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“Barnes agreement took frenzied days of hard bargaining”

The famed art collection's Center City move had seemed doomed just 10 days earlier.

by Patricia Horn

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Gov. Rendell brought his charm and negotiating skills - and the power of the state purse - to the table when he helped broker a deal between Lincoln University and the Barnes Foundation last week.

That deal, which Lincoln's full board of trustees must vote on Saturday, would have the university drop its opposition to the Barnes court petition to move its famed art collection from Lower Merion to Center City.

Lincoln's withdrawal would for the first time allow the Barnes to present an unopposed plan to the Montgomery County Orphans' Court, which oversees charitable trusts. That court will make the final decision.

"It was touch-and-go through the last couple of weeks, even touch-and-go today," Rendell said Friday. "The main thing that we had to get over was we had to build a level of trust on both sides."

Rendell said he and Attorney General Mike Fisher, who also played a key role in the deal and who supports the Barnes petition, are prepared to meet with the Lincoln board before it votes Saturday.

Lincoln, for its part, has been quiet about the agreement.

"We do not want to comment on the agreement until all Lincoln board members have had an opportunity to review all of the materials to make their decisions at our board meeting on the 20th," Frank Gihan, chairman of Lincoln's board, said yesterday.

Just two weeks ago, the Barnes was set to withdraw its court petition because it had not been able to reach a deal with Lincoln and the case was looking to be long and expensive.

Lincoln, a historically black college in Chester County, has vigorously opposed the petition because it would weaken the university's influence over the Barnes. The university was granted the right to nominate four of five seats on the Barnes board by founder Albert C. Barnes before he died in 1951. The Barnes petition had originally proposed giving Lincoln only four seats on an expanded board of 15.

Friday's agreement would ultimately give Lincoln five seats, although Lincoln had argued in court to maintain its 80 percent majority.

Rendell said Friday he would help lead Lincoln's efforts to raise private funds for its \$100 million capital campaign, similar to what he did for the Kimmel Center for the Performing Arts as mayor of Philadelphia.

He will also submit a budget item to increase state aid for the state-related university's capital budget. He will submit it a week from tomorrow, two days after the Lincoln board vote. Rendell would not say how much Lincoln would receive.

Rendell, who is an ex-officio member of the Lincoln board and has appointed two of its board members, stressed Friday that he would submit the request and help with fund-raising no matter how Lincoln voted.

"This was not a quid pro quo," Rendell said. Lincoln president Ivory Nelson "had written me a while ago on the Lincoln capital budget requests. I said I would be helpful. . . . Looked at historically, Lincoln has been significantly underfunded."

Gihan would not comment on the potential increase in state aid.

"We are happy with any support and the interest of the governor and others. We are really happy about that," Gihan said. "It is long overdue."

Rendell first met with Lincoln's president and two members of its executive committee about a week and a half ago, Rendell said. The meeting happened a few days after Barnes attorneys had told a judge they would likely withdraw their court petition because the Barnes had not settled its differences with Lincoln.

In the meeting, Rendell told the university officials he would increase their aid and help lead the fund-raising for their capital campaign.

Rendell, while key to the deal, had help during the last two weeks in persuading Lincoln officials to give up their right to nominate a majority of seats on the Barnes board.

Fisher, whose office oversees the state's charities and has a role in the court petition, worked closely with Rendell. And Mayor Street signed a bill Friday that would open up land on the Benjamin Franklin Parkway for a future Barnes museum.

The chiefs of the Pew Charitable Trusts and the Lenfest Foundation; teams of lawyers; the executive committees of Lincoln and the Barnes; and other city players spent a frenzied Wednesday, Thursday and Friday finalizing an agreement.

The reason for such involvement is that many of the city's civic leaders see the Barnes' move to the Parkway as key to continuing the redevelopment of the city. The Barnes would be near the Philadelphia Museum of Art, the Rodin Museum, the Franklin Institute, a potential Calder Museum, and not far from the Pennsylvania Academy of the Fine Arts.

Neither side would provide a copy of the agreement. As outlined Friday, Lincoln would have the right to nominate three trustees after the court approves the agreement. That would give Lincoln seven seats on an expanded 15-member Barnes board.

In December 2004, after the terms expire for two of the Barnes' current trustees nominated by the university, Lincoln would have five seats on the board, just one more than it has now.

That means Lincoln no longer would nominate the majority of trustees - a right it had fought for a year to protect.

The two sides are still working out details of a joint art and horticulture degree program, which will not be part of the official agreement.

Last September, the Barnes, backed by three Philadelphia foundations, petitioned the court to move its multibillion-dollar art collection - which includes scores of masterpieces by the likes of Cezanne, Matisse and Renoir - to a new, more accessible museum on the Parkway.

The three charitable foundations - the Pew Charitable Trusts and the Lenfest and Annenberg Foundations - agreed to pay the Barnes' legal fees, help with its operating costs, and raise \$150 million to pay for the move and to rebuild the Barnes' endowment, which had been depleted during the 1990s.

Without the foundations' backing, the Barnes said, it would have had to file for bankruptcy.

That petition looked dead Sept. 2 when the Barnes lead attorney told Orphans' Court Judge Stanley Ott that it was likely going to withdraw its petition because the three foundations no longer wanted to fund the case.

At that point, with the first hearing scheduled for December, and with a probable appeal, the case would stretch into 2005, with the three foundations on tap for legal costs and operating support until then.

After it became public that the petition might be dropped, Rendell and Fisher got more involved.

Thursday afternoon, Rendell and Fisher presented the plan to Gihan, and Gihan agreed to present it the next morning at a meeting of his executive committee.

The Barnes board met at 10 a.m., and in late afternoon announced the deal.

Next for the Barnes

Saturday: The full board of Lincoln University will vote on the agreement reached with the Barnes Foundation. If the agreement is approved, Lincoln will withdraw its opposition to the Barnes' plans.

Within a few weeks: The Barnes will amend its petition to the Montgomery County Orphans' Court and ask the judge to accelerate the first scheduled hearing, currently set for Dec. 8.

At the hearing: The Barnes will present its plans to move its art collection from Lower Merion to Center City and rewrite the charity's governing rules. The judge may schedule additional hearings before making a final decision.