

APPROVED
12/09/15

LAWRENCE CACCIATORE
SECRETARY TO THE BOARD OF TRUSTEES

THE COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART

Minutes of the Board of Trustees Teleconference

**November 11, 2015
5:00PM**

Trustees: Richard Lincer (Chairman), Monica Abdallah, Nils Folke Anderson, Joseph Dobronyi, Thomas Driscoll, Ray Falci, Jeffrey Gural, Jeffrey S. Hersch, Eric Hirschhorn, Jessica Marshall, Edgar Mokuvos, Kevin Slavin, Robert Tan, Johnny Taylor Jr., Rachel Warren

Officers: Acting President William Mea, Vice President Justin Harmon, Secretary Lawrence Cacciatore

Absences: Robert A. Bernhard, Elizabeth Diller, Malcolm King , Jeremy Wertheimer

Chairman Lincer called the meeting to order at 5:05 PM

Mr. Lincer reported that NYS Justice Bannon had still not “so ordered” the Consent Decree.

Mr. Lincer recommended that the Board proceed with the implementing the changes required by the Consent Decree – even if not formally approved by the Court – to avoid further delay since there had been no indication when the Court might rule. A brief discussion concerning the advantages and disadvantages of proceeding with the approval of the proposed amendments and resolutions at this time ensued.

Mr. Lincer reported that since September Board meeting the draft amendments to the bylaws had been further clarified.

Mr. Lincer noted that the most significant change was to section 2.08 to reflect a prior decision of the Committee on Trustees to enlarge the responsibilities of the Development Committee to include oversight of alumni relations. The committee will be renamed the Alumni Affairs and Development Committee as this better aligns the committee structure of the Board with the organizational structure of Cooper Union’s administration. Other changes to the proposed amendments to the bylaws include a reorganization of Article II of the bylaws to clarify the classification of committees as either a Committee of the Board or a Committee of the Corporation.

It was suggested that the bylaws be further revised to define what constitutes a quorum for committees. A discussion concerning the Chairman of the Board and Vice Chairman of the Board and how their attendance at committee meetings impacted quorum ensued.

A motion was made and seconded to approve the proposed amendments to the bylaws with the proviso that the bylaws clearly define the quorum for committees and state that the Chair of the Board and Vice Chair(s) of the Board shall be given notice of and shall have the right to attend and vote at all committee meetings but, unless the Chair of the Board and/or the Vice Chair(s) of the Board have/has been designated as a regular member of the committee, he or she shall be under no obligation to attend its meetings although when the Chair of the Board and/or Vice Chair(s) of the Board do attend committee meetings, their presence shall be counted when determining the size of a committee for the purpose of calculating whether a quorum is present. The motion passed.

Mr. Lincer reviewed the resolutions presented to the Board for approval. He noted the modifications made since the proposed resolutions were presented to the Board at the September 16 Board of Trustees meeting. It was noted that, because of other demands on his schedule, Mr. Slavin is no longer able to serve on the Free Education Committee as indicated on Exhibit C to the resolutions, but that he had graciously indicated that he would be available to consult with the Committee as time permits.

Upon motion made and seconded the following resolutions were passed by the Board of Trustees with a modification to exhibit C to strike Mr. Slavin from the Free Education Committee:

**RESOLUTIONS OF THE
BOARD OF TRUSTEES OF
THE COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART
FOR THE PURPOSE OF
EFFECTING THE CONSENT DECREE**

WHEREAS, the Board of Trustees (the “Board”) of The Cooper Union for the Advancement of Science and Art (“Cooper Union”) and each of the members of the Board at the time (each such person, a “Trustee”) was a defendant in a lawsuit entitled *The Committee to Save Cooper Union, Inc. v. Board of Trustees of The Cooper Union, et al.* (the “Lawsuit”); and

WHEREAS, in order to settle the claims asserted in the Lawsuit, provide an appropriate mechanism to determine whether a return to a full-tuition scholarship model is practical, broaden participation in Cooper Union’s governance, and strengthen the ability of Cooper Union’s Trustees and Officers to fulfill their fiduciary duties, Cooper Union has entered into a Consent Decree consented to by The Committee to Save Cooper Union, Inc., the individual petitioners (Adrian Jovanovic, Michael Essl, Toby Cumberbatch, Isabella Pezzulo and Claire Kleinman), the Board, and the New York State Office of the Attorney General (the “Consent Decree”), which Consent Decree has been submitted to the Supreme Court of the State of New York (the “Court”) for approval;

WHEREAS, pursuant to the proposed Consent Decree, the Board agrees to, at the earliest of the next quarterly Board meeting or sixty days following the entry of the Consent Decree by the Court, amend the Bylaws of Cooper Union or otherwise pass resolutions in order to establish

certain committees and effect certain modifications to governance procedures and the composition of the Board, all as required by the Consent Decree;

WHEREAS, given the unanticipated delay in the approval of the Consent Decree by the Court and in light of the dates certain provided in the Consent Decree for certain further actions, the Board desires now to take the actions it agreed to obligate itself to take when it executed the Consent Decree, which actions are reflected in the resolutions set forth below, and update its Bylaws to, among other things, reflect changes in law made by the Nonprofit Revitalization Act; and

WHEREAS, except where otherwise indicated, all capitalized terms herein have the meaning given to them in the Bylaws of the Corporation;

Bylaw Amendments

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Bylaws attached hereto as Exhibit A as the amended and restated Bylaws of Cooper Union¹, which Bylaws incorporate the amendments shown in the blackline attached hereto as Exhibit B; and be it further

Trustees and Representatives

RESOLVED THAT no Trustee who was a member of the Board on October 6, 2006 shall be reappointed to the Board after the termination of his or her service, it being hereby recognized and confirmed by the Board that the term of each Trustee who was a member of the Board on October 6, 2006 is scheduled to expire on or before December 7, 2016; and be it further;

RESOLVED, that no person shall be named Trustee Emeritus while the Consent Decree is in effect, it being hereby recognized that the Consent Decree will terminate by its terms on December 31, 2024; and be it further

RESOLVED, that the Board hereby elects the current Student Representative on the Board, Jessica Marshall, to serve as a Student Trustee until the Board meeting to be held in June 2017; and be it further

RESOLVED, that the Board hereby elects Monica Abdallah, who was a nominee for Student Representative submitted to the Board in Spring 2015, to serve as a Student Trustee until the Board meeting to be held in June 2016; and be it further

RESOLVED, that the Board hereby abolishes the position of Student Representative to the Board; and be it further

RESOLVED, that the Board shall (i) coordinate with the Student-Faculty Senate to have the faculties in the schools of Engineering, Art, Architecture and Humanities each elect one full-time Faculty Representative, (ii) coordinate with the Cooper Union Organization of Part-Time

¹ The amended and restated Bylaws, as approved by the Board at the November 11 meeting, were subsequently posted to the Cooper Union website, together with these resolutions.

Faculty to have the part-time faculty elect one Part-Time Faculty Representative, and (iii) coordinate with the Union at Cooper Union to have the members of the staff union and other non-union staff members elect one Staff Representative, in accordance with Section 1.14 of the Bylaws; and be it further

RESOLVED, that Kevin Slavin, who is an Alumni Trustee, is hereby elected as a Vice Chair of the Board; and be it further

Governance Committee

RESOLVED, that the Board hereby renames the Committee on Trustees as the “Governance Committee” and expands the responsibilities of such Committee to include the responsibilities set forth for such Committee in the revised Bylaws attached hereto as Exhibit A; and be it further

Free Education Committee

RESOLVED, that the Board hereby establishes a Free Education Committee of the Board, the Trustees assigned to which shall have the same rights to receive information as any other Trustees, and which Committee shall:

- (i) be responsible for examining whether Cooper Union can return to a sustainable, full-tuition scholarship model that maintains Cooper Union’s strong reputation for academic quality within its Art, Architecture and Engineering programs at their historical levels of enrollment;
- (ii) have members that (A) shall be proposed by the Governance Committee and (B) two-thirds of which shall be composed of a combination of Alumni Trustees and Student Trustees;
- (iii) have as its Chair an Alumni Trustee; and
- (iv) allow a Faculty Representative (to be designated by the Chairman of the Board in consultation with the Chair of the Free Education Committee once the four full-time Faculty Representatives have been elected by their respective faculties) and the Staff Representative to observe its meetings; and be it further

RESOLVED, that the Board hereby directs the Free Education Committee, upon its nomination by the Governance Committee and appointment by this Board, to:

- (i) develop and propose a strategic plan aimed at returning Cooper Union to a sustainable, full-tuition scholarship model that maintains Cooper Union’s strong reputation for academic quality within its Art, Architecture and Engineering programs at their historical levels of enrollment, which strategic plan shall be delivered to the Board and the Financial Monitor (defined below) on January 15, 2018; and

- (ii) deliver to the Board and the Financial Monitor progress reports detailing its activities and interim recommendations on January 15, 2016, and January 15, 2017; and be it further

RESOLVED, that, to facilitate the work of the Free Education Committee, the Board shall in good faith:

- (i) cause any progress report received from the Free Education Committee to be presented and considered at the earlier of (A) the next regularly scheduled Board meeting following receipt of such progress report or (B) a special meeting of the Board held for such purpose within ninety days of receipt of such progress report;
- (ii) within thirty days of the Board meeting at which a progress report is presented, cause to be issued a written response and comments to such progress report, which responses shall be posted on Cooper Union's website within seven days of being issued, subject to any confidentiality or privilege obligations imposed by law;
- (iii) consider in good faith and vote on the strategic plan prepared by the Free Education Committee at the regularly scheduled meeting of the Board in March 2018 and, if the strategic plan is adopted, direct the officers of Cooper Union to implement such plan as soon as practicable; and
- (iv) cause the progress reports and strategic plan to be posted to Cooper Union's website (excepting any confidential or privileged material) within seven days of the Board's receipt of such reports; and
- (v) cause the progress reports and strategic plan, together with the Financial Monitor's analyses and opinions, and the meeting minutes from any vote of the Board on the strategic plan to be delivered to the Attorney General as they become available to the Board; and be it hereby

Presidential Search Committee

RESOLVED, that the Board hereby establishes a Presidential Search Committee, which Committee shall be responsible for identifying a qualified candidate to become the next non-interim President of Cooper Union; and it is further

RESOLVED, that the Presidential Search Committee shall consist of not more than nine (9) members appointed by the Chairman of the Board, including at least two (2) Alumni Trustees and at least one (1) Student Trustee and, in addition, two (2) of the members of the Committee shall be members of the full-time faculty and one (1) member of the Committee shall be a member of the part-time faculty; and be it further

RESOLVED, that, consistent with the requirement of the Consent Decree, in addition to the members of the faculty appointed as members of the Presidential Search Committee pursuant to the previous resolution, at least one (1) full-time Faculty Representative (to be designated by the Chairman of the Board once the four full-time Faculty Representatives have been elected by

their respective faculties) shall serve as an observer/adviser to the Presidential Search Committee; and be it further

RESOLVED, that at least one of the Alumni Trustee members of the Committee shall also be a member of the Free Education Committee; and be it further

RESOLVED that the duties of the Committee shall include:

- (i) selecting a professional search firm to assist with the search and negotiating the terms of the engagement of such firm;
- (ii) working with the selected search firm to develop a profile of the new President and to finalize the position description;
- (iii) identifying Cooper Union constituencies who should have input in the search process and ensuring there is a mechanism for their input to be included;
- (iv) working with the selected search firm to develop a process and timeline for solicitation and selection of qualified candidates;
- (v) reviewing applications and interviewing qualified candidates;
- (vi) identifying a short list of finalist candidates to present to the Executive Committee or the full Board for consideration; and
- (vii) such other duties as determined by the Board; and be it further

RESOLVED, that the retention of Korn Ferry as the professional search firm to assist the Committee is hereby confirmed, ratified and approved; and be it further

Election of Committee Members

RESOLVED, that, in order to comply with the requirements of the newly adopted Bylaws and the Consent Decree, the Board hereby appoints the individuals listed on the slate of members attached hereto as Exhibit C to the committees and positions indicated on Exhibit C; and be it further

Financial Monitor

RESOLVED, that the Board hereby authorizes a Financial Monitor selected by the Attorney General in accordance with the Consent Decree to attend all full Board meetings, including executive sessions, all meetings of the Finance and Business Affairs Committee and the Free Education Committee, and any other committee meetings; to receive on demand any information and/or documents possessed by Cooper Union, subject to the execution of the confidentiality agreement annexed to the Consent Decree; and to disclose any non-privileged information or documents to the Attorney General and/or the Court; and be it further

RESOLVED, that the Board hereby authorizes and directs the Secretary of the Board to cause the annual reports prepared by the Financial Monitor to be promptly posted on Cooper Union's website, with any confidential information redacted; and be it further

Execution

RESOLVED, that each of the officers of the Board is authorized to take any and all steps he or she may deem necessary, reasonable or advisable to accomplish the foregoing resolutions.

There being no further business the meeting was adjourned at 5:50 PM.