

**MINUTES OF THE SPECIAL MEETING OF
THE REGENTS OF THE UNIVERSITY OF NEW MEXICO**

**June 20, 2006 at 3:30 pm
Conference Room at the Faculty Club**

ATTENDANCE:

Regents present:

Sandra Begay-Campbell
John "Mel" Eaves
Raymond Sanchez
Roselyn Nguyen

Regents attending via conference phone:

Regent James Koch
Regent Don Chalmers

Regents unable to attend:

Regent Jack Fortner

Others in attendance:

Acting President David Harris
Michael Carroll, VP Advancement
Patrick Apodaca, University Counsel
Steve Beffort, AVP Business Development
Kim Murphy, Director, Real Estate
Ted Garcia, KNME (via conference phone)
Scot Sauder, UNMH Counsel (via conference phone)

Regent Begay-Campbell chaired the meeting.

Motion approved to call the meeting to order at 3:30pm.

Motion approved unanimously to adopt the agenda

**APPROVAL OF EXERCISE OF OPTION TO PURCHASE ELKS LODGE REAL
ESTATE AND FUNDING OF PURCHASE PRICE**

- University Counsel Apodaca had prepared a formal Resolution for consideration, a copy of which is attached to these minutes. Regent Eaves read the entire Resolution for the record.
- With regard to the Resolution presented, Regent Sanchez suggested stating the authority to exercise the option right after the third "Whereas" clause of the form Resolution. He questioned the inclusion of the language "owning instead of

leasing the Property.” “Under number 1, you could just say because the exercise of the option to purchase and consummate the closing, probably get rid paragraphs 2 and 3. I have always been one for the less said the less to argue about later.”

- Mr. Apodaca stated that the primary purpose of the “whereas” clauses is to summarize the subject transaction, which is to exercise the option to purchase. Most of those “whereas” clauses really deal with describing some of the benefits or the business justifications for exercising the option. I am referring to the 3rd, 4th and 5th “whereas” clauses. In terms of the actual resolutions on page two, the reason they are stated as the Regents authorizing “officers” to exercise, is to describe the mechanics of sending the exercise notice and specifying the person authorized by the Regents to send such notice.
- Regent Sanchez stated that the language to take such steps might be all inclusive.
- Mr. Apodaca stated that paragraph two could be stricken. Paragraph number three refers to authorizing the officers to reach agreement on a definitive agreement. That agreement might be something brought back to the Regents for final approval. In this case it is actually a form that is attached to the lease. Most of the terms of the agreement are already decided; so there’s not a whole lot to negotiate at this point. The primary purpose of paragraph number three of the Resolution is to authorize officers to reach a definitive sales agreement and to use sources of funding that the officers determine appropriate. Four and five are boiler plate, four being simply a savings clause in case any part of these resolutions are specifically invalidated. Number five, again, is boiler plate. The principal resolution clauses that I see as essential to the Resolution are one and three.
- Regent Sanchez said he was satisfied as long as we are not adding language that gives us more to argue about. If you tell me it doesn’t, I’m perfectly happy with the way it is.
- Mr. Apodaca said that he recommends this particular form of Resolution, recognizing in the future to be more sensitive to brevity.
- Regent Chalmers stated that he is fine to go with it, although he understands Regent Sanchez’ point and the simpler you can make a Resolution like this to get the job done, the better we are.
- Regent Koch said it is fine.

Motion carried unanimously to approve the Resolution in the form presented to authorize the exercise of the Regents’ option to purchase the Elks Lodge real estate and funding of purchase price.

APPROVAL OF KNME LEASE OF BROADBAND CAPACITY TO SPRINT

- Vice President Mike Carroll provided an overview, stating that about three months ago, Joanne Bachmann, Scot Sauder and he made a presentation to the Finance and Facilities Committee regarding the proposal for the leasing of the KNME Broadband capacity. The Regents asked them to please go back and determine if there was more capacity. They did so. They got some good advice from counsel. A few weeks ago, the two parties who originally expressed an

interest in leasing the capacity came back and proposed new deals. Last week, Scot Sauder prepared an excellent presentation to go out to the Regents describing the proposed transaction. What we are here asking you today is to react to that proposal and ask for guidance to go on with those continuing negotiations with the idea that we will bring a final agreement back for formal approval at the Regents meeting in August.

- Regent Eaves stated that this matter came before the Finance and Facilities Committee in December and again in February. At that time, as Scot Sauder's memo makes clear, the offer that had been received was way below what it is now. The Committee and President Harris basically said we are not interested, go back and renegotiate. It has turned out to be a very fruitful renegotiation. Regent Eaves is very pleased and thinks it is an excellent deal.
- Regent Eaves made a Motion to accept the Sprint offer and enter into the lease with the stipulation that the funds that are received under the lease be placed in some sort of quasi endowment or some other segregated fund, so that the use of those funds would be subject to approval by the Regents.
- Mr. Harris commented that Vice President Carroll had indicated that this would be brought back for action in August. As he understands this Motion, you are directing us to proceed in the interim, seal this up and then in August come back to the Regents with a report and a plan for use of the proceeds.
- Regent Eaves stated that the intent of his Motion is to accept this offer, it is such a good offer, and he is concerned they might have a chance to withdraw it.
- Mr. Apodaca stated that the memo you have from Mr. Sauder describes that KNME has eight available channels and that six would be leased and two kept by KNME. He indicated that he had spoken with UNM's FCC counsel, who indicated that the current deal is to lease all eight channels to Sprint. Two would not be reserved entirely to KNME. KNME would lease the excess capacity in the two to Sprint. KNME's needs in the two would be met first.
- Mr. Harris stated that as he understands the Motion, the direction from the Regents is for us to conclude the negotiations based on the proposals that we have received. It may change a little bit.
- Regent Eaves commented that we have a specific offer from Sprint. We are accepting the offer. It is a detailed offer. We are not modifying it, we are accepting it.
- Regent Chalmers asked if there are two offers on the table? Regent Eaves responded "Yes." The net present value difference is about \$70k. Over the life of the contract that is true, but over the first ten years there's about a \$900k difference. Because of the way technology changes, the income over the first ten years is probably the most appropriate analysis to look at and, if you do that, the Sprint proposal is about \$965k more favorable. Over the full 30 years it's about \$73k more favorable.
- Regent Chalmers asked, "Besides getting two bids, is there any other evidence what this Broadband is worth? Is there a regular market for it?" Mr. Carroll responded by saying, "There is, these entities are entering into agreements with other properties."

- This type of agreement is fairly common among institutional licensees and public television. Sprint is one of the primary suitors.
- Regent Eaves commented that one of the things the committee required was that Sprint go out and hire experienced FCC counsel who knew the market place so they could ascertain a comparison. It was by virtue of having done that, this 200% increase was obtained. Mr. Sauder's memo indicates that this is at the upper range of what these types of rights are worth. He says it is at the very top of the market for the lease of wireless Broadband channels. This is based on our expert advice from our counsel in Washington.

Motion carried unanimously to approve the KNME Lease of Broadband Capacity to Sprint, to authorize Acting President David Harris to conclude the negotiation, accept the Sprint offer, and report on fund distribution options to the Regents at the August 6, 2006 meeting.

- Mr. Harris commented that just as an information item, and consistent with the first agenda item, Mesa del Sol, he had asked Kim Murphy to prepare a closing statement that would describe the proceeds of the transaction and who is owed money. Mr. Murphy presented this as an information item.
- Mr. Murphy stated that what is on the information sheet is a gross sale figure from the closing statement of \$9,536,852. From that, the first thing that needs to be deducted is the cash payment to the State Land Office that balances the exchange. One of the exchange properties is actually owned by the UNM Hospital, the property on 528 Cottonwood Drive, and the value of that is \$935k, so those proceeds need to go to the Hospital. The next item is expenses related to Mesa del Sol over an extended period of time, that portion which is unreimbursed. We were able to negotiate a reimbursement from Forest City of \$470k. But, there is an unreimbursed portion that amounts to \$479k. That is an accumulation of expenses over a 15 year period that has been in our Mesa del Sol account. We'll need those proceeds to clear that account out. It is for bills we already paid. This is an account that is in deficit right now and those bills were legal costs, engineering surveys, consulting fees, and so forth. These are bills that UNM owes. There are expenses related to the Young Ranch, there is some deferred maintenance on the buildings that we have retained, the main house and guest house, those deferred maintenance items have been identified at about \$250k. And there are expenses that need to be cleared out of the Young Ranch account of about \$150k. That totals \$400k. We are retaining some land in the Young Ranch property, near the orchard, which is called the main house and the guest house, and both of those structures are old structures built in the 30s. They are used by summer camps and retreats and both of them are in need of significant repair. We do not rent them for a fee, they are used by academic departments.
- Regent Eaves said he is surprised that \$2M is coming off these sale proceeds, as he had not heard this before today.
- The net proceeds are approximately \$7M. This is presented for information.

Motion approved unanimously to adjourn the meeting.

Adjournment at 4:00 p.m.

Regent James H. Koch
President

Regent Sandra Begay-Campbell
Secretary-Treasurer