

REVISED
Correction on page 8

SPECIAL MEETING
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION

System Administration, Las Vegas
4300 South Maryland Parkway, Board Room

Thursday, January 30, 2020

Video Conference Connection from the Meeting Site to:
Desert Research Institute, Reno
2215 Raggio Parkway, Stout Conference Room A
and
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Members Present:

Dr. Jason Geddes, Chairman
Dr. Mark W. Doubrava, Vice Chairman
Dr. Patrick R. Carter
Ms. Amy J. Carvalho
Mrs. Carol Del Carlo
Mr. Trevor Hayes
Mr. Sam Lieberman
Mrs. Cathy McAdoo
Mr. Donald Sylvantee McMichael Sr.
Mr. John T. Moran
Mr. Kevin J. Page
Ms. Laura E. Perkins
Mr. Rick Trachok

Others Present:

Dr. Thom Reilly, Chancellor
Ms. Crystal Abba, Vice Chancellor, Academic and Student Affairs
Mr. Andrew Clinger, Chief Financial Officer
Mr. Michael Flores, Chief of Staff to the Chancellor
Mr. Dean J. Gould, Chief of Staff and Special Counsel to the Board
Mr. James J. Martines, Deputy General Counsel, Real Estate
Mr. Joe Reynolds, Chief General Counsel
Dr. Kumud Acharya, President, DRI
Ms. Joyce M. Helens, President, GBC
Mr. Bart J. Patterson, President, NSC
Dr. Karin M. Hilgersom, President, TMCC
Dr. Marta Meana, President, UNLV
Dr. Vincent R. Solis, President, WNC

Faculty senate chairs in attendance were: Dr. Amanda Keen-Zebert, DRI; Mr. Theo Meek, SA (Vice Chair sitting in for Ms. Brigitte Glynn, SA); and Dr. Janis McKay, UNLV.

Chairman Geddes called the meeting to order at 10:00 a.m. with all members present. Regent Carvalho led the Pledge of Allegiance.

1. Information Only – Public Comment – Mr. Warren Hardy spoke in favor of the UNLV Medical Education Building Project. He thanked those involved in the process.

Mr. Robert Manis and Ms. Staci Walters, CSN Nevada Faculty Alliance (NFA), spoke regarding the CSN Collective Bargaining process.

2. Approved – Consent Items – The Board approved the consent items.

- 2a. Approved – Minutes – The Board approved the minutes from the October 18, 2019, Board of Regents' special meeting. (*Ref. BOR-2a on file in the Board Office.*)

- 2b. Approved – Procedures and Guidelines Manual Revision, Student Fees – The Board approved the Procedures and Guidelines Manual revision addressing the student fee change for TMCC (Chapter 7, Section 12). (*Ref. BOR-2b on file in the Board Office.*)

Regent Del Carlo moved approval of the consent items. Regent McAdoo seconded. Motion carried.

3. Information Only – Campus Master Plan 2020, UNLV – UNLV President Marta Meana and Mr. David Frommer, Associate Vice President of Planning, Construction and Real Estate, UNLV, updated the Board via a PowerPoint titled, "UNLV Campus Master Plan 2020." (*Ref. BOR-3 on file in the Board Office.*)

In response to a question from Regent Hayes regarding ownership of the land above the landscape improvement area on slide 2, Mr. Frommer stated UNLV does not own the land but was talking about the property as a potential site for intramural fields and parking. The site is owned by Clark County and managed by the Department of Aviation. There are flood control issues in the area, and at this time, Clark County is determining if it will put a flood detention facility on the property.

Regent Page asked if UNLV owns the property that is in red on the master plan. Mr. Frommer responded UNLV does own the 69 acres shown within the red perimeter. The land to the south and east is owned by Clark County. There are cooperative agreements in place that allow UNLV to use the property for parking. The property to the north is private single-family development.

In response to a question from Regent Page, President Meana stated appraisals are contingent on the land use. Once UNLV has specifics on the land use, it will come to the Board with the appraisal figures.

4. Approved – Medical Education Building Project, UNLV – The Board approved the Medical Education Building (MEB) Project and the agreements reached in cooperation with the Donor Group of the Nevada Health and Bioscience Asset Corporation (NHBAC), as set forth in the following documents accompanying this agenda item: 1) the Development Agreement for the UNLV School of Medicine; 2) the UNLV Medical School Building and Ground Lease; 3) the MEB parcel deed transfer to the NHBAC; 4) the MEB parcel deed transfer back to UNLV; and 5) the Declaration of Covenants, Conditions and Restrictions for the UNLV Medical School. The Board authorized UNLV, subject to approval by and in consultation with the NSHE Office of the Chancellor, to take all actions necessary to further effectuate the terms and conditions of the MEB Project, including, but not limited to, drafting a letter of support on behalf of the NHBAC for non-profit federal tax-exempt status and seeking approval from the Board of Clark County Commissioners to amend and/or remove the current deed restrictions on the MEB parcel. (*Refs. BOR-4a, BOR-4b, BOR-4c, BOR-4d, BOR-4e, BOR-4f, and Supplemental Material on file in the Board Office.*)

Regent Hayes disclosed his ownership of commercial property in the Las Vegas Medical District. He disclosed the relationship under NRS Chapter 281A, as recommended by the Nevada Commission on Ethics and Special Board Counsel. He will not vote on the item.

Chief of Staff and Special Counsel to the Board Dean J. Gould reminded the Regents that there are no Open Meeting Law waivers on file for this item.

Regent Hayes left the meeting.

Regent Carter disclosed he was previously a student in the Gaming Innovation course at UNLV, where he developed a casino game. If the game is marketed and sold, he will be required to pay remuneration to UNLV in the form of shared royalties pursuant to a standard contract that all students in the course were required to sign. He will receive no remuneration from UNLV. He disclosed the relationship under NRS Chapter 281A, as recommended by the Nevada Commission on Ethics. He will vote on the item.

Chief General Counsel Joe Reynolds presented an overview of the UNLV Medical Education Building Project.

President Meana reported UNLV strongly supports this project as it has the potential to be a transformative development for the UNLV School of Medicine (UNLV SOM), the University, the county, the city, and the state. Current facilities can only accommodate entering classes of 60 students, and the learning spaces are modest and do not lend themselves to developments in future medical education delivery. If UNLV is to become a state-of-the-art medical school that innovates and changes the health care landscape in southern Nevada, facilities are needed to make that a reality. The size of entering classes must be doubled, and the students must be provided a world-class and forward-looking medical education experience. Before the Board is a once-in-a-generation opportunity thanks to the remarkable generosity of a group of community members who have been invested in the medical school since its inception. This is a potential gift the likes of which UNLV has never been seen before.

4. Approved – Medical Education Building Project, UNLV – (Continued)

Much care was taken into the preparation of the documents. The documents were worked on collaboratively by a dedicated group from NSHE, UNLV, and the Donor Group.

Chancellor Thom Reilly appreciated all involved to bring this to fruition. NSHE welcomes the private support of the project.

Vice Chairman Doubrava stated he is excited about the project's potential. He thanked President Meana, Chancellor Reilly, the attorneys on both sides, and the Donor Group for their hard work.

Vice Chairman Doubrava moved approval of the Medical Education Building (MEB) Project and the agreements reached in cooperation with the Donor Group of the Nevada Health and Bioscience Asset Corporation (NHBAC), as set forth in the following documents accompanying this agenda item: 1) the Development Agreement for the UNLV School of Medicine; 2) the UNLV Medical School Building and Ground Lease; 3) the MEB parcel deed transfer to the NHBAC; 4) the MEB parcel deed transfer back to UNLV; and 5) the Declaration of Covenants, Conditions and Restrictions for the UNLV Medical School. The Board authorized UNLV, subject to approval by and in consultation with the NSHE Office of the Chancellor, to take all actions necessary to further effectuate the terms and conditions of the MEB Project, including, but not limited to, drafting a letter of support on behalf of the NHBAC for non-profit federal tax-exempt status and seeking approval from the Board of Clark County Commissioners to amend and/or remove the current deed restrictions on the MEB parcel. Regent Lieberman seconded.

In response to a question from Regent Trachok, Chief General Counsel Reynolds stated the current deed restrictions in the reversionary interest are: 1) the property be used for a medical school and for health-related programs; 2) construction will commence before July 1, 2021; 3) that there is a diligent pursuit of completion; and 4) a minimum of \$20 million will be used for the Medical Education Building.

Regent Trachok clarified that if construction does not commence prior to July 1, 2021, the property will automatically revert to Clark County. Chief General Counsel Reynolds stated yes that is currently correct, but NSHE is working with the Clark County Commission to remove the current deed restrictions.

4. Approved – Medical Education Building Project, UNLV – (Continued)

Regent Trachok asked if the Donor Group fails to raise the needed funds by February 1, 2021, does the property automatically revert to UNLV, with Chief General Counsel Reynolds responding yes. Chief General Counsel Reynolds added that it is not explicitly tied to the funding, but to the commencement of construction. The Donor Group is responsible for the financing, and there is no specific benchmark in the Development Agreement regarding funding targets.

Regent Trachok clarified if construction begins and all funds have not been raised, the property will remain with the Donor Group, with Chief General Counsel Reynolds responding yes.

In response to a question from Regent Trachok related to provisions in the Development Agreement that will protect the University if the property is tied up in litigation, Chief General Counsel Reynolds stated there are always litigation possibilities in any real estate transaction. All parties retain legal rights and remedies under Nevada law.

Regent Trachok asked if construction does not commence before February 1, 2021, how long will it take for UNLV to issue the bonds and raise funds to proceed with the project construction as the Board envisioned it when it approved UNLV's request to issue the bonds and then approved in July 2019. Chief General Counsel Reynolds estimated three to six months.

Regent Trachok then asked if construction does not commence before February 2021, how long will it take UNLV to finalize the construction documents and hire a contractor to start the project. Chief General Counsel Reynolds estimated 18-22 months. Regent Trachok clarified that if construction does not begin before February 1, 2021, NSHE is looking at January or February of 2023 before UNLV would be able to start the project, with Chief General Counsel Reynolds stating that is the best current estimate.

In response to a question from Regent Trachok, Chief General Counsel Reynolds stated they currently do not know the cost differential, but NSHE has heard over \$150 million. The Donor Group is working on the funds and financing.

Regent Trachok asked for UNLV's approved planned project costs. Chief General Counsel Reynolds responded \$125 million was approved.

In response to a question from Regent Trachok, Chief General Counsel Reynolds stated there are no specific provisions that address whether the funding is raised after construction commences. There are benchmarks throughout the process. There is also a benchmark in the Development Agreement that a contractor is secured, but no one believes that will happen without adequate funds in place. Regent Trachok clarified a contractor can sign on without the entire \$155 plus million in a construction account.

4. Approved – Medical Education Building Project, UNLV – (Continued)

Regent Trachok asked if a contract is signed by a contractor and all the funds are not raised, and midway through the project, the construction stops because there is a dispute or there are not sufficient funds to finish, does the project automatically revert back to UNLV. Chief General Counsel Reynolds stated it does not happen automatically. There is a provision in the Development Agreement that a conditional certificate of occupancy is required to be issued by February 1, 2024, prior to the 2025 completion date. All contract remedies under Nevada law are available to the Board of Regents to address this concern.

Regent Trachok clarified that if UNLV takes control of the project, then it will be stuck with the construction design and the building completed to that point from the Donor Group. Regent Trachok asked if UNLV will be forced to complete the project as envisioned by the Donor Group or by UNLV's project vision. Chief General Counsel Reynolds stated that if there is a half-completed building on the property, it will ultimately turn back to the Board and the Board will still be able to modify and complete the construction. He added the Board of Regents and UNLV would have the value of the building and the added benefit of the work already completed.

Chief General Counsel Reynolds stated Mr. Hardy has indicated that the Donor Group has no intention of commencing construction until the adequate funding is in place.

Regent Trachok asked what protections are in place to protect UNLV from mechanics liens. Chief General Counsel Reynolds stated all remedies are available under Nevada law. Regent Trachok clarified NSHE would have all legal rights to litigate.

Regent Trachok stated the property is being deeded over to the 501c3, and unlike typical financing situations where the lender is assured that it is in the first position, that is not the case on this project. Regent Trachok clarified if there is a problem during construction when UNLV gets the property back, it will be subject to the liens on the property, and it has all of its rights under NRS. Chief General Counsel Reynolds agreed and noted that circumstance is faced with other real estate projects and concerns.

In response to a question from Regent Trachok regarding title insurance or any other protections to ensure UNLV receives back a clear title to the land, Mr. Michael B. Wixom, Special Counsel, stated there are provisions that are relevant. First, there is a prohibition against financing for the construction of the project. The Donor Group would not be able to encumber the project with liens as a way to get financing. Second, there is a prohibition against the imposition of liens against the property during construction. If there were liens in place, that would be a violation of the Development Agreement. Mr. Wixom stated that if construction stopped, the property would come back to UNLV subject to the mechanics liens, and those would be addressed at that time. With respect to the property, a provision is included that assuming the project is completed in a timely fashion, the property reverts to UNLV, and UNLV would have title insurance protection at that point in time.

4. Approved – Medical Education Building Project, UNLV – (Continued)

Regent Trachok asked if it would have been better for UNLV to enter a long-term lease and then file a Notice of Non-Responsibility in which case the property would have been protected. Mr. Wixom stated it was an avenue that was thought about during negotiations. Entering a long-term lease presented several issues to UNLV, one of which was compliance with NRS Chapters 341 and 338. Provisions have been included in the Development Agreement under which the Donor Group has agreed to accept responsibility for paying the prevailing wage. The determination was made that this was a better way for UNLV to move forward.

Regent Trachok asked why the Donor Group requires a long period of time before the property reverts to UNLV. Mr. Wixom stated it is 10 years from now and 5 years from the expirations. The Donor Group originally wanted a much more extended period of time, and the period of time settled on is 5 years from the completion of the project. The importance to the Donor Group was that they wanted to evaluate the performance of UNLV concerning replacement reserves, the care of the building, and the condition of the building to confirm that the building would be kept and maintained per agreements that the parties established.

In response to a question from Regent Trachok, President Meana stated UNLV SOM has provisional accreditation, and a site visit for full accreditation is scheduled for the fall. Regent Trachok asked if there were any concerns on the academic side as to what a potential delay might cause to the students. President Meana stated that is not something UNLV would like to see since it would delay the growth of the UNLV SOM and the ability to have facilities that are more innovative than UNLV currently has.

Regent Trachok read the following statement into the record. “Seven years ago, the Regents approved the second medical school in Las Vegas based on representations of two former presidents that the state would only be required to fund operations of the school. We were told that once independent from UNR, southern Nevada donors would contribute the \$200 million necessary for the Medical Education Building. Fast forward seven years in July of 2019 this Board approved the University’s request to raise up to \$100 million in bond offerings to build a medical education building. Today the Donor Group is now asking the Regents to transfer the property on Charleston to an entity formed by them to allow them to raise \$150 million to build the Medical Education Building. The University has not been involved in this process. The design and plans are those of the Donor Group, and under the terms of the Agreement, while University overall design criteria must be satisfied, the University has no direct role in the design process or the construction process. Under the Agreement, the oversight of the construction process on behalf of the University is minimal. The Donor Group has agreed to transfer the completed structure to the University in February 2031. It will own and operate the building during this period. The University’s rights during this period will be those of a tenant outlined in the Agreement. No one would object, and all would applaud an outright gift to the University conditioned on its use for construction of the Medical Education Building. But this is not an outright gift. There are many, many strings attached. We can all speculate as to the reasons for the strings. I find these

4. Approved – Medical Education Building Project, UNLV – (Continued)

conditions attached to the gift or potential gift to be unacceptable. This is a difficult decision. As trustees we must weigh the interest of our present and future students with our obligations as trustees of the System. Sometimes the price of a gift is too high. For me, in this case, it is too high. Thank you.”

Regent Lieberman stated this is historic for UNLV SOM. Nevada students have always had an excellent medical education, but it will continue. He was concerned that in 2031 when this contract ends that it be treated with the same oversight as any other building is treated in the UNLV Master Plan and campus structure.

Regent Carvalho stated as someone who struggled to find healthcare for a family member, a future with more doctors in southern Nevada needs to happen. Moving forward, she hopes this project builds goodwill, sparks philanthropy in southern Nevada, and shows that the Board of Regents is on board with student success and for the future of southern Nevada.

Regent Lieberman stated this is a vital step forward for the disabled community in southern Nevada because some care has had to be handled out-of-state.

Regent Del Carlo stated this was indeed a collaborative, negotiated process. This is a huge win for the students, UNLV, and Nevada. She applauded the Donor Group that has carved out a new model to move forward with.

Motion carried via a roll call vote. Chairman Geddes, Vice Chairman Doubrava, and Regents Carter, Carvalho, **Del Carlo**, Lieberman, McAdoo, McMichael, Moran, and Page voted yes. Regent Trachok voted no. Regent Hayes abstained. Regent Perkins was absent.

5. Information Only – New Business – None.

6. Information Only – Public Comment – None.

The meeting adjourned at 11:14 a.m.

Prepared by:

Angela R. Palmer
Special Assistant and Coordinator
to the Board of Regents

Submitted for approval by:

Dean J. Gould
Chief of Staff and Special Counsel
to the Board of Regents

Approved by the Board of Regents at its June 18, 2020, meeting.