

WESTERN COMMUNITY COLLEGE AREA  
BOARD OF GOVERNORS

PROPOSED AGENDA

SPECIAL MEETING

March 4, 2010

- A. Call to Order, Ms. Wisniewski
- B. Roll Call
- C. Introduction of Visitors  
1) Community Comments
- D. Board Chairperson Comments
- E. Approval of Agenda
- F. Excuse Absent Board Member(s)
- G. Consider Resolution – Re: Metro Lawsuit - Waiver of Sovereign Immunity – Mr. Douglas
- H. Executive Session – Re: Litigation – Possible Settlement Metro Lawsuit
- I. Consider Resolution – Re: Settlement of Metro Lawsuit
- J. Next Regular Meeting: Wednesday, March 17, 2010, 1:00 p.m., Boardroom,  
Western Nebraska Community College, Scottsbluff Campus, 1601  
East 27<sup>th</sup> Street, Scottsbluff, Nebraska
- K. Adjournment

1:00 P.M. – SPECIAL MEETING

Boardroom

Western Nebraska Community College

Scottsbluff Campus

1601 East 27<sup>th</sup> Street

Scottsbluff, NE

MINUTES OF MEETING  
BOARD OF GOVERNORS  
WESTERN COMMUNITY COLLEGE AREA

TIME AND PLACE  
ROLL CALL  
NOTICE OF MEETING

A Special meeting of the Western Community College Area Board of Governors was held at 1:04 p.m., on Thursday, March 4, 2010, in the Boardroom, Western Nebraska Community College, Scottsbluff Campus, located at 1601 East 27<sup>th</sup> Street, in the City of Scottsbluff, in the County of Scotts Bluff, in the State of Nebraska as per the publicized notice in the Star-Herald, on Saturday, February 27, 2010, with the following members present: Jacqueline M. Cervantes-Guzman, Timothy H. Daniels, Merlyn L. Gramberg, L. Paul Leseberg, Dennis W. Miller, Jr., Jack L. Nelson, Jecca R. Ostrander, M. Thomas Perkins, Richard G. Stickney, Jane Wisniewski, Chairperson. Absent: Darrell E. Roberts. Student Representatives present: None. Faculty Representatives present: Guy Wylie, Scottsbluff Campus. College staff present: Eileen E. Ely, William D. Knapper, Coral E. Richards, David E. Groshans, Terry B. Gaalswyk, Todd R. Holcomb, Melinda L. Burbach, Paul G. Jacobsen. College Attorney present: Richard A. Douglas. A current agenda was available in the College President's office and the Board Secretary's office on the Scottsbluff Campus at the time of the publicized notice.

QUORUM

Ms. Wisniewski declared a quorum was present for the transaction of business.

VISITORS

Visitors were: There were no visitors.

COMMUNIUTY  
COMMENTS

Ms. Wisniewski asked for comments from the community. There were none.

BOARD CHAIRPERSON  
COMMENTS

Ms. Wisniewski announced that for public information there is a copy of the Nebraska Open Meetings Act available on the table at the back of the room.

APPROVAL OF AGENDA

The Agenda was presented.

Mr. Miller moved the Agenda be approved as presented. Seconded by Dr. Gramberg. The vote was, Yes: Cervantes-Guzman, Daniels, Gramberg, Leseberg, Miller, Nelson, Ostrander, Perkins, Stickney, Wisniewski. No: None. Absent: Roberts. Motion carried.

EXCUSE ABSENT  
BOARD MEMBERS

Ms. Wisniewski reported Mr. Roberts notified the Secretary that he would be unable to attend the meeting today because of Personal Business.

Dr. Perkins moved the Board excuse Mr. Roberts from the meeting because of Personal Business. Seconded by Ms. Ostrander. The vote was, Yes: Daniels, Gramberg, Leseberg, Miller, Nelson, Ostrander, Perkins, Stickney, Cervantes-Guzman, Wisniewski. No: None. Absent: Roberts. Motion carried

RESOLUTION – Re: Metro  
Lawsuit – Waiver of  
Sovereign Immunity

Mr. Douglas thanked the Board members for attending this Special meeting of the Board of Governors. This meeting was initially called to consider a waiver of Sovereign Immunity regarding the lawsuit filed by Metropolitan Community College against the five other Nebraska Community Colleges.

Mr. Douglas reported that as a result of a meeting held last weekend in Nebraska City the Board will also hold an Executive Session to consider the possible settlement of the lawsuit. The meeting was attended by Senator Adams, Senator Flood, the six community college Presidents, and a Board representative from each community college area.

Mr. Douglas explained that under the terms of a Joint Stipulation, which has been agreed to by the attorneys representing each of the community colleges, Metro Community College would withdraw its request for a temporary injunction to withhold distribution of state-aid funds until such time as the Court determines the merits of the lawsuit on the basis of a trial. Mr. Douglas reported further should the Court determine, that an excess sum of state-aid has been distributed to any college, the Court will have the authority to order repayment and redistribution in a manner and amount as determined by the Court. He reported in order to implement and enforce the provisions of the Joint Stipulation, each of the six community colleges (as political subdivisions) agree to waive any claim or defense of immunity from suit in this action.

Mr. Douglas commented his concern is that without this stipulation, it may be necessary for the Court to hold the funds until the Judge has heard the case and made a ruling. If the defendants in the case do not waive sovereign immunity, the Judge cannot order any such college to repay any excess sums as may be determined by the Court.

RESOLUTION – Re: Metro  
Lawsuit – Waiver of  
Sovereign Immunity  
Cont

Mr. Douglas recommended the Board authorize the College President to execute the Joint Stipulation dated February 25, 2010. He commented such a stipulation is an orderly progression of trial rules that does not change the facts of the case.

In response to a question from the Board, Mr. Douglas reported the date for the case to be tried in the District Court of Lancaster County has been moved from March 15, 2010, to November 29, 2010.

Dr. Perkins moved the Board adopt the following resolution as presented.

BE IT RESOLVED, that the Board of Governors of Western Community College Area hereby authorizes and directs the President of the College to execute, on behalf of the Board of Governors and the community college area, the Joint Stipulation entered into as of the 25<sup>th</sup> day of February, 2010, by and between the attorneys of record for the parties to the lawsuit now pending in the District Court of Lancaster County, Nebraska, and indexed in the records of such court as Case No. CI 094553. It is the intention of the Board of Governors that the community college area and the Board of Governors thereby shall become bound by the provision of such Joint Stipulation, in accordance with and subject to the terms and conditions of such Joint Stipulation, upon such signature and the approval and acceptance of the Joint Stipulation by the court.

Seconded by Mr. Leseberg. The vote was, Yes: Gramberg, Leseberg, Miller, Nelson, Ostrander, Perkins, Stickney, Cervantes-Guzman, Daniels, Wisniewski. No: None. Absent: Roberts. Motion carried.

EXECUTIVE SESSION  
Re: Possible Settlement  
of Metro Lawsuit

Mr. Nelson moved, pursuant to Section 84-1410 of the Reissue of the Revised Statutes of 2006, known as the Nebraska Public Meeting Law that the Board hold a closed session with Dr. Eileen E. Ely, Mr. William D. Knapper, Mr. David E. Groshans, Ms. Coral E. Richards, and Mr. Richard A. Douglas, College Attorney, for the purpose of discussion of the following item: a) Litigation – Re: Possible Settlement Metro Lawsuit. He further moved that this closed session is clearly necessary for the protection of the public interest and for the prevention of needless injury to the reputation of an individual(s), and that strategy sessions with respect to litigation are specifically authorized by the Nebraska Public Meetings Law. Seconded by Dr. Perkins. The vote was, Yes:

EXECUTIVE SESSION  
Re: Possible Settlement  
of Metro Lawsuit  
Cont

Leseberg, Miller, Nelson, Ostrander, Perkins, Stickney,  
Cervantes-Guzman, Daniels, Gramberg, Wisniewski. No:  
None. Absent: Roberts. Motion carried.

Ms. Wisniewski stated the purpose of the Executive Session is  
the discussion of Litigation – Re: Possible Settlement of  
Metro Lawsuit.

The Board of Governors and those so named in the motion  
adjourned to an Executive Session at 1:20 p.m.

The Executive Session ended at 2:30 p.m.

OPEN MEETING

Ms. Wisniewski declared the Open meeting in session at  
2:30 p.m.

RESOLUTION - Re:  
Settlement of Metro  
Lawsuit

There was no action taken on settlement of the Metro Law-  
suit.

NEXT REGULAR MEETING

The next Regular meeting of the Western Community Col-  
lege Area Board of Governors will be held on Wednesday,  
March 17, 2010, at 1:00 p.m., in the Boardroom, Western  
Nebraska Community College, Scottsbluff Campus, 1601  
East 27<sup>th</sup> Street, Scottsbluff, Nebraska.

ADJOURNMENT

The meeting was adjourned by unanimous consent at 2:32  
p.m.

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Jane Wisniewski, Chairperson

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Coral E. Richards, Secretary