

**BOARD OF REGENTS
MINUTES OF THE MEETING
February 24, 2017**

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**BOARD OF REGENTS
MINUTES OF THE MEETING
Board of Regents Central Office (Teleconference)
Pierre, South Dakota
February 24, 2017**

The Board of Regents convened by teleconference at 4:00 p.m. Central Time on February 24, 2017 with the following members in attendance:

ROLL CALL:

Randy Schaefer – PRESENT
Bob Sutton – PRESENT
Kevin Schieffer – PRESENT
Conrad Adam – PRESENT
John Bastian – PRESENT
Harvey Jewett – PRESENT
Kathryn Johnson – PRESENT
Jim Morgan – PRESENT
Pam Roberts – ABSENT

Also present were Mike Rush, Executive Director and CEO; Monte Kramer, System Vice President of Finance and Administration; Guilherme Costa, BOR General Counsel; Nathan Lukkes, System Assistant Vice President of Research and Economic Development; Janelle Toman, System Director of Communications; Molly Weisgram, System Director of Student Affairs and Executive Administrative Assistant to the CEO and Board; and other members of the Regental system, public at-large, and media.

Regents' President Randy Schaefer called the public meeting of the Board of Regents to order and declared a quorum present.

1. APPROVAL OF THE AGENDA

IT WAS MOVED by Regent Sutton, seconded by Regent Morgan, to approve the agenda as published

ROLL CALL:

Randy Schaefer – AYE
Bob Sutton – AYE
Kevin Schieffer – AYE
Conrad Adam – AYE
John Bastian – AYE
Harvey Jewett – AYE
Kathryn Johnson – AYE
Jim Morgan – AYE
Pam Roberts – ABSENT

Motion Passed.

2. 2017 LEGISLATIVE SESSION UPDATE

A. HB 1210 – Legislation to Authorize the Governor and the Board of Regents to Call for the Sale of the SDSD Property in Sioux Falls

Dr. Mike Rush, Board of Regents Executive Director, explained that on February 16, Rep. Mark Mickelson attached an amendment to an existing bill authorizing the Governor to call for the sale of surplus property in Minnehaha County. After discussion with Regents and further discussion with Rep. Mickelson, another amendment was attached to the bill to include the Board of Regents in the call for the sale.

He clarified that this legislation authorizes the Commissioner of school and public lands to sell the property if requested by the Governor and the Regents. It is not a requirement that the property be sold. He emphasized that regardless of what happens with the current property, the Board of Regents would still operate a School for the Deaf

He said the Board of Regents would need to exercise due diligence to enable a smooth transition if the property was sold. To that end a subcommittee has been formed.

Regent Jewett asked if the Board of Regents has agreed to sell the property. Regents' President Schaefer said that the Board has made no decision to sell the property and emphasized that the most recent amendment to the bill included the Board of Regents in the call for sale. Therefore, the Governor and the Board of Regents would both need to authorize the call for sale.

Dr. Rush said this legislation has nothing to do with the Board of Regents decision making process of whether or not to sell the property. He said official action at a Board meeting would be required before the sale could be called. Therefore, he confirmed that the Board of Regents had not agreed to any sale. In response to a question by Regent Jewett, Dr. Rush confirmed that the bill does deal with where the money would end up and referred to language in the bill that says if the property was sold the proceeds would be deposited into the permanent fund created for the South Dakota School for the Deaf.

Regents' President Schaefer further explained that this legislation was a surprise to the Board. That said, he acknowledged that the Governor questioned whether the property was being fully used in his State of the State address, and the same question was also raised a few years ago when looking at state property that the Governor felt was underutilized.

Regent Sutton said the subcommittee should look at the entire issue and report back to the Board its findings, including options, alternatives, and other conversations/discussions. Regents' President Schaefer said the subcommittee would have its first meeting on Monday, February 27.

Regent Jewett asked if a deadline had been assigned to this investigatory process. Regents' President Schaefer said there is no deadline but felt that the Board should move the process forward sooner than later. Regent Sutton agreed and said the first subcommittee meeting should focus on developing a reasonable timeline for the process as well as an expectation of timely reports back to the Regents.

Regents' President Schaefer confirmed that the subcommittee will approach the effort first and foremost by considering what is best for the School for the Deaf.

In response to Regent Johnson's question about the membership of the subcommittee, Regents' President Schaefer said in addition to himself the subcommittee membership would be Regents Schieffer, Sutton, and Morgan as well as Dr. Rush and Superintendent Kaiser. He clarified that there was no representation from the Governor's office or legislature.

B. ADRDL Funding

Nathan Sanderson, Director of Policy and Operations in the Governor's Office, provided history and current work around the ADRDL project at the legislature.

He said the Governor had introduced Senate Bill 172 as a vehicle for getting legislative authorization to construct, bond, and impose a variety of fees to pay for the bonding of the facility. Historically, he noted that there had never been consensus on the mix of fees to fund this project. As those discussions have moved forward, the idea of funding the lab has pivoted from an agricultural based fee discussion to the agricultural property tax reduction that was put into place last year with House Bill 1182. He provided history on HB 1182, explaining that as part of last year's education funding package all classes of property were reduced in their property tax levies, basically offset by the half cent sales tax that was put in place. The proposal that is currently envisioned and both suggested and supported by the agriculture industry is to forgo a portion of the property tax savings in the agriculture class only and use those dollars to pay for bonding for the facility. He said accomplishing the outlined plan is a little more complicated than just described. The current proposal involves three different bills to accomplish what was just described.

Overviewing the plan, he said the Governor's vehicle bill SB 172 would be amended to remove the vast majority of fees. That bill would be used to give bond authority for the building, establish the bond redemption and operations fund that would pay for the construction and operations for the facility, and create the types of mechanisms necessary in order to actually construct the facility. He noted that there was essentially no funding in this bill.

House Bill 1157, originally proposed by House Majority Leader Lee Qualm as an alternate way to pay for a portion of the bond for the laboratory, was hog housed by the bill sponsor himself to create a different funding mechanism called the Ag Future Development Fund that would be housed in GOED. The purpose of this fund would be to capture property tax savings of a little more than \$5 million/year and would be utilized in two ways. It would pay the bond payment for ADRDL which is about \$3.3 million/year (\$50 million in total), and it would be a starter fund for other ag-related facilities.

He said the final piece is the current levy bill, Senate Bill 35. He said SB 35 will be one of the last if not the last bill the legislature will sign because it sets the property tax levies based on the amount of spending the legislature intends to do. Once we know what the budget looks then we need to adjust the levels on the three classes of levies accordingly. In addition to setting the three standard levies, it would set up the mechanism to collect the property tax offset from the agricultural class levy.

In summary, there is more to be done before accomplishing this project, but he noted that the agriculture industry and legislature are widely supportive.

C. Board of Regents Bills

Dr. Janelle Toman, System Director of Communications, explained that House Bill 1010 which provides legislative authorization for the construction of the regional science center at NSU passed both bodies this week. She said the only Board of Regents' bills yet to be handled are Senate Bills 17, 18, and 19. She said these will be handled on the House floor next week.

Additionally, she mentioned House Bill 1005, which will impact the University Centers. As amended, the bill requires the Government Operations and Oversight Committee to hear annual financial reports on the Centers. She said a Letter of Intent will describe what information the committee will want in the report. She said HB 1005 will be taken up on the floor for final action on Monday.

3. 2017 SDLTAP JOINT POWERS AGREEMENT

Nathan Lukkes, System Assistant Vice President of Research and Economic Development, said that because this item deals with a Joint Powers Agreement it needs Board approval per Board policy. He explained that South Dakota State University has partnered with the South Dakota Department of Transportation (DOT) for well over two decades to operate the South Dakota Local Transportation Assistance Program (SDLTAP). He said the total funding for the 2017 SDLTAP project is \$537,441, of which SDSU is required to contribute \$16,776. He noted that the agreement runs through April 30, 2018.

IT WAS MOVED by Regent Jewett, seconded by Regent Bastian, to grant the Executive Director the authority to execute the 2017 SDLTAP Joint Powers Agreement in substantially similar form to that set forth in Attachment I.

ROLL CALL:

Randy Schaefer – AYE
Bob Sutton – AYE
Kevin Schieffer – AYE
Conrad Adam – AYE
John Bastian – AYE
Harvey Jewett – AYE
Kathryn Johnson – AYE
Jim Morgan – AYE
Pam Roberts – ABSENT

Motion Passed.

4. NSU NEW RESIDENCE HALLS – FACILITY DESIGN PLAN

Veronica Paulson, NSU Vice President of Finance and Administration, explained that the Building Committee approved the design plan and Guaranteed Maximum Price at its February 16, 2017 meeting. She said Northern State University requests Board approval of its Facility Design Plan for design and construction of new residence halls at an estimated cost of \$22,886,000. She explained that funding for construction of these two residence hall buildings will come from a donation to the NSU Foundation up to \$22,725,000. In addition, Aramark will donate \$150,000 with the remaining \$11,000 coming from NSU's Auxiliary Funds. She said the Guaranteed Maximum Price for construction is \$19,572,071. She provided a few details about the anticipated construction, explaining that two residence halls would total 299 beds. The building committee selected Journey Construction as the Construction Manager at Risk for the project, and the building is being designed by CO-OP architects in conjunction with St. Louis based architects Mackey Mitchell.

Regent Johnson asked about the orientation of these two new residence halls on campus. Veronica described where on campus these two residence halls will be placed.

IT WAS MOVED by Regent Jewett, seconded by Regent Morgan, to approve NSU's Facility Design Plan to construct two new residence halls at a cost not to exceed \$22,886,000 and the Guaranteed Maximum Price for construction at \$19,572,071. Funding will consist of \$22,725,000 from a donation to the NSU Foundation along with \$150,000 from Aramark and \$11,000 from NSU's Auxiliary Funds.

ROLL CALL:

Randy Schaefer – AYE
Bob Sutton – AYE
Kevin Schieffer – AYE
Conrad Adam – AYE
John Bastian – AYE
Harvey Jewett – AYE
Kathryn Johnson – AYE
Jim Morgan – AYE
Pam Roberts – ABSENT

Motion Passed.

5. AUTHORIZATION TO EXCLUDE THE BOARD PRESIDENT FROM SECURITY CLEARANCE PROCESS RELATED TO DSU/NSA CONTRACT

Stacy Krusemark, DSU Vice President of Business and Administrative Services, explained that Dakota State University has entered into a contract with the NSA, which includes the establishment of a secure facility on campus. One requirement of such a facility is that key management personnel obtain a top secret DOD clearance. In working with the DOD, DSU has learned that the University President and Board President must be cleared. However, the BOR President can be excluded from the clearance process but must do so willingly and with the approval of the Board. Therefore, DSU requests that the Board authorize the Board President to sign and acknowledge an exclusion from the DSU/NSA contract and subsequent clearance process.

It was explained that this exclusion from the clearance process will not exclude the Board from unclassified information related to the contract. This proposed exclusion will only restrict the Board President from access to the classified information.

Regent Morgan asked whether or not the Executive Director would need to be cleared. It was explained that everyone in the research lab's leadership position, including President Griffiths, would need to be cleared. The Board of Regents' President would also need to be cleared unless he or she voluntarily excludes him or herself from the clearance process.

IT WAS MOVED by Regent Jewett, seconded by Regent Schieffer, to authorize the Board President to sign and acknowledge an exclusion from the DSU/NSA contract and subsequent clearance process.

ROLL CALL:

Randy Schaefer – AYE
Bob Sutton – AYE
Kevin Schieffer – AYE
Conrad Adam – AYE
John Bastian – AYE
Harvey Jewett – AYE
Kathryn Johnson – AYE
Jim Morgan – AYE
Pam Roberts – ABSENT

Motion Passed.

ADJOURN

IT WAS MOVED by Regent Johnson, seconded by Regent Schieffer, to adjourn the meeting of the full Board at 4:45 p.m.

ROLL CALL:

Randy Schaefer – AYE
Bob Sutton – AYE
Kevin Schieffer – AYE
Conrad Adam – AYE
John Bastian – AYE
Harvey Jewett – AYE
Kathryn Johnson – AYE
Jim Morgan – AYE
Pam Roberts – ABSENT

Motion Passed. Meeting adjourned.

The South Dakota Board of Regents adjourned its special business meeting on February 24, 2017 and will meet again in regular session on March 28-April 30, 2017 in Spearfish, South Dakota.

I, Mike Rush, Executive Director and CEO of the South Dakota Board of Regents, declare that the above is a true, complete and correct copy of the minutes of the Board of Regents meeting held on February 24, 2017.

A handwritten signature in black ink that reads "Mike Rush". The signature is written in a cursive, flowing style.

Mike Rush
Executive Director and CEO