AGENDA

COMMITTEE OF THE WHOLE

Meeting: 9:00 a.m., Wednesday, March 18, 1998
Auditorium

Martha C. Fallgatter, Chair
William Hauck, Vice Chair
Roland E. Arnall
William D. Campbell
Ronald L. Cedillos
Jim Considine
Robert G. Foster
Bernard Goldstein
Laurence K. Gould, Jr.
James H. Gray
Eric C. Mitchell
Maridel Moulton
Joan Otomo-Corgel
Ralph R. Pesqueira
Alice S. Petrossian
Ali C. Razi
Charles B. Reed, Chancellor
Michael D. Stennis
Anthony M. Vitti
Stanley T. Wang

Consent Item

Approval of Minutes of Meeting of January 28, 1998

Discussion Items

1. Litigation Report No. 7, Information

2. Private-Sector Participation in Development of North Campus Property at California State University, Northridge, Action
MINUTES OF MEETING OF
COMMITTEE OF THE WHOLE

Trustees of The California State University
Glenn S. Dumke Conference Center
400 Golden Shore
Long Beach, California

January 28, 1998

Members Present
Martha C. Fallgatter, Chair
William Hauck, Vice Chair
William D. Campbell
Ronald L. Cedillos
Jim Considine
Robert G. Foster
Bernard Goldstein
Laurence K. Gould, Jr.
James H. Gray
Eric C. Mitchell
Maridel Moulton
Joan Otomo-Corgel
Ralph R. Pesqueira
Alice S. Petrossian
Ali C. Razi
Michael D. Stennis
Anthony M. Vitti
Stanley T. Wang

Members Absent
Roland E. Arnall

Chancellor’s Office Staff
June M. Cooper, Senior Vice Chancellor and Interim Chief of Staff
Charles W. Lindahl, Interim Senior Vice Chancellor, Academic Affairs
Richard P. West, Senior Vice Chancellor, Business and Finance
Douglas X. Patiño, Vice Chancellor, University Advancement
Christine Helwick, General Counsel
Samuel A. Strafaci, Interim Senior Director, Human Resources

Others Present
Barry Munitz, Immediate Past Chancellor
Charles B. Reed, Chancellor Designate

Chair Fallgatter called the meeting to order at 9:50 a.m.
Cornerstones: The CSU Planning Initiative

Chair Fallgatter opened the meeting and Immediate Past Chancellor Barry Munitz stated that this was an important discussion and one that he was pleased to lead. Dr. Munitz reported that Cornerstones had been a multicampus strategic planning effort through which the California State University attempted to address and create its future. For the past 20 months, the CSU had been engaged in an unprecedented systemwide planning process that directly involved members of the governing board, campus presidents, faculty, students, and system administrators. Throughout this process, Cornerstones fostered a genuinely collaborative culture and advanced effective communication among constituencies.

Dr. Munitz acknowledged Dr. Charles W. Lindahl, interim senior vice chancellor, academic affairs, Ms. Jane Wellman, senior associate, Institute for Higher Education Policy, and Dr. Brian Murphy, director, Urban Studies Institute, San Francisco State University, who were the support mechanisms that kept all four of the task groups at work.

Dr. Thomas Ehrlich, Cornerstones convenor and CSU Distinguished Scholar, described the Cornerstones membership and the 20-month planning process. He explained that most of the work on each of the four major topics occurred in four task forces: (1) Learning for the 21st Century, chaired by Dr. James Highsmith, chair, CSU Statewide Academic Senate; (2) Meeting the Enrollment and Resource Challenge, chaired by Ms. Molly Corbett Broad, former CSU executive vice chancellor; (3) Institutional Integrity, Performance, and Accountability, chaired by Dr. Bernard Goldstein, trustee; and (4) Postbaccalaureate and Continuing Education: Helping Shape California’s Future, chaired by Dr. Stephen Weber, president, San Diego State University. Dr. Ehrlich thanked and acknowledged Dr. Lindahl and Ms. Broad for overall coordination, along with Ms. Jill Murphy, former assistant chief of staff, Mr. Eric Mitchell, student trustee, Jane Wellman, and Brian Murphy.

James H. Highsmith, chair, Statewide Academic Senate, said that he thought the process was quite extraordinary and that although there was not agreement about every aspect of our future, we really did engage in the process of thinking about that future and what that future could be if we do not participate in shaping it. Chair Highsmith thanked the presidents, trustees, and the members of the Senate Executive Committee: Marshelle Thobaben, vice chair; Gene Dinielli, member-at-large; Harold Goldwhite, former chair, now director, Institute for Teaching and Learning; Harold Charnofsky, secretary; and Gary Hammerstrom, member-at-large.

Trustee Goldstein described and praised the planning process and expressed his appreciation to the faculty, staff, alumni, students, administrators, presidents, and friends for their contributions to the discussions.

Dr. Munitz summarized the themes of the Cornerstones report: (1) the CSU will provide access to quality education for the next generation of California students; (2) we will focus on efficiency and productivity; (3) we will continue the decentralization effort; (4) we will continue our historic commitment to more flexible nontraditional creative delivery systems; and (5) we will expand partnership and shared responsibility between institutions.
Chair Fallgatter said that everyone did a wonderful job recapping the process, the themes, and their involvement in the Cornerstones initiative. She expressed her belief that the Cornerstones process provided the framework in the recent search for a new chancellor and facilitated an open communication to understand, trust, and work together to develop the best principles and recommendations for the university.

Dr. Lindahl said that early in the process the major themes of accountability and demonstrated learning emerged. He summarized efforts initiated in August and September 1997 to develop groundwork for implementation of these two key elements of the Cornerstones report. They include the development of proposed accountability measures, exploration of how they might be used as incentives for ongoing improvement of effectiveness, and development of a model of how this might work.

Dr. Lindahl said that the current work on assessment of learning outcomes began in May 1997 when the advisory board of the Institute for Teaching and Learning (ITL) committed to a multi-year effort to advance the assessment of learning outcomes. To help CSU identify the best practices in higher education, the system is participating in two national studies of assessment of learning outcomes. In April 1998, 10 CSU campuses will send 5-person teams to an intensive training session on how to carry out their plans for doing a better job of assessing student learning.

Ms. Celinda Vázquez, chair, California State Student Association, thanked all who participated in this project and indicated that CSSA is going to be actively participating in the implementation process of Cornerstones.

Trustee Vitti asked about how the board could be assured implementation would occur. Dr. Lindahl said that a matrix was being developed that would list all principles and recommendations, action required, who was responsible for each action, and the timeline for completing each action. Dr. Munitz reaffirmed those comments and indicated that there would be active involvement from interested trustees. Reports will be presented from time to time to the Committee on Educational Policy.

Trustee Mitchell acknowledged the contributions of Frank Wada, Aristide Collins, Beth Wolf, and Sarah McClellan, and moved adoption of the proposed resolution. The committee recommended adoption of the proposed resolution (COW 01-98-01).

Adjournment
The meeting adjourned at 10:34 a.m.
COMMITTEE OF THE WHOLE

Litigation Report No. 7

Presentation By
Christine Helwick
General Counsel

Summary
This is the biannual report on the status of significant litigation confronting the CSU, which is presented for information. “Significant” for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) brought by or against another public agency; or (3) which, for other reasons, has a high profile or is likely to generate widespread publicity. New information since the date of the last report is printed in italics.

The cases contained in this report have been selected from over 259 active litigation files currently pending which involve the CSU.
Agenda Item 1
March 17-18, 1998

COMMITTEE OF THE WHOLE

Litigation Report No. 7

New Cases

Brown v. California State University—Fresno County Superior Court
Horsford, et al. v. California State University—Fresno County Superior Court
Auwana Brown, a former employee in the CSU Fresno police department, filed a lawsuit claiming to have been sexually harassed by the former Chief of Police, Willie Shell. Daniel Horsford and five other employees or former employees in the CSU Fresno police department filed a separate lawsuit claiming that a variety of actions in the CSU Fresno police department while Shell was Chief constituted reverse discrimination. The plaintiffs in the second action are white, Hispanic and Asian; Shell is black. Plaintiffs in both lawsuits are represented by the same attorney. Shell has resigned his employment at CSU Fresno. Recently, he was indicted on five felony charges for unrelated misconduct while he was the Chief of Police at CSU Bakersfield, where he was employed before coming to the Fresno campus. The criminal case is set for trial in mid-February 1998.

Casmalia Resources Site Steering Committee v. State of California, et al.—Los Angeles County Superior Court
Plaintiff, Casmalia Resources Site Steering Committee, is an association of large corporations and other affiliates which have disposed of toxic substances at a now inactive waste treatment, storage and disposal facility in northern Santa Barbara County. Pursuant to a Consent Decree entered into with the Environmental Protection Agency, Casmalia has paid considerable sums to clean up that site and is now seeking reimbursement from the state on the theory that the state had a duty under a number of statutes to monitor the site, and to pay for the clean-up of wastes it contributed to the site. The CSU is named as a defendant in this lawsuit along with 30 other agencies of the state which purportedly disposed of toxic wastes at this facility. The CSU will be represented by the Attorney General in this litigation without charge. The case is in the early pleading stage.

Chapman v. Board of Trustees—San Diego County Superior Court
Hill v. Trustees, et al.—Los Angeles County Superior Court
Marvin Chapman and nine other present and former SDSU temporary employees seek a writ of mandate to reclassify them to permanent status. Crystal Hill, a former temporary CSUN employee, also seeks a writ of mandate to reclassify her and other similarly situated persons to permanent status. Both claimants are members of CSEA and contend that they attained permanent status by virtue of the Education Code provisions which took effect, either because collective bargaining was at impasse, or because one collective bargaining agreement had expired and no new agreement was yet in place. The first case is set for hearing on March 20, 1998, the second, on April 17, 1998.

Equal Employment Opportunity Commission v. Humboldt State University, et al.—United States District Court, San Francisco
The EEOC filed this lawsuit against the CSU and the CFA, alleging that not continuing teaching entitlements after age 70 for faculty members in the Faculty Early Retirement Program (FERP) and Act. At the time the faculty members whose interests are impacted elected to enroll in FERP and
accept its benefits, mandatory age 70 retirement was permissible in higher education. It was therefore mutually anticipated that the FERP entitlements for these faculty members would cease at age 70 and that was incorporated into FERP. The law has since changed, and as a consequence the EEOC now argues that the teaching benefits of the impacted faculty must be extended for life. The terms of FERP currently provide for a gradual curtailment of teaching entitlements over time without respect to age. The case is in the early pleading stage.

Spragg v. Board of Trustees, et al.—San Diego County Superior Court
SDSU student Julia Spragg was reported by her roommate to have smoked marijuana in their dorm room and to have committed other violations of the housing rules. Spragg refused to cooperate in an investigation of the housing violation and refused to attend a drug education course as directed. She was placed on housing probation and threatened with eviction. When she appealed the threatened eviction, the housing proceedings were rescinded, and she was charged with violation of the Student Conduct Code. Rather than proceed to a student disciplinary hearing, Spragg accepted the sanction of academic probation. She also moved out of the dorm voluntarily. In this lawsuit, Spragg claims that the CSU breached her student housing license agreement, violated her due process rights, and instituted unduly harsh and retaliatory disciplinary proceedings. The case is in the discovery stage.

Construction Cases
Monterey Mechanical Co. v. Pete Wilson, et al.—United States District Court, Sacramento
Monterey Mechanical Company was the low bidder on a major utilities upgrade project at California Polytechnic State University, San Luis Obispo, but was disqualified for failure to comply with the minority, women, disabled veterans provisions of the California Public Contracts Code. It filed suit claiming the statute creates an unconstitutional exclusive preference. It also requested issuance of a preliminary injunction which would have prohibited CSU from awarding the contract to the successful bidder and required that the award be made to Monterey Mechanical. That motion was denied. Cal Poly awarded the contract to the next lowest bidder which complied with the statute. Monterey Mechanical appealed. The appellate court reversed the lower court decision, ruling the statute, at least partially, unconstitutional. In a highly unusual move, the appellate court then requested briefs as to whether arguments should be reheard by the full appellate court panel. Briefs have been submitted and the matter is pending.

Employment Cases
Ali v. California State University, Northridge, et al.—United States District Court—Los Angeles & Los Angeles County Superior Court
Amir Ali, a former campus architect with responsibility to oversee earthquake repairs at CSUN, filed two lawsuits claiming that the campus misused FEMA funds. His federal action alleges violation of the False Claims Act. It is in the discovery phase. His state court action was dismissed for failure to exhaust administrative remedies.

California State Employees’ Association, CSU Division, SEIU Local 1000, AFL-CIO v. Public Employment Relations Board—California Court of Appeal, 2d Appellate District
CSEA, the exclusive bargaining representative for units 2, 5, 7 and 9 of the California State University,
allocation of FERP benefits based on age are violations of the Age Discrimination in Employment filed a petition for writ of review requesting the California Court of Appeal to overturn a decision of the Public Employment Relations Board (PERB). The challenged decision determined that CSU had not committed an unfair labor practice when it suspended Merit Salary Adjustments in 1992 before completion of PERB-administered impasse procedures. On December 17, 1996, the Court of Appeal reversed the PERB decision, ruling that it was improper for the CSU unilaterally to change the terms of the collective bargaining agreement before any impasse was declared, and that the CSU had no special statutory protection which permitted it to do so. The Court returned the case to PERB for an order which restores the salary adjustments, with interest, to all affected employees from the date of contract expiration until the successor agreement was negotiated (a one-year period). The parties are working with PERB to resolve various technical issues. Payments to most employees have been issued; not fully completed are those which require processing on an individualized basis.

CSU v. Academic Professionals of California—Los Angeles County Superior Court
This action was filed on behalf of the California State University against Academic Professionals of California (APC), the exclusive bargaining representative for certain bargaining unit 4-Academic Support employees, when APC refused to dismiss a grievance it had settled with the CSU. The settlement was reached after a hearing on the issue of arbitrability, but before the decision was rendered. APC continued to press for a decision, notwithstanding the settlement to which it had agreed. The CSU prevailed on its motion to enforce the settlement agreement and judgment in its favor was entered on August 25, 1997.

Tillinghast v. Humboldt State University, et al.—United States District Court, San Francisco & Sacramento County Superior Court
Professor Tillinghast brought this action in federal court after he forfeited an offer for a lectureship in the religion department at Humboldt State University because he would not sign the loyalty oath required of all state employees by the California Constitution. He alleges that the oath interferes with his religious beliefs in violation of the Religious Freedom Restoration Act. Professor Tillinghast subsequently filed a separate lawsuit in state court on these same issues.

On June 25, 1997, the United States Supreme Court invalidated the Religious Freedom Restoration Act on constitutional grounds. CSU then filed a motion for summary judgment in the federal action, which was granted on September 4, 1997. Professor Tillinghast has not pressed his state court claim.

Student Cases
California National Organization for Women, et al. v. Board of Trustees—San Francisco County Superior Court
Plaintiffs in this case claimed that CSU was in violation of the law because proportionally fewer female students were participating in NCAA sports than male students. In 1993, a Consent Decree was signed which requires each campus within the CSU to achieve gender equity in athletics by the 1998-99 academic year. According to the third report prepared to monitor progress on the
requirements of the Consent Decree, 55 percent of the NCAA-eligible undergraduates in the CSU are women and 45 percent are men; 44 percent of the intercollegiate athletic participants are women and 56 percent are men. This reflects an additional 3 percent increase in the overall participation rate for women since the date of the last report and a 7 percent total increase since these reports began. The ratios vary from campus to campus. The California State Polytechnic University at Pomona and Humboldt State have achieved the compliance which will be required of all CSU campuses with intercollegiate sports programs by the fall of 1998.

**Campos, et. al. v. San Francisco State University, et. al.**—United States District Court, San Francisco Elizabeth Campos, a disabled San Francisco State student, and STARS, an unincorporated association of 20 other disabled students at San Francisco State, have filed this action alleging various civil rights violations and a denial of educational opportunity based on the alleged existence of multiple, although unspecified, architectural barriers throughout the campus. The plaintiffs seek to represent a class of disabled CSU students. The California Faculty Association is also named as a plaintiff in the action claiming injury on behalf of disabled San Francisco State faculty. The CFA, however, expressly does not seek certification of any class. The plaintiffs are collectively represented by Disability Rights Advocates, an organization which has gained some publicity in the past for pursuing similar litigation against other organizations involving these issues.

The case is in the early pleading stage.

**Doe, et al. v. Regents, et al.**—San Francisco County Superior Court
This is a class action challenging the legal validity of the higher education components of Proposition 187. The case was filed against CSU, the University of California and the California Community Colleges. A preliminary injunction was entered on February 8, 1995, barring implementation of the new law before trial. On November 21, 1997, the Court issued a tentative decision dismissing this lawsuit because of the unconstitutionality ruling in the companion federal court action described below, which rendered moot any need to reach the issues in the state court suit.

**Gregorio T., et al. v. Wilson, et al.**—United States District Court, Los Angeles
This is one of several class actions filed in the Los Angeles Federal District Court challenging Proposition 187. The cases were consolidated before Judge Mariana Pfaelzer, who ruled in November of 1995, among other things, that the reporting requirements of the higher education components of Proposition 187 are unconstitutional. On November 14, 1997, Judge Pfaelzer ruled the balance of the claims preempted by the Personal Responsibility and Work Opportunity (Welfare Reform) Act. A final order has not yet been entered.

**Hollander v Munitz, et al.**—Sonoma County Superior Court
Lynne Hollander, the widow of 1960s Free Speech activist Mario Savio, sought unsuccessfully in this lawsuit to halt a Sonoma State campus referendum on a proposed student fee increase. The complaint alleged unfair election practices and noncompliance with trustee policy. A limited temporary restraining order was entered before the election; the court refused to halt the election but stayed implementation of the results pending a subsequent hearing. The referendum was thereafter
defeated. Hence, a fee increase is not currently planned for the Sonoma campus, and the parties stipulated that the issue in the subsequently scheduled hearing had become moot. The plaintiff’s counsel has nonetheless refused to dismiss this case and indicated his intent to amend the complaint to challenge fee election procedures systemwide.

**Landers v. Board of Trustees**—Los Angeles County Superior Court

J. Christopher Landers, a fine arts student at California State University Northridge, filed this lawsuit after the campus blocked access to his webpage on the CSUN computer, because it denounced State Senator Cathie Wright and advocated the candidacy of John Birke. The campus concluded that this constituted an impermissible use of state resources for a partisan political purpose.

Landers’s application for a temporary restraining order to prohibit the campus from interfering with his freedom of expression was denied. The campus policy on computer use was thereafter amended to clarify that computer use is restricted to university business, including uses associated with the academic programs of the university. Before a different judge, Landers was nonetheless successful in gaining a preliminary injunction against any campus policy which limits the use of the computer for political purposes. The Court reasoned that having once created a limited public forum, campus policy cannot thereafter restrict political use.

Both parties filed motions for summary judgment. The CSU’s motion was granted and judgment was entered on September 27, 1997. Landers has filed an appeal.

**Martinez v. State of California, et al.**—Sacramento County Superior Court

Karen Martinez, an applicant for the Executive Fellowship Program jointly managed by the Center for California Studies at CSU Sacramento and the Governor’s Office, contends in this lawsuit that her selection as an alternate, rather than a finalist, was a product of age discrimination. She bases her claim on a comment made by a representative from the Governor’s Office during a committee meeting, which was disclosed to her by one of the CSU members of the committee. The university is being jointly defended with the Governor’s Office by the Attorney General. On October 24, 1997, the CSU’s motion for summary judgment was granted. Plaintiff has filed an appeal.

**Muenzberg v. Barnes, et al.**—United States District Court, Sacramento

Darrin Muenzberg, a former California Maritime Academy student, claims various civil rights violations because he was allegedly “singled out” and retaliated against for supporting a fellow student who filed a race discrimination complaint against then-Vice President for Student Services Stephen Barnes. (Barnes has since left the Academy and filed his own lawsuit against the CSU). The retaliation included, among other things, being subjected to an unauthorized drug test. Barnes is being provided a separate defense at CSU expense pursuant to a reservation of the right to disclaim responsibility for his conduct.

The case has been transferred to the United States District Court for the Eastern (in Sacramento) District. It is in the initial pleading stage.
Neal, et al. v. Board of Trustees of the CSU, et al.—United States District Court, Fresno

Members of the CSU Bakersfield wrestling team, both men and women, filed this lawsuit to enjoin the elimination of wrestling, or the placement of any cap on the male membership of the team, in order to comply with the Consent Decree in the Cal NOW litigation described above. The plaintiffs argue that both the Consent Decree and the federal regulations implementing Title IX are discriminatory.

On December 26, 1997, the Court ruled that achieving proportionality in male and female participation in athletics is not a “safe harbor” against claims of (reverse) discrimination. The opinion acknowledges its inconsistency with five federal appellate opinions which have considered this same issue. It follows instead a lone Louisiana district court opinion. The Court also issued a temporary restraining order reinstating seven male wrestlers who had been cut from the team pending a preliminary injunction hearing scheduled for March 16.

The Court has not foreclosed the CSU from justifying its actions with respect to the Bakersfield wrestling team, but has determined that achieving proportionality is not, by itself, a sufficient justification. This preliminary decision does not relieve the CSU from any of its obligations under the Cal NOW Consent Decree.

Other Cases

City of Arcata v. Board of Trustees—Humboldt County Superior Court

The city of Arcata brought this action to compel Humboldt State University to pay a “Stormwater Drainage Fee” imposed on all property owners of impervious surface areas within the city limits. The city argued that this is a user charge to which the university is subject. The university argued that it is a special assessment which, under statute, it cannot pay without a negotiated agreement which the city refuses to enter, or that it is a special tax improperly imposed without the two-thirds vote required by the Constitution. The case was tried in June 1997, and on November 4, 1997, the Court issued an opinion that the fee is a user charge to which the university is subject. The parties are now in discussion about an appropriate offset to this fee for the city’s use of stormwater drains maintained by the university.


This lawsuit challenges the constitutionality of Proposition 209 passed by the voters in November of 1996. The CSU is not named as a party to the action, but at an early hearing, Judge Thelton Henderson certified a defendant class, consisting of all public entities impacted by Proposition 209, which includes the CSU. Plaintiffs have served formal notice of this class on the CSU, which brings it into the lawsuit as a member of the defendant class. Judge Henderson entered a preliminary injunction in December of 1996 which prohibited the defendant class, including the CSU, from implementing or enforcing Proposition 209. In April of 1997, Judge Henderson’s injunction was vacated. A petition for rehearing before the full appellate court panel was denied. The United States Supreme Court refused to accept the case on November 3, 1997, the final legal avenue. Proposition 209 is now effective law in the state of California.
Native American Heritage Commission, et al. v. Board of Trustees—Los Angeles County Superior Court
In this action the Native American Heritage Commission and 29 individuals claimed that a 22-acre site on the CSU Long Beach campus should not be developed because it is the location of the ancient Native American village of Puvungna and the only public land suitable as a customary place of worship for certain Native American religions. In April 1995, the CSU’s motion for summary judgment was granted. Plaintiffs appealed. In December 1996, the California Court of Appeal overturned the trial court opinion, ruling that because it is a part of the state, the CSU lacks standing to challenge the constitutionality of the statute which permitted the plaintiffs to file this suit. The CSU’s petition to the California Supreme Court was denied. The parties are currently engaged in settlement discussions.

Smart v. Flores, et al.—San Luis Obispo County Superior Court
Plaintiffs are the parents of a Cal Poly student who has been missing since May 1996. The student was last seen returning from an off-campus party with defendant Flores, also a student. Various law enforcement agencies, including the Cal Poly Public Safety Department, have been actively involved in the investigation of this situation, treating it as a potential homicide. The case has generated much press interest and the attention of various elected officials.

Plaintiffs’ initial theories against Cal Poly were an alleged negligent police investigation and inadequate lighting, security devices and security personnel. After three attempts at pleading a legally viable claim, the Court dismissed this case. Plaintiffs have stated their intent to appeal.

Trustees v. Riley—United States District Court, Los Angeles
An audit performed by the Department of Education into CSU’s administration of Pell Grant funds during the period from July 1, 1983, to May 31, 1986, resulted in a determination that CSU owed over $500,000 in interest allegedly earned while funds were in interest bearing accounts awaiting distribution to beneficiaries. An abstract employing generally accepted accounting principles demonstrates that CSU actually lost money in administering the Pell Grant funds. An administrative law judge ruled in CSU’s favor, but was overturned by the Secretary of Education. After unsuccessful efforts in Washington, D.C., to resolve this dispute, CSU filed suit. Judgment was entered in favor of CSU. The Secretary of Education appealed. The Ninth Circuit Court of Appeals affirmed, in part, the lower court’s decision, and ruled that the Department of Education’s method of calculating interest was arbitrary and capricious. The case was sent back to the trial court, and the Department of Education ordered to recalculate the interest. Notwithstanding the Ninth Circuit opinion, the Department of Education continues to calculate the interest employing the old methodology, and has taken the position that the CSU owes over $1 million. The CSU petitioned the trial court for relief. The Court required the CSU first to pursue another administrative appeal. Prior to pursuing that appeal, the administrative law judge has ordered the parties to attempt to settle the matter. The parties are engaged in settlement discussions.
COMMITTEE OF THE WHOLE

Private-Sector Participation in Development of the North Campus Property at California State University, Northridge

Presentation By
Blenda J. Wilson, President
California State University, Northridge
Richard P. West, Senior Vice Chancellor
Business and Finance

Summary
The concept of utilizing a joint public/private partnership to develop the 65-acre property, known as north campus, of California State University, Northridge has been discussed at several previous meetings of the board. The latest action was at the May 1996 meeting, when the trustees approved a concept plan for the development of a retail center (the University MarketCenter) on approximately 20 acres of the north campus area. In September 1997 it was determined that the anticipated revenue from the revised University MarketCenter did not merit development of the project as proposed, and plans for the project were discontinued.

The purpose of this item is to update the board on the development of the north campus area and to request support for a new plan to develop up to 28 acres of the university’s north campus area for biotech uses through a public/private partnership as the first part of the development of the entire north campus area.

Recommended Action
Approval of the resolution.
ITEM

Agenda Item 2
March 17-18, 1998

COMMITTEE OF THE WHOLE

Private-Sector Participation in Development of North Campus Property at California State University, Northridge

California State University, Northridge (CSUN) is proposing to enter into a partnership with a developer/tenant to develop up to 28 acres of the university’s north campus for biotech (research and development) uses. The biotech development will be fully funded by Alfred Mann and several of his biotech companies, including MiniMed, Advanced Bionics, MRG, and the Alfred Mann Foundation under a 40-year lease with the university. This proposed development will provide academic facilities and a source of revenue to support the campus’s educational mission. The campus is requesting the trustees to support this new campus plan to develop up to 28 acres of the university’s north campus area for biotech uses through a public/private partnership as the first part of the development of the entire north campus area.

Background

Development of the north campus has been a goal of the university for more than a dozen years beginning in 1967 with the proposed development of residential towers for student housing and continuing in 1976 with preliminary plans for a new stadium. In the mid-1980s the student housing portion of a larger planned development was completed.

Historically, the north campus area has been known by a variety of names: Devonshire Downs (when used as a state fairgrounds), north campus (after transfer to the university from the 51st Agricultural District), and, more recently, University Park. Several land use plans have been developed and pursued with the goal of furthering the university’s education mission. Initial plans included a student housing development of eight residential towers for student housing. Only one tower was built in 1967 and is now scheduled for demolition in the coming weeks due to extensive earthquake damage. In 1976-77, preliminary plans were explored for a new and larger sports stadium to replace the stadium presently located in the area of the Devonshire Downs racetrack. Subsequently, a performing arts center was considered. In 1981, the University Village Apartments, a federally subsidized campus housing project consisting of 120 one- and two-bedroom units was constructed and is still in use and fully occupied.

In the mid-1980s, Watt Industries was selected by the university to be the master developer for the north campus. CSUN formed an auxiliary organization called the North Campus/University Park Development Corporation to assist with implementing the proposed development with a mix of office-professional buildings, a hotel and convention facility, restaurants, and light industrial uses. The university was to benefit from the development through joint use of some of the facilities and by use of commercial profits to construction facilities for the university on the north campus and the main campus. This partnership arrangement between Watt and the university was dissolved at the request of the developer in 1992 after completion of only the student housing portion of the planned development.

In early 1995 following the university’s initial earthquake recovery effort in 1994, the campus began to re-explore uses for the north campus area to generate revenue to support the university’s educational mission. CSUN undertook a public selection process to build a public-private partnership to foster this development. In September 1995 the campus sent a Request for Qualifications to more than 150 real estate development firms across the country and received responses from nine development firms in
November 1995. The concepts ranged from 20 acres to 65 acres of development on the north campus, including housing, a sports arena/performing arts complex, a golf driving range, and several combinations of retail development. Following selection of a retail development, the University MarketCenter, a draft EIR was prepared. However, due to community concerns, the project was scaled down. A task force comprised of community members from business associations, chambers of commerce, and homeowners groups, and university staff, faculty, students and alumni was established in April 1997 to develop a concept plan for the 65-acre north campus area. The concept plan includes a variety of uses such as a hotel/conference center, movie studios/production facilities, research and development facilities, retail, and a football stadium. In September 1997 it was determined that the anticipated revenue from the revised University MarketCenter did not merit development of the project as proposed, and plans for the project were discontinued. The current proposals for the north campus are the result of proposals submitted to the university to implement the concept plan proposed by the university’s task force, primarily the result of suggestions offered by staff of L.A.’s Business Team, Office of Mayor Riordan, City of Los Angeles.

Program

The North Campus/University Park Development Corporation, a recognized auxiliary organization at CSUN, is currently negotiating a ground lease with a series of affiliated biotechnology companies to develop approximately 28 acres of the north campus. The corporation has adopted the following goals for the development of north campus:

1. Develop a public-private partnership;
2. Develop strong academic ties and facilities spanning a broad range of CSUN’s colleges and departments;
3. Provide a source of steady, predictable, and safe revenue with no risk to the university; and
4. Provide an economic stimulus to the San Fernando Valley and surrounding region.

Proposed North Campus Development Plan, Design Concept, and Master Ground Lease

The north campus development’s proposed biotech uses will provide academic facilities and a source of revenue to CSUN to support the university’s educational mission. The proposed biotech uses will have academic linkages to several CSUN colleges/departments including, but not limited to, the following:

- College of Engineering and Computer Science
  - biomedical engineering
  - biomechanics
  - assistive technology

- College of Health and Human Development
  - communicative disorders and sciences
  - physical therapy
  - radiological technology
  - nursing
  - assistive technology applications
  - therapeutic programs for the physically disabled
College of Science and Mathematics
  • bio-remediation research
  • molecular genetics of human disease
  • molecular biology of human parasites
  • genetic counseling
  • environmental interactions of the immune systems
  • biotechnology (cellular, molecular and immunological techniques)
  • medical technology
  • mathematical modeling
  A variety of extended learning opportunities

The northern portion of the site will be developed, by the private sector, with approximately 28 acres of biotech uses (including the development of four two-story buildings for research and development and a 40,000 two-story conference center for lectures, meetings and other academic programs). Although the buildings will be built by the private sector for the university, the fee ownership in the land will not be sold and the buildings will serve as part of CSUN’s academic facilities; students, staff and faculty, for example, will work with the private-sector tenant(s) on a variety of research and development projects.

The biotech uses would include four research and development buildings totaling up to 680,000 square feet surrounding a 40,000-square-foot conference center, with parking areas located at the corners. The biotech uses and academic facilities will not require the use of hazardous or toxic materials. Dense landscaping would define the site’s perimeter, consistent with the overall campus master plan’s objectives for landscaping, buffers and campus identity.

**Fiscal Benefits to Campus**

A component of the biotech development will be the construction for CSUN of a 40,000-square-foot conference center; this center will be built for CSUN use by the biotech developer/tenant. The conference center will include rooms for small meetings, seminars and lectures, as well as a large meeting room (with stadium-style seating). This facility has an estimated construction value of over four million dollars.

Although title to the property will continue to be held by the state of California for use of the Board of Trustees of the California State University, private development is possible using a long-term ground lease with a recognized CSU auxiliary organization. A long-term lease between the North Campus/University Park Development Corporation and the university will enable the corporation to sublet the project area.

Current negotiations with the prospective developer/tenant will conclude in the coming weeks. At appropriate times during the development process, a Master Ground Lease and sublease will be submitted to the board for approval. The Master Ground Lease will be between the trustees and the North Campus/University Park Development Corporation, and the sublease between the University North Campus/University Park Development Corporation and the developer/tenant of the biotech uses, Mr. Mann and his consortium of biotech companies.

The proposed north campus public/private development will generate ground lease revenue for CSUN’s North Campus/University Park Development Corporation. The biotech development will be developed
by Alfred Mann and several of his biotech companies (MiniMed, Advanced Bionics, MRG, and the Alfred Mann Foundation) under a 40-year ground lease. The revenue from the ground lease for the biotech uses is currently estimated to be as follows:

<table>
<thead>
<tr>
<th>Year of Ground Lease</th>
<th>Acreage</th>
<th>Sq. Ft. of R&amp;D Space to be Developed</th>
<th>Annual Ground Lease Revenue</th>
<th>Total Ground Lease Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>15</td>
<td>550,000</td>
<td>$352,836</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>15</td>
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<td></td>
</tr>
<tr>
<td>3</td>
<td>15</td>
<td>550,000</td>
<td>$352,836</td>
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</tr>
<tr>
<td>4-10</td>
<td>28</td>
<td>720,000</td>
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<td>$1,166,798</td>
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</tbody>
</table>

Summary
This report provides a status of the negotiations and plans that will allow California State University, Northridge to develop, with the assistance of the private sector, approximately 28 acres as the first part of the development of the entire north campus area. The program will be implemented through working agreements with a specific private sector developer to lease state land and finance, design, construct and operate designated facilities for the benefit of the university.

The following resolution is recommended for approval:

RESOLVED, By the Board of Trustees of the California State University, that the trustees:

1. Support the concept for the development of biotech (research and development) uses on the north campus property at California State University, Northridge through participation in a public/private partnership.

2. Will consider the following action items for approval at appropriate times during the development process:
   (a) Specific development program(s) negotiated by the campus and the specific developer, with the advice of the Office of the Chancellor;
   (b) Master Plan revisions, as needed;
   (c) Proposed schematic plans and environmental documentation for all facilities.

3. Confirm the chancellor’s authority to enter into such leasing and other associated agreements as necessary to implement the process for specific development programs approved by the trustees.