

**Minutes of the Special Meeting of the Board of Regents of the University of
New Mexico
December 20, 2013
Roberts Room, Scholes Hall on Main Campus**

Members present

Jack L. Fortner, President
James H. Koch, Vice President
Bradley C. Hosmer, Secretary/Treasurer
Suzanne Quillen
J.E. 'Gene' Gallegos
Conrad D. James
Heidi N. Overton

Administration Present

Robert G. Frank, President
David Harris, EVP for Administration and COO
Chaouki Abdallah, Provost and EVP for Academic Affairs
Elsa Cole, University Counsel
Jewel Washington, Interim VP for HR
Michael Dougher, Interim VP for Research
Richard Larson, Executive Vice Chancellor HSC
Liz Metzger, Controller
Chris Vallejos, AVP Business Planning & Services
Andrew Cullen, AVP Planning, Budgets & Analysis
Tom Neale, Interim Director Real Estate
Maureen McGuire, Associate University Counsel
Pamina Deutsche, Director University Policy and Administrative Planning

Regents' Advisors present

Catherine Cullen, VP Parent Association for President Angi Gonzales Carver
Gene Henley, President Staff Council
Richard Holder, President Faculty Senate
Priscila Poliana, President GPSA
Isaac Romero, President ASUNM

Guests in attendance

Pete Domenici, Domenici Law Firm
Tracy Sprouls, Rodey Law Firm
Randy McDowell, attorney for STC.UNM
Anne Simon, EDA Liaison

Others in attendance

Members of the administration, faculty, staff, students, the media and others.

CALL TO ORDER

Regent Fortner called the meeting to order at 12:32 pm., a quorum was confirmed and the agenda was unanimously approved.

CONSIDERATION AND POSSIBLE APPROVAL OF INNOVATE ABQ @ DOWNTOWN

THE PROPERTY AND HISTORY

Regent Fortner introduced attorney Pete Domenici to speak about his experience with the First Baptist Church property, located at NW corner of Central Avenue and Broadway NE in downtown Albuquerque. Mr. Domenici said he was asked by the City of Albuquerque in 2011 to look at the subsurface soil and groundwater issues of the property because the City was considering buying the property at the time. Mr. Domenici confirmed diesel contaminated groundwater and soil that had been previously detected on the southwest corner of the property when some wells had been drilled, but up to that time the diesel contaminant had not been determined to be connected to the Railroad and an historic diesel loading site across the street from the property. In July 2011 Mr. Domenici made the following recommendations to the City:

- 1) Connect, or disconnect, the diesel contamination to the Railroad,
- 2) Enter the site into the State's voluntary remediation program, so that a 'covenant not to sue' could be obtained from the NM Environment Department,
- 3) Obtain indemnification from the Railroad protecting the property owner from losses that may occur due to diesel contaminants on the property,
- 4) Study the soil and groundwater contaminations to understand how they would affect the construction process
- 5) Look at other studies to confirm there were no other issues with the property.

Mr. Domenici said the covenant not to sue would provide protection from State as well as Federal lawsuits, because the EPA has a memorandum that it would honor with the State.

There followed discussion on the level of the water table at the property and depths of contaminated and clean soil. Mr. Domenici said an application for a voluntary remediation program was submitted by the Railroad on behalf of the Baptist Church in November, 2013. The Railroad proposed a remediation plan to bail out one of the 8 wells currently on the property and to monitor other wells in what would be called, monitored natural attenuation. Regent Gallegos asked about the timing of the voluntary remediation program, and Mr. Domenici said it could take up to 10 years as diesel is very slow to migrate. There was discussion about the source of the diesel being gone but the exact date of removal of the source was not confirmed.

TITLE AND GOVERNANCE STRUCTURE

Next, other attorneys addressed the issue of title to the land and governance structure of Innovate ABQ. Maureen McGuire spoke about the EDA (Economic Development Administration) requirements of the \$1.498 Million federal EDA grant that was awarded to STC.UNM and conditions of the grant stipulating STC must be the sole owner of property purchased with the grant money. Randy Sprouls, addressed governance structure and said there would potentially be three legal relationships involved, those being between STC and the University, STC and the City, and STC and the EDA. With regard to the relationship between STC and the University, the University would enter into an MOU with STC specific to the Innovate ABQ research park. Regent Koch asked what the responsibilities are to the EDA concerning the project, and Lisa Kuuttilla answered there is a 24 month deadline to start construction and 36 month deadline to complete construction. Regent Quillen asked if the property were ever to be sold, would the grant money have to go back to the EDA. Mr. Sprouls said the EDA could very well release STC of any payback obligations after a 24 year period. Regent Quillen expressed her concerns of the stipulations of only one grant causing a complete change from the originally planned governance structure of a Limited Liability Company (LLC) for the project. President Frank said he believes the revised structure of the deal, as opposed to the original plan advocating creation of an LLC, is probably a better setup because the University will have full control of the project.

Regent Hosmer pointed out the setup of the governance and management structure of the future business operations of the research park will be a critical consideration down the road, adding that looking at the history of incubators around the country that are similar to the Innovate ABQ plan, there is a wide range of successes that appear to be dependent upon the way in which the business operations are managed and governed.

Regent Overton asked if assets on STC's balance sheet would appear on UNM's consolidated balance sheet. Andrew Cullen confirmed with Controller Liz Metzger that they would.

CONTRIBUTORS AND TIMELINES

Regent Koch inquired about the positions of the City of Albuquerque and New Mexico Educators Federal Credit Union with regard to stipulations on monies each entity agreed to put toward Innovate ABQ downtown. Maureen McGuire said the City would like there to be in place a good faith agreement whereas if the project does not get off the ground and the property is sold, the City would receive a proportionate share of any sale. In a similar case, the credit union would want to agree on an acceptable alternative for use of the funds or the funds be returned if the project does not go forward. The Regents expressed concern the stipulations were not, at the time of the meeting, in the form of formal agreements.

Regent James asked to walk through the timeline of necessary approvals and deadlines, the first being the acceptance deadline of the EDA grant which was confirmed to be January 5, 2014 and whether that conflicts with the closing date of the Baptist Church property coming later. Ann Simon, economic development program manager and a liaison to the EDA, said the EDA is interested in economic development in the region and therefore would work with UNM if any problems arise with regard to closing on the First Baptist Church property. It would be important to be fully communicative with the EDA regional office in Austin, Texas if any problems do arise. There was further discussion about timing of acceptance of the grant and timing of approval and closing on the First Baptist Church property.

CONTINGENCIES ON APPROVAL

Regent Fortner asked if Regents might proceed with an approval contingent on extension of the due diligence period and receipt of a covenant not-to-sue.

Tom Neale said the First Baptist Church is willing to extend the due diligence period beyond December 31 to terminate 5 days after issuance of a covenant not-to-sue, which could take as long as 120 days to secure. He added that during the expanded due diligence period there would be a phase I inspection for asbestos and lead-based paint. Mr. Domenici said voluntary remediation applications are usually completed, they just take time. Tom Neale recommended the following three contingencies on an approval:

- 1) Related to the groundwater and soil voluntary remediation program (VRP), that before closing the NM Environmental Department issue a covenant not-to-sue.
- 2) An indemnity agreement acceptable to the Regents be in place between the Railroad and the Church
- 3) Completion of an additional Phase I environmental assessment of asbestos and lead-based paint with quantifiable results that show levels to be manageable.

Regent Hosmer recommended there be other contingencies on approval related to the claw backs mentioned earlier and that they be formally documented.

Regent Koch asked if the \$7.136 Million estimate for purchase of the property plus related costs was a firm figure. Andrew Cullen said some of the related upfront costs and contingency estimates should be increased by 10%, recommending funds from the Regents' endowment be increased by 10% from \$640,000, bringing the total to \$704,000.

OTHER INCUBATORS

Regent James asked about other incubators in the City and their history including efforts with the City, County and State. Lisa Kuuttilla referred to the information in the binder and spoke about various business models with mixtures of foundation and private funding, including the recent BioScience Center in Albuquerque, which has so far been 100% privately financed.

STC MANAGEMENT TEAM

Regent Gallegos asked Lisa Kuuttilla to discuss the management team that would be in place for Innovate ABQ. There was discussion about the current structure of STC and the plan to ramp up the staff as needed for Innovate ABQ. There was discussion about the need for a business plan and the existence of a preliminary plan. Regent Quillen asked about the very low expenses estimated for a staff level of only 2 people and whether that was a realistic estimate. Ms. Kuuttilla confirmed staffing costs normally run light for incubators. Regent Quillen said it would be a reasonable question to ask, 'who is going to run Innovate ABQ?' Ms. Kuuttilla confirmed that more details would need to be fleshed out.

MASTER PLANNING AND DEVELOPMENT

Regent Overton asked about timing of the master plan and development. Ms. Kuuttilla mentioned work on the master plan would be delayed until closing on the property and would take 3-4 months to complete. Regent Quillen said there were inconsistencies in the message put forward because one news article quoted Ms. Kuuttilla as saying the master planning would take up to 2 years to complete. Ms. Kuuttilla confirmed it was probably a miscommunication and explained the comment most likely pertained to the timeline for a facility being in place downtown.

Regent Overton asked about a list of private developers that have expressed interest in the project. Ms. Kuuttilla said a list of the developers who have expressed interest was purposely left out of the information materials because their names should remain confidential until the time the master plan is completed and the organizations can formally bid on particular projects. There are 7-8 within the state and 3 out of state that have expressed a strong interest in the project.

There followed discussion about the timeline on raising \$14 Million of private investment by 18 months and the plan to resell the property if funds could not be raised. Regent Hosmer endorsed the idea that there not be an 18 month deadline set on the project, but instead there be included in the Regents' approval a review and reassessment by the Regents of the options for the project 18-24 months down the road.

At this time, Regent Fortner asked for questions and comments from Advisors and Faculty.

COMMENTS FROM REGENTS' ADVISORS

Bill Miller, member Retiree Association, spoke in favor of Innovate ABQ but asked that UNM not neglect the infrastructure needs of the university to ensure the departments are world class. He referred to the 60 year old Physics and Astronomy Building.

Gene Henley, Staff Council President, spoke in favor of Innovate ABQ but added it was not yet clear how staff would directly benefit. There is risk in the project but potentially greater risk in doing nothing. He advocated learning from others and utilizing the resources that UNM has in order to make Innovate ABQ a success. He asked the Regents to support the opportunity.

Richard Holder, President of the Faculty Senate, spoke in favor of Innovate ABQ and enumerated some strengths of the program, the primary strength being the partnership with the City. Another strength would be addressing the need in Albuquerque for more incubation space. Dr. Holder mentioned specific interest in the Innovation Academy, because students and faculty would directly benefit, but he added the committee working on it needs more faculty involvement. Dr. Holder brought up questions, one being how UNM's research park, which was started in 2003, will be impacted. Also the question of whether the project would dilute UNM's primary mission, that being of teaching and scholarship. We need to pay attention to our own needs on campus, and Innovate ABQ will be successful in so far as UNM is successful. Another important question, what are the metrics for measuring the success of Innovate ABQ?

Priscila Poliana, President GPSA, spoke in favor of Innovate ABQ and UNM's task as Flagship University to catalyze economic growth within the State. Students strongly support the concept of Innovate ABQ, and GPSA will move forward focusing its lobbying efforts on the Statewide Entrepreneurial Economic Development Act advocating the State create appropriations for investments in equity to encourage startup businesses owned by recent NM graduates from research 1 institutions. Those efforts would go hand in hand with Innovate ABQ.

Isaac Romero, President ASUNM, spoke in favor of Innovate ABQ and mentioned New Mexico has one of the highest per capita number of PhDs in the nation, lending potential to the project. He mentioned wanting to hear more about the long-term vision of the project and how students can benefit.

Catherine Cullen, VP of the Parent Association, for President Angi Gonzales Carver, spoke of potential positives the project could offer students but also expressed concern that the funds needed for the project could ultimately make a negative impact on the students in the form of higher tuitions.

Regent Hosmer asked to hear from the Provost and the Deans of the Colleges.

COMMENTS FROM THE PROVOST AND DEANS OF THE COLLEGES

Provost Abdallah spoke in favor of the project, adding that economic development is a part of the mission of public universities because universities have to focus outside the years the students are actually attending the university. UNM is concerned with the preparedness of incoming students as well as with what happens to the students when they leave. Innovate ABQ is something UNM can do to try to foster economic development; it might be high risk but it could also be high reward and is better than doing nothing. It will not take away from the academic mission of the university but would integrate with many of the programs. As the project moves forward, a lot of the University's engineers, scientists and artist will be able to benefit.

Dean Doug Brown, of the Anderson School of Management, spoke in favor of Innovate ABQ. Many students leave New Mexico for higher paying jobs. The only thing currently succeeding in the State is the oil and gas and since that is a commodity, it can come and it can go, but a sustainable economic model for the State needs to come from innovation and startups. This is proving true around the country where energy, commitment and success have come from the innovation sectors. There are risks associated with this just like there are in any venture capital and startup. It's best to mitigate those risks and make sure they are under control, but there are bigger risks at not doing something bold for the future of UNM's students and for the community. There is also risk if UNM turns its back on the generous offers made by the City and the New Mexico Educators Federal Credit Union and the Federal government's generous gift, and then if later the University seeks support, perhaps support would not be there.

Dean Geraldine Forbes Isias, of the School of Architecture and Planning, spoke in favor of the project, and addressed UNM's role in the development of downtown Albuquerque by partnering with the City and County to provide leadership for city growth, infrastructure and transportation systems. The students in her school had already benefited from Innovate ABQ by participating in academic projects during the previous semester centered on planning and development of the project. The students don't see opportunities in the city in the creative sector to keep them here, but the types of jobs they need can be catalyzed by UNM working with STC. Dean Forbes urged the Regents to support Innovate ABQ, adding it will support the future of students and faculty and will bring in the caliber of faculty and students that UNM seeks. Regent Hosmer asked Dean Forbes to comment on Perkins and Wills as a planning and development organization; Dean Forbes said it is a world-class organization with national and international offices.

Dean Kate Krause, of the University College and the Honors College, spoke in favor of the project and how it could expand and provide better infrastructure for the interdisciplinary, multi-semester programs her colleges are already working on and would like to further develop. Working across disciplines is necessary in the business world and Innovate ABQ would offer students the opportunity to learn in an interdisciplinary setting during their education.

Interim Director Amy Wohlert, Public Administration Program, spoke in favor of Innovate ABQ saying the students are in favor because it will not only provide more job opportunities within the city but will create a more vibrant city. From the perspective of the Public Administration School, connections with the City, County and State governments are crucial to its success. The site of the First Baptist Church, being on a corridor between the University and Downtown, represents a collaboration between the City and the University that is important for the students and the school to enhance a downtown presence and improve opportunities for internships and interactions. The particular site for Innovate ABQ Downtown as well as the whole Innovate ABQ project is exciting to the Public Administration program and its students, and it is great the University is looking outward and not just inward.

PUBLIC COMMENT

Bill Brown, Administrative Director District 1199NM, NUHHCE, AFSCME, AFL-CIO, spoke in favor of the project. He read to the Regents a letter from the President of the National Union of Hospital and Health Care Employees that included the following comments: "This effort to engage the University's resources for economic development assistance to small and large business growth here in New Mexico would be commendable, if well thought out and if it were inclusive and transparent....While we would agree that folks should plan for the future and commit resources to growing jobs, we also think the UNM hierarchy should be having discussion of how to do this with all constituencies of our community."

Regent Gallegos had to leave the meeting at 2:41 PM.

EXECUTIVE SESSION

Regent Fortner asked for a motion to move into Executive Session to discuss the same agenda item -- consideration and possible approval of Innovate ABQ Downtown -- under the Open Meetings act exception for a closed meeting, that of discussion and determination where appropriate of the purchase, acquisition or disposal of real property pursuant to Section 10-15-1.H(8), NMSA (1978).

Regent Koch motioned to move the meeting into Executive Session. Regent Hosmer seconded the motion. The motion passed by unanimous 6-0 vote, with a quorum of Regents present and voting.

The meeting moved into Executive Session at 2:42 PM for discussion and determination where appropriate of the purchase and acquisition of real property pursuant to Section 10-15-1.H(8), NMSA (1978).

At 3:19 PM, Regent Koch motioned to re-open the meeting. Regent Hosmer seconded the motion. The motion passed by unanimous 6-0 vote, with a quorum of Regents present and voting.

There was certification that only those matters described in section 10-15-1.H(8) of the Open Meetings Act were discussed in closed session and any actions would be taken in Open Session.

OPEN SESSION

Motion #1: Regent Hosmer moved the Board of Regents approve STC.UNM acquiring title to the First Baptist Church Property, located at 101 Broadway Blvd. NE, Albuquerque, New Mexico, for the benefit of the University in connection with its Innovate ABQ Project. Regent Koch seconded the motion. The motion passed by unanimous vote of 6-0 with a quorum of Regents present and voting.

Motion #2: Regent Hosmer moved that the Board of Regents approve the purchase and sale agreement of the First Baptist Church Property, located at 101 Broadway Blvd., Albuquerque, New Mexico, subject to the following conditions:

- 1. The execution of an environmental indemnity agreement by the Burlington Northern Santa Fe Railway Company in a form acceptable to the Board of Regents;**

2. The procurement of a Phase One Environmental Assessment to protect purchaser from other environmental contamination (not BNSF), the results of which that are acceptable to the Board of Regents; and
3. An amendment to the purchase and sale agreement extending the Inspection Period until receipt of a Covenant Not to Sue by the New Mexico Environment Department in a form acceptable to the Board of Regents.

Regent Koch seconded the motion. The motion passed by unanimous vote of 6-0 with a quorum of Regents present and voting.

Motion #3: Regent Hosmer made a motion with regard to the purchase of 101 Broadway Blvd. NE, Albuquerque, New Mexico, that after due acceptance of the \$3,000,000 pledge from the New Mexico Educators Federal Credit Union, the \$2,000,000 contribution from the City of Albuquerque, and the \$1,500,000 grant from the US Department of Commerce, Economic and Development Administration, the Board of Regents approve the withdrawal of funds from the Board of Regents Endowment Fund to be applied toward the remainder of the purchase price and related project costs. The withdrawal of the funds from the Board of Regents Endowment Fund shall not exceed \$800,000, with total expenditures not to exceed \$7,300,000. Regent Koch seconded the motion. The motion passed by unanimous vote of 6-0 with a quorum of Regents present and voting.

Motion #4: Regent Hosmer moved that after 24 months from the closing date of the acquisition of the property, the President will provide a status report to the Board of Regents of the Innovate ABQ Project with options for how to proceed. Regent Koch seconded the motion. The motion passed by unanimous vote of 6-0 with a quorum of Regents present and voting.

ADJOURNMENT

Regent Koch motioned to adjourn the meeting. Regent Hosmer seconded the motion. The motion passed unanimously.

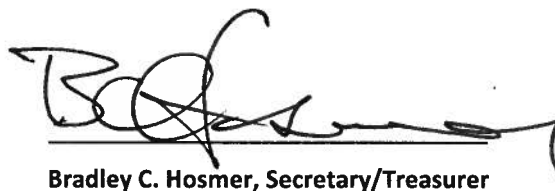
The meeting adjourned at 3:22 PM.

Approved:

Attest:



 Jack L. Fortner, President



 Bradley C. Hosmer, Secretary/Treasurer

Minutes originated by: Mallory Reviere
 Minutes finalized by: Mallory Reviere