

**New Mexico Bioscience Authority (BSA) Board of Directors
Special Meeting**

January 22, 2021 11:30 am – 1:00 pm

317 Commercial St. NE, Suite 311, Albuquerque, NM*

Present: Richard Larson (Chair), Greg Byrnes, Ken Prokuski, Scott McLaughlin, Myrriah Tomar, Dale Dekker, Immo Hansen, Tom Kieft, Suzanne Quillen, Stuart Rose, Sheryl Arvizu, Christos Christodoulou

Absent: Jennifor Gifford

Staff Present: Ryan Cangioli, Sterling Nichols

#	Agenda Items	Board Actions
1.	Call to Order and Confirmation of Quorum	The Chair called the meeting to order at 11:30 am. A Quorum was confirmed and all board members were present.
2.	Approval of Minutes: <ul style="list-style-type: none"> ▪ December 11, 2020 BOD Meeting 	<p>The Chair asked for a motion to accept the minutes of the October 30, 2020 BOD meeting.</p> <p>Christos Christodolou made a motion and it was seconded by Suzanne Quillen.</p> <p>Myrriah Tomar identified an error in how a vote was recorded and asked that the Chair’s vote on Agenda item 5 to be amended to the Affirmative.</p> <p>A vote to accept the minutes with the modification was taken and passed with eleven in the affirmative, none in opposition and none in abstention. The vote was as follows:</p> <p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Affirm, Dekker-Affirm, Gifford-Absent, Hansen-Affirm, Kieft-Absent, Larson-Affirm, McLaughlin-Affirm, Prokuski-Affirm, Quillen-Affirm, Rose-Affirm, Tomar-Affirm</p>

<p>3.</p>	<p>Chair's Report</p>	<p>The Chair reported that the presentation regarding the NMBSA to the Interim HED Secretary was well received.</p> <p>The Chair gave an update on the IPRA request from Larry Barker. Mr. Barker requested itemized expenses and receipts ranging from Fiscal Year 2018 to 2020. The information was provided to him. It appears he may be interested in expenses related to the analysis of the Direct Investment Fund. The legal analysis of the Direct Investment Fund was approximately \$16,000. The chair mentioned that \$16,000 of legal expenses for a complex legal analysis was not excessive and it ensures the public that the NMBSA actions are legal. The Science, Technology and Telecommunications Committee, Legislative Counsel Service's staff, and several legislators had also asked for it. In addition, the chair was assured by the Finance Committee in August that the committee thought the expenses were appropriate.</p> <p>Chair Larson explained that after the amendment on December 1, 2020 was noticed, a board member expressed concerns and queried regarding the threshold of needing five board members to petition the chair for the chair removal. The board member was sent the written responses from NMBSA's legal counsel that were presented in open session at the October 30, 2020 meeting, i.e. Providing for a higher threshold [i.e. more than one] for removal of an officer than appointment of an officer is not inconsistent with the Nonprofit Corporations Act. It is "a provision for the regulation and management of the affairs of [the] corporation" that complements and does not contradict the law."</p> <p>The chair communicated that on December 1, 2020, after this email exchange, the Economic</p>
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	<p>Development Cabinet Secretary was contacted. The Secretary explained that she heard that with the bylaws changes, a title change occurred that would prevent the removal of the current chair. It was communicated to the secretary that this was incorrect, since the amended bylaws provide clear path of transition of the President, Vice President, Secretary, Chair and Vice Chair.</p> <p>In follow up to the discussion in December of the possible referral to the Attorney General's office for his opinion, the chair stated that the NMBSA has not received any communications regarding the existence of or nature of a referral. Director Tomar communicated she believes that the Governor may line-item veto the NMBSA allocation due to the bylaw controversy.</p> <p>The chair stated that the threatened legal action would be discussed in closed session.</p> <p>Director Rose clarified that his threat of legal action was directed at the board as a whole, not directed towards individual board members.</p> <p>After the December 11, 2020 BOD meeting, Director Rose's legal counsel had an informal conversation with NMBSA legal counsel regarding two concerns:</p> <ol style="list-style-type: none">1. Executive Director (ED) position not being in the bylaws2. Indemnification language and evidence of coverage <p>NMBSA legal counsel explained to Director Rose's counsel that the NMBSA has received its Evidence of Coverage from the State confirming that the State will insure the NMBSA to the extent articulated in that form and that the State views the NMBSA as subject</p>
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		<p>to the Tort Claims Act. Director Rose’s counsel communicated that he understood that the confirmation of that coverage and being subject to the Tort Claims Act largely resolved the issues expressed in his memo.</p> <p>NMBSA legal counsel also explained to Director Rose’s counsel that the NMBSA’s intent was not to eliminate the ED position through the amended bylaws, and that the Board was in fact working on the position description and beginning the process to find a new executive director. He advised him that the Board had discussed the possibility of adding language back into the bylaws regarding the executive director position, but was holding off since the BOD voted not to further amend bylaws in their December meeting. Director Rose’s counsel stated that the fact the NMBSA was planning to bring on a new executive director and was not eliminating the position would alleviate a great deal of concern. NMBSA legal counsel also reminded him that the NMBSA does not have employees, and instead UNM hires the employee and designates them responsibilities at the NMBSA.</p> <p>The analysis of the potential threatened legal action were presented to the BSA Executive Committee in early December.</p> <p>The board also agreed to an open meetings act training at a special board meeting.</p>
4.	<p>2021 Goals and update on current programs:</p> <ul style="list-style-type: none"> • <u>Direct Investment Fund and Pilot Investment Program</u> 	<p>NMBSA BOD approved two investment firms; HD3 of Santa Fe and Arrowhead Investment Fund of Las Cruces, to begin exploring investment partnerships for co-investment in bioscience start-ups. An MOA has been signed</p>

		<p>A Roll call vote of all board members was called with eight in the affirmative, one in opposition and three in abstention. The vote was as follows:</p> <p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Affirm, Dekker-Affirm, Gifford-Absent, Hansen-Abstain, Kieft-Affirm, Larson-Affirm, McLaughlin-Affirm, Prokuski-Abstain, Quillen-Affirm, Rose-Abstain, Tomar-Oppose</p>
6.	<p>Formation of Nomination Task Force to Identify Chair/Vice Chair Candidates</p>	<p>The board proceeded to name the nomination of Chair/Vice Chair Task force members as Tom Kieft, Christos Christodolou, Dale Dekker and Jennifer Gifford if she concurs. Immo Hansen volunteered to serve on the task force if Jennifer Gifford does not concur.</p> <p>A motion was made by Stuart Rose which was seconded by Immo Hansen.</p> <p>A Roll call vote of all board members was called with eleven in the affirmative, none in opposition and one in abstention. The vote was as follows:</p> <p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Affirm, Dekker-Affirm, Gifford-Absent, Hansen-Affirm, Kieft-Affirm, Larson-Affirm, McLaughlin-Affirm, Prokuski-Affirm, Quillen-Affirm, Rose-Affirm, Tomar-Abstain</p>
7.	<p>Vote to close the meeting</p>	<p>The chair sought a motion, a second and took roll call to go into closed session to discuss and determine where appropriate, of matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which NMBSA is or may become a</p>

		<p>participant pursuant to NMSA 1978, Section 10-15-1H(7).</p> <p>A motion was made to close the meeting by Sheryl Arvizu which was seconded by Christos Christodolou.</p> <p>A Roll call vote of all board members was called with eleven in the affirmative, one in opposition and none in abstention. The vote was as follows:</p> <p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Affirm, Dekker-Affirm, Gifford-Absent, Hansen-Affirm, Kieft-Affirm, Larson-Affirm, McLaughlin-Affirm, Prokuski-Affirm, Quillen-Affirm, Rose-Oppose, Tomar-Affirm</p> <p>There was no opposition from the members of the board. The meeting was moved to closed session.</p>
8.	<p>Closed Session</p> <ul style="list-style-type: none"> • Discussion, and determination where appropriate, of matters subject to the attorney client privilege pertaining to threatened or pending litigation in which NMBSA is or may become a participant pursuant to NMSA 1978, Section 10-15-1H(7) 	
9.	<p>Verification of Closed Session</p>	<p>The chair sought a motion, a second and took roll call to certify that matters discussed in the closed meeting were limited only to those specified in the motion for closure and in the agenda (discussion, and determination where appropriate, of matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which NMBSA is or may become a participant pursuant to NMSA 1978, Section 10-15-1H(7)).</p>

		<p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Affirm, Dekker-Affirm, Gifford-Absent, Hansen-Affirm, Kieft-Affirm, Larson-Affirm, McLaughlin-Affirm, Prokuski-Affirm, Quillen-Affirm, Rose-Affirm, Tomar-Affirm</p> <p>Several next steps were outlined for the Finance Committee to keep the pilot moving forward.</p>
11.	Memorandum of Agreement with UNM	<p>An MOA was brought forth for approval. Director Tomar continues to question UNM responsibility of hiring employees and due to a time constraint, future discussion of the MOA was delayed until next meeting.</p>
12.	Adjourn	<p>Board members voted to adjourn the meeting.</p> <p>A motion was made to adjourn the meeting by Sheryl Arvizu which was seconded by Suzanne Quillen</p> <p>A Roll call vote of all board members was called with ten in the affirmative, none in opposition and none in abstention. The vote was as follows:</p> <p>Arvizu-Affirm, Byrnes-Affirm, Christodolou-Absent, Dekker-Affirm, Gifford-Absent, Hansen-Affirm, Kieft-Absent, Larson-Affirm, McLaughlin-Affirm, Prokuski-Affirm, Quillen-Affirm, Rose-Affirm, Tomar-Affirm</p> <p>There was no opposition from the members of the board. The meeting was adjourned.</p>

Approved at the NMBSA Board of Directors Meeting 3/26/21
Respectfully submitted by Sterling Nichols