

**Draft Minutes of Public Meeting/Conference Call of University of Florida Trustees Hosseini, Johnson, Patel, Thomas, Heavener**

**Date and Time:** January 27, 2017, convened at approximately 1:02 pm EST and concluded at approximately 2:05 pm EST.

**UF Place:** 123 Tigert Hall, University of Florida, Gainesville, Florida 32611.

**Trustee Attendees:** Trustees Mori Hosseini, Leonard Johnson, Rahul Patel, and David Thomas.

**Also Attending:** Vice President, General Counsel and University Secretary Jamie Lewis Keith, Senior Director of Government Relations and Assistant University Secretary Melissa Orth, and Executive Assistant Brigit Dermott.

**Subjects Discussed:** Minutes of the January 9, 2017 meeting were approved. Governance planning for UF and affiliates was discussed, including a recap of the January 9, 2017 discussion of governance standards for UF and affiliates, various types of contracts, transactions, and other substantial matters with possible thresholds for Board action or executive action by the Board Chair and Vice Chair, review of standards for appropriate UF Board oversight of Shands Entities debt, and the initial and updated draft governance guidance of the Board of Governors' staff and UF's comments, as well as further enhancements suggested by Trustee Patel since January 9<sup>th</sup> and finalization of a Highlights Document which is attached to these minutes (showing the changes to the version that captures the January 9, 2017 meeting). Also attached is a Highlights Document showing the additional changes made as a result of discussion at the January 27<sup>th</sup> meeting. All materials and information provided at or arising from the meeting will be provided to all Trustees as context for their discussion at the regular meetings of the UF Board of Trustees' Committee on Governance and Board of Trustees.

—Highlights of UF Board Governance Enhancement

•A. Threshold points:

~~Shands isn't an Affiliate unless cited in the item.~~

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- Where advance UF BOT Chair concurrence or conferring with or notifying the BOT Chair is required, and advance notice to the Board Vice Chair is also are required, ~~these are~~ followed by notice to full UF BOT. (This is not stated throughout the document, but applies.) The Chair and Vice Chair may delegate these responsibilities to other Trustees.
- The #s reference the full chart. The chart is more complete.
- While Shands is not treated as a generic Affiliate except as cited in this summary, UF has formulated good governance practices tailored for Shands. These provide (1) enhanced UF Board engagement respecting Shands entities' debt, (2) enhanced Shands processes and procedures for assessment, approval and reporting of debt, (3) an enhanced Shands framework for decision-making on debt, consistent with state-level due diligence, and (4) [enhanced communications with the UF Board Chair and Vice Chair in advance of other major undertakings by Shands leadership (see, e.g., Exhibit A (on how Shands entities' boards are comprised and UF Board ratification), part H, last bullet (required advance communications with UF Board Chair and Vice Chair regarding Shands entities' real estate transactions, goods and services agreements, and construction contracts), part I and Exhibit B (good governance practices on Shands Debt ), part M (creation of new entity by Shands), and N (catch all)). Our objective is to increase information and accountability for decision-making, without fundamentally changing the character of the Shands entities or the UF and Shands relationship that have resulted in an almost 40-year record of rating agencies, creditors and courts treating Shands' and UF's/the state's assets, debts and liabilities as separate.

- The governance enhancements are not intended to interfere with efficient operations and there is an intent to promptly revisit any requirement that causes issues in practice to see if a change is warranted. The standards would also be reviewed promptly if experience reveals any gaps in good governance practices, and will be reviewed every 5 years for good governance in any event.

A. B. #1/Affiliate Board Appointments

- UF President's appointments to Boards of Category 1 Affiliates' (Shands Entities, UF Foundation, UFRF, UAA, Boosters, UFICO, UFDC) will start serving upon appointment (as is done today). (See Exhibit A on how Boards of Category 1 Affiliates are comprised.)
- But they will need to be ratified by the UF Governance Committee and on the UF BOT Consent Agenda at the next available UF Board meeting.
- Ratification isn't required for UF Pres. appointment of a designee to serve on an Affiliate Board in his stead, or appointment of one official from list of options provided in an Affiliate's Bylaws (e.g., if an Affiliate Bylaws provides that the UF Pres. will appoint the SVP/COO, VP/CFO, or VP/BA to the Affiliate Board).

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- Ratification also isn't required for the Pres.' appointments to Category 2 and 3 Affiliate Boards.

~~A.~~ C. #2/6/UF & Affiliate Construction/Capital Projects

- Regardless of whether publicly or privately funded, UF construction projects >\$2M must be approved by the UF Board (which is done today). (See below re: Affiliates.)
- Now, they must be first presented to the Finance and Facilities Comm. at the meeting **before** the meeting where approval is sought for a meaningful discussion of the priority of project listing on UF's LBR, other projects list, funding options, etc.
- Unless under an approved capital plan (whether the capital budget is stand alone or a project category in an operating budget) Affiliate projects >\$2M must be approved by their Boards and the UF Pres. after the UF BOT Chair concurs.
- ~~○ If >\$5M they also must be approved by the UF Pres. with advance notice to UF BOT Chair and Vice Chair.~~
- ~~○ If >10M also must be approved by UF Pres. after UF BOT Chair concurs and Vice Chair is notified.~~
- UF project **scope** change orders that increase the GMP by >10% require Finance/Facilities Committee approval.
- The same threshold would apply to Affiliate change orders, requiring their Affiliate Board or committee approval and requiring the UF Pres.' approval after the UF BOT Chair concurs if the scope change order increases the Affiliate project GMP by >10%.
- Any UF or Affiliate change orders, regardless of size, requiring an additional, not yet obtained, state appropriation requires UF BOT approval (and BOG approval would also be required), as is always the case for a new appropriation.
- Affiliates must notify UF SVP/COO, VP/BA or UFDC in advance of all capital projects for a central UF record.

~~B.~~ D. #3/7/Capital Budgets

- As today, UF BOT (and BOG) must approve UF Capital Budget/spending plan.
- Affiliate Board must approve its Capital Budget (stand alone or project category in operating budget).
- If >\$2M, UF Pres. must approve an Affiliate's Capital Budget.
- If >\$10M, UF Pres. must approve an Affiliate's Capital Budget after the UF BOT Chair concurs ~~and Vice Chair is notified.~~

~~C.~~ E. #8/9/Operating Budgets

- As today, UF BOT (and BOG) must approve UF operating budget.
- Affiliate Board and UF Pres. must approve Affiliate operating budget.

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- A table showing the same high level key information on all Affiliates' operating budgets will be provided to all UF Trustees within 90 days after FY end.
- (There is also a goal to develop a working document that consolidates UF and all Affiliates operating budgets so that management has information on total resources for whole enterprise management—but this is not intended to result in formal consolidated budgets or financials and it is recognized that it may take time to achieve this.)

~~D.~~ F. #10/11/Goods & Services Contracts

- UF BOT must approve a UF vendor goods or services agreement if (a)  $\geq$ \$10M total value ~~/ &~~  $\geq$ \$2M per year av. **or** (b)  $>$ 10 years with exclusivity.
  - UF ~~Finance and Facilities~~ Governance Committee—rather than the full BOT—will be the approving authority; it will be easier to get the Committee, or at least a quorum of 4 ~~FF~~ Governance members on the phone within 24-48 hours if needed.
- Extension term must be approved by the UF Board if—together with the initial term—the approval threshold is triggered.
  - However, if benchmarking per a to-be-BOT-approved IOM justifies extension, the approval thresholds are applied to the extension term on its own to determine if UF BOT approval is needed.
- Affiliates' goods and services vendor contracts are subject to the same thresholds for their Boards' approval—and when triggered, the UF Pres. also must approve, with UF BOT Chair concurrence ~~and advance notice to the BOT Vice Chair.~~

~~E.~~ G. #13-19/20-25/Real Estate Transactions

- (a) Full title real estate transactions (as is the case today), (b) Easement (grant)  $>$ 25 years (other than utilities/access in or adjacent to roads), (c) Leases  $>$ 10 years or  $>$ 50K sf or  $>$ \$10M NPV lease payments must be approved by the UF BOT—which may delegate to the UFDC.
  - UF Pres. approves below those thresholds.
  - UF BOT and BOG approval are required if BOG P3 or Debt Management Guidelines apply and an exception does not apply. UF BOT approval is required for energy savings contracts and BOG approval is required if  $>$ \$10M (as is the case today).
- Affiliate real estate transactions have the same thresholds for their own Boards' approval as UF real estate transactions have for UF BOT approval.
- UF Pres. approval after UF Board Chair concurrence is required too where the Affiliate Board approval thresholds are triggered.

~~F.~~ H. #10/11/13-25/Some Additional Points On Goods, Services, Real Estate, Construction

- Intra-family goods and services and real estate transactions (between UF and any affiliate or Shands—or among affiliates/Shands) do not require UF or Affiliate Board or Chair approvals.

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- A report on all UF and Affiliate real estate transactions (including intra-family) is to be provided to the UF Board Finance and Facilities Committee at its regular meetings.
- **All** Affiliate real estate transactions are to be reported to the UF SVP/COO or UFDC in advance of binding agreements for a central UF record.
- UF Pres. must confirm in advance that any Affiliate real estate transaction will not interfere with UF's need for the property or funds and, for leases in to Affiliate, that UF property would not serve One UF better.
- UF Pres. ident may delegate to SVP/COO or equivalent senior executive with expertise.
- Shands is to communicate with the UF BOT Chair ~~and Vice Chair~~ in advance of binding actions over a TBD threshold for real estate transactions, goods and services contracts, and construction projects.

~~B.~~ I. #27/Debt

- As today, all UF and DSO debt must be approved by UF BOT and, unless subject to an exception in the Debt Management Guidelines, by the BOG. DSOs are exclusively to support UF.
- Practice plan debt must be approved by UF BOT and PP Board. Practice Plans are exclusively for UF support.
- Shands debt information and appropriate oversight for UF Board are being handled separately due to nature of UF-Shands relationship (UF does not have entitlement to Shands assets) and 40-year history of rating agency treatment of Shands debt as separate from UF's or state's. (See Exhibit B.)

~~C.~~ J. #30/Senior UF Employment/Compensation

- As today, UF Pres. decides hiring and firing of VPs and Exec. Direct Reports.
- As today, UF Pres. approves ~~all~~ all UF VPs and all UF Exec. Direct Reports compensation, and UF BOT Chair must concur before comp. is finalized/binding (which, in actuality, must be done before hiring can be binding) or changed. As today, market comparables and individual marketability and contributions are required considerations. As today, Governance Committee members to be informed at least annually.
- The UF Pres. will need to **confer** with the UF BOT Chair ~~and notify the Vice Chair~~ before firing a VP or Exec. Direct Report. (The UF Pres. would do this anyway.)

~~D.~~ K. #30-34/Affiliate AD/CEO/Head FB and Men's Basketball Coaches, **Any Other IRS Disqualified Person (high influence, entity-wide official)** and Coach or Other Employee of \$1M or More Comp.

Employment/Compensation

- Hiring, firing, and **initial compensation** (with consideration of data that comp. is reasonable in the market) of CEO/AD of Affiliate, must be approved by Affiliate Board and by the UF Pres. after **conferring** with UF BOT Chair ~~and notifying Vice Chair~~. (This conferring is to confirm that an appropriate process was followed to determine reasonability in the market—i.e., arms-length recruitment/negotiation and consideration of market data and individual.)

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- When **changed**, Affiliate AD/CEO **total compensation**- must be approved as reasonable in the market under IRS rules by Board or comp. committee (final action) and by UF Pres. (before or as part of comp. committee) after conferring with UF BOT Chair ~~and notifying BOT Vice Chair~~. (Conferring is to confirm that full IRS comp. committee process is followed to determine reasonability of total compensation in the market.)
  - For **hiring, firing** of Affiliate head FB and Men's BB Coach, or any other Affiliate (non-CEO) IRS Disqualified Person (high influence, entity-wide official), the Affiliate CEO/AD decides to hire or fire, and the UF Pres. must approve after **notifying** the UF BOT Chair ~~and Vice Chair~~.
  - For **initial compensation** of Affiliate head FB and Men's BB Coach, any other Affiliate (non-CEO) IRS Disqualified Person (high influence, entity-wide official)--and any Coach or other employee with ≥\$1M total compensation- on av./yr. (-even if not an IRS Disqualified Person)—the Affiliate CEO/-AD decides compensation considering a national database of comparables, and the UF Pres. must approve ~~s~~ after **conferring** with the UF BOT Chair ~~and notifying Vice Chair~~. (Conferring is to confirm that an appropriate process is followed to determine reasonability in the market—i.e., consideration of market data and individual, but full IRS comp. committee process is not required for the initial determination due to arms-length negotiation and requirements for successful recruitment.)
  - For **changed compensation** of Affiliate head FB and Men's BB Coaches, any other Affiliate (non-CEO) IRS Disqualified Person (high influence, entity-wide official)--and any Coach or other employee with ≥\$1M total compensation- on av./yr., (even if not an IRS Disqualified Person)—the Affiliate CEO/AD decides compensation, and the UF Pres. must approve ~~s~~ after **conferring** with the UF BOT Chair ~~and notifying Vice Chair~~, and—for FB and Men's BB Coaches and any other IRS Disqualified Person--—the Affiliate compensation- committee must also approve in a full IRS process. (Conferring is to confirm that an appropriate process is followed to determine reasonability in the market—i.e., full IRS process with comp. committee approval of reasonability in the market for FB and Men's BB Coaches and for any other Affiliate Disqualified Person, or consideration of market data and individual for Coach or other employee with comp. of ≥\$1M/yr.)
- E. L. #35/36/UF and Affiliate IP/Research Agreements**
- The UF Pres./Designee approves these for UF and the UFRF/Affiliate CEO approves these for Affiliate.
  - The UF Board and Affiliate Board generally don't participate in approval, but if the agreement imposes a debt or construction obligation or a new entity is being created, the usual Board approvals (under the relevant thresholds) apply.
- F. M. #37/UF or Affiliate (including Shands) Creation of New Entity/Affiliate/Merger**
- The UF Board must approve creation of a new entity (affiliate, subsidiary) by UF or an Affiliate and Shands. (Shands' statute since it was changed and lease already require this.)

**N. Catch-all**

- If any additional contract or other matter of UF, an Affiliate or Shands entity--beyond ordinary business matters and not covered by the specified standards--would be considered material to UF and/or an affiliate or Shands entity, including its resources or reputation, or would generate significant media attention, the UF Pres. or designee is expected to confer with the BOT Chair and

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to notify the BOT Vice Chair. Also if any matter is expected to generate significant media attention outside of the ordinary course, the UF Pres. is expected to notify the full Board. The BOT Chair and Pres. shall collaborate over time to support their mutual understanding of this expectation, recognizing that there are judgments involved for both of them.