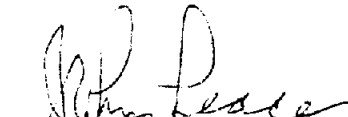




We, the undersigned members of the Board of Regents of The University of Texas System, hereby ratify and approve all actions taken at this meeting to be reflected in the Minutes.

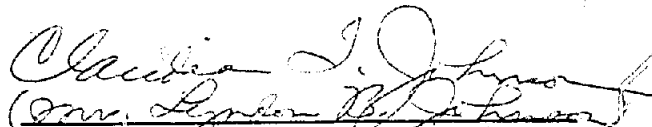
Signed this the 27th day of March, 1971 , A. D.


  
\_\_\_\_\_  
John Peace, Chairman

\_\_\_\_\_  
Frank N. Ikard, Vice-Chairman


  
\_\_\_\_\_  
Frank C. Erwin, Jr., Member


  
\_\_\_\_\_  
Jenkins Garrett, Member

  
\_\_\_\_\_  
Mrs. Lyndon B. Johnson, Member

  
\_\_\_\_\_  
Joe M. Kilgore, Member

\_\_\_\_\_  
A. G. McNeese, Jr., Member

  
\_\_\_\_\_  
Joe T. Nelson, M. D., Member

  
\_\_\_\_\_  
Dan C. Williams, Member

Called Meeting No. 688

THE MINUTES OF THE BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM

March 27, 1971

Austin, Texas

MAR 27 1971 1890

MEETING NO. 688

SATURDAY, MARCH 27, 1971. --The Board of Regents of The University of Texas System convened at 11:00 a. m. in Room 212, Main Building, The University of Texas at Austin, Austin, Texas, pursuant to the following notice that was sent to each member of the Board of Regents on March 23, 1971:

NOTICE OF SPECIAL MEETING OF THE BOARD OF REGENTS  
OF THE UNIVERSITY OF TEXAS SYSTEM

NOTICE IS HEREBY GIVEN That Chairman John Peace has called a Special Meeting of the Board of Regents of The University of Texas System to convene on Saturday, March 27, 1971, at 11:00 a. m. in Room 212, Main Building, The University of Texas at Austin, Austin, Texas, for the purpose of considering only the following item:

A Determination as to the Disposition of a \$600,000 Gift Donated to Defray a Part of the Cost of the Residence of the Chancellor of The University of Texas System and Consideration of Other Means of Financing.

This notice is issued pursuant to the Regents' Rules and Regulations, Part One, Chapter I, subsection 6.21.

ATTENDANCE. --The following were in attendance at the meeting:

<u>Present</u>	<u>Absent</u>
Chairman Peace, Presiding	Vice-Chairman Ikard
Regent Erwin	Regent McNeese
Regent Garrett	
Regent (Mrs.) Johnson	
Regent Kilgore	
Regent Nelson	
Regent Williams	
Chancellor LeMaistre	
Secretary Thedford	

Chairman Peace called the meeting to order and announced the purpose of the meeting as set out above in the Notice of the Special Meeting.

In response to Chairman Peace's request, Regent Erwin addressed the Chairman and other Members of the Board and reviewed the following reports he had submitted in detail on the financing of the Bauer House of The University of Texas System to the Governor, Lieutenant Governor, the Speaker of the House, and the Members of the 62nd Legislature on March 3, 1971. This report is recorded in the Minutes of the meeting held on March 12, 1971.

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He further reviewed an additional report that he had submitted to the Governor, Lieutenant Governor, the Speaker of the House, and the Members of the 62nd Legislature on March 22, 1971, a copy of which had been sent to each Regent and which is inserted herein for the record:



THE UNIVERSITY OF TEXAS SYSTEM  
BOARD OF REGENTS

March 22, 1971

FRANK C. ERWIN, JR.  
900 BROWN BUILDING  
AUSTIN, TEXAS 78701

TO THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE SPEAKER OF THE HOUSE  
AND THE MEMBERS OF THE SIXTY-SECOND LEGISLATURE:

This will supplement my March 3rd report to you with respect to the acquisition of an Official Residence for the Chancellor of The University of Texas System.

With that report of March 3rd, there was included a detailed accounting of the total expenditures which have been and will be required for the project, and there was also included a detailed list of the private gifts which completely fund the project and which make it possible for the project to be constructed and furnished without the use of any State or University funds.

On March 3rd I presented copies of that report to the sub-committee of the Senate Committee on State Departments and Institutions, and I then answered all of the questions that were put to me by the members of that sub-committee. Thereafter, on the same day, I took the sub-committee members on a tour of the project.

Since March 3rd, personal appearances before the sub-committee have been made by Mr. E. D. Walker, Deputy Chancellor for Administration of the U. T. System; by Mr. Lester Palmer, Executive Director of the U. T. System Office of Facilities Planning and Construction; and by Mr. W. R. Walker who was employed by the U. T. System to serve as construction manager for the project. (Mr. E. D. Walker and Mr. W. R. Walker are not related by either blood or marriage.)

In addition to those appearances by University personnel for questioning by members of the sub-committee, the University has furnished the sub-committee copies of all checks, vouchers, invoices, bills, statements, and other documents relating to the project. In fact, the University has promptly furnished the sub-committee all witnesses and all material that have been requested.

As a result, it now appears that with one exception, the sub-committee has obtained all of the information that it desires. That one exception relates to the identity of the foundation whose cash gift of \$600,000 was used to fund a substantial part of the project. In my report of March 3rd, that donation is listed as: "Foundation Gift (Cash) - \$600,000."

The one--and only--reason why that gift was listed in that manner is that the gift was made on condition that the donor foundation would not be publicly identified. Therefore, the University had--and has--the simple choice either of accepting the gift under the condition upon which it was tendered or of declining the gift and returning it to the donor.

Believing that the interests of the University and of the people of this State would be better served by accepting the \$600,000 gift rather than by funding the project with \$600,000 of University funds, the Board of Regents, at its last meeting on March 12th, officially accepted the gift subject to the condition under which it was tendered. (It should be noted that the condition with respect to the identity of the donor was the only condition attached to the gift.)

Moreover, even though the gift was physically received on February 28th and has been in the custody and control of the University continuously since that time, if it appears that the identity of the donor is going to be publicly disclosed if the gift is retained, then the University will have to return the gift to the donor since the condition under which it was given would be violated by the disclosure.

Therefore, under the circumstances just described I am compelled--most respectfully and most regretfully--to decline to identify publicly the donor--except to say that the donor is a Section 501(c)(3) organization under the Internal Revenue Code, which means that it is a charitable foundation which is under the supervision--and which has the approval of--the Internal Revenue Service. This eliminates the possibility that the gift came from some undesirable source that could have a negative influence on the University. Indeed, the donor foundation has made gifts to the University prior to the one in question, and I sincerely hope that it will make gifts to the University in the future.

But more needs to be said about anonymous gifts to colleges and universities in order to put this particular matter into proper perspective and in order to answer the question that is bound to be asked, to wit: Why would a donor object to being publicly identified?

In the first place, the acceptance of anonymous gifts by colleges and universities is neither illegal nor unethical. Neither is it rare nor unusual, since The University of Texas and other leading colleges and universities receive and accept anonymous gifts frequently.

Some of these gifts are truly anonymous in that the University has no knowledge of the identity of the donor, but the more usual case is one, as here, where the identity of the donor is known to the University but the donor insists that the donor's identity not be publicly disclosed.

Interestingly enough, it is an anonymous gift of \$700 to The Daily Texan that finances the distribution of that paper to the members of the Legislature each morning. Predictably, the Texan editors do not see in their anonymous gift the same vice that they pretend to see in the gift here in question.

Another illustration of anonymous giving is a very wealthy philanthropist in Dallas who makes very substantial gifts to the University from time to time in support of worthy projects in the humanities and in the arts; yet the donor always insists on not being publicly identified.

Why this attitude on the part of some donors?

As strange as it may seem to those of us who find ourselves too frequently mentioned in the press, many people have a mania for anonymity and do not want their names in the press under any circumstances--regardless of whether the publicity would be favorable or unfavorable. Donors of this kind receive their pleasure and satisfaction out of the results achieved by their gifts and not out of any personal acclaim that they might receive for their generosity.

An additional reason for a donor's desire for anonymity is the fact that a donor who receives publicity for a benefaction is nearly always promptly besieged with requests from all sorts of people who beg the donor to contribute to the favorite causes of the supplicants. The giant foundations, such as, Ford and Carnegie, have large staffs that regularly deal with hundreds--if not thousands--of such requests. But few individuals and few of the smaller foundations--even those with large trust funds--have either the staff or the willingness to deal with a flood of such requests. Hence, their preference for anonymity where their generosity is apt to receive wide publicity.

The considerations just mentioned are amplified where, as here, the gift is of a substantial amount. Even if the public is aware of the existence of a foundation, the public may be unaware of the foundation's financial ability, and the public announcement of a gift of substantial size will precipitate many more petitions for money than will the announcement of a smaller donation.

A further, and even more important, reason for a desire for anonymity arises where, as here, the making of a gift will almost certainly plunge the donor into a widely publicized arena of controversy. Already, the Texan and others have been critical of using gift funds for the construction of the Chancellor's Official Residence instead of using those funds for purposes that are more appealing to the critics. Potential donors, whether giving as individuals or as trustees of foundations, are like most of us in that they do not like to be publicly criticized--and particularly they do not like to be publicly criticized for their acts of generosity.

That consideration has been a major factor in this matter, because it is almost impossible to secure gift funds when by making the gift the donor is going to be thrown into a controversy that he can easily avoid by not making the gift.

For more than a year, the University has been promised separately by two wealthy Texas citizens that when the Chancellor's Official Residence was completed, they would cover with gift funds

whatever difference there was between the cost of the project and the donations made to the project by others. We also had the promise from the officers of a major Texas foundation that their foundation would make a substantial contribution to the project.

However, when The Daily Texan and the U. T. Law School's version of Nader's Raiders created the clamor that resulted in the appointment of the sub-committee of the Senate Committee on State Departments and Institutions, all of those promised donors advised us that while they had every intention of making their gifts when the controversy has passed, they could not do so at a time while the controversy was raging in the press.

We then turned to another Texas foundation for gift funds, and the officers of that foundation strongly indicated that the University would receive a \$600,000 grant from that foundation despite the public controversy surrounding the project, but when the students made public charges of criminal violations, a majority of the trustees of the foundation decided they could not inject themselves and the foundation into that kind of public furor.

Finally, we approached the foundation which has given the University the cash gift of \$600,000. In view of the reaction of the other potential donors, it is quite understandable that this foundation was willing to make its gift to the University if, but only if, the foundation would not be publicly identified in the controversy.

In view of the fact that the acceptance of anonymous gifts is permitted by law and in view of the fact that anonymous gifts have long been accepted by the University, the condition under which this gift was tendered was agreed to by the Board of Regents.

Parenthetically, let me say that neither the Board of Regents nor the Administration of the U. T. System has had any intention of paying for any part of this project out of State or University funds since construction began in the summer of 1969. Since that time it has always been our intention to pay for this project out of gift funds, and the assurances of support to which I previously referred are the kinds of commitments upon which we have successfully relied for years. It was upon this kind of informal negotiation and commitment that we raised \$37 million in private grant funds last year. It would be entirely accurate to say that had it not been for the intervention of The Daily Texan and the U. T. Law School's Nader's Raiders in this matter, the project would have been completed, the promised gifts would have been forthcoming, and the State and the University would have acquired an important new resource without cost to the State or the University and without the damaging publicity we have had.

The only difference is that now the State and the University have acquired an important new resource without cost to the State or the University but with publicity that has and will damage our relations with future potential donors. We are already advised by some of our best friends in the foundations that they are both irritated and offended by the aggressive telephone calls they have received from The Daily Texan and the U. T. Law School's Nader's Raiders in connection with this matter. It must be obvious to all that individuals and foundations that have money to give to colleges and universities would prefer to give it to institutions where it would be universally appreciated rather



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than to institutions at which vocal dissident groups are likely to harass the donors about the purposes for which the money is given.

At this point it should again be emphasized that the foundation money in question was not made available for what is merely a private residence, but rather it was made available for a University facility which has been badly needed for a long time. As I stated in my report to you of March 3rd:

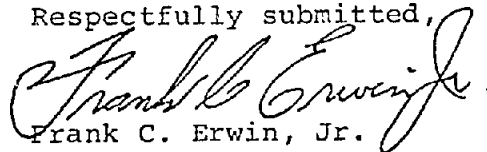
"At the outset it should be understood that the Chancellor's Official Residence is not and was never intended to be merely a private home. It is a University facility that will be frequently used for official University occasions that are a traditional and necessary part of the academic life of all major universities. For that reason, the family's living quarters are located mainly on the second floor, while the first floor is devoted to large rooms and a large kitchen that are both required for official entertaining."

Finally, I should like to point out that The University of Texas System does not operate as an empire unto its self. It is an agency of the State, and as a state agency it is continually examined by the State Auditor. In fact, the State Auditor maintains a permanent staff on the University campus to conduct a continuing audit of University affairs.

Of course, the University strongly insists that there have been no violations of the law and no improper conduct of state business in this matter, but the Legislature can be sure that if any improprieties have occurred, they will be fully noted in the Auditor's report--and that would have been true if The Daily Texan and the U. T. Law School's Nader's Raiders had never been heard from.

May we again take this opportunity to thank you for your confidence and support.

Respectfully submitted,

  
Frank C. Erwin, Jr.

In concluding his remarks, Regent Erwin strongly recommended that the check of \$600,000 from the donor, which had never been cashed and had never been put in a University account, be returned to the donor since it was obvious the Board of Regents could not comply with the donor's condition of anonymity of the gift.

Following Regent Erwin's report, Regent Garrett in extensive remarks expressed his feeling and emphasized that there is only one thing important in this matter and that is that in any case the desire of the donor be carried out completely. He said he would vote unalterably opposed to returning these funds unless Chairman Peace and former Chairman Erwin assured him that this is the desire of the donor and in that case he would vote with sincere regrets and with the feeling that it is a reflection on academic freedom and the freedom of this institution and a reflection on the atmosphere that has developed around this institution.



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It was the consensus of the Board that the action of the Board hinged on the desire of the donor.

After public assurance by Chairman Peace that he had seen the check and that it was the desire of the donor that the check be returned, Regent Nelson asked permission to introduce a resolution to return the gift. However, Regent Garrett was of the opinion that the Board of Regents should have legal advice on the form of the resolution. Whereupon, Chairman Peace suggested that the Regents go into an Executive Session to confer with attorneys of the System's legal office. This suggestion was accepted without objection.

Following a brief Executive Session, Regent Nelson offered the following resolution and moved that it be adopted. This motion was seconded by Regent Williams and unanimously prevailed:

WHEREAS, A donor foundation, which is a 501(c)(3) charitable organization under the Internal Revenue Code, has made a conditional gift of \$600,000 to The University of Texas, which gift has been accepted by the Board of Regents of The University of Texas System subject to the condition under which the gift was made; and,

WHEREAS, The condition under which the gift was made is that the identity of the donor foundation will not be publicly disclosed; and,

WHEREAS, The check representing the gift from the donor foundation has never been presented for payment by the University, and, therefore, the proceeds of the gift have never been placed in the bank accounts of the University; and,

WHEREAS, The University cannot comply with the condition which is an absolute prerequisite to its retaining the gift of \$600,000, and, therefore, the University is not entitled to retain the gift and is required to return it to the donor foundation:

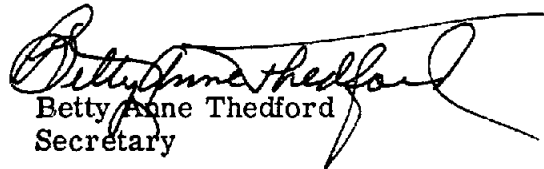
NOW, THEREFORE, BE IT RESOLVED By the Board of Regents of The University of Texas System, that since The University of Texas cannot comply with the condition of anonymity of the donor foundation, which condition is a condition precedent to its retaining the aforesaid gift of \$600,000, with sincere regret the appropriate officials of The University of Texas System are hereby directed to return this most generous gift of \$600,000 to the donor foundation by delivering to such foundation the check representing that gift; and

BE IT FURTHER RESOLVED, That the appropriate officials of The University of Texas System be, and they are hereby, directed to continue their efforts to obtain gift funds in the amount of \$600,000 with which to finance that part of the cost of the facility of The University of Texas System, known as the Bauer House, which part is not now funded by gifts, from donors.

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BE IT FINALLY RESOLVED, That the appropriate officials of The University of Texas System be, and they are hereby, directed to fund the unfunded cost of said facility of The University of Texas System by replacing the \$600,000 gift funds hereby returned to the donor foundation with \$600,000 of non-appropriated funds; to-wit: interest earned on bank deposits of proceeds from the sale of revenue bonds.

ADJOURNMENT. -- There being no further business to come before the Board under its Rules and Regulations, it was duly adjourned at 12:30 p. m.

  
Betty Anne Thedford  
Secretary

April 1, 1971