nature, and time generally is of the essence with these matters.

The FGCU Board of Trustees has the authority to approve this delegation, and doing so will expedite the handling of important legal matters and alleviate the need to schedule emergency meetings of the Board. By giving the President or designee the authority to initiate and settle these matters, legal issues can be resolved swiftly and with a minimum of public ado, thereby preserving the integrity of settlement negotiations.

Supporting Documentation Included: A Brief Word About Insurance

Prepared by: Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Wendy Morris, General Counsel
A Brief Word About Insurance

State Law Claims

As a matter of law, the University as a public body corporate of the State of Florida has sovereign immunity from most state law claims except where the State has waived its immunity. In Section 768.28, F.S., the State has waived its immunity for claims and lawsuits in the area of torts up to the amount of $100,000 per person for a total sum of $200,000 per incident. Courts have construed the waiver to apply to operational matters and not the planning or policy-making activities of government entities. As a result, the most common torts falling within the waiver include vehicle accidents and the negligent maintenance of the campus grounds where an unsafe area such as a stairwell, sidewalk or hallway causes a visitor to slip and fall.

The University as a matter of law is covered by insurance through the Florida Department of Financial Services, Division of Risk Management (the Division) for claims falling within the scope of the sovereign immunity waiver. When claims are presented, the Division has the right to settle these cases with or without University consent, although the Division is very judicious in responding to University concerns about how settlements can impact operational policy and set precedent.

The University is covered for workers’ compensation claims through the Division of Workers Compensation. With respect to unemployment claims, the University is classified as a “reimbursable employer” which means that the Agency for Workforce Innovation pays the University's unemployment compensation charges as they occur. The agency then bills the University quarterly for those charges and the University reimburses the division.

Contracts Claims

Annually, the University enters into many contracts to include employment contracts, contracts for the purchase of commodities or services, and affiliation and partnership agreements. While contract law is generally a subset of state law, the liability aspects are sufficiently unique to be mentioned separately. The Florida Supreme Court has generally interpreted the formation of a contract by a government entity as a waiver of sovereign immunity, and thus most acts, omissions or damages stemming from a contract are not protected by sovereign immunity. Therefore, University liability for the most part would be determined in the same manner as if it were a private person and would be determined based heavily on the contract terms.

Acts, omissions or damages stemming from contractual relationships also are not covered by the Division’s insurance policies unless they relate to torts.
Depending on the situation, the University may purchase special insurance policies through the Division or private insurance companies as a part of certain transactions or require the other contracting party to do so.

Federal Claims

As a general matter, the State is subject to the same potential liability as a private employer in the area of human resources except that occasionally the maximum cap on statutory damages may be less than a private employer. These laws would include Title VII (and its companion the Florida Human Rights Act), the Equal Pay Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Family and Medical Leave Act, and portions of the Americans with Disabilities Act.

In the area of civil rights, the University as a government entity is subject to “Section 1983 Claims” which is an abbreviated reference to 42 United States Code Annotated § 1983. This law creates a private right of suit against governmental entities for violation of constitutional rights but also carves out several immunities for the government and its officers and employees.

By law, the Division covers the University for violations of the above laws, and the Division may settle cases with or without University consent.

Summary

The above discussion is not intended to be exhaustive on the topic of liability, risk management or insurance and only discusses the most common and likely types of claims to be presented against the University. Should the Board of Trustees consider it necessary, the General Counsel and the Vice President – Administrative Services, who oversees the University’s risk management program, would be pleased to present an informational session at a future board meeting.
Florida Gulf Coast University Board of Trustees  
April 20, 2004

SUBJECT: Commencement of Legal Proceedings or Appeal of Adverse Rulings

PROPOSED BOARD ACTION

Authorize the President or designee, after receiving the advice of the General Counsel, to approve the commencement of legal proceedings or the appeal of an adverse ruling against the University when so doing is in the best interests of the University or is necessary to avoid application of a legal time bar such as a statute of limitations. The President or designee shall report the commencement or appeal of legal proceedings to the Board of Trustees as soon as practicable following such action.

BACKGROUND INFORMATION

To protect the interests of the University, it may be necessary or desirable from time to time to initiate legal proceedings or appeal from an adverse ruling in the name of the FGCU Board of Trustees. Most lawsuits and claims initiated by a state university are routine in nature, and time generally is of the essence with these matters.

The FGCU Board of Trustees has the authority to approve this delegation, and doing so will expedite the handling of important legal matters and alleviate the need to schedule emergency meetings of the Board.

Supporting Documentation Included: None

Prepared by: Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Wendy Morris, General Counsel