

**Lake Superior State University
Board of Trustees
Minutes of Special Meeting
Considine Hall
LaJoie Board Room
December 17, 2021**

The Board of Trustees of Lake Superior State University met in special session beginning at 11:00 a.m. on Friday, December 17, 2021, in the LaJoie Board Room of Considine Hall, Lake Superior State University, Sault Ste. Marie, Michigan, and with Board of Trustees members connected via zoom conference. The meeting was pursuant to Section 1.03 of the Bylaws of said Board.

Section numbers and headings of these minutes correspond to the agenda. A copy of the proposed agenda was distributed to each Trustee at the public session of December 17, 2021. Any material considered by the Board, which was distributed at the time of the meeting, is so designated in these minutes.

At the call to order there were a few members in the audience.

I. Roll Call

Mr. Thomas Bailey, Chair, called the meeting to order at 11:00 a.m. and asked Ms. Lauren Pierce to call the roll. The following members responded “present”:

Mr. Thomas C. Bailey
Mr. Timothy Lukenda
Dr. Mark W. Mercer
Ms. Sandi Frost Steensma
Ms. Cynthia Williams
Dr. Rodney S. Hanley, President and Ex-Officio

Five Trustees were recorded as present. Trustees Lukenda, Mercer, and Williams were connected via Zoom conference. Mr. Pingatore joined the meeting via Zoom Audio at 11:25 a.m. Trustees Barch and Caruso were recorded as absent. Present for the University were Dr. Nafez Alyan, Vice President of Finance and Operations; and Mr. Scott Smith via Zoom, Vice President of Advancement.

II. Approval of the Agenda for December 17, 2021

Dr. Mercer moved for Board approval of the agenda for December 17, 2021; supported by Mr. Lukenda. The motion carried with unanimous voice vote.

III. Addresses to the Board

There were none.

IV. Chair’s Remarks

Mr. Bailey acknowledged the Grand Opening of the Center for Freshwater Research and Education (CFRE) the week prior. Mr. Bailey shared the opportunity that CFRE would bring LSSU, students, and the community.

V. President's Remarks

Dr. Hanley echoed Mr. Bailey in praising the opening of the CFRE building. Dr. Hanley stated that approximately 300 people were in attendance and the event went very well.

Dr. Hanley stated that the semester is officially over, and expressed thanks to all of the faculty and staff for another calendar year. Dr. Hanley wished faculty and staff a wonderful holiday season.

VI. Fundraising Report

Mr. Smith presented to the Board, a proposal to recognize the efforts of Proactive Transition Management and its President, Dr. Peter T. Mitchell, and family for efforts related to the completion of the CFRE project. The recognition would include prominent recognition atop the main donor wall with the building namesake and alongside significant donors and contributors to the project. Dr. Mitchell was involved with many important CFRE gifts and donor relations. In addition, CFRE Director, Dr. Ashley Moerke identified the highest traffic area within the new facility that is dedicated to student learning and encouraging collaboration with peers, faculty, and staff. This space would also honor the Mitchell family.

Mr. Smith presented an action item for Board approval of the following resolution:

The LSSU Board of Trustees recognizes the valued efforts of Proactive Transition Management and its President, Dr. Peter T. Mitchell, within the newly opened, Richard and Theresa Barch Center for Freshwater Research and Education, by naming, *The Mitchell Study and Collaboration Area in honor of Drs. Peter and Rebecca Mitchell and Steve and Suzie Mitchell.*

Mr. Lukenda asked for clarification on recognizing the company name or Dr. Mitchell's name.

Mr. Smith stated the Mitchell's name would be recognized on the wall and the study area.

Dr. Mercer moved for Board approval of the resolution as presented; supported by Mr. Lukenda. The motion carried with unanimous voice vote.

Dr. Hanley moved for Board approval to go to closed session at 11:08 a.m.; supported by Dr. Mercer. The motion carried with unanimous voice vote.

Dr. Mercer moved for Board approval to reconvene in Open Session at 11:52 a.m. with six trustees present; supported by Mr. Pingatore. The motion carried with unanimous voice vote.

Mr. Pingatore moved for Board approval of the presented resolution concerning Lake Superior State University and the Lake Superior State University Foundation, as presented.

**RESOLUTION OF THE BOARD OF TRUSTEES
of
LAKE SUPERIOR STATE UNIVERSITY
CONCERNING THE LSSU FOUNDATION**

Recitals:

WHEREAS, the Lake Superior State University Foundation (the "Foundation") was incorporated in 1983, according to its current Articles of Incorporation and Bylaws, "to provide support for the Board of Trustees of Lake Superior State University, a constitutional body corporate established pursuant to Article VII, Section 6, of the Constitution of the State of Michigan; to assist in an exclusively educational and charitable manner in the accomplishment of the educational purposes of said constitutional corporation; and to augment the facilities thereof in such a manner as may be designated, directed or desired by the University."

WHEREAS, the Lake Superior State University (the "University") Board of Trustees gratefully acknowledges the service of many people who have generously devoted their time and talent, working tirelessly through the Foundation to support the University and its programs.

WHEREAS, the Board of Trustees remains fully committed to maintaining a supporting organization that provides opportunities for people to raise funds and conduct activities in support of the University and its mission.

WHEREAS, the Board of Trustees has a vital interest in ensuring that such a organization always maintains the highest standards of integrity and honesty in its dealings with the University.

WHEREAS, trust between the University and all donors who support its educational mission is paramount.

WHEREAS, the University's Board of Trustees has been made aware that misleading reports on fund raising activities have been provided to the Board and administration by the Foundation for a number of years, exaggerating and overstating fundraising results by as much as 100%.

WHEREAS, the Trustees have learned that the Foundation board has apparently ignored or disregarded term limits and other conditions for board membership required by the Foundation's bylaws for some time.

WHEREAS, the Trustees have learned that annual meetings of the Foundation board were evidently not held for extended periods of time, in violation of statutory requirements.

WHEREAS, the Trustees have learned that the Foundation failed to follow through on certain representations made to donors and has not kept donors properly informed regarding endowed funds, thus harming the reputation of the University.

WHEREAS, the Trustees have observed that the Foundation failed to adequately assist the University with fundraising priorities such as the Culinary program and additional costs incurred in projects due to the global pandemic.

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WHEREAS, because these are serious concerns and because the Trustees are responsible for the financial well-being of the University as well as its reputation with donors, students and the public, the Board of Trustees initiated a forensic investigation and legal review to ascertain the extent of these and other problems with the Foundation so that corrective action may be taken.

WHEREAS, these efforts are being undertaken because of the strong commitment of the Board of Trustees to keeping faith with all donors and to maintaining a supporting organization that provides opportunities for people to raise funds and support the educational mission of the University.

WHEREAS, University President Dr. Rodney Hanley, duly elected as second vice-chair of the Foundation's board and acting as chair of the Foundation following the resignation of the Foundation's chair and first vice-chair, called and conducted a meeting of the Foundation board on October 25, 2021 to inform them of the problems that have come to light, to inform them of the forensic investigation and legal review ordered by the Board of Trustees, and to address any questions they might have about these and other matters.

WHEREAS, a second, informal meeting was held on November 17, 2021 with Foundation board members and members of the University's Board of Trustees to share information and to address questions.

WHEREAS, following these two meetings, Dr. Hanley in his capacity as Foundation board chair, determined that it would be inappropriate to hold an additional Foundation board meeting until the results of the forensic investigation and legal review, expected in December, 2021, are available.

WHEREAS, at its November, 2021 meeting, the Board of Trustees responded to questions by Foundation board members and others in a statement saying: "A forensic investigation and legal review of the Foundations operations are under way due to a number of concerns that have come to light. It would not be appropriate to comment any further until the investigation and legal review are completed."

WHEREAS, in spite of the aforementioned communications and requests, a member or members of the Foundation board recently sent a notice of an "annual meeting" to Foundation board members, without consulting the acting chair of the Foundation board, and without awaiting the benefit of information on the forensic investigation and legal review.

WHEREAS, the Board of Trustees is deeply concerned that the actions of some Foundation board members are damaging to the relationship between the University and the Foundation and threaten to undermine trust and confidence in the Foundation as a supporter of the University.

WHEREAS, the Board of Trustees, in light of the foregoing, believes that certain changes are necessary in the basic relationship between the Foundation and the University.

WHEREAS, the Agreement between the Foundation and the University dated October 14, 2011 (the "Agreement") provides in Section 12 for termination of the Agreement upon 180 days' notice.

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WHEREAS, though the Board of Trustees hopes that the various issues with and within the Foundation can be resolved before 180 days have passed, it believes it to be in the best interests of the University to give notice of its intent to terminate the Agreement 180 days from the date of this resolution, unless an acceptable resolution is reached prior to that time.

THEREFORE, be it

RESOLVED: That pursuant to Section 12 of the Agreement, the University give notice to the Foundation of the University's intent to terminate the Agreement in 180 days; and, be it further

RESOLVED: That pursuant to the aforementioned Section 12, the University request that the Foundation immediately cease further use of the University's name unless or until otherwise determined by mutual agreement; and, be it further

RESOLVED: That the University request the cessation of all Foundation activities related to the University, except as authorized in writing by the University, as outlined in Section 12 of the aforementioned Agreement; and be it further

RESOLVED: That pursuant to the provisions of Section 12 of the Agreement, representatives of the University, as selected by the President, are hereby authorized and directed to meet at least once with representatives of the Foundation to discuss the reasons upon which the termination is based in order to ascertain if there can be a continuation of the Agreement; and, be it

RESOLVED: That said University representatives be directed to defer this meeting until the results of the forensic investigation and legal review have been received and reviewed by the University administration and Board of Trustees; and be it finally

RESOLVED: That the officers of the University are hereby authorized and directed to promptly deliver the aforementioned notice to terminate Agreement and to communicate these matters to the Foundation, and to take all such other action as they in their judgment may deem necessary or appropriate to implement the foregoing resolutions.

The motion was supported by Dr. Mercer. The motion carried with unanimous voice vote.

VII. Other Business

Dr. Mercer asked how soon the resolution would be shared with the Foundation.

Dr. Hanley stated it would be shared today. Dr. Hanley acknowledged Ms. Caruso for her role in supporting the LSSU Board of Trustees and serving to assist the Foundation through the process.

Mr. Bailey stated that the process is to serve the institution.

Mr. Lukenda shared thanks to Dr. Hanley for his initiative on this matter and recommended a special committee to assist in moving forward.

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VII. Adjournment

Mr. Pingatore moved for adjournment at 11:24 a.m.; supported by Mr. Lukenda. The motion carried with unanimous voice vote.

Thomas Bailey, Chair

Rodney S. Hanley, President

Minutes prepared by Ms. Lauren Pierce, Secretary. A draft of these minutes was completed at 4:00 p.m. on December 21, 2021.