



**University of Florida Board of Trustees**

**Committee on Governance**

**MINUTES**

**June 6, 2013**

**Emerson Alumni Hall, University of Florida, Gainesville, Florida**

**Time Convened: 2:30 p.m. EDT**

**Time Adjourned: 3:36 p.m. EDT**

Chair, Susan M. Cameron called the meeting to order at 2:30 p.m. EDT.

**Committee Members present were:**

Susan M. Cameron (Chair), C. David Brown, II, Marshall M. Criser, III, Carolyn K. Roberts, and Steven M. Scott

**Others present were:**

Trustee David M. Thomas; President Bernie Machen; Joseph Glover, Provost and Senior Vice President; Win Phillips, Senior Vice President and Chief Operating Officer; Jack Payne, Senior Vice President for Agriculture and Natural Resources; Paula Fussell, Vice President for Human Resource Services; Elias Eldayrie, Vice President and Chief Information Officer; Jamie Lewis Keith, Vice President and General Counsel; Janine Sikes, Assistant Vice President for Media Relations and Public Affairs; Jamal Sowell, Special Assistant to the President.

Also present by phone was Attorney Raymond Cotton of the law firm of Mintz Levin. Mr. Cotton is the Board's outside counsel on the President's contract extension and is a preeminent national expert on university presidential contracts and compensation.

After a roll call, a quorum was confirmed, with all members present.

The Committee Chair asked for a motion to approve the minutes of the March 18, 2013 committee conference call/meeting and the March 21, 2013 committee meeting which was made by Trustee Roberts and Seconded by Trustee Criser. The Chair asked for further discussion, after which she asked for all in favor of the motion and any opposed and the motion was approved unanimously.

The Committee considered its one action item:

**Action Item GV1 and Resolution R13-121, President's Contract Extension.**

In support of the proposal, Chair Brown noted the following:

- The proposal would extend President Machen's contract through December 31, 2014 and adjust his total compensation to bring it up to the 25<sup>th</sup> percentile to 50<sup>th</sup> percentile of peer public AAU presidents.
- President Machen has served UF for almost 10 years and has led one of the largest, most complex and broad-scope public AAU research universities in the country, with great success.
  - Among other achievements, under President Machen's leadership: (1) UF's research volume has grown by ~70% —reaching over \$700M in annual research expenditures; (2) the quality of UF's faculty and student body, which has been excellent for many years, has been further enhanced; (3) UF completed a \$1.7B capital campaign—surpassing the campaign goal and being the 6<sup>th</sup> most successful capital campaign of any public university; (4) UF created the Florida Opportunity Scholarship program -- which has increased access for students who are first in their families to attend college and are from low socio-economic backgrounds and has also enhanced the broad diversity of the student body; (5) UF has constructed many state-of-the-art research facilities on campus and at Lake Nona, and is pursuing the long-needed expansion and renovation of the Reitz Union; (6) UF's Health Science Center and Shands Hospitals are closely collaborating in UF Health, enhancing the quality of patient treatment and focusing on excellence in research and education; (7) UF has created Innovation Square to support industry-academic research collaborations and economic development, with Mind Tree, Mobiquity LTD and Sears Holding's Center of Excellence already located there—as well as Innovation Academy to foster education excellence for students with entrepreneurial interests and maximizing UF's capacity to serve students year-round; (8) UF has built an excellent administration; and (9) in this last legislative session, UF received formal recognition by the Legislature, Board of Governors and Governor as Florida's preeminent research and on-line university, a goal it has had for the last 10 years and a recognition of UF's exceptional quality and value.

Vice President and General Counsel Jamie Lewis Keith advised the Committee that a Report of international compensation and human resources expert, Mercer, concludes that the 25<sup>th</sup> public AAU peer percentile for presidential total compensation is \$723,000; the 50<sup>th</sup> percentile is \$750,000; and the 75<sup>th</sup> percentile is \$881,000.

The Committee Chair then asked Ray Cotton for his opinion on the appropriate market compensation for President Machen, considering Mercer's data and Dr. Machen's leadership experience and record. Mr. Cotton reviewed data on UF's size, scope and complexity and advised the Committee that it would certainly be reasonable for President Machen to be compensated well above the 50<sup>th</sup> peer percentile to the 75<sup>th</sup> peer percentile. He opined that setting President Machen's compensation at the 50<sup>th</sup> public AAU peer percentile is eminently reasonable.

Chair Brown noted that when all prior contract amendments and the proposal are considered—including President Machen’s voluntary elimination of bonuses beginning in 2009—he has had net losses while developing a record of success. If there were no amendment to his contract, President Machen’s total compensation in 2013 would be almost \$160,000 below the 25<sup>th</sup> peer AAU percentile.

Committee Chair Cameron then asked Jamie Keith to summarize the proposed Resolutions, which the Committee Action Item and supporting financial summary reflect well and Ms. Keith did so in detail.

The Committee members discussed President Machen’s experience, accomplishments and leadership, as well as the proposal approvingly. Trustee Scott noted that UF should not expect to compensate the next president at only the 50<sup>th</sup> percentile, and recognized President Machen for his dedication and good will to the University.

The Committee Chair asked for a motion to approve Action Item GV1 and Resolution R13-121, which was made by Trustee Scott and Seconded by Trustee Roberts. The Chair asked for further discussion, after which she asked for all in favor of the motion and any opposed and the motion was approved unanimously.

#### **Discussion/Informational Items**

##### **4.1 Pre-eminence**

##### **4.2 Update from President Machen**

President Machen reported on the pre-eminent status of the University. As part of this status, UF has taken on the responsibility for developing and implementing the State’s online university program and will have a special opportunity to offer a signature undergraduate learning experience.

Dr. Machen also reported that he plans to use these preeminence and on-line initiatives as the core drivers of the University’s strategic direction in the next two years. The Committee agreed with this plan. President Machen next reported that he is comfortable with the structure of his senior administration, with certain Vice Presidents reporting through Senior Vice Presidents. This structure has allowed him to devote more time and effort to strategic endeavors and he plans to solidify the current structure. The Committee noted the strength of the administration that President Machen has built.

##### **4.3 Update on DSO Governance Oversight**

Ms. Keith then recapped her March presentation to the Committee on the good practices we have in place for support organization and affiliate oversight. These practices include—among other controls—review of financial information by the UF Board’s finance committee and audit information by the UF Board’s audit committee, as well as service of UF Trustees on category 1 affiliate boards. She noted that it is not clear that affiliate appearances at the Governance Committee will substantively enhance oversight. However, President Machen and General

Counsel Keith suggested—with concurrence by the Committee-- that the Trustee on each Category 1 affiliate board and the affiliate’s CEO appear at the Governance Committee in March or June of the coming year. After that, they will revisit with the Committee whether or not such appearances enhance oversight and are worthwhile in light of existing controls and the need to focus on priorities. General Counsel Keith also suggested that her office and the business affairs office review the insurance carried by each affiliate to confirm that the level of coverage is reasonable.

#### 4.4 Brief Update on Directors and Officers Insurance

Ms. Keith also advised the Committee that as of April 22, 2013 Directors and Officers insurance was put in place, as individual policies are not available on commercially reasonable terms.

#### 4.5 Update on Association of Governing Board Conflicts Policy

Ms. Keith also reported on the Association of Governing Board’s supplement to its Board conflict guidance. Distinguishing between discretionary transactions that the institution may enter and matters of institutional policy and duty (such as tenure decisions, regulations, and employment of a president) upon which the Board must act, the AGB’s supplementary guidance provides that Boards should not enter transactions in which a Trustee has a financial or other conflict of interest—even if the Trustee were to recuse him- or her-self-- unless the disinterested members of the Board determine there is a truly compelling benefit to the institution and there aren’t other reasonable alternatives for the institution.

- The AGB’s guidance does not bind university boards, but is reflective of national trends for public accountability.
- The guidance suggests that determining whether a conflict exists depends on whether a “reasonable observer[s], having knowledge of all the relevant circumstances, would conclude that the board member has an actual or apparent conflict...in a matter related to the institution.”
- When there is a conflict, the conflicted board member “should have no role for the institution in the matter” and the compelling benefit test should also be applied to discretionary institutional transactions in which a Board member is conflicted.
- UF’s Board of Trustees is subject to Florida state ethics laws which prohibit transactions between UF and any entity in which a Trustee has a contractual, equity or employment interest. The law also requires disclosure of voting conflicts. Our Trustees have been careful to comply with law, as well as to be sensitive to conflicts beyond legal requirements.

#### **Collective Bargaining Executive Session**

The Committee met in an Executive Session for a report on Collective Bargaining from approximately 3:15 to 3:35 pm EDT

**Open Session** resumed at approximately 3:35 pm EDT.

**Adjournment**

After asking if there was any further business for the Committee and hearing none, the Committee Chair asked for a motion to adjourn the meeting, which was made by Trustee Scott and seconded by Trustee Brown. After asking for further discussion, the Committee Chair asked for all in favor and any opposed, and the motion was passed unanimously. The meeting adjourned at 3:36 pm EDT.