

Minutes of the Special Meeting of
The Board of Regents of the University of New Mexico
April 19, 2023
9:00 AM Open Session-Student Union Building (SUB), Ballroom C
Livestreamed for public viewing

Members Present

Kim Sanchez Rael, Chair; Jack L. Fortner, Vice Chair; Robert L. Schwartz, Secretary-Treasurer; Bill Payne; Paul Blanchard (virtual attendance); Randy Ko; Paula Tackett

Administration Present

Garnett S. Stokes (virtual attendance), President; James Holloway, Provost and EVP for Academic Affairs; Teresa Constantinidis, EVP for Finance and Administration; Doug Ziedonis, EVP for Health Sciences and CEO of the Health System; Loretta Martinez, General Counsel; Kate Becker, CEO UNM Hospitals; Jamie Silva-Steele, CEO and President Sandoval Regional Medical Center; Assata Zerai, VP Equity and Inclusion; Terry Babbitt, President's Chief of Staff; Cinnamon Blair, Chief University Marketing and Communications Officer; deans and others

CALL TO ORDER AND CONFIRMATION OF A QUORUM

Chair Kim Sanchez Rael called the meeting to order at 9:06 AM in and confirmed a quorum with all 7 members present, 6 in person, Jack Fortner, Bill Payne, Paula Tackett, Randy Ko, Rob Schwartz and Kim Rael. and Paul Blanchard attending via Zoom.

VOTE TO ADOPT THE AGENDA

- **The motion to adopt the agenda passed unanimously (1st Fortner; 2nd Ko).**

VOTE ON THE TRANSACTION UNDER WHICH UNM HOSPITAL WILL ACQUIRE ALL OF THE ASSETS AND ASSUME ALL OF THE LIABILITIES OF SRMC AND THEREAFTER THE SRMC HOSPITAL WOULD OPERATE UNDER UNM HOSPITAL'S LICENSE

Jamie Silva-Steele, CEO and President Sandoval Regional Medical Center, presented the item, along with UNM Hospital CEO, Kate Becker, and Deputy University Counsel, Scot Sauder. Regents were provided materials regarding the integration of SRMC Hospital under the UNM Hospital license. This has involved months of discussion with the SRMC board, the Board of Trustees for UNM Hospital, and the Regents. The work has been toward a strategy to sunset the Medicare license for SRMC and dissolve the SRMC Corporation in an attempt to fall under the UNM Hospital Medicare number. The benefits to this have been outlined in the materials provided. one is related to the clinical operations and the movement of patients between the two organizations and the ability to streamline and standardized processes across both hospitals further than they are today. The other item is to take advantage of the Rio Rancho Hospital as a fuller breadth of academic and research activity. There is the opportunity to not only learn from the historical endeavors that UNM Hospital has had for many years around research and academics, but to take advantage of the platform and to think through a community hospital academic experience in a broader way than is currently being done today. The last item of benefit is a financial benefit involving the potential for new reimbursement strategies that currently support UNM Hospital and that SRMC has not been able to do since it's a separate corporation and separately licensed under that strategy. The expected financial opportunity is close to \$7 million a year. The financial aspect is a significant factor, particularly in the focus on strategies around financial action planning, and thinking through the coming through COVID that all hospitals

have been experiencing. Providers met with the medical executive committee yesterday to explain the full details. Community stakeholder leaders are in support of this transaction; they truly feel that this actually provides future sustainability, and by doing this, SRMC becomes integrated in a way that lots of other campuses across the United States are already doing. CEO Jamie Silva-Steele concluded and asked for comments and questions.

Regent Jack Fortner inquired if Sandoval Regional has some of the same financial pressures that rural hospitals have had, and also will this transaction address that? Regent Fortner added that he is familiar with San Juan Regional, as he has done work for them and his wife was on the board before she became a county commissioner. Regent Fortner stated that rural hospitals are still pulling out of COVID and some haven't. He asked how SRMC will face the same struggles and will this proposal make a difference? CEO Silva-Steele responded that it is similar as far as impact. She clarified that from a size perspective San Juan is not a completely rural hospital. Right now, the rural facilities are seeing low volume, while on the other hand SRMC and San Juan are seeing high volume. SRMC is at about 115-120% occupancy on a daily basis. The main issue that SRMC is dealing with is trying to staff to that volume. Typically, budgets attempt to target about an 85% occupancy rate, without COVID in the picture, but SRMC has been running those high volumes for over three years, so the biggest cost impact has been in the form of contract labor. For low volume hospitals, they're hit in two ways, lower revenue and they're using high cost to keep the doors open. It's just not sustainable. The good thing is that traveler rates are starting to decrease, and as that happens, either travelers will start to take permanent positions or hospitals will be able to see a cost-savings on the operational side.

Regent Bill Payne inquired about a recent constituent comment about tax issues. General Counsel responded that the University is an exempt entity for taxation purposes. Similarly, UNM Sandoval Regional Medical Center was formed as a non-profit and is a 501(c)(3) entity, so it too is an exempt entity because of how it uses the property for educational and charitable purposes, i.e. health care. Regent Payne inquired of any impacts to the mill levy. Kate Becker said that it is important to note, because there is a Bernalillo County mill levy, and a Sandoval County mill levy, and she explained special planning for the transaction. UNM Hospital currently produces audited financial statements as a whole that roll up to the University, but there is a separate statement for UNM's behavioral health operations, because that is an accounting operation that UNM provides additional information on, and will do something similar with SRMC so there will continue to be audited financial statements for SRMC as a unit so that each county can see where it's mill levy is going and how that's being applied.

After the presentation and initial comments and questions, Regent Rael asked if there were any public comments. No one signed up at the meeting to give public comment, or registered via email. Regent Chair Rael noted for the record that one comment had been received via email.

Regent Rael asked if there was a motion to adopt the resolution; Regent Schwartz motioned adoption; Regent Ko seconded the motion.

There was further discussion.

General Counsel, Loretta Martinez, recommended that Counsel go through the key aspects of the resolutions in the interest of full disclosure. Deputy Counsel, Scot

Sauder, presented the summary, explaining that there were two resolutions before the Board that actually address two pieces, significant procedural items. First is that the resolutions provide for approval of the asset purchase agreement, which is a typical form of asset purchase agreement. It contains usual and customary terms, it lists out certain disclosure items to UNM Hospital from SRMC to ensure the transition moves through smoothly. Different than other asset purchase agreements, it does not exclude any assets, nor does it exclude any liabilities, so the things that used to be worried about in terms of parsing out accounts receivable, cash coming in the door, and so forth, do not attend this transaction. The resolutions call for approval of that.

Secondarily, it authorizes certain officers of the Board and of the administration to execute and implement the asset purchase agreement, and he clarified that the Board refers to the Board of Regents. In the Regents' role as the sole Member of SRMC, because this is a transaction that involves a transfer of substantially all the assets of SRMC, the Non-profit Corporation Act, because there is a voting Member in the Board of Regents, to consent to that transaction. The Regents provide that consent and a consent to the dissolution of the corporation, post-closing of the transaction sometime after January 1, 2024.

Lastly, the resolutions bring back a piece of history. When the transaction was originally done, the university ground leased for 72 years, 18.75 acres of real estate sitting underneath Sandoval Regional. When this transaction closes, there will be a merger of interests because the university will own both the lessee and lessor positions. So the resolution provides for approving terminating that lease. The resolutions also authorize management to move forward with the US Housing and Urban Development Department to get the transfer of the physical assets approved by HUD. Conversations with the lenders have already commenced, three lenders that will be affected by the transaction. HUD is aware of the potential transaction and UNM has requested HUD's approval by September 30th so that the remainder of the regulatory approvals can be completed, knowing that there is clearance from the lenders of over \$400 million. That summarizes the Board resolution that Regents are being asked to adopt. [ATTACHMENT A]

Deputy Counsel Sauder outlined the letter from Dr. Ziedonis. Under the Non-profit Corporation Act, the Board of Directors of Sandoval Regional Medical Center is required to recommend the approval of the consent of the Member to the transaction, and this is a formal step to record that non-profit corporation act is being followed. [ATTACHMENT B]

Regent Rael called the question on the motion and second that had been made earlier to adopt the resolution; all Regents voted in favor of adoption of the resolution.

Regent Payne requested that with regard to the budget process, the Regents owe it to the administration to communicate what the budget assumptions should be for next year's budget (FY25). For example, if the Board feels right now that there's not going to be a tuition increase next year, Regents need to tell administration before they get into the planning cycle. Similarly, with other sources of funding or other issues brought up, or comments like, why don't we just recruit more student, which is easier said than done. Regent Payne emphasized that it's the Board's responsibility to define the parameters before going into a planning cycle, clarifying that those would in the form four or five principles. President Stokes said she agreed, adding that she hoped tuition increases would always be something on the table to consider.

Regent Schwartz responded saying he hoped there would be good discussion on what the policy ought to be on tuition and what it ought to be for students as a general matter, and where we would like to see tuition in a decade.


Regent Schwartz asked if the approval of the resolution affects in any way the budget for the upcoming year. CEO Silva-Steele confirmed that assumptions are already built into the FY24 budget, it would include half a year of the transaction beginning in January. She clarified that at this point, the budget is still being finalized, but it is in a positive state with a breakeven bottom line.

ADJOURN


There being no further business, Regent Rael asked for a motion to adjourn the meeting; Regent Fortner motioned; Regent Schwartz seconded; all were in favor; the meeting adjourned at 9:29 AM.

Approved:

Attest:



Kim Sanchez Rael, Chair



Robert L. Schwartz, Secretary-Treasurer

RESOLUTION

RELATING TO THE REGENTS OF THE UNIVERSITY OF NEW MEXICO APPROVING THE EXECUTION OF AN ASSET PURCHASE AGREEMENT IN CONNECTION WITH THE ACQUISITION OF THE ASSETS OF UNM SANDOVAL REGIONAL MEDICAL CENTER, INC.; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; AND REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION.

BE IT RESOLVED by the Board of Regents (the “Regents”) of the University of New Mexico (the “University”):

WHEREAS, University of New Mexico Hospitals (“UNM Hospitals”) is the primary teaching hospital of the University of New Mexico School of Medicine and a major source of tertiary care for citizens of the State of New Mexico (the “State”); and

WHEREAS, UNM Hospitals is owned partly by the University and partly by Bernalillo County (the “County”) and is operated by the University under a lease with the County; and

WHEREAS, UNM Sandoval Regional Medical Center, Inc. (“SRMC”) is a research park corporation organized under the New Mexico University Research Park and Economic Development Act, N.M. Stat. Ann. Section 21-28-1, *et seq.* (the “URPEDA”) and a nonprofit corporation organized under the New Mexico Nonprofit Corporation Act, N.M. Stat. Ann. Section 53-8-1, *et seq.* (the “Nonprofit Corporation Act”); and

WHEREAS, SRMC is a wholly owned subsidiary and blended component unit of the University and the Regents are the sole member of SRMC and appoints the members of the SRMC Board of Directors; and

WHEREAS, pursuant to the Ground Lease, dated as of June 1, 2010 (as amended and supplemented, the “Ground Lease”), by and between the Regents and SRMC, SRMC leases from the Regents the site upon which SRMC is situated; and

WHEREAS, pursuant to the terms of an Asset Purchase Agreement, to be dated its date of execution (the “Asset Purchase Agreement”), by and between SRMC and the Regents, SRMC desires to sell, and the Regents desires to purchase, substantially all of SRMC’s assets and the Regents will agree to assume substantially all of SRMC’s liabilities and obligations;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO:

Section 1. Ratification. All actions not inconsistent with the provisions of this Resolution heretofore taken by the Regents and the officials of the University and UNM Hospitals directed toward the acquisition of SRMC be and the same hereby are ratified, approved and confirmed.

Section 2. Delegation and Approval. The Regents hereby authorize and approve any necessary action to be performed by the University to effectuate the consummation of the transactions contemplated by the Asset Purchase Agreement and any of the documents and

agreements contemplated by the Asset Purchase Agreement (collectively, the "Transaction Documents"). The form of the Asset Purchase Agreement has been presented to the Regents. The terms and provisions of the Asset Purchase Agreement are in all respects approved, authorized and confirmed, with such changes, modifications, additions and deletions therein as shall be necessary, desirable or appropriate as determined by an Authorized Officer (hereinafter defined). The President, Vice President, and Secretary of the Board of Regents and the President, the Executive Vice President for Finance & Administration, the Executive Vice President for Health Sciences and CEO of the UNM Health System, Chief Executive Officer for UNM Hospitals, and Chief Financial Officer of UNM Hospitals (each, an "Authorized Officer" and, collectively, the "Authorized Officers") are hereby each authorized to execute the Transaction Documents and any documents that are required to be executed by the Regents and such execution thereof shall constitute conclusive evidence of the Regent's approval of such documents.

Section 3. Approval of Member. The Regents, in their capacity as sole member of SRMC, approve the execution of the Transaction Documents. As sole member of SRMC, the Regents approve the dissolution of SRMC, at an appropriate time subsequent to the acquisition of SRMC.

Section 4. Termination of Ground Lease. The Regents approve the termination of the Ground Lease concurrently with the consummation of the acquisition of SRMC and direct the Authorized Officers to execute any and all documents relating thereto.

Section 5. Conditions Precedent. The acquisition of SRMC by the Regents is subject to various third party approvals, including, but not limited to, approval by the New Mexico Higher Education Department, the New Mexico State Board of Finance, the United States Department of Housing and Urban Development ("HUD"), the Federal Housing Administration, and various federal, state and local health care reimbursement, regulatory and licensing agencies. The Authorized Officials are hereby directed to take any and all actions necessary to obtain such approvals.

Section 6. Authorization. The officers of the Regents, the University, UNM Hospitals and SRMC are empowered to do and perform all acts reasonably necessary to accomplish the acquisition of SRMC, and to execute and deliver such other instruments and documents as may be necessary to enable the Regents, the University, UNM Hospitals and SRMC to effectuate the transactions contemplated by the Transaction Documents.

Section 7. Repealer. All policies and resolutions, or parts thereof, inconsistent herewith, are hereby repealed to the extent of such inconsistency. This repealer shall not be construed as reviving any policy or resolution, or part thereof, heretofore repealed.

Section 8. Severability. If any section, paragraph, clause or provision hereof shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 9. Effective Date. The Resolution shall become effective immediately upon its passage and adoption by the Regents.

PASSED, ADOPTED AND APPROVED THIS 19th DAY OF APRIL, 2023.

[SEAL]



THE REGENTS OF THE UNIVERSITY OF
NEW MEXICO

By _____
President

A handwritten signature in black ink, written over a horizontal line.

Attest:

By _____
Secretary/Treasurer

A handwritten signature in black ink, written over a horizontal line.