

**SPECIAL MEETING
VIDEOCONFERENCE
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION**
System Administration, Las Vegas
5550 West Flamingo Road, Suite C-1, Conference Room

System Administration, Reno
2601 Enterprise Road, Conference Room

Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Wednesday, December 23, 2009, 4:00 p.m.

Members Present: Mr. James Dean Leavitt, Chairman
Dr. Jason Geddes, Vice Chairman
Mr. Mark Alden
Dr. Andrea Anderson
Mr. Robert Blakely
Mr. William G. Cobb
Mr. Cedric Crear
Mrs. Dorothy S. Gallagher
Mr. Ron Knecht
Mr. Kevin J. Page
Dr. Raymond D. Rawson
Dr. Jack Lund Schofield
Mr. Michael B. Wixom

Others Present: Chancellor Daniel J. Klaich
Vice Chancellor, Academic & Student Affairs, Jane Nichols
Vice Chancellor, Administrative & Legal Affairs, Bart Patterson
Vice Chancellor, Finance, Mike Reed
CEO & Special Counsel to the Board, Scott Wasserman
President Carl Diekhans, GBC
President Neal J. Smatresk, UNLV
Vice President of Finance and Business, Mr. Gerry Bomotti, UNLV

Chairman James Dean Leavitt called the meeting to order at 4:06 p.m. on Wednesday, December 23, 2009, with all members present except Regent Knecht.

1. Approved – Employment Contract, Athletic Director, UNLV (Agenda Item #1) – The Board of Regents’ approved UNLV President Neal J. Smatresk’s request for the approval of a multi-year employment agreement with Mr. Jim Livengood as Athletic Director. The terms and conditions of the agreement were presented and discussed at the meeting (*handout on file in the Board office*).

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Regent Knecht entered the meeting.

President Smatresk introduced Mr. Livengood and related that the proposed salary included a base of \$295,000 as well as a series of annual incentives and many of the standard items seen in the previous Athletic Director's contract. President Smatresk stated that there was also a deferred compensation package including a retention bonus in the form of an additional lump sum payout of \$55,000 at the end of the third year of the contact provided Mr. Livengood is successfully still employed under the terms of the contract.

President Smatresk related that the offered salary was within the median range for athletic directors within the Mountain West Conference and was close to the salary of UNR's Athletic Director.

Regent Alden moved approval of a multi-year employment agreement with Mr. Jim Livengood as Athletic Director, UNLV. Regent Blakely seconded.

Regent Crear offered comments regarding the search process employed by UNLV and the System, making it clear the comments were not based on the individual's record or experience. Specifically, he expressed concern that not one African American candidate was interviewed during the search process for this position. He held issue with the institution for not taking the necessary steps to ensure that there was a diversified pool of candidates. As a state funded organization, he asked how the System could discard 30% of the population base within Las Vegas. He indicated that he could not support either of the day's agenda items. He did not feel the process was reflective of a fair and equitable organization. He acknowledged that experience had been a key factor in the final selection. However, he felt that people needed to be given the opportunity to grow and cited that the Board had taken leaps of faith in the past when hiring for key positions, including institutional presidents. He would like to hear Mr. Livengood's plans for incorporating diversity, specifically African Americans, into the coaching ranks of UNLV's Athletic Department.

President Smatresk related that he also had not been pleased with the diversity of the candidate pool. However, there was diversity on the search committee, which he does insist upon. He felt that there were certainly qualified applicants of color around the country who could have applied for this job but did not. Working within the time constraints, the candidate pool was short on both gender and ethnic diversity. He asked Mr. Gerry Bomotti, Vice President of Finance and Business, UNLV, to provide a statement on the composite diversity of the applicants. He cautioned that in many cases the diversity of the applicants is unknown unless specifically and expressly stated on their applications.

Chairman Leavitt clarified that although there is a question addressing ethnicity on the applications, the applicant is not required to provide an answer. President Smatresk stated that was correct, adding that a significant percentage of applicants chose not to indicate their ethnicity.

Mr. Bomotti reported that advertisement was placed in a number of locations including with higherjobs.com, the National Association of Collegiate Directors in Athletics, the Minority Opportunities Athletics Association, the Black Coaches Association, the National Association

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of Collegiate Women in Athletics, the NCAA and with a local employment website. A total of 92 applications were received, of which six were incomplete and 38 did not meet minimum qualifications. That resulted in 48 viable applications.

Chairman Leavitt asked Mr. Bomotti to reiterate the minimal qualifications for the position. Mr. Bomotti replied that the minimum qualifications include a bachelor's degree, some experience in administration and five years experience in college athletics or the equivalent. Although not high expectations, nearly half the applicants did not meet those minimum requirements.

Mr. Bomotti continued that of the 48 applicants that did meet the minimum requirements, 46 were male and two were female; 40 were Caucasian, two listed themselves as African American, one as Hispanic, one as Asian and four were undisclosed.

Mr. Bomotti related that in addition to direct applications, nominations had also been requested and those nominations were made directly to him. He personally contacted those individuals and of the four that did apply, three were in the ethnic minority and one was in the gender minority. However, the primary reason cited by those that chose not to apply was that the compensation from their current positions was such that they did not want to apply for a new position.

Chairman Leavitt asked Mr. Bomotti to address the composition of the search committee. Mr. Bomotti reported that the search committee was comprised of twelve members as required and specified by policy. He related that President Smatresk identified two individuals that he asked to be non-voting members, also required by policy. Of the entire committee, 14.3% were women and 28.6% were minority.

President Smatresk stated that he did address his disappointment of the lack of diversity in the candidate pool but was unsure what could have been done given the time constraints, except for the increase in the level of compensation. He added that many of the candidates requested salaries higher than what UNLV could offer. However, after evaluating the candidates, a very clear set of individuals emerged. He related that one applicant of ethnic minority did make it onto the long-short list and had the two finalists declined, that individual would have been an appropriate back-up candidate.

President Smatresk stated that he did not disagree with Regent Crear's concerns. He personally has made statements about setting an example through diverse representation within the leadership of the University. He stated that he intends to follow through with those statements.

Regent Crear felt that the lack of minorities also applies to the lack of minorities among the ranks of tenure or tenure-track faculty and indicated that he could no longer offer support when the process fails those groups. President Smatresk felt that Regent Crear would soon begin to see the changes that were occurring in the University. Although UNLV was not yet representative of the Las Vegas community, it still has the most diverse faculty population in Nevada except for Nevada State College. He recently met with different stakeholder groups and has extended as much as is allowable through Code and the Bylaws to opportunity hire. He felt that he was working in every dimension possible to build a pipeline to fulfill those goals.

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Regent Page referred to an email that contained the Mountain West Conference average, high and low salary range (*on file in the Board office*). President Smatresk explained that the numbers indicated were from fiscal year 2008, adding that very recently a contract significantly higher than the median offered by another university within the Conference had raised the median for 2009.

Regent Page stated that, given the known 2008 numbers, and given the total proposed compensation of approximately \$352,000 for the base, signing bonus and deferred compensation, Mr. Livengood's contract was actually above the high. Mr. Bomotti clarified that the comparable number for the proposed salary fell between the average of \$247,000 and the high of \$346,000 for fiscal year 2008. He stated that the Mountain West Conference does not consider all compensation such as moving expenses. However, if the total compensation were to be considered, the high would be \$460,000 and the average would be \$295,000.

Regent Page asked what factors were included in that compensation calculation. Mr. Bomotti indicated that only base salary and specific other amounts such as deferred compensation. The calculation did not include vehicle, tickets, healthcare, and retirement or other normal employer contributions.

Regent Page expressed concern that the Regents had requested information prior to the meeting but it appeared that they were not given a complete answer. Mr. Bomotti explained that he had received the data for September 2009 that morning. Regent Page expressed his displeasure that the numbers were not comparable.

President Smatresk indicated that the proposed compensation would be derived entirely from non-state funds. Regent Blakely asked if the funds were generated by the Athletic Department. President Smatresk stated that was correct.

Regent Wixom asked Mr. Livengood, in terms of GPA and graduation rates, what efforts had been made at his previous institution and what efforts he planned to implement at UNLV to keep the student athletes focused on their education. Mr. Livengood related that the entire academic structure at his previous institution had recently been changed. He felt that the most significant issue was the APR which was reported in the spring and reflected eligibility and academic progress. He indicated that although not yet familiar with the UNLV program, it would be among his priorities to make that determination.

Regent Wixom related that UNLV had made significant strides in its academic progress of student athletes, adding that was a major concern for the Board. He personally was particularly focused on that issue. Mr. Livengood stated that type of information was extremely measurable and therefore easily reflected.

Regent Wixom observed Regent Crear's comments, adding that he had come to understand how crucial diversity is to a successful institution. He asked Mr. Livengood what he had done in his past experiences to enhance a pool of candidates, adding that those efforts were crucial to engaging the community. Mr. Livengood asked that he be judged on what he has done in the past to generate very diverse candidate pools. Although generating that diversity is sometimes more difficult than one would think, it must be done. Out of 120 Division I schools, his previous institution was the only one to have an African American and a Hispanic advisory group. He related that he had started those groups 15 years ago and they held his feet to

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the fire and had been involved with every hire. He felt that Regent Crear said it best when he indicated that it is important to keep digging for those minority candidates. He added that those two groups were only interested in the welfare of the student athletes and were as much about academics and life skills as about winning the games.

Regent Blakely indicated that there were three coaches that were of a minority group currently on staff at Mr. Livengood's previous institution and asked how much involvement Mr. Livengood had with their actual hiring. Mr. Livengood replied that he personally hired all three and understood the importance of making those hires.

Regent Knecht asked President Smatresk if UNLV's search process complied with all applicable laws. President Smatresk stated it had.

Regent Knecht asked President Smatresk if UNLV had complied with the principals of the non-discrimination policies. President Smatresk stated that it had, adding that one of the non-voting members on the Committee was Dr. Juanita Fain.

Regent Knecht asked President Smatresk if the specifications advertised were normal or standard for such a position or if they were unusual. President Smatresk indicated the specifications were normal.

Given those responses, Regent Knecht echoed Regent Wixom's comments on the importance of a clean program and of academic success among the student athletes

Regent Cobb noted paragraph 3.02.i of the proposed contract that indicates the Athletic Director will have final authority in terms of the sports schedules. He asked Mr. Livengood what his position was on continuing to schedule events between UNLV and UNR although they are in different conferences. Mr. Livengood felt that competition between the two institutions should be continued.

Regent Cobb then referred to paragraph 3.02.g that referred to good sportsmanship. He noted that a rivalry existed between UNR and UNLV that became combative at times. He asked Mr. Livengood if he had any ideas on how to prevent the negative aspects of that rivalry. Mr. Livengood stated that although there was no magic answer, it would be important for communication to occur between UNR's Athletic Director, himself, the presidents, the coaches and possibly the student body presidents to determine preventative instead of reactionary steps. He related that he has been involved in serious rivalries throughout his career and felt that the sooner that communication occurs, the better. Regent Cobb hoped that would be made a priority.

Regent Cobb noted that the UNR Athletic Director's contract and the proposed contract for Mr. Livengood appeared to be comparable except for the compensation package. He asked President Smatresk why the Board should approve a proposed contract that was approximately \$150,000 more. President Smatresk stated that the institutions were different in that they have different size programs, were in different conferences and had different complexities in their programs. Although he could not state that the positions themselves were different, he did feel that it was not an equal comparison. He also related that the current market for Athletic Directors was extremely competitive and felt UNLV had come to a fair compensation given Mr.

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Livengood's most recent compensation level and experience. He acknowledged that the deferred compensation piece bears a significant element of risk. If there are reasons to dismiss an athletic director for cause, then portions of that compensation will not be received. It was an additional measure to ensure that an athletic director adhered to the highest standards within NCAA guidelines and to fiscally manage the program to the best of their ability. If that is not done, portions of the salary will not be provided.

Regent Cobb noted that the title to paragraph 5.14, currently stated as "Objections" needed to be changed to "Objectives."

Regent Leavitt called attention to paragraph 3.02.d and 3.02.e, feeling that those were the two most important clauses in the contract and read them into the record:

3.02.d Support Academic Mission

The Director of Athletics will work to integrate intercollegiate athletics into the whole spectrum of academic life and to complement UNLV and its mission in the community. He will make every effort, working in cooperation with the support of UNLV's faculty and administrative officials, to ensure that all student-athletes' academic requirements are met.

3.02.e Rules Compliance

The Director of Athletics will work within the confines of rules, regulations, guidelines and policies of UNLV's Athletic Department, the NCAA and the MWC. He will have complete knowledge of the rules and regulations governing intercollegiate athletics and maintain strict compliance therewith.

Chairman Leavitt stated that although he felt those were the two most important provisions in the proposed contract, he also felt those were the two that he was least concerned with given Mr. Livengood's history.

Upon a roll call vote, Regents Anderson, Blakely, Cobb, Gallagher, Geddes, Knecht, Leavitt, Page, Rawson, Leavitt, Wixom and Alden voted yes. Regent Crear voted no. Motion carried.

Mr. Livengood thanked the Board of Regents for the opportunity to serve UNLV. Moving forward, he felt that one of the great things about UNLV is the idea that the athletic program can be everything that the Board and President want it to be.

2. Approved – Employment Contract, Head Football Coach, UNLV (Agenda Item #2) - The Board of Regents' approved UNLV President Neal J. Smatresk's request of a multi-year employment agreement for Mr. Robert Hauck as Head Football Coach. The terms and conditions of the agreement were presented and discussed at the meeting (handout on file in the Board office).

President Smatresk introduced Mr. Hauck and stated that the proposed salary of \$350,000 includes a base salary of \$150,000, media appearances of \$150,000 and public appearances of \$50,000. The proposed contract also includes a retention clause that if Mr. Hauck is still

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successfully employed by the University at the end of three years, he will receive a lump sum payment of \$450,000. At the end of that third year, the additional retention bonus would create a salary equal to \$500,000 per year.

President Smatresk related that with football coaches, a significant element of risk existed based upon performance and program retention. A clause had been included in the contract that reflects the importance of fiscal accountability and solid programs. The proposed contract also includes a series of incentives for various bowl and championship appearances as well as a sliding scale of performance based incentives between \$5,000 and \$15,000. President Smatresk related that the funds to pay this salary would be derived entirely from non-state funds. When considering compensation relative to the Mountain West Conference, the proposed contract landed in the lower third of the range for football coaches. UNLV believed that they have made a terrific hire based on performance and past record. He felt that Mr. Hauck's passion would allow him to work well with the local community and media. He respectfully requested approval of the proposed contract.

Regent Alden moved approval of a multi-year employment agreement for Mr. Robert Hauck, Head Football Coach, UNLV. Regent Page seconded.

Regent Crear expressed the same concerns as he had for the previous agenda item, stating that it was not a reflection on the candidate. He had received information that there were only four minority candidates, two of which did not have previous head coach experience. He felt that requiring previous head coaching experience limited the candidate pool tremendously. He noted again that some of the System's presidents and the Chancellor have not had specific previous experience in their positions. Regent Crear felt that good candidates had been eliminated based on that lack of specific experience. President Smatresk replied that the search image was prepared with a set of qualifications that were adhered to. Regent Crear understood that but felt that, once again, the System was presented with a very high profile situation and the opportunity to make a difference. He felt it was hypocrisy for the System to state that it is in support of diversification but then not follow through.

Regent Page requested that the record reflect his support of Regent Crear's statements and that they be taken seriously. Secondly, he requested that when the institutions are responding to requests for specific information, that the appropriate data be provided.

Regent Wixom appreciated the innovative and creative structure of the contract, particularly in light of the current economic climate. He thanked both Mr. Livengood and Mr. Hauck for being present at the meeting. He again expressed his appreciation to UNR and UNLV for running clean athletic programs. He was very proud of the young men and women that represent the institutions and for their clean academic programs.

Regent Wixom asked Mr. Hauck, when considering academic success, how he has helped the young men at his previous institution to be successful and to graduate. Mr. Hauck replied that it was incumbent upon the head coach and the staff to become involved in the athlete's academic goals, including the completion of a degree. He has created a system in which each position coach met with their players every two weeks to discuss academic status. That message would be repeated and emphasized regularly at UNLV. He stated that he would personally work with

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The University's academic community. In his experience as a head football coach he has never had an APR issue and the athletes in his programs have graduated with decent GPA's.

Regent Gallagher related that she understood Regent Crear's concerns and agreed they should be taken to heart. She expressed her support of both gentlemen.

Regent Cobb expressed disappointment that when looking at all of the incentives, the lowest premium was placed on academic success. He echoed Regent Wixom and Chairman Leavitt's statements on the importance of academic progress and requested more emphasis be placed on that aspect. President Smatresk stated that there had been a debate on whether that should have been included as an incentive at all, stating that rewarding academic success almost seemed antithetical. The low dollar amount was more of an indication that it was a standard expectation. It was not meant to reflect a message on its prioritization.

Regent Knecht asked the same three questions that he had in the previous agenda item: 1) did the search process comply with all applicable laws; 2) did the search comply with the principals of the non-discrimination policies; and 3) were the advertised qualifications normal or standard for such positions or were they unusual. President Smatresk replied yes to all three questions but asked that newly appointed Athletic Director Livengood be allowed to respond

Mr. Livengood agreed that the answer to those questions would be yes. He related that he had entered the search process for the football coach approximately one week ago after the process had been narrowed down to a final group of candidates. He agreed that the University could do better in terms of diversification going forward.

Regent Schofield expressed his excitement for what the athletic programs at UNLV could accomplish with the addition of these two individuals. However, he did agree with Regent Crear's concerns. He asked that in the future, more care be given to the process so that these issues do not arise again.

Regent Blakely asked Mr. Hauck what his motivation was in coming to UNLV. Mr. Hauck replied that he felt the opportunity presented a chance for his family to make a change, to move to a great location and it appealed to his competitive nature in giving him the opportunity to resurrect a program and place it in a position of relevance. He was excited for the challenge.

Regent Crear stated that the only in-state rivalry was not televised this last year and asked Mr. Livengood if he would address that in the future. He stated that although he also was a firm supporter of academic success, he wanted to see some wins and that the program be built to the point that the community resonated with the message that UNLV has an outstanding program. Mr. Hauck replied that he was in the same mindset, adding that the program could be promoted but getting to a bowl game would be greatly determined by winning.

Regent Leavitt called attention to paragraph 3.02.w and 3.02.y, and read them into the record:

3.02.h Concern for Student Welfare

Employee shall maintain reasonable discipline and be fair, sympathetic and protective of the student athletes while motivating them to excellence in all aspects of life including athletic and non-athletic endeavors, paying particular attention to the high public visibility of student-athletes.

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3.02.i *Good Sportsmanship*

Employee shall insure that the UNLV Football Program conducts all of its intercollegiate athletic contests in a sportsmanlike manner. It is the responsibility of Employee to require that all student athletes, coaches and staff who are associated with the UNLV Football Program conduct themselves in a sportsmanlike manner. Employee shall require that student-athletes, coaches and staff exhibit ethical behavior at all NCAA and Conference competition and that they conduct themselves in accordance with the rules of the NCAA and MWC, as well as the playing rules of intercollegiate football. Employee shall require that student-athletes, coaches and staff refrain from making negative comments regarding an opposing institution or its players, teams, coaches/staff or game officials, and he shall be responsible to create and maintain a healthy environment for competition.

Regents Blakely, Cobb, Gallagher, Geddes, Knecht, Leavitt, Page, Rawson, Schofield, Wixom, Alden and Anderson voted yes. Regent Crear voted no. Motion carried.

Mr. Hauck expressed his pleasure and excitement for the opportunity to become part of the Las Vegas community. The concerns expressed by the Board in terms of sportsmanship and winning were also very important to him.

3. Information Only – Public Comment (Agenda Item #3) – None.

4. Information Only – New Business (Agenda Item #4) – None.

The meeting adjourned at 5:24 p.m.

Prepared by: Jessica C. Morris
Administrative Assistant IV

Submitted for approval by: Scott G. Wasserman
Chief Executive Officer and Special Counsel
Board of Regents

Approved by the Board of Regents at the March 4-5, 2010, meeting.