

**MINUTES
MIDWESTERN STATE UNIVERSITY
BOARD OF REGENTS**

**Executive Committee
August 3, 2006**

The Board of Regents, Midwestern State University, met in regular session in the Board Room, Hardin Administration Building, Wichita Falls, Texas, at 1:38 p.m., Thursday, August 3, 2006. Executive Committee members in attendance were Mr. Mac Cannedy, Jr., Chairperson; Mr. John Bridgman, Vice Chairperson; Ms. Patricia Haywood, Secretary; and Mr. Munir Lalani, Member-At-Large. Other regents attending the meeting were Ms. Pamela Gough, Mr. David Stephens, Mr. Ben Wible, and Student Regent Will Morefield.

Administrative staff members present included Dr. Jesse W. Rogers, President; Dr. Friederike Wiedemann, Provost; Mr. Juan Sandoval, Vice President for Administration and Finance; Dr. Howard Farrell, Vice President for University Advancement and Student Affairs; Dr. Bob Clark, Associate Provost; and Mr. Keith Lamb, Associate Vice President for Student Affairs. Other university personnel attending the meeting included Ms. Gail Ferguson, Controller; Mr. David Spencer, Internal Auditor; Dr. David Tucker, Chairperson of the MSU Faculty Senate; Mr. Allen Goldapp, Director of Physical Plant; Ms. Valarie Maxwell, Director of Budget and Management; Ms. Dianne Weakley, Director of Personnel; Ms. Julie Gaynor, Public Information and Marketing Assistant; Ms. Cindy Ashlock, Assistant to the President; and Ms. Debbie Barrow, Executive Assistant to the President. Mr. Jason York, Student Government Vice President and SGA Observer, and Ms. Binta Thomas, Student Government Secretary, also attended the meeting. Representing the news media was Ms. Ann Work, reporter for the *Wichita Falls Times Record News*.

Chairperson Cannedy called the meeting to order at 1:38 a.m.

Reading and Approval of Minutes

06-134. Minutes of the Executive Committee meeting May 11, 2006, were approved as presented.

Capital Expenditure Plan (MP1) FY 2007-2011

06-135. Mr. Cannedy reported that every two years the Texas Higher Education Coordinating Board (THECB) requests an update of the university's five-year plan for construction, land acquisition, and major repair and renovation projects. The deadline for submitting this plan was July 1, 2006. The administration developed and submitted the plan as shown in the agenda document.

Dr. Rogers stated that this plan should document everything the university is planning or is considering planning through 2011. He added that while the timetable and funding may not be exact, he felt that these are the projects the university should consider in the future. Mr. Sandoval added that the cost estimates may be on the high side. However, as time passes the cost of construction will continue to escalate.

Mr. Lalani noted that this plan would continue to be updated every two years according to the needs of the university. Mr. Cannedy asked if THECB looks at this plan at times other than when the university requests approval for a project. Dr. Rogers responded that while it may be reviewed at other times, it is always reviewed when the university requests approval of a project to ensure that the project is part of the university's overall plan.

Mr. Lalani asked what Dr. Rogers would consider a high priority item that the Board would consider in the next year or two, other than the Student Recreation and Health Center and the D.L. Ligon Renovation. Dr. Rogers responded that additional student housing will likely need to be addressed in the near future. He stated that housing is currently overbooked by 90 students for the fall term. He added that as far as the priority of academic buildings, the expansion of the music building and the building of a concert hall will be a high priority. He reported that the Fain Fine Arts Center was originally intended to house theatre, art, and music. However, the project was cut back and the music portion of the facility was never added. The music department has grown and is currently housed in three buildings on campus. Mr. Bridgman asked why the music building project was placed on the list for 2009 rather than sooner. Dr. Rogers stated that this was a fund raising, funding, and timing issue. He added that the university would need to go through another legislative session in 2009 in order to put the budget together for this project. Mr. Sandoval indicated that the dates and priorities could be changed if funding were to become available earlier. Mr. Sandoval added that the priority order generally followed the university's request for Tuition Revenue Bonds. Mr. Lalani asked when the fine arts building was built. Dr. Rogers responded that it was completed in 1978. Ms. Goff asked why the music portion of the building was cut from the original building plan. Dr. Rogers responded that after art and theatre were accommodated funds were exhausted. It was decided that rather than cut back all three programs, the building would be completed with just the two programs, with music to be added later. Shortly after the building was completed the state ad valorem tax fund was no longer available to universities for major building projects. Since that time there have always been other more pressing priorities.

There being no further discussion, this plan was accepted without change.

Outside Counsel Agreement, 2006-2007

06-136. Mr. Cannedy noted that the current Outside Counsel Agreement with Roger Lee of Gibson Hotchkiss Roach & Davenport expires August 31, 2006. He indicated that the agreement provides the university the right to extend the term of the agreement for an additional 12-month period beginning September 1, 2006 under the same terms and conditions set forth. The administration requested authorization to extend the agreement for the 2006-2007 fiscal year with final authorization to be requested from the Texas Office of the Attorney General following approval by the Board.

Mr. Bridgman asked if the university was committed to a certain minimum number of hours in the year. Ms. Barrow responded that there is no minimum. Dr. Rogers stated that the expenditures were actually quite low in the 2005-2006 fiscal year.

Mr. Lalani moved approval of this agreement extension. Ms. Haywood seconded the motion and it was approved.

Wichita Falls Museum of Art at Midwestern State University Advisory Board of Directors

06-137. Mr. Cannedy reported that the Donation Agreement with regard to the Museum requires that the “Museum shall have an Advisory Board of Directors (the ‘Advisory Board’) consisting of 12 citizens residing in the North Texas-Southern Oklahoma area (the ‘Public Members’) and three representatives from MSU (the ‘MSU Members’).” The initial Public Members were the 12 members of the then Board of Trustees of the Wichita Falls Museum and Art Center. The initial MSU members were selected by President Rogers. These initial members were approved by the MSU Board of Regents as required in the Donation Agreement. The Agreement further stipulated that Public Members would be divided into three groups of four members, with one group serving one-year terms, another group serving two-year terms, and the third group of Public Members serving for three years. The four Public Members in the first group have completed their one-year term of service. Additional vacancies on the Board are also available due to attrition.

Dr. Rogers noted that the transition from the Museum’s Board of Trustees to an Advisory Board of Directors went very well. Museum Director Cohn Drennan asked the board member if they wanted to continue to serve. The current Public Members who will continue to serve on the Advisory Board are:

Dale Brock (one year remaining)
Mark Edwards (two years remaining)
Polly Jones (one year remaining)
Linda Wilson (two years remaining)
Liz Yarosz (two years remaining)

Dr. Rogers recommended the approval of the following individuals to serve on the Advisory Board of Directors for the Museum

Three MSU Members – one year terms
Dr. Robert Clark
Mr. Juan Sandoval
Dr. Friederike Wiedemann

Two Public Members – one year terms
Mr. Joseph N. Sherrill Jr.
Ms. Lynn Moran

One Public Member – two year term
Ms. Martha Fain

Four Public Members – three year terms
Mr. John Hirschi
Mr. Danny Moore
Ms. Lola Pitzer
Ms. Jane Spears

Ms. Haywood moved approval of these recommendations as presented. Mr. Lalani seconded the motion. Ms. Haywood asked how often the Board meets. Dr. Rogers responded that they meet quarterly. Mr. Cannedy asked how the chairman is selected. Dr. Rogers responded that the Advisory Board elects the chairman.

The motion was approved.

Legislative Appropriations Request (LAR)

06-138. Mr. Cannedy reported that the administration had prepared the LAR for the biennial period of FY 2008 and FY 2009 in compliance with directives of the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policies. This document must be submitted by August 11, 2006. He indicated that while the majority of the document is number and formula driven, specific elements must receive Board approval, including the Administrator's Statement, Exceptional Items, and Tuition Revenue Bond Requests. Mr. Cannedy noted that the instructions all state agencies received required that the budget requests should be cut by 10% of the general revenue appropriation funds received in the current biennium. Mr. Cannedy noted that this did not include funding MSU receives through general formula funding. He added that he attended a meeting called by the governor a few weeks ago in Austin for all of the chairmen of state agency boards. The governor's staff explained that the 10% cut requirement was intended so that administrators would thoroughly review their funding needs. He indicated that the university could request that the funds be returned as part of the exceptional item request, but the request would need to be fully justified.

Dr. Rogers presented the Administrator's Statement for approval (see Attachment No. 1). He noted that this statement was intended to be a summary of significant developments at MSU. He indicated that the statement noted that the average graduating age in 1990 was 34 years; today the number is 24 years. Additionally, it noted that the MSU student-teacher ratio has gone from 24/1 to 19.2/1 in the last few years. The statement also included information about the university's new engineering program as well as a summary of the university's Exceptional Item Request.

Dr. Rogers noted that the other item that needed Board approval was the list of Exceptional Items (see Attachment No. 2). He noted that he had chosen to use a strategy of keeping the exceptional item numbers to a minimum. He then reviewed the university's Exceptional Item Request and justifications as shown in the attachment:

- I. Re-instatement of 10% reduction - \$580, 698
- II. Debt Service on Approved \$10.4 million Tuition Revenue Bonds - \$1,358,750
- III. Model for Student Success - \$1,596,690

Dr. Rogers requested that the Board authorize the administration to continue to review the proposed budget for the Model for Student Success exceptional item. He asked that the Board authorize the administration to bring the budget up to a maximum \$1 million each year of the biennium if necessary.

Mr. Lalani moved approval of the Administrator's Statement and Exceptional Item Request as presented, with the understanding that the administration could increase the Model for Student Success budget up to \$1 million per year. Ms. Haywood seconded the motion and it was approved.

Student Recreation and Health Facility

06-139. Dr. Rogers reported that Mr. Sandoval chaired a committee that reviewed Construction Manager at Risk proposals for this project. Serving on the committee were Dr. Howard Farrell, Mr. Keith Lamb, Mr. Allen Goldapp, and Mr. Cohn Drennan. Seven major construction companies submitted proposals for this job. The committee evaluated the proposals looking at experience and past performance, project understanding, price, the firm's financial position and bonding capacity, and commitment to Historically Underutilized Businesses. Three firms were selected for interviews and were submitted to Dr. Rogers for consideration. These firms were Electra Construction Company, J.E. Dunn Construction, and Lee Lewis Construction, Inc. Dr. Rogers indicated his understanding that all three companies were very capable of doing this work. He then requested Board authorization to negotiate a contract with Electra Construction Company to serve as Construction Manager at Risk for this project. He indicated that if the administration and Electra Construction representatives were unable to negotiate an acceptable contract, he requested authorization to negotiate with either J.E. Dunn Construction or Lee Lewis Construction, Inc.

Ms. Haywood moved approval of this recommendation. Mr. Lalani seconded the motion.

Mr. Lalani asked about the project timeline. Mr. Lamb responded that the plans call for the facility to be open by the fall 2008. Ms. Sandoval stated that construction would likely begin in the late spring or early summer 2007.

Mr. Bridgman asked if the Construction Manager at Risk would be guaranteed a certain amount of work on the project as general contractor. Dr. Rogers responded that the CM at Risk would bid on the work just like any other contractor would. Mr. Goldapp added that most CM at Risk firms have the ability to self-perform a certain percentage of the tasks, but they do have to submit proposals. Mr. Lalani noted that the university was aware of the bids and that the process would be fair and open.

Mr. Lalani asked if the administration encountered any surprises with the CM at Risk during the Dillard Building project. Mr. Sandoval responded that the university did not have experience with CM at risk and learned a great deal from the Dillard project. He added that Mr. Goldapp has expertise in this area that will be beneficial to the university. Dr. Rogers indicated that this project would include the CM earlier in the design process. Mr. Sandoval noted that the CM would be held accountable for cost containment and Historically Underutilized Businesses performance.

Mr. Cannedy asked if the administration would negotiate the CM at Risk Fee. Mr. Goldapp responded that the CM proposal included staffing, overhead, percent of profit, and a number of other things. All of this will be negotiable.

Mr. Lalani asked if this motion was to authorize the administration to negotiate a contract with the final contract coming back to the Board. Dr. Rogers responded that the motion was to negotiate and enter into a contract. Mr. Lalani asked if there was any concern about the university doing business with the same company. Dr. Rogers responded that Electra Construction is the one local company that can handle projects of this size in terms of bonding requirements. Mr. Lalani indicated that he wanted to make certain the university was giving equal opportunity to other non-local firms. Dr. Rogers stated that the three companies recommended by the committee had outstanding credentials. Ms. Haywood noted that one of the firms had included in their proposal that they would provide a scholarship to an MSU student each semester. She indicated that the administration could perhaps negotiate something like that with Electra.

There being no further discussion, the motion was approved.

Softball Field Construction

06-140. Mr. Cannedy presented the administration's request for authorization to proceed with planning the construction of a softball field on the Midwestern State University campus at an estimated cost of \$300,000. He noted that the administration was further requesting authorization to utilize the balance in the Board Quasi-Endowment Fund, as well as private gifts, for this purpose. Mr. Cannedy reported that the balance in the Board Quasi-Endowment Fund as of July 12, 2006 was \$244,728. These funds were generated through the sale of the MSU Bookstore to Barnes and Noble in 1988.

Dr. Rogers noted that the Sunrise Optimist Club has been extremely helpful with the start-up of women's softball. He added that the team has practiced and played on the Optimist field since the team was started in 2003-2004. He stated that the administration, coach, and student-athletes are very grateful to the Club for their encouragement and support, and, of course, for the use of the facilities. He indicated that the time had come for the women's softball team to have a field on campus.

Dr. Rogers commented that the university will not likely own a bookstore again and these funds can be put to good use at this time. He indicated his hope that the field could be built for \$300,000. He noted that the plans would not include lights at this time. Dr. Farrell added that Dr. Rogers has been working with a private company in terms of their donating bleachers for the field.

Dr. Rogers stated that the site of the field has not yet been determined. He indicated that following Board approval of the project, the administration will work with the coach and field designers to determine the best location for the field. He noted that one of the possible locations for the field is at the corner of Louis J. Rodriguez Drive and Midwestern Parkway, just south of the current soccer field. Dr. Farrell added that restroom facilities would be accessible at the soccer field. Dr. Rogers indicated that another possible location is on Council Drive, just north of the tennis courts. At that location, the public restrooms would be adjacent to the field. Ms. Haywood asked what these areas are used for at the present time. Dr. Farrell responded that two full football practice fields are in this area. He added that the softball field would likely take up one-half of a football field.

Mr. Bridgman asked if the softball field would be available for intramural sports. Dr. Rogers responded that the field might be used for softball classes, but that the use would have to be limited so that the condition of the field could be maintained. Mr. Bridgman asked how much it would cost to add lighting to the project. Dr. Rogers responded that he did not have an exact figure. He added that there is currently not a lighted softball field in the Lone Star Conference. He noted that additional lights are also needed at the soccer field. Mr. Goldapp indicated that he was getting cost estimates with regard to the lights.

Mr. Sandoval commented that this project lends itself to a design-build concept. Mr. Goldapp added that there is a national firm that specializes in projects such as this. The firm participates in two of the state's cooperatives, which would allow the university to purchase the company's services directly. He noted that this is an excellent way to move the project along with a well-known company.

Mr. Cannedy stated that his only concern with the field being at the corner of Rodriguez Drive and Midwestern Parkway was that it look nice since it would be so visible. Dr. Rogers responded that whatever the location, the field would be attractive.

Mr. Lalani moved approval of this recommendation as presented. Mr. Bridgman seconded the motion and it was approved.

Fowler/Engineering Hall Project

06-141. Mr. Cannedy presented the administration's request for authorization to proceed with planning the Fowler/Engineering Hall Renovation and Construction Project, including authorization to accept proposals for the selection of an architect for this project.

Dr. Rogers reported that the engineering program has grown much faster than anticipated and space is needed for additional engineering labs. At the same time, the university has outgrown Bolin Science Hall. With the opening of Dillard, the administration would like to renovate and add to the current Fowler Hall. The new portion of the facility would house the engineering program. The current Fowler building would house one or more programs currently housed in Bolin Science Hall. This would relieve the overcrowding in Bolin and provide new, usable space for engineering and another department within the College of Science and Mathematics. Dr. Rogers indicated that \$2.7 million has been committed from the state through Tuition Revenue Bonds. Additionally, a local individual has committed \$2 million and there is another pending private commitment that would finish the building. It is anticipated that the overall project would cost \$6 million.

Mr. Bridgman moved approval of this item as presented. Ms. Haywood seconded the motion.

Mr. Lalani commented that it was great that the university has such generous donors who are willing to provide so much of the funding for this project. Mr. Cannedy asked if Fowler Hall had always been the business building. Dr. Rogers responded that it was originally built to house a technical school. He added that it had been the business building since he came on campus in 1967.

There being no further discussion, the motion was approved.

Instrumental Music Hall Project

06-142. Mr. Cannedy presented that administration's request for authorization to proceed with planning the construction of an Instrumental Music Hall, including authorization to accept proposals for the selection of an architect for this project.

Dr. Rogers reported that the current Instrumental Music Hall (Band Hall) continues to have problems related to moisture, air quality, and size. He added that the band will practice in Akin Auditorium until a better location is found for the band to use. He noted that the administration's plans are to build a basic, bricked structure that would be attached to the east side of the Fain Fine Arts Building. It is hoped that such a project would cost between \$800,000 and \$1,000,000. Dr. Rogers stated that when the music building is expanded, a new band hall is planned for that facility. At that time, the mass communication program and Channel 2 would move into this new area of Fain. He indicated that the mass communication program is also suffering from space needs. This project would solve the short-term space needs of the band and the long-term space needs of mass communication.

Ms. Haywood asked how this new structure would be connected to Fain. Dr. Wiedemann responded that a hallway would connect the two facilities.

Mr. Bridgman asked if this project would negatively affect the university's ability to raise funds and get approval for the new music building and concert hall. Dr. Rogers responded that this was a concern. However, the need for band space is critical and the university is not in a position to move forward with the music building and concert hall project at this time. He noted that there is an almost equal need at this time for a larger television studio and space for the mass communication program. Dr. Rogers stated that his plan would be to utilize Higher Education Assistance Funds (HEAF) in 2007-2008 to fund this project.

Mr. Lalani asked if the project should perhaps be called construction of a new television studio facility that will be temporarily used as a band hall. Dr. Rogers responded that Mr. Lalani's recommendation more clearly stated the overall intent of the project. Mr. Cannedy commented that it would be important that the mass communication and music departments understand this plan. Mr. Lalani added that the building addition should be designed more for its permanent use as a television studio. Ms. Haywood asked if the current band hall would be razed. Dr. Rogers responded that it would be and stated that the area would likely be used for parking. Dr. Wiedemann was asked to work with the faculty to determine an appropriate title for the project.

Ms. Haywood moved approval of this recommendation as presented and modified. Mr. Lalani seconded the motion.

Adjournment

There being no further business, the Executive Committee discussion concluded at 2:58 p.m.

Reviewed for submission:

Mac Cannedy, Jr., Chairperson
Midwestern State University
Board of Regents Executive Committee

ATTACHMENTS:

1. Legislative Appropriations Request Administrator's Statement
2. Legislative Appropriations Request Exceptional Items Request