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University of South Carolina
BOARD OF TRUSTEES

Executive Committee

October 26, 2010

The Executive Committee of the University of South Carolina Board of Trustees met on Tuesday, October 26, 2010, at 4:25 p.m. in Room 206B of the Osborne Administration Building.

Members present were: Mr. Miles Loadholt, Chairman; Mr. Herbert C. Adams; Dr. C. Edward Floyd; Mr. Toney J. Lister; Mr. John C. von Lehe, Jr.; and Mr. Eugene P. Warr, Jr.

Other Trustees present were: Mr. J. Egerton Burroughs; Mr. W. Lee Bussell, Sr.; Mr. Mark W. Buyck, Jr.; Mr. Greg Gregory; Mr. William C. Hubbard; Mr. William W. Jones, Jr.; Ms. Leah B. Moody; Dr. C. Dorn Smith, III; Mr. Thad H. Westbrook; and Mr. Mack I. Whittle, Jr.

Others present were: President Harris Pastides; Secretary Thomas L. Stepp; Vice President for Academic Affairs and Provost Michael D. Amiridis; Vice President for Finance and Planning William T. Moore; Vice President for Student Affairs and Vice Provost for Academic Support Dennis A. Pruitt; General Counsel Walter (Terry) H. Parham; Associate Vice President for Resource Planning Edward L. Walton; Associate Vice President for Finance and Budget Director, Division of Finance and Planning, Leslie Brunelli; Chancellor of USC Beaufort Jane T. Upshaw; Associate Vice President for Facilities Tom Quasney; Director of Capital Budgets and Financing, Division of Business and Finance, Charles D. FitzSimons; Director of Intellectual Property Management, Division of Research and Graduate Education, Chad Hardaway; Special Assistant to the President and Director of Athletics John D. Gregory; Special Assistant to the President J. Cantey Heath; Director of Governmental and Community Relations and Legislative Liaison Shirley D. Mills; Associate Director of Governmental Affairs and Legislative Liaison Casey Martin; Director of the Office of Media Relations Margaret Lamb; Board staff member Terri Saxon; and members of the media.

Chairman Loadholt called the meeting to order and stated that notice of the meeting had been posted and the press notified as required by the Freedom of Information Act; the agenda and supporting materials had been circulated to the members; and a quorum was present to conduct business.

Chairman Loadholt asked Secretary Stepp to call the roll because of telephone participation.

Mrs. Lamb introduced members of the media who were in attendance.

I. The Tuition Revision - Regional Campuses:

Chairman Loadholt called on Dr. Moore who stated the following:

The four USC Regional Campuses increased their tuition for resident undergraduate students with less than 75 hours by 6.5 percent for the 2011 fiscal year. Due to the moratorium that was announced on September 29th on capital projects adopted by the South Carolina Budget and Control Board, this increase exceeds the allowable amount (6.3 percent) for two year institutions. Based on our assessment of the climate and the difficulties our Regional Campuses and the full USC System may otherwise encounter going forward, our recommendation is to roll back the USC Regional Campus resident undergraduate tuition and required fees increase from 6.5 percent to 6.08 percent effective with the Spring 2011 semester.

Dr. Moore explained that the reason they chose to roll back to 6.08 percent rather than 6.3 percent was that the hourly rates must be expressed in full dollar amounts; i.e., we must change tuition in \$12 increments.

Chairman Loadholt called for a motion to roll back the USC Regional Campus resident undergraduate tuition and required fees increase from 6.5 percent to 6.08 percent effective with the Spring 2011 semester. Mr. Adams so moved and Mr. Lister seconded the motion.

Mr. Jones asked Dr. Moore if the University would encounter any potential punitive action, should the Board not roll back the tuition rate as recommended. Dr. Moore responded that the proposed new Academic Building at USC Lancaster would be a "casualty" of the moratorium on capital projects if the Board did not roll back the tuition.

The roll call vote was taken, and the motion carried unanimously.

II. Tuition Revision - USC Beaufort:

Chairman Loadholt called on Dr. Moore, who stated that based on the staff's assessment of the climate and the difficulties USC Beaufort and the full USC System might encounter going forward, they recommended to roll back USC Beaufort's resident undergraduate tuition and required fees increase from 9.5 percent to 7 percent effective, with the Spring 2011 semester. The recommendation had been discussed with Chancellor Upshaw and she had concurred.

Chairman Loadholt called for a motion to roll back the USC Beaufort Campus resident undergraduate tuition and required fees increase from 9.5 percent to 7 percent effective with the Spring 2011 semester. Mr. Adams so moved and Dr. Floyd seconded the motion.

The roll call vote was taken, and the motion carried unanimously.

III. Sale of Intellectual Property:

Secretary Stepp requested, on behalf of President Pastides, a brief Executive Session to consider the contractual negotiations of this agenda item. Chairman Loadholt called for a motion to enter Executive Session for the reason stated. Dr. Floyd so moved

and Mr. Lister seconded the motion. The roll call vote was taken, and the motion carried unanimously.

Return to Open Session

III. Sale of Intellectual Property: This item of business was deferred.

IV. Johnson Controls Contract Settlement:

Dr. Moore reviewed the proposed settlement as provided in the meeting materials. He explained that the purpose of the plant was to produce steam for the campus primary steam distribution system, in addition to the generation of a small amount of electricity. The total campus steam usage was 135,000 pounds per hour peak demand; and the Biomass production capacity as 60,000 pounds per hour peak demand.

The Johnson Controls (JCI) contract with the University was for a 15 year duration, by which JCI would construct and provide preventive maintenance support in the plant; and USC would pay for plant operating staff, facility (steam generation plant); material (wood chips) and waste removal; and service contracts with JCI. Increased steam capacity for the campus, and a guaranteed energy savings of \$2,130,000 per year, were USC's main contract benefits.

Dr. Moore reported on the status of the Biomass plant:

- Initial plant start up was December 2007
- There had been (33) recorded plant shut downs from 2007 to present
- The plant was currently down for repairs
- Major repairs in Phase I were underway. They were designed by Black and Veatch and funded by JCI.
- The Phase I plant restart was scheduled for November 1, 2010
- The Phase II boiler replacement schedule was still to be determined.

Dr. Moore explained the financial status of the Biomass plant was that the amount invested by USC was \$20 million, with an annual debt service of \$1.5 million; and the amount invested by JCI was \$20 million. The replacement value of the plant was estimated at \$39,740,458.

Dr. Moore noted that as of the current day:

- Negotiations on the plant's future and cash settlement had been ongoing for over a year.
- JCI preferred to satisfy their guarantee payments through in-kind services; however, USC preferred a cash settlement.
- A request for payment for unrealized savings (which assumed that JCI was responsible for (9) months of delay in the operation of the plant) was submitted to JCI by USC on September 22, 2010.
- A counterproposal was submitted by JCI on October 1, 2010, in which they asserted that USC and JCI shared the responsibility for the (9) month delay.

The terms of the proposed compromise are as follows:

- The existing contract, and all provisions, would remain in place
- The compromise on the time of initial contract extension: i.e., recommendation to split the (9) month delay period for which responsibility would be distributed, thus adding 4.5 months to the contracted start date
- A cash payment of \$4,334,362 to USC

Net amount due to USC	\$5,161,614
4.5 Month adjustment	\$ 827,252
Final Settlement Amount	\$4,344,362

Chairman Loadholt called for a motion to approve to settle, on a cash basis, the net payment due from JCI for guaranteed energy savings to date, in the amount of \$4,344,362. Mr. Lister so moved and Mr. Warr seconded the motion. The roll call vote was taken, and the motion carried unanimously.

Since there were no other matters to come before the Executive Committee, Chairman Loadholt declared the meeting adjourned at 1:15 p.m.

Respectfully submitted,

Thomas L. Stepp
Secretary