

Utah State Building Board



MEETING

May 5, 2010

MINUTES

Utah State Building Board Members in Attendance:

Mel Sowerby, Chair
George Daines
Wilbern McDougal
Sheila Gelman
John Nixon
Jeff Nielson

DFCM and Guests in Attendance:

Gregg Buxton	Division of Facilities Construction & Management
Kurt Baxter	Division of Facilities Construction & Management
CeeCee Niederhauser	Division of Facilities Construction & Management
Tiffany Woods	BHB Consulting Engineers
Jim Michaelis	Utah Valley University
Frank Young	Utah Valley University
Debra Caruso	Diamond Phillips
John Nichols	Division of Facilities Construction & Management
Alan Bachman	Attorney General's Office/DFCM
LaPriel Dye	Attorney General's Office/DFCM
Ralph Hardy	OCHE
Judy Duncombe	Utah State Fair Park
Bob Askerlund	Salt Lake Community College
Mike Perez	University of Utah
Ken Nye	University of Utah
Mark Halverson	Weber State University
Dorian Page	Southern Utah University
Ellen Parrish	VCBO
Cynthia Cook	FFKR Architects
Chris Coutts	Architectural Nexus
Sarah Parris	BNA Consulting
Douglas Dawes	Utah State University

Darrell Hart	Utah State University
Jim Livingston	University of Utah
Steve Hess	USHE
Kim Hood	DAS
Rich Amon	Legislative Fiscal Analyst Office

On Wednesday, May 5, the Utah State Building Board held a regularly scheduled meeting at the Utah State Capitol Complex, Room 250, Salt Lake City, Utah. Chair Mel Sowerby called the meeting to order at 9:05 a.m.

APPROVAL OF MINUTES OF APRIL 7, 2010

Chair Sowerby sought a motion for approval of the minutes.

CeeCee Niederhauser indicated that there was one correction to last month's minutes. The name Ken Barrett should be changed to Ben Barrett in the record.

MOTION: Jeff Nielson moved to approve the meeting minutes of April 7, 2010 with changes. The motion was seconded by Sheila Gelman and passed unanimously.

UNIVERSITY OF UTAH APPROVAL OF DATA CENTER RETROFIT PROJECT

Mike Perez, Ken Nye and University of Utah Vice-President for Information Technology, Steve Hess gave the report for the University of Utah. Mr. Perez indicated that the University's research and especially hospital operations were in need of a concentrated data storage facility on campus. Their current situation consists of facilities that are fragmented all over campus and they need a data storage location at one facility with proper environmental and proper ancillary equipment. In 2008 they acquired the old Coca Cola Building, located at 875 S. West Temple for approximately \$4 Million. No state funding was used for that purchase. This building is approximately 72,000 sq. feet and was previously owned by NCI and later changed to Verizon. Verizon had remodeled the structure to create a bunker-proof facility for their type of operation. Since that time, the University commissioned HP Critical Systems, who specializes in data storage construction and data storage strategizing relative to facilities, to do a preliminary analysis of this facility. It took the better part of 2008 to 2009 to give them an idea of major renovations to this structure because those types of structures lease the internal operations and support environmental clean power redundancy which are significant. However their estimates were much higher than expected. The University knew they could not afford this amount but continued to try to understand how best to phase this so that they could migrate into this enterprise solution for the University. They decided they wanted to proceed and contacted DFCM Director Gregg Buxton to assign a project manager to start the project. They desire to do an overall design for enterprise solution that may be up to \$21 Million.

This renovation will be funded through non-state resources. They anticipate that other State agencies and other universities and colleges may make use of this facility in the future. They anticipate the remodel will be done in 3 phases with each phase costing approximately \$7 Million. The cash flow is committed by research and hospital proceeds.

Mel Sowerby questioned why the need for new data storage space when the State already has facilities in Richfield and on Capitol Hill. Steve Hess indicated that he is the CIO for the State System of Higher Education and they have moved the disaster recovery for all institutions of higher education into the Richfield Facility. The power requirements for a data center are too high to be able to share that space. With a data center, the problems aren't space, it is power consumption. Part of the reason they need to relocate to a facility off campus is because the power grid is not sufficient for what is needed at this location.

Director Gregg Buxton acknowledged that he had toured the building on several occasions and discovered that only about half the building had been remodeled to a bunker-like facility. Steve Hess responded that the data center would be in the more substantial part of the building which is the south end. Hospital paper records have occupied the north end of the building.

MOTION: Sheila Gelman moved for approval of the University of Utah Approval of Data Center Retrofit Project. Motion was seconded by Jeff Nielson and passed unanimously.

☐ DEMOLITION OF OLD FACILITIES BUILDING.....

Jim Michaelis explained that they had an old house that was built in the early 1960's that was currently used as their Facilities Building. This house was part of the original purchase of the UVU campus property. This building is not ADA compatible, has only one unisex restroom and houses their facilities personnel, parking personnel and motor pool personnel. It is also the place where students come to receive their parking decals. They would like to tear down this old facility and build a new one better suited for their needs.

Kurt Baxter informed the Board that there is no requirement to get permission to build this building. It is a replacement building and 63A does not require you get permission. This is only informational. It will not be funded with State funds.

MOTION: Jeff Nielson moved to approve the Demolition of Old Facilities Building. The motion was seconded by Wilbern McDougal and passed unanimously.

☐ PROPOSED AMENDMENTS TO RULES: FOUR ACTION ITEMS.....

Alan Bachman said there are four individual rules that need to be voted on separately. He explained the process involved in having these rules published and made into law. He said

they had some proposed rules that they are hoping the Board would approve. The filing of these rules would take place in the middle of May and actually published about June 1 in the bulletin and then there is a 30 day period for people to make comments. If there aren't any negative comments then they will go ahead and file the documents that make the rules effective without having to bring them back to the Board for revision and approval.

ACTION A: RULE 23-1 PROCUREMENT OF CONSTRUCTION

Mr. Bachman explained this rule basically changes the limits on small purchases and updates them since the figures are rather old in the previous rule. The previous limit for construction was \$10,000 but has been changed to \$25,000 in the proposed rule. In addition, the limits for architects and engineers, which are professionals, are \$100,000 but there was no mention of other professionals on a construction project such as cost estimators, schedulers, inspectors, commissioning agents, etc. Those types of professional should also be included on the list. These are the changes made to the rule. Mr. Bachman also clarified that even though they are allowed to do small purchases without going through specific procurement methods, they should always try to seek competition and quotes if at all possible even if a law allows you not to do so.

George Daines questioned whether we were just approving the Rule to be posted and Chairman Sowerby answered that it will be posted for public notice and upon the end of 30 days, if there are no comments, it will be published. If there are questions or negative comments then the Rule will come back to the Building Board for review. If no comments are received, the Rule will be published without coming back before the Building Board.

MOTION: Wilbern McDougal moved to approve Rule 23-1 Procurement of Construction. The motion was seconded by Jeff Nielson and passed unanimously.

ACTION B: RULE 23-22 GENERAL PROCEDURES FOR ACQUISITION AND SELLING OF REAL PROPERTY

Mr. Bachman explained this rule comes to you because of a statutory change in the last Legislative session which said that the Building Board shall adopt a rule regarding the disposition of property. The previous Legislative session did not address the issue of DFCM authority to sell property but rather addressed the authority of the Division to acquire property. They realized this glitch; therefore the Legislature changed the statute to let DFCM sell property but subject to a Building Board rule. Therefore they drafted a rule, working carefully with the Legislative Fiscal Analyst Office, the Division of History and others who would be concerned. Mr. Bachman met with Director Gregg Buxton on this issue and they decided that \$500,000 seemed like an appropriate number for the value of property.

The Rule also defines what is historically significant. One word was added to the Rule that

was not in the previous packet but is in the version that was handed out the day of the meeting which states, "(1) (a) (i) 'Historical significance' for the purposes of this Rule R23-22 includes real property, including any structures, statues or other improvements on the real property, that is listed on the National Register of Historic Places or the State Register." If a piece of is historically significant, then the Board would send it to the Legislative Management Committee who may send it to the Legislature. If the property is not historically significant and is \$500,000 or below, then it is proper to deal with the disposition of the property without dealing with the Legislature or the Legislative Management Committee.

George Daines had some questions concerning the way subsection 1a, (i) and (ii) were written and felt that the word "eligible" was very broad and would force the Board into making anything that is eligible fit into the category of historical significance rather than being something that the State or the Division considers to be historically significant. There is a difference between considering it to be historically significant and being eligible for that.

John Nixon questioned that if the authority to sell property is Legislative, we should make sure that there is an appropriate process for Legislative approval and if there are processes in place to take care of that. There was considerable discussion on this matter.

Mr. Bachman also had an additional amendment to Rule 23-22-7. This would be (i) (c) near the bottom of the page where it states, "Nothing in the rule shall prohibit the Director from proceeding with easements, lot line and other minor, incidental adjustments with other State entities or other public/private persons or entities, as long as the Director reasonably determines that such property is not historically significant after consultation with the State Historic Preservation Officer, that the adjustment is in the public interest, and that the value of the adjustment as determined by the Director is less than \$100,000. He further stated the word "easements" actually does come up quite often and should be one of the suggested terms there.

Kim Hood questioned the definition of surplus property and stated the State has significant pieces of property that are quite valuable with a lot of interests. Therefore, if there is a very valuable piece of property that has been determined to be surplus, is it supposed to sell at the appraised value? She further stated that her concern is that they try to obtain the highest value for some of these properties which would be in the best interest in the State. She questioned if this was the best process for the disposal of property or if there were better models out there? She mentioned the example of the SITLA group whose mission is to return the highest value back to the State because the returns on the sales of those properties go to our school children.

Chairman Sowerby replied that he thought that the appraised value was the highest value. An appraiser has to take into consideration the highest and best use. The other consideration is that other State agencies have the option to take this property before it is even put on the market so there are various systems in place to be sure that we get the

best out of a piece of property, and in fact the best might be to use it by another State agency.

Kim Hood wanted to know if the rule would allow the State to auction for the highest price and Mr. Bachman assured her that it does.

The Rule will be posted for public notice and upon the end of 30 days, if there are no negative comments, it will be published without coming back before the Building Board. If there are questions or negative comments, then the Rule will come back to the Building Board for review.

MOTION: George Daines moved to approve the amended version of Rule 23-22 General Procedures for Acquisition and Selling of Real Property. The motion was seconded by Wilbern McDougal and passed unanimously.

ACTION C: RULE 23-23 HEALTH INSURANCE IN STATE CONTRACTS -- IMPLEMENTATION

Alan Bachman explained that they had an existing Rule regarding health insurance requirements for design and construction contracts. The Rule was developed because a law was passed in the 2009 Legislative session. The 2010 Legislative session amended the statute; therefore they had to amend the Rule just to be consistent with the statute.

The Rule will be posted for public notice and upon the end of 30 days, if there are no negative comments, it will be published without coming back before the Building Board. If there are questions or negative comments, then the Rule will come back to the Building Board for review.

MOTION: Jeff Nielson moved to approve Rule 23-23 Health Insurance in State Contracts -- Implementation. The motion was seconded by Sheila Gelman and passed unanimously.

ACTION D: PROPOSAL OF NEW RULE 23-7. STATE CONSTRUCTION CONTRACTS AND DRUG AND ALCOHOL TESTING

Mr. Bachman explained that this rule was written to quote the statute in House Bill 20, from the 2010 Legislative Session and was written in order to accommodate a request from UDOT. The rule reiterates the statute so that this rule could be put on the DFCM website. As a result, contractors can see the statute and the rule in one spot.

Mr. Bachman further explained that there are some discretionary parts in the rule where the statute requires a process where a contractor is given an opportunity to correct their action before the contractor would face a suspension or debarment process. This notice would be given to the alleged violator and gives them an opportunity to cure it.

The Rule will be posted for public notice and upon the end of 30 days, if there are no negative comments, it will be published without coming back before the Building Board. If there are questions or negative comments, then the Rule will come back to the Building Board for review.

MOTION: Jeff Nielson moved to approve Rule 23-7 State Construction Contracts and Drug and Alcohol Testing. The motion was seconded by George Daines and passed unanimously.

☐ ADMINISTRATIVE REPORTS FOR UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY

Ken Nye was the spokesman for the University of Utah. He reported they had 4 design and 6 study or other agreements with no significant items on those. Under construction contracts there were 3 remodeling contracts with no significant items. Under project reserve fund there were 3 projects that allowed them to bring money back in the project reserve.

He clarified that the project reserve is the fund that receives excess construction budget after the bidding of the construction contracts and it receives the residual amount after the project is completed. The Fine Arts Building Code Improvements had money left over in the project so it was put in the project reserve. The amounts from the Student Services Building is where the construction bid came in under budget and the savings went to the project reserve. After careful study and consideration of the Regulated Waste Management Facility Shipping Office, it was determined that the cost would be so much more than the original budget and therefore it was not possible to proceed with the project. We brought that savings back to the project reserve. We have one project we are working to close out at this time. Mr. Nye also reported that their contingency reserve fund has no significant items.

Rich Amon asked for clarification on the budget for the USTAR project. He wanted to know if the \$155 Million was the budget for the project or just the infrastructure. Ken Nye answered the question by stating that the amount was the total project budget and that this project was being managed by DFCM.

MOTION: Sheila Gelman moved to approve the Administrative Report for the University of Utah. The motion was seconded by Jeff Nielsen and passed unanimously.

Darrell Hart reported that they had 2 professional contracts issued. Under construction contracts, they had a project reserve fund draw for the Eccles Conference Business Walkway Project. During the design phase they found a better solution that solved some of the problems they were having but increased the cost of the building.

There was a decrease in the contingency reserve primarily from 2 projects – a classroom upgrade and some miscellaneous critical improvements. There are 48 current projects, 21 which are substantially completed and 21 under construction. There are 5 in the design phase and one project pending.

Director Gregg Buxton asked if there was a reason to upgrade the classrooms and Mr. Hart responded that one of the rooms was missing some IT work that was not included in the original design.

MOTION: Wilbern McDougal moved to approve the Administrative Report of Utah State University. The motion was seconded by Jeff Nielson and passed unanimously.

☐ ADMINISTRATIVE REPORTS FOR DFCM

Kurt Baxter reported there were no significant lease reports or architectural/engineering service agreements awarded. However, there were 33 Construction Contracts Awarded. The Fairpark Grand Building Controls Upgrade is considered a significant one. Also the Dixie State College New Athlete Weight Training Metal Building was sole sourced to a particular contractor because it was specified by the donor.

The contingency reserve fund had an increase of \$465,000 due to a couple of issues at the Multi-Agency Office Building. There were a couple of allowances that were not used which caused the increase. The USTAR Building caused a significant decrease in the fund of \$336,000 for change order #11 which was a sewer line that had to be redesigned due to obstacles along the way. They weren't allowed to route the sewer down 500 South and had to go with some other options which cost a fair amount of money. Also, Snow College Library Classroom Building requested a few change orders there as well as Mountainland ATC North Utah County Building with change orders approximately \$150,000.

The Project Reserve had one decrease of \$15,000. The budget stands at \$4,063,000 for project reserve and the Accounting Department indicates that is an adequate amount for the projects they have currently.

The Contingency Reserve has almost \$9.2 Million which is adequate for their outstanding construction.

Chairman Sowerby moved the discussion back to the USTAR building with concerns about why it was necessary to run the sewer line a half mile over to 500 South. Was that because of sewer main sizes? Mr. Baxter replied that UDOT didn't allow them to go a certain path with the lines, so they had to choose a different path which caused the line to be a little longer and there were also a few obstacles. Ken Nye responded that it was also

a capacity issue. They were providing a sewer line for an area of campus that previously did not have any sewer access and the closest lines didn't have the capacity needed.

ADJOURNMENT.....

MOTION: Jeff Nielson moved to adjourn at 10:14a.m. The motion was seconded by Sheila Gelman and passed unanimously.