

UNIVERSITY OF MINNESOTA

BOARD OF REGENTS

November 12, 2004

A meeting of the Board of Regents of the University of Minnesota was held on Friday, November 12, 2004, at 9:00 a.m. in the Boardroom, 600 McNamara Alumni Center.

Regents present: David Metzen, presiding; Clyde Allen, Anthony Baraga, Frank Berman, Dallas Bohnsack, William Hogan, Richard McNamara, Lakeesha Ransom, Maureen Reed, and Patricia Simmons.

Staff present: President Robert Bruininks; Chancellor Samuel Schuman; Senior Vice President and Provost Thomas Sullivan; Senior Vice Presidents Frank Cerra and Robert Jones; Vice Presidents Kathryn Brown, Carol Carrier, Kathleen O'Brien, and Richard Pfutzenreuter; Interim Vice President Thomas Swain; General Counsel Mark Rotenberg; Executive Director Ann Cieslak; Provost David Carl; and Associate Vice Presidents Steven Cawley, Gerald Fischer, Donna Peterson, and Michael Volna.

RECOGNITIONS

McKnight Presidential Leadership Chair

Recognition was given to Senior Vice President Frank Cerra, Dean Deborah Powell, and Dean Steven Rosenstone, recipients of the McKnight Presidential Leadership Chair, a newly-created chair to recognize outstanding leaders at the University.

McKnight Presidential Professorship in Law and Public Policy

Recognition was given to Professor Michael Paulsen, recipient of the McKnight Presidential Professorship in Law and Public Policy.

APPROVAL OF MINUTES

A motion was made and seconded, and the Board of Regents voted unanimously to approve the minutes of the following meetings:

Litigation Review Committee - September 28, 2004
Faculty, Staff & Student Affairs Committee - October 7, 2004
Finance & Operations Committee - October 7, 2004
Work Session - October 7, 2004
Board of Regents - October 7, 2004
Board of Regents - October 8, 2004

REPORT OF THE PRESIDENT

President Bruininks reported on his recent trip to China. Chair Metzen and a number of other University officials were part of the delegation. The purpose of the trip was to strengthen ties with alumni, foster the existing academic exchange program, and to pursue new opportunities for partnership. He noted that over the past 25 years China has evolved into a dynamic, focused, energized country dedicated to self-improvement and education. He reported on how education had played a major role in the transformation of China and how the United States and Minnesota would benefit from an increased emphasis on education.

A copy of the Report of the President is on file in the Board Office.

REPORT OF THE CHAIR

Chair Metzen reported on his experience as a part of the University's delegation to China. He noted the high value that education holds in China and stated he believes that the legislators in this country need a stronger commitment to education if the United States is to continue to be a leader in research and the economy. He thanked President Bruininks and his wife, Susan, on the excellent job they did in representing the University of Minnesota.

Metzen also distributed a copy of revised Framing Principles for the University's relationships with associated organizations (on file in the Board office.) He reminded Board members that they had directed the administration to use the principles to guide the development of Board and administrative policies and to negotiate memorandums of understanding (MOU) with associated organizations. He reported that he has appointed Regents Allen and Reed to work with the President and General Counsel as a resource through the MOU negotiation process. The timeline for completion of the draft policies and MOU negotiation is February/March 2005.

RECEIVE AND FILE REPORTS

Chair Metzen noted the receipt and filing of the Annual Eastcliff Report.

REPORT OF THE ALL-UNIVERSITY HONORS COMMITTEE

Regent Metzen stated that the Report of the All-University Honors Committee was forwarded to the Board in a letter from President Bruininks on November 8, 2004.

A motion was made and seconded, and the Board of Regents voted unanimously to approve the Report of the All-University Honors Committee. A copy of the report is on file in the Board Office.

CONSENT REPORT: FACULTY, STAFF & STUDENT AFFAIRS COMMITTEE

Vice President Carrier presented the Consent Report that included the following item:

- Appointment of R. Timothy Mulcahy as Vice President for Research, effective February 1, 2005.

A motion was made and seconded and the Board of Regents voted unanimously to approve the Consent Report as presented in the docket materials.

**CONSENT REPORT AND INFORMATION ITEMS:
FINANCE & OPERATIONS COMMITTEE**

Vice President Pfutzenreuter presented the Consent Report as detailed in the docket materials and including:

- Purchases of Goods and Services over \$250,000 to:
 - Applied Business Communications, Inc., Dell-Comm, Inc., Orius Telecommunications Services, Inc., TRiCOM Communications, Inc., and Underground Piercing, Inc., for an estimated \$2,000,000 of contract labor for outside Cable Placement and Inside Infrastructure Construction/Cabling and Termination as needed for the period December 1, 2004 through June 30, 2006, for the Networking and Telecommunications Services department, a division of the Office of Information Technology.
 - Dell-Comm, Inc., Orius Telecommunications Services, Inc., TRiCOM Communications, Inc., and Underground Piercing, Inc., for an estimated \$450,000 of contract labor for Emergency Cable Restoration Services as needed for the period December 1, 2004 through June 30, 2006, for the Networking and Telecommunications Services department, a division of the Office of Information Technology.
 - Harlan Sprague-Dawley Company for an estimated \$1,400,000 for research rodents (mice, rats, guinea pigs, etc.) as needed for the period July 1, 2004 through June 30, 2008, for the Research Animal Resources Department.
 - Jackson Laboratories Company for an estimated \$2,200,000 for research rodents (mice) as needed for the period July 1, 2004 through June 30, 2008 for the Research Animal Resources Department.
 - McLeod USA Telecommunications, Inc. for \$600,000 to provide Long Distance Call Services for the period December 1, 2004 through November 30, 2007, for the Networking and Telecommunications Services department, a division of the Office of Information Technology.
 - National Cancer Institute for an estimated \$1,200,000 for research rodents (mice and rats) as needed for the period July 1, 2004 through June 30, 2008, for the Research Animal Resources Department.
 - Oracle Support Services for \$415,946 to renew Oracle University-wide computer software licenses and maintenance support for the one-year period November 24, 2004 through November 23, 2005, for the Office of Information Technology.

- Pareo, Inc. for up to \$299,000 for IT Program Management Office consulting services for the period November 18, 2004 through July 18, 2005 for the University Services Vice President's Office.
- Paul A. Schmitt (dba Schmitt Music) for \$1,000,000 for Steinway pianos for the School of Music.
- Varian, Inc. for \$475,930 for the purchase of a 500 Mhz UnityNova NMR System for the Chemistry Department at the University of Minnesota Duluth.

A motion was made and seconded and the Board of Regents voted unanimously to approve the Consent Report.

Pfutzenreuter also reported for information that the following purchase of services over \$250,000 was approved by Regents Metzen, Baraga, and Hogan as an emergency approval on October 21, 2004 pursuant to Board of Regents Policy: *Board Operations and Agenda Guidelines*:

- To Colorado Time Systems to amend the contract approved by the Board in 2001 for \$595,000. The amendment for \$220,879 is to upgrade the University Aquatic Center timing/scoreboard system with a new, state of the art video board for installation in December/January 2005.

GIFTS

Associate Vice President Gerald Fischer presented the monthly list of gifts to the University of Minnesota, the University of Minnesota Foundation, the Arboretum Foundation, and the Minnesota Medical Foundation through September 30, 2004, as listed in the docket materials and on file in the Board Office.

A motion was made, seconded, and the Board of Regents voted unanimously to approve the receipt of gifts as presented.

APPOINTMENTS: UNIVERSITY FOUNDATION TRUSTEES

A motion was made and seconded and the Board of Regents voted unanimously to approve the following appointments to the University of Minnesota Foundation Board of Trustees:

Nancy Lindahl – reappointed for a three-year term, November 2004-2007
 Luella G. Goldberg – reappointed for a three-year term, November 2004-2007
 Richard F. McNamara – reappointed for a three-year term, November 2004-2007
 Patricia Simmons - appointed for a three-year term, November 2004-2007

ANNUAL UNIVERSITY OF MINNESOTA FOUNDATION REPORT

Gerald Fischer, President of the University of Minnesota Foundation (UMF), Judy Kirk, Executive Vice President of UMF, and Fred R. Friswold, Trustee of UMF, provided an annual review of fundraising highlights.

Fischer reported that gift production totaled \$145 million in FY04 compared with \$234 million the prior year. He provided analyses of the donors, size of gifts, and

designated uses of the gifts. Other aspects of private giving to the University and its recognized foundations were also presented.

Board members expressed their appreciation for the excellent work of the Foundation volunteers and staff.

**BOARD OF REGENTS POLICY: RESERVATION AND
DELEGATION OF AUTHORITY**

Chair Metzen presented proposed amendments to Board of Regents Policy: *Reservation and Delegation of Authority* for review as described in the docket materials. The policy was first adopted on April 5, 2001 and last amended on July 9, 2004.

Regent Reed addressed the proposed amendment relating to the threshold for Board of Regents reserved authority to approve schematic plans for projects with an exterior visual impact. She indicated that the proposal is to bring forth projects when the amount is greater than \$2 million. She stated that she believes that any project with an exterior visual impact would be an exception to the Master Plan and should be reviewed by the Board.

In response to a question regarding appointment authority, it was noted that the University Librarian is to be appointed by the Board of Regents according to the Charter of the University.

The proposed policy amendments will be on the December 2004 agenda for approval.

**BOARD OF REGENTS POLICY:
BOARD OPERATIONS AND AGENDA GUIDELINES**

Chair Metzen presented proposed amendments to Board of Regents Policy: *Board Operations and Agenda Guidelines* for review as described in the docket materials. The policy was first adopted September 11, 1992 and last amended July 9, 2004. He noted that the President and senior officers have reviewed the proposed amendments and the general counsel has reviewed the policy for form and legality.

The item will be on the December 2004 agenda for approval.

**BOARD OF REGENTS POLICY:
LEGAL CLAIMS AND SETTLEMENTS**

General Counsel Rotenberg presented proposed amendments to Board of Regents Policy; *Legal Claims and Settlements* for review as described in the docket materials. The policy was first adopted on December 14, 1984 with amendments in 1990 and 1995.

The item will be on the December 2004 agenda for approval.

2006-2007 BIENNIAL BUDGET PARTNERSHIP PROPOSAL

President Bruininks presented the following resolution for approval relating to the 2006-2007 Biennial Budget Partnership Proposal:

WHEREAS, the University of Minnesota as the state's public, land grant university, is charged with the responsibility to pursue knowledge through research and discovery, and to apply this knowledge through teaching and learning, and outreach and public service; and

WHEREAS, the University of Minnesota's objectives are to promote economic growth and employment in the state, prepare students for 21st century jobs, improve the health of our people, facilitate the creation of new technologies and knowledge, along with their prompt transfer to the public and private sectors, and ensure that children of all races, genders, and family income live as well or better than their parents; and

WHEREAS, the State of Minnesota's general fund appropriation to the University of Minnesota was reduced by \$185 million or approximately 15% as compared to the previous original two year appropriation which required the faculty, staff, and students to experience significant budget reductions, a one year wage freeze, increased employee responsibility for health care costs and significant tuition increases; and

WHEREAS, the University of Minnesota recognizes that the financial needs of the University should not be met solely through requests for increased state appropriations and that the University must also share in the responsibility to meet its mission; and

WHEREAS, the 2006-2007 biennial budget proposal is designed to invest new state resources to implement critically important priority investments in the areas of Biosciences for a Health Society, Attracting and Retaining Talent for Minnesota's Future, and Creating and Sustaining Essential Research and Technology Infrastructure; and includes the state law formula recognition of funding for enrollment increases;

NOW, THEREFORE, BE IT RESOLVED that the Biennial Budget Proposal for FY 2006-2007 be adopted by the Board of Regents for presentation to the State of Minnesota; that this proposal, detailed in the attached material to this resolution, is based on a partnership of shared responsibility with the State of Minnesota that calls for a 50-50 financing partnership of priority investments; that this 50-50 partnership represents increased investments by the State of Minnesota of \$84 million, and a University contribution through a tuition increase of an average of 5.5% for each of the two years to yield an increase of \$54 million in tuition revenue, and an internal reallocation amounting to 1.25% of the University's current state appropriation and tuition base to yield \$30 million for a combined total of \$84 million; that this proposal also includes funding related to the state law formula for recognizing the costs of enrollment increases; and

BE IT STILL FURTHER RESOLVED, that the University engage its faculty, students, and staff, together with the State of Minnesota, to continue the shared responsibility for the maintenance and enhancement of the University's programs and goals in support of the well being of the State of Minnesota and the nation.

A motion was made and seconded to approve the resolution.

Bruininks presented highlights of the proposed request that were reviewed in detail at the October 2004 meeting of the Board of Regents and contained in the October 2004 docket materials.

Board members expressed support for the request and indicated that it was fair, equitable, and appropriate to be asking the state for a 50/50 partnership. It was also noted that the reallocation being imposed on the University will cause a great deal of sacrifice and pain on the University community. Regent Hogan stated that students have already experienced significant tuition increases in the past two years. He would hope that a strong message would be conveyed that students should not have to continue to carry such a heavy burden. Regent Berman indicated he would have liked the request increased so that more monies could be targeted for competitive compensation and preparing students for the 21st century.

The Board of Regents voted unanimously to approve the resolution relating to the 2006-2007 Biennial Budget Partnership Proposal.

RE-SUBMITTAL OF 2004 CAPITAL REQUEST

President Bruininks presented the following resolution for approval relating to the re-submittal of the 2004 Capital Request:

WHEREAS, the Board of Regents has directed the administration to annually submit a capital improvement budget and a six-year capital improvement plan in support of the university's strategic priorities; and

WHEREAS, the Board of Regents recognizes the importance of sustaining and improving the University's facilities in support of teaching, research, and outreach; and

WHEREAS, the administration has developed a capital planning framework designed to focus its capital planning efforts toward projects that support the University's institutional priorities within a financial strategy that is realistic;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Regents approves the University's "2004 State Capital Request" to the Minnesota Legislature in the amount of \$155,200,000 and a University of Minnesota financial contribution through a combination of University issued debt, fundraising, restricted funds and onetime unit resources of \$32,600,000.

A motion was made and seconded to approve the resolution.

It was noted that the original request was submitted and considered by the 2004 legislature but no action was taken during the session.

Bruininks reported that the resubmitted Request asks for \$155.2 million from the State of Minnesota and a \$32.6 million University of Minnesota commitment. The total cost of the capital plan is \$187.8 million. It reflects two changes from the original 2004 request:

- Non- Higher Education Asset Preservation & Replacement (HEAPR) project costs have been adjusted for one year of inflation (\$3.8 million); and
- Planning funds for Business Schools have been removed from the request. The projects will proceed with design using donated funds. Construction funds will be included in the 2006 request.

The Board of Regents voted unanimously to approve re-submittal of the 2004 Capital Request to the State of Minnesota for consideration during the 2005 legislative session.

SIX-YEAR CAPITAL PLAN

President Bruininks and Vice Presidents O'Brien and Pfutzenreuter presented the Six-Year Capital Plan (Plan) for review as detailed in the docket materials. The Plan includes \$1.27 billion for capital improvements during FYs 2004-05 to 2009-10 (\$834 million in state capital support and \$445 million in projects funded by the University through a combination of University debt obligations, local unit resources/fundraising and public/private partnerships). An explanation of how the Plan is developed was provided and financial details of the Plan were reviewed as well as brief descriptions of a number of projects included in the Plan. It was noted that the Plan was developed based upon a platform of ensuring long-term academic excellence by:

- Meeting the needs of Minnesota by generating knowledge, sharing that knowledge and providing service to communities and citizens;
- Emphasizing the University's extraordinary advantages - economic, social, civic and cultural;
- Advancing the unique importance of the University in research, education, and outreach;
- Enhancing the State's and University's responsibility for continuing mutual stewardship responsibilities by focusing on taking care of existing public facilities and infrastructure;
- Actively responding to new opportunities and challenges to reinvigorate and reshape critical academic priorities by strongly aligning operating and capital plans; and
- Realistically assessing the financial capacity of the institution to meet its share of the capital costs of the plan.

O'Brien stated that it is important to note that this is a planning document. It is based on the assumption that the 2005 legislature will reconsider and approve the 2004 capital request. A number of other issues could also have an impact on this plan. If changes occur that have an effect on the plan, the Board will be kept apprised.

O'Brien also provided a brief update on the status of the proposed football stadium project. She stated that if a stadium is to be ready for play by the 2008 season, the University will need to begin the process to prepare a detailed environmental impact statement in the near future. She briefly described this process and indicated that the administration will provide a full update to the Board at its December meeting. The administration will also recommend specific actions the Board of Regents will need to take regarding this project.

In response to a question, Pfutzenreuter assured the Board that any funding provided for the stadium project will be in conformance with the principles discussed at its September 12, 2002 work session.

REPORT OF THE AUDIT COMMITTEE

Regent Allen reported that the committee received a report from the external auditor; received information on financial reporting risks, emerging trends, and best

practices in higher education; and reviewed a number of information items as described in the docket materials.

REPORT OF THE FACULTY, STAFF, & STUDENT AFFAIRS COMMITTEE

Regent Simmons, Chair of the committee, reported that the committee did not meet this month.

REPORT OF THE FINANCE & OPERATIONS COMMITTEE

Regent Hogan, Chair of the committee, reported that the committee did not meet this month.

REPORT OF THE EDUCATIONAL PLANNING & POLICY COMMITTEE

Regent Reed, Chair of the committee, reported that the committee voted unanimously to recommend:

- a) Approval of the Consent Report for the Educational Planning & Policy Committee as presented to the committee and described in the November 11, 2004 committee minutes.
- b) Adoption of amendments to Board of Regents Policy: *Research Involving Human Subjects*, as follows:

Research Involving Human Subjects

SECTION I. SCOPE.

This policy governs all research involving human subjects conducted at the University of Minnesota (University) or by University faculty, staff, or student researchers.

SECTION II. COMPLIANCE WITH FEDERAL CODE.

Subd. 1. Roles. The federal government requires the University to designate the Institutional Review Board (IRB) to ensure that research covered under this policy meets federal requirements. The president or delegate is responsible for overseeing the IRB. University officials may not approve research covered under this policy if it has not been approved by the IRB. However, University officials are authorized to decline to conduct research previously approved by the IRB.

Subd.2. Compliance with Federal Regulations. All research subject to this policy shall be conducted in accordance with federal regulations, including, but not limited to, the Department of Health and Human Services' Guidelines for Protection of Human Research Subjects 45 Code of Federal Regulations (CFR) 46, and Food and Drug Administration regulations to protect human subjects, 21 CFR 50, 56, 312, 812.

SECTION III. COMPLIANCE PROVISIONS.

Subd.1. Appointments. The president or delegate shall appoint members of the IRB in accordance with federal regulations.

Subd.2. Responsibilities of the IRB. In conjunction with the president or delegate, the IRB and its staff shall provide assurance that all University faculty, staff, and student researchers comply with applicable federal regulations and guidelines. The IRB also shall:

- (a) review and approve, require modifications to, or disapprove all research covered under this policy;
- (b) monitor and conduct continuing review of research at intervals of at least once annually; and
- (c) report to appropriate University and federal government officials:
 - (1) any unanticipated problems involving risks to subjects or serious or continuing noncompliance with IRB requirements; and
 - (2) any suspension or termination of IRB approval of research.

Subd. 3. Other Responsible Parties. It is the responsibility of the president or delegate and each principal investigator to implement decisions of the IRB.

Subd. 4. Authorities of the IRB. The IRB is authorized to:

- (a) inspect research facilities;
- (b) obtain records and other relevant information relating to the use of human subjects in research;
- (c) observe the consent process or conduct of research directly or through third parties;
- (d) suspend or terminate research not conducted in accordance with the IRB's requirements or research associated with unexpected serious harm to subjects;
- (e) oversee research at other organizations pursuant to appropriate inter-institutional agreements; and
- (f) take other actions as necessary to ensure compliance with federal guidelines and regulations, other applicable federal and state law, Board of Regents policies, and administrative policies and procedures.

Subd.5. Administrative Policies. The IRB, with responsible oversight by the president or delegate, shall maintain appropriate administrative policies and procedures to implement this policy.

Supersedes: Use of Human Subjects in Research dated July 10, 1987

The Board of Regents voted unanimously to approve the recommendations of the Educational Planning & Policy Committee.

Reed reported that the committee also reviewed amendments to Board of Regents Policy: *Academic Misconduct*; Board of Regents Policy: *Tuition*; and Board of Regents Policy: *Student Financial Aid*.

REPORT OF THE FACILITIES COMMITTEE

Regent Bohnsack, Chair of the committee, reported that the committee voted unanimously to recommend:

- a) Approval of the Consent Report for the Facilities Committee as presented to the committee and described in the November 11, 2004 committee minutes.
- b) Adoption of amendments to Board of Regents Policy: *Eminent Domain*, as follows:

Eminent Domain

In exercise of its power of eminent domain, the Board of Regents (Board) shall comply with Minnesota Statutes, Chapter 117. Before an eminent domain proceeding is initiated, the Board shall authorize the action and, by appropriate resolution, determine public purpose and necessity for the acquisition of the land. Decisions with respect to settlement and with respect to payment of or appeal from the award of the commissioners shall be made consistent with Board of Regents Policy: *Legal Claims and Settlements*.

- c) Approval of the following real estate transaction:
 - A. Purchase of Block 12, Baker's Addition to St. Anthony, Hennepin County (Twin Cities campus).
- d) Approval of an amendment to the FY05 Capital Budget by:
 - A. \$3,536,000 to incorporate funding for the purchase of Block 12, Baker's Addition to St. Anthony, Hennepin County (Twin Cities campus).

The Board of Regents voted unanimously approve the recommendations of the Facilities Committee.

Bohnsack reported that the committee engaged in a discussion regarding issues relating to the re-submittal of the 2004 Capital Request; received a presentation on facilities condition assessment; and engaged in a discussion regarding the Board of Regents approval process for capital projects.

REPORT OF THE LITIGATION REVIEW COMMITTEE

Regent Berman, Chair of the committee, reported that the committee did not meet this month.

The meeting adjourned at 11:55 a.m.

ANN D. CIESLAK
Executive Director and
Corporate Secretary