

NEW MEXICO HIGHER EDUCATION DEPARTMENT

MICHELLE LUJAN GRISHAM
GOVERNOR



STEPHANIE RODRIGUEZ
ACTING CABINET SECRETARY

Capital Projects Committee Meeting
November 12, 2020
Held via GoToMeeting
<https://global.gotomeeting.com/join/411215069>
9:30 a.m. to TBD

Minutes

1. Call Meeting to Order

Chairman Burke called the meeting to order at 9:30 a.m.

2. Introduction of Participants

Roll call of members was taken. Committee members joining via phone/webinar were Chairman Gerald Burke, Steve Olson, Harold Trujillo, Wesley Billingsley, and Gerald Hoehne.

3. Approval of Agenda

Member Hoehne made a motion to amend the agenda, removing agenda item # 8 from consideration.

Chairman Burke seconded the motion.

Motion passed. (5-0)

4. Approval of Minutes from October 7, 2020 Capital Projects Committee Meeting

Chairman Burke asked the committee if they had any comments on the minutes.

Member Hoehne made a motion to approve the minutes.

Chairman Burke seconded the motion.

Motion passed. (5-0)

5. Announcements:

a. **Next Capital Projects Committee Meeting will be held on December 9, 2020**

b. **Member Hoehne announced that the NMHED Capital Outlay Annual Calendar for 2021 has been posted on the NMHED website.**

Projects to be reviewed

6. Eastern New Mexico University - \$350,000 Construct New Open Air Covered Storage Facility

Presenters: Scott Smart, Chief Financial Officer, ENMU

Mr. Scott Smart introduced himself and presented the project as outlined in the project submittal.

Member Hoehne asked if the facility, because it is an open-air covered storage facility, should be added to the I&G space file.

Mr. Smart stated that he did not feel like it should be on the I&G space file because it is not enclosed and there is no heating or cooling.

Member Hoehne noted that because this facility is being constructed using state funds it is typical for this committee to review and approve only if it will be included on the I&G space file. Because this facility is unique and the language of the appropriation allows for this type of construction keeping it off of the I&G space file would not be an issue.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Member Olson seconded the motion.

Motion passed. (5-0)

7. New Mexico State University – \$1,114,050 Campus Entry Upgrades and Improvements

Presenters: John D. Floros, President, NMSU; Andrew J. Burke, Senior Vice President for Administration and Finance; Heather Zack Watenpaugh, University Architect, NMSU; Robert Herrera, Assistant Director PDE, NMSU; Jose Loera, Assistant Director PDE, NMSU

President John D. Floros introduced himself and gave a brief overview of the project. He noted that this project started about 4-5 years ago when the NMDOT decided to design major changes to the I-25 corridor and associated entrance and exit ramps to the town and to the University. One of the portions of that larger project is a roundabout which facilitates the entrance and exit to the highway, town, and the campus. Because this project affect's NMSU's entrance they have been working closely with the NMDOT to address safety for bicycle and pedestrian movement around that area and to make it a main entrance to the University where faculty, staff, and students can really connect with NMSU. He then passed it to the University Architect, Heather Watenpaugh.

Ms. Watenpaugh provided a PowerPoint presentation of the project. Within the presentation she noted a Phase II project which would consist of a tree lined walkway to connect the monument signage to the international mall area on campus.

Member Hoehne asked how soon NMSU plans on implementing Phase II of this project.

Ms. Watenpaugh stated that they do not have a schedule for Phase II at this time. The current project being requested will not start construction for about a year and that is dependent on the NMDOT schedule.

Member Hoehne noted that the grant agreement between NMSU and NMDOT is not yet executed. Is there a timeframe of when that agreement will be executed?

Ms. Watenpaugh stated that she believes the grant agreement is fully executed. She will

review and send the NMHED an executed copy once she has it.

Member Hoehne made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance contingent upon the following:

- Receipt of the executed Right-of-Way agreement between NMSU and the NMDOT

Member Olson seconded the motion.

Motion passed. (5-0)

8. New Mexico State University – \$25,000,000

Agricultural Modernization and Educational Facility Construction and Improvements

Presenters: John D. Floros, President, NMSU; Andrew J. Burke, Senior Vice President for Administration and Finance; Heather Zack Watenpugh, University Architect, NMSU; Robert Herrera, Assistant Director PDE, NMSU; Jose Loera, Assistant Director PDE, NMSU

Project not heard

9. University of New Mexico Health Science Center – \$615,566.71

School of Medicine Building 2 – Office of Education Facility Space Buildout

Presenters: Dr. Garnett Stokes, President, UNM; Dr. Michael Richards, Interim Executive Vice President, UNMHSC; Ava Lovell, Senior Executive Officer of Finance and Administration, UNMHSC; Marisol Greene, Director of Facilities Planning, UNMHSC

President Garnett Stokes introduced herself and provided brief opening remarks to the committee regarding all of the UNM on the agenda. She then turned it over to Dr. Michael Richards to go over the projects involving the health sciences center.

Dr. Richards gave a brief overview of the projects and turned it over to UNM staff.

Ava Lovell introduced herself and presented the project as outlined in the project submittal.

Member Olson asked what the existing space is currently being used for.

Ms. Lovell noted that the space is currently empty. The cafeteria was moved into new space when the Domenici center was completed and the space was gutted.

Chairman Burke asked if UNM was confident in the estimated cost for this project.

Ms. Lovell noted that they are very confident with the numbers.

Member Hoehne made a motion to approve the project for submittal to the NMHED Cabinet Secretary.

Chairman Burke seconded the motion.

Motion passed. (5-0)

10. University of New Mexico Hospital – \$700,000

University Psychiatric Center (UPC) Boilers Replacement

Presenters: Dr. Garnett Stokes, President, UNM; Enrico Volpato, Executive Director Facilities Services, UNMH; Michael Kearney, Director Facilities Planning and Construction, UNMH

Mr. Michael Kearney presented the project as outlined in the project submittal.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary.

Member Trujillo seconded the motion.

Motion passed. (5-0)

11. University of New Mexico Hospital – \$2,700,000

1301 Lomas Blvd. Building Renovation & Site Drainage Improvements

Presenters: Dr. Garnett Stokes, President, UNM; Enrico Volpato, Executive Director Facilities Services, UNMH; Michael Kearney, Director Facilities Planning and Construction, UNMH

Mr. Michael Kearney presented the project as outlined in the project submittal.

Member Olson asked if UNM has a master plan for the area and if they can go over what is planned for the next couple of years.

Mr. Kearney informed the committee that UNM does not have a full master plan for the site. Materials management at the main hospital is at a point where they did not have any additional space so it was determined that they would be relocated to one of the warehouses at this location. This would allow them to have the ability to properly social distance and to manage the additional materials coming in to address the pandemic. The other building that used to be the used car area has had some minor upgrades in preparation for relocating the UNM Parking and Transportation offices. There are several warehouse buildings that will require funding in order to renovate them however no plans for how they will be used have been established. Also, the largest building in this area, which is the old Galles showroom and attached buildings for the service department, need to be demolished. For the time being UNM has added lighting, heating and cooling to the showroom area. This space is being used to provide mock ups to show the medical rooms and operating rooms for the new hospital tower.

Member Olson asked that UNM keep the committee informed as the planning and projects for this area materialize.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Member Olson seconded the motion.

Motion passed. (5-0)

12. University of New Mexico Hospital – \$1,500,000

Carrie Tingley Hospital (CTH) Radiology Suite Upgrades

Presenters: Dr. Garnett Stokes, President, UNM; Enrico Volpato, Executive Director Facilities Services, UNMH; Michael Kearney, Director Facilities Planning and Construction, UNMH

Mr. Michael Kearney presented the project as outlined in the project submittal. He noted that this project includes 4 different projects within this request.

Member Olson asked if Carrie Tingley was a children's hospital because the equipment being discussed in the presentation seems like it would service adults also.

Mr. Kearney noted that the equipment will be used primarily for children however there will be added capacity to be able to treat adults if necessary.

Member Olson informed the committee that over the past few months there has been a lot of discussion regarding the cancer center and the specialized vaults that are needed in order to house some of the newest radiology equipment.

Mr. Kearney noted that this particular piece of equipment is low-dose and the existing X-ray room does not need to have additional lead shielding. The renovation only addressed an upgrade to the control room and a reconfiguration of the space to fit the new equipment.

Member Hoehne asked if the services provided by this upgrade would also be provided at the new hospital.

Mr. Kearney noted that this project will not be duplicated. Mr. Michael Chicarelli explained that this equipment is designed to take images of children or adults that have distorted spine who have difficulty lying flat for a traditional X-ray. This specialized equipment is primarily used for out-patient services.

Dr. Richards also emphasized the importance of this project in treating children with scoliosis. This equipment offers low doses of radiation and gives children the ability to stand up so their body posture and curvature of the spine in relationship the pelvis can be assessed.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Member Trujillo seconded the motion.

Motion passed. (5-0)

13. University of New Mexico - Los Alamos – \$625,000

Library Renovation

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of

Finance and Administration, UNM; Lisa Marbury, Executive Director of Institutional Support Services, UNM

Lisa Marbury introduced herself, Chancellor Cynthia Rooney, and Senior Vice President of Finance and Administration, Teresa Costantinidis. She then presented the project as outlined in the project submittal.

Chairman Burke asked for clarification on the head count and FTE on Form 1-A.

Dr. Rooney noted that this Fall they have a head count of 954 and an FTE of 357.

Member Hoehne noted that the program and enrollment being serviced by this project does coincide with the figures provided by Dr. Rooney as a whole however he would need to defer to the campus on the figures for on-campus and off-campus enrollment.

Dr. Rooney noted that about 80% of their students are online due to the COVID-19 pandemic.

Member Hoehne informed the committee that the Fall End of Term 2019 enrollment numbers reported for UNM Los Alamos is 980 Head Count and 378 FTE.

Chairman Burke asked UNM to confirm the numbers with the NMHED.

Member Olson asked if the \$1.8M request during the NMHED summer hearings would be used towards improvements to this facility.

Dr. Rooney noted that UNM Los Alamos carefully crafted the summer hearing request to exclude any work in the library.

Chairman Burke informed the committee that the UNM Los Alamos campus is leased from the Los Alamos Public Schools.

Dr. Rooney noted that in 1980 an arrangement was made to lease the land to UNM in perpetuity for \$1 per year in lieu of donation.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary.

Member Hoehne seconded the motion.

Motion passed. (5-0)

14. University of New Mexico – Valencia – \$7,612,845

Construction of a New Workforce Training Center

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of Finance and Administration, UNM; Dr. Alice Letteny, Chancellor, UNM Valencia; Lisa Marbury, Executive Director of Institutional Support Services, UNM; Rick Goshorn, Director Business Operations, UNM Valencia

Lisa Marbury introduced herself, Dr. Laura Musselwhite, and Mr. Rick Goshorn. She then presented the project as outlined in the project submittal.

Chairman Burke expressed his support for the location of this project and proximity to Facebook and Walmart however he noted his concern on the impact this project will have on the Tome campus.

Dr. Musselwhite informed the committee that this facility is designed to augment what is done at the Tome campus. This site will be designed for technical instruction, CTE programs, and non-credit courses. The Tome campus will still provide all transfer programs, liberal arts programs, general sciences programs, and many other critical educational components that could not and would not be moved to the new location.

Chairman Burke reiterated his concern and noted that due to the great location of this new campus it would eventually start to pull enrollment from Tome.

Member Trujillo asked if there were any additional considerations by UNM to design this project to be higher than LEED Silver.

Ms. Marbury explained that UNM always tries to exceed the minimum energy and efficiency standards if there is availability to do so in the project budget. She also noted that UNM Valencia has implemented several Solar projects to help with sustainability on that campus.

Mr. Rick Goshorn informed the committee that UNM Valencia has installed 3 different phases of PV arrays on their campus. They anticipate between 65 to 75% of their total power consumption to be supported by these PV arrays. Installing a PV array on this new facility is something that is important to the campus however they are trying to manage the funding in way that will reduce their need to request additional funding from the legislature.

Member Trujillo congratulated UNM Valencia on their solar initiatives.

Member Hoehne thanked UNM Valencia for providing the supplemental information requested by the NMHED, including the request related to Chairman Burke's concerns about the impact this facility will have on the Tome campus. He then asked if UNM could elaborate on how they plan to proceed with the option to acquire the 9 acres north of the proposed Workforce Training Center within five years.

Mr. Goshorn informed the committee that the current 9 acres where the facility will be constructed was donated by the Huning Family. About 40% of the existing 9 acres will be used for this project with infrastructure being installed to allow for future expansion. This facility does require development of a second set of lanes in front of the proposed facility to handle the traffic. If the NMDOT deems that the traffic impacts the two-lane road further north they may ask us to continue the roadway expansion all the way to the northern intersection. The Huning's have expressed concern with the cost they may have to incur as a result of the new facility and as such have discussed possibly donating the

additional 9 acres to UNM if that were to happen. UNM anticipates managing their curriculum in a way that will minimize the amount of traffic on that road.

Member Trujillo made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Chairman Burke asked for a second.

Because the motion was not seconded Chairman Burke asked for a roll-call vote.

Member Olson - Yes

Member Billingsley - Yes

Chairman Burke - Yes

Member Hoehne – Yes

Motion passed. (5-0)

15. University of New Mexico – \$510,000

Innovation Discovery & Training Center – Roof Replacement

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of Finance and Administration, UNM; Lisa Marbury, Executive Director of Institutional Support Services, UNM

Lisa Marbury presented the project as outlined in the project submittal.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary.

Member Olson seconded the motion.

Motion passed. (5-0)

16. University of New Mexico – \$1,200,000

Replacement of Lomas Chiller # 3

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of Finance and Administration, UNM; Lisa Marbury, Executive Director of Institutional Support Services, UNM

Lisa Marbury presented the project as outlined in the project submittal.

Member Hoehne made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Chairman Burke seconded the motion.

Motion passed. (5-0)

17. University of New Mexico – \$1,479,155

Popejoy Hall – Artist Support Space Renovation - REVISED

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of Finance and Administration, UNM; Lisa Marbury, Executive Director of Institutional Support Services, UNM

Lisa Marbury presented the project as outlined in the project submittal.

Member Hoehne informed the committee that this project is a revision. The original project submittal was approved in January of 2020 and included the first floor, second floor, and basement. When UNM received bids for the project, the costs of construction were substantially higher than originally estimated. UNM opted to phase the project and award all of the phases to the same contractor. This revision requests approval of increased costs with no change to the scope of work.

Ms. Marbury concurred with Member Hoehne's comments and highlighted the tariffs and shipping delays caused by COVID-19 as factors in the cost increase for this project. She also noted that because of the additional funding received from the state, UNM was able to start work on the first phase using the existing budget, and use the additional funding to complete the second phase.

Chairman Burke asked if any work had been completed on Phase I.

Ms. Marbury noted that UNM did submit a project request to the NMHED for re-approval because of the change in scope of work.

Member Hoehne informed the committee that the project revisions were submitted to the NMHED as two separate requests. One request was to reduce the scope of work of the original submittal to include only the first and second floors. The other request was for a new project which included the scope of work for the basement. The NMHED reviewed each request and informed UNM that the Phase 1 and Phase 2 projects should be submitted as a single revision to the original request.

Member Trujillo asked UNM how much higher the bids were than the original budget.

Ms. Marbury noted that the bids came in well over 50% higher than the budgeted amount.

Chairman Burke made a motion to approve the project for submittal to the NMHED Cabinet Secretary and then to the State Board of Finance.

Member Hoehne seconded the motion.

Motion passed. (5-0)

18. University of New Mexico – \$0.00

Acquisition of Innovate ABQ Real Property Interests

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of

Finance and Administration, UNM; Thomas Neale, Director of Real Estate, UNM

Tom Neale presented the project as outlined in the submittal. He noted that the property was originally acquired in 2013 by Rainforest Innovations which was formally known as UNM STC for the development of the innovation district in downtown Albuquerque. The original acquisition was a public-private partnership funded by the City of Albuquerque, Nusenda Credit Union, UNM Board of Regents, and an EDA grant. The property was transferred to Innovate ABQ, a research park and economic development act corporation that was created in 2014 to take on this project. The first phase was the development of the Lobo Rainforest Building which was completed in 2017 and the CNM FuseMaker space completed in 2018. He explained that the Innovate ABQ ownership structure has exhausted funds in order to manage and promote the property. The Innovate ABQ board and the UNM Board of Regents are requesting the approval of conveyance of the property from this committee. Documentation on the pro-forma for the acquisition as well as environmental information for the property has been provided to members of this committee. The real property components that the University would acquire is the 7-acre site that the innovation project sits on at the corner of Broadway and Central which is improved with approximately 60,000 square feet of the older church building (5 story tower) and classroom addition that has not been improved, a lease interest in the 15,000 square foot FuseMaker space, and a ground lease interest in the Lobo Rainforest Project. The development strategy is to limit UNM's exposure and risk as a result of this acquisition. They anticipate partnering with public and other private entities using ground leases as the vehicle to further develop and fund renovation and construction projects on the site. The pro-forma provided to the committee covers a five-year anticipated outlook of how the structure of using ground leases with the end use developer will minimize UNM's overall risk. Initially the project will be managed by Rainforest Innovations, the UNM Director of Real Estate, and Lobo Development as the fiscal oversight of the property. He also introduced the environmental consultant who worked with Rainforest Innovations on the original acquisition of the property and continues to work with UNM on the current conveyance. He reiterated the extensive amount of environmental documentation submitted and the due diligence that UNM has taken to ensure all environmental concerns are addressed, including the completion of a current Phase I environmental assessment which will give UNM Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) protection and protection from the New Mexico Environment Department on any environmental conditions that existed prior to the acquisition of the property in 2013.

Chairman Burke asked if this property was originally acquired under the University Research Park Act.

Mr. Neale noted that the property was originally acquired under the University Research Park Act by UNM STC.

Chairman Burke informed the committee that the act was approved by the Legislature under the objection of the New Mexico Commission on Higher Education. The major concern at the time was that under the act an institution can circumvent the state approval process for the acquisition of facilities. Once acquired the institution can then convey those properties back to the University. This transaction is an example of why the

concerns were raised at that time.

Member Hoehne commented on the initial concerns he had with this project. Those concerns involved the current financial situation in the state and the difficult decisions UNM has had to make as a result of a decrease in funding and student enrollment. He asked President Stokes and Senior Vice President Costantinidis for their comments on why this project is important to UNM and what the overall benefits are in conveying this property from the Research Park Corporation to the university.

President Stokes noted that this is a really important part of the mission of a major Research University and in many ways, is one of the vehicles in which Research Universities actually end up serving the needs of a state. Not only do these kinds of projects have potential for local and regional economic development, as the leadership of Rainforest Innovations has demonstrated over and over again, but also understanding that much of what we do also serves our students and prepares them in a myriad of ways to contribute to the economy of New Mexico. UNM looked at this as a win-win and they worked to find ways to make it possible for this to be truly successful. There have been some challenges and questions about the future. UNM has developed other financial mechanisms to make this project successful and it has never been UNM's intention to come back and request the state's investment in this project. She then turned it over to Ms. Costantinidis for further comments.

Chairman Burke asked why everything President Stokes mentioned can't continue to be accomplished under the Research Park Act, especially since that is the vehicle used for the original acquisition of the property.

Ms. Costantinidis informed the committee that the Research Park Act is structured in a way that when a Research Park entity disbands all of its assets revert to the Board of Regents of the University. With the unwinding of Innovate ABQ UNM saw that the assets were going to revert to the Regents. Knowing this UNM leadership felt that achieving the original mission of an economic development engine for the university, for the city and for the state was the objective they wanted to try and achieve. Through this very open transparent transferring away of the property UNM felt they could continue the work that has so far been quite successful in that area with the development of the Lobo Rainforest Building and the FuseMaker space. She explained that this was UNM's way of continuing what was happening on that site but in a more economical way without having to pay the overhead of a new Research Park entity and its employees.

Member Olson noted that within the documents and in previous discussions there was a dispute regarding the assessment and payment of property taxes between Innovate ABQ and Bernalillo County. He asked if the property is transferred does the dispute stay with Innovate ABQ or is it transferred to UNM?

Mr. Neale stated that there was a dispute between Innovate ABQ and Bernalillo County however Innovate ABQ withdrew their complaint in that lawsuit. There is currently no litigation or tax issues as it relates to the ad valorem taxes on the property. The assessor's office believed that research park entities are subject to ad valorem taxes and the dispute was around the use of the property as an educational use facility. That was never resolved

however Innovate ABQ as an entity withdrew their complaint.

Member Olson asked if Innovate ABQ paid the taxes.

Mr. Neale stated that Innovate ABQ did pay the taxes.

Member Olson, referencing the proforma, asked if the major difference in transferring this property is that the property tax will go away.

Mr. Neale stated that one of the major differences is the salaries which was the largest expense of operating Innovate ABQ and that was removed. There is a tax advantage on operation if the property is owned by the university but one of the driving elements in analyzing this is the ability to use the economy of scale of the university and Lobo Development Corporation to eliminate a major line item expense of salaries. If approved the university will enjoy a tax savings.

Member Olson asked what the \$45,000 Site Security line item on the proforma covers.

Mr. Neale noted that this covers third-party security that patrols the property. This property is located in downtown Albuquerque and there is a large homeless population in that area so this security is primarily to keep students and occupants of the facility safe and to protect the building during off hours.

Member Olson asked if this covers security 24-7/365 days a year.

Mr. Neale noted that the security is mainly in the evening hours and there is not a presence 24 hours a day on site. UNM's security protocol is adapted when issues flare up. There are security checks in the evening and touch points around the property. The security protocol for the student portion uses the students to self-police. Student salaries are paid through the housing group to have the students patrol the student corridors and during the evening hours. This is the same protocol used on main campus and it works really well.

Member Olson commented on the landscaping and site maintenance and repair line item. He noted that the amount seems low since the church building is boarded up and in need of repairs. He then asked how the NMHED feels about the guideline about not increasing square footage and how that applies in this case.

Member Hoehne noted that the square footage increase is the reason why this project is being heard by the NMHED capital outlay committee. The NMHED has a statutory obligation to approve any increase in square footage. In this case the conveyance of the Innovate ABQ property will increase UNM's footprint.

Mr. Neale informed the committee that UNM's absolute intent is to not to put these spaces into academic use but to redevelop them with economic development initiatives. UNM's proforma was developed using the model of entering into ground leases with a development entity who would in turn take on any and all renovations to the site. UNM will not house any academic or I&G users within any of the space. He also noted that any

upgrade to the facilities, including the church building, would be up to the developer who enters into a ground lease.

Member Hoehne brought up the environmental concerns that came up during the review of this transaction. He asked how UNM anticipates addressing environmental remediation and overall responsibility related to the underlying environmental issues found on the property in the ground leases. He also noted that the newest Phase I Environmental Study received by the NMHED still shows ground contamination from the adjacent property owned by the railroad and the need to further remediate should future development take place.

Mr. Neale informed the committee that the development of the Lobo Rainforest Building was done through a ground lease from Innovate ABQ to Signet Real Estate Developer. The project was financed through an institutional lender who was concerned with the environmental issues found on the site. They were satisfied with the level of due diligence performed on the site. He noted that because this institutional lender was made comfortable by the due diligence performed they should not have any issues entering into future ground leases on the site. He also asked if he could turn it over to Joe Tracy who is the best source to answer any environmental issues on the site and the due diligence on closing. He also noted that the new Phase I assessment that was just completed was necessary to ensure CERCLA protection prior to closing.

Member Hoehne asked for clarification on the ownership of any future developments and renovations to the site through the ground leases. If this property is owned by the university will all future developments be done through the Research Park Act or through the Board of Regents. This is important because if the Board of Regents owns the property, any improvements would fall under the approval requirements of both the NMHED and SBOF.

Mr. Neale noted that his understanding of the current NMHED policy is that any ground lease that adds square footage, where UNM occupies the space as a tenant, would require approval of this committee. UNM intends to enter into a ground lease with third party developers who would build, fund, operate and maintain the improvements on that ground lease. UNM would receive some modest revenue from the ground lease but they would not incur an expansion to their square footage that would require them to fund, manage, and control.

Chairman Burke asked UNM to provide information on a worst-case scenario, specifically addressing who would be liable if they were not able to develop the property with ground leases.

Mr. Neale noted that there are assets on the property that are currently in need of improvement and repair. If a developer came in and spent their capital to make those improvements and somehow the asset came back to the University; UNM always has the option of disposing the property if it no longer can be used to support the university mission or if the property becomes a liability. UNM will be thoughtful in how they will structure the ground leases to ensure they are do not become responsible for a financial obligation they did not foresee.

Member Trujillo asked if UNM had any interested developers for the property.

Mr. Neale informed the committee that they have an entity who is interested in developing a bio lab incubator on the site and a local housing developer who is interested in portions of the former church facility. He also mentioned that 8 startup companies currently reside in the Rainforest Innovations building and the one of the biggest impediments that they have is finding space for these startups.

Member Olson asked UNM to provide information on what this project offers them that is not currently available. He also asked for information on what will happen if the project is not approved.

Ms. Costantinidis explained that this project will allow UNM to achieve the vision to expand the economic development opportunities to that the intellectual outputs of the university can get out to and serve the public. UNM needs the space, the energy, and the focus to do it effectively and this space allows them to do that. If they do not take this opportunity to move this forward the land will ultimately come to the university anyway. UNM could dispose of the property, convert it for I&G purposes or do something else however they would prefer to continue the successes of approximately 140 businesses incubated through Rainforest Innovation and use of the skills they have within the real estate department and other UNM Rainforest entities.

Chairman Burke noted that what Ms. Costantinidis mentioned is exactly what a Research Park Corporation is for.

Mr. Neale informed the committee that while they were considering this, they were given direction to manage this for the next 24 months post the approval so they could assess where UNM wanted to go and how they could react to some of the opportunities that may present themselves. Another benefit of having this property under the control of the UNM Board of Regents is continuity. There is a chain of command in the Regents structure that will ensure what happens on the site moves the mission forward. They planted a huge seed on the site and have a very profound stake on the success of this and they want to do everything they can to continue that. He also emphasized that the Lobo Rainforest building is unique in that it contains the technology transfer offices of a major research university and two national labs. Los Alamos labs just placed their technology transfer offices within the facility as well.

Member Hoehne concurred that the statute regarding the dissolution of a Research Park Entity does automatically transfer the assets back to the university and the Board of Regents. He noted that from this presentation UNM is still wanting to pursue the mission of a Research Park entity and as a result, asked why UNM would not consider transferring the interests back to a Research Park corporation. With the successes that have been noted during the presentation, and the continued drive to pursue the original Research Park initiatives for this property, transferring the assets to an existing UNM Research Park entity makes the best sense. He also emphasized that the NMHED does not disagree with what UNM is wanting to do however it is our responsibility to ensure that the transaction will not become a financial burden to UNM.

Ms. Costantinidis noted that there are three main reasons why UNM is wanting to take ownership of this property. The first is the economics of using the resources at UNM. The real estate team and the risk management team are really good at what they do and it allows UNM the opportunity to move this project forward economically and save money. The second is control of the asset. If the asset is owned and operated by a separate Research Park entity, the university would not necessarily have control. The property could be sold off piece by piece in order to support the operations of the Research Park entity. UNM wanted to make sure that land assets are controlled and decisions for that land are carefully thought out in terms of their longevity and importance to State of New Mexico and to the university. This is why the Research Park Corporation entities created by UNM do not own any assets, other than the property owned by Innovate ABQ. Lastly there is a cost to UNM for the taxation obligations that Innovate ABQ incurred for parking and housing that would not be assessed if UNM owned the land.

Member Hoehne thanked Ms. Costantinidis for the information. He asked if UNM could provide more clarification on the set up of other Research Park Corporations and the ownership of the property they occupy.

Mr. Neale informed the committee that the university owns improvements and leases them to Lobo Development Corporation. On a couple of properties Lobo Development Corporation does have a lease-hold interest but the improvements and the site are owned by the university.

Chairman Burke asked the committee for a motion.

Member Olson asked for the Chairman's direction on a motion for this project.

Chairman Burke noted that he is concerned with the fact that universities asked for flexibility when they requested the creation of the Research Park Corporation Act and now they are requesting additional flexibility to allow them to manage the functions of a Research Park Act entity.

Member Olson asked if this type of transaction has come before this committee in the past and if not, would the committee's action be setting a precedent.

Member Hoehne noted that this is a very unique case and it is important for the committee to distinguish the dissolution of Innovate ABQ, the statutory obligation of transferring all assets back to the UNM Board of Regents, and the university's decision to keep ownership of the property. Knowing that other Research Park Corporations do not own the land that they are occupying is also an important factor to consider. Innovate ABQ purchased the property and for whatever reason was not able to maintain operations. This led to the dissolution of the entity and transfer of assets to UNM per the statute. The question of what UNM is planning on doing with the property is really what has raised the most questions and concerns for both the NMHED and this committee. Based on this information there may be a path forward for approving this project with contingencies. The contingencies would involve UNM keeping the NMHED apprised on the steps that are taken going forward with this property, getting a better understanding of any state approvals that may be required for any of the ground leases that will be entered

into, as well as a better understanding of how the ground leases will address responsibility for any of the environmental issues that exist on the property. The environmental issues are important in that the example given for the Rainforest Innovation Building, the ground lease was between a Research Park Corporation and a developer. This transaction would be between a state entity and a developer so the risk and responsibility will need to be understood.

Mr. Neale let the committee know that UNM is comfortable with providing any information the NMHED needs going forward.

Chairman Burke asked if this project needed to go to the State Board of Finance for approval.

Member Hoehne informed the committee that the State Board of Finance would not need to approve this project. The requirements for their approval are based on capital expenditures and since this project is a zero-dollar transaction they would not need to approve. He also mentioned that he spoke to State Board of Finance staff and this was the guidance given.

Member Trujillo asked if this transaction could be considered a donation and if so would trigger approval by the State Board of Finance.

Member Hoehne explained that this would not be considered a donation because the property is not being donated. The property is being conveyed as required under the Research Park Act because of the dissolution of the Innovate ABQ Research Park entity.

Member Hoehne asked the Chair and committee members if there is consensus in approving the project with the contingencies noted earlier. He also asked if there were any other concerns that needed to be brought up for discussion. He emphasized that this committee is looking to protect the interests of the University of New Mexico and the State of New Mexico.

Member Olson asked if the indemnity agreement is in place or if the transfer needs to take place before it can be put into place. He also asked if the New Mexico Environment Department (NMED) has provided any information or recommendations on what would cause them to withdraw the indemnity agreement.

Member Hoehne informed the committee that the NMED has recommended that the University of New Mexico have the Covenant not to Sue transferred to the Board of Regents so this would need to be added as a contingency item. The current Covenant not to Sue was issued to Innovate ABQ so transferring this would be an important step. He asked UNM if the Covenant not to Sue has been transferred.

Mr. Neale noted that UNM has submitted their request for the issuance of a Covenant not to Sue from NMED subsequent to this committee's action.

Member Olson expressed concurrence with Member Hoehne's comments regarding the committee's interest in the risk and the costs that will hit the university's books. Did UNM

have any thoughts about partnering with the City of Albuquerque or some other entity, or has it always been the plan to approach this project on your own.

Mr. Neale noted that UNM would welcome any meaningful partnership with any public institution or private entity for this project. He also informed that committee that they would actively seek these partnerships in an effort to make this project a success. At the outset of this there was support from the City of Albuquerque, Bernalillo County, and Nusenda and going forward UNM will continue to seek those same types of partnerships.

Ms. Costantinidis informed the committee that UNM welcomes and would appreciate the support and ongoing scrutiny of their activities by the NMHED. They are in an interesting situation because regardless of what happens today the property will still come to the Board of Regents however, having the NMHED approve it with contingencies that speak to the agency wanting to monitor the risk, wanting to review the ground leases, and wanting to be engaged in all of the steps is welcomed. UNM wants to minimize the risk and protect the interests of the university and the State. She asked that the committee consider approving this project with those contingencies in place to keep NMHED involved in this project.

Member Billingsley expressed his understanding of the project and the fact that the property will transfer back to the Board of Regents regardless of the outcome of today's committee hearing. He asked that the contingencies be reviewed to ensure everything is captured.

Member Hoehne outlined the contingencies.

Chairman Burke asked UNM to clarify whether or not a letter from the Environment Department would be issued relieving UNM of any responsibility for the existing conditions on the property.

Mr. Neale noted that UNM sent out a letter yesterday that the United States Environmental Protection Agency (EPA) issued back in 2014. The letter explains the EPA's policy for surface owners when there is a Superfund contamination that may flow underneath a particular site and they make it clear that they do not go after the property owners who are not responsible for the Superfund contamination. UNM Legal Counsel, at the time the property was purchased, was very diligent about the need for this EPA assurance letter. He also noted that he felt this letter would provide the committee with assurances that Innovate ABQ, Rainforest Innovations, or the Board of Regents would not suffer any liability for the Fruit Avenue Plume Superfund site.

Member Hoehne asked that this item also be included as a contingency. He asked that UNM request a revised letter from the EPA listing the UNM Board of Regents instead of Lobo Development Corporation. He expressed the importance of having all documentation reference the UNM Board of Regents since the protections offered by this letter are significant in reducing liability and risk.

Mr. Neale noted that UNM will put in a request for a revised letter. He asked Mr. Joe Tracy to offer any comments on the letter.

Mr. Tracy noted that it was a good idea and should not be a problem to pursue.

Chairman Burke asked Member Hoehne to make a motion outlining all of the contingencies discussed.

Member Hoehne made a motion to approve the project for submittal to the NMHED Cabinet Secretary contingent upon receipt of the following:

- Covenant not to Sue from the NM Environment Department to the UNM Board of Regents for this property;
- Letter from the United States Environmental Protection Agency to the UNM Board of Regents regarding the Fruit Avenue Plume Site with the same assurances provided to the Lobo Development Corporation;
- Documentation verifying the dissolution of the Innovate ABQ Research Park Corporation in accordance with Section 21-28-21 NMSA; and,
- Letter from the UNM Board of Regents outlining how they anticipate managing this project going forward, specifically how they will utilize the current space and property as a business incubator, their intended path of entering into ground-leases to further develop the property going forward, and a commitment to not use state funds for this project, all of which were outlined in this presentation.

The NMHED is also requesting the following:

- Annual updates, at a minimum, from UNM on their progress in developing the property for its intended use. These annual updates should include financial information on actual revenues and expenditures. More frequent updates should be provided prior to the execution of any ground-lease agreement for the property. These updates will be informational and should include, at a minimum, impact the ground-lease will have on any of the environmental conditions at the site, any necessary remediation that may be required, and financial information related to the ground-lease transaction.

Member Billingsley seconded the motion.

Chairman Burke abstained from the vote.

Motion passed. (4-0)

**19. University of New Mexico – \$9,514,000
Reserve Officer Training Corps (ROTC) Facility Renovation**

Presenters: Dr. Garnett Stokes, President, UNM; Teresa Costantinidis, Senior Vice President of Finance and Administration, UNM; Lisa Marbury, Executive Director of Institutional Support Services, UNM

Lisa Marbury presented the project as outlined in the project submittal, explaining the scope of the project and how it would allow UNM to redevelop the former Alpha Chi Omega Sorority House to allow the three ROTC branches to be co-located in that newly renovated facility. She noted that the Navy is currently located in a facility that was built in 1941 and currently on the historic register, the Army is located in a facility built in 1931, and the Air Force is located in a facility built in 1940. She also brought up the meeting that

was previously held between UNM, NMHED, DFA, and LFC to discuss questions and concerns with the project.

Member Hoehne informed the committee that the meeting was held in order to discuss some of the concerns originally raised by the NMHED on this project. The packet provided by UNM contains the questions by the NMHED and responses provided by UNM. One of the clarifications that came about as a result of that meeting was the property transfer. The NMHED originally understood this to be an acquisition however UNM clarified that it was a ground lease. UNM entered into a ground lease with the Alpha Chi Omega Building Association of New Mexico and as a result, the facility was constructed. The facility was vacated by Alpha Chi Omega and the property and facility reverted back to UNM. The major issue that has come up with this transaction is the language of the GO Bond appropriation that is being considered for use in the renovation of this project. The NMHED did reach out to the New Mexico State Board of Finance to request an opinion from Bond Counsel on the ability to use this appropriation for this project. Bond Counsel has requested additional information from the NMHED to assist them in their determination. That information was provided however no formal opinion has been received. He also emphasized that the NMHED did commit to putting this project on the agenda for today's hearing understanding that any action would be subject to receipt of a formal Bond Counsel opinion. He then requested that UNM provide additional information on the impact to the project schedule should the committee not act today.

Ms. Marbury noted that the schedule provided to the committee reflects a construction start date of May 2021. The May start date is due to the need for some preliminary remediation work on the site that UNM wants to get done. For this reason, they built in some additional time built into the schedule so it's not immediately urgent but it will become very important to move the project along as fast as they can if approval is not granted today.

Chairman Burke informed President Stokes that the language is the biggest issue and it is the institutions responsibility to review the language and make any suggested changes prior to it being incorporated into the final bill.

President Stokes concurred that it is UNM's responsibility to review the language and at the time they did object to the way it was written however it still went into the bill. She noted that UNM would never agree with the restrictive language because the three facilities are inadequate and there is no way they could add additional square footage to any of them.

Member Hoehne brought up the original intent as he understood it when the funding was requested. He noted that the original request was put forth as Phase I of a 2 phased project. UNM's request and presentation at the time was structured in a way that they would get funding for each phase during two separate funding cycles in order to construct a larger facility. When the funding did not come to fruition for the second phase, UNM would have had to reconfigure the project in a way that would allow them to meet the budget. Even if the Phase II funding would have been appropriated, this funding may still not have been eligible for use and UNM would still be in this situation. He reiterated the fact that the NMHED does not want to negatively impact the project schedule, noting that

the NMHED does have a hearing in December and January. He recommended that the committee hold off on taking any action on this project until a formal opinion is received from the SBOF Bond Counsel. He also noted that the questions from Ms. Constantinidis in the last meeting regarding alternative options for use of the funding will still need to be explored. This additional month will give the NMHED and other stakeholders the time they need to review alternatives should Bond Counsel determine the funding cannot be used.

Chairman Burke asked UNM to clarify which existing ROTC facility is on the Historic Register.

Ms. Marbury noted that the Navy ROTC building is historic and it is the largest building with a square footage of 12,478 SF. She also noted that if Bond Counsel determines that UNM must follow the language as written, this is the building they would have to renovate. UNM has already done some preliminary assessments on what it would take to renovate. She mentioned that UNM could do some major renovations to the facility with input and guidance from the State Historic Preservation Office however it would be quite a bit more challenging and ultimately cost a lot more. What UNM would end up with is a renovated space just for the Navy ROTC.

Chairman Burke asked if the available funding would be sufficient to renovate the Navy building and if there is a potential to expand the footprint.

Ms. Marbury noted that she would have to better understand the project budget and project detail before being able to respond. She also noted that the space is extremely tight and there is very little area to expand the footprint. There is a parking structure on one side and a steep grade on the north of the building that would need to be addressed if expansion were to occur. She reiterated that the site has many challenges.

Member Hoehne asked what the square footage of the Navy facility is in comparison to the square footage of the completed Alpha Chi Omega facility.

Ms. Marbury informed the committee that the proposed facility would be 20,600 sf, which is a bit smaller than all three of the existing ROTC facilities combined. They are able to take advantage of efficiencies brought about by the co-location of the 3 programs. This includes administrative uses and shared spaces such as workout rooms.

Member Hoehne asked if the addition of 8,000 sf being proposed could be added to the existing Navy facility.

Ms. Marbury noted that she does not have that information readily available however it is very unlikely. She mentioned that adding additional floors to the facility may be an option however she does not feel that the State Historic Preservation Office would approve it.

Chairman Burke concurred with member Hoehne on his recommendation to not act on this project until Bond Counsel makes a formal determination.

Member Hoehne informed UNM that the NMHED is committed to continued efforts in

moving this project forward. If bond counsel determines the funding is allowable for this purpose the NMHED will place the project on the December agenda. UNM will not need to update or resubmit the project. If bond counsel determines that the funding is not allowable and there are changes necessary to the project scope the NMHED will work with UNM on next steps.

Chairman Burke reiterated the fact that this project is needed and there are no concerns with what UNM is wanting to accomplish. The only issue is the ability to use the appropriation because of the language.

Member Trujillo notified the committee and UNM that the state will be rolling out a new energy code in March. He asked if UNM had taken the new code into consideration when developing the cost estimate for this project as it may have an impact.

Ms. Marbury noted that she would get with the Project Manager and make sure the new code was factored into the project costs.

Member Billingsley asked UNM how they determine the programmatic uses of a facility, specifically when the facility moved from a Sorority House to an ROTC facility. He noted that this information may be important in determining the use of the funding. He also stated that this is only a comment and should not be misconstrued as guidance to UNM on how they can get the language approved.

Ms. Marbury informed the committee that the facility will never be a sorority house again. It was vacated several years ago and has just been sitting there without being used. UNM was looking at how they could best use the space and in doing so recognized that it was indeed going to be an I&G space. Systematically UNM has a space management database called FAMIS where they categorize all of their square footage, buildings, and space on campus. UNM can categorize that space as I&G within the system and appropriate it to the ROTC. She noted that the space does belong to UNM and they are designating it to ROTC.

Chairman Burke asked if this information has been conveyed to Bond Counsel.

Ms. Marbury noted that UNM could provide the information through Dr. Barbara Damron or through the NMHED if needed. She reiterated that they do have the ability to classify their space within the space management database.

Member Hoehne asked UNM to explain their process for classifying space for a certain purpose, specifically the timeframe this reclassification takes place. He noted that Member Billingsley's question makes sense however we know that all institutions have the capability of reclassifying space on campus at any time. The main point of my question is determining the process.

Ms. Marbury informed the committee that she would have to go back and look at some of the past processes for updating space. They have been doing an annual update of the FAMIS database so changes do not necessarily take place immediately. Departments do have the ability to go in and change their space allocation throughout the year however it

does not necessarily happen. She is not aware of any time other than the annual reviews where space would be updated. She also noted that UNM just recently went through a major upgrade of their FAMIS system moving it to a web-based format. This took about a year and during that time there were some gaps in their ability to provide updates. She informed the committee that she would go back to the Capital and Space Strategies Division to get more specific information on this question.

Chairman Burke asked when UNM decided to use this facility for ROTC.

Ms. Marbury informed the committee that this was a long process undertaken by the university and a timeline of the events was provided with the materials. She noted that the planner who was involved in the process is no longer with UNM so recovering some of her notes has been challenging. She then went on to explain that the ROTC project was added to the university's five-year capital plan in 2016 and since then it has gone through several iterations. She noted that they originally came forward for funding, then they decided to phase it but funding for the second phase was not received, and at that point they started looking for alternatives on what they could do. In the meantime, the Alpha Phi Omega Sorority was wanting to get out of their lease so UNM anticipating the return of the property did a feasibility study to see how the space could be used. They looked at the possibility of using the facility for the UNM police department however they did not have sufficient internal funds in order to renovate it to meet their needs. When UNM was able to secure additional funding from the Legislature for ROTC, they made the determination that the funding received would allow them to repurpose the building for the ROTC programs. Also doing this project in a single phase would ultimately save the university about \$1.5 million.

Member Hoehne informed the committee that in previous discussions with UNM it was determined that the decision to use the facility for ROTC was made in middle to latter part of 2019.

Ms. Marbury stated that it was more towards the beginning of 2019 since the final feasibility study for the UNM Police Department was completed in late 2018. She noted that the Sorority house had not yet reverted to UNM at that time however they were in the process of working with them to get it transferred back. In early 2019 it was determined that the UNM PD could not go into that facility. That is when UNM determined that ROTC would fit into the facility.

Ms. Costantinidis informed the committee that she arrived at UNM in July of 2019 and the decision had already been made to go with the sorority house. She then asked for clarification from Member Hoehne on the process UNM should follow to be placed on the December agenda. She also asked if UNM should be reaching out to Bond Counsel if this is something that is handled by the NMHED.

Member Hoehne noted that the NMHED requests opinions from Bond Counsel through the State Board of Finance staff. He also noted that Bond Counsel will not act on any requests that are submitted directly from an entity or institution. He reiterated that the request did go to the State Board of Finance and Bond Counsel has reviewed and responded with some questions related to property ownership. The NMHED responded to

that request by providing the ownership information submitted by UNM and as of right now we are just waiting for their response and determination.

Member Hoehne made a motion to delay action on this project until such time that the committee has the determination from Bond Counsel on the use of the General Obligation Bond proceeds for this project.

Member Trujillo seconded the motion.

Motion passed. (5-0)

Chairman Burke asked if UNM would be demolishing the existing facilities.

Ms. Marbury noted that it is always UNM's intent to reduce square footage on campus. The Army and Air Force buildings would need to be taken down however the Navy building, because of its historic significance, would need to be repurposed for a more efficient use.

Chairman Burke thanked President Stokes for joining the committee hearing this morning.

20. Adjourn

Chairman Burke adjourned the meeting at 12:50 p.m.