

Year 2003-04

UNIVERSITY OF MINNESOTA
BOARD OF REGENTS
July 11, 2003

A meeting of the Board of Regents of the University of Minnesota was held on Friday, July 11, 2003, at 9:00 a.m. in the Boardroom, 600 McNamara Alumni Center.

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

Staff present: President Robert Bruininks; Chancellors Donald Sargeant and Samuel Schuman; Executive Vice President and Provost Christine Maziar; Senior Vice President Frank Cerra; Vice Presidents Kathryn Brown, Carol Carrier, Sandra Gardebring, Robert Jones, and Kathleen O'Brien; Interim Vice President David Hamilton; General Counsel Mark Rotenberg; Executive Director Ann Cieslak; Provost David Carl; and Associate Vice Presidents Margaret Carlson, Gerald Fischer, Gail Klatt, Stuart Mason, Michael Perkins, Donna Peterson, Richard Pfitzenreuter, and Michael Volna.

INTRODUCTIONS

Chancellor Velmer S. Burton, Jr.

President Bruininks introduced Velmer S. Burton, Jr., newly-appointed chancellor of the University of Minnesota Crookston. Burton spoke briefly to the Board. Civil Service Committee Chairs

Vice President Carrier recognized outgoing Civil Service Committee Chair Carla Volkman Lien and introduced Joseph Jameson, incoming chair for FY2004.

Council of Academic Professionals and Administrators Chairs Vice President Carrier introduced Teri Wallace, incoming chair of the Council of Academic Professionals for FY2004 and recognized the work of outgoing chair Randy Croce, FY2003 chair.

Due to disruptive behavior in the Boardroom, Metzen recessed the meeting at 9:10 a.m. The meeting was called back to order and business conducted at 10:00 a.m.

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 - June 12, 2003
Educational Planning & Policy Committee - June 12, 2003
Facilities Committee - June 12, 2003
Faculty, Staff & Student Affairs Committee - June 12, 2003
Finance & Operations Committee - June 12, 2003
Board of Regents - June 12, 2003

Board of Regents - Annual Meeting - June 13, 2003

Board of Regents - June 13, 2003

Public Forum - June 17, 2003

Board of Regents - June 26, 2003

REPORT OF THE PRESIDENT

President Bruininks reported that he was informed that funding for the remodeling of Nicholson Hall was being released by the State of Minnesota for completion of the project. The building will house the Center for Freshman Studies, an important academic priority of the University.

He also announced a \$10 million gift from the Bill and Nadine McGuire Foundation to be used for the construction of a new Translational Research Facility. This gift will match additional funds recently approved by the Minnesota State Legislature. A copy of the Report of the President is on file in the Board Office.

REPORT OF THE CHAIR

Chair Metzen presented Regent Reed with a gavel in recognition of her service as Chair of the Board from 2001-2003. He reported that the President's contract will continue without an increase in salary in keeping with the University-wide decision to freeze compensation. He added that this is not an indication of the President's performance as the Board believes he has done excellent work.

Metzen noted that new committee appointments have been made and thanked Board members for their willingness to serve in so many capacities. He reported that the Board will hold its annual retreat August 7-8, 2003 at the Minnesota Humanities Education Center in St. Paul.

RECEIVE AND FILE REPORTS

Chair Metzen reported the receipt and filing of the Civil Service Committee Report and the Council of Academic Professionals and Administrators Report.

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 May 31, 2003, and is 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.

REPORT OF THE AUDIT COMMITTEE

Regent Frobenius, Chair of the committee, reported that the committee reviewed a number of information items: a) the internal audit plan; b) University high risk financial activities and transactions; c) results of NCAA agreed-upon procedures;

and d) conflict of interest relating to compliance and management. The committee also engaged in a preliminary discussion relating to a committee workplan for FY2004.

REPORT OF THE FACULTY, STAFF, & STUDENT AFFAIRS COMMITTEE

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

a) Approval of the Consent Report for the Faculty, Staff, & Student Affairs Committee as presented to the committee and described in the July 10, 2003 committee minutes.

b) Adoption of Board of Regents Policy: Possession of Weapons, as follows:

POSSESSION AND CARRYING OF WEAPONS SECTION I. POLICY STATEMENT

The Board of Regents (Board) is charged with the constitutional responsibility to adopt laws and policies for the governance of the University of Minnesota (University). In order to achieve the University's teaching, research, and public service missions, the Board considers it essential that all persons feel safe and be free from violence, threats, and intimidation when on University property or attending University functions and events. Accordingly, the Board hereby regulates the possession and carrying of weapons by members of the University community and by others when on University property.

SECTION II. DEFINITIONS

Subd. 1. University Property. University property means all real property, buildings, and facilities under the primary control of the University through ownership, lease, or other means. This includes all public or private locations, arenas, stadiums, and halls that the University has leased for University events, including, but not limited to, academic and administrative meetings, intercollegiate and intramural sporting events, and student, faculty, and staff activities. University property also includes all places of residence owned by the University in which students reside.

Subd. 2. Employee. Employee means any individual employed by the University, including a student employee, when acting within the course and scope of employment.

Subd. 3. Weapon. Weapon means a firearm or a dangerous weapon as defined by Minnesota law.

Subd. 4. Firearm. Firearm means a gun, whether loaded or unloaded, that discharges shot or a projectile by means of an explosive, a gas, or compressed air.

Subd. 5. Student. Student means an individual taking one or more University courses or classes, credit or noncredit, or participating in any program administered in part or wholly by the University.

Subd. 6. Visitor. Visitor means any person who is on University property, except an employee or a student.

SECTION III. POSSESSION OR CARRYING OF WEAPONS

No person, whether a student, employee, or visitor, shall possess or carry a weapon while on University property, except as authorized in Section IV of this policy.

SECTION IV. AUTHORIZED POSSESSION OR CARRYING OF WEAPONS

This policy authorizes the possession or carrying of weapons on University property under the following circumstances:

Subd. 1. Law Enforcement and Military Personnel. Licensed peace officers, security guards, other law enforcement agents, and military personnel may possess or carry weapons on University property when acting in the course of their official duties and when authorized by law to carry weapons.

Subd. 2. Military Training. Students, employees, and visitors participating in military training may possess or carry weapons on University property when acting in the course of their official duties or performing duly assigned tasks involving weapons.

Subd. 3. Presidential Approval. The president or delegate may in writing permit or revoke permission for the otherwise lawful possession or carrying of a weapon on University property. This may include possession or carrying of a weapon for an academic use, use of a firearm at a campus shooting range, otherwise lawful storage of a weapon on residential property not operated as a residence hall, or any other possession or carrying of a weapon on University property.

Subd. 4. Storage of a Firearm. Otherwise lawful storage of a firearm inside a personal motor vehicle is permitted on University property.

SECTION V. VIOLATIONS

Subd. 1. Students. Violation of this policy by a student is a violation of, and will be adjudicated in accordance with, Board of Regents Policy: Student Conduct Code.

Subd. 2. Employees. Violation of this policy by an employee constitutes misconduct subject to University discipline up to and including termination.

Several Board members indicated that there were concerns about approving a policy that is not in compliance with state law. However, after discussions with the administration, board members expressed support of the proposed policy. Regent Bell stated that the Board should use its power to make policy that contradicts state law sparingly. Regent Frobenius indicated that he supports the policy after being assured that other public universities have similar policies. Regent Berman stated that he believes the policy is consistent with the legislative policy to allow workplaces to ban firearms on their own property. Board members agreed that a university campus is not a place for guns. The Board of Regents voted unanimously to approve the recommendations of the Faculty, Staff & Student Affairs Committee.

Regent Simmons reported that the committee received a presentation on residential life at the University of Minnesota Duluth; reviewed a program update on intercollegiate athletics in the Twin Cities; and engaged in a preliminary discussion relating to the committee workplan for FY2004. The committee also reviewed a number of information items as described in the docket materials.

REPORT OF THE FINANCE & OPERATIONS COMMITTEE

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

a) Approval of the Consent Report for the Finance & Operations Committee as presented to the committee and described in the July 10, 2003 committee minutes.

The Board of Regents voted unanimously to approve the recommendation of the Finance and Operations Committee. Regent Hogan reported that the committee reviewed information relating to investment oversight policies and procedures; engaged in a preliminary discussion of the committee workplan for FY2004; and reviewed a number of information items as described in the docket materials.

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 July 10, 2003 committee minutes.

The Board of Regents voted unanimously to approve the recommendation of the Educational Planning & Policy Committee. Reed reported that the committee also continued a discussion from the June meeting relating to accreditation and assessment; reviewed proposed improvements to the University Plan, Performance, and Accountability Report; received information on graduation goals and timelines for all campuses; and engaged in a preliminary discussion relating to the committee workplan for FY2004. The committee also reviewed a number of information items as described in the docket materials.

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 July 10, 2003 committee minutes.

b) Approval of the schematic plans for the Arboretum Visitor Center, Phase II project located at the Minnesota Landscape Arboretum, Chanhassen, Minnesota and of the appropriate administrative officers proceeding with the award of contracts and the development of construction documents and construction.

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

Regents Bell and McNamara recused themselves from the meeting due to a possible conflict of interest.

Chair Bohnsack reported that the committee also voted unanimously to recommend:

a) Approval that the appropriate administrative officers receive authorization to execute the appropriate documents providing for the following real estate transaction:

A. Agreement to Place TCF ATMs on the Twin Cities Campus.

The Board of Regents voted unanimously to approve the recommendation of the Facilities Committee. Regents Bell and McNamara rejoined the meeting.

Bohnsack reported that the committee reviewed an item for action relating to an amendment to the land lease for the Radisson Hotel Metrodome mortgage refinancing. He stated that the committee engaged in an extended discussion and delayed action on the item until additional information is provided. The committee reviewed design guidelines for the Jackson Hall end cap/stair enclosure; the Social Science Building rehabilitation on the Morris campus; and the Administration Building Addition at the Southern Research and Outreach Center in Waseca, Minnesota. The committee engaged in a preliminary discussion about the Committee Workplan for FY2004 and reviewed information items as described in the docket materials.

REPORT OF THE LITIGATION REVIEW COMMITTEE

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

2004 PRELIMINARY STATE CAPITAL REQUEST

A motion was made and seconded to approve the following resolution relating to the 2004 Preliminary State Capital Request:

WHEREAS, the Board of Regents has directed the administration to annually submit a capital improvement budget and a 6-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 "Preliminary 2004 State Capital Request" to the Minnesota Legislature in the amount of \$159,900,000.

Bruininks provided a brief review of the request as included in the docket materials, noting that it was reviewed in detail at the June 2003 Board meeting. He reiterated that the State of Minnesota requires all state agencies, local governments, and the University of Minnesota to submit their "Preliminary Capital Requests" for consideration by the Governor and the legislature in preparation for the 2004 legislative session. The Administration will recommend a final request and an updated 6-year plan to the Board in Fall 2003.

Bruininks noted that this request is built around priorities outlined in the current Six-Year Capital Improvements Plan. The preliminary request places an increased emphasis on the renewal of existing facilities and infrastructure. It also calls for funds to begin design work on new facilities for business schools.

Regent Baraga stated he was pleased that a large portion of the request was designated for Higher Education Asset Preservation & Replacement (HEAPR), funds that will be used system-wide to maximize and extend the life of the University's existing physical buildings. He believes this will save the University a considerable amount of money rather than replacing buildings.

In response to a concern from Regent Berman regarding the marked increase in the request of HEAPR funds, President Bruininks stated that he has had extended discussions with legislative leaders regarding the strategy for the request and has received positive feedback.

Regent Reed indicated that this preliminary request is in line with the vision for the future the President has outlined and is in compliance with Board policies.

The Board of Regents voted unanimously to approve the resolution relating to the 2004 Preliminary State Capital Request.

UPDATE: AFFIRMATIVE ACTION

General Counsel Rotenberg provided a summary of two landmark United States Supreme Court decisions relating to affirmative actions admission cases involving the University of Michigan, *Gutter v. Bollinger* and *Gratz v. Bollinger*.

Rotenberg briefly described the decisions in each case as provided in the docket materials. Rotenberg stated he believes there are four key elements to a valid affirmative action admissions program at a public university as derived from the decisions:

- 1) The University must clearly articulate a rationale justification for affirmative action in admissions.
- 2) The application review process must be individualized and holistic.
- 3) There cannot be any quotas or a point system allocated solely on the basis of race or ethnicity. Race cannot be used as a defining feature of the applicant's presentation to the college or university.
- 4) The use of affirmative action as applied to admissions has to be seen as a temporary expedient and cannot go on indefinitely.

Rotenberg stated that the decisions for each case were lengthy and complex. The General Counsel's Office will carefully study the opinions and will advise the University admissions programs to ensure that the law is followed as articulated by the Supreme Court.

The Board engaged in a short discussion. In response to a question from Regent Bell, Rotenberg stated that for the foreseeable future the question of diversity enhancing the education experience and diminishing stereotypes is a settled question.

Questions were also raised regarding whether the University is complying with the requirement to consider each applicant individually, and whether the Supreme Court decisions will affect the adoption of goals as part of the University's institutional measures.

The meeting adjourned at 11:15 a.m.

**ANN
D.
CIESLAK
Executive
Director
and
Corporate
Secretary**

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Last modified on September 7, 2005