

January 18, 2008

Lincoln, Nebraska
January 18, 2008

The Board of Regents of the University of Nebraska met on January 18, 2008, at 1:00 p.m. in the Board Room at Varner Hall, 3835 Holdrege, Lincoln, Nebraska, in publicly convened session, the same being open to the public and having been preceded by advance publicized notice, a copy of which is attached to the minutes of this meeting as Attachment 1.

In compliance with the provisions of Neb. Rev. Stat. Section 84-1411, printed notice of this meeting was sent to each member of the Board and was posted in the first floor lobby of Varner Hall. In addition, copies of such notice were sent to the Lincoln Journal Star, Omaha World Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, and the Lincoln office of the Associated Press on January 4, 2008.

Regents present:
Randolph M. Ferlic
Chuck Hassebrook, Vice Chairman
Howard Hawks
Jim McClurg
Bob Phares

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IV. ELECTION OF OFFICERS

Motion Moved by McClurg and seconded by Schroeder to nominate Regent Hassebrook for the position of Chairman of the Board. Since there were no further nominations, Chairman Wilson declared nominations closed and called for a roll-call vote.

Action Student Opinion: Voting Aye: Seiler, Solheim, Lewis, and McKnight. Voting Aye: Hawks, McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic and Hassebrook. Motion carried.

Action Regent Hassebrook was elected as Chairman of the Board.

Motion Moved by Phares and seconded by Ferlic to nominate Regent Schroeder for the position of Vice Chairman of the Board. Since there were no further nominations, Chairman Hassebrook declared nominations closed and called for a roll-call vote.

Action Student Opinion: Voting Aye: Solheim, Lewis, McKnight, and Seiler. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, and Hawks. Motion carried.

Action Regent Schroder was elected Vice Chairman of the Board.

Chairman Hassebrook recognized Regent Wilson’s past service as Chairman of the Board.

Chairman Hassebrook welcomed newly-elected Regents McKnight and Seiler.

V. KUDOS AND RESOLUTIONS

Regent Ferlic presented a KUDOS award to Doug Loewens, Circulation Day Supervisor for Criss Library at the University of Nebraska at Omaha.

Regent McClurg presented a KUDOS award to Cindy Salyards, a Workstation Specialist with Customer Support Services for Information Technology at the University of Nebraska Medical Center.

Regent Lewis presented a KUDOS award to Gloria Mason, a Helpdesk Associate for Information Technology Services at the University of Nebraska at Kearney.

Regent Solheim presented a KUDOS award to Nancy Knapp, Staff Secretary for both the Institute for Ethnic Studies and the International Studies Program at the University of Nebraska-Lincoln.

Regent Whitehouse presented a KUDOS award to Andy Applegarth, who manages the Gudmundsen Sandhills Laboratory for the University of Nebraska-Lincoln

Regent Schroeder presented a resolution to Dr. Joseph Stothert, Chief of Trauma and Surgical Critical Care at The Nebraska Medical Center, and his trauma team, for their heroic actions on December 5, 2007, and for their continued outstanding health care provided to the people of Nebraska.

Resolution

Regent Wilson presented the following Resolution on the Strategic Framework Task Force:

Whereas, under the leadership of then-chairman Howard Hawks, the University of Nebraska Board of Regents created a new Strategic Framework with the purpose of guiding planning, establishing priorities and measuring progress within the University System; and

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Whereas, in 2005 the University of Nebraska Board of Regents created a Strategic

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BE IT FURTHER RESOLVED that the Board believes the amendment to the Nebraska Constitution proposed by the Connerly petition is not good public policy and may result in elimination of existing lawful measures employed by the University in furtherance of the Board's commitment to diversity; and

BE IT FURTHER RESOLVED that the Board believes that Nebraskans, through their elected officials and institutions, should address Nebraska issues in ways that best serve state interests consistent with existing law; and

BE IT FURTHER RESOLVED that the Board of Regents opposes the Connerly petition and urges the voters of the State of Nebraska not to sign the same.

Martin Luther King Breakfast
Remarks of Chancellor Harvey Perlman
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In August of 1963 on the Mall in Washington, Martin Luther King, gave us an enduring phrase when he contrasted decisions based on the color of one's skin with those based on the content of one's character. King was seeking racial justice for the children and grandchildren of persons who had been forcibly removed from their ancestral homes and enslaved in the service of the American economy. Now 45 years after King's speech, others use his words in asking Nebraskans to vote for a petition that would prohibit affirmative action programs designed to balance the racial scales—to remediate decades of deprivation, denial, and discrimination. Some who broke through the erected barriers, sometimes because of the opportunities that affirmative action programs provided, now seek, through the petition process, to prohibit others from the same opportunities. They wrap themselves in the mantle of race-neutrality, of seeking a world where the mettle of one's mind always trumps the melanin of one's skin.

While the lyrics sound similar, the melody is quite different.

- Dr. King's song rings of hope, the hope that black people will surmount their enforced experience, that white people will surmount their guilt and, in some cases, lingering racism, and that both will conquer the inherent human tendency toward racial suspicion and intolerance. As he said: "With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood."
- King's song rings of reciprocity, the reciprocity people of all races share to achieve a time when all people are not only created equal, but experience equal opportunities. As he said: "[White people's] destiny is tied up with our destiny. They have come to realize that their freedom is inextricably bound to our freedom. We cannot walk alone."
- King's song rings of unification—of a dream that "the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood."

The petitioners' song sounds a less harmonic note.

- The petitioner's song is one of denial, not of hope—denial that in this country race no longer matters with regard to where one lives, how one lives, how far one goes

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One need only look at statistics to discern the reality that young people of color continue to face burdens to educational achievement, or that the young in Nebraska of all races will increasingly require a collegiate environment that provides the skills and experience of living and working in a diverse community. One need only take a drive down Interstate 80 to see communities significantly impacted by immigrants from different cultures, speaking foreign tongues. Those communities that embrace the challenge and take affirmative steps to nurture the talent of these immigrants, like communities before them, will reap the benefits that talent can provide. Those who sing the song of denial, disassociation, and division will reap a far less satisfying harvest.

There is, of course, a proper role for public debate on affirmative action, on its constitutionality in different circumstances and whether it has been or will continue to be effective. These are serious matters that call for serious discussion among people of good will and, where appropriate, for different approaches. But it is likely that the conversation over a petition drive to ban all racially-based decisions will produce more heat than light, more hate than understanding, more regress than progress—that the appeal of such a petition will be to our baser instincts rather than to our more noble aspirations.

Martin Luther King was under no illusion that he would see a world in which his words would become descriptive—that everyone would be judged by the content of their character and not the color of their skin. It was, after all, a dream. He dreamed it for his four young children. We should continue to dream it for our own young children and grandchildren. But we should also not pretend to live in that dream world before it becomes a reality.

Motion Moved by Ferlic and seconded by Wilson that the Board support the Connerly Resolution and append the remarks Chancellor Perlman made at the Martin Luther King, Jr. breakfast the morning of January 18, 2008.

Action Student Opinion: Voting Aye: Seiler, Solheim, Lewis, and McKnight. Voting Aye: Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, McClurg, Phares, and Schroeder.

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sector and government have been demonstrated to serve as effective catalysts for regional innovation-based economic development, attracting entrepreneurs, faculty, students and new and knowledge-based businesses; and

Whereas, locating a public-private research and development campus on land contiguous to a major research university is essential to attracting private sector investment because such a location contributes significantly to success through internships and employment opportunities, faculty collaborations, graduate education opportunities, research agreements and other relationships among the partners; and

Whereas, the only feasible location of adequate size for such a campus contiguous to the University of Nebraska-Lincoln is on land currently designated as State Fair Park in Lincoln, Nebraska; and

Whereas, successful development of a public-private research and development campus in connection with the University of Nebraska-Lincoln would build on the research strengths of the University, including agriculture and life sciences, and thus leverage the research strength of the University for the benefit of all Nebraskans;

Now, therefore, be it resolved that the Board of Regents of the University of Nebraska supports the acquisition of State Fair Park by the University of Nebraska for the purpose of developing a research and development campus that will encourage public-private partnerships, promote the attraction and creation of high-paying jobs in Nebraska, foster innovative research that will attract and keep talent in Nebraska, and serve as a major source of economic competitiveness in the 21st century.

And, whereas the University of Nebraska has been a long-time partner with the Nebraska State Fair in efforts to promote and showcase Nebraska agriculture, industry, commerce, and the arts, sciences and technology; and

Whereas the needs of the Nebraska State Fair are no longer best met by the present location;

Now therefore be it further resolved that the Board of Regents of the University of Nebraska encourages the University of Nebraska administration, the State Fair Board, the Governor, the Legislature and other interested parties to work together to find a new location for the Fair so that it can continue its century long tradition of showcasing the best of Nebraska's agriculture, industry, commerce and the arts, sciences and technology, and supports the conveyance of the land currently known as State Fair Park to the University of Nebraska for a research and development campus.

Motion Moved by Wilson and seconded by Schroeder to accept the Resolution on the Nebraska Innovation Campus.

Action Student Opinion: Voting Aye: Solheim, Lewis, McKnight, and Seiler. Voting Aye: Wilson, Ferlic, Hassebrook, Hawks, McClurg, Phares, Schroeder, and Whitehouse. Motion carried.

Regent Phares reported on the December 10, 2007 meeting of the Business Affairs Committee and reported that the Committee recommended approval of UNL item X-B-3, the program statement and budget for the Animal Research Facility Renovation; and financing items X-B-4, UNL Animal Research Facility Project; X-B-5, UNL Nanoscience Center Project; and X-B-6, UNL Whittier Building Renovation.

Regent Ferlic reported on the January 17, 2008 meeting of the Audit Committee.

IX. UNIVERSITY CONSENT AGENDA

Motion Moved by Hawks and seconded by Ferlic to approve items IX-A-1, IX-B-1, and IX-B-2

A. ACADEMIC AFFAIRS

IX-A-1 The President's Personnel Recommendations

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B. BUSINESS AFFAIRS

University of Nebraska Central Administration

IX-B-1 Approve the acceptance of the audited financial statements of the University of Nebraska

University of Nebraska Medical Center

IX-B-2 Approve naming the new Geriatric Center at the University of Nebraska Medical Center the “Home Instead Center for Successful Aging”

There was discussion on item IX-A-1

Action Student Opinion: Voting Aye: Lewis, McKnight, Seiler, and Solheim. Voting Aye: Ferlic, Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, and Wilson. Motion carried.

X. UNIVERSITY ADMINISTRATIVE AGENDA

A. ACADEMIC AFFAIRS

Motion Moved by Wilson and seconded by Whitehouse to approve item X-A-1

X-A-1 Approve the Bachelor of Science in Turfgrass and Landscape Management degree at the University of Nebraska-Lincoln

Action Student Opinion: Voting Aye: McKnight, Seiler, Solheim, and Lewis. Voting Aye: Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, Wilson, and Ferlic. Motion carried.

Motion Moved by Wilson and seconded by McClurg to approve item X-A-2

X-A-2 Approve the Center for Plant Science Innovation at the University of Nebraska-Lincoln

Action Student Opinion: Voting Aye: Seiler, Solheim, Lewis, and McKnight. Voting Aye: Hawks, McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, and Hassebrook. Motion carried.

B. BUSINESS AFFAIRS

University of Nebraska Central Administration

Motion Moved by Wilson and seconded by McClurg to approve item X-B-1

X-B-1 Approve the appointment of Ron Hollins, M.D. and reappointment of Randolph M. Ferlic, M.D. to the Board of Directors of The Nebraska Medical Center effective January 1, 2008, for a term of three years

Action Student Opinion: Voting Aye: Solheim, Lewis, McKnight, and Seiler. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, and Hawks. Motion carried.

Motion Moved by Hawks and seconded by Wilson to approve item X-B-2

University of Nebraska at Kearney

X-B-2 Approve the conveyance of real property from the Board of Regents of the University of Nebraska to Viaero Wireless

Action Student Opinion: Voting Aye: Lewis, McKnight, Seiler, and Solheim. Voting Aye: Phares, Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, and McClurg. Motion carried.

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University of Nebraska-Lincoln

- Motion Moved by Phares and seconded by McClurg to approve items X-B-3, X-B-4, and X-B-5
- X-B-3 Approve the Program Statement and Budget for the Animal Research Facility Renovation
- X-B-4 Approve the Resolution for the Animal Research Facility Renovation Project which (1) approves the issuance by The University of Nebraska Facilities Corporation of not to exceed \$6,000,000 principal amount of UNL Animal Research Facility Renovation Bonds pursuant to a Bond Resolution of the Corporation, (2) authorizes the execution and delivery of a Financing Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement, an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Bonds, (3) authorizes the sale of such Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 5.35%), principal amounts, principal maturities and redemption provisions of such Bonds, and (4) approves the preparation and use of a final Official Statement
- X-B-5 Approve the Resolution for the NanoScience Center Project which (1) approves the issuance by The University of Nebraska Facilities Corporation of not to exceed \$15,000,000 principal amount of UNL NanoScience Center Bonds pursuant to a Bond Resolution of the Corporation, (2) authorizes the execution and delivery of a Financing Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement, an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Bonds, (3) authorizes the sale of such Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 5.35%), principal amounts, principal maturities and redemption provisions of such Series 2008 Bonds, and (4) approves the preparation and use of a final Official Statement
- Action Student Opinion: Voting Aye: McKnight, Seiler, Solheim, and Lewis. Voting Aye: Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, McClurg, and Phares. Motion carried.
- Motion Moved by Phares and seconded by Hawks to approve item X-B-6
- X-B-6 Approve the Resolution for the Whittier Building Renovation Project which (1) approves the issuance by The University of Nebraska Facilities Corporation of not to exceed \$17,000,000 principal amount of UNL Whittier Building Renovation Bonds, some or all of which may be taxable, pursuant to a Bond Resolution of the Corporation, (2) authorizes the execution and delivery of a Financing Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement (if required), an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Bonds, (3) authorizes the sale of such Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 7.0%), principal amounts, principal maturities, redemption provisions and the amount of such Bonds to be issued as taxable Bonds, and (4) approves the preparation and use of a final Official Statement
- There was discussion. Regent Phares requested the bid on the Whittier building include a provision for a geothermal heating system alternate.
- Action Student Opinion: Voting Aye: Seiler, Solheim, Lewis, and McKnight. Voting Aye: Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, McClurg, Phares, and Schroeder. Motion carried.
- Motion Moved by Whitehouse and seconded by Schroeder to approve items X-B-7, X-B-8, and X-B-9
- X-B-7 Approve the exchange and conveyance of real property between the Board of Regents and WRK, LLC
- X-B-8 Approve the purchase of Water-for-Injection Storage and Distribution System

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X-B-9 Approve a Change Order to the contract for the Renovation of Abel-Sandoz Residence Halls and Dining Center project

Action Student Opinion: Voting Aye: Solheim, Lewis, McKnight, and Seiler. Voting Aye: Wilson, Ferlic, Hassebrook, Hawks, McClurg, Phares, Schroeder, and Whitehouse. Motion carried.

University of Nebraska Medical Center

Motion Moved by Ferlic and seconded by Schroder to approve items X-B-10, X-B-11, and X-B-12

X-B-10 Approve the assignment of the real estate purchase agreement with Saad Enterprise Riverfront Development Group to the University of Nebraska Foundation

X-B-11 Approve a Ground Lease with the University of Nebraska Foundation providing for the lease by the Board of Regents of real property currently owned by Saad Enterprises Riverfront Development Group and Robert A. Stratbucker

X-B-12 Approve an Exchange Agreement between the Omaha Public Power District (OPPD) and the University of Nebraska Medical Center

There was discussion

Friendly Amendment Regent Hawks offered a Friendly Amendment to item X-B-12: Alter the sentence in the "Recommended Action" section of this item to read: "Approve an Exchange Agreement between the Omaha Public Power District (OPPD) and the University of Nebraska Medical Center (UNMC) and concurrently waive the requirements for public auction or sealed bid public sale." The amendment was accepted.

TO: The Board of Regents
Business Affairs

MEETING DATE: January 18, 2008

SUBJECT: Exchange Agreement between the Omaha Public Power District and the University of Nebraska Medical Center

RECOMMENDED ACTION: Approve an Exchange Agreement between the Omaha Public Power District (OPPD) and the University of Nebraska Medical Center (UNMC) and concurrently waive the requirements for public auction or sealed bid public sale.

PREVIOUS ACTION: June 14, 2007 – The Board of Regents approved a Letter of Intent to exchange land and improvements with Omaha Public Power District; a Letter of Intent to purchase real estate located near Eppley Airport, Omaha, Nebraska; and a Real Estate Purchase Agreement for real estate located near Eppley Airport.

EXPLANATION: Approval of this agenda item will authorize the Board of Regents, the governing body of the University of Nebraska Medical Center, to enter into an Exchange Agreement whereby approximately 10.5 acres and improvements of property currently owned and occupied by OPPD ("OPPD Parcel") located adjacent to the UNMC campus would be exchanged for like property and improvements located at 5510 Lindbergh Drive, Omaha, Nebraska, currently owned by Saad Enterprises Riverfront Development Group and Robert A. Stratbucker ("Exchange Parcel"), which Exchange Parcel shall be acquired by the University of Nebraska Foundation. Once the ground lease terms are fulfilled, the exchange parcel will be improved so that the two properties to be exchanged will be approximately the same in value. The Exchange Agreement provides further details to allow the parties to

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equalize the exchange. The Exchange Parcel located near Eppley Airport consists of 13.2 acres and will have improvements similar to those in the current OPPD Parcel located adjacent to the UNMC campus. It is anticipated that this exchange would not occur any sooner than 2012 based on UNMC's facilities development plan.

Both the OPPD Parcel and the Exchange Parcel have been appraised and a Phase I Environmental Site Assessment and an ALTA land title survey have been performed.

UNMC has utilized reasonable steps for conducting all appropriate inquiries to qualify for landowner liability protection under applicable environmental law.

Since the Regents' policy on the disposal of real property does not permit the sale of the subject parcels without a public auction or sealed bid public sale, the approval of this exchange would waive this requirement.

Members of the public and news media may obtain a copy of the proposed Exchange Agreement in the Office of the University Corporation Secretary, 3835 Holdrege Street, Lincoln, Nebraska 68583, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except University holidays.

PROJECT COST: TBD
SOURCE OF FUNDS: Not applicable
SPONSOR: Donald S. Leuenberger
Vice Chancellor for Business and Finance
RECOMMENDED: Harold M. Maurer, M.D., Chancellor
University of Nebraska Medical Center
DATE: December 13, 2007

Action Student Opinion: Voting Aye: Lewis, McKnight, Seiler, and Solheim. Voting Aye: Ferlic, Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, and Wilson. Motion carried.

Motion Moved by Hawks and seconded by Ferlic to approve item X-B-13

X-B-13 Approve the selection of HDR Architecture Inc., to provide architectural design services for the construction of the Geriatric Center

Action Student Opinion: Voting Aye: McKnight, Seiler, Solheim, and Lewis. Voting Aye: Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, Wilson, and Ferlic. Motion carried.

Motion Moved by Wilson and seconded by McClurg to approve additional item X-B-15

Additional Item X-B-15 Approve a budget increase in the amount of \$5,000,000 for the Michael F. Sorrell Center for Health Science Education project to construct a student plaza adjacent to the new education building on the campus of the University of Nebraska Medical Center

Action Student Opinion: Voting Aye: Seiler, Solheim, Lewis, and McKnight. Voting Aye: Hawks, McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, and Hassebrook. Motion carried.

University of Nebraska at Omaha

Motion Moved by Whitehouse and seconded by Hawks to approve item X-B-14

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Closed Session

Motion Moved by Phares and seconded by Hawks that the Board go into closed session as authorized by Section 84-1410 of the Revised Statutes of Nebraska for the protection of the public interest, and to prevent needless injury to the reputation of persons who have not requested a public hearing, for the purpose of holding a discussion limited to the following subjects:

- (a) Proposed private gifts to the University of Nebraska Foundation for the benefit of the University;
- (b) Honorary degrees;
- (c) A personnel matter involving members of the University staff.

Action Student Opinion: Voting Aye: Lewis, McKnight, Seiler, and Solheim. Voting Aye: Phares, Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, and McClurg. Motion carried.

Regent Hassebrook declared that the closed session would be strictly limited to a discussion of:

- (a) Proposed private gifts to the University of Nebraska Foundation for the benefit of the University;
- (b) Honorary degrees;
- (c) A personnel matter involving members of the University staff.

The Board went into closed session at 3:20 p.m. and reconvened the open meeting at 4:15 p.m.

Motion Moved by Phares and seconded by Whitehouse to approve item X-A-3

X-A-3 Approve the Award of Honorary Degrees and Awards

Student Opinion: Voting Aye: McKnight, Seiler, Solheim, and Lewis. Voting Aye: Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, Hawks, McClurg, and Phares. Motion carried.

ADJOURNMENT