

Lincoln, Nebraska
November 7, 2008

The Board of Regents of the University of Nebraska met on November 7, 2008, at 1:00 p.m. in the Board Room at Varner Hall, 3835 Holdrege, Lincoln, Nebraska, in a 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 October 27, 2008.

Regents present:
Randolph M. Ferlic
Chuck Hassebrook, Chairman
Jim McClurg
Bob Phares
Kent Schroeder, Vice Chairman
Bob Whitehouse
Charles S. Wilson
Tim Hruza
Curtis McKnight
Lucas Seiler
Emily Zimmer

Regent not present:
Howard Hawks

University officials present:
James B. Milliken, President
Linda R. Pratt, Executive Vice President and Provost
Donal J. Burns, Corporation Secretary
John Christensen, Chancellor, UNO
Harold Maurer, Chancellor, UNMC
Douglas A. Kristensen, Chancellor, UNK
Harvey S. Perlman, Chancellor, UNL
John Owens, Vice President for Agriculture and Natural Resources
David Lechner, Vice President for Business and Finance
Joel Pedersen, Vice President and General Counsel
Peter G. Kotsiopoulos, Vice President for University Affairs

I. CALL TO ORDER

II. ROLL CALL

The Board convened at 1:00 p.m. in the Board Room at Varner Hall, 3835 Holdrege, Lincoln, Nebraska on November 7, 2008. Attendance is indicated above.

III. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS

Motion Moved by McKnight and seconded by McClurg to approve the minutes and ratify the actions of the regularly scheduled meeting of September 5, 2008.

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

Regent Hassebrook announced the location of the Open Meetings Act in the Board room.

IV. KUDOS

Regent Wilson presented a KUDOS award to Jennifer Dam, Assistant Director for Campus Planning and Space Management, Institutional Research and Planning at the University of Nebraska-Lincoln.

Regent Ferlic presented a KUDOS award to Lisa Neal, Assistant Director of Institutional Research at the University of Nebraska at Kearney.

Regent Schroeder presented a KUDOS award to the Service Learning Academy/American Humanics Program, represented by Paul Sather, Director, and Kathy Oleson, Assistant Director, at the University of Nebraska at Omaha.

Regent Zimmer presented a KUDOS award to Phil Bruch, Radiation Oncology Department Administrator at the University of Nebraska Medical Center.

V. PUBLIC COMMENT

Ms. Ivy Harper had requested an opportunity to address the Board on the topic of Senator Hagel's call for transparency in public education. Instead, Ms. Harper spoke about her failure to be granted admission to a graduate program at UNO.

VI. RESOLUTIONS

Regent Phares presented the following resolution:

Whereas, Regent Lucas Seiler has served as student Regent and student body president at the University of Nebraska at Omaha in 2008, during which time he has actively sought out student input, innovation, and creation throughout his term on the Board of Regents; and

Whereas, the knowledge and information that Regent Seiler has taken back to his campus has provided UNO leadership, administration and students with a greater understanding of UNO's important role within the university, both now and in the future; and

Whereas, Regent Seiler has taken an active, organized, and personable approach to managing events, ideas and plans surrounding UNO's Centennial Anniversary celebration; and

Whereas, under Regent Seiler's leadership, UNO has seen an increased and sustainable recycling program that will certainly last far beyond his tenure as a Regent and student body president; and

Whereas, Regent Seiler has made it a personal goal to expand UNO's Collegiate Readership Program and has also worked closely with UNO Chancellor John Christensen and the University Alumni Association to make a mark on the UNO campus in 2008; and

Whereas, Regent Seiler has shown true leadership, thoughtfulness, and interest in his role as a student Regent and student body president within UNO Student Government;

Now, therefore, be it resolved that Lucas Seiler, the outgoing Student Body President and UNO Student Regent, be commended by the University of Nebraska Board of Regents for his outstanding resolve and his unwavering dedication to the students within the University of Nebraska.

Regent McClurg presented the following resolution:

WHEREAS, Curtis McKnight has served as a member of the University of Nebraska Board of Regents and as President of the University of Nebraska Medical Center Student Senate during the 2007-2008 term; and

WHEREAS, Regent McKnight has effectively brought to the Board of Regents and the administration of the University the perspective of health professions students on appropriate issues, has been actively involved in the selection of a statewide Student Information System, and has advocated for closing the faculty compensation gap between the University of Nebraska and its peers;

WHEREAS, Regent McKnight has advocated for a tobacco-free campus at UNMC, has opposed the so-called Nebraska Civil Rights Initiative, and has furthered Green causes at UNMC, increasing the amount of material that UNMC students recycle;

WHEREAS, Regent McKnight has been involved with top UNMC administrators in formulating the campus strategic plan, and has been a reliable source of information about student preferences in regards to the new Sorrell Center and other campus issues;

WHEREAS, during his term, Regent McKnight has taken an active and positive role in the meetings and activities of the Board of Regents;

NOW, THEREFORE, BE IT RESOLVED, that the University of Nebraska Board of Regents expresses its sincere appreciation for the contributions and dedicated service of Regent Curtis McKnight during his service on the Board and wishes him well in all of his future endeavors.

The following resolution was read by Regent Hassebrook:

Whereas, Charles S. Wilson has represented District One as a distinguished member of the Board of Regents since 1990, including three terms as chairman, and has worked with three presidents, 13 chancellors and 17 elected Regents; and

Whereas, Regent Wilson has, in effect, become the Dean of this Board by virtue of his steady leadership, common sense and deep commitment to the University of Nebraska and the State of Nebraska; and

Whereas, Regent Wilson has been a champion for research and scholarly activity, and an unwavering advocate for this important aspect of the university's mission, including being the primary author of the board's bylaws relating to research and scholarly activity; and

Whereas, Regent Wilson has been a guardian and defender of academic freedom within the university, consistently and vocally supporting this most basic principle on which a university is built; and

Whereas, under Regent Wilson's leadership and advocacy, the University of Nebraska has made significant gains in expanding the diversity of the faculty, in increasing gender equity within the faculty, and in hiring and retaining the highest quality faculty; and

Whereas, Regent Wilson's quiet but effective leadership has frequently helped the board to reach consensus on difficult issues, guiding the board toward resolution of many important issues;

Now, therefore, be it resolved that Charles Wilson receive the gratitude and appreciation of the University of Nebraska Board of Regents for his dedicated service to the students, faculty and staff of the University of Nebraska, and to the citizens of Nebraska.

The resolutions were adopted by acclamation.

VII.

HEARINGS

None

Regent Phares reported that the Business Affairs Committee met on October 9, 2008, and recommends approval of the following project: UNL item IX-B-5, program statement and budget for the Nebraska Athletic Student Life Complex renovation.

VIII. CONSENT AGENDA

- Motion Moved by Ferlic and seconded by Whitehouse to approve the Consent Agenda consisting of items VIII-A-1, VIII-B-1, VIII-B-2, VIII-B-3, VIII-B-4, and VIII-B-5
- A. ACADEMIC AFFAIRS
- VIII-A-1 The President's Personnel Recommendations
- B. BUSINESS AFFAIRS
- University of Nebraska
- VIII-B-1 Approve the acceptance of certain audited financial statements of the University of Nebraska and related entities
- VIII-B-2 Approve submission of a deficit request relating to the Student Information System
- University of Nebraska-Lincoln
- VIII-B-3 Authorize the UNL Vice Chancellor for Business & Finance and the Athletics Director to complete negotiations and authorize the Chancellor to approve a contract for a 2008 postseason football game
- University of Nebraska Medical Center
- VIII-B-4 Approve naming the UNMC Research Center of Excellence II building the "Durham Research Center II"
- VIII-B-5 Approve reappointment of two members, Gail Walling Yanney, M.D. and Jan Thayer, to the Board of Directors of The Nebraska Medical Center effective January 1, 2009, for a term of three years
- Action Student Opinion: Voting Aye: Seiler, Zimmer, Hruza, and McKnight. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, and Hassebrook. Absent: Hawks. Motion carried.

IX. ADMINISTRATIVE AGENDA

- A. ACADEMIC AFFAIRS
- Motion Moved by Schroeder and seconded by Ferlic to approve item IX-A-1
- IX-A-1 Approval is requested to establish the Natan and Hannah Schwalb Center for Israel and Jewish Studies at the University of Nebraska at Omaha
- Action Student Opinion: Voting Aye: Zimmer, Hruza, McKnight, and Seiler. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, and Hassebrook. Absent: Hawks. Motion carried.
- Motion Moved by Whitehouse and seconded by Phares to approve item IX-A-2
- IX-A-2 Approval is requested to establish the Center for Collaboration Science at the University of Nebraska at Omaha
- Action Student Opinion: Voting Aye: Hruza, McKnight, Seiler, and Zimmer. Voting Aye: Phares, Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, and McClurg. Absent: Hawks. Motion carried.

B. BUSINESS AFFAIRS

University of Nebraska

IX-B-1 Approve the Resolution authorizing the issuance of up to \$55,500,000 of alternative financing for the 17th and R student housing and the Gaughan Center at the University of Nebraska-Lincoln

President Milliken requested item IX-B-1 be moved to the end of the agenda for discussion purposes

Motion Moved by McClurg and seconded by Phares to approve item IX-B-2

IX-B-2 Approve amendments to proposed revisions to Chapter 6 of the Board of Regents Policies on Business and Financial Management relating to facilities management policies

Chapter 6. Business and Financial Management

RP-6.2.1 Purchasing Policy

6. Competitive Bidding

- a. Except as otherwise provided in this purchasing policy, any purchase committing the University to an expenditure of ~~\$75,000~~ \$150,000 or more shall be made to the lowest responsible bidder, taking into consideration the best interests of the University, the quality or performance of any articles or service to be purchased, their conformity with specifications, the purpose for which required, and the time of delivery or performance. In determining the lowest responsible bidder, in addition to price, bids may be rejected and awards made upon consideration of the following factors:

RP-6.3.1 Administrative Approval of University Contracts

4. President's Administrative Authority to Approve and Execute Contracts

Pursuant to Section 6.4 of the Bylaws, the President shall have authority to approve and to execute the following types of contracts.

- a. Any contract for the procurement of services or non-capital goods used in the regular course of business in operation of the University.
- b. Any contract with a public utility or similar organization for the purchase of public utility services routinely used in the regular course of business in operation of the University.
- c. Any contract for the purchase of gasoline, oil or diesel fuel routinely used in the regular course of business in operation of the University.
- d. Any contract for the purchase or sale of livestock or livestock feed routinely used in the regular course of business in operation of the University.
- e. Any contract for the procurement of products for resale to consumers through University facilities, such as items sold through a University bookstore.
- f. Any contract where the University will provide services to an external party, including, but not limited to, research, instruction, consulting, planning, technical assistance, testing, or program development services, where the contract fee to be paid to the University does not exceed \$400,000.
- g. Any contract providing for the sale of a single item of personal property owned by the University where the reasonably estimated market value of the item does not exceed \$250,000; provided that a written report of each such contract in

excess of \$100,000 shall be made to the Board of Regents at its next regular meeting.

- h. Any contract relating to the staging, performance or sponsorship of any cultural, performing arts, recreational or intercollegiate athletic event, except any contract relating to any post-season intercollegiate football bowl game.
- I. Any contract for the procurement, deaccession or sale of material to be added to or removed from the collection of any University gallery, library or museum facility in the regular course of business in operation of any such facility.
- j. Any contract whereby University of Nebraska Television will provide services to an external party, including, but not limited to, research, instruction, consulting, planning, production, technical assistance, or program development services; provided that a written report of each such contract in excess of \$400,000 shall be made to the Board of Regents at its next regular meeting subsequent to the execution of the contract.
- k. Any contract for the procurement of construction services or supplies for a building, structure or other improvement to real property which (1) has a total project cost of ~~\$400,000~~ \$2,000,000 or less, and (2) is awarded in accordance with the requirements of RP-6.2.1 or RP-6.3.7; provided that a written report of any such contract in excess of \$250,000 shall be made to the Board of Regents at its next regular meeting subsequent to the execution of the contract.
- l. Any contract for the procurement of personal property which (1) has a total contract price of \$400,000 or less, and (2) is awarded in accordance with the requirements of RP-6.2.1; provided that a written report of any such contract in excess of \$250,000 shall be made to the Board of Regents at its next regular meeting subsequent to the award of such contract.
- m. Any contract for the procurement of construction services or supplies for a building, structure or other improvement to real property which (1) has a total project cost in excess of ~~\$400,000~~ \$2,000,000, (2) is awarded in accordance with the requirements of RP-6.2.1 or RP-6.3.7 for a total contract price not exceeding the budget for such procurement as approved by the Board of Regents; provided that a written report of each such contract shall be made to the Board of Regents at its next regular meeting subsequent to the award of the contract.
- n. Any contract for the procurement of personal property which (1) has a total contract price in excess of \$400,000, (2) is competitively bid as required by RP-6.2.1, and (3) is awarded to the lowest responsible bidder for a total contract price not exceeding the budget for such procurement as specifically approved by the Board of Regents; provided that a written report of each such contract shall be made to the Board of Regents at its next regular meeting subsequent to award of the contract.
- o. Any amendment of or change order to a contract approved pursuant to Section 4m where the amendment or change order is the greater of a total price of \$150,000, or represents 1.25% of the total project cost; or Section 4n, where the amendment or change order has a total price of \$100,000 or less.
- p. Any contract for the procurement of professional services, except services of a licensed architect, engineer, landscape architect or land surveyor, where the total fee for services, including contractor expenses, will not exceed \$400,000; provided that a written report of each such contract in excess of \$250,000 shall be made to the Board of Regents at its next regular meeting subsequent to award of the contract.

- q. Any contract for the procurement of the licensed professional services of an architect, engineer, landscape architect, or land surveyor, where the firm selected has been approved in accordance with RP-6.3.2.
- r. Any contract granting to the University a lease of or license to use or occupy real property where (1) the term of the lease or license does not exceed ten years, and (2) the total rent or license fees payable by the University over the full term of the lease or license do not exceed \$250,000; provided that a written report of each such lease or license contract for a term in excess of one year shall be made to the Board of Regents at its next regular meeting subsequent to execution of the contract.
- s. Any contract granting to an external party a lease of or license to use University real property for a use that is not a University-related use where (1) such contract is awarded through a sealed bid public sale, and (2) the term of the lease or license does not exceed ten years and the total rent or license fees payable to the University over the full term of the lease or license do not exceed \$500,000; provided that a written report of each such lease or license contract for a term in excess of one year and \$250,000 shall be made to the Board of Regents at its next regular meeting subsequent to award of the contract.
- t. Any contract granting to an external party a lease of or license to use University real property for a use that is a University-related use where (1) the term of the lease or license does not exceed ten years, and (2) the total rent or license fees payable to the University over the full term of the lease or license do not exceed \$500,000; provided that a written report of each such lease or license for a term in excess of one year and \$250,000 shall be made to the Board of Regents at its next regular meeting subsequent to award of the contract.
- u. Any contract for or grant of an easement encumbering University real property to a governmental entity or a public utility where the value of the encumbrance of the easement and associated damages does not exceed \$100,000; provided that a written report of the grant of any such easement having a value in excess of \$50,000 shall be made to the Board of Regents at its next regular meeting subsequent to the date of such grant by the University.
- v. Any contract (1) granting a license or assigning the right to grant a license in any University technology as part of the transfer of such technology for commercial purposes, or (2) granting a sponsorship of any intercollegiate athletic sport or activity of the University for a total fee not exceeding \$4,000,000, including the grant of a license or right to use University trademarks, trade names, or logographics in connection therewith, provided that a semi-annual written report of all such contracts shall be made to the Board of Regents at a public meeting of the Board.
- w. Any contract of employment with a University faculty or staff member, including UNMC Terms of Employment Agreements with clinical faculty and UNMC Supplemental Compensation Agreements, for appointments and salary obligations that may be approved by the President or his or her designees under Section 3.2 of the Bylaws; provided that a quarterly written report of the compensation and length of term of each appointment to an administrative position and to a faculty position at the rank of assistant professor and above shall be made to the Corporation Secretary.
- x. Any contract for the disposal of real property that the President is authorized to approve in accordance with Section 7 or RP-6.2.3.
- y. Any contract relating to acceptance of a gift or grant that the President or a Chancellor is authorized to accept in accordance with RP-6.6.7.
- z. Any subcontract awarded in accordance with a grant to the University in the normal course of business.

RP-6.3.2 Qualification Based Selection of Professional Services of Architects, Engineers, Landscape Architects and Registered Land Surveyors

1. Policy Reference

The Nebraska Consultants' Competitive Negotiation Act, *Neb. Rev. Stat.* §§ 81-1701 through 81-1721 governs the procurement of professional architectural, engineering landscape architecture and land surveying services by the University. In the event of a conflict between the provisions Consultants' Competitive Negotiation Act and this policy, the provisions of the Consultants' Competitive Negotiation Act shall control.

2. Definitions

As used in this policy, the term "licensed professional services" shall mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying as defined by the laws of the State of Nebraska, or those performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his or her professional employment practice.

In addition those definitions set forth in *Neb. Rev. Stat.* §§ 81-1704 through 81-1710 of the Consultants' Competitive Negotiation Act shall also apply to this policy.

3. Procurement of Licensed Professional Services; in Excess of \$400,000 Exception for Four Year Selection Process

Except for the Four Year Selection process provided in section 4 of this policy, when licensed professional services are required for a project where the statutory minimums provided by subsection (1) of *Neb. Rev. Stat.* § 81-1712 of the Consultants' Competitive Negotiation Act or where the estimated fee for such services exceeds \$400,000, the firm to provide the professional services will be selected in accordance with the ~~University Standard Selection Procedure~~ procedures set forth in *Neb. Rev. Stat.* §§ 81-1712 through 81-1715 of the Consultants' Competitive Negotiation Act.

4. Four Year Selection Process

When licensed professional services are required where the estimated fee for such services is from \$40,000, the statutory minimum fee provided by subsection (1) of *Neb. Rev. Stat.* § 81-1712 of the Consultants' Competitive Negotiation Act, to \$400,000, the firm to provide the professional services may be selected from the University's four year list firms determined in accordance with the procedures set forth in *Neb. Rev. Stat.* §§ 81-1712 through 81-1715 of the Consultants' Competitive Negotiation Act and the University Four-Year Selection Procedure.

5. Procurement of Professional Services Less Than the Statutory Minimums

When licensed professional services are required for a project where the estimated construction cost is less than the statutory minimums provided by subsection (1) of *Neb. Rev. Stat.* § 81-1712 of the Consultants' Competitive Negotiation Act, or where the estimated fee for such services is less than \$40,000, the selection of the firm from the University certified firms to provide the services required is the responsibility of the respective campus Chief Business Officer.

6. Preference for Nebraska Firms

In view of the size, number and experience of firms in the State of Nebraska, and the more effective delivery of professional services usually realized from firms having close proximity to the University, there is a preference for in-state registered firms or joint ventures of out-of-state registered firms with in-state registered firms unless:

- a. the proposed project requires special knowledge of the project and/or professional experience which is not otherwise available within the state;
- b. the selection of an out-of-state firm is considered necessary in order to obtain a major gift or grant, etc., for a proposed project; or
- c. the out-of-state firm by previous projects has established experience that is beneficial to and in the best interests of the University.

7. Architectural and Engineering Firm Data

The Director of Facilities Planning and Management at Central Administration will maintain files and update annually University data on architectural and engineering firms. These files will be the primary source of information for certifying architectural and engineering firms pursuant to this policy.

8. RP-6.3.2, is intended to provide substantive standards to guide University wide implementation, and the President and the Vice President of Business and Finance shall have the authority to administer and implement the same.

RP-6.3.6 Capital Project Management; Board Approval of Program Statements Planning and Development

~~1. Program Statements for capital projects with total project budgets greater than \$500,000 shall be submitted to the Board for approval and shall include a recommendation regarding the Construction Project Contracting Method "project contracting method" to be used and the rationale for the recommendation. A report will be submitted during design of the project for Regents information.~~

1. The purpose of the Capital Planning and Development policy is to ensure that there is a process for developing the efficient and quality facilities necessary for the University to sustain a Nebraska that offers its citizens educational and economic opportunities and a high quality of life.
2. The Capital Planning and Development Process is divided into six phases: Master Planning Phase, Capital Improvement Phase, Program Statement Phase, Project Approval Phase, Construction Phase and Closeout Phase.
 - a. During the Master Planning Phase, the Business Affairs Committee and the Board focus on the relationship between the campus role and mission statement, Strategic Plan and the Facility Development Plan relative to the Comprehensive Statewide Plan for postsecondary education. Review starts with the University Strategic Planning Framework and its overarching goals which guide University wide and campus planning and proceeds through each campus Facility Development Plan. These issues are reviewed every five years.
 - b. The Capital Improvement Phase focus is on the existing condition, utilization and expenditure of capital resources at each of the campuses. This phase includes the Six Year Capital Plan and can include a report on the University's land and leasing activities, building renewal needs and deferred maintenance activities. The result is an identification of the capital projects for the coming fiscal year and the forecast capital projects that may begin the succeeding two or three years. Donor projects of opportunity that arise are incorporated into the process as needed. These activities occur annually or as needed.

c. The Program Statement Phase pertains to all capital projects with an estimated Total Project Cost of two million dollars (\$2,000,000) or greater except renewal work and infrastructure projects as described below. Renewal work with an estimated Total Project Cost of two million dollars (\$2,000,000) or greater will be submitted for approval though an agenda item.

1) Renewal Work. Renewal work means any (1) deferred or preventive maintenance projects that restore facilities and utility systems as closely as practicable to their original constructed condition, (b) projects that bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that bring facilities into compliance with the federal Americans with Disabilities Act.

2) Infrastructure Projects: An Infrastructure project means a project necessary to provide adequate infrastructure for campus operations.

The Program Statement Phase begins with the campus developing a document meeting the requirements of University Standard Architectural Program and ends with the Board of Regents granting Preliminary Project Approval. The campus may expend up to 1% of the estimated Total Project Cost for outside professional consultant services. The completed Architectural Program will be summarized into the Standard University Program Statement and submitted through the Business and Finance Committee to the Board. Board approval of the Program Statement represents Preliminary Project Approval. Preliminary Project Approval constitutes:

1) Board approval of the project concept, preliminary scope and preliminary Total Project Cost.

2) Board approval of the construction delivery method.

3) Board authority to hire outside consultants to initiate design, cost estimating and/or alternative project delivery through Schematic Design.

4) Authority to spend up to 3% of the preliminary Total Project Cost estimate for consultants to complete design through Schematic Design. These costs are in addition to those authorized for programming.

5) Authority to forward the Program Statement to the CCPE.

d. The Project Approval Phase begins with review of the Schematic Design Documents and ends with Project Approval. The completed University Standard Schematic Design will be summarized and submitted to the Business Affairs Committee for approval and reported to the Board at the next regular meeting. This Phase focuses on differences in scope, schedule and budget from the Program and the rationale. Approval of Schematic Design fixes the project scope and budget and represents Project Approval. Project Approval constitutes:

1) Authority to proceed with project financing.

2) Authority to contract for necessary consulting or other services to complete the design, prepare construction documents and construct the project.

3) Authority to report Board approved significant differences in scope or budget to the Nebraska Coordinating Commission for Postsecondary Education.

e. In the Construction Phase, the campus award contracts and constructs the project. The Board monitors status through routine quarterly status reports and

special reports, as necessary. Budget increases must be approved by the Board. Approval of contracts and changes is outlined in RP-6.3.1 and this policy.

- f. In the Closeout Phase, the campus obtains Substantial Completion, causes all nonconforming or incomplete items to be corrected, completes building commissioning, final inspection, accepts and occupies the facility and provides final payment to consultants and contractors. The campus performs an assessment and evaluation of the consultants' and contractors' performance.
- 2.3. The Board-approved ~~total project~~ budget shall be considered an absolute maximum in all cases and the benchmark for budget, scope or program changes. Significant changes within a project, either in the scope or nature of the construction to be completed or the programs to be served by the project shall not be allowed without the written approval of the President of the University. Further, any such presidential-approved changes shall be reported to the Board of Regents, in writing, at its next regular meeting. "Significant change" shall be defined as
- a. a reallocation between the construction and non-construction categories a change within the construction or non-construction budget category of a Board-approved project exceeding \$250,000 or 5% whichever is smaller, or
 - b. a change in the space allocation for any major room use category (100 – 000) by 15% or more where the change equals at least 5% of the total net square feet (nsf) and is 1,000 nsf or greater, or
 - c. a programmatic change that involves a change in the program and/or the purpose of a major room use category.
- 3.4. Semi-annual written reports shall be provided to the Board of Regents on the contract status, the stage of construction, cumulative change orders and budgets, for all capital projects exceeding \$5.0 million in total project costs.
5. RP-6.3.6, is intended to provide substantive standards to guide University wide implementation, and the President and the Vice President of Business and Finance shall have the authority to administer and implement the same.

RP-6.3.7 Construction Management and Design/Build Contractor Selection Qualification Based Selection

1. When program manager services are required or construction management or design/build services are approved by the Board of Regents as part of program statement approval, the firm to provide such services will be selected in accordance with the following University Standard Selection Procedures.
2. The objective of these procedures is to encourage construction excellence and budget and schedule control by providing an impartial, objective, and competitive system open to all qualified construction firms. ~~The procedure is divided into the following five phases: the interest phase, the proposal phase, the interview phase, the contract phase and the report phase. The five phases of procedure are described below.~~
3. Definitions
 - a. Construction Services. Construction services shall mean those services within the scope of the practice of construction or those performed by any construction management or design/build firm, including pre-construction and post-construction services as necessary.
 - b. Construction Firm. Construction firm shall mean any partnership, corporation, association, or other legal entity practicing construction management or design/build construction.

- c. Program Management Services. Also known as Construction Management Agency, shall mean those services of an owner advocate working as an extension of the Owner's staff and in the Owner's interests.
- d. Project. Project shall mean that fixed capital outlay, study or planning activity except renewal work as described below.

~~4. Interest Phase~~

~~The Director of Facilities Planning and Management or designee, hereinafter referred to as director, will advertise in appropriate Nebraska papers to provide an opportunity for as many construction firms as possible to be considered for a project. The advertisement will contain a brief project description and information on how interested construction firms can apply for consideration for the project.~~

~~5. Proposal Phase~~

- a. ~~The director will send a letter to all construction firms that indicate an interest in a project. A list of all recipients will be maintained by the Director of Facilities Planning and Management. The letter will request the construction firms submit a written proposal for services by a specific date.~~
- b. ~~Packets sent to the construction firms include the following:~~
 - 1) ~~Request for Proposal;~~
 - 2) ~~Summary of Project, including Description, Schedule and Budget;~~
 - 3) ~~Proposed Contract;~~
 - 4) ~~Construction Firm Qualifications;~~
 - 5) ~~Evaluation Worksheets.~~
- c. ~~Proposals will be reviewed in conjunction with interviews. If the number of written proposals becomes too numerous, a two-step process will be implemented. The construction firm proposals will be ranked based on the average of the total evaluation made by each member of the evaluation board. The three construction firms that receive the highest evaluations will then be interviewed. In the event of a tie or near tie for third position, the evaluation board may elect to include a fourth firm for interviews.~~

~~6. Interview Phase~~

- a. ~~The director will notify the construction firms to be interviewed by phone and letter. Construction firms will be provided the time and place of interview.~~
- b. ~~An evaluation board composed of a minimum of three persons (the Director of Facilities Planning and Management or designee and at least two campus-designated persons) will interview and rank the construction firms in order of qualifications with the most qualified firm first. A designated chairperson shall be the impartial referee and tiebreaker, and shall conduct the proceedings for the benefit of all concerned. The evaluation board will consider each firm's capabilities to perform, adequacy of personnel, past record and performance as well as experience to render the services required.~~
- c. ~~The construction firms will be ranked based on the average of the total evaluation made by each member of the evaluation board. The firm receiving the highest ranking will then be considered the most qualified firm for the project. In the event of a tie, the evaluation board will further evaluate and rank the top two construction firms.~~

~~7. Contract Phase~~

- ~~a. The construction firm receiving the highest evaluated score will be recommended for award of the contract for the project. There will be no binding contract for the project until the contract documents with the selected construction firm have been approved by the Vice President for Business and Finance and signed by the President.~~
- ~~b. A contract negotiation committee composed of a minimum of two persons (the Director of Facilities Planning and Management or designee and one campus-designated person) will attempt to negotiate a contract with the most qualified construction firm that the committee determines is fair and reasonable for the University.~~
- ~~c. If the committee unable to negotiate a contract with the most qualified firm, the committee will forward a letter to the most qualified firm formally terminating the negotiations and negotiations will be undertaken with the next most qualified firm. In the event of failure to reach an agreement with the second most qualified firm, the committee will again forward a letter to the firm notifying it of formal termination of negotiations. The same procedure will be followed with all the firms in the order ranked by the evaluation board until a contract is successfully negotiated with a qualified firm.~~
- ~~d. If negotiations with all qualified firms are unsuccessful, the committee will report results to the Board of Regents at the next scheduled meeting. The Board will provide guidance for renegotiating with the firms in the order previously ranked by the evaluation board or direct that the evaluation board reconvene and interview and rank additional firms and that the contract negotiations committee negotiate with such additional firms in the order ranked pursuant to the procedures set forth above.~~

~~8. Report Phase~~

~~4. Procurement of Construction Manager at Risk Services~~

- ~~a. When construction management services are approved by the Board of Regents as part of program statement approval, the firm to provide professional services will be selected utilizing the Project Evaluation Board.~~
- ~~b. After signing a contract, the campus will report the name of the successful construction firm at the next regularly scheduled Board meeting.~~

~~5. Procurement of Design Build Services~~

- ~~a. When design build services are approved by the Board of Regents as part of program statement approval, the firm to provide professional services will be selected utilizing the Project Evaluation Board.~~
- ~~b. After signing a contract, the campus will report the name of the successful construction firm at the next regularly scheduled Board meeting.~~

~~6. Procurement of Program Manager Services~~

- ~~a. When program management services are approved by the Board of Regents as part of program statement approval, the firm to provide professional services will be selected utilizing the Project Evaluation Board.~~
- ~~b. After signing a contract, the campus will report the name of the successful firm at the next regularly scheduled Board meeting.~~

~~7. RP-6.3.7 is intended to provide substantive standards to guide University wide implementation, and the President and the Vice President of Business and Finance shall~~

have the authority to administer and implement the same.

RP-6.3.8 (Not Currently Used) Project Evaluation Board

1. Each project requiring Qualifications Based Selection in accordance with the requirements of RP-6.3.2 and RP-6.3.7 shall use a Project Evaluation Board assembled from campus and Central Administration representatives, and members from a Project Evaluation Board Pool.
 - a. The Project Evaluation Board Pool will consist of members who are not employed by the University and who are active or past owners in their respective business. Members of the Pool will generally be architects, engineers, landscape architects or other professionals familiar with the building type or construction method approved by the board. Membership in the Project Evaluation Pool will be approved by the Vice President for Business and Finance.
 - (1) Owner: Owner means any individual, corporation, nonprofit corporation, partnership, limited partnership, limited liability company or other business entity that is the owner of record or lessee of real property upon which construction, renovation or rehabilitation is to be or is being performed pursuant to a construction contract regarding such real property.
2. The Project Evaluation Board shall consist of an equal number of campus representatives and Project Evaluation Board Pool members, and the Chair. The Assistant Vice President and Director of Facilities Planning and Management, designated the Chairperson, shall be the impartial referee, conduct the proceedings for the benefit of all concerned and shall vote only as a tiebreaker. Additionally, the Chairperson will provide the Board an analysis of the fee and contract general conditions or price proposal, when appropriate, so that Construction Manager at Risk and Design Build evaluations will be as consistent as possible. The Evaluation Board will consider each firm's capabilities to perform, adequacy of personnel, past record of performance as well as experience and expertise to render the services required.
3. It is intended that the member composition of each Project Evaluation Board will fluctuate from project to project, providing flexibility to match appropriate expertise with a specific project; to avoid conflicts of interest; or to accommodate scheduling or other conflicts. The Director or designee, with input from the campus, shall determine the membership to serve for each Project Evaluation Board. The profession of one member of the board must represent the particular field of endeavor being considered.
4. No member of a Project Evaluation Board, internal or Pool shall engage in any activity that in any way conflicts with his/her duties and responsibilities as a member of a Project Evaluation Board, or that otherwise constitutes a conflict of interest as determined by the Director.
 - a. A conflict of interest shall be declared when a potential Project Evaluation Board member is a principal or an employee of any team or firms being evaluated, or has a similar financial or other relationship with the team, firms or its consultants.

5. Funding and Compensation
 - a. All costs of a Project Evaluation Board will be funded from the project for which the selection applies, or from related sources designated by the appropriate campus.
 - b. The University shall compensate each Project Evaluation Board Pool member for services provided as an independent consultant at a fixed rate per hour. Internal members will typically not receive compensation from project funds in addition to their normal earnings from the University. Any exceptions will be made at the discretion of the Director.
6. Liability and Insurance
 - a. The consulting services provided by the Project Evaluation Board Pool members shall not constitute or be construed to constitute routine or standard services normally provided by an architect, engineer or other contractor for a project. The University further agrees that the performance of such consulting services shall not render the members of the Project Evaluation Board Pool liable in any way for the selections recommended.
 - b. Members of a Project Evaluation Board Pool will be covered by appropriate general and professional liability insurance or have equivalent risk loss coverage under the University's self-insurance program to the same extent as other University personnel whenever performing duties as members of a Project Evaluation Board Pool on behalf of the University.
7. RP-6.3.8 is intended to provide substantive standards to guide University wide implementation, and the President and the Vice President of Business and Finance shall have the authority to administer and implement the same.

- Action Student Opinion: Voting Aye: McKnight, Seiler, Zimmer, and Hruza. Voting Aye: Schroeder, Whitehouse, Wilson, Ferlic, Hassebrook, McClurg, and Phares. Absent: Hawks. Motion carried.
- Motion Moved by McClurg and seconded by Hruza to approve items IX-B-3 and IX-B-4
- University of Nebraska-Lincoln
- IX-B-3 Approve the Resolution to authorize the expenditure of up to \$763,900 from the Surplus Fund of the UNL Parking Revenue Bonds to improve certain property and equipment
- IX-B-4 Approve the Resolution to authorize expenditure of up to \$2,292,545 for capital improvements for the Nebraska Unions, University Health Center and University Housing facilities from the Replacement Fund of the Student Fees and Facilities Revenue Bonds
- Action Student Opinion: Voting Aye: Seiler, Zimmer, Hruza, and McKnight. Voting Aye: Whitehouse, Wilson, Ferlic, Hassebrook, McClurg, Phares, and Schroeder. Absent: Hawks. Motion carried.
- Motion Moved by Wilson and seconded by McClurg to approve item IX-B-5
- IX-B-5 Approve the Program Statement and Budget for the Nebraska Athletic Student Life Complex Renovation
- Action Student Opinion: Voting Aye: Zimmer, Hruza, McKnight, and Seiler. Voting Aye: Wilson, Ferlic, Hassebrook, McClurg, Phares, Schroeder, and Whitehouse. Absent: Hawks. Motion carried.

- Motion Moved by McClurg and seconded by Hruza to approve items IX-B-6 and IX-B-7
- IX-B-6 Approve a four year contract extension with Paciolan Systems, Inc. for ticketing software for the UNL Athletics Department
- IX-B-7 Approve the project budget to replace the HuskerVision control room equipment and install new video displays in Memorial Stadium
- Action Student Opinion: Voting Aye: Hruza, McKnight, Seiler, and Zimmer. Voting Aye: Ferlic, Hassebrook, McClurg, Phares, Schroeder, Whitehouse, and Wilson. Absent: Hawks. Motion carried.
- Motion Moved by Whitehouse and seconded by Schroeder to approve item IX-B-8
- University of Nebraska at Kearney
- IX-B-8 Ratify a contract in the amount of \$696,016 relating to emergency repairs and replacement of roofs damaged by tornado
- Action Student Opinion: Voting Aye: McKnight, Seiler, Zimmer, and Hruza. Voting Aye: Hassebrook, McClurg, Phares, Schroeder, Whitehouse, Wilson, and Ferlic. Absent: Hawks. Motion carried.
- Motion Moved by Ferlic and seconded by Hruza to approve item IX-B-9
- University of Nebraska at Omaha
- IX-B-9 Ratify a Change Order in the amount of \$485,487 to replace the existing roof on the CPACS building
- Action Student Opinion: Voting Aye: Seiler, Zimmer, Hruza, and McKnight. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Wilson, Ferlic, and Hassebrook. Absent: Hawks. Motion carried.
- University of Nebraska
- Motion Moved by Schroeder and seconded by McClurg to approve item IX-B-1
- IX-B-1 Approve the Resolution authorizing the issuance of up to \$55,500,000 of alternative financing for the 17th and R student housing and the Gaughan Center at the University of Nebraska-Lincoln
- A friendly amendment was accepted by Regents Schroeder and McClurg to modify the agenda item as follows:
- SUBJECT: Authority to Issue Alternative Financing
- RECOMMENDED ACTION: Approve 1) the attached resolution authorizing, upon receiving the approval of the Chairman of the Board of Regents, the issuance of up to \$55,500,000 of alternative financing for 17th and R student housing and the Gaughan Center at the University of Nebraska-Lincoln; and 2) increasing the rate ceilings on fixed rate financing previously approved.
- PREVIOUS ACTION: September 22, 2008 – The Chairman of the Board of Regents, in consultation with the Executive Committee, approved combining the financings relating to the University of Nebraska-Lincoln’s 17th and R student housing project and the Gaughan Center project into a single financing.

April 18, 2008 – Approved a resolution adopting a Supplemental Resolution authorizing the issuance of not to exceed \$48,500,000 aggregate principal amount of UNL Student Fees and Facilities Revenue Bonds, Series 2008 (at average rate not to exceed 5.35%) to finance the construction of student housing at 17th and R streets.

November 9, 2007-Approved a resolution adopting a Supplemental Resolution authorizing the issuance of not to exceed \$7,000,000 aggregate principal amount of UNL Student Fees and Facilities Revenue Bonds, Series 2008 (at an average rate not to exceed 5.25%) to finance the construction of the Gaughan Center.

EXPLANATION:

The Board currently has granted authority to issue long-term, tax-exempt bonds for the Gaughan and 17th and R projects.

The current state of the credit markets has created an environment that is highly unusual. Public sector financings have virtually dried up completely with the exception of colleges and universities and other public sector entities that are forced to borrow because of variable rate debt and other credit facilities that leave them no option but to take credit where available and at the premium rates demanded in the current market.

In the normal course of business, the University, because of its excellent performance in meeting its obligations and its credit rating, is able to market long-term, fixed-rate bonds at interest rates that are favorable in the market place compared to most colleges and universities. The paucity of capital available in the current environment at rates commensurate with the underlying credit risk makes it less favorable, even for highly rated entities such as the University, to issue debt on a long-term basis until the markets stabilize.

The Board in earlier actions had approved financing for the 17th and R student housing and Gaughan Center on the University of Nebraska-Lincoln campus. This action, if approved, would, upon receiving approval by the Chairman of the Board, allow the University to issue alternative financing, most likely in the form of bond anticipation notes (BANS) in an amount not to exceed \$55,500,000 in principal, at an average rate not to exceed 4%, in lieu of long-term bonds should that prove to be more prudent from a borrowing perspective. Bond anticipation notes are short-term, interest-bearing notes issued by a public entity in anticipation of being retired by the proceeds of long-term bonds at a later date. It is believed that this financing vehicle will allow more prudent placement of this debt at a future date at rates more favorable than today.

At current rates, the BANS would bear interest at 2.75% to 3.75% and would mature in twelve to twenty-four months and would be callable prior to maturity.

The resolutions relating to fixed-rate financings for 17th and R and Gaughan projects already approved by the Board currently carry “average interest rates not to

exceed” rate ceilings of 5.25% and 5.35%, respectively. This action seeks to increase the rate ceilings to “an average interest rate not to exceed 6.0%.”

Thise actions, when combined if approved, would also allow the University to take the most favorable course from the following alternatives: either issue BANS (upon approval by the Chairman) or to market long-term, fixed-rate debt, at an average rate not to exceed 6%, should market conditions allow. If BANS are issued, the University will ~~to~~ market long-term bonds to replace the BANS when feasible, ~~but within the original parameters and as contained in the original resolutions.~~ The result of that marketing would be reported to the Board at its next regular meeting.

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

C. FOR INFORMATION ONLY

IX-C-1 Board of Regents agenda items related to the University of Nebraska Strategic Framework

IX-C-2 Calendar of establishing and reporting accountability measures

IX-C-3 Current version of the University of Nebraska Strategic Framework

IX-C-4 Current version of the University of Nebraska Strategic Dashboard Indicators

IX-C-5a (a) Amendments to Sections 3.12.4.5(c) and 3.12.1 of the Bylaws of the Board of Regents. Approval of this item will be requested at the Regents’ meeting on January 23, 2009

IX-C-5b (b) Revision of the Basic Retirement Plan to allow greater access to accumulations by employees upon separation and elimination of Policies of the Board of Regents Sections RP-3.2.1 and RP-3.2.9. Approval of this item will be requested at the Regents’ meeting on January 23, 2009 [Note: this proposed change of policy is a companion change to the above Board of Regents Bylaws change which will also be included in the January 23, 2009 agenda]

D. REPORTS

IX-D-1 Fall 2008 Headcount and Semester Credit Hour

IX-D-2 Annual report on Leaves of Absences approved during the period July 1, 2007 through June 30, 2008

IX-D-3 Quarterly Personnel Report for the period July 1 through September 30, 2008

IX-D-4 Change the name of the Bachelor of Science in Diversified Agricultural Studies degree within the College of Agricultural Sciences and Natural Resources to “Bachelor of Science in Applied Science”

IX-D-5 Actions taken by the Chairman of the Board, following consultation with the Executive Committee, on September 22, 2008

IX-D-6 Report on Othmer-Topp Endowment Fund, second priority uses, for the fiscal year ended June 30, 2008

IX-D-7 Design report for the NanoScience Facility at the University of Nebraska-Lincoln

- IX-D-8 Design Development report for the Barkley Memorial Center Renovation Phase 2 at the University of Nebraska-Lincoln
- IX-D-9 Naming three rooms in the Law College at the University of Nebraska-Lincoln
- IX-D-10 Quarterly Status Report of Six-year Capital Plan and Capital Construction Projects
- IX-D-11 Changes in Construction Projects by Budget or Use Categories
- IX-D-12 Quarterly Gifts, Grants, Contracts and Bequests
- IX-D-13 Bids and Contracts
- IX-D-14 FY 2009-10 and 2010-11 University of Nebraska Biennial Operating Budget Request Revisions

Chairman Hassebrook accepted the reports

X. ADDITIONAL BUSINESS

Closed Session

Motion Moved by Hruza and seconded by McClurg 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 subject:

- (a) A strategy session with respect to real estate improvements and possible purchases;
- (b) A strategy session with respect to collective bargaining;
- (c) A strategy session with respect to litigation; and
- (d) Proposed private gifts to the University of Nebraska Foundation for the benefit of the University.

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

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

- (a) A strategy session with respect to real estate improvements and possible purchases;
- (b) A strategy session with respect to collective bargaining;
- (c) A strategy session with respect to litigation; and
- (d) Proposed private gifts to the University of Nebraska Foundation for the benefit of the University.

The Board went into closed session at 2:20 p.m. and reconvened the open meeting at 3:08 p.m.

November 7, 2008
Volume 67

ADJOURNMENT

There being no further business, the meeting was adjourned by Chairman Hassebrook at 3:09 p.m.

Respectfully submitted,

Donal J. Burns
Corporation Secretary

Chuck Hassebrook
Chairman of the Board