

# Utah State Building Board



## MEETING

March 12, 2008

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### **MINUTES**

#### **Utah State Building Board Members in attendance:**

Kerry Casaday, Vice Chair  
Cyndi Gilbert  
Manuel Torres  
Mel Sowerby  
Steve Bankhead

#### **DFCM and Guests in attendance:**

Gregg Buxton	Division of Facilities Construction & Management
Kent Beers	Division of Facilities Construction & Management
Shannon Elliott	Division of Facilities Construction & Management
Steve Allred	Legislative Fiscal Analyst's Office
Kimberlee Willette	Governor's Office of Planning and Budget
Martin W. Dies	Assistant Attorney General
Kim Wixon	Department of Health
Greg Sheehan	DNR/Wildlife
Ken Adlam	AIA Utah
Sara Greenhalgh	Architectural Nexus
Sarah Parris	BNA Consulting
Pat Gleason	Calder Richards
Rick Stock	Dunn Associates
Keri Hammond	EDA Architects
Skip Bourgeois	GSBS Architects
Eric Tholen	Harris and Associates/AiA
Julee Attig	Henricksen/Butler
Chris Coutts	MHTN Architects
Nate Millward	Board of Regents
Mark Spencer	Board of Regents
Bob Askerlund	Salt Lake Community College
David Tanner	Southern Utah University
John McNary	University of Utah
Mike Perez	University of Utah
Ben Berrett	Utah State University
Darrell Hart	Utah State University
Kevin Hansen	Weber State University
Ben Baldwin	Family of Spencer Baldwin

Stacy Baldwin	Family of Spencer Baldwin
Abigail Baldwin	Family of Spencer Baldwin
Shanna Baldwin	Family of Spencer Baldwin

On Wednesday, March 12, the Utah State Building Board held a regularly scheduled meeting in W025 State Capitol Complex, Salt Lake City, Utah. Vice Chair Kerry Casaday called the meeting to order at 9:02am.

**APPROVAL OF MINUTES OF JANUARY 9, 2008 .....**

Vice Chair Casaday sought a motion on the minutes of the January 9, 2008, meeting.

**MOTION: Manuel Torres moved to approve the Building Board meeting minutes of January 9, 2008. The motion was seconded by Mel Sowerby and passed unanimously.**

**LEGISLATIVE UPDATE.....**

Steve Allred, Legislative Fiscal Analyst's Office, reviewed the legislatively approved capital budget for the 2008 session. A handout was distributed highlighting the Legislature's actions versus the Board's recommendations. Capital improvements were funded at \$82,838,200, which was recommended by DFCM and also complies with the statute. This is also a \$9 million increase from the previous year. The increase in funding has also increased the interest of the Legislature regarding capital improvements.

The Salt Lake Government Office Building, which was the Board's number one priority, was funded for \$51.5 million. The Department of Corrections 192 bed pod/288 bed design was funded for \$54.5 million. The Veterans Nursing Home received \$19.7 million in funding. The State Hospital and the Mountainland Applied Technology Center were ranked by the Board but did not receive funding primarily because the revenue projections were \$340 million less than originally anticipated. After funding the Board's top three priorities, the remaining \$25 million was given to the Utah Museum of Natural History to combine with the \$67 million they raised from outside sources. National Guard Armories also received \$3 million and intent language was passed requiring \$1 million in capital improvements be set aside above their proportionate share to be used for National Guard armories. The Capital Preservation Board East/West Buildings Remodel was not ranked by the Board but received funding in the amount of \$5.5 million. The USU Agricultural Science Building was granted a G.O. bond contingent on federal money being received. The Executive Appropriations Committee granted approximately \$5 million in one time money for land banking. Ogden Courts received \$3,250,000 for their land purchase, and UVSC received \$1,783,000 for their land purchase which is half the amount needed to purchase the property. The Legislature authorized \$1.6 million to Snow College for the Richfield Bond payoff.

Other funded projects approved include the University of Utah Cancer Research Hospital Phase II for \$90 million, and the DABC received \$23.7 million for five liquor stores out of

State Building Ownership Authority bonds. The Southern Utah University Shakespearean Theater received \$5 million from a USHE revenue bond, but was not heard by the Board. The request for the Corrections Chill/Cook Kitchen was not included in the approved projects and was not recommended by the Governor.

The Department of Natural Resources received \$1,035,000 in state funds for state park renovations. This was awarded directly to State Parks out of capital funding.

Kent Beers distributed SB221 which amends the statute pertaining to capital improvement projects. The statute states that *"the Utah State Building Board, on behalf of all state agencies, commissions, departments and institutions shall by January 15 of each year, submit a list of anticipated capital improvement requirements to the Legislature for review and approval."* The statute was amended this session and now indicates that the list shall identify a single project that costs more than \$1,000,000; multiple projects within a single building or facility that collectively cost more than \$1,000,000; a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000; multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000; a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000.

Mr. Beers explained that with the amount of capital improvement funding now reaching nearly \$83 million, the Legislature has been concerned with how the large share of the state's budget was being spent. During the session, the Legislature proposed to limit capital improvement projects to \$1 million due to the phase funding and increase in cost of capital improvement projects. DFCM must now report a list of all projects over \$1 million in a separate report to the Legislature, which specifically identifies projects over \$1 million, and projects over \$2.5 million that will be phase funded. This list will need to be prepared prior to the Five Year Book which will require DFCM to move up the Capital Improvement process. Projects are currently submitted at the end of October and will need to be submitted in August in the future to allow for investigation of the projects prior to the five year book publication in January.

Alan Bachman briefly discussed SB220, Cause of Action for Defective Construction. As of the meeting, the bill was not yet law and was being reviewed by the Governor. Mr. Bachman had concerns with the bill and was meeting with various entities to discuss the ramifications.

**□ UNIVERSITY OF UTAH PARK BUILDING UPDATE.....**

Mike Perez, University of Utah, commented that with the scrutiny of capital improvement funds, the University wanted to inform the Board of the unique issues surrounding the Park

Building project. The terracotta on the building and limestone columns are rapidly deteriorating, and there are several stress fractures.

In 2004, the University began the process to try to correct the historic building. A historic structure report was done to address the historic preservation techniques. In 2005, The University commissioned the study and the Building Board allocated capital development dollars for the study since the value of the building was determined to be \$3.5 to \$4 million. The Trustees approved the project as a capital development project; however, the Regents suggested it be addressed in some other way as opposed to a development project. The Building Board agreed to allow the University to use improvement dollars because it was thought to be small enough to deal with the project. The University hired MJSA and Big-D Construction and began exploratory work in 2007.

As they began removing the terracotta, they discovered many other issues existed. The roof structure does not have a good seismic diaphragm and is not connected to the vertical wall structure to make it seismically safe. The entire roof must be removed and steel must be added. This includes drilling 180 places around the perimeter of the room into the vertical walls in order to connect the roof and make it seismically safe. It would also reinforce the project components, life safety, roof flashing systems, exterior refurbishing, window replacements, and fire protection. The roof repair will require the fourth floor to be vacated and they hope to finish the fire protection at the same time so they would not have to vacate twice. Mr. Perez acknowledged this is not typically how improvement dollars are technically used, but felt it was a valid investment and the right way to proceed.

Manuel Torres was concerned that the initial request was to make exterior repairs and the project has significantly increased. Mr. Perez responded the intent was primarily to do the exterior repair on the terracotta and limestone, along with minimal seismic conditions, totaling \$4 million in restoration. However, the study suggested they should address minimal seismic issues, major repairs, restoration issues, as well as window replacement. Additional items surfaced as the project went along and the current project budget has increased to \$8.1 million.

Mr. Perez sought direction on how to proceed noting that the issues will need to be addressed at some point. He felt it was sensible to address the roof structure, walls, and fire suppression while the fourth floor was vacant. He also suggested it would be most efficient to repair the 112 windows and refurbish 66 windows while the scaffolding was already in place. Mr. Perez noted the funding is already earmarked for the University of Utah and no additional funding would be requested. The proposed schedule indicates they should be ready to proceed on May 5 in order to complete the project by December 2008. The current contracts with MJSA and Big-D were already in place and were included in the \$8 million. The fourth floor was ready to vacate in late April and relocate to the old Museum of Fine Arts until December.

Manuel Torres asked if this would be reported to the legislature under the new direction. Kent Beers responded it was included on this year's list of projects anticipated to be over \$2.5 million. Gregg Buxton commented that 15 of the last 1,000 projects accomplished fell

into this category. This particular project was discussed in detail with Executive Appropriations and legislative leadership. He felt it would be beneficial to proceed with it.

Mr. Torres felt the University had taken advantage of the Board since the intent of the project had changed so drastically. Mr. Perez responded that the University felt similarly because they were using their own capital improvement funding pool to be redirected on the project and the money is desperately needed in many other areas on campus.

Steve Bankhead understood a lot of the discovery occurred as the project went along. He felt it was appropriate to continue with the project and complete it correctly.

Cyndi Gilbert questioned if the entire seismic upgrade was included in the request and if further funds would be requested in the future. Mr. Perez responded that they would need to retrofit in the future to make the connections to the exterior walls. They need to repair the roof now, but it is not a permanent fix.

Kent Beers emphasized that every stage of the projects had been done with the review and concurrence of DFCM. As each phase of the project came up, the University of Utah and DFCM discussed if the project should return as a capital development project or proceed with each new part in the capital improvement process. DFCM will be able to address projects like this through the capital improvement process with the new legislation. The Park Building is an ideal project to be a phase funded capital improvement project.

Mark Spencer indicated that the Utah System of Higher Education was concerned with the project as well and the phasing of projects. He felt continuing with the Park Building this way was the right thing to do, but the process could have been improved.

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION FOR DFCM RULES UNDER TITLE R23 (R23-13 AND R23-14).....**

Under Utah Law, DFCM is required to review their rules every five years to determine the need for continuation. Currently up for review is R23-12, State of Utah Parking Rules for Facilities Managed by DFCM, and R23-14, Management of Roofs on State Buildings.

Alan Bachman sought a motion to have rule R23-13 and R23-14 continue and to authorize DFCM to file a notice for the continuation of those rules.

**MOTION: Cyndi Gilbert moved approval of the continuation of R23-13 and R23-14. The motion was seconded by Steve Bankhead and passed unanimously.**

**INCREASED LIMITS FOR DIRECT AWARD CONTRACTS TO ARCHITECTS AND ENGINEERS.....**

DFCM recommended that the Building Board increase the Small Purchases provision for the procurement of architectural and engineering services outlined in Administrative Rule R23-2-20. The current limits allow DFCM to issue direct award contracts to architects and engineers when the fee is less than \$50,000 or the construction cost of the project is less than \$500,000. The new limits would allow DFCM to issue direct award contracts to architects and engineers when the fee is less than \$100,000 or the construction cost of the project is less than \$1.5 million.

Kent Beers explained the limit of \$50,000 has been in place for approximately 15 years, and during that time construction costs have more than tripled. The increase would allow DFCM to adjust the policies and practices for inflation.

Alan Bachman requested the Board authorize DFCM to file the rule with Administrative Rules to initiate a 30-day public comment period. Pending no concerns being raised during the 30-day period, DFCM could file the document to make the rule effective without returning to the Board.

**MOTION: Manuel Torres moved to approve the filing of R23-2-20 with Administrative Rules and allow DFCM to file the document to make it effective rule if no negative comments are received during the public comment period. The motion was seconded by Mel Sowerby and passed unanimously.**

**☐ REQUEST FROM WSU TO MANAGE CONSTRUCTION OF A SOFTBALL FIELD**

DFCM recommended that the Building Board grant project management authority to Weber State University for the design and construction of a softball field on the WSU campus. The cost of the project is anticipated to be \$1 million. WSU is in the process of raising funds for the project and will be responsible for all costs associated with the project. In DFCM's opinion, WSU has demonstrated that they have sufficient construction management skills to manage this project internally.

**MOTION: Steve Bankhead moved to allow Weber State University to manage the construction of the softball field. The motion was seconded by Cyndi Gilbert and passed unanimously.**

**☐ DWR ADMINISTRATIVE BUILDING AT QUAIL CREEK.....**

DFCM recommended that the Board approve a \$1 million Non-State Funded Capital Development project for the Division of Wildlife Resources at Quail Creek. The new building will house state workers from DWR, DNR, Water Rights and Washington County Water Conservancy District. Property will be donated by the Washington County Water Conservancy District. Funding for the building will come from Washington County, DWR and DNR.

Utah Code 63A-5-104(3)(b) states, "Legislative approval is not required for a capital development project if the State Building Board determines that:

- (i) the requesting higher education institution [or state agency] has provided adequate assurance that ;
  - a. state funds will not be used for the design or construction of the facility; and
  - b. The higher education institution [or state agency] has a plan for funding in place that will not require increased state funding to cover the cost of operations and maintenance to, or state funding for, immediate or future capital improvements to the resulting facility.

A letter from DNR indicated there would be no future state funds required for the project.

Cyndi Gilbert felt it was beneficial for all entities involved in the project, especially given the funding sources and availability of leased space. She questioned who would act as a mediator if issues arose among the entities involved.

Greg Sheehan, DNR, responded this building would be effectively owned by the State of Utah. The State has granted the land, but DNR is responsible for the funding due to the mission being favorable to Washington County and the Water Conservancy District. DNR hopes to increase their customer service in the area and allow for some public interaction.

John Nichols, DFCM, clarified that the land for the building has a land lease for 50 years with a 49 year option. The terms of the lease should resolve any concerns.

Kent Beers noted that the brackets in Utah Code 63A-5-104(3)(b) read "the requesting higher education institution [or state agency]", but the actual statute only indicated the higher education institution. Alan Bachman interpreted the Code to include state agencies which allows DFCM to govern state agencies on similar issues. Several projects have come before the Building Board throughout the years where this statute has been used to give authority to build facilities without seeking legislative approval if no improvement dollars or state funded O&M was required.

**MOTION: Cyndi Gilbert moved to approve the non-state funded project for the Division of Wildlife Resources at Quail Creek. The motion was seconded by Mel Sowerby and passed unanimously.**

**☐ ADMINISTRATIVE REPORTS FOR UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY .....**

John McNary, University of Utah, presented the administrative report for the period of December 14, 2007, to February 22, 2008.

The Red Butte Garden and Arboretum was awarded to a landscape firm from Philadelphia, which has since been terminated. The remainder of the work has been awarded to Paul D. Brown Architects who acted as a sub-consultant to the landscape architect.

There was a decrease to the Project Reserve Fund for the Henry Eyring North Building to replace the fire alarm and sprinkler system. There was a large amount of demolition in order to complete the asbestos abatement, and the transfer of \$20,396.91 was necessary to cover the unforeseen conditions from the abatement.

There was also a transfer of \$155,400 for the Electrical Switchgear Upgrade to cover replacement of a six-way switch in Manhole 414. In the course of construction, the switch was discovered to be severely corroded and the faulty condition required it to be replaced. This transfer also covered the cost of moving the manhole so that it wouldn't happen again in the future.

The University requested a redirection of \$179,627 of capital improvement funds from the Eccles Broadcast Center to the Electrical Distribution System Planning/Design project. This will allow them to complete a schematic design of the entire system which will then serve as the basis for future project requests and subsequent designs.

**MOTION: Mel Sowerby moved to allow the University of Utah to redirect the capital improvement funds from the Eccles Broadcast Center to the Electrical Distribution System Planning/Design project. The motion was seconded by Cyndi Gilbert and passed unanimously.**

**MOTION: Steve Bankhead moved to accept the administrative report of the University of Utah. The motion was seconded by Manuel Torres and passed unanimously.**

Darrell Hart, Utah State University, provided the administrative report for the period of December 12, 2007, to February 20, 2008. Mr. Hart introduced Ben Berrett as the new Director of Planning, Design, and Construction.

A design/build contract was issued for the Equine Center which should include the period through construction drawings and documents ready to bid. Fund raising efforts are underway and the Equine Center will be constructed in phases as funding becomes available.

An A/E contract to NEI was issued for the CEP Electrical Feed and exceeds the A/E budget. USU anticipates phasing or reallocating some funds for that project.

There was a SER Mechanical Upgrade/UPS replacement project which has required an unusual amount of change orders due to unforeseen conditions that arose as the project progressed. Transfers from the contingency reserve fund were necessary in order to successfully complete the project.

Of USU's 79 projects, 15 are now complete, 14 substantially complete, 33 in construction, 16 in the design/study phase, and one is pending.

**MOTION: Manuel Torres moved to approve the administrative report for Utah State University. The motion was seconded by Steve Bankhead and passed unanimously.**

**☐ REALLOCATION OF CAPITAL IMPROVEMENT FUNDS .....**

DFCM recommended that the Building Board reallocate capital improvement funds by transferring \$100,000 from DFCM's Statewide Roofing Seismic program to DFCM's Statewide Hazardous Materials Abatement program, and reallocating approximately \$200,000 from the Draper Prison Security Upgrade project to the Draper Prison Lone Peak Facility Remodel.

DFCM's Statewide Hazardous Materials Abatement program is responsible for conducting surveys on all existing facilities scheduled for construction to determine if hazardous materials are present and, if hazardous materials are discovered, removing (abating) those materials from the facilities prior to the start of construction. DFCM's Hazardous Materials Abatement Fund has been depleted for the year and needs to be replenished. DFCM's Statewide Roofing Seismic Fund has a sufficient balance to transfer \$100,000 to the Hazardous Materials Abatement Fund.

The Department of Corrections FY 2008 Draper Prison Security Upgrade project is well into construction and has approximately \$200,000 of excess funds in the budget. The Department of Corrections requested that the excess funds be reallocated to the remodel project at the Lone Peak Facility.

**MOTION: Manuel Torres moved to approve the reallocation of capital improvement funds for both projects. The motion was seconded by Mel Sowerby and passed unanimously.**

**☐ ADMINISTRATIVE REPORTS FOR DFCM .....**

Kent Beers provided the administrative report for DFCM for the period of December 7, 2007, to February 25, 2008. There were 42 architect/engineering agreements awarded and 32 construction contracts issued.

There was a decrease to the Contingency Reserve Fund for the CUCF 192 bed expansion. This transferred \$125,345 to cover construction change orders #6 and #7. Another decrease was for the UVSC Digital Learning Center for \$54,464 to cover construction change orders #11 and #12 for scope increases covering a second annunciator panel, to move and add card reader, paint exposed structure and fireproofing in bridge ceiling transition areas, and east lobby lighting changes. There was also a transfer of \$26,968 to cover change order #43 for unknown conditions and omissions on the University of Utah Marriott Library Renovation. The Contingency Reserve Fund currently has a balance of \$7.3 million.

The Project Reserve Fund currently has a balance of \$5.4 million and there were no significant items during the reporting period.

**☐ RECOGNITION OF ASBESTOS LITIGATION PARTICIPANTS.....**

Alan Bachman recognized the family of the late Spencer Baldwin. Mr. Baldwin worked with Alan Bachman for approximately ten years and did a large amount of work for DFCM's asbestos recoveries and developed an asbestos survey of all state buildings at ¼ the cost of other states.

Mr. Baldwin worked with Martin W. Dies, Attorney General's Office, on the asbestos recovery and together they recovered millions of dollars. They had the best recoveries per capita of any state in the country. When they began working together on asbestos litigation in the early 1990s, Mr. Baldwin was responsible for determining the product notification issues in Utah and knew as much about the manufacturer's marketing of their products as they did.

Spencer Baldwin had an outstanding ability. He was one of those rare individuals who had humanity and everything he did was done with honesty and integrity. He will be greatly missed by those who had the privilege of working with him.

Mr. Bachman asked the Board to authorize a Certificate of Appreciation to be presented to the family of Spencer Baldwin.

**MOTION: Mel Sowerby moved to offer the Certificate of Appreciation to the family of Spencer Baldwin. The motion was seconded by Cyndi Gilbert and passed unanimously.**

Mr. Bachman added that Martin W. Dies, senior partner at Dies and Hile, is one of the top attorneys in the country for helping human life. His law firm is recognized for representation of government and public entities. He won the first asbestos property damage cost recovery case related to buildings for an educational entity in 1987. He has served as special counsel and/or a deputy attorney general for Utah, Hawaii, Oregon, Arizona, Oklahoma, Arkansas, Texas, Louisiana and Connecticut and several state colleges and universities. He has served as both a member and chair of numerous bankruptcy creditors committees including National Gypsum Company, US Gypsum, WR Grace and several other companies.

Alan Bachman acknowledged Martin W. Dies with a Certificate of Appreciation. He has been very good to work with and has greatly benefited the state.

**MOTION: Mel Sowerby amended his motion to offer the Certificate of Appreciation and recognition to the family of Spencer Baldwin and Martin W. Dies for their service to the State of Utah. The motion was seconded by Cyndi Gilbert.**

**ADJOURNMENT** .....

The next Utah State Building Board meeting will be held Wednesday, April 9, in W025 of the State Capitol Complex.

**MOTION: Mel Sowerby moved to adjourn at 10:40am. The motion was seconded by Manuel Torres and passed unanimously.**

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