

Meeting No. 1,017

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

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April 16, 2007

Austin, Texas

MEETING NO. 1,017

MONDAY, APRIL 16, 2007.--The members of the Board of Regents of The University of Texas System convened this special called meeting at 9:25 a.m. on Monday, April 16, 2007, on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following participation:

ATTENDANCE.--

Present

Chairman Huffines, presiding
Vice Chairman Clements
Vice Chairman Krier
Regent Barnhill
Regent Camarillo
Regent Caven
Regent Craven
Regent Estrada
Regent McHugh
Regent Rowling

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. System: Decision not to renew the contract with Deloitte & Touche LLP to provide independent financial audit services for the U. T. System for the fiscal year ending August 31, 2007

Following discussion related to possible renewal of the contract with Deloitte & Touche LLP to provide independent financial audit services for The University of Texas System for the fiscal year ending August 31, 2007, the Board decided not to renew the agreement. Regent Estrada had moved to renew the contract, Regent Craven seconded the motion, Vice Chairman Krier voted for the renewal, and Regents Barnhill, Caven, Clements, McHugh, and Rowling voted against the proposal.

A contract with Deloitte & Touche was negotiated to provide an audit of the U. T. System Annual Financial Report for the fiscal year ending August 31, 2005. The contract commenced on August 30, 2004, and terminated on April 1, 2006. On March 28, 2006, the Board authorized a renewal of the contract for the fiscal year ending August 31, 2006. The contract commenced on April 1, 2006, and terminated on April 1, 2007. Subject to *Texas Government Code* Section 321.020; Article IX, Section 6.34

of the 2006-2007 General Appropriations Act; and the State Auditor's approval of delegation of authority to the U. T. System to contract with a private auditor, U. T. System had the option to renew the contract for one additional one-year term. Exercise of this option was conditioned upon U. T. System and Deloitte & Touche reaching agreement of the renewal terms.

2. U. T. Pan American: Consideration of possible designation of the Starr County Upper Level Center project as architecturally or historically significant

Upon recommendation of Regent Barnhill, Chairman of the Facilities Planning and Construction Committee, the Board decided not to designate the Starr County Upper Level Center project at The University of Texas - Pan American as architecturally or historically significant.

3. U. T. System Board of Regents: Amendment to the Regents' *Rules and Regulations*, Series 10402 to add new Section 2 regarding a Special Compensation Committee

The Regents' *Rules and Regulations*, Series 10402, regarding committees and other appointments, were amended to add a new Section 2 related to a special compensation committee as follows and to renumber remaining sections. This special committee will have primary oversight for review of individual compensation issues of key executives.

Sec. 2 Special Compensation Committee. In addition to the standing committees, a special committee shall oversee the evaluation and assessment of key executives, as defined in Series 20203 of these *Rules*, and shall review and report to the Board on compensation issues. The Committee will be composed of the Chairman of the Board, the Chairman of the Finance and Planning Committee, the Chairman of the Academic Affairs Committee, the Chairman of the Health Affairs Committee, and another member or members of the Board as may be appointed by the Chairman.

4. U. T. System Board of Regents: Reappointment of Regent H. Scott Caven, Jr., Regent Colleen McHugh, and Regent Robert B. Rowling to the Board of Directors of The University of Texas Investment Management Company (UTIMCO) effective immediately

Regent H. Scott Caven, Jr., Regent Colleen McHugh, and Regent Robert B. Rowling were reappointed to The University of Texas Investment Management Company (UTIMCO) Board of Directors effective immediately for terms to expire April 1, 2009, or until their successors are named.

Regents Caven, McHugh, and Rowling abstained from discussion and voting on this item.

Pursuant to *Texas Education Code* Section 66.08, the Board of Regents shall appoint the nine directors of UTIMCO. At least three members of The University of Texas System Board of Regents and the Chancellor shall be appointed to the UTIMCO Board of Directors by the Chairman of the Board of Regents, by and with the consent of the Board of Regents.

Regents Caven and Rowling were appointed to the UTIMCO Board in February 2005 and Regent McHugh was appointed in November 2005.

5. U. T. M. D. Anderson Cancer Center: Authorization to purchase approximately 7.5 acres improved with a recreation center and a vacant group residential complex located at 6425 Chimney Rock Road, Houston, Harris County, Texas, from Harris County for a purchase price of \$5,222,250 for use as a multipurpose clinical facility and possible future use as a replacement radiation treatment center

Authorization was granted by the Board, on behalf of The University of Texas M. D. Anderson Cancer Center, to

- a. purchase approximately 7.5 acres improved with a recreation center and a vacant group residential complex located at 6425 Chimney Rock Road, Houston, Harris County, Texas, from Harris County for a purchase price of \$5,222,250, plus all due diligence expenses, closing costs, and other costs and expenses to complete the acquisition of the property as deemed necessary or advisable by the Executive Director of Real Estate, for use as a multipurpose clinical facility and possible future use as a replacement radiation treatment center; and
- b. authorize the Executive Director of Real Estate to execute all documents, instruments, and other agreements, subject to approval of all such documents as to legal form by the Office of General Counsel, and to take all further actions deemed necessary or advisable to carry out the purpose and intent of the foregoing action.

The property is partially improved with a recreation center and a vacant group residential complex, totaling 59,825 square feet. Harris County previously used the facilities as a youth center, but has moved the program to another location.

The property is located one-half block north of U. T. M. D. Anderson Cancer Center's Bellaire Radiation Treatment Center at 6602 Maple Ridge Street, Houston, Texas; this facility was acquired by the institution on March 31, 2005. U. T. M. D. Anderson Cancer Center has been seeking property near the Bellaire Radiation Treatment Center for a pilot multipurpose clinical facility and

Harris County is offering the property for sale in an auction scheduled to occur on May 3, 2007. In the course of discussions between the institution and the county, Harris County offered to cancel the auction of the property if U. T. M. D. Anderson Cancer Center purchases the property for \$5,222,250 by May 30, 2007.

U. T. M. D. Anderson Cancer Center proposes to demolish the improvements and construct a multipurpose clinical facility that will offer services such as infusion therapy and basic diagnostics. It is also anticipated that the radiation treatment services now offered by the Bellaire Radiation Treatment Center will be consolidated into the new facility. The institution will then reassess its need for the current Bellaire Radiation Treatment Center and determine whether to market those facilities for sale.

Institutional funds from operations will be used to fund the purchase.

6. U. T. Austin: Adoption of resolution regarding the State's Top 10 percent law and admissions issues

Chairman Huffines stated an additional item had been posted with the Secretary of State regarding the State's Top 10 percent law and admissions issues.

Following a lengthy discussion, Regent Caven moved that the Board adopt a resolution related to the State's Top 10 percent law and admissions issues as set forth on Page 5 minus the third bullet. Regent McHugh seconded the motion.

Regent Estrada proposed an amendment to the second bullet of the motion on Page 5 that the cap be raised "not to exceed 60 percent of the admitted freshman students each year." Vice Chairman Krier seconded this motion for discussion purposes. Following discussion, Chairman Huffines took a vote and the motion failed. Vice Chairman Krier abstained from vote on this proposed amendment.

Vice Chairman Krier then moved to amend the draft motion to include language as set forth in the third bullet on Page 5. Vice Chairman Clements seconded the motion.

Vice Chairman Krier also proposed that if the law changes, the Board of Regents adopt a process to provide the target admission standards. Regent Estrada seconded the motion but Vice Chairman Krier withdrew this motion as President Powers said he would have the flexibility to negotiate this.

The resolution below was approved, with Regent Estrada abstaining from vote.

Resolution

In the light of the current legislative consideration of changes in the State's Top 10 percent law; with the current unsustainable effect of the law resulting in 72 percent of the Texas resident admitted students for the Fall 2006 entering class having been admitted on this one criterion; with acknowledgement that this percentage has grown with each entering class since the enactment of the Top 10 percent law and is, with the growing high school population in Texas, only expected to continue to increase; and with approximately 24,000 students eligible to be automatically admitted to the Texas public institution of their choice, including The University of Texas at Austin, in the Fall 2006 under the Top 10 percent law; and

In order to emphasize the commitment of The University of Texas System Board of Regents to diversity, equity, and access in the admissions process at The University of Texas at Austin, I move that the Board take the following actions:

- Reaffirm the use of an individualized and holistic review of student applicants, considering race and ethnicity to the full extent permitted by law as expressed in the decisions of the United States Supreme Court in the cases of *Grutter v. Bollinger* and *Gratz v. Bollinger*,
- Urge the members of the Texas Senate and the Texas House of Representatives, currently meeting in the 80th Regular Legislative Session, to change the State's Top 10 percent law to cap the number of Texas students automatically admitted on the sole basis of class rank, with the cap not to exceed 50 percent of the admitted freshman students each year,
- Commit The University of Texas System to assure the offer of admission to any Texas Top 10 percent graduate to one of The University of Texas System institutions should the cap be imposed or the law changed, and
- Strongly support President William Powers in his efforts to explain the need for a cap to the Legislature.

RECESS TO EXECUTIVE SESSION.--At 11:12 a.m., Chairman Huffines announced the Board would recess to convene in Executive Session pursuant to *Texas Government Code* Sections 551.071, 551.073, and 551.074 to consider the matters listed on the Executive Session agenda.

RECONVENE IN OPEN SESSION.--At 1:25 p.m., the Board reconvened in open session and took the following actions on the following matters discussed in Executive Session.

1. U. T. Austin: Approval of a negotiated gift with potential naming opportunities

Vice Chairman Krier moved that the Board of Regents authorize President Powers and Vice Chancellor Safady to conclude negotiations and execute documents related to acceptance of a gift to benefit The University of Texas at Austin, including potential naming opportunities, consistent with the parameters discussed in Executive Session, with the prior approval of Chancellor Yudof, Dr. Malandra, and Mr. Burgdorf.

The motion was seconded by Regent Estrada and carried unanimously.

2a. U. T. Austin: Approval of increase in compensation for Head Men's Basketball Coach Richard D. Barnes (Regents' Rules and Regulations, Series 20204, regarding compensation for highly compensated employees)

Regent Barnhill moved that the Board of Regents approve the proposed contract revision for The University of Texas at Austin Head Men's Basketball Coach Richard D. Barnes to extend the current contract for an additional two-year term through March 31, 2017; to change his guaranteed total annual compensation from \$1.8 million to \$2.0 million per year; to adjust his annual guaranteed salary increase from \$50,000 to \$75,000; to include athletic performance incentive compensation of \$250,000 for winning a national championship; to guarantee payment of \$1.0 million if Coach Barnes is the head coach on March 31, 2010; to guarantee payment of \$1.0 million if Coach Barnes is head coach on March 31, 2013; and to increase the academic performance incentives from a range of \$20,000 - \$80,000 to a range of \$20,000 - \$90,000, with all changes to be effective April 1, 2007.

Regent Barnhill further moved that the Board find, as required by State law, that this proposed contract change is in the best interest of U. T. Austin.

Regent McHugh seconded the motion, which carried by acclamation.

RECESS TO EXECUTIVE SESSION.--At 1:30 p.m., Chairman Huffines announced the Board would recess again to convene in Executive Session pursuant to *Texas Government Code* Section 551.074 to consider the matters listed on the Executive Session agenda.

RECONVENE IN OPEN SESSION.--At 5:45 p.m., the Board reconvened in open session and took the following action on the following matter discussed in Executive Session.

2b. U. T. Medical Branch – Galveston: Approval of David L. Callender, M.D., as finalist for president

Upon motion by Vice Chairman Clements, duly seconded by Regent McHugh, the Board named David L. Callender, M.D., currently Associate Vice Chancellor and Chief Executive Officer at the University of California - Los Angeles Hospital System, as the sole finalist for the position of President of The University of Texas Medical Branch at Galveston.

ADJOURNMENT.--There being no further business, the meeting was adjourned at 5:47 p.m.

/s/ Francie A. Frederick
General Counsel to the Board

May 7, 2007