

**South Carolina Commission on Higher Education
Committee on Governmental & Administrative Affairs (GAA)
Palmetto Conference Room
1122 Lady Street, Suite 300, Columbia, SC 29201
9:15 a.m.
May 7, 2015**

Committee Members in Attendance:

Admiral Charles Munns, Chair
Mr. Tim Hofferth
Ms. Diane Kuhl
Mr. Clark Parker
Ms. Terrye Seckinger (by phone)
Dr. Jennifer Settlemyer

Others in Attendance:

Ms. Allison Dean Love, CHE Commissioner
Dr. Argentini Anderson, CHE
Mr. Clay Barton, CHE
Ms. Beth Bell, Clemson University
Ms. Sandra Carr, CHE
Ms. Julie Carullo, CHE
Dr. Kathy Coleman, Clemson University
Ms. Renea Eshleman, CHE
Mr. Gary Glenn, CHE
Dr. MaryAnn Janosik, CHE
Ms. Tanya Rogers, CHE
Dr. Karen Woodfaulk, CHE

Chair Admiral Munns called the meeting to order at 9:15 am.

1. Introduction

2. Approval of minutes of April 2, 2015

It was moved, seconded and voted to accept the minutes.

3. Discussion of legal counsel

Chair Munns presented the committee a motion for consideration:

“With the Commission on Higher Education (CHE) designed and authorized as a Commission to coordinate higher education actions within the state of South Carolina, we face many frequent and urgent issues which require professional legal judgments. As CHE does not currently have ready access to legal opinion, the Governmental and Administrative Affairs Committee recommends to the Commission that it direct and authorize CHE staff to take steps to make available legal advice either

through the retention of legal staffing as appropriate to the agency's needs and budget and within the procedures as required through state law.”

The committee discussed the motion. **Chair Munns moved and Commissioner Seckinger seconded a motion to accept the motion for consideration**, with the following modification: deleting “either through the retention of legal staffing” with “contracting”, to read as follows:

“With the Commission on Higher Education (CHE) designed and authorized as a Commission to coordinate higher education actions within the state of South Carolina, we face many frequent and urgent issues which require professional legal judgments. As CHE does not currently have ready access to legal opinion, the Governmental and Administrative Affairs Committee recommends to the Commission that it direct and authorize CHE staff to take steps to make available *legal advice as appropriate to the agency's needs and budget and within the procedures as required through state law.*”

Ms. Carullo noted that she that she met with Mr. John McIntosh, Deputy Attorney General, in the SC Attorney General's Office and confirmed the process advice regarding the hiring of a staff or using the firm one process to contract for specific purposes was confirmed by Mr. John McIntosh with the Attorney General's office.

Commissioner Seckinger suggested that the Commission instruct the CHE executive director to hire Mr. Butch Bower as the agency attorney on an as needed basis. Admiral Munns pointed out that it might be best that the Commission suggest that the executive director consider Mr. Bower as the first candidate instead of mandating that Mr. Bower is hired without, first, having a search committee and without studying the references of the potential candidates. Commissioner Seckinger expressed that a search committee is not necessary and she would recommend that the Commission enlist the services of Mr. Bower on an as-needed basis.

Chair Munns further indicated that he would rather have the executive director do the appropriate research with the Commission suggesting that Mr. Bower be at the top of the list than submit a specific name to the executive director, in essence, forcing the executive director to hire a specific individual. Commissioner Seckinger iterated that hiring an attorney is the responsibility of the commissioners, and the Commission should decide who is hired. She also pointed out that Mr. Bower has knowledge of the state and if the Commission were to solicit bids then the process of hiring and attorney could take up to six months.

Commissioner Kuhl recommended hiring a law firm that is familiar with the inner workings of the CHE as opposed to a firm that is unfamiliar with CHE. There was discussion surrounding who the attorney would work for, the Commission members or the agency staff. In response to this discussion, Mr. Gary Glenn commented that that procedurally, there is not staff who work for the Commission versus the agency. The committee concluded that if an attorney is hired, then the attorney would represent both the CHE staff and commissioners.

There was further discussion concerning whether the Commission or the executive director should hire the attorney. After discussion, the committee decided that the committee will recommend to the

full commission that the commission should direct the executive director to hire an attorney and not have the full commission hire the attorney, giving first priority to Butch Bowers.

Commissioner Seckinger moved and Commissioner Clarke seconded a motion that the committee recommend to the full commission that the commission should direct the executive director to hire Mr. Bower. Chair Munns indicated that the structure for the Commission to have a secretary is not in place and the Commission does not have staff since the only person that the Commission hires is the executive director. Therefore it would not be advised that the Commission hire the attorney. He suggested that the Commission remain consistent with the current process of only hiring the executive director.

Commissioner Clarke moved and Commissioner Hofferth seconded a motion that the committee recommends that the full commission to hire legal counsel to represent the commission and staff and further direct the executive director to implement the process of hiring the attorney and that attorney should be Mr. Butch Bower.

Discussion:

The committee discussed the legal ramification of directing the executive director to hire Mr. Butch Bower versus suggesting that Mr. Bower should be hired. Admiral Munns indicated that he wants staff to have the responsibility to ensure that the hiring process is done correctly. In response to questioning, Ms. Carullo informed the committee that if the Commission were to follow use the "Form 1" request process in requesting counsel be approved by the State's Attorney General as required, it would be anticipated to take only a few days once submitted, depending on the workload of the Attorney General's Office.

Chair Munns moved that the motion be modified so that it reads that the commission should suggest that the executive director hire Mr. Butch Bower. Commissioner Hofferth seconded the motion. The motion was passed.

Admiral shared with the committee that since these two items are not currently on the full commission's agenda that the committee will have to ask consideration of the Chair and the Commission to place the two items on the agenda.

4. Discussion on Board Governance

Admiral Munns presented to the committee four issues that the committee must address:

- Understanding the existing authorities
- Internal effort of writing the policy manual
- What training should the commission receive?
- What contracted services are needed after the training?

Issue 1: Understand existing authorities

Ms. Carullo commented on the existing authorities of CHE and asked the committee to keep in mind that the items that staff provided were only CHE statutes and did not include other state statutes and

requirements that must be followed that are relevant to CHE as a state agency, such as Agency Head Salary Commission, procurement, and other state laws and regulations.

Commissioner Seckinger suggested that first, the commission should hire Mr. Bower; second, have him vet the statutes and review the policy manual; and third hire a consultant to craft policy governance. Commissioner Hofferth suggested that after counsel, Mr. Bower, vets the statute that the executive director should then conduct a SWOT (strengths, weaknesses, opportunities and threats) analysis of the statute.

In response to questions about procurement and timelines, Ms. Carullo shared with the committee that CHE must follow the South Carolina Procurement Code in order to hire a consultant; a process involving multiple steps and about a 120 day process.

Chair Munns clarified the issues of concern for the committee:

- Review authorization
- Policy manual – which will be done internally
- What would we want to do with the commissioners in August?
- SWOT analysis – which will be done internally
- Contract services

Commissioner Seckinger suggested that the commission should have someone at state level to speak with the commission about governance at the meeting in August. She also suggested that the policy manual should be submitted today for a vote.

5. Discussion on Retreat Planning

Commissioner Settlemyer suggested that the committee should discuss intent and outcome of the retreat prior to determining the number of days the retreat will be. The expectations should be clearly defined.

Chair Munns reiterated the key pieces for the retreat to include, governance, input from the institutions, possibly in a panel format, and strategic planning. Ms. Carullo shared that staff has received limited input, which was included in the committee materials for today's meeting.

6. Discussion on CHE positions

Chair Munns informed the committee that the following positions need to be filled: Executive Director, Director of Academic Affairs and Director of Finance, inquiring whether the hiring for these positions is something in which the committee should be involved. Commissioner Seckinger indicated with respect to the Executive Director search that the Commission's chair should enlist a search committee. Chair Munns agreed. She also suggested that the Commission should consider hiring someone (for Executive Director) from within South Carolina versus hiring someone who is not from South Carolina. She also said that the Commission should consider looking outside academia and consider someone who has a government management and academia background. Chair Munns shared with the committee that in the previous search for an executive director they

solicited application from those who were from outside of academia, but the applications that were received were only from academia.

7. Status Updates:

a. Policy on Licensure

Commissioner Kuhl shared with the committee that she spoke with Commissioner Horne about working with CAAL regarding licensure. She also said that Commissioner Batson had been assigned to work with her on licensure. There is a section in the policy manual on licensure and it will be ready for discussion in June.

b. Policy Manual Draft

8. Next meeting:

- a.** June 4, 2015, 1:00 p.m.
- b.** October 1, 2015, 1:00 p.m.

9. Other Business

10. Adjournment

There being no other business, the meeting was adjourned at 10:11 a.m.