

Meeting No. 929

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

Pages 1 - 7

April 14, 2000

Austin, Texas

MEETING NO. 929

FRIDAY, APRIL 14, 2000.--The members of the Board of Regents of The University of Texas System convened via telephone conference call and in person (Chairman Evans, Vice-Chairman Loeffler, Regent Riter) at 2:35 p.m. on Friday, April 14, 2000, on the ninth floor of Ashbel Smith Hall at 201 West Seventh Street in Austin, Texas, with the following in attendance:

ATTENDANCE.--

<u>Present</u>	<u>Absent</u>
Chairman Evans, presiding	
Vice-Chairman Loeffler	
Vice-Chairman Clements	
Regent Hunt	
Regent Miller	
Regent Oxford	
Regent Riter	
*Regent Romero	
Regent Sanchez	

Executive Secretary Frederick

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present, Chairman Evans called the meeting to order. He announced that the sole purpose of this special meeting was to consider the two items related to The University of Texas at Austin and two Executive Session items as set forth on the Agenda which had been previously distributed to the Board. He noted that it was necessary to hold this meeting prior to the next regularly scheduled meeting of the U. T. Board of Regents on May 10-11, 2000, to consider the four items which were of sufficient urgency to require immediate consideration by the Board.

*Regent Romero joined the call during the Executive Session.

1. U. T. Austin: Approval of Plan to Manage Potential Conflicts of Interest for Dr. Eric V. Anslyn, Dr. John T. McDevitt, Dr. Dean P. Neikirk, and Dr. Jason B. Shear and Authorization for President Faulkner or His Designee to Execute Licensing Agreement and Other Documents Necessary to License Technology to Lab Vision, Inc.

The Board approved a Plan to Manage Potential Conflicts of Interest as set forth below for Dr. Eric V. Anslyn, Dr. John T. McDevitt, Dr. Dean P. Neikirk, and Dr. Jason B. Shear, all members of the faculty at The University of Texas at Austin:

PLAN TO MANAGE POTENTIAL CONFLICTS OF INTEREST

Dr. Eric V. Anslyn, Dr. John T. McDevitt, Dr. Dean P. Neikirk, and Dr. Jason B. Shear are the four U. T. Austin inventors of the “Electronic Tongue” technology, a technology relating to diagnostic fluid analyses using a computer chip sensor array. Each inventor has submitted individual Financial Disclosure and Conflict of Interest Reports to disclose his potential future relationships with Lab Vision, Inc., a company interested in commercializing the U. T. Austin intellectual property related to the technology. Each inventor has received from U. T. Austin an inventor’s share of an option Fee payment as a result of an Option Agreement executed between U. T. Austin and Lab Vision, Inc. in 1999. U. T. Austin currently is negotiating sponsored research and licensing agreements with Lab Vision, Inc. Subsequent to successful negotiations of these agreements, the inventors will benefit via U. T. Austin’s policy that proceeds from the licensing of intellectual property be shared with the inventors. Further, it is possible that the inventors will be asked by Lab Vision to play some role in the initial phases of commercialization.

As required by Texas Education Code Section 51.912(a) and the Regents’ Rules and Regulations, Part Two, Chapter XII, Sections 6 and 7, Dr. Anslyn, Dr. McDevitt, Dr. Neikirk, and Dr. Shear have provided U. T. Austin with written disclosures and, when changes necessitate, they will be required to provide U. T. Austin with revised written disclosures of all potential conflicts of interest that might emanate from the terms of the agreements with Lab Vision. Thus, U. T. Austin stands in compliance with regulations governing the definition of potential conflicts that might arise through the conduct of research.

The primary mechanism that U. T. Austin employs for managing potential conflicts of interest in this type of situation involves the establishment of an independent Oversight Committee. The following steps will be required under this management plan:

- a. An Oversight Committee, comprised of the former Chemistry/Biochemistry Chairman, the current Electrical/Computer Engineering Chairman, and the Associate Dean of the College of Natural Sciences, will review reports and communicate its assessments on the objectivity of the research to the U. T. Austin Objectivity in Research Committee.
- b. Dr. Anslyn, Dr. McDevitt, Dr. Neikirk, and Dr. Shear will submit to the members of the independent Oversight Committee copies of: (1) abstracts that describe the scope of the research anticipated related to the “Electronic Tongue” technology and (2) annual research progress reports, which will include a list of persons who derived support from the sponsored research agreement as well as a compilation of any publications that resulted from the sponsored research. Any additional supporting information that is needed for evaluation of the potential conflicts of interest will be provided as requested by the independent members of the Oversight Committee.
- c. Dr. Anslyn, Dr. McDevitt, Dr. Neikirk, and Dr. Shear will notify the Objectivity in Research Committee annually of any intellectual property disclosures or patentable technologies arising from the research related to the “Electronic Tongue” technology.
- d. Should either of these committees (Oversight Committee or Objectivity in Research Committee) determine that an actual conflict of interest exists at any point in this oversight process, appropriate remedial action will be taken in accordance with Section 51.912 of the Texas Education Code and corresponding provisions of The University of Texas System Intellectual Property Policy.

Further, the Board authorized President Faulkner or his designee to execute a Licensing Agreement and other necessary documents to license the technology to Lab Vision, Inc., with prior approval of the Vice Chancellor and General Counsel.

This arrangement is consistent with Section 51.912 of the Texas Education Code and corresponding provisions of the U. T. System Intellectual Property Policy. Pursuant to Part Two, Chapter XII, Section 6, Subsection 6.2, and Section 7, Subsection 7.1 of the Regents' Rules and Regulations, approval by the U. T. Board of Regents is necessary for Dr. Anslyn, Dr. McDevitt, Dr. Neikirk, and Dr. Shear to take part in sponsored research and licensing agreements (and possible consulting arrangements) with Lab Vision, a company in which they will hold equity, effective upon execution of the agreement.

U. T. Austin has determined that future sponsored research and licensing agreements between U. T. Austin and Lab Vision for commercial applications of the research are appropriate since the company-related activities of Dr. Anslyn, Dr. McDevitt, Dr. Neikirk, and Dr. Shear will involve applied research and the manufacturing of "Electronic Tongue" technology, and their University laboratories will be involved in basic research into the technology. As part of the agreement, U. T. Austin will secure a pre-Initial Public Offering (IPO) equity stake of 1.6 million shares of common stock, which will be split between U. T. Austin and the inventors of the technology. Approximately \$1.3 million in a sponsored research agreement contract/grant to U. T. Austin will be secured to allow U. T. Austin to further develop the science base needed for the understanding of the basic issues related to the "Electronic Tongue" technology.

Proposed Plans to Manage Potential Conflicts of Interest are submitted routinely for approval in the institutional Docket. However, because Lab Vision is insistent upon an agreement immediately, this item required consideration prior to the May 2000 meeting of the U. T. Board of Regents.

2. U. T. Austin: Approval to Deaccession Certain Artwork Housed in the Jack S. Blanton Museum of Art and Authorization for President Faulkner or his Designee to Enter into Contracts to Facilitate the Sale of the Artwork and to Execute All Documents Related Thereto

Following a brief overview by President Faulkner, the Board:

- a. Authorized The University of Texas at Austin to deaccession a collection of approximately 153 paintings by Australian artists. The collection, which belongs to U. T. Austin, is housed in the Jack S. Blanton Museum of Art.
- b. Authorized President Faulkner or his designee to enter into a contract with a fine arts auction house to provide all services for the sale of the artwork and to facilitate all aspects of the sale. The contract shall be subject to the prior approval of the Executive Vice Chancellor for Academic Affairs and the Vice Chancellor and General Counsel.
- c. Authorized the President of U. T. Austin, or his delegate designated in writing, to execute all documents, instruments, and other agreements and to take all such further actions deemed necessary, advisable, or proper to carry out the purpose and intent of the foregoing actions.

The collection of approximately 153 paintings by Australian artists is known as the Harold Mertz Collection of Australian Paintings and was given to U. T. Austin by the Mertz Art Fund in 1972. Since that time, the collection's exposure and its use in art education in the United States has been less than originally anticipated, and it has become impractical to carry out the gift's original purpose. Australian interest in the paintings, however, is high. Over the years, U. T. Austin has been approached repeatedly by Australian collectors, dealers, and auction houses to sell the collection. An appraisal of the collection last year set the value at between \$5 and \$8 million.

In seeking to deaccession the works, U. T. Austin has followed the Jack S. Blanton Museum of Art Deaccessioning Policy. Five Australian fine art auction houses made proposals to handle the sale of the works after the Blanton Museum director confirmed with other U. T. System components that the works did not fit those components' collecting goals or funding capabilities.

A campus committee studied the proposals and recommended that negotiations commence with the first choice of auction houses. Negotiations are currently underway to provide auctioneering, marketing, and other services related to the sale of the works, but no contract has been finalized. If a satisfactory contract cannot be negotiated with the first choice, U. T. Austin will negotiate with one of the other auction houses that previously submitted a proposal. To maximize sales proceeds, it is anticipated that the sale of the works will occur in Australia. While this authorization could be handled as an institutional Docket item, the timing of a potential sale in Australia necessitated consideration prior to the May 2000 Board of Regents' meeting.

Following the provisions of the Deaccessioning Policy, the net sale proceeds from the sale of the artwork will be used by U. T. Austin for the acquisition of other works of art, including the Suida-Manning Collection.

RECESS TO EXECUTIVE SESSION.--At 2:40 p.m., the Board recessed to an Executive Session in accordance with Texas Government Code Sections 551.071 and 551.074 to consider the two items on the agenda relating to litigation and personnel matters.

RECONVENE IN OPEN SESSION.--Following the Executive Session which adjourned at 3:25 p.m., the members of the Board reconvened in open session. In response to Chairman Evans' inquiry as to whether there was any action from the floor, the following actions were taken:

1. U. T. Dallas: Settlement of Litigation - Gurumurthy Kalyanaram

Regent Riter moved that the Chancellor and the Office of General Counsel be authorized to settle, on behalf of The University of Texas at Dallas, the litigation brought by Gurumurthy Kalyanaram in accordance with the proposal presented in Executive Session.

The motion was duly seconded and carried without objection.

Executive Secretary's Note: Vice-Chairman Clements was not present for the vote.

2. U. T. System: Appointment of Mr. R. D. (Dan) Burck as Interim Chancellor Effective June 1, 2000

Members of the U. T. Board of Regents heard an update on the status of the Chancellor Search and discussed various individuals under consideration. It was decided that the Board was not ready to name a permanent successor to Chancellor William H. Cunningham and upon motion of Vice-Chairman Loeffler, duly seconded, the Board appointed Mr. R. D. (Dan) Burck, currently Executive Vice Chancellor for Business Affairs, as Interim Chancellor of The University of Texas System effective June 1, 2000, with compensation commensurate with the responsibilities of the office.

In congratulating Executive Vice Chancellor Burck, Chairman Evans noted that the vote of the Board was unanimous and stated that Mr. Burck is a trusted, loyal friend and great leader who has the full support of the Board as he leads the U. T. System for an undetermined amount of time. He said Mr. Burck will be an active leader who will continue to take the University to higher levels and will aggressively pursue the challenges of the University related to diversity.

Executive Vice Chancellor Burck thanked the members of the Board for their confidence and noted it was a high honor to be asked to serve as Interim Chancellor of the U. T. System.

Executive Secretary's Note: Vice-Chairman Clements was not present for the vote.

ADJOURNMENT.--Chairman Evans announced that the purpose for which this meeting was called had been completed. The meeting was duly adjourned at 3:40 p.m.

/s/ Francie A. Frederick
Executive Secretary

April 24, 2000