



## Minutes of the November 14, 2019 Meeting of the Board of Directors

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Board Members Present: Marron Lee, *Chair*; Stephen Ciepiela, *Vice Chair*; Louis Abruzzo; Teresa Costantinidis (via phone); Eddie Nunez; Paul Roth; Kim Sanchez-Rael; Rick Siegel; Garnett Stokes

Board Members Absent: Chris Vallejos, *Secretary/Treasurer*; Maria Griego-Raby,

Also present: Keelie Garcia, Lisa Marbury, Melanie Sparks, Loretta Martinez, Kim Murphy, Tom Neale, Harry Relkin

### MINUTES

#### I. Call to Order

- a. Marron Lee, Chair, called the meeting to order at 9:07 am in the Lettermen's Lounge of the Dreamstyle Arena, Albuquerque, NM.
- b. Chair Lee established that a quorum was present.
- c. Chair Lee announced a change to the agenda to move the update on the AIMS Relocation project from item VII.b. to III. No opposition.

#### II. Approval of 08/15/19 Minutes

- a. The amended draft Minutes of the August 15, 2019 meeting were presented. A motion to approve the 08/15/19 Minutes as presented was made by Louis Abruzzo with a second by Rick Siegel. All agreed.
- b. **RESOLVED: The Board unanimously approved the 08/15/19 Amended Meeting Minutes as presented.**

#### III. Project Update: AIMS Relocation

- a. Tom Neale reported that the project started with a relocation of the hospital's Patient and Financial Services staff out of the building. They were successfully relocated in August 2019 to a location downtown. Once they vacated the building, it was turned over to the contractor, Enterprise Builders (EB), and they started construction immediately. The construction budget is \$1.43M. The risk of major change orders has passed; there have not been any change orders that have impacted the overall pricing. Most were minor and absorbed by the contractor's contingency. The project is on-target for a December 22 delivery. AIMS will move into the space over the holidays so they will be up and running for the spring semester. 1155 will be placed back into institutional use. No major issues; construction has gone fairly smoothly. He does not envision any major issues going forward. It is being framed in, they are running data cable, and getting ready to cover up the ceiling and start finishes.
- b. Chair Lee asked how the school was feeling about the project. Tom explained that they have reported that they are feeling very good about it and that the space is looking very nice. The challenge is the balance of the old half vs. the new half. There has been some painting and new carpet improvements to the old section so when you walk in the door it doesn't look disjointed. They are very pleased at this point.
- c. No other questions or comments.

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### IV. Amended Bylaws

- a. Steven Ciepiela reminded the Board that a subcommittee was created to update the bylaws. A handout was provided of the proposed Amended and Restated Bylaws. University counsel was consulted regarding the bylaws so they would be consistent with the other Research Park Corporations. There are two changes to the handout. First, it states that there would be three non-positional members. A change has been requested to make it four non-positional members, as it is now. It is his understanding that the purpose of the non-positional members is to bring expertise to the Board of people outside the University. The other change relates to a comment from Regent Sanchez-Rael regarding the subcommittees' power. With these two changes, he requests approval of the Amended and Restated Bylaws handout.
- b. Rick Siegel suggested, due to the number of members as 10, everyone would vote and in the event of a tie, the Chair would abstain from voting.
- c. Regent Sanchez-Rael added that there was conversation about including the Provost as a positional member, which would make 11 members. She moved to amend the bylaws to include the Provost as a positional member. President Stokes agreed with the motion and that the academic leader should be an integral part of the Board as well as Health Sciences representation. Paul Roth seconded the motion.
- d. Loretta Martinez explained that the subcommittee met and went through the bylaws line-by-line and was in agreement with all the changes, but then some ideas came up afterwards. The ideas included adding another non-positional member, adding the Provost, and changing the language about the subcommittees to something stronger. The prior language regarding subcommittees gave them all the power of the Board, with some rare exceptions. In her opinion, whoever originally prepared the bylaws, took language that would fit an executive committee, but used it generically for all subcommittees. The point was to tighten up that language so it is clear that subcommittees are advisory, unless the Board authorizes them to do something specific, like an audit committee. Currently, there is only one ad hoc committee, the Bylaws Subcommittee. She also explained that the Bylaws Subcommittee suggested that the CFO of the University be the CEO of the corporation. However, language was added to allow the possibility that there might be a paid CEO that is hired, either part-time or full-time. This is an option, not a necessity.
- e. Regent Sanchez-Rael noted that the language regarding the subcommittees still says that a committee of at least two members can be given the authority of the Board. She is concerned that a situation could be created where the power of the Board is delegated to two members. She would like to include language that says that all subcommittees are always advisory and the Board has the final authority. She believes this is best practices for governance.
- f. Dr. Paul Roth explained that they need to call in question the motion that is on the table.
- g. Chair Lee recognized that there was a motion and a second and requested a vote. All agreed.
- h. Louis Abruzzo asked the Board to review page 4, Committees Section 11, the word "supermajority." He asked if there is a standard measure or if it is defined elsewhere. Regent Sanchez-Rael responded that the Board needs to define what it means. Louis continued with secondly, on page 6, Section 6, the last sentence trails off. Loretta Martinez explained that the "when" should be deleted and "in his/her judgement" should be included.

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- i. Loretta Martinez made a suggestion to Regent Sanchez-Real on page 3, Section 9, Subsection a., the second sentence be changed to “Any such committee shall have only those functions, powers, and duties as the Board of Directors shall determine and shall be advisory only.” Steve Ciepiela made a motion to approve the sentence, with a second by Kim Sanchez-Rael. All agreed.
- j. Regent Doug Brown commented that, in his experience, most 6/5 or 5/4 decisions are sub-optimal and suggested to rework the statement to make it 8/3. Otherwise, there will be a lot of blow-back. If it is a 6/5 decision, there is a huge core of opposition of whatever was decided. He suggests further review and adjustment to the point where there is better consensus.
- k. Steve Ciepiela thanked everyone on the committee and the University Counsel. He believes it is aligned with the other Research Park Corporations and will work well in the future.
- l. Loretta Martinez commented on page 4, Section 11. She suggested that it say “two-thirds majority.” She clarified that this is not for ordinary purposes. Ordinary purposes is the majority, but this is when the Board is going to vote by email or some other electronic form of communication. It used to say “unanimous,” but was changed to “supermajority.” It could say “8 out of 11 would have to agree.” Regent Sanchez-Rael suggested to define “supermajority” as eight members of the Board. What if the Board is not full? Loretta explained that a quorum is defined as majority, so six would be the supermajority. Regent Sanchez-Rael clarified that this is only for email or telephone meeting. Loretta explained that saying “two-thirds” gives more leeway if some of the Board members are not participating. She recommends the definition of “supermajority” be “two-thirds.” Kim Sanchez-Rael made a motion to approve the definition of “supermajority” as “two-thirds,” with a second by Louis Abruzzo. All agreed.
- m. A motion to approve the revised Amended and Restated Bylaws of Lobo Development Corporation was made by Kim Sanchez-Rael, with a second by Louis Abruzzo. All agreed.
- n. Chair Lee thanked everyone for their participation.
- o. Loretta Martinez stated that her office will clean up the document and provide everyone with a clean copy.
- p. **RESOLVED: The Board unanimously agreed to approve the amendment of the Bylaws of Lobo Development Corporation to include the Provost as a positional member.**
- q. **RESOLVED: The Board unanimously agreed to approve the revised sentence on page 3, Section 9, Subsection a. of the Amended and Restated Bylaws of Lobo Development Corporation as follows: “Any such committee shall have only those functions, powers, and duties as the Board of Directors shall determine and shall be advisory only.”**
- r. **RESOLVED: The Board unanimously agreed to approve the definition of “supermajority” as “two-thirds” on page 4, Section 11 of the Amended and Restated Bylaws of Lobo Development Corporation.**
- s. **RESOLVED: The Board unanimously agreed to approve the revised Amended and Restated Bylaws of Lobo Development Corporation.**
- t. Note: Per University Counsel, the Amended and Restated Bylaws will be forwarded to the Regents’ Ad Hoc Governance Committee prior to submittal to the full Board of Regents.

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- V. New website: lobodevelopmentcorp.com
- a. Keelie Garcia reported on the new Lobo Development Corporation website. She reminded the Board that the old website had been hacked and someone was holding is ransom for \$3,000. LDC decided not to pay the \$3,000, so it lost lobodevelopment.org. It is now lobodevelopmentcorp.com. She asked the Board to review the website and let her know if there are any changes. Notices of meetings will be posted on the website, three years' worth of minutes have already been posted, agendas, current Bylaws, Articles of Incorporation, information on past projects, and a little information on current projects.
  - b. Chair Lee said that she thought it looked pretty. She asked that the first page banner be cherry red. Keelie will get it changed.
  - c. Keelie explained that the company that created the website also worked on Innovate ABQ's website.
  - d. Eddie Nunez commented that the site does not look good on the phone. He suggested having the company work on that issue. Keelie will get this done.
- VI. Corporate Vice President & Secretary/Treasurer Update
- a. Teresa Costantinidis explained that in her role as President of Lobo Development, it is her responsibility to fill any vacancies in corporate employee positions. She is pleased to inform the Board that in the position of the corporate Vice President, Tom Neale, Director of UNM Real Estate Dept., has agreed to take on that role. Secondly, the corporate Secretary/Treasurer will be Angela Hernandez, Financial Officer of the UNM Real Estate Dept.
  - b. Chair Lee asked for information about Angela Hernandez. Teresa reported that Angela has been a wonderful employee within the operating group of the Real Estate Dept. and has really brought a level of professionalism to the management of data about real estate operations at UNM. She has been creative and innovative in making sure they are using good technology to support a very robust portfolio.
  - c. No other questions or comments.
- VII. Project Updates
- a. South Campus TIDD Update
    - i. Kim Murphy provided an update on the status of the TIDD regarding the Preliminary TIDD Application. Back in June 2019 when the Board met, the strategy for proceeding with the TIDD and engaging the City, was to prepare a Preliminary TIDD Application. The City policy outlines what materials would be included and the it is presented to the City administration with a request that they make a request of the City Council to consider a nonbinding resolution of their intent to form the TIDD. He reported back in August that this was moving forward and at that time, it was anticipated that the nonbinding resolution would be introduced and considered by the City Council in September. For a variety of reasons, that got delayed, but he is pleased to report that the Mayor supports this approach and did make a recommendation to the City Council and on October 21 the City Council introduced the resolution to adopt a nonbinding resolution of their intent to

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create the TIDD. That was immediately referred to one of the council committees, Finance and Governmental Affairs Committee. That meeting was scheduled for this month on the 25<sup>th</sup>, but it was canceled, so he and Harry Relkin have been working with Council staff on a process that would move this forward. The staff is in agreement that they will propose that the Council, this coming Monday the 18<sup>th</sup>, pull it back from the committee and that the item be placed on the full Council agenda on December 2 for action. Just yesterday, he confirmed that the sponsors of the resolution, Councilor Benton and Councilor Davis, are in favor of the approach, so they see no reason why that will not roll out on Monday and be referred back to the full Council on December 2<sup>nd</sup> for action.

- ii. Louis Abruzzo asked how the runoff election timing could affect this process. Kim Murphy explained that he understands the runoff election is on the 10<sup>th</sup> of December, so Councilor Benton and the other candidate are working toward that runoff election. However, the Council meeting is on the 2<sup>nd</sup>.
- iii. Kim Murphy also reported that after that nonbinding resolution is approved, we will be able to work very closely with the administration and Council staff because, just as a reminder, the TIDD is really a council action. Both the administration and the council will be involved and we will be working out a lot of details over the coming months to end up with an agreement about forming the District.
- iv. Chair Lee asked about the council action and whether there is a TIDD Board. She was looking online and could not find anything. Harry Relkin explained that, assuming after the nonbinding resolution that we get to a TIDD development agreement which is presented to council and they approve and create a district, there will also be the creation of a TIDD Board. You may recall that there were a lot of questions about the TIDD board and whether they make the land use decisions, etc., and the answer to that is “no.” Their main role is to approve any bonds that may come forward after the tax revenues are sufficient to support bonds, so their role is to approve those bond issuances, whether they be potentially sponge bonds or long-term bonds. That is their primary role; they are not making land making decisions. Chair Lee noticed that there are active TIDD boards in Mesa del Sol, etc., but you cannot tell who is on them and you do not know when they meet. Does a whole new board get created for each additional TIDD? Harry Relkin responded that, yes that is correct. They are public meetings, so they should be noticed. The members of the board are part of the TIDD development agreement. Fairly typically, the land owner sits on it, if there is a separate developer, the City administration representative, the City Councilors of where the TIDD is located, and State Board of Finance representative, but it is not set by law who sits on the board. The TIDD development agreement specifies how the board operates and how many members are on the board, etc. In his practical experience, he thinks there is a lot more consternation over it than what is really justified. There is a financial advisor, that is normally paid, to make sure that the bond financing is ok, then there is a bond counselor or board counsel, that typically has a lot of experience in bond issuance, that assists the board in making

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sure that the full faith and credit of the City is not at stake or that land is not at stake. They do not want to have bond failures, so the board pays a significant amount of attention to these two paid experts that are part of the board.

- v. Rick Siegel asked who covers the cost of those experts. Harry Relkin explained that it comes out of the TIDD board's revenue/future income. His experience is that they have been very good at keeping expenses low. There has been a recent change in the law at the state level, which now allows for an easier path on the pay-as-you-go reimbursement instead of waiting for the long-term projected bond issuance. So they have eliminated the absolute necessity of a bond issuance. We will see how it goes, but that should lessen the cost of the administrative costs of reimbursement for the developer/land owner. So that's the hope to shorten that process. Hopefully, this will lead to much more efficiency and actually see more of where the money is supposed to go.
- vi. Eddie Nunez asked about the negotiation period, who will be in the room, and whether we need to start planning on who needs to be on that board. He asked who the team feels would be a good representative. It would be based on what is necessary to be on the board, what are we looking for and what kind of expertise can help represent this board as best as possible. Kim Murphy explained that the TIDD boards are made up of five to seven, at most. Given all the representation of the various entities that have a stake in the TIDD, it is likely that the University would only have one representative. It is something that President Stokes, the LDC Board, and others at the University will have to weigh in on as to what qualifications are necessary in order to represent the University well.
- vii. Steve Ciepiela asked who owns the lands. Kim Murphy explained that the University owns the land, it is not state land. Steve also asked about the Master Plan for development and when the TIDD is negotiated. The Lobo Development bylaws say that we are trying to develop certain real estate in a commercially reasonable manner and to maximize the University's return from these assets. With our Master plan, we are trying to get as much money as possible for the University. When he looks at the TIDD, it says "develop and create amenities for the adjacent communities that do not exist, creating a unique destination transit, create a much more attractive southern entrance to the City." Do we try to get both of these ideas on the same page because they do not say the same thing? Do we make sure that what we are trying to do with the TIDD and maximizing the University's money is in line with what the TIDD says? Chair Lee stated that the Science & Technology Park is in complete alignment with our mission as a R1 institute that needs this TIDD in order to flourish, but the way we flourish is by a commercial endeavor. Kim Murphy explained that we are doing both. Actually, there are elements of our illustrative plan that we have done the financial modeling on that include improvements like trails, plazas, parks, amenities, to the overall commercial development. So, we are doing both. Louis Abruzzo included parking structures and other things that drive the end result. Chair Lee stated that we have to keep in mind UNM Athletics and the Science & Technology Park. She addressed Teresa Costantinidis about a discussion they had

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regarding growing some of the programming on South Campus that relates to the University's research mission. Teresa explained that what they are thinking is for us to go even beyond the Science & Technology Park and develop some research activities that will promote economic development for the City, but also allows our academic researchers to do some of their creative and new and innovative partnerships. The TIDD is really the key to helping us to be successful because we have the land, but unless it has the infrastructure around it, we cannot afford to just build a building.

- viii. Kim Murphy reported that they will certainly advise the Board and President Stokes and other leaders at the University of the progress, both next week and in early December.
- ix. Loretta Martinez asked about leadership of the institution testifying on behalf of the need and whether that is something that will occur later or if it would be helpful. Kim thinks it would be helpful and he has not broached this subject with SVP Costantinidis or President Stokes, but he thinks we will have to gauge what kind of meeting is occurring downtown and if it is appropriate, he will reach out and make that suggestion. Teresa is very excited about the TIDD and happy to be a voice in favor of it. This is an area where we should really bring in our academics. The Provost is also hugely articulate about the benefit that this could provide to our academic programs, which drives benefit for all of the University. Kim explained that this TIDD is mutually beneficial to both the City and University, but it is also an opportunity for the institution to work much closer with the City than we have in the past. Honestly, he has been with the University almost 30 years, rarely have our leadership attended any City Council meetings to speak on an issue and he thinks it is extremely important this is done.
- x. No other questions or comments.

### VIII. Next Meeting

- a. It was decided that the next regular meeting of the Board will be on February 13, 2020 at 9:00 am, in the Lettermen's Lounge of the Dreamstyle Arena.

### IX. Adjourn

- a. Meeting adjourned by Chair Lee at 9:49 am.

Minutes prepared from recording by Keelie Garcia.

Approved by Board of Directors: June 2, 2020

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Chris Vallejos, Board Secretary/Treasurer