Year 2003-04

UNIVERSITY OF MINNESOTA

BOARD OF REGENTS

Educational Planning & Policy Committee

March 11, 2004

A meeting of the Educational Planning and Policy Committee of the Board of Regents was held on Thursday, March 11, 2004 at 9:45 a.m. in the East Committee Room, 600 McNamara Alumni Center.

Regents present: Maureen Reed, presiding, Anthony Baraga, Peter Bell, William Hogan, and Patricia Simmons.

Staff present: President Robert Bruininks; Chancellor Velmer Burton; Senior Vice President for Academic Affairs & Provost Christine Maziar; Senior Vice President Robert Jones; Vice Presidents Kathryn Brown, Sandra Gardebring, Richard Pfutzenreuter; Interim Vice President David Hamilton; Acting General Counsel William Donohue; Executive Director Ann Cieslak; Provost David Carl;Executive Associate Vice President Al Sullivan;and Associate Vice Presidents Steve Cawley and Michael Volna.

Student Representatives present: Travis Amiot and Gina Jennissen.

UNIVERSITY ENTERPRISE LABORATORIES, INC.: RESOLUTION

Senior Vice President and Provost Maziar introduced Interim Vice President for Research David Hamilton and Robert Elde, Dean, College of Biological Sciences (CBS), who led the discussion of the proposed resolution to provide financial support to University Enterprise Laboratories, Inc. (UEL). Maziar stated that Elde would describe UEL because it is a good application of proposed Board of Regents Policy: *Use of Royalty Income to Support Technology Commercialization*, the next item on the agenda.

Elde reported that a number of factors, such as faculty retention, support for faculty entrepreneurial activities, serving the aspirations of students, and workforce development, had precipitated the development of UEL. He proposed that UEL's success would benefit the University and the state of Minnesota in much the same way that the molecular and cellular biology initiative and Biodale have enhanced faculty retention and faculty and student recruiting over the last few years.

Elde advised that the next steps for UEL are to secure adequate funding, hire an executive director, acquire the site (along the transitway between the two campuses), renovate the facility, and secure tenants. In its first phase, UEL expects to house 22 companies. He acknowledged that start-up companies require assistance in a number of areas, but by providing laboratory space close to the University, UEL creates an environment in which start-ups can cluster and thrive, eventually generating licensing fees, milestone payments, and royalties for the University.

Hamilton responded to a list of frequently asked questions, explaining the University's contractual relationship to start-up companies, the value of a biotechnology focus, the unique attributes of UEL in the Twin Cities start-up community, and the existence of a very favorable environment for the creation of a biotech incubator (as described in the docket materials and on file in the Board Office).

In response to questions from several Regents, Elde explained that an administrative working group has determined best practices through federal government publications, an assessment of the local incubator market, and conversations with staff of successful university incubators. He stated that the UEL Board of Directors also is very encouraged by the financial support of major local corporations, such as Medtronic and 3M, who eventually expect to benefit from the technologies developed by UEL's start-up tenants.

In response to several questions from Regent Simmons, Elde, Maziar, and Hamilton emphasized that:

- the University's proposed $1 million of support for UEL will be matched by financial partners whose contributions range from $250,000 to $2 million;
- the University will not realize a dollar-for-dollar return on its investment, but expects to benefit from a higher return on its intellectual property through more successful start-ups;
- the University's nonvoting status on UEL's board is essential to avoid institutional conflicts of interest (or the appearance of such conflicts); and
- UEL's articles of incorporation eliminate pursuit of a course not in alignment with the University's mission.

In response to a several questions from Regent Bell, Elde observed that tenant demands for upgrades would not be a concern because UEL will provide lower-end technologies with high-end technologies available through time-sharing as needed, an option that reinforces the value of close proximity to the University. Regarding the extent to which UEL would compete with the private sector, Elde commented that CBS has been hosting start-up companies for some time because local real estate markets do not provide rentable space consistent with the financial resources and credit-worthiness of start-up companies.

In response to an inquiry from Bell, Controller Volna reported that the administration is continuing to analyze whether UEL would constitute an affiliated organization of the University.

The resolution related to providing financial support to UEL will return to a future meeting of the committee for action.

BOARD OF REGENTS POLICY: *USE OF ROYALTY INCOME TO SUPPORT TECHNOLOGY COMMERCIALIZATION*

Senior Vice President and Provost Maziar and Interim Vice President Hamilton led the discussion of proposed Board of Regents Policy: *Use of Royalty Income to Support Technology Commercialization*. Maziar emphasized that while there are Board policies governing intellectual property, investments, purchases of goods and services, and real estate transactions, there is no policy to guide the use of institutional resources to support outside entities that in turn support a mission of the University.

Maziar reviewed three key policy questions critical to a discussion of the proposed policy:

- Should the University be authorized to provide financial support to not-for-profits, and should it be limited to supporting not-for-profits?

Maziar acknowledged that there is a need to enhance the University's capacity to commercialize technology and the perception of its commitment to technology commercialization, but there also is a lack of clarity from federal agencies regarding what constitutes institutional conflict of interest. Because of federal inaction in this area, the University proposes creation of a third party, University Enterprise Laboratories, Inc., to advance its technology commercialization efforts. She suggested that while the proposed policy will enable new relationships, it does so with certain restrictions, such as the requirement that limits eligible recipients to not-for-profits whose missions are compatible with the University's and invested funds to those derived from the University's commercialization activities.

- Is the use of royalty income contemplated under the proposed policy an appropriate and high value use of University resources?

Maziar suggested that this question is less important to ask about the policy itself than it is to ask about each and every opportunity to use resources under this policy.

- Does the proposed policy provide adequate oversight and reporting mechanisms to support the Board in meeting its fiduciary and oversight responsibilities?

Maziar explained that the following three provisions of the proposed policy ensure oversight and reporting:

- Any level of financial support above $250,000 would require Board approval, a level of accountability established in other Board policies applicable to resources flowing outside the University. In addition, any participation of substance would require more than $250,000, guaranteeing that significant relationships require Board approval.

- An advisory committee of faculty and administrative leaders will advise the president as to whether an opportunity meets established criteria for financial soundness and alignment with mission.

- The president is required to report to the Board annually on the commercialization of University technology, describing any financial support provided to non-University entities.

Regent Reed requested that Gary Balas, Professor of Aeronautical Engineering Mechanics and chair of the Faculty Senate Committee on Research, present the views of the faculty. Balas indicated that the committee has not voted directly on the proposed policy, but that it did vote unanimously in favor of the concept and supports the limitation to not-for-profits until appropriate metrics are determined.

Regents Simmons and Bell expressed their reservations regarding the limitation of investments to not-for-profit entities. Simmons maintained that conflict of interest issues that might arise with for-profit entities could be addressed contractually, while Bell asserted that the University might miss opportunities to make appropriate investments in for-profit entities. Maziar emphasized that uppermost among the administration's concerns about investments in for-profit entities was institutional conflicts of interest, which have plagued other institutions, and return-on-investment expectations at odds with other partners.

Simmons proposed that Subd. 2(c) be deleted in favor of administrative guidelines to fulfill the intent of the policy.

Regent Baraga reminded the committee of the faculty's intense interest in this policy, requesting that Balas provide that perspective on this change. Balas reported that if the limitation to not-for-profits were eliminated, he would expect the faculty to strongly encourage that conflict of interest issues be addressed and that long-term metrics be established to guide investment decisions.

A motion was made and seconded, and the committee voted unanimously to delete Subd. 2(c) of Board of Regents Policy: *Use of Royalty Income to Support Technology Commercialization*. A subsequent motion was made and seconded, and the committee voted unanimously to recommend approval of the policy, as amended.

BOARD OF REGENTS POLICY: *SPONSORED GRANTS AND CONTRACTS*

Senior Vice President and Provost Maziar and Interim Vice President Hamilton led the discussion of Board of Regents Policy: *Sponsored Grants and Contracts*, which is proposed for amendment to conform with Board of Regents Policy: *Reservation and Delegationof Authority* and to revise the definition of significant grants or contracts.

In response to a question from Regent Bell, Hamilton noted that as the dollar amount of grants and contracts has increased, the current one percent threshold requires that many relatively low risk grants come to the Board for approval. By increasing the threshold to two percent of the previous year's externally funded research expenditures (currently about $10 million), the Board would only be required to approve awards large enough to pose a substantial risk to the institution.

The policy will return for action at a future meeting of the committee.

CONSENT REPORT

A motion was made and seconded, and the committee voted unanimously to recommend approval of the following, as detailed in the Consent Report and the docket materials:

New academic programs:

- College of Agricultural, Food, and Environmental Sciences (COAFES) – Bachelor of Science (B.S.) Degree Program in Environmental Horticulture, New Track in Landscape Implementation and Management
- College of Architecture and Landscape Architecture (CALA) – Bachelor of Environmental Design (B.E.D.) Degree, New Track in Landscape Planning
- College of Agricultural, Food, and Environmental Sciences and College of Architecture and Landscape Architecture – New Joint Track in Landscape Design (offered within COAFES' Bachelor of Science (B.S.) Degree Program in Environmental Horticulture and within CALA's Bachelor of Environmental Design (B.E.D.) Degree Program)
- University of Minnesota, Crookston – Bachelor of Science (B.S.) Degree Program in Communication
- University of Minnesota, Crookston – Bachelor of Science (B.S.) Degree Program in Computer Software Technology

INFORMATION ITEMS

Senior Vice President and Provost Maziar referred committee members to the docket materials. She noted that on the Twin Cities campus there has been steady and deliberate progress in graduation and retention rates, evidence that the 13-credit minimum load requirement and tuition banding policies implemented in 2002 are producing the desired outcomes. On the coordinate campuses, results are mixed, but each campus has developed initiatives that are expected to achieve established goals.

In response to a question from Regent Baraga, Swan reported that less than one percent of new students and only about 13-14 percent of transfer students are granted exceptions to the new 13-credit minimum requirement.

President Bruininks reminded the committee of his February 27, 2004 letter to the Minnesota Higher Education Services Office (HESO) requesting that the state revisit the Wisconsin tuition reciprocity agreement in order to address a growing disparity between tuition paid at the University by students from Minnesota and Wisconsin (currently about $5 million annually). For students paying tuition and fees for a full credit load, disparities by campus range from a low of 15% on the Twin Cities campus to nearly 30% on the Morris campus.

Bruininks has requested that HESO consider alternatives to ensure that students from reciprocity states pay the same tuition for the same course. In order to hold harmless current students from Wisconsin, any proposals would be phased in over three years, beginning Fall 2005.

The meeting adjourned at 11:40 a.m.

ANN D. CIESLAK
Executive Director and
Corporate Secretary