

Meeting No. 982

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

Pages 1 - 15

July 16, 2004

Austin, Texas

MEETING NO. 982

FRIDAY, July 16, 2004.--The members of the Board of Regents of The University of Texas System convened this special called meeting at 10:35 a.m. on Friday, July 16, 2004, on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following in attendance:

ATTENDANCE.--

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

Counsel and Secretary Frederick

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

1. U. T. Board of Regents: Approval of appointment of Regent Barnhill as Chairman of Facilities Planning and Construction Committee (Regents' Rules and Regulations, Part One, Chapter I, Section 7)

In accordance with the requirements of the Regents' Rules and Regulations, Part One, Chapter I, Section 7, Regent John W. Barnhill, Jr., was appointed Chairman of the Facilities Planning and Construction Committee effective immediately.

The former Chairman of the Facilities Planning and Construction Committee, Mr. James Richard Huffines, was elected Chairman of the Board of Regents on June 2, 2004.

(See Page 12 for committee and Regental appointments listed for the record.)

2. U. T. Board of Regents: Approval of appointment of Regent Estrada as Regental Representative to the Texas Growth Fund (Regents' Rules and Regulations, Part One, Chapter I, Section 7)

The Regents' Rules and Regulations, Part One, Chapter I, Section 7 state that pursuant to Section 70(m), Article XVI of the Texas Constitution, the Texas Growth Fund II shall be managed by a Board of Trustees that "includes one member from and elected by" the U. T. Board of Regents.

Regent Robert A. Estrada was appointed Regental representative to the Board of Trustees of the Texas Growth Fund effective immediately.

Regent Estrada replaced Regent Barnhill as the U. T. Board of Regents' representative on the Texas Growth Fund Board of Trustees.

The Texas Growth Fund II, as authorized by the Texas Constitution, expires on September 1, 2008.

(See Page 12 for committee and Regental appointments listed for the record.)

3. U. T. Board of Regents: Appointment of member of Board of Regents to Board of Directors of The University of Texas Investment Management Company (UTIMCO)

Regent John W. Barnhill, Jr., was appointed to The University of Texas Investment Management Company (UTIMCO) Board of Directors for a term ending April 1, 2005, or until his successor is chosen and qualifies, or until his earlier resignation or removal.

This position was previously held by Chairman Huffines who served as a Regental representative on the UTIMCO Board of Directors from May 8, 2003, until his notice of resignation on June 7, 2004.

Section 66.08 of the Texas Education Code requires that the U. T. Board of Regents appoint all members of the Board of Directors of UTIMCO and the Regents' Rules and Regulations, Part One, Chapter I, Section 7, Subsection 7.3 state that at least three members of the U. T. Board of Regents and the Chancellor shall be appointed to the UTIMCO Board of Directors by the Chairman of the U. T. Board of Regents, by and with the consent of the U. T. Board of Regents.

(See Page 12 for committee and Regental appointments listed for the record.)

4. U. T. Board of Regents: Authorization to present 2004 Santa Rita Award to Mrs. Margaret McDermott

Chairman Huffines presented the following recommendations on the Santa Rita Award:

Recommendations by Chairman Huffines

At the outset of this recommendation, I remind the Board and the audience that this award is the highest honor that is bestowed by the Board of Regents. It is presented on an occasional rather than a regular basis and is subject to very specific criteria and guidelines.

Since the first Santa Rita Award was awarded in 1968, only 17 individuals have been identified for this exceptional recognition. The most recent recipient was former Regent Wales H. Madden, Jr., who received the award in 2002.

The criteria for selection include such factors as

- a demonstrated concern for the principles of higher education;
- a deep commitment to the furtherance of the purposes and objectives of The University of Texas System;
- a record of commitment to securing appropriate financial support for the System from both the public and private sectors; and
- a demonstrated record of participation in the affairs of the System, which serves as a high example of selfless and public-spirited service.

I believe the distinguished record of service to Texas higher education and to the component institutions of the U. T. System by Mrs. Margaret McDermott of Dallas more than meets the criteria for this recognition, and I am pleased to recommend that Mrs. McDermott be recognized as the 2004 recipient of the Santa Rita Award. Mrs. McDermott's outstanding contributions to The University of Texas at Austin, The University of Texas Southwestern Medical Center at Dallas, and The University of Texas at Dallas include her involvement on boards and other campus associations, and her financial support and gifts for buildings and facilities, and endowments. Her support of U. T. Austin, where she is a Life Member of the Development Board, includes 16 endowments. The McDermott family's involvement with U. T. Southwestern Medical Center - Dallas began in 1956 and has

continued and touched almost every building and center on campus. Her gifts to U. T. Dallas include funding for the McDermott Scholars Program.

She is a true friend of The University of Texas System and deserving of this award.

I recommend also that the award be bestowed upon Mrs. McDermott at an appropriate ceremony to be held early this fall in Dallas when we may acknowledge the scope and depth of her many contributions to the growth and development of the U. T. System and higher education throughout Texas.

Vice-Chairman Clements seconded the motion, which carried unanimously.

5. U. T. System: Approval to hire external auditor to provide financial audit services for the fiscal year ending August 31, 2005

Regent Estrada, Chairman of the Audit, Compliance, and Management Review Committee, summarized the process undertaken to seek proposals for a comprehensive annual financial statement audit by an independent certified public accounting firm to assure that The University of Texas System has a sound financial base and adequate resources to support the mission of the organization and the scope of its programs and services. This initiative was undertaken to implement the "spirit" of the Sarbanes-Oxley Act as a good faith effort toward manifesting financial accountability and compliance in the public sector.

Regent Estrada moved that:

- a. Deloitte & Touche LLP be hired to provide independent financial auditing services for the audit of the U. T. System financial statements for the fiscal year ending August 31, 2005;
- b. the Board find that Deloitte & Touche LLP provides the audit option determined to be most beneficial to U. T. System; and
- c. U. T. System staff be authorized to negotiate and enter into an auditing services contract with the selected firm.

The motion was seconded by Vice-Chairman Hunt and carried by acclamation.

The first-year contract will terminate on April 1, 2006, and the contract will give U. T. System an option to renew for two additional one-year terms. Regent Estrada reviewed the timing of the audit to meet State deadlines for

submission to the State Auditor and he commended Assistant Vice Chancellor Wallace and U. T. System Audit Director Chaffin for their good work.

Chairman Huffines reiterated this effort is the first time that U. T. System has had an external audit performed by an independent firm and Regent Estrada commented that this is a step towards total accountability.

6. U. T. System: Discussion of Library, Equipment, Repair, and Rehabilitation (LERR) funding proposed for inclusion in the Fiscal Year 2005 budget

Executive Vice Chancellor Sullivan discussed a proposed new program to assist The University of Texas System institutions recruit and retain high quality faculty. Initiatives for Library, Equipment, Repair, and Rehabilitation (LERR) funding will be proposed for inclusion in the Fiscal Year 2005 budget submission for approval at the August 2004 meeting of the Board as follows:

- a. \$100,000,000 of Permanent University Fund (PUF) Bond Proceeds to fund LERR projects; and
- b. expenditure of Available University Fund (AUF) balances in an amount not to exceed \$60,000,000 for the purpose of defeasing certain Board of Regents of The University of Texas System PUF Bonds, Series 1996, Series 1997, Series 2002A, Series 2002B, Series 2004A and Series 2004B, to either maturity or an optional redemption date.

Of the \$100,000,000 of PUF Bond Proceeds, it will be requested that \$40,000,000 be appropriated to fund LERR projects for Fiscal Year 2005. U. T. System component institutions would be authorized to purchase approved equipment items and library materials and to contract for repair and rehabilitation projects following standard purchasing and contracting procedures within approved dollar limits, with the requirement that substitute equipment purchases are to receive prior approval by the Chancellor, the appropriate Executive Vice Chancellor and, where required, the U. T. Board of Regents. Transfers by U. T. System Administration of allocated funds to institutional control or to vendors will coincide with vendor payment requirements. Final approval of specific repair and rehabilitation projects will be in accordance with procedures for construction projects established by the U. T. Board of Regents.

It will be requested that the remaining \$60,000,000 of PUF Bond Proceeds be appropriated to provide an additional one-time funding to build and enhance research infrastructure to attract and retain the best qualified faculty. If approved, funds would be allocated as follows:

- a. \$1,000,000 to be used for additional funding for the U. T. System Digital Library. A full range of medical and scholarly journals is available through the digital library to all faculty at each of the 15 component institutions. These funds would be used to upgrade current servers and other hardware used to maintain the digital library. Current servers would then be recycled to assist librarians at small campuses.
- b. \$26,550,000 to be used at the six medical institutions for recruiting top researchers. This funding would be available only for laboratory renovations and purchase of equipment. Competitive proposals for these funds would be submitted from the component institutions and distribution would be decided by a committee chaired by the Executive Vice Chancellor for Health Affairs.
- c. \$32,450,000 to be distributed to the seven academic institutions excluding U. T. Pan American and U. T. Brownsville in two packages as follows:
  - Untenured faculty recruitment -- \$14,600,000 would be available as a grant to the seven academic institutions in proportion to planned hiring. The grant would improve the start-up packages for assistant professors and upgrade the quality of tenure-track faculty through laboratory renovations and equipment purchases.
  - Tenured faculty -- \$17,850,000 would be centrally administered by the U. T. System for start-up or retention packages for tenured faculty who are recommended from the academic institutions by a faculty group. The packages awarded would be competitive and would range from \$5,000 to \$50,000 awarded by the Office of Academic Affairs. Packages between \$50,000 and \$500,000 would be decided by a committee chaired by the Executive Vice Chancellor for Academic Affairs. Funds would be available for laboratory renovation and equipment purchase.

LERR appropriations not expended or obligated by contract or purchase order within six months after the close of Fiscal Year 2005 are to be available for future System-wide reallocation unless specific authorization to continue obligating the funds is given by the Executive Vice Chancellor for Business Affairs on recommendation of the president of the component institution and the appropriate Executive Vice Chancellor.

Historically, the annual funding of LERR is \$30,000,000 with an additional commitment of \$10,000,000 over three years for U. T. Dallas for equipping a Natural Science and Engineering Research Building and Technology Accelerator built in connection with an economic development effort with the State of Texas and Texas Instruments. U. T. Dallas will not participate in the allocation of remaining funds. The allocation of these LERR funds to the U. T. System component institutions was developed from prioritized lists of projects submitted by the component institutions and reviewed by U. T. System Administration staff.

The additional request for \$60,000,000 is a one-time commitment to establish laboratories and purchase equipment to attract and retain the best qualified faculty. Use of these funds must adhere to approved LERR budget rules. With the exception of The University of Texas - Pan American and The University of Texas at Brownsville, campuses which are not eligible for AUF, all component institutions are eligible to participate. Information regarding the progress of this unique initiative will be gathered to monitor the impact and provide background for institution compacts and for accountability and performance reports.

The AUF Spending Policy provides that the AUF balance not be less than \$30 million. Current projections reflect an AUF balance of approximately \$105 million on August 31, 2004. The proposed defeasance transaction would reduce the AUF balance to approximately \$45 million, or \$15 million above the minimum requirement, by cash defeasing certain high-coupon PUF bonds.

The item to be proposed for approval in August 2004 would authorize appropriate U. T. System officials to select the particular bonds to retire based on market conditions at the time of the transaction and to retire the bonds in the most cost-effective manner, either to maturity or an optional redemption date.

7. U. T. System: Discussion of issues related to potential bid for management and operation of Los Alamos National Laboratory

Chancellor Yudof made the following statement related to the status of a potential bid by The University of Texas System for the management and operation of Los Alamos National Laboratory:

Remarks by Chancellor Mark G. Yudof

We have an agenda item concerning our potential bid to manage and operate the Los Alamos National Laboratory. In terms of process, we have nothing to report other than that we have registered our interest

in a bid with the Department of Energy. As the Board knows, this expression of interest does not represent a decision to actually submit a bid; it is simply a part of the formal process ... one designed to give the DOE a better idea of potential contractors available to them as they draft their request for proposals. There have been press reports that three other potential bidders registered interest: the University of California, Lockheed Martin Corporation, and Battelle Memorial Institute. It is likely, however, that many other potential bidders have expressed interest in participating to a greater or lesser degree.

Today, we will hear from several people who have, over time, asked to address the Board about our potential bid. Their requests came at meetings where Los Alamos was not on the agenda. Since this item appeared on today's agenda, they have been given time to speak. I want to say up front that we at the System respect all views on this important subject ... and we are glad that the Board has given time on the agenda to hear those views today.

Additionally, for my own part, I want to emphasize that we are sensitive to the concerns of those who oppose any association with nuclear weapons because of deeply-held religious or moral principles. Even the great Einstein, who originally encouraged the development of what was then called an atom bomb, lived to regret and disavow his earlier advice. But as he found out, recalling a new reality is far more difficult than birthing one.

I bring this up because until now, our discussions about Los Alamos have been primarily about the process and the potential benefits for The University of Texas System. We all understand the nature of the work done at Los Alamos, but we have not discussed in any depth the potential benefit to the nation that would result if we took on a leading role at Los Alamos -- or, for that matter, at any national laboratory.

There is no question that, historically, a substantial part of the research done at Los Alamos involved the scientific technology used in developing, manufacturing, and sustaining nuclear weapons. With the end of the Cold War in the early 1990s, the United States halted all production of new nuclear warheads and declared a moratorium on nuclear testing to support new weapons development. Under various agreements and protocols, the United States has significantly reduced the Cold War nuclear arsenal. Recent decisions by President George W. Bush will further reduce the arsenal over the coming decade. Los Alamos is not, as some suggest, a "bomb factory."

Los Alamos has been charged with the responsibility of maintaining production technology for the U.S. for a few key nuclear components

to provide a hedge should new weapons production be required in the future. If such production were required, the DOE would construct dedicated production facilities at one of its production sites at that time.

Scientific inquiry involving the nuclear threat now revolves primarily around maintaining the integrity and safety of our existing stockpile; devising secure means of destroying nuclear weapons and disposing of nuclear materials; and, an aspect that is frequently overlooked but profoundly important, ensuring that our knowledge of nuclear technology is the most advanced in the world. Without Los Alamos, the United States would lose its world leadership in understanding nuclear technology.

In an era when proliferation presents the greatest nuclear danger, our ability to evaluate the nuclear research of other nations and adversaries is central to the success of our defense and national security efforts. Assessing and understanding the nuclear capabilities of other nations is essential. In many ways, it is the first line of defense for us and our allies against the wider distribution of nuclear capabilities.

If we got rid of every American nuclear weapon tomorrow, we would still need to understand the technology to protect ourselves. And we would still need to spend our tax dollars to conduct the kind of research done at Los Alamos.

Los Alamos is a principle center for research on issues and technologies related to Homeland Security. And, it is responsible for interpreting the latest scientific intelligence information from around the world.

That having been said, we need to remember that defense concerns are only part of the charge given to Los Alamos. The labs in New Mexico are a major research complex that support more than 50 cross-disciplinary facilities and includes work on projects involving energy, the environment, and health. In a few minutes, Richard Smalley from Rice University will tell us more about the research he is doing in conjunction with Los Alamos through the Department of Energy's Center for Integrated Nanotechnologies (CINT).

But, it is worthwhile to reemphasize that, while Los Alamos has drawn our immediate attention, it is the larger framework of national laboratories and their future that draws our primary interest. The system of laboratories is a resource without peer internationally and, here at home, it is a treasured incubator of discovery – a series of facilities dedicated to pure science. As much of our science moves

beyond the realm of easy imagination and into a place that makes old science fiction look positively archaic ... there are very few research centers that stay on the cutting edge.

Think for a moment that the best computers in the world now function in what they call "teraflops" ... in other words, a million million computations a second. One of our national labs has a computer with a peak performance rate of 12 teraflops. Japan has one that redlines at 20 teraflops. The race to improve these computers is not only about bigger, faster, better ... it is about building machines that keep up with human imagination and allow us to test ideas and innovations that otherwise would remain only interesting theories.

I am using computers as an example here because they are technology that most of us can visualize. In a world where scientists daily prove Arthur C. Clarke's theory that "any sufficiently advanced technology is indistinguishable from magic," it's hard for lay people to begin to understand what's going on. For most of us, computers may be magic boxes but we understand that they are glorified calculators. So, we are duly impressed when confronted with a machine that will do in a second what it would take a human being several hundred thousand years to finish.

But that is what is happening in every area of scientific inquiry. Our ability to test knowledge is growing exponentially and our knowledge is exploding at a rate almost beyond comprehension.

National laboratories exist to comprehend; their purpose is creating and assimilating new knowledge and turning it into something that is meaningful for the rest of us. At base, the purpose of national laboratories is to give the government -- and through the government, the people -- unbiased information about science. And universities, through their own research and affiliation with national laboratories, play a vital role in developing that information.

The national labs, which are so dependent on their ability to recruit and support outstanding scientists, have some of the same characteristics as universities. Often, they are organized like universities by discipline. This similarity is why, increasingly, universities are asked to collaborate with private sector entities to manage these national labs. The private entities may handle the security or environmental clean-up or the nuclear pits, but the universities know how to recruit and retain outstanding scientists and how to implement research projects.

So, when we discuss the possibility of managing and operating a national laboratory, we are contemplating not only the benefit to us, but the profound service we would be providing the nation.

Fundamentally, we would be helping this country separate the scientific wheat from the pseudo-scientific chaff ... and increasing the likelihood that federal resources would be spent on technology that improves our lives and makes our world safer.

Now I am genuinely delighted that Professor Richard Smalley could join us today. Dr. Smalley is a University Professor at Rice and the Director of the new Carbon Nanotechnology Laboratory there. He also currently works with the DOE Center for Integrated Nanotechnologies, a joint venture of Los Alamos and Sandia.

He has a list of awards too long to mention here so I will only mention two. He is a member of the prestigious National Academy of Sciences and won a Nobel Prize for his work in chemistry.

Dr. Smalley is widely known for the discovery of the C60 Buckminsterfullerene – also known as a “buckyball.” C60 together with other buckyballs now constitute the third crystalline form of carbon – after graphite and diamond. His current research involves elongated fullerenes – or “buckytubes” – new high-tech polymers that conduct electricity.

There’s an old Texas saying that “I can explain it to you but I can’t understand it for you.” Today, Dr. Smalley is going to explain his research so we can all understand it.

Dr. Richard Smalley said the Los Alamos National Laboratory is a scientific temple and he discussed the work in nanotechnology that is being done at the Laboratory.

The following individuals spoke, each urging U. T. System to abandon plans for a possible bid to operate Los Alamos National Laboratory:

- State Representative Lon Burnam (introduced by former Chairman Charles Miller)
- Mr. Austin Van Zant, UT Watch
- Mr. Stefan Wray, UT Nuke Free
- Ms. Karen Hadden, Chairperson for Peace Action Texas

Chairman Huffines then read letters of support that the Board received from:

- [Congressman Lamar Smith](#)
- [Congressman Mac Thornberry](#)
- [State Senator Rodney Ellis](#)
- [State Representative Elliott Naishtat](#)

[Letters read and materials provided at the Board meeting are on file in the Office of the Board of Regents.]

Chairman Huffines called on Regional Director for [Senator Kay Bailey Hutchison](#), Mr. Kevin Cooper, to read a letter of support from Senator Hutchison and stated a letter of support was forthcoming from the Governor's Office of the State of Texas. Chairman Huffines thanked the speakers for sharing their opinions.

## ITEM FOR THE RECORD

### U. T. Board of Regents: Revised list of Committee and Regental appointments

Committee and Regental appointments are herewith reported for the record:

#### **Standing Committees**

##### Executive Committee

James Richard Huffines, Chairman  
Rita C. Clements, Vice-Chairman  
Woody L. Hunt, Vice-Chairman  
Cyndi Taylor Krier, Vice-Chairman

Note: Chairman Huffines chairs the Executive Committee and is a voting member of that Committee. He is a nonvoting *ex officio* member of the following standing committees:

##### Academic Affairs Committee

Cyndi Taylor Krier, Chairman  
H. Scott Caven, Jr.  
Judith L. Craven, M.D.  
Robert A. Estrada

Note: Members of the Academic Affairs Committee also serve on The University of Texas at Brownsville/Texas Southmost College (UTB/TSC) Partnership Advisory Committee.

Audit, Compliance, and Management Review Committee

Robert A. Estrada, Chairman  
Rita C. Clements  
Judith L. Craven, M.D.  
Woody L. Hunt  
Cyndi Taylor Krier

Facilities Planning and Construction Committee

John W. Barnhill, Jr., Chairman  
H. Scott Caven, Jr.  
Rita C. Clements  
Robert A. Estrada  
Woody L. Hunt

Finance and Planning Committee

Woody L. Hunt, Chairman  
John W. Barnhill, Jr.  
H. Scott Caven, Jr.  
Cyndi Taylor Krier

Health Affairs Committee

Rita C. Clements, Chairman  
H. Scott Caven, Jr.  
Judith L. Craven, M.D.  
Cyndi Taylor Krier

**Ad Hoc Committee**

Student, Faculty, and Staff Campus Life Committee

Judith L. Craven, M.D., Chairman  
John W. Barnhill, Jr.  
Rita C. Clements  
Robert A. Estrada  
Woody L. Hunt

Note: Chairman Huffines is a nonvoting *ex officio* member of this ad hoc committee.

**Regental Representatives**

Board for Lease of University Lands

Judith L. Craven, M.D.  
Cyndi Taylor Krier  
Robert A. Estrada, Alternate

The University of Texas Investment Management Company (UTIMCO) Board of Directors

John W. Barnhill, Jr.  
Rita C. Clements  
Woody L. Hunt

Texas Growth Fund Board of Trustees

Robert A. Estrada

M. D. Anderson Services Corporation

Rita C. Clements

RECESS TO EXECUTIVE SESSION.--Chairman Huffines announced at 12:10 p.m. that the Board would recess to convene in Executive Session pursuant to Texas Government Code Sections 551.071, 551.072, and 551.074

RECONVENE.--At 4:50 p.m., the Board reconvened in open session for action on the matter considered in Executive Session.

EXECUTIVE SESSION OF THE BOARD OF REGENTS

Chairman Huffines announced that no action was taken on any item discussed in Executive Session as follows:

1. U. T. Board of Regents: Discussion with Mellon Human Resources and Investor Solutions concerning compensation issues related to individual employees
2. U. T. Dallas: Discussion of personnel matters relating to presidential search
3. U. T. System: Consideration of personnel matters relating to evaluation of presidents, U. T. System officers and employees
4. U. T. System: Consideration of personnel matters relating to appointment, employment, evaluation, assignment, and duties of officers or employees

ADJOURNMENT.--Chairman Huffines announced that the purpose for which this meeting was called had been completed, and the meeting was duly adjourned at 4:50 p.m.

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

August 9, 2004