

UNIVERSITY OF MASSACHUSETTS

AMHERST•BOSTON•DARMOOUTH•LOWELL•WORCESTER

MINUTES OF THE MEETING OF THE
COMMITTEE ON ADMINISTRATION, FINANCE AND AUDIT

Thursday, January 22, 2004; 8:00 a.m.

Board Room

One Beacon Street – 26th Floor

Boston, Massachusetts

Committee Members Present: Chair Dubilo; Mahoney, Marcalo, O’Shea and Rainey

Committee Members Absent: Vice Chair Karam; Trustees Giblin, McCarthy and Moes

University Administration: President Wilson; General Counsel O’Malley; Vice Presidents Julian, Lenhardt, Chmura and Gray; Chancellors Lombardi, Gora, MacCormack, Hogan and Lazare; Ms. Wilda, University Controller; Mr. O’Riordan, Budget Director; Vice Chancellors for Administration and Finance Hatch, O’Connor, Zekan and Griffin; Deputy Chancellor Stanton; Mr. Harrison, Director of Auditing

Faculty Representatives: Professor May, UMASS Amherst; Professor Schwartz, UMASS Boston; Professor Carter, UMASS Lowell

PricewaterhouseCoopers: Mr. Hanley and Ms. Gregory

Chair Dubilo convened the meeting at 8:01 a.m.

The first item on the agenda was **Consideration of Minutes of the Prior Meeting of the Committee.**

It was moved, seconded and

VOTED: To approve the minutes of the October 23, 2003 meeting of the Committee.

The first item on the agenda was the **Chair’s Report.** Chair Dubilo first welcomed Trustee O’Shea to his first meeting as a member of the Committee and introduced Ellen O’Connor, UMASS Boston and Louis Griffin, UMASS Lowell, newly appointed Vice Chancellors for Administration and Finance.

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Chair Dubilo also reported that the state and national economic picture continues to improve which will ultimately benefit the University.

The next item was the **President's Report**. President Wilson reported on recent actions of the Legislature: funding the contracts for faculty and staff, providing a \$10 million supplemental appropriation and approving a stimulus economic bill, which will provide money for research endeavors among other things.

President Wilson reported that the University has submitted a level funding budget request for \$390 million. While the state still faces many economic challenges the University expects strong support from the Governor and the Legislature.

President Wilson also announced that the Lowell campus is looking into the recent news about the awarding of contracts; Mr. Harrison will also undertake a study on this issue. There was also a High Tech Advisory Council meeting in the office recently that helped provide the University with some information on what steps we need to take to serve the needs of business and industry in Massachusetts.

The next item was the **Vice President's Report**. Vice President Lenhardt reported that \$13 million in increases to employees has been distributed over the last two weeks; the remaining \$13 million will be distributed in the next couple of months following the merit review process. The Board of Higher Education Task Force on Tuition and Fees has been put on hold for the time being. The final financial report has been distributed including the figures from the Building Authority and will be discussed later today.

Vice President Lenhardt also reported that a state public higher education report showed the Commonwealth as 50th in the United States in state public higher education dollar support.

The next item was **Audit Reports**. Mr. Hanley and Ms. Gregory from PricewaterhouseCoopers reported on the **FY2003 University Management Letter**, the **Office of Student Financial Assistance Report** and the **A-133 Audit Report**.

Trustee Mahoney had a question about the University's inventory of fixed assets. The University completed a portion of its physical inventory of computer equipment but an entire inventory on fixed assets has not been performed in many years.

Currently, the requirement for organizations receiving federal funding is that all assets purchased with federal funds be inventoried every two years. At least one or more of the University's campuses have failed to meet these regulations. Trustee Mahoney requested information about those that have not met these regulations.

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Ms. Wilda responded that the University would implement a PeopleSoft fixed assets module, which will perfect the inventory records and assist in tracking our assets.

There was a brief discussion about the Sarbanes-Oxley Act. Due to the amount of Federal funding received by the University it was recommended that management evaluate the University's current code of conduct in identifying areas for improvement and that the University consider having key departmental business managers and senior administrators confirm the accuracy of data that is transmitted to the President and this Committee in the form of financial statements.

Trustee Mahoney requested that this issue continue to be monitored and updated; Chair Dubilo emphasized that he will stay on top of it and that this issue will return to the Committee for further review.

Chair Dubilo and Trustee Mahoney noted the success of this year's Management Letter.

Mr. Harrison reported on the remaining audits and provided an update of audits in progress. Some of the highlights included: the State Audit Office's review of the Treasurer's Office has ended and we are awaiting a final report; the State Audit Office is also performing a follow-up inquiry to the results of the UMASS Amherst bookstore privatization.

Mr. Harrison also mentioned the informational item, the National Association of College and University Business Officers Advisory Report. Mr. Harrison believes the University is in good standing as far as the Sarbanes-Oxley Act with the recently approved Audit Charter.

It was moved, seconded and

VOTED: To recommend that the Board accept the following Audit Reports:

1. FY2003 University Management Letter (Doc. T04-019)
2. Office of Student Financial Assistance Report (Doc. T04-017)
3. A-133 Audit Report (Doc. T04-018)
4. WUMB-FM Radio Financial Statements and Supplementary Information and Communication Letter (Doc. T04-004)
5. WFCR-FM & the Friends of WFCR, Inc. Combined Financial Statements, WFCR-FM Management Letter and Communication Letter (Doc. T04-002)
6. Purchase Credit Card Program Review, UMASS Boston, Dartmouth and Lowell (Doc. T04-001)

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7. Intercollegiate Athletic Department, Statement of Revenues and Expenditures (Doc. T04-015)
8. Report on the Minuteman Court Club and UMASS Athletic Sports Activity Fund (Doc. T04-016)
9. Audit Activity Report (Doc. T04-005)

The next item was the **FY2003 Financial Report**. Ms. Wilda presented several highlights from the report: the University's combined net assets increased \$108.3 million from \$1.12 billion in FY2002 to \$1.23 billion in FY03 due to increases in tuition and fee rates, costs cutting because of anticipated budget cuts, increases in building construction with funds from capital gifts and grants and contracts and a \$30.8 million payment from UMass Memorial Health Center and increases in manufacturing net operating income from the operations of the Massachusetts Biologics Lab.

It was moved, seconded and

VOTED: To recommend that the Board accept the following report:

To approve the FY2003 Financial Report as contained in Doc. T04-014.

The next item was **FY2005 Student Charges**. Mr. O'Riordan reported that the University has hope that the state budget situation has stabilized to the point where dramatic fee increases are unnecessary and a return to a policy of holding fee increases to no more than the rate of inflation might be in order.

Mr. O'Riordan reported that no increase in undergraduate resident and non-resident tuition rates are proposed for FY05 and proceeded to break down the exact action the Committee is being asked to vote on today. President Wilson stated the University's goal to provide qualifying students with financial aid.

It was moved, seconded and

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VOTED: To recommend that the Board take the following action:

In accordance with Section 1A of Chapter 75 of the General Laws, to establish and approve tuition at the following maximum rates for the Amherst, Boston, Dartmouth and Lowell campuses for academic year 2004-2005:

<u>Tuition</u>	Amherst	Boston	Dartmouth	Lowell
Undergraduate (resident)	\$1,714	\$1,714	\$1,417	\$1,454
Undergraduate (non-resident)	\$9,937	\$9,758	\$8,099	\$8,567
Graduate (resident)	\$2,640	\$2,590	\$2,071	\$2,183
Graduate (non-resident)	\$9,937	\$9,758	\$8,099	\$8,567

And further, in accordance with Section 1A of Chapter 75 of the General Laws, to establish and approve the following maximum mandatory fee rates for the Amherst, Boston, Dartmouth, and Lowell campuses for academic year 2004-2005:

<u>Total Mandatory Fees (Curriculum & Other Mandatory Charges)</u>	Amherst	Boston	Dartmouth	Lowell
Undergraduate (resident)	\$7,294	\$6,310	\$6,385	\$6,437
Undergraduate (non-resident)	\$7,924	\$8,999	\$9,203	\$9,857
Graduate (resident)	\$6,639	\$6,322	\$6,868	\$5,811 *
Graduate (non-resident)	\$7,544	\$9,011	\$9,203	\$8,297 *

*Per 9 credit load

And further, in accordance with Policy T92-031, Appendix E, to authorize the President to approve, no later than April 9th, 2004, the individual rates for mandatory charges, providing that total mandatory student charges shall not exceed the total rates as outlined below for the Amherst, Boston, Dartmouth, and Lowell campuses for academic year 2004-2005:

<u>Total Mandatory Student Charges</u>	Amherst	Boston	Dartmouth	Lowell
Undergraduate (resident)	\$9,008	\$8,023	\$7,802	\$7,891
Undergraduate (non-resident)	\$17,861	\$18,757	\$17,302	\$18,424
Graduate (resident)	\$9,279	\$8,912	\$8,939	\$7,994
Graduate (non-resident)	\$17,481	\$18,769	\$17,302	\$16,864

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And further, in accordance with Section 1A of Chapter 75 of the General Laws, to establish and approve the following tuition and maximum mandatory fee rates for the Worcester campus for academic year 2004-2005:

Worcester	Tuition	Mandatory Fees	Total Student Charges
Medical School (resident)	\$8,352	\$5,653	\$14,005
Ph.D./MD (resident)	\$2,640	\$20,626	\$23,266
Ph.D./MD Years 1-2 (non-resident)	\$9,856	\$35,626	\$45,482
Ph.D./MD Years 3+ (non-resident)	\$9,856	\$25,770	\$35,626
Graduate School of Nursing (resident)	\$2,640	\$5,653	\$8,293
Graduate School of Nursing (non-resident)	\$9,856	\$5,653	\$15,509
Grad. School of Biomedical Science (resident)	\$2,640	\$3,942	\$6,582
Grad. School of Biomedical Science(non-resident)	\$9,856	\$3,942	\$13,798

And further, in accordance with Section 1A of Chapter 75 of the General Laws and T92-031 (Appendix E), to authorize the President to approve, no later than April 9, 2004, final student housing rent and food service charges providing that total charge to undergraduate Massachusetts resident students shall not exceed the average rates as outlined below for academic year 2004- 2005:

Average Student Housing Rent & Food Service Charges (includes residential telecommunication charge)	
Amherst	\$6,189
Dartmouth	\$7,740
Lowell	\$6,011

And further, to authorize the President to approve, no later than April 9, 2004, the full schedule of rent and food service charges for all other classifications of students, room options and meal plans for academic year 2004-2005.

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And further, to authorize the President to approve, no later than April 9, 2004, individual fee rates for other student fees and student fee/revenue based operations charges not already approved by the Board for academic year 2004-2005. (Doc. T04-021)

Chair Dubilo then asked for a motion to go into **Executive Session** to discuss the **Leasing of Real Property** and announced that the Committee would resume in open session in approximately twenty minutes.

It was moved, seconded and

VOTED: To enter Executive Session to discuss the **Leasing of Real Property**.

Chair Dubilo voted for the motion as did Trustees Mahoney, Marcalo and O'Shea. The time was 9:40 a.m. Chair Dubilo then read a statement excusing himself from the Session due to a possible conflict of interest.

At 10:00 a.m. the Committee returns to Open Session. It is then moved, seconded and

VOTED: To recommend that the Board take the following action:

To amend the University of Massachusetts Five-Year Capital Plan as contained in document T03-046 by adding the Dartmouth Student Housing Project. The total project cost of the facility is estimated to be \$80,000,000.00.

And further,

That the Board of Trustees authorizes the President or his designee to enter into on behalf of the University an agreement or series of agreements with an organization, consistent with the provisions of St. 1999, c. 127, § 260, to design, finance, build and manage a student housing project on the Dartmouth Campus, the schedule for which may include a multi-year phased construction schedule. The President or his designee is further authorized to execute any and all documents, including but not limited to those assigning or transferring rights and obligations, as the President deems necessary or desirable for accomplishing the project.

The President or his designee is further authorized, on behalf of the University, to request the University of Massachusetts Building Authority or any other tax-exempt bond issuing authority to provide any assistance the President deems necessary or desirable to effectuate the project.

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This vote is intended as the expression of the University's official intent under Section 1.150-2(d) (1) and (e) of the regulation promulgated by the United States Treasury Department under the Internal Revenue Code of 1986, as amended, toward the issuance of revenue bonds under the Enabling Act or other applicable legislation for financing and refinancing the cost of any or all of the projects described in paragraph (c) or 1(b) above. (T03-046, as amended)

Chair Dubilo returns to the meeting.

The next item was **Amendments to Worcester Campus Intellectual Property Policy**. Chancellor Lazare reported that the amendments will provide limitations on the UMASS Biologics Laboratory investigators to their sharing in licensing revenues to the applied research programs conducted by MBL and fairly share the Bayh-Dole incentives with Medical School researchers when the best value for an intellectual property is received with up front equity participation.

It was moved, seconded and

VOTED: To recommend that the Board take the following action:

To amend Doc. T96-040 as approved on April 11, 1996 by the Board of Trustees for the University of Massachusetts Worcester, as amended by vote of said Board on May 5, 1999, by (1) modifying the second bullet under Section III.G.1.b; (2) adding a new Section III.G.1.c.; (3) replacing the introductory paragraph for Section III.G.2.; (4) replacing Section III.G.2.b.; (5) adding new Sections III.G.2.c., III.G.2.d, and III.G.2.e; and (6) modifying Section I.D, as follows:

III.G.1.b. Thirty percent (30%) to the inventor(s) or creator(s), except to the extent the revenue from Intellectual Property is derived from University of Massachusetts Biologics Laboratory projects. In the case of multiple inventors or creators, their shares will be distributed as they unanimously agree at the time of the invention disclosure. If the inventors or creators cannot agree on the distribution between (among) them, their shares will be distributed in equal portions.

III.G.1.c. Notwithstanding the other provisions of this policy, unless the Chancellor with the approval of the President specifically determines otherwise or as required by law, employees of the University of Massachusetts Biologics Laboratory, and other employees of the University working on projects funded by and in collaboration with said

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Biologics Laboratory, shall not receive an inventor(s)/creator(s) share distribution of non-equity licensing revenue; provided further, that all such revenue that would have gone to said inventor(s) or creator(s) shall go instead to said Biologics Laboratory.

III.G.2. Acceptance of equity -- The University may accept an equity interest in a company; provided that before the CVIP agrees to accept equity, it must receive the approval of the Vice Chancellor for Research, the Vice President for Economic Development, and the University Treasurer. The equity received by the University in connection with the commercialization of Intellectual Property will be held until liquidation, unless otherwise distributed pursuant to Section III.G.2.d or III.G.2.e below, with the proceeds distributed as follows:

III.G.2.b. The remaining proceeds from equity liquidation will be distributed as follows:

- Thirty percent (30%) to the inventor(s) or creator(s) except to the extent the equity is consideration for the licensing of Intellectual Property that is derived from University of Massachusetts Biologics Laboratory projects. In the case of multiple inventors or creators, their shares will be distributed as they unanimously agree at the time of the invention disclosure. If the inventors or creators cannot agree on the distribution between (among) them, their shares will be distributed in equal portions.
- Fifteen percent (15%) for endowment in the department or program of the inventor(s) or creator(s).
- Fifty-five percent (55%) to the campus for endowment or development of research or scholarship, as determined by the Chancellor.

If the inventor(s)/creator(s) share has been distributed directly to the inventor(s) or creator(s) pursuant to Section III.G.2.d, all of the remaining proceeds from equity liquidation will be distributed between the department or program and the campus in the relative proportions of this Section.

III.G.2.c. Notwithstanding the other provisions of this policy, unless the Chancellor with the approval of the President specifically determines otherwise or as required by law, employees of the University of Massachusetts Biologics Laboratory, and other employees of the University working on projects funded by and in collaboration with said Biologics Laboratory, shall not receive an inventor(s)/creator(s) share

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distribution of equity licensing revenue; provided further, that all such revenue that would have gone to said inventors shall go instead to said Biologics Laboratory.

III.G.2.d. When the University accepts equity in a company as consideration for a technology licensing transaction, the University, taking into account any legal restrictions and the wishes of each inventor or creator involved, shall:

- Arrange for the inventor(s)/creator(s) to receive his or her share of equity directly from the company upon execution of the relevant agreement rather than upon liquidation pursuant to paragraph III.G.2.b. above or
- Take all equity, including the inventor(s)/creator(s) share, in the name of the University, in which case the Treasurer will make decisions regarding equity disposition based upon sound business judgment and information available to investors and will coordinate with the appropriate University officials if necessary; the inventor(s)/creator(s)' sole right being receipt of the inventor(s)/creator(s) share of such equity or its cash equivalent at such time and in such form as the Treasurer shall deem appropriate. At the determination of the Treasurer, equity may also be held on behalf of the University by the University of Massachusetts Foundation, Inc., or another outside investment advisor to minimize potential institutional conflicts of interest; provided that the interests of the inventor(s)/creator(s) provided for in this section remain in full force and effect.

III.G.2.e. In each transaction in which the University determines to hold rather than liquidate the equity it has accepted, it will ordinarily, within one year after the University's receipt of such equity in a publicly traded company, or within one year after the time when such equity in a company in which the University has accepted equity becomes eligible to be publicly traded, distribute the inventor(s)/creator(s) share of the equity or its cash proceeds as determined by the University consistent with the formula provided for in this policy.

I.D. CVIP – The University Office of Commercial Ventures and Intellectual Property, which has primary responsibility for administering the development and commercialization of Intellectual Property through licensing or other arrangements. CVIP may also be referred to as the Office of Technology Management or OTM. (Doc. T96-040, as amended)

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The next item was **Amendment to University Capital Plan, Worcester Medical Office Building Project.** Chancellor Lazare reported that the Medical School is requesting an amendment to the Capital Plan to include \$20 million for a medical office building at the site of the new parking facility. Campus operating funds and UMass Memorial lease payments for use of the space will fund the program.

It was moved, seconded and

VOTED: To recommend that the Board take the following action:

To amend the University of Massachusetts Five-Year Capital Plan as contained in Doc. T03-046 by adding the Worcester Medical Office Building project. The total project cost of the facility is estimated to be \$20,000,000. (Doc. T03-046, Addendum 1)

The next item was **Amendment to Medical Education Trust Fund Statement of Trust, UMASS Worcester.** Deputy Chancellor Stanton reported that this revision would allow the Worcester campus to utilize an existing revenue based trust fund to manage the finances by removing old language. The revised trust fund will provide programs in professional continuing education to physicians, nurses and other health professionals.

It was moved, seconded and

VOTED: To recommend that the Board take the following action:

To amend Doc. T77-066 by striking the last sentence of the first paragraph.

The next item was **Amendment to Amherst Capital Plan and Other Action.** Vice Chancellor Hatch reported that the Amherst campus is requesting an amendment to the Capital Plan by adding a student housing project estimated to cost \$85,000,000.

It was moved, seconded and

VOTED: To recommend that the Board take the following action:

To amend the University of Massachusetts Five-Year Capital Plan as contained in Doc. T03-046 by adding the Amherst Student Housing project. The total project cost of the facility is estimated to be \$85,000,000.

And further,

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That the University reasonably expects to incur debt to reimburse expenditures, including expenditures made within one year from the date of this vote, temporarily advanced from internal funds or internal loans for the design and construction of student housing at the Amherst campus, the maximum principal amount of debt expected to be issued for such project, including for reimbursement purposes, being \$85,000,000.

And further,

WHEREAS, the University of Massachusetts Building Authority (the Building Authority) was created by Chapter 773 of the Acts of 1960 of the Commonwealth of Massachusetts (the Commonwealth) (said Chapter 773, as amended, being hereinafter called the Enabling Act) as a body politic and corporate and a public instrumentally of the Commonwealth;

WHEREAS, the Building Authority was created by the Enabling Act for the general purposes of aiding and contributing to the performance of the educational and other purposes of the University of Massachusetts (the University) by providing dormitories, dining commons and other buildings and structures for the use of the University, its students, staff and their dependents and for lease to or use by an organization or association, in any form, of students or others the activities of which are a part of the activities at the University and subject to regulation by the Board of Trustees of the University (the Trustees), a research, foundation or other research organization the operation of which in conjunction with the University is approved by the Trustees or other entity and activities of which are approved by the Trustees as furthering the purposes of the University;

WHEREAS, the Building Authority is authorized by the Enabling Act, among other things, (a) To construct buildings or structures and to acquire, add to, alter, enlarge, reconstruct, remodel and do other work in or upon or respecting any building or structure, in each case upon written request made by authority of the Trustees; and to provide and install furnishings, furniture, machinery, equipment, facilities, approaches, driveways, walkways, parking areas, planting and landscaping in or for or related to any such building or structure; provided that such approaches, driveways, parking areas, planting and landscaping be approved by authority of the Trustees; (b) To borrow money from time to time to achieve any one or more of its corporate purposes and to refund obligations earlier incurred for any such purpose and for refunding, and to issue and sell its revenue bonds and notes therefore, payable solely from its revenues;

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WHEREAS, The Massachusetts Health and Educational Facilities Authority (HEFA) or the Massachusetts Development Finance Agency (MDFA) in the judgment of the President provides a suitable alternative to financing projects to effectuate the projects in the Capital Plan;

WHEREAS, the Treasurer is authorized to make expenditures for said Capital Plan from non-appropriated funds, which expenditures are to be reimbursed from the proceeds of financing issued through the Authority, HEFA or MDFA;

WHEREAS, in the judgment of the Trustees it is in the best interests of the University, its students, staff and their dependents and said organizations that one or more of the aforementioned Authorities or Agencies initiate the projects described by the following:

NOW THEREFORE, BE IT RESOLVED THAT:

1. The President of the University be and he hereby is authorized in the name and on behalf of the Trustees to make a written request of any or all of the Authorities or Agencies listed above that such Authorities or Agencies initiate:
 - (a) Any or all of the projects set forth in the FY2004 Five-Year Capital Plan for the University Doc. T03-046, as amended as long as the estimated total project cost does not exceed the estimated total project cost listed in Doc. T03-046, as amended by more than 20%; and
 - (b) Any other renovation, repair, remodeling or other work in or upon or respecting any building or structure owned or used by the University or the Building Authority, or the provision, installation, renovation, repair or remodeling of or other work upon or respecting any furnishings, furniture, machinery, equipment or facilities with respect to any such building or structure, all as may be requested of any or all of the Authorities or Agencies in writing from time to time by the President or Vice President and Treasurer of the University, the making of any such request being hereby authorized.
2. The projects to be initiated by the Authorities or Agencies in accordance with the request authorized to be made in Section 1 of this resolution may in the discretion of the Authorities or Agencies be undertaken separately or together for financing purposes.

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3. The President of the University and all other officers of the University be and they are and each acting singly is authorized and directed to request the Commissioner of Administration to approve in writing the undertaking by the Building Authority of the projects a request for which is hereby authorized and to do such other things and to take such other action as to the officer or officers so acting shall, as conclusively evidenced by their taking the action hereby authorized, deem necessary or desirable to be done or taken to carry into effect the matters hereby authorized.
4. This vote is intended as the expression of the University's official intent under Section 1.150-2(d) (1) and (e) of the regulation promulgated by the United States Treasury Department under the Internal Revenue Code of 1986, as amended, toward the issuance of revenue bonds under the Enabling Act or other applicable legislation for financing and refinancing the cost of any or all of the projects described in paragraph (c) or 1(b) above.

And further,

The Board of Trustees authorizes the President and the Amherst Campus to enter a ground lease with the University of Massachusetts Foundation or other appropriate 501(c)(3) organization for the purpose of engaging a private firm to design, finance, build and manage a student housing project if the President and the Amherst campus deem said approach necessary or desirable. (Doc. T03-046, as amended)

There being no further business, the meeting was adjourned at 10:10 a.m.

Barbara F. DeVico
Secretary to the Board of Trustees