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University of South Carolina

BOARD OF TRUSTEES

Executive Committee

December 15, 2008

The Executive Committee of the University of South Carolina Board of Trustees met on Monday, December 15, 2008, at 8:45 a.m. in the 1600 Hampton Street Board Room.

Members present were: Mr. Miles Loadholt, Chairman; Mr. Samuel R. Foster II, Board Vice Chairman; Mr. Herbert C. Adams; Mr. James Bradley and Dr. C. Edward Floyd. Mr. Michael J. Mungo was absent. Other Trustees present were: Mr. Chuck Allen; Mr. J. Egerton Burroughs; Mr. Mark W. Buyck, Jr.; Mr. William C. Hubbard; Mr. William W. Jones, Jr.; Mr. Toney J. Lister; Ms. Darla D. Moore; Mrs. Amy E. Stone; Mr. John C. von Lehe, Jr.; and Mr. Mack I. Whittle, Jr.

Others present were: President Harris Pastides; Secretary Thomas L. Stepp; Executive Vice President for Academic Affairs and Provost Mark P. Becker; Vice President and Chief Financial Officer Richard W. Kelly; Vice President for Strategic Planning William T. Moore; Vice President for Student Affairs and Vice Provost for Academic Support Dennis A. Pruitt; Vice President for Information Technology and Chief Information Officer William F. Hogue; Vice President for Human Resources Jane M. Jameson; Interim Vice President for Advancement Michelle D. Dodenhoff; Interim Vice President for Research Rose Booze; Vice Provost and Executive Dean for System Affairs and Extended University Chris P. Plyler; Vice Provost for Academic Affairs and Dean of Undergraduate Studies Helen I. Doerpinghaus; Assistant Provost for Academic Programs Kristia H. Finnigan; USC Campus Dean of the South Carolina College of Pharmacy Randall C. Rowen; Dean of USC Lancaster John Catalano; Dean of USC Sumter C. Leslie Carpenter; Dean of USC Union Hugh C. Rowland; General Counsel Walter (Terry) H. Parham; Vice Chancellor for Business and Finance, USC Aiken, Virginia S. Hudock; Chancellor of USC Beaufort Jane T. Upshaw; Vice Chancellor for Advancement, USC Beaufort, Lynn McGee; University Treasurer Susan D. Hanna; Director of Athletics Eric C. Hyman; Director of Governmental Affairs and Legislative Liaison Casey Martin; Chair of the Faculty Senate Robert G. Best; Chair-Elect of the Faculty Senate Patrick D. Nolan; President of the Student Government Association Andrew T. Gaeckle; Interim Director of University Communications, Division of University Advancement, Margaret Lamb; University Technology Services Production Manager Justin Johnson; Board staff members Terri Saxon, Vera Stone, and Karen Tweedy.

Chairman Loadholt called the meeting to order and asked Ms. Lamb to introduce

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

I. Contracts Valued in Excess of \$250,000:

- Catawba Indian Pottery Collection: Chairman Loadholt called on Mr. Parham who reported on behalf of USC Lancaster, Dean Catalano, who was seeking board approval to enter into a Transfer, Sale and Gift Agreement with Mr. Lindsay Pettus to purchase the Thomas J. Blumer Catawba Indian Pottery Collection and Archives. To his knowledge, Mr. Pettus was the foremost historian of Lancaster County, and had been recognized on numerous occasions for his conservation efforts.

In 2005, Mr. Pettus purchased the Catawba Indian Pottery Collection from Dr. Thomas Blumer. Dr. Blumer, who received his Ph.D. from USC, had spent decades working for the Catawba Nation, including service as the official tribal historian. During that time, he amassed a considerable collection of Catawba Indian Pottery and other artifacts. The collection was now estimated to contain up to 1,200 pieces.

Under the terms of the proposed agreement, USC Lancaster would transport the collection to its campus where they would catalogue and inventory the collection. USC Lancaster would then obtain an independent appraisal of the value of the collection. If the fair market value was \$350,000 or more, USC Lancaster would purchase the collection for the sum of \$251,900. That purchase price would be paid in eight installments of \$31,487.50 each December, beginning in 2008.

If the appraised value of the collection was less than \$350,000, the parties agreed to renegotiate the purchase price and amend the agreement to reflect the new price. Dean Catalano said he was told that the collection could be appraised for as much as one million dollars. USC Lancaster had agreed to recognize the difference between the appraised value and the purchase price as a gift to USC Lancaster.

Upon payment of the first installment, title to and ownership of the collection would be transferred to USC Lancaster. In exchange, USC Lancaster agreed that they would refer to the collection as the "Thomas J. Blumer Catawba Indian Pottery Collection and Archives" or the "Blumer Collection" in all displays and publications.

Further, USC Lancaster agreed that the collection could be loaned to other institutions or entities for a period of less than one year at a time, but otherwise the collection would remain in Lancaster County.

Mr. Parham stated that Dean Catalano was available to answer questions regarding this matter. In response to a question, Mr. Parham responded that there would be an independent appraiser, and he called on Dean Catalano who reported that, currently, they were negotiating prices with three appraisers.

Another question raised was whether USC Lancaster had an adequate facility to house

the Collection, or would the University have to build one. Dean Catalano responded that USC Lancaster had a place to house it securely and had already received \$50,000 in grants to build new display cabinets and other grants to pay for the first year.

Mr. Bradley asked if title to the property would be transferred to the University upon the first payment. Dean Catalano responded, yes, and arrangements had been made that as soon as the contract was signed the collection was insured for what the University considered to be its full value. Mr. Parham stated that from an insurable interest standpoint, the University would acquire the title to the collection on the date that we make the first installment and at that point would ensure the full value.

Mr. Bradley commended Dean Catalano and Mr. Pettus and stated that this collection would be a great asset to USC Lancaster and the University as a whole.

Mr. Whittle commented that the University had a valuable art collection in the President's house and elsewhere. He asked whether the Administration had ensured that those collections were adequately inventoried and insured. Mr. Kelly responded, yes, and that was verified with the Insurance Reserve Fund and the Risk Management team.

President Pastides commented that he had recently seen part of the collection, which he thought was superb, and which would bring more people to the Lancaster campus. He asked if there was adequate security to protect the collection. Dean Catalano responded that there was a designated place on campus containing secure lockable cabinets. The "Wingard Collection" (Phillip Wingard) and other collections were already housed in a similar area on campus.

Mr. Bradley moved to approve the contract as described in the materials distributed for this meeting. Mr. Adams seconded the motion. The vote was taken, and the motion carried.

II. South Carolina Energy Office - Loan to USC Aiken: Chairman Loadholt called on Mr. Parham who reported that the South Carolina Energy Office, a division of the State Budget and Control Board, was created to provide resources to help public entities save energy and money through greater efficiency. The Energy Office administered a program called the ConserFund which offered low interest loans for energy saving improvements in state agencies, including public colleges and universities.

In September of this year, USC Aiken applied for a loan from the State Energy Office in the amount of \$440,000 to replace a 240-ton centrifugal chiller in the Science Building with a frictionless centrifugal chiller, and to retrofit lighting in the Science Building and the Etherredge Center. The loan was approved at an interest rate of 3 percent.

Mr. Parham stated that USC Aiken was seeking board approval to accept the loan from the State Energy Office.

Under the terms of the loan agreement, USC Aiken would repay the loan in ten annual payments of \$51,581.42 beginning July 1, 2010. The total payments would equal \$515,814.20; USC Aiken could prepay the loan amount without penalty. USC Aiken expected utility savings from the new equipment to offset the cost of the loan.

Mr. Adams commented that this was a fantastic savings and the University needed to look for other opportunities around the campus.

Mr. Parham stated that Chancellor Hallman was available to answer specific questions regarding this matter.

Mr. Adams moved to approve the contract as described in the materials distributed for this meeting. Mr. Foster seconded the motion. The vote was taken, and the motion carried.

III. Palmetto Health - USC Affiliation Agreement: Mr. Parham reported that this agreement was a renewal of the Master Affiliation Agreement between the USC School of Medicine (SOM) and Palmetto Health. The current Affiliation Agreement between the parties expired December 31, 2008.

This was the agreement pursuant to which medical education, research and other related activities were conducted by the SOM faculty and students at Palmetto Health. This agreement was virtually identical to the previous agreements except for matters such as updating titles of positions.

Pursuant to this agreement, Palmetto Health would accept SOM students in their third and fourth years for clinical experience in specialties agreed upon by the parties. The SOM must have these clinical educational programs at the hospital in order to maintain its accreditation. Palmetto Health would provide adequate space and resources for these educational experiences, and the SOM would be responsible for academic aspects of these medical education programs. Palmetto Health would also sponsor graduate medical educational programs.

Other provisions of the agreement were that the Dean would recommend full-time SOM faculty members for appointment to Palmetto Health's medical staff, subject to ultimate approval by Palmetto Health. The parties would meet at least annually to monitor the management and implementation of the agreement. Each party would have one representative serve on the other party's Executive Committee (management committee). Also, each party would be responsible for the costs, salaries, fringe benefits, supplies, and space associated with its educational programs and residents.

Additionally, Palmetto Health would receive annually amounts recommended by the Commission on Higher Education and appropriated by the South Carolina General Assembly as reimbursements to Palmetto Health for the indirect costs associated with serving as a major site for the University's medical education and research programs. That amount for FY 2008-09 was \$770,480.

The parties would jointly organize and fund a single organization which would conduct Continuing Medical Education programs for health care professionals at each entity. Also, the parties would collectively support research programs.

The term of the new agreement was two years beginning January 1, 2009, and ending December 31, 2010. However, the agreement specifically stated that the term would be extended beyond the expiration date and required the parties to agree to an extension on

or before July 1, 2010. The agreement could be terminated by either party upon 12 months notice on June 30 of any year.

Dr. Floyd asked if the agreement addressed faculty and students using Baptist Hospital, since it had always been a "sore point" because they had not been able to use it in the past. Mr. Parham responded, "no" and explained that this affiliation agreement for medical education, research and other related activities was with Palmetto Health and did not get into that level of specificity. He stated that this was the master agreement that created the framework of the organization. There were sub-agreements as each individual department within the medical school negotiated and established itself at the hospital. There would be sub-agreements that discussed the organization of specific programs and it may be within those sub-agreements that the Baptist Hospital issue could be discussed.

Dr. Floyd stated that he was in favor of approving this agreement but expressed his feeling that the University should consider expanding to Baptist Hospital. Mr. Parham responded that he would discuss this matter with the Dean of the SOM.

President Pastides recommended that Dean DiPette report on our overall relationship with Baptist at the next Health Affairs Committee. He stated that this was a time of dynamic change in healthcare and the University needed this agreement as a "stop gap" to keep us in the mix. He stated that Dr. Floyd had raised an important question. Also, the Baptist Board did not view itself as a teaching affiliate; therefore, everything the University did was at the Richland campus. However, he said it was time for the University to begin discussion about this issue.

Dr. Floyd moved to approve the contract as described in the materials distributed for this meeting. Mr. Foster seconded the motion. The vote was taken, and the motion carried.

IV. South Carolina College of Pharmacy - USC-MUSC Memorandum of Understanding:

Mr. Parham reported that on December 17, 2007, the USC Board of Trustees approved a Memorandum of Understanding (MOU) between USC and MUSC which outlined the organizational and operational structure for the South Carolina College of Pharmacy (SCCP).

Since that time, Dr. DiPiro, Executive Dean of the SCCP, had been working to seek accreditation of the SCCP, by the Accreditation Council for Pharmacy Education (ACPE). The SCCP had been granted "Candidate Accreditation Status" by ACPE in June 2007, which was an intermediate step leading to Full Accreditation once all ACPE standards had been met and the school had graduated its first class.

As part of its on-going review of the SCCP, ACPE had advised the SCCP that they needed to address two issues. First, they must develop "one set of tenure and promotion policies" that would apply to both MUSC and USC. Secondly, USC and MUSC must facilitate approval of a Tenure and Promotion System - approved by the respective Boards of Trustees that promoted a "one-college" environment.

Toward that end, Mr. Parham stated that amendments to the existing MOU had been

negotiated and recommended by Dr. DiPiro and were designed to accomplish the following issues:

Organizational Change. Mr. Parham stated that previously, the MOU provided that Dr. DiPiro reported to USC's former Vice President for Research and Health Sciences, and the Vice President for Research served on the SCCP Oversight Board. However, since that position no longer existed in that form, the proposed amendments provided that Dr. DiPiro would report to USC's Provost, and that the Provost would serve on the Oversight Board.

Accreditation issues. Mr. Parham stated that amendments to the MOU provided that new faculty hires for the SCCP would be employed by either USC or MUSC and would be subject to that employing institution's employment policies, rules and regulations.

Also, the joint faculties (MUSC and USC) would create uniform tenure and promotion criteria for both institutions. When a faculty member was granted tenure by the Board of Trustees of the employing institution, the Board of Trustees of the alternative campus would grant that faculty member limited tenure on its campus - with the understanding that the limited tenure confers no salary or financial obligation or employment rights (including grievance rights) on the alternative campus. If the faculty member resigned or was terminated by the employing campus, his or her status on the alternative campus was automatically terminated. The purpose of creating the limited tenure status on the alternative campus was to address the "unified faculty" requirement of ACPE and to create a system that allowed tenured faculty members on each campus to vote on the tenure and promotion files of new faculty members on both campuses.

Mr. Parham reported that the proposed amended MOU had been reviewed and approved by the MUSC Board of Trustees on December 12, 2008.

Mr. Parham stated Dean Rowen was present to answer specific questions. Dr. Floyd voiced concern that this may not be a good time to approve this agreement because of the state's economic situation and budget problems. Initially, this agreement appeared to be a savings to the University; however, it was later determined that it would cost the University more money. He suggested that the University consider looking further at the economics of this agreement.

President Pastides remarked that this would be a good time to review the whole proposition and that could be done sometime in the spring as part of Focus Carolina. However, this particular amendment was precipitated by the accrediting committee and not by USC or MUSC deciding to take this appropriate next step. Furthermore, given the fact that the University had been on a track toward a new overall accreditation, this was a requirement for the University, and the economics were not altered relative to this MOU. In light of the budget cuts and what the Administration had been managing this fall semester, they had not had the time to "shine the light back on the progress." He said he welcomed further conversation but urged that this MOU not be the "friction point" to the overall relationship.

Mr. von Lehe commented that this accreditation was very necessary and the

amendments were needed to acquire accreditation. The amended agreement would not bind the University to any more obligation than it already had and it was his inclination that the Health Affairs Committee would approve the amended agreement. Finally, evaluating the progress of the joint schools was imperative and this was a good time to do it.

Dr. Floyd stated that he did not object to the accreditation process. However, the University needed to review the cost efficiency of this method.

Dr. Floyd moved to approve the contract as described in the materials distributed for this meeting and that this matter be referred back to the Health Affairs Committee for further discussion. Mr. Foster seconded the motion. The vote was taken, and the motion carried.

V. Policy on Verification of Lawful Presence in the United States:

Chairman Loadholt called on Mr. Parham who reported that in the 2008 legislative session, the South Carolina General Assembly enacted the South Carolina Illegal Immigration Reform Act (Act No. 280). The most significant portion of this law and the portion that had gotten the most media coverage required public employers, such as USC, to verify that its employees were U. S. citizens, U. S. nationals, or aliens lawfully present in the United States.

Another portion of the law that had not gotten much coverage imposed the same obligations on public institutions of higher learning in South Carolina with respect to students. Section of the Immigration Reform Act entitled the "Verification of Lawful Presence in the U. S." - [59-101-430] states:

"(A) An alien unlawfully present in the United States is not eligible to attend a public institution of higher learning in this State.... The trustees of a public institution of higher learning in this State shall develop and institute a process by which lawful presence in the United States is verified. In doing so, institution personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government....

"(B) An alien unlawfully present in the United States is not eligible on the basis of residence for a public higher education benefit including, but not limited to, scholarships, financial aid, grants or resident tuition."

Mr. Parham reported that a policy was developed by Student Affairs, the Registrar, the Admissions Office, the International Office, and the Office of General Counsel for board consideration. It outlined a process for the University to verify that each of its students was lawfully present in the United States. In developing this policy, the Administration had numerous conversations with Clemson and other institutions in South Carolina to ensure some semblance of consistency in the manner in which the law was being interpreted.

Under the policy, students admitted to the University would be required to prove lawful presence in the United States before they were allowed to enroll or remain enrolled in classes.

Students claiming to be born in the United States would have to submit a birth certificate or passport. Foreign born students would be required to submit appropriate

immigration documentation to the University. The University would then forward the information to the US Department of Homeland Security for verification that the student was lawfully in the United States. If the Department of Homeland Security did not provide such verification, the student would not be allowed to enroll or his/her enrollment would be discontinued. Students who were denied enrollment because of this policy could appeal to the University President or the Chancellor of a four year campus.

The policy would become effective on January 1, 2009, and would require the University to verify lawful presence of all students currently enrolled at USC before they would be allowed to graduate and all students who were admitted in the future.

Mr. Parham stated that the policy was still a work in progress and needed to be tweaked from a practical application standpoint before the University could implement it. For that reason, he requested that the Board's motion today be adoption with the understanding that the policy could be modified upon the recommendation of the Provost and approval of the President without returning it to the Board.

Mr. Parham stated that Dr. Pruitt was available to answer questions. Mr. Hubbard asked whether the actual USC application had changed, and what effect would this new regulation have on future applicants.

Mr. Parham responded that that was one of the reasons the University sought to create an implementation process that was the same as other institutions in the state. Students must now submit a certified copy of their birth certificate or passport. To verify that all current students were in the United States legally, the University would most likely use the FASFA database which would not impose additional responsibility on the students.

Mr. Hubbard asked whether the requirement was a part of the application process or was the requirement prior to matriculation. Mr. Parham responded that the actual application for admissions to University had not changed. However, once a student was accepted they would receive a package of information requesting additional information before they were admitted to the University.

Mr. Hubbard asked whether states other than South Carolina had this extra requirement for their students. Mr. Parham said that he was unsure but would find an answer.

Mr. Lister asked about the cost to the University in implementing the regulation. Mr. Parham stated that the Administration had discussed this matter, but that a figure had not been determined. He stressed that this was a mandate from the General Assembly, and currently there was no financial support for this mandate. The Registrar and Legal Residency offices most likely would compile and maintain the information; therefore, they would need additional assistance.

Mr. Buyck asked about how many foreign nationals were enrolled at the University. Dr. Pruitt estimated that there were approximately 1,500 students that had proper documentation. There were probably a very limited number of students without proper

documentation and this new regulation would assist in finding them. Dr. Pruitt noted that the federal government had some filters in place since September 11, 2001, that kept most international students from coming to the US without proper documentation.

In response to a question, Mr. Parham responded that there was no penalty built into the institution for non compliance, although there was a penalty for students who incorrectly reported their status.

Mr. Adams recommended that the Administration find out the cost to implement this program as they moved forward.

Since there were no other matters to come before the Executive Committee, Chairman Loadholt declared the meeting adjourned at 9:15 a.m.

Respectfully submitted,

Thomas L. Stepp
Secretary