

Meeting No. 976

THE MINUTES OF THE BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM

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March 11, 2004

Austin, Texas

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MEETING NO. 976

THURSDAY, MARCH 11, 2004.--The members of the Board of Regents of The University of Texas System convened this special called meeting at 10:30 a.m. on Thursday, March 11, 2004, in the Board Meeting Room on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following in attendance and absent:

ATTENDANCE.--

Present

Chairman Miller, presiding
Vice-Chairman Clements
Vice-Chairman Krier
Regent Barnhill
Regent Caven
Regent Craven
Regent Huffines

Absent

Vice-Chairman Hunt
Regent Estrada

Counsel and Secretary Frederick

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present, Chairman Miller called the meeting to order.

1. U. T. Board of Regents: Presentation of the Accountability and Performance Report for 2003-2004 and acceptance of Report

On January 22, 2004, Governor Rick Perry issued a directive (Executive Order RP-31 as shown on Page 3) that boards of regents for public institutions in the state direct each institution and system to work with the Texas Higher Education Coordinating Board to create a comprehensive system of accountability. The directive further called for this system of accountability to be approved by the boards of regents and the Coordinating Board no later than December 17, 2004.

Chairman Miller recognized several State officials in attendance for the presentation of The University of Texas System Board of Regents' Accountability and Performance Report for 2003-2004 and thanked them for coming: Representative Tony Goolsby; Ms. Kate Moore, Higher Education Policy Analyst, from Senator Florence Shapiro's office; Mr. Justin Unruh, Chief of Staff for Representative Geanie Morrison; and Mr. John Jacobs from Senator Judith Zaffirini's office.

Chairman Miller then called on Chancellor Yudof for remarks. Chancellor Yudof explained the report was the result of 15 months of work, produced by a working group of administrative leaders and faculty from each component institution of the U. T. System, in consultation with policymakers in Texas and nationally. He said the appointment of Dr. Geri H. Malandra as Associate Vice Chancellor for Accountability for the U. T. System represents the first office at a higher education system devoted exclusively to accountability and said the report contains a model program for Texas and the nation in producing the most comprehensive, centralized, internally consistent accountability plan in higher education, with important implications for strategic planning. Chancellor Yudof said this initiative, which is a work in progress, is one example of a broad effort at the U. T. System to become more efficient and more accountable. He cited other examples such as the reorganization of U. T. System Administration, budget cuts, compacts between each institution and the Chancellor, the study of academic components by the Washington Advisory Group, and a productivity and efficiency study led by Assistant Vice Chancellor Sanders. He said the accountability report, which will be a clear, understandable account of the performance of the institution, will be available on the Internet (<http://www.utsystem.edu/borminutes/3-11-04AcctPerfcompletereport.pdf>) and that the U. T. System will be sponsoring a national symposium on accountability in higher education in late 2004 or early 2005.

Following a PowerPoint presentation by Dr. Malandra, the Board accepted the U. T. System Board of Regents' Accountability and Performance Report for 2003-2004. Dr. Malandra said the second annual accountability report for 2005 would be presented to the Board in February 2005.

Members of the Board commended Chancellor Yudof and Dr. Malandra for their work. Chairman Miller said the accountability report will set a national standard and serve as a national model for accountability. He said the report will be used as a tool for policymakers, including the U. T. Board of Regents, and as a tool for executives at the U. T. System to make decisions.

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
January 22, 2004

EXECUTIVE ORDER
RP 31

Relating to accountability of higher education systems and institutions.

WHEREAS, the people of the State of Texas expect the state to provide the highest quality of higher education; and

WHEREAS, Texas public institutions of higher education and the systems in which they operate are funded by both public funds and tuition paid by private citizens; and

WHEREAS, the public has the right to demand complete accountability for its investment in institutions of education; and

WHEREAS, public K-12 education has been required to provide comprehensive accountability to the citizens of Texas for more than 10 years; and

WHEREAS, systems and institutions of higher education must be able to clearly define the need for additional state-funding in a manner which will justify the public's continued investment of resources;

NOW, THEREFORE, I, Rick Perry, Governor of the State of Texas, by virtue of the power and authority vested in me by the constitution and laws of the State of Texas, do hereby order the following:

The boards of regents for public institutions of higher education in the state shall direct that each institution and system work with the Higher Education Coordinating Board to create a comprehensive system of accountability.

This system will provide the citizens of Texas, the Governor, and the Legislature with the information necessary to determine the effectiveness and quality of the education students receive at individual institutions. It will also provide the basis to evaluate the institutions' use of state resources.

This system of accountability shall be approved by the Boards of Regents and the Texas Higher Education Coordinating Board no later than December 17, 2004.

This executive order supersedes all previous orders inconsistent with its terms and shall remain in effect and in full force until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

Given under my hand this the 22nd day of January, 2004.

RICK PERRY
Governor

Attested by:

GEOFFREY S. CONNOR
Secretary of State

2. U. T. Board of Regents: Report of the Task Force on "Closing the Gaps" Capital Funding for Academic Institutions

Vice-Chairman Krier, Interim Vice Chancellor Aldridge, Assistant Vice Chancellor Sanders, and Dr. Steve Murdock, state demographer and Professor at The University of Texas at San Antonio, presented a report of the Task Force on "Closing the Gaps" Capital Funding for Academic Institutions, using a PowerPoint presentation. (The PowerPoint [presentation](#) is on file in the Office of the Board of Regents.)

The Capital Planning Task Force was established in September 2003 by Chairman Miller and is co-chaired by Vice-Chairman Hunt and Vice-Chairman Krier. The purpose of the Task Force is to assess the need for capital funding at the U. T. System academic institutions (Academic Institutions) through Fiscal Year 2030, in light of record enrollment growth and the statewide "Closing the Gaps" initiative, and to identify strategies to fund the needed infrastructure to accommodate expected enrollment growth.

"Closing the Gaps" is the Texas Higher Education Coordinating Board's (THECB) statewide master plan that established goals of closing the gaps in higher education by 2015 for (1) participation; (2) success; (3) educational excellence; and (4) funded research. For the purpose of this analysis, the "gaps are closed" when enrollment rates for African-American and Hispanic students equal the enrollment rate for Anglos on a county-by-county basis. The Task Force focused solely on capital necessary to close the gaps for the first two goals: participation and success. Not included in this analysis are capital necessary to close the gaps for excellence and research and costs such as faculty salaries, utilities, and other general operating expenses.

The Task Force concluded that total capital projected to be needed to close the gaps by 2030 for the Academic Institutions (excluding The University of Texas at Austin, where enrollment growth is not projected to occur), including capital renewal, is at least \$7.0 billion. The statewide capital needed to close the gaps will be more than \$20 billion.

Capital needs could be reduced through greater space utilization, such as offering classes at lower tuition rates during off-peak hours and greater use of distance learning applications. The model includes a conservative assumption that each new student will require 145 gross square feet of educational and general (E&G) space. This is below the statewide average of 151 square feet and the generally accepted THECB planning factor of 160 square feet. The Task Force also looked at a much more aggressive space utilization scenario for the Academic Institutions of 113.5 gross square feet of E&G space per student.

Existing funding sources at the Academic Institutions include the following: Permanent University Fund Bonds; Higher Education Assistance Fund (HEAF) Bonds; Tuition Revenue Bonds; Revenue Financing System Bonds; Philanthropy/Gifts; and Local Taxing Districts. Potential funding options include General Revenue; General Obligation Bonds; Legislative Appropriation Bonds; K-12 Funding Formula; HEAF Funding; and Local Taxing Districts.

Through existing funding sources, the U. T. System estimates that it can meet approximately \$2.8 billion (40%) of the \$7.0 billion capital infrastructure funding needed to close the gaps by 2030 for participation and success. Greater space utilization could reduce the total funding needed by \$2.4 billion (34% of the total), assuming 113.5 square feet per student rather than the baseline of 145 square feet. Even under this aggressive space utilization scenario, the Academic Institutions will need an additional \$1.8 billion (26% of the total) through 2030 to fund the capital necessary to close the gaps for participation and success.

Following discussion, Chairman Miller said the report has a powerful impact and should be included in the U. T. System strategic planning discussions and in preparation for the next legislative session. Vice-Chairman Krier asked Regent Caven, as Chairman of the Task Force on Admissions, Tuition, and Financial Aid, to also consider implications of this report on future tuition growth, particularly with respect to Tuition Revenue Bonds.

3. U. T. Board of Regents: Adoption of a Resolution authorizing the issuance, sale, and delivery of Permanent University Fund Bonds, Series 2004, and authorization for appropriate officers and employees of the U. T. System to complete all related transactions

The Board:

- a. adopted a Resolution, substantially in the form presented to the Board of Regents, authorizing the issuance, sale, and delivery of Board of Regents of The University of Texas System Permanent University Fund Bonds, Series 2004, in one or more installments in an aggregate principal amount not to exceed \$500,000,000 to be used to refund a portion of the outstanding Permanent University Fund Bonds, Series 1997, to refund the outstanding Permanent University Fund Flexible Rate Notes, Series A, and to pay the costs of issuance; and

- b. authorized appropriate officers and employees of U. T. System as set forth in the Resolution to take any and all actions necessary to carry out the intentions of the U. T. Board of Regents within the limitations and procedures specified therein; to make certain covenants and agreements in connection therewith; and to resolve other matters incident and related to the issuance, sale, security, and delivery of such bonds.

Adoption of the Resolution authorizes the advance refunding of a portion of the outstanding Permanent University Fund (PUF) Bonds, Series 1997, maturing July 1, 2009 through July 1, 2018, provided the refunding exceeds a minimum 3% present value debt service savings threshold. An advance refunding involves issuing bonds to refund outstanding bonds in advance of the call date. Refunding bonds are issued at lower interest rates thereby producing debt service savings. The Series 1997 Bonds were structured with an optional redemption and can be called on July 1, 2008, at par. The resolution provides the flexibility to select the particular bonds to be refunded depending on market conditions at the time of pricing, provided the refunding achieves the minimum 3% savings threshold.

The Resolution also authorizes the refunding of the PUF Flexible Rate Notes, Series A, currently outstanding in the aggregate amount of \$400,000,000. The PUF Flexible Rate Note program is used to provide interim financing for PUF projects approved by the Board. Interim financing provided through the Notes will be replaced with long-term financing provided through the issuance of the Series 2004 Bonds.

Proceeds from the Series 2004 Bonds will be used to purchase U.S. government or other eligible securities to be placed in one or more escrow accounts. Proceeds from the escrowed securities will be used to redeem the refunded Series 1997 Bonds and the refunded Flexible Rate Notes.

Note: This [Resolution](#), authorizing the issuance, sale, and delivery of Board of Regents of The University of Texas System Permanent University Fund Bonds, Series 2004, in substantially the form provided to the Board, was reviewed by outside bond counsel and the U. T. System Office of General Counsel and is on file in the Office of the Board of Regents. Succeeding resolutions that are in substantially the same form will not be made available as part of the agenda materials.

4. U. T. Board of Regents: Adoption of a Resolution related to the Mid-campus Acquisition Program at U. T. M. D. Anderson Cancer Center, specifically 1303 Eaton Street, Lots 8-12, Block 17, Institute Addition; 7123 Selma Street, Lots 8 and 9, Block 20, Institute Addition; and 7213 Cecil Street, Lot 8, Block 21, Institute Addition, City of Houston, Harris County, Texas

Chairman Miller stated that a late item was before the Board on yellow paper related to a proposed land acquisition at The University of Texas M. D. Anderson Cancer Center.

Upon motion of Regent Huffines, seconded by Vice-Chairman Krier, the Board unanimously adopted the following Resolution related to the Mid-campus Acquisition Program at U. T. M. D. Anderson Cancer Center:

RESOLUTION

WHEREAS, In December 1989, the Board of Regents of The University of Texas System authorized a program for expansion of The University of Texas M. D. Anderson Cancer Center campus to enable the Cancer Center to fulfill its future needs for construction of facilities and infrastructure required to carry out its mission; the original authorization was expanded by the Board in February 1995; in 1999, the acquisition zone was authorized by the Texas Legislature during its 76th Regular Session; the boundaries of the expansion zone, which is known as the "Mid-campus Area", are Braeswood Boulevard on the north, Fannin Street on the west, Old Spanish Trail on the south, and the Texas Medical Center parking lots on the east; and the expansion zone is delineated in U. T. M. D. Anderson's approved master plan for future campus development; and

WHEREAS, U. T. M. D. Anderson Cancer Center has been successful in purchasing all but three of the parcels of land required to fulfill its foreseeable needs in the Mid-campus Area through negotiated acquisitions and exchanges and the City of Houston has begun construction of a new bridge over Braes Bayou that will facilitate access between the Main Campus and the Mid-campus Area; and

WHEREAS, The mission of U. T. M. D. Anderson Cancer Center, as approved by the Board of Regents in May 2000, is to eliminate cancer in Texas, the nation, and the world through outstanding integrated programs in patient care, research, education, and prevention; and

WHEREAS, A need exists at this time to provide the land and infrastructure necessary for an office building to house information technology, patient billing, federal grant administration, and other required business activities of U. T. M. D. Anderson Cancer Center necessary to fulfill its mission.

THEREFORE, BE IT RESOLVED, That the U. T. Board of Regents recognizes its right and responsibility to secure the land and also recognizes the desirability of negotiation for these acquisitions and urges the U. T. System Real Estate Office and U. T. M. D. Anderson Cancer Center to make all reasonable efforts to negotiate the purchase of the three remaining parcels of land necessary to complete the Mid-campus Acquisition Program, (generally identified as 1303 Eaton, Lots 8-12, Block 17, Institute Addition; 7123 Selma, Lots 8 & 9, Block 20, Institute Addition; and 7213 Cecil, Lot 8, Block 21, Institute Addition, City of Houston, Harris County, Texas), at prices not to exceed fair market value as determined by independent appraisals.

BE IT FURTHER RESOLVED, That in the event negotiated purchases cannot be accomplished, the Board of Regents will consider a request from U. T. M. D. Anderson Cancer Center to exercise the Board's right of eminent domain to acquire the outstanding parcels at a meeting of the Board following a report outlining unsuccessful attempts to acquire each parcel.

RECESS TO EXECUTIVE SESSION.--At 12:35 p.m., Chairman Miller announced that the Board would recess to convene in Executive Session pursuant to Texas Government Code Sections 551.071 and 551.074 to consider those matters listed on the Executive Session agenda as follows. He stated that no action would result from the closed session.

1. U. T. System: Consideration of personnel matters relating to appointment, employment, evaluation, assignment, and duties of officers or employees
2. U. T. System: Consideration of personnel matters relating to evaluation of presidents, U. T. System Executive Officers, and employees
3. U. T. Board of Regents: Discussion of an appointment to The University of Texas Investment Management Company (UTIMCO) Board of Directors to fill a position expiring on April 1, 2004
4. Consultation with Attorney Regarding Legal Matters or Pending and/or Contemplated Litigation or Settlement Offers

RECONVENE IN OPEN SESSION AND ADJOURNMENT.--At 1:30 p.m., the Board reconvened in open session and Chairman Miller announced that no action was needed on any item discussed in Executive Session and that the purpose for which this meeting was called had been completed. The meeting was duly adjourned at 1:30 p.m.

/s/ Francie A. Frederick
Counsel and Secretary to the Board

March 24, 2004