

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 March 2017 meeting.

**BOARD OF REGENTS and its
ATHLETICS COMMITTEE
NEVADA SYSTEM OF HIGHER EDUCATION**
System Administration, Las Vegas
4300 South Maryland Parkway, Board Room
Monday, November 28, 2016

Video 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: Dr. Jason Geddes, Co-chair
Mr. Cedric Crear
Mr. Trevor Hayes
Mr. James Dean Leavitt
Mr. Kevin C. Melcher

Members Absent: Mr. Kevin J. Page, Co-chair

Other Regents Present: Mr. Sam Lieberman

Others Present: Mr. Dean J. Gould, Chief of Staff & Special Counsel to the Board of Regents
Mr. Nicholas Vaskov, Vice Chancellor for Legal Affairs
Mr. James Martines, System Counsel
Dr. Len Jessup, President, UNLV
Dr. Marc Johnson, President, UNR

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

Co-Chair Jason Geddes called the meeting to order at 1:00 p.m. with all members present except Co-chair Page.

1. Information Only-Public Comment – None.
2. Approved-Minutes – The Committee recommended approval of the minutes from the September 1, 2016, meeting (*Ref. ATH-2 on file in the Board office*).

Regent Melcher moved approval of the minutes from the September 1, 2016, meeting. Regent Leavitt seconded. Motion carried. Co-Chair Page was absent.

3. No Action Taken-Report and Presentation by College Sports Solutions on the Athletics Competitiveness and Benchmarking Study of the UNR and UNLV Athletic Departments – The Committee reviewed and discussed the report prepared by College Sports Solutions (CSS) on the Athletics Competitiveness and Benchmarking Study of the UNR and UNLV athletic departments commissioned by the Committee (*Refs. ATH-3a, ATH-3b and ATH-3c on file in the Board office*).

Mr. Nicholas Vaskov, Vice Chancellor for Legal Affairs, provided an overview of CSS's work. A year ago, the Athletics Committee approved the scope of work for an athletics competitiveness and benchmarking study of the UNR and UNLV athletic departments. In February, the Committee awarded the contract to CSS. CSS started its work in May by conducting stakeholder reviews at UNLV and UNR to gather data. Mr. Jeff Schemmel, President, and Mr. Kevin Weiberg, Consultant, of CSS presented the results of the benchmarking study to the Committee.

Mr. Schemmel briefly provided the professional backgrounds of himself and Mr. Weiberg.

Mr. Schemmel thanked the Board and the athletics staff at both UNR and UNLV for their assistance in the study. As the Board requested, most of CSS's research focused on the finances for the athletic enterprises of both institutions. This involved examining the revenue production and the expenses of each school, along with creating a budget breakdown for every sport and department. The study also includes squad lists, Ethics in Athletics Disclosure Act (EADA) reports and the NCAA financial reports that played a critical role in making comparisons between UNR and UNLV, along with institutional comparisons in the different conferences.

Mr. Schemmel began the PowerPoint presentation of the study.

Regent Leavitt asked what zero meant for UNLV on the "National Competitiveness" slide (slide 6) under "2015-16 CBS Sports Rankings." Mr. Schemmel answered that UNLV did not score any points within the CBS Sports Rankings for 2015-2016.

Regent Hayes inquired if the national competitiveness portion of the study would have been a more useful tool if it included a three to five year range, instead of only one year as it would more accurately reflect trends of competitiveness, strengths/weaknesses, ticket sales and so forth. Mr. Schemmel agreed that this portion of the study should have covered a wider range of years as opposed to a snapshot of one year.

Regent Leavitt asked, in terms of the salaries for football/basketball head coaches and athletic directors, how much of the donor support would pay for those salaries. Mr. Schemmel replied, for example, in a place like Alabama, very little donor support is used for salaries because the revenue is high. However, in the Mountain West region, more donor contributions are relied on because there is a need for producing more revenue, more so than at the Big 12 or Pac-12 level. Mr. Weiberg added it would be rare to see fundraising targeted toward coach compensation in any of the Power Five conferences.

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– (continued)

For the most part, because of the higher revenue base that exists in the Power Five conferences, there are not many concerns about reaching outside for targeted salary-related benefits. There is also a lot of media revenue in conferences. Regent Leavitt commented that it would be CSS's recommendation to fundraise for head coach/athletic director salaries if a program is not producing sufficient revenue to target more desirable coaches. Mr. Weiberg concurred with Regent Leavitt.

Dr. Marc Johnson, President, UNR, referred to the graph under "Coaches and Staff Compensation" (slide 10) and pointed out that it is total coaching and staff salaries. The Air Force has a larger number of sports than UNLV and UNR, so the graph is not normalized for any number of sports. Mr. Schemmel noted that in many of the categories, the Air Force is unique and there would not be an accurate measure between the Air Force athletics and UNLV/UNR athletics.

In regard to the accounting differences between UNR and UNLV, Regent Hayes asked if either one of those schools is more in line with the best practices of other institutions and if so, perhaps the Committee can assist with normalizing that so the same set of numbers can be scrutinized. Mr. Schemmel responded that with consideration of the NCAA financial reports, every institution conducts its accounting differently. He suspected San Diego State and UNLV's accounting is done very similarly. In response to a follow up question from Regent Hayes, Mr. Schemmel said from their perspective as former administrators, they do not believe there is an established best practice for this type of accounting.

Mr. Doug Knuth, Director of Intercollegiate Athletics, UNR, said their intention is to utilize all 85 football scholarships offered each year. Some years they are unable to distribute all of the scholarships due to transition in players, junior college transfers and so forth. Despite those obstacles, they do aim to use all of the scholarships every year.

Mr. Knuth stated their full cost of attendance, the maximum allowable, based on their financial aid office is about \$1.2 million per year. UNR athletics decided to fund around three-quarters of it which is roughly \$800,000 annually. It is funded half from the athletics department revenue and half from UNR.

Ms. Tina Kunzer-Murphy, Director of Intercollegiate Athletics, UNLV, added that UNLV athletics received \$800,000 in institutional support that went toward the football program and women's sports. Men's baseball, men's soccer and men's tennis have endowments in place. She noted the importance of having a consistent funding mechanism for cost of attendance in place, as opposed to fundraising in the event that scholarships were not funded, because of the difficulties that changing scholarships entail.

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– (continued)

Regent Leavitt asked, in terms of CSS's understanding, what areas play the most important roles in qualifying an institution to be considered for the Big 12 and where facilities are ranked in the list of priorities. Mr. Schemmel replied that although facilities are an important aspect of successful athletic programs for any institution, it is not any more important than institutional prowess, academic status and the success rate of a school's recent competitive performance. Mr. Weiberg added that an institution's ongoing commitment to facility improvement is an important consideration for a conference. It is more than just any single factor when conferences, such as the Big 12, are considering expansion.

Regent Hayes wanted to know if factors such as academics, facilities, etc., are prioritized in a certain order with regard to rank advancement in conferences. Mr. Schemmel answered he would rank the factors as follows: 1) institutional academic status; 2) recent competitive success; 3) facilities; and 4) commitment to overall improvement.

In response to an inquiry from Regent Leavitt, Mr. Schemmel stated institutional status, with regard to Pac-12, would be comprised of Carnegie classification and plans for enhancing academic prowess as an institution. The same would apply to athletics which include plans for becoming a top competitor and that can come down to resources. Many institutions are under the misconception of the provided institutional subsidy disappearing once they join Pac-12. This is not the case, as many of the Power Five institutions are still subsidized to a great degree. The reality is the commitment of the institution to assist with funding athletics is not going to disappear.

Regent Crear requested Mr. Schemmel provide a baseline for how the NSHE institutions should expand their facilities in compliance with Title IX. Mr. Schemmel said the best comparisons are made when comparing both men and women teams within the same sport. The men's and women's sides of a practice facility should be mirror images of each other. Also, the joint facilities, regardless of department, need to have equal accessibility for both men and women. Regent Crear noted the NSHE institutions must be cognizant of this as they begin to expand their facilities for athletics.

Mr. Weiberg continued the PowerPoint presentation.

Co-Chair Geddes understood why CSS excluded certain institutions from the study; however, he requested any data obtained from the excluded schools during their research be provided to the Committee. Mr. Weiberg believed they could get that information to the Committee and will follow up on it.

Ms. Kunzer-Murphy referred to the "Total Athletics Revenue – Allocated and Generated" slide (slide 31) and asked Mr. Weiberg if through their research they were able to

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– (continued)

determine whether other schools are using similar methods to UNLV in supporting athletics with revenue. Mr. Weiberg said as it relates to a Big 12/Pac-12 model, UNLV's methods are not common practice. His follow up thought was that most of the institutions on the graphs are competing in facilities where they have total athletic department ownership and control of the facilities, and are not a shared public facility.

Regent Leavitt asked if there is a link to success with regard to correlation between athletic success and head coach/athletic director salaries. Mr. Weiberg responded there is not a one-to-one correlation between salary and competitive success. He has observed there is a correlation between competitive success and the retention of coaches. Mr. Weiberg noted that as long as the NCAA maintains somewhat of a level playing field relative to scholarship limitations, that will allow a continuance of a level playing field over time.

Co-Chair Geddes thanked the CSS consultants for the presentation. He directed the Committee and institutional faculty to send any additions or corrections to the study to Vice Chancellor Vaskov.

Regent Crear exited the meeting.

President Jessup commented that based on information received from Pac-12, a more natural time to expand would be when the television contracts are up for renewal. Mr. Schemmel agreed and confirmed that 2024 is when the multimedia contract rights will be up for renewal.

Ms. Kunzer-Murphy thanked both Mr. Schemmel and Mr. Weiberg for their work.

Regent Hayes praised the work of the CSS consultants and their recommendations for both UNLV and UNR to improve their standings. He asked if it would be possible for NSHE college sports to improve within media marketing, especially with professional sports coming into town (e.g., NHL, NFL and possibly the NBA within the next five years) and since the institutions are losing attendance even before the arrival of professional sports. Mr. Weiberg said media markets make a difference and a small media market can be a negative factor. Mr. Schemmel added the institutions he has worked at have been in similar markets to UNLV. The expansion of the city and exposure to professional sports can be beneficial to UNLV and can ultimately be an asset and not a detriment.

Regent Hayes noted that UNLV and UNR are expanding academically, but was unsure of how both schools could maximize revenue and attendance in regard to athletics. Mr. Schemmel said commitment to success is key from the schools, which includes investment in the best people in the business to coach and administer the programs –

3. No Action Taken-Report and Presentation by College Sports Solutions on the Athletics Competitiveness and Benchmarking Study of the UNR and UNLV Athletic Departments
– (continued)

that would be a good starting point.

Regent Crear entered the meeting.

Regent Hayes asked if the Raiders build a stadium, how that would attract other schools to come and compete with UNLV. Mr. Schemmel believed it would be a great benefit to UNLV if the NFL does come to Las Vegas and UNLV is able to share the stadium. If that does happen, UNLV must ensure in the negotiations that they are entitled to receive revenue such as concessions, parking and signage.

Regent Hayes asked what the plan of the Committee is as far as utilizing CSS's report to move forward with setting policies. Co-Chair Geddes said the next step is to address a few clarifications and additional data for the report. Co-Chairs Page and Geddes will then meet with the two Presidents and two athletic directors to craft agenda items for an in-depth discussion of how to proceed for the next meeting.

4. No Action Taken-Handbook Revision, Policies Concerning NSHE Intercollegiate Athletics – The Committee reviewed and discussed a revision to Board policy concerning the approval process for changes in athletic conference membership (*Title 4, Chapter 24, Section 1*) (*Refs. ATH-4a and ATH-4b on file in the Board office*).

Vice Chancellor Vaskov introduced the proposed change to Title 4, Chapter 24, Section 1, Subsection 1, of the *Handbook* which is related to the approval process for changes in athletic conference membership. The proposal would amend the *Handbook* to require that an institution provide the Chancellor and the Board Chairman advanced written notice prior to submitting an application, having discussions or commencing negotiations related to a change in athletic conference membership. Approval of the actual change in membership would still require and be subject to the approval of the Board and the approval of the revision would be a recommendation to the full Board at the upcoming December 2016 Board of Regents' meeting.

Regent Melcher asked if the application to an athletic conference would take place before asking for approval from the Board. Vice Chancellor Vaskov answered that the revision is intended to ensure that the Chancellor and Board Chairman are notified before an institution applies for, has negotiations, or commences negotiations regarding an athletic conference. Once the notice is provided, the institution is free to have discussions which lead to negotiation. Vice Chancellor Vaskov clarified this would serve as a courtesy notice to the Chancellor and Board Chairman to prevent them from learning of negotiations through other methods. In response to an additional question from Regent Melcher, Vice Chancellor Vaskov answered that it would be up to the Chancellor and/or the Board Chairman to inform the rest of the Board. Regent Melcher said the revision should include language indicating the rest of the Board will be informed after the

4. No Action Taken-Handbook Revision, Policies Concerning NSHE Intercollegiate Athletics – (continued)

Chancellor and Board Chairman are notified.

Vice Chancellor Vaskov confirmed with Regent Hayes that the notification would very well trigger the public records law and that would also include notifications to only the Chancellor and the Board Chairman, unless there was a pre-decisional aspect that would make the notification an executive privileged document. Regent Hayes inquired whether the notification to the Chancellor, Chairman and full Board would serve as only a notification, or would it be subject to the Chairman or Chancellor's approval. Vice Chancellor Vaskov clarified that the notification would serve simply as a notice with no required action based on the notification.

Regent Hayes asked President Jessup if this revision would hamper his ability to form meaningful connections before anything is formalized. President Jessup said there may be a way that UNLV Counsel could communicate any overtures to the System Counsel. He also noted there may be circumstances where the league may want it protected and may not want others to know there are conversations taking place.

Regent Hayes questioned the athletic directors about their experiences at the NCAA tournament each year and how plausible it is for conversations regarding athletic conference membership to take place. Ms. Kunzer-Murphy replied that those conversations do happen and based on her experience, they are typically between the Presidents and Commissioners. Discussions of expansion happen at the Final Four and NCAA meetings, but in this latest round, although it was heavily discussed, she did not believe any overtures came. Since it is a critical piece of the negotiating process, these conversations should happen between the Presidents and the Commissioners. Mr. Knuth added the role of an athletic director in these types of conversations is more supportive in terms of providing information and talking points on behalf and support of the President. He agreed with Ms. Kunzer-Murphy that the President would take the lead in these discussions. Regent Hayes said if there is no objection to the revision, he would support it.

Regent Crear did not support the revision because he believes progress cannot be made if conversations do not take place. He felt the Chancellor's office and Board should not micromanage this process. The only issue Regent Crear had in regard to this is when a decision is made to leave a conference and dollars are appropriated. For example, when it cost UNR \$5 million to leave the Western Athletic Conference (WAC) and the Board was not consulted. Regent Crear stated he was not concerned about conversations, so much as any action taken after the conversations.

Regent Leavitt suggested eliminating the words "having discussions" from the revision proposal.

Regent Hayes believed that no changes are needed for the revision. He added there was

4. No Action Taken-Handbook Revision, Policies Concerning NSHE Intercollegiate Athletics – (continued)

no formal application process when the Mountain West added schools – the deal was mainly closed through phone calls.

Regent Melcher clarified that if the Board Chair is notified, the entire Board should be notified in regard to athletic conference membership. He did not see any issues with the language and thought they need to allow institutions to have conversations. His biggest concern was the Board not being notified prior to an institution making a commitment. Regent Melcher suggested leaving the current policy language as is and perhaps the Co-Chairs of the Athletics Committee should further discuss it with the athletic directors.

In response to an inquiry from Regent Crear, Co-Chair Geddes said they would consider removing “discussions” from the revision proposal, making it clear to the institutions that they are free to have conversations. However, the Board must be notified by the institution prior to any athletic membership application submissions and/or changing conferences. Co-Chair Geddes did not see the need for the revision to be rewritten, but will take the discussion notes to Co-Chair Page, along with the Chairman and Vice Chair of the Board. He confirmed no action would be taken on this item.

Ms. Kunzer-Murphy asked the Committee to keep in mind that UNLV has two sports, men’s soccer and men’s swimming, that participate in two different conferences. She asked that they consider adding language that would allow these teams to participate in different conferences.

5. No Action Taken-Equity in Athletics Disclosure Act Reports – The Committee reviewed the most recent Equity in Athletics Disclosure Act (EADA) reports filed with the U.S. Department of Education by each institution participating in intercollegiate athletics (*Refs. ATH-5a, ATH-5b, ATH-5c and ATH-5d on file in the Board office*).

Vice Chancellor Vaskov began the discussion regarding the 2016 EADA reports for each of the institutions. Title 4, Chapter 24, Section 1.9, in the *Handbook* states that the Board must review the reports annually. Representatives from CSN, UNLV and UNR were present to answer any questions from the Committee.

There were no questions or comments from the Committee.

6. Information Only-Litigation Involving the NCAA – Mr. Nicholas Vaskov, Vice Chancellor for Legal Affairs, provided an update on recent litigation involving the NCAA and its impact on intercollegiate athletics (*Refs. ATH-6a and ATH-6b on file in the Board office*).

Vice Chancellor Vaskov said at the inaugural meeting of the Athletics Committee, a table outlining high profile cases involving the NCAA was provided to the Committee. The table is intended to provide the Committee with an overview of some of the key cases

6. Information Only-Litigation Involving the NCAA – (continued)

that are currently influencing intercollegiate athletics. With regard to the table, Vice Chancellor Vaskov discussed updates including recent United States Supreme Court decisions, unionization, wage and hour claims, state law tort claims and antitrust scrutiny.

7. Information Only-New Business – Co-Chair Geddes restated when he receives the revised report from CSS, he will work with Co-Chair Page to put together agenda items for the next meeting to discuss the steps going forward. Co-Chair Geddes also planned to agendize revised coach and athletic director contract templates to reflect signing bonuses and payment for relocation expenses, for the Committee's review.

8. Information Only-Public Comment – None.

The meeting adjourned at 2:39 p.m.

Prepared by: Winter M.N. Lipson
Special Assistant and Coordinator to the Board of Regents

Submitted for approval by: Dean J. Gould
Chief of Staff and Special Counsel to the Board of Regents