BOARD OF TRUSTEES
Florida Atlantic University

Item: SP: A-M

STRATEGIC PLANNING COMMITTEE

Wednesday, February 17, 2010

SUBJECT: ROLL CALL AND APPROVAL OF THE DECEMBER 16, 2009 MINUTES

PROPOSED BOARD RECOMMENDATION

Initiate roll call to document member participation, ensure quorum, and approve the December 16, 2009 meeting minutes.

COMMITTEE MEMBERS

Mr. Scott Adams, Chair ____

Mrs. Sherry Plymale, Vice-Chair ____

Mrs. Nancy Blosser, ex-officio ____

Mr. Anthony Barbar ____

Dr. Rajendra Gupta ____

Mrs. Lalita Janke ____

Dr. Timothy Lenz ____

Ms. Tiffany Weimar ____

Mr. Thomas Workman _____

PARTICIPATING BOT MEMBERS

Dr. William Bryant ____

Mr. David Feder ____

Mrs. Armand Grossman ____

Mr. Robert Stilley ____

BOARD OF TRUSTEES
Florida Atlantic University

DRAFT MINUTES
AUDIT AND FINANCE/STRATEGIC PLANNING
JOINT COMMITTEE MEETING
Wednesday, December 16, 2009

AFSP: A-M: Call to Order and Roll Call.

Mr. Bob Stilley, Chair of the Audit and Finance Committee, convened this meeting at 1:55 p.m. Roll call commenced with the following Committee members participating: Mrs. Nancy Blosser, Mr. Scott Adams, Mr. Anthony Barbar, Dr. William Bryant, Mr. David Feder, Mr. Armand Grossman, Dr. Rajendra Gupta, Mrs. Lalita Janke, Dr. Timothy Lenz, Mrs. Sherry Plymale (via teleconference), Ms. Tiffany Weimar (via teleconference) and Mr. Tom Workman.

The following University officials participated: Dr. John Pritchett, Interim President; Mr. Dennis Crudele, Interim Senior Vice President for Financial Affairs; Mr. Morley Barnett, Inspector General; and Mr. David Kian, Senior Vice President for Strategic Relations and General Counsel.

Individual and separate calls for approval of the October 21, 2009 minutes of the Audit and Finance Committee and of the Strategic Planning Committee commenced. Individual and separate motions were made and seconded to approve each set of minutes without change or correction. No discussion or further commentary followed. **Each motion passed unanimously.**

AFSP: A1 - 4. Innovation Village Housing Project, Phase I.

Mr. Kian addressed the Committee explaining that the actions being requested today are to recommend approval to the Board of Trustees a Resolution authorizing the Issuance of Debt to Finance the Construction of Certain Student Housing Facilities on the Boca Raton Campus of Florida Atlantic University (**AFSP: A-1**). The Resolution encompasses the three other documents being presented which include the Innovation Village Housing Facilities Management Agreement between the FAU Finance Corporation, B-C Management, LLC and the FAU Board of Trustees (**AFSP: A-2**); the Innovation Village Housing Facilities Development Agreement between B-C Development, LLC/CP IV Acquisition, LLC and the FAU Finance Corporation (**AFSP: A-3**); and, the Ground Sublease between FAU and the FAU Finance Corporation for these Housing Facilities (**AFSP: A-4**).

Special emphasis was placed on the fact that the materials being presented apply exclusively to the housing component of the Innovation Village project; other components will be developed and presented separately at a later date.

A PowerPoint presentation began to explain the salient points of the documentation listed above:

Project Description. The proposed Innovation Village Housing project will include the construction of a student residence facilities comprised of two buildings with an approximate total square footage of 504,000 each, including common areas. The two buildings will be built simultaneously with the first building being a seven-story building with 148 apartments in a four bedroom/two bath configuration, with seven one-bedroom/one bath resident assistant units and two three bedroom/two bath manager apartments. The second building will be an eight-story building with 90 apartments in a four bedroom/two bath configuration, 120 apartments in a two bedroom/two bath configuration, seven one bedroom/one bath resident assistant units, and two three bedroom/two bath manager apartments. This housing will provide approximately 1,218 beds expanding the University's current housing system to eight buildings with 3,664 beds.

Mr. Kian noted that the primary market target for this housing is upper division undergraduate and graduate students. To attract this populace and provide competitive local housing, these buildings have been designed in the more desirable apartment-style living facilities with amenities such as a swimming pool situated between the buildings.

Upon approval of the Board of Trustees, site preparation should begin this month with construction scheduled to for February 2010.

Operational Structure. This is a developer led project which means the developer assumes 100 percent responsibility for the construction portion of this project. A management agreement with a component company of the development team provides for the assumption of operational responsibilities of all existing Boca Raton campus housing including the facilities of this project. Upon completion of the project in 2011, the management team and Student Housing and Residential Life will share governance of the facilities. FAU's only other involvement will consist of routine inspections to ensure compliance with architectural and construction documents.

Members were reminded that these documents refer only to Boca Raton campus housing facilities. Housing on the MacArthur campus, or any future housing projects, is not included. The only rights the developer retains are that of the construction of additional upper division housing.

AFSP: A-4: **Ground Lease.** This document authorizes the project site to be subleased by FAU to the FAU Finance Corporation (FAUFC), a direct support organization of the university. The FAUFC is the entity that will issue the project debt and enter into the management agreement for operational functions. In November 2009, the FAUFC met and adopted a Resolution to issue the debt financing the construction of these facilities in an amount not to exceed $140,000,000.

AFSP: A-3: Development Agreement. This document governs the relationship with the developer during the construction period specifying the responsibilities of both the Developer and the University. Effective with the issuance of the bonds, the developer assumes all responsibility for the supervision of the design, development, construction (including furniture and equipment), project site safety and access, maintenance of and access by the University to appropriate accounting records, insurance requirement and timely completion, etc. The contract contains a guaranteed delivery date of August 2011. Members were advised that should this date not be met the developer, at its own expense, is required to provide students alternative housing of similar quality, transportation to and from campus, and storage facilities for the students' possessions. This accommodation is required for every day the project is late.

An additional component of the Development Agreement is a budget dedicated to only to this project from design through construction which includes an owner's contingency of $1,250,000 to cover any changes requested by the University. Of note is the creation of only one operating account to manage the costs and payments associated with the project, ensuring no mingling of any other assets of the University in funding this project.

Financing Structure**.** Mr. Kian reminded members of the financing structure previously presented to them consisting of the public offering of FAUFC issued Series A bonds, privately offered subordinate Series B bonds, subordinate Series C bonds, as well as the option to seek Build America Bonds. With recent changes in the bond market and associated reductions in interest rates, this financing has been modified to eliminate the Series C bonds. The Series C bonds, when reduced to present value, can and are being absorbed in the Series A bonds with no increase to the project cost. This restructuring simplifies the transaction and reduces overall cost. In negotiations the developer recognized the mutual benefit of this action to the project and has agreed to their significant reduction in compensation. This compensation is reduced from $10 million to $6.6 million and will be paid during the course of the development project. The Developer remains responsible for the Series B bonds, representing and maintaining their 'stake' in the success of this project.

The bonds are currently projected at $126.7 million in Senior Series 2010 A and $3.4 million in Junior Series 2010 B and will be issued by the FAUFC pursuant to a trust indenture between the FAUFC and a corporate trustee. A fixed rate of approximately 4.96 percent is anticipated with a 30 year maturity date; although with the capitalized interest used to cover the debt during the 18-month construction period before revenues are received, the final maturity date from closing is actually 32 years. These bonds will be secured by a lien on the pledged revenues per the trust indenture on net operating revenues of the project, surplus revenues of the existing housing (subject to the payment of amounts due the State under the State Bond Resolution), and the FAUFC's interest in the Ground Lease from the University.

A review of the construction and associated costs projected at $111,229,005 commenced. Additionally, a projected $18 million in capitalized interest and deferred payments bring the total project cost to approximately $129 million. Mr. Kian advised that costs continue to improve and expressed belief the final tally will be better than currently projected.

A debt service reserve fund will be established and funded. For the first year of operation of the project (FY 2011-2012), total revenues are expected to equal $13,584,581 which would produce a debt service coverage ratio of 3.86; it will not falling below 1.30 thereafter for the 30 years. Revenues and expenses are projected to grow approximately 3 percent per year over a ten year period.

AFSP: A-2: Management Agreement. This document proposes a ten year contract between the developer's property management entity and the university to share management responsibilities for these new facilities and the existing Boca Raton campus housing facilities. Mr. Kian stressed the importance of a committee, or advisory board, to be established by the FAUFC that will provide oversight to terms of this agreement and consultation to the co-managers. This committee will be comprised of one representative of the management company and one representative each from the University's Divisions of Student Affairs, Financial Affairs, Facilities and the President's Office.

The management entity will receive a two percent annual management fee or approximately $500,000 yearly. This fee was previously set at four percent but has been reduced in recognition of the responsibilities the university has chosen to perform. The responsibilities described in the agreement include leasing functions, marketing, programming and residential life, repairs and maintenance, capital improvements, payment of real and personal property taxes, employee and staffing requirements, etc. Essentially, the management company will assume the responsibility for budgeting and physical operations and the University will assume the responsibility for leasing, marketing, student programming and residential life.

The university, through the Board of Trustees, will retain exclusive authority to establish, change or revise any rents, fees, deposits, or other charges as respect to the properties to ensure. The management company, in consultation with the advisory board, is required to develop an annual budget to be presented before this Committee and the BOT for final approval.

The agreement specifically places limitations upon the management company such as prohibitions to entering, instituting, committing, expending, executing, selling, etc. anything that in any way obligates or binds the FAUFC and/or the University without the express consent of the FAUFC and/or the University.

As an additional note, Mr. Kian advised that the FAUFC is projected to make an annual profit of approximately $3 million on the operations side, net of the FAU expenses, the management agreement fee, and debt service. These projections are based on 95 percent housing occupancy.

Mr. Kian concluded the presentation reiterating the need for approval of these four separate but interrelated documents but advising that the documentation submitted is not wholly complete and as such approval of the Resolution is on a provisional basis and communicates criteria still to be resolved. An explanation followed noting the complexity and continuing development of this project. The timing of the need for approval precedes the completion of the construction drawings and pricing; therefore affecting the final financing plan. He noted that the information and data provided has been developed based on fundamental construction and financing assumptions. These assumptions have maintained consistency over the course of development lending credence to construction costs remaining in the $65 million range and the total project financing not to exceed $140 million.

The Committee is being asked to approve the form and substance of the Resolution and the other three Agreements. The Resolution articulates, with qualifying language, the approval to continue negotiations and modify to the documents; the authority for the President to execute the Management, Development Agreements and the Ground Sublease substantially in the form presented; and, the authority for university staff to assist in the preparation of an offering document to be used by RBC Capital to purchasing and sell the Bonds. This approval is provisional with the caveat that all substantive changes and the FAUFC approved financing plan be presented to the BOT for approval by January 2010.

Discussion followed on topics including:

- Justifying the urgency in requesting this approval now rather than the BOT's January 21 meeting. Members were advised that this early presentation provides most of the data necessary for member knowledge of the issues thus eliminating the need for a comprehensive

presentation just days before requesting BOG approval on January 28. It fulfills the BOG requirement of having BOT approval for the FAUFC's actions and BOG's lengthy debt authorization process, which includes review by the Division of Bond Finance;

- Explaining contingency planning should the project completion be delayed by inclement weather. Mr. Kian noted that the project is insured. During construction Builders Risk insurance ensures the completion of construction. Upon completion, bond insurance would ensure debt service obligations can be met. FAU has no liability to student under the terms of the housing contract. These issues are all incorporated in the Agreements;
- Clarifying that fees are based on the gross revenues not net revenues;
- Verifying that the management fee of approximately $500,000 annually covers all associated costs of the management company's services including their personnel requirements;
- Verifying that while an option remains to utilize non-tax exempt Build America Bonds, the projected bond interest rate of 4.96 percent is based on current market conditions for tax exempt bonds;
- Clarifying that the debt service ratio of 1.3 is a projection not a guarantee for life of the project;
- Assuring that the projected construction costs are on par with the expected costs associated with housing facilities; and, the total square footage of the each facility is approximately 504,000.
- Clarifying that the campus land is owned by the State of Florida and leased to FAU. The document is a Sublease from FAU as the sublessor to the FAUFC as subleasee; the $12 million sublease revenues go to FAUFC, then FAU;
- Confirming the ability to use profit revenues as increased success incentive to the development team; a fee based on revenues. This option is not currently recommended since this public/corporate partnership is new but can be revisited in the future once the realities of the co-management working relationship are established. Such an incentive would be welcomed as with the elimination of the Series C bonds the team's profit/incentive was significantly reduced ($10 million to $ $6.5 over 18 months);
- Justifying the Developer's rate of return. In confirming that Series C bonds were not a guaranteed profit as they were subordinate to the Series A and Series B, Mr. Kian reported that their 5.9 percent rate of return is reasonable. This is based upon the results of the ITN/market testing process instituted, confirmation from FAU's financial advisor that similar project runs run in the range of the high 4 to high 6 percentage, that the University of Central Florida's convocation center project utilized a 5.6 percent return on a project much less complex that FAU's, and acknowledging the overall risk assumed by the Developer on this project.
- Confirming that the debt issued is to the FAUFC, not FAU, but noting that the debt is carried on FAU's financial statement as a component unit of the university;
- Clarifying that FAU's obligation lie in ensuring that the rental rates achieve sufficient revenue to meet debt service requirements. The management company and the advisory committee are required make recommendations on rental rates and propose annual operating budgets, but the ultimate decision falls to the BOT through this Committee. No other university asset can be tapped to address this debt;
- Confirming that the rates proposed for the new housing are competitive and will be higher than existing housing rates with both based on the amenities offered; and,
- Confirming that no enrollment increases were anticipated in projections or assumptions used to develop this data.

A motion was made and seconded to recommend approval to the Board of Trustees the Resolution, as presented, approving a plan of finance by the FAUFC related to the construction of certain

student housing facilities on the campus of Florida Atlantic University; approving the form of a Development Agreement to be entered into by the Corporation related to such project; authorizing the execution and delivery of a Management Agreement and Ground Sublease related thereto; and, providing an effective date. **The motion passed unanimously.**

AFSP: I-1. Review of Audits: Report No. FAU 09/10-1, Audit of Purchasing for the Period January 1 through June 30, 2009.

Mr. Barnett addressed this item expressing satisfaction that requisition approvals, bid procedures, purchase order preparation and department personnel ethics standards were in general compliance with all laws, rules and regulations. He advised that two minor administrative recommendations were made and that management implemented corrective action during the course of the audit review.

AFSP: I-2. Review and Discussion of the BOT Audit and Finance Committee Charter.

Chair Stilley reminded members that per directives of the Audit and Finance Committee Charter, the charter language is to be reviewed annually and the effectiveness of the Committee's performance be assessed bi-annually. Mr. Crudele confirmed these procedural issues and asked members to review the charter and forward comments and/or suggested revisions to him for consideration at the next committee meeting in February.

A motion was made and seconded to adjourn this meeting. **The motion passed unanimously.** The meeting was adjourned at 3:30 p.m.