

Minutes are intended to note (a) the date, time and place of the meeting; (b) those members of the public body who were present and those who were absent; and (c) the substance of all matters proposed, discussed and/or action was taken on. Minutes are not intended to be a verbatim report of a meeting. An audiotape recording of the meeting is available for inspection by any member of the public interested in a verbatim report of the meeting. These minutes are not final until approved by the Board of Regents at the June 2016, meeting.

**BOARD OF REGENTS* and its
ad hoc COMMITTEE ON ATHLETICS JOINT MEETING
NEVADA SYSTEM OF HIGHER EDUCATION**
System Administration, Las Vegas
4300 South Maryland Parkway, Board Room
Friday, April 8, 2016

Video or Telephone Conference Connection from the Meeting Site to:
System Administration, Reno
2601 Enterprise Road, Conference Room
and
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Members Present: Mr. Rick Trachok, Chairman
 Mr. Michael B. Wixom, Vice Chairman
 Dr. Andrea E. Anderson *{via telephone}*
 Mr. Cedric R. Crear
 Mr. Robert M. Davidson *{via telephone}*
 Dr. Mark W. Doubrava
 Dr. Jason D. Geddes
 Mr. Trevor Hayes
 Mr. James Dean Leavitt
 Mr. Sam L. Lieberman *{via telephone}*
 Mr. Kevin C. Melcher
 Mr. Kevin J. Page
 Ms. Allison A. Stephens

Others Present: Mr. Daniel J. Klaich, Chancellor
 Ms. Brooke Nielsen, Vice Chancellor, Legal Affairs
 Mr. Dean J. Gould, Chief of Staff and Special Counsel to the Board
 Mr. Nicholas Vaskov, System Counsel and Director of
 Real Estate Planning
 Dr. Len Jessup, President, UNLV
 Ms. Tina Kunzer-Murphy, UNLV
 Ms. Elda Sidhu, UNLV
 Mr. Christopher Beard

There were no faculty senate chairs or student body presidents in attendance.

For others present, please see the attendance roster on file in the Board office.

Chairman Rick Trachok called the meeting to order at 12:00 p.m. Mr. Dean Gould, Chief of Staff and Special Counsel to the Board, called the roll of the Board of Regents and, at the same time indicated those Regents who serve on the *ad hoc* Committee on Athletics (Regents Crear, Geddes, Leavitt, Melcher, Page and Wixom) as this was a joint meeting. All Regents were present except Regent Davidson.

Regent Doubrava led the pledge of allegiance.

Chairman Trachok asked for a moment of silence in memory of two great Nevadans; former Regent and Board Chair June Whitley, and Justice Cliff Young, who was recently recognized as a Distinguished Nevadan.

Chairman Trachok offered introductory remarks to set the stage for the meeting. He stated the recently adopted *Handbook* Board policy, Title 2, Chapter 5, Section 5.4.2(f) provides, "The president shall negotiate all athletic department personnel contracts involving directors of athletics or coaches with the assistance of institutional counsel. Such appointments shall not take effect, and no employment contracts for such positions shall be issued or binding, until approved by the president and by the vice chancellor for legal affairs, including as to consistency of form."

Chairman Trachok explained the review discussed in the policy focuses on the changes made to the Board approved coaches' contract template, but not to the financial terms of the draft agreement. Once the vice chancellor has reviewed the draft contract and responds to the university general counsel, the final contract is placed on the Board's agenda and a special meeting is held as soon as possible, within the time limits allowed and outlined by Nevada state law. Regent Trachok then recounted the series of events that took place regarding a new UNLV Men's Basketball coach and coach's contract from March 23, 2016 through April 8, 2016. He then requested that, for discussion purposes, the Board focus on the contract.

1. Information Only-Public Comment – Former Nevada Governor Robert Miller, Mr. Bill Paulos, Mr. Mark Alden, Mr. Tom Jingoli, Mr. Michael Yackira, Mr. Matthew Peskin, Mr. Alex Pereszlenyi, Mr. Art Carll, Dr. Nancy Lough, Mr. David Kallas, Mr. Chet Cox, Mr. Dakota Fischer, Ms. Lori Cox, Mr. Lee Gilford, and Mr. Dan Carvalho spoke enthusiastically in favor of hiring Mr. Christopher Beard as the next UNLV men's basketball head coach.
2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – The Committee recommended approval of a multi-year employment agreement for Mr. Christopher Michael Beard to serve as the men's basketball head coach of UNLV (*Refs. BOR-2a, BOR-2b, BOR-2c and BOR-2d on file in the Board office*).

Regent Page asked President Jessup to present the item. President Jessup stated UNLV basketball is part of the fabric of the community – it is a tradition shared by generations of fans through the region. He stated the *Wall Street Journal* recently placed the value of the UNLV Runnin' Rebel brand at \$46 million and listed the UNLV program among the 50 most valuable in the United States.

Regent Davidson joined the meeting via telephone.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

President Jessup said since January 2016, the program has been looked at thoroughly; experts from every level of basketball have been consulted, and input has been received. The process began with a group of more than 50 names separated into three groups: sitting head coaches, strong assistant coaches – including those at UNLV, and retired NBA coaches. President Jessup felt Mr. Beard is a winner who understands the primary responsibilities as head coach which is to: 1) create an environment allowing student-athletes to succeed academically, athletically and socially; 2) instill accountability, responsibility, tenacity and teamwork; 3) celebrate and reward hard work and achievement; and 4) build a program to serve as a source of pride and unity for the entire UNLV family. President Jessup believed everyone will be proud of Mr. Beard. He asked Ms. Kunzer-Murphy to explain the search process.

Ms. Kunzer-Murphy stated the search process began by carefully examining every aspect of the program; academics, recruiting, scheduling, travel, strength and conditioning, nutrition, funding, fan engagement, and so forth. She and staff sought to understand why the UNLV program had fallen from the ranks of the nation's elite, and mainly why it had fallen to the middle of the pack in the Mountain West.

Ms. Kunzer-Murphy continued that input and recommendations were requested and received from championship coaches. On March 4, 2016, the formal opening for the position of UNLV Head Coach of Men's Basketball was posted on the UNLV web site, the NCAA web site, and other prominent on-line portals. Agents and athletic directors were contacted to seek permission to speak with various potential candidates. She spoke with more than 35 coaches about the position and, from those who expressed interest, six finalists were granted formal in-person interviews, with two being from diverse backgrounds. The interviews were challenging and thorough – conducted by a three-person panel: herself, President Jessup and Mr. Robert Smith, a former great Runnin' Rebel. Ms. Kunzer-Murphy said it is the unanimous recommendation to appoint Mr. Beard as the next head coach of men's basketball at UNLV.

Regent Stephens asked about the diversity of the final candidates. President Jessup stated one was African-American and one was Hispanic.

Ms. Kunzer-Murphy explained the terms of the contract along with incentives and bonuses to produce a winning team:

- 1) The term of the contract is five years.
- 2) In the first three years of the contract base compensation is \$400,000; in the final two years it is \$500,000.
- 3) Media-related income begins at \$500,000 and grows to \$600,000 by year five.
- 4) In the first three years of the agreement the coach can earn a maximum of \$100,000 tied to ticket sales revenue and the threshold for this is set at \$3.4 million – a mark that has not been reached in six of the last 10 years.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

- 5) Coach Beard can earn an additional \$160,000 in performance-based incentives – of which \$135,000 is tied directly to the team being eligible for post-season competition, which puts in place an automatic Academic Gate tied to Academic Progress Rate (APR).

Regent Page asked Vice Chancellor for Legal Affairs, Brooke Nielsen, to explain the contract template that guided the UNLV process for hiring the new coach. Vice Chancellor Nielsen explained the development for the template for head coach contracts was approved by the Board at the March 2016 meeting. The process that led to the Board's approval of the template began a number of years ago through the work of herself, UNLV General Counsel Elda Sidhu, and UNR General Counsel Mary Dugan. The contracts, which are very visible and the most expensive approved by the Board, should have similar terms between the universities in those contracts. An unofficial template was assembled and began being used in the last several contracts the Board approved – which is very similar to the one the Board has now approved.

Vice Chancellor Nielsen continued when the *ad hoc* Committee on Athletics was appointed, it made a request that she, the athletic directors and presidents work together and bring a head coach template to the Committee for consideration. She said every term was reviewed for the proposed template and when a basic agreement was reached about the form it was presented to the Committee at its November 30, 2015 meeting. The Committee had questions, comments and suggestions and asked that the template be updated and presented at the February 25, 2016 meeting. The updated coach contract template, a proposed checklist and a set of guidelines for the universities was approved at the February 25, 2016 meeting. Vice Chancellor Nielsen said the contract for Mr. Beard is the first test of the new coach contract template.

Vice Chancellor Nielsen received the contract on March 30, 2016 and reviewed it, recognizing the need to move quickly. She provided comments back to UNLV the next day. She noted as Vice Chancellor for Legal Affairs, there are rules requiring her to review and approve a head coach contract and also to review it in particular as to its consistency in form comparing it to the approved template. Vice Chancellor Nielsen said UNLV moved quickly to respond by providing an amended submission to the Board office, along with additional information, justification, and a slight revision of the contract. She felt the contract before the Board is in proper form for consideration of its approval taking into account the amendments to the template are under the Boards' rules and it is the university's obligation to justify changes from the template form, which UNLV has provided.

Regent James Dean Leavitt moved approval of a multi-year employment agreement for Christopher Michael Beard to serve as the men's basketball head coach at UNLV. Regent Doubrava seconded.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

Regent Hayes asked President Jessup about the size of the search committee. President Jessup replied there were three people on the search committee but prior to that, there was an advisory group.

Regent Hayes asked if the current program operating budget was balanced. Ms. Kunzer-Murphy stated UNLV is working to balance the budget. She said there is \$750,000 allocated for the head coach's position. She added the men's basketball budget generates approximately \$7 million of which UNLV spends approximately \$3 million. The total budget is not balanced, but it is being worked on daily. Regent Hayes believed the budget was well over \$1 million for the coming year and as much as \$3 million, or more, for the following year. He asked for a commitment to find a way to fully fund athletics. President Jessup said a UNLV team is working on a plan for managing the deficit over the next three years.

Regent Hayes asked if it is legally binding when an outside entity pledges money to a university. Vice Chancellor Nielsen said if a donor enters into a gift or donation agreement it is binding and can be enforced, but ultimately it is the responsibility of the university.

Regent Hayes noted the attendance bonus had a \$3.4 million threshold for the first year and indicated that amount was not achieved every year in a 10 year period. President Jessup believed \$3.4 million is a good target because ever since the peak in 2012-2013 attendance has been steadily decreasing and, given the trend, it is a good starting point. Regent Hayes believed there was a significant increase in the single game sales price five years ago, and since then attendance has not fallen below \$3.4 million. President Jessup agreed there has been a steady increase ever since the increase five years ago, and an increase is planned for the coming year.

Regent Wixom addressed the divergences in the template and felt the majority of changes to the coach contract template were either positive or non-material. He asked specifically about:

- Article 4, Par 4.2.c – Duties and Responsibilities While Employed as Head Coach – why it was important to appoint a designee. Ms. Kunzer-Murphy indicated it was an operational issue.
- Article 4, Par 4.5 – Annual Personnel Evaluations – Ms. Sidhu said this was the subject of part of the negotiation for the next year or two and, because several players left the team resulting in quite a few changes, it is possible that the team may not perform as well in the first year or two. She further explained that because competitiveness is such a big part of the evaluation process under the contract, the concern was that simply having an unfavorable win/loss record could lead to termination for cause, so the discussions led to saying competitiveness

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

- Article 4, Par 4.5 – Annual Personnel Evaluations – (continued)
means a lot more than just winning or losing – there could be many aspects of having a competitive team – so it was determined by Mr. Beard's attorney that that alone would be reason for termination for cause.
- Article 5, Par 5.7 – Supplemental Compensation – Athletic Performance Payment (explanation of APR) – Ms. Kunzer-Murphy said the APR is a very convoluted process. The single year APR is not reflective of the actual in the template because there is a 12 month delay and it was felt the rolling APR four year average would tell the story better. One of the things that was looked at on all of the post-season bonuses, which is in everyone's contract at this level, is if you are not eligible with the rolling APR at 930, you are not eligible for post-season play which, in fact, presents an automatic APR gate at that time. President Jessup added the fundamental principle underlying this is everyone wants to make sure the coach is concerned about the student athletes' academic performance. He believed those concerns are a part of Mr. Beard's fiber. Regent Wixom would like to have a further discussion on the APR issue to better understand it.
- Article 6, Par 6.1.a, Termination Without Cause, 6.1.a.1. –Vice Chancellor Nielsen stated, through negotiation, the change to the template is instead of the university's obligation to continue the liquidated damages payments ceasing as soon as the coach obtains other employment, which is what the template provides, it would merely act as an offset. Depending on what the compensation is for the new position, the university may still have the obligation to continue making some payment. She said it was a negotiation matter and could be material.
- Article 6, Par 6.2.a.1 – Written Notice of Termination – Ms. Sidhu said UNLV revised the agreement so the period when the coach can terminate for convenience is a little more limited than it would be in the template. It was felt that limiting or restricting his ability to leave for convenience to the playing season provides significant protection to the university. The contract changes the time limitation for the Coach to terminate for convenience from “outside the Program's team playing season and recruiting contact periods” to “after the Program's final game of the applicable playing season.”

Regent Crear does not know who the best candidate was and obviously it is felt that Mr. Beard is the best person for the job. He said this is the first contract from the *ad hoc* Committee on Athletics and there is a lot of room for improvement because there are a lot of areas of concern from the contract being submitted to it being approved, how it was submitted and the process. He felt the Committee still has some work to do to become more efficient. Regent Crear has issues with the contract being signed by all parties prior to having Board approval. The Board of Regents are ultimately responsible for everything within the Nevada System of Higher Education and it is important this process is duly recognized and respected. He believed that in the past it has not been recognized or respected, which is a downfall that should be changed.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

Regent Crear heard that Mr. Beard is very qualified, but has had four or five different jobs in that many years. He said there are liquidated damages in the contract, but if the coach does well at UNLV then he could leave and go to another school. Regent Crear has concerns even though UNLV will try to position itself in the best possible way. He did not understand awarding a five year contract to someone who has shown frequent movement with employment. Regent Crear thought there was no cost that can make up for the reputation it causes for the athletic program when a coach leaves – money is the issue it is gauged by, but the damage it does to a program and school is immeasurable. He is apprehensive about the five year contract and would be more comfortable if it was for three years with terms for an extension.

Regent Crear asked what the current APR is. Mr. Kunzer-Murphy said the current APR is 930 and it is anticipated that, this year, it will go down significantly. Regent Crear asked about the possibility of bonuses. Ms. Kunzer-Murphy said the possibility is \$160,000 post season, which includes going all the way into the final four. She noted \$135,000 of the \$160,000 total is post season. Regent Crear clarified the coach would receive a bonus at the end of the first year if the APR is above 930. Ms. Kunzer-Murphy responded it is a NCAA regulation that puts in an academic gate if the four year rolling average goes below 930, and then it prohibits participating in post season. Regent Crear did not feel 930 should be the threshold – it is the minimum cost of admission. He does not see anything specifically saying what the minimum standard a coach has to get in order to receive a bonus and what that bonus would be. Ms. Sidhu said in this contract there are no bonuses for achieving the minimum APR because it was deleted from the template. The contract does address Mr. Beard's obligation to maintain at least 930 and if it drops below 930, the coach must work with Athletics immediately for a plan to rectify to get it back to at least 930, but there are no bonuses for meeting that minimum or even for going higher for that matter. Regent Crear felt it was extremely confusing and does not understand how the coach would receive \$160,000. Ms. Sidhu clarified there were two bonuses – one on the template just for achieving a certain APR which was taken out completely so there are no bonuses tied to academic performance. Separately there is a section in the contract for performance bonuses where it is possible to earn up to \$25,000 even if he falls below 930. Under the template, in order to receive those bonuses, the coach must have a single year APR of 930 and, if the coach is not at 930 under the template, even if he wins a national championship, he would forfeit all of those bonuses. Ms. Sidhu explained the standard was changed to the four year rolling APR. Regent Crear said the NSHE recommendation of measuring APR and how bonuses are distributed to athletic coaches has been completely changed without discussion with the Board.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

Regent Crear noted that UNR won the College Basketball Invitational (CBI) Championship and in the coach's contract there is no language about providing a bonus for a CBI win. He thought if a coach wins a post-season tournament some type of bonus compensation should be in place. Vice Chancellor Nielsen said that would require additional language both in the UNR and UNLV contracts. Regent Crear thought it would be a discussion for the *ad hoc* Committee on Athletics.

Regent Page felt Mr. Beard was the right coach. He stated under Article 4, Par 4.5 – Annual Personnel Evaluations – was changed from two unsatisfactory reviews to three and noted no coach ever received even one unsatisfactory review. Regent Page recommended the *ad hoc* Committee on Athletics revisit that statement.

Regent Stephens said strong points have been brought up with inconsistencies with the contract and budget which will be the reason she will not vote in favor of the new coach.

Regent Lieberman was impressed with the public comments, the negotiations, and the coach, and will vote in favor of the contract.

Regent Geddes will not support the contract today. He is fine with the financial terms, but there are budget issues that President Jessup and Ms. Kunzer-Murphy will have to work on. He is concerned with the Annual Personnel Evaluation portion – there are thousands of employees in the System who receive an annual evaluation guided by System policy. He did not feel it was fair to make an exception for one employee of the System. Regent Geddes expressed further concern about the APR. He felt if the rolling four years was at 940 APR versus a single year of 940 it would have been acceptable, but he cannot vote for 930 APR. However, he feels Mr. Beard has done a fantastic job and will support UNLV athletics.

Regent Davidson is concerned with the APR. He said on the financial side the budget is not balanced and the state Legislature will look very hard at how NSHE is managing its resources and where the priorities are. Regent Davidson will vote no but if Mr. Beard is voted in he will support him.

Regent Melcher understood concerns will not be solved today regarding the template, but felt there has been progress with the Committee. He also is uneasy about the APR and other issues. He was impressed that many in the community stepped up today and supported this proposal. Regent Melcher hoped these people will step up for the academic side and voice their opinions on topics when presented to the Legislature.

Regent Hayes does not want to penalize Mr. Beard because of flaws in the template and would like to further discuss this at a Committee meeting.

2. Approved-Employment Contract, Men's Basketball Head Coach, UNLV – (continued)

Regent Leavitt said this is the first time the template process was used and it is not mandatory – the entire template process is discretionary. The rules are if there is a deviation from the template then an explanation is necessary. He recommended not making hard and fast rules about what should and should not be included because there is a freedom to contract.

Chairman Trachok thanked the members of the *ad hoc* Committee on Athletics and Regent Hayes, all of whom continue to move the process forward. A number of people ask if the Board should have a role in the review and approval of athletics contracts. He thought the question was fair and thought the Board should have absolutely no role in the person chosen provided the candidate successfully passes a comprehensive background check. He felt it was entirely appropriate for the Board to examine the financial and legal terms of a contract. The Board members are fiduciaries and it is the Board's job to review these matters dispassionately to make sure everything makes sense for the university. The most recent examples are the UNR cost of \$600,000 to terminate a coach with a five year contract and at UNLV the termination of two coaches for failure to win enough games resulting in an obligation of a minimum of \$1.5 million.

Regent Trachok cannot support Mr. Beard's contract for financial reasons. He felt it important to always be laser focused on improving the student experience at every institution. He applauds Mr. Beard for his ability.

Upon a roll call vote the motion passed. Regents Doubrava, Hayes, Leavitt, Lieberman, Melcher, Page, Wixom, Anderson and Crear voted yes. Regents Geddes, Stephens, Trachok and Davidson voted no.

Coach Beard said he considered this a big win for himself and UNLV basketball. He is honored and excited. He will immediately get to work to build a winning basketball program.

3. New Business – None.

4. Information Only-Public Comment – None.

The meeting adjourned at 2:08 p.m.

Prepared by:

Nancy Stone
Special Assistant & Coordinator
to the Board of Regents

Submitted for approval by:

Dean J. Gould
Chief of Staff and Special Counsel
to the Board of Regents