

THE UNIVERSITY OF WYOMING

MINUTES OF THE TRUSTEES

SPECIAL MEETING

Thursday, August 27, 2009

**Final Minutes can be found on the University of Wyoming Board of Trustees website
at www.uwyo.edu/trustees**

**THE UNIVERSITY OF WYOMING
“SPECIAL” MEETING OF THE BOARD
MINUTES OF THE TRUSTEES**

**Thursday, August 27, 2009
3:00-4:30 p.m.; in Old Main Boardroom/Conference Call
[some Trustees participated in person]**

AGENDA

Call to Order	1
Roll Call	1
Public Session	1
I. Approval of CMAR for Visual Arts Building, Vinzant.....	1
II. Approval of GMP for Kendall House, Vinzant	2
III. Appointment to the UW Research Corporation Board of Directors, Gern.....	4
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Call to Order

President of the Board of Trustees Chuck Brown called the meeting to order at 3:03 p.m.

Roll Call

Trustee Lauer took roll. The following Trustees participated: Trustees Dave Bostrom, Chuck Brown, Dick Davis, Betty Fear, Taylor Haynes, Warren Lauer (in Boardroom), Brad Mead, Jim Neiman, Dave Palmerlee, and Ann Rochelle. Ex-officio Trustees Tom Buchanan and Matt Haigler were in attendance and sat in the Old Main Boardroom. Ex-officio Trustee Wyoming State Superintendent of Public Instruction Jim McBride was present. Ex-Officio Trustee Governor Dave Freudenthal did not participate; however, Chief of Staff Chris Boswell participated as representative from the Governor’s office. Trustees Trospen and Willson did not participate on the conference call.

Public Session

1. Approval of CMAR for Visual Arts Building, Vinzant

Vice President for Administration Doug Vinzant led the discussion with the Board. He explained that the University is seeking approval to hire a Construction Manager at Risk (CMAR) for the Visual Arts Facility. The CMAR will provide a preliminary Guaranteed Maximum Price (GMP) prior to the 2010 legislative session confirming the construction portion of the funds necessary to complete the project. The final GMP will be brought to the Board for approval prior to construction. With legislative authorization for issuance of the bonds to complete the project construction, it could begin in 2010 and would be completed in the fall of 2011. Proposals from responding firms were evaluated and ranked in the following manner:

1. G. E. Johnson Construction Company, Jackson, Wyoming
2. M. A. Mortenson, Denver, Colorado
3. FCI Constructors Inc., Cheyenne, Wyoming

The top firm is recommended because it possessed the strongest qualifications including in-state status, experienced LEED professionals, experience with higher education visual arts projects, experience in the use of alternative energy construction methods, and the lowest bid. Board approval of this item will allow the University to move forward with negotiations with G.E. Johnson Construction to serve as CMAR on this project.

Trustee Lauer inquired about the work that these companies have done for the University in the past. Vice President Vinzant stated that FCI Constructors Inc. has done work for the University; the other two companies have not.

Trustee Brown asked about the zero net energy project, and what that means. Vice President Vinzant referred the questions to Roger Baalman, Director for University Facilities Planning.

Mr. Baalman stated that this is the method of building a project with the use of as little energy as possible. He went on to explain how the building generates its own energy sources, primarily during the day, and then uses that energy to operate. The building is still connected to the grid, and is able to draw from that energy source if needed. The goal is that at the end of the day, the power that it creates goes into the grid, and at the end of the day there would be a zero net.

Trustee Brown called for the motion to approve authorization for the University to enter into negotiations with the firms, beginning with G. E. Johnson Construction Company, and work through the rankings should negotiations fall through with the first chosen firm.

Trustee Neiman moved to approve the motion as stated. Trustee Bostrom seconded the motion. There was no further discussion, and the motion was passed with a unanimous vote.

2. Approval of GMP for Kendall House, Vinzant

Vice President for Administration Doug Vinzant led the discussion with the Board. He explained that the University is seeking approval of GMP of \$1,114,591 for the Kendall House project. Funding for this project was provided by private donation of \$764,069 and matched with state funds, bringing the total to \$1.53 million. Additional donations have been received and matched by the Legislature from the Kresge Foundation, Rocky Mountain Power and Harold Bergman. The total project budget stands at \$1.9 million. The project will meet the current and future space needs of the Environment and Natural Resources program, as well as making the facility ADA compliant.

The CMAR for the project, Drahota Construction, which was approved by the Board at an earlier date, has proposed a base guaranteed maximum price of \$1,114,591. Gross maximum price will not be exceeded. Construction will require approximately six months to complete. Board approval will allow the University to initiate the construction phase of this project.

Trustee Mead inquired about the differences between the gross maximum price, the base guaranteed maximum price and the guaranteed maximum price.

Vice President Vinzant explained the GMP and clarified the statement in the materials, “Drahota Construction has proposed a base guaranteed maximum price of \$1,114,591 with a few bidding alternatives.”

Mr. Baalman explained that there will be some bidding for subcontractors and materials will be undertaken once Drahota Construction has authorization to move forward.

Trustee Lauer inquired about what constituted the changes based on the new construction bid budget—what are the actual changes that are being made to building, and what types of things will be affected.

Mr. Baalman stated that the project is intended to be a LEED (Leadership in Energy and Environment Design) building and explained some of the features the facility will have and what was removed from the initial project plans. Functionally, the facility will still be the same.

Trustee Brown called for the motion to approve authorization of the amendment to the CMAR Agreement with Drahota Construction for the construction of the Kendall House with a guaranteed maximum price of \$1,114,591.

Trustee Palmerlee moved to approve the motion. Trustee Haynes seconded the motion. There was no further discussion, and the motion was passed with a unanimous vote.

3. Appointment to the UW Research Corporation Board of Directors, Gern

Vice President for Research and Economic Development, Bill Gern, stated that according to the by-laws of the University of Wyoming Research Corporation, the Board of Trustees must appointment annually the Board of Directors for the UW Research Corporation. We ask that you review the list and approve the appointments. Vice President Gern stated that there are no changes and no additions to the UW Research Corporation Board of Directors list that has been approved in the past.

There were inquiries regarding terms of the directors. Vice President Gern stated that these are one year terms approved annually by the UW Board of Trustees.

Trustee Brown called for the motion to approve the recommended list.

Trustee Mead moved to approve the recommended list of directors for the University of Wyoming Research Corporation Board as presented. Trustee Fear seconded the motion. There was no further discussion, and the motion was passed with a unanimous vote.

4. Insurance Structure for Intellectual Property – HPG-ATC, Miller

Vice President for Governmental, Community and Legal Affairs, Rick Miller, noted that the Board received in advance, a narrative with background information regarding the situation with GE, as well as a privileged legal document.

Vice President Miller stated that the relationship with GE for the High Plains Gasification and Technology Center (HPG-ATC) requires on their part, some ability for them to be protected from unauthorized disclosure of their intellectual property. This proposal is a practical way of addressing the issue and allowing the project to keep moving forward.

Vice President Miller stated that the most effective way for the State to waive sovereign immunity, is to structure an insurance policy. Commercial insurance is not available, so UW has

arranged for special insurance through United Educators (UE), UW's primary insurance carrier. Under Wyoming law, it is essential that this arrangement take the form of insurance.

The University's coverage would be for \$15 million, with a \$14.9 million deductible. This is an acceptable level for GE.

Vice President Miller stated that it is important that we work through these details so we can move forward with the project. He went on to provide an overview of the risk to the University. Vice President Miller stated that the risk of claim accruing under this relationship is extremely remote. The risk would be that employees of the University and others at the University who work in an environment would intentionally, or through off the charts negligence, disclose information. Should this happen, the financial consequences would be severe.

Vice President Miller explained the strategy for obtaining the money to cover this proposal, by working with the legislature and the University's pool of monies, should we have a claim and need to cover the deductible of \$14.9 million. We need to create a structure to go to the Legislature to discuss the money. He added that the legislature wants this project with GE to move forward. Vice President Miller has informed staff to the Joint Appropriations Committee and the LSO (Legislative Service Office).

There was continued discussion by the Board regarding liquidated damages provisions, the insurance term, governmental immunity, GE's abdemnity against us coverage and whether this is a two way street, sovereign immunity, and the University's bond rating and how it may be affected.

He further explained that we do not have a committed debt of \$14.9 million that we have to pay, but rather a system so that if there is a claim, there is a structure so that we can move forward.

Trustee Lauer commented that it would behoove the trustees to formulate some sort of policy and planning that would allow the Trustees to periodically review these types of agreements that the University enters into and also to be aware of the progress of these projects.

Vice President Gern stated that these agreements will be executed quickly. The University is working on a tight timeframe.

Trustee Lauer moved that the Board authorize UW to enter into an insurance structure with United Educators as negotiated between UW and UE, which includes a liability for intellectual property claims, with a cap of \$15 million and that would allow UW to be responsible for the first \$14.9 million in the event of claims, more commonly referred to as a deductible. In addition to that, that the Board direct the UW administration to work with the state policy makers to establish a process under which claims under this specialized intellectual property insurance are reported to the state so that impacts to the University’s operating budget can be assessed and addressed.

Trustee Palmerlee seconded the motion. There was no further discussion, and the motion was passed with a unanimous vote.

5. Approval of 2010 Legislative Budget Request, Buchanan/Miller

President Buchanan discussed with the Board the 2010 Legislative Budget Request. He stated that UW’s standard budget for 2011-2012 is essentially the amount of money needed to sustain the “block grant” from this current biennium minus the \$18.3 million in budget reductions as directed by the Governor last spring. The UW exceptions to that budget, those areas where we are asking for modifications (increases and decreases) fall into two categories – exceptions requests to UW’s block grant, traditionally funded by the state general fund (067 budget) and exception requests related to UW’s energy initiatives which have been traditionally funded by AML (Abandoned Mine Land) funds. Both of these sections are in order of institutional priority.

He referred the Board to their Report materials regarding 067 Budget, page 11 of the Board Meeting Report. President Buchanan discussed the following topics:

- Competitive Salaries (salary enhancements)
- Greater Western Library Alliance (GWLA) membership
- Instructional Excellence Funding
- Tuition

President Buchanan noted that the UW Administration will, at the September Board of Trustees Meeting, begin conversations with the Board regarding tuition.

President Buchanan then discussed with the Board the budget request topics: Brucellosis Research, Wyoming Public Radio Expansion, Endowment Matching Funds, and NCAR Continuation.

There was discussion of AML (Abandoned Mine Land) funds and their availability. President Buchanan referred the Board back to the Report and continued his explanation of the four elements under the University’s AML funding including: Continuation of SER (School of Energy Resources), Wyoming Carbon Sequestration Major Research and Demonstration Initiative, Wyoming Reclamation and Restoration Center (WRRC), and purchase of a Research Nuclear Magnetic Resonance Spectrometer.

Trustee Neiman moved to approve the 067 Budget as presented. Trustee Haynes seconded the motion. There was no further discussion, and the motion was passed with a unanimous vote.

President Buchanan referred the Board to page 22 of the Board Report which details the 167 – UW Medical Education Budget. He discussed the different areas:

1. Casper Family Practice Residency Center
2. Cheyenne Family Practice Residency Center
3. WWAMI Medical Education Instruction Contract
4. Psychiatric Residency Rotation
5. Advanced Practice – RN Psychiatry
6. Accelerated RN Contract
7. Dental Contracts

Trustee Mead moved to approve the 167 – UW Medical Education Budget as presented. Trustee Fear seconded the motion. There was no further discussion, and the motion passed with a unanimous vote.

There was no other business to come before the Board.

Adjournment

The Board of Trustees President Chuck Brown adjourned the meeting at 4:23 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Shannon Sanchez', with a long horizontal flourish extending to the right.

Shannon Sanchez
Deputy Secretary, Board of Trustees