Utah State Building Board

MEETING

January 5, 2005

MINUTES

Utah State Building Board Members in attendance:
Larry Jardine, Chair
Kerry Casaday, Vice-Chair
Steven Bankhead
Cyndi Gilbert
Katherina Holzhauser
Manuel Torres
Richard Ellis, Ex-Officio

DFCM and Guests in attendance:

F. Keith Stepan	Division of Facilities Construction & Management
Kenneth Nye	Division of Facilities Construction & Management
Shannon Lofgreen	Division of Facilities Construction & Management
Steve Allred	Legislative Fiscal Analyst's Office
Randa Bezzant	Governor's Office of Planning and Budget
Kevin Hansen	Weber State University
Darrell Hart	Utah State University
Brent Windley	Utah State University
John Misel	Department of Workforce Services
Kevin Walthers	State Board of Regents
Jackie McGill	Spectrum Engineers
RoLynne Christensen	VCBO Architecture
Mike Perez	University of Utah
Stan Plewe	Dixie State College
Randall Funk	University of Utah
Bob Askerlund	Salt Lake Community College
Michael Wollenzien	USOR
Stacy Meyer	HFS Architects
Wendy Mabey	Owen and Associates
Paul Hicken	Office of the Legislative Auditor General
James Behunin	Office of the Legislative Auditor General
Derek Byrne	Office of the Legislative Auditor General

On Wednesday, January 5, 2005, the Utah State Building Board held a regularly scheduled meeting in the House of Representatives Building, Room W125. Chair Larry Jardine called the meeting to order at 9:06am.

Chair Jardine stated Camille Anthony resigned as the Executive Director of the Department of Administrative Services. Kim Oliver, Director of Finance, was named as interim director until a new executive director is named.

❑ APPROVAL OF MINUTES OF NOVEMBER 17, 2004 .....

Chair Jardine sought a motion on the Utah State Building Board meeting minutes of November 17, 2004.

MOTION: Steve Bankhead moved to accept the meeting minutes of November 17, 2004. The motion was seconded by Manuel Torres and passed unanimously.

❑ ARCHITECT/ENGINEER FEES .....

Keith Stepan stated that over the last four months, DFCM has been working with the AIA in an effort to update the architect/engineer fees. DFCM has been slightly concerned about the amount of fees being paid while maintaining the best consulting firms through the VBS process.

The updated guidelines include the national guidelines of the A/E community and outlines the basic services encompassed in the fees including fees for the architects, structural engineer, mechanical engineer, electrical engineer, and civil/landscape. The element of complexity is also taken into consideration, as is a standard for direct and reimbursable costs.

Over the last five years, the average for A/E fees for DFCM was approximately 7.25%. Traditionally architects run 6%. Based on national precedence and local approval, DFCM hoped to lower the fees with the new guidelines.

Once the firms are identified through VBS, the project managers negotiate fees based on the size and type of project. Mr. Stepan noted that if an agreement cannot be reached concerning the compensation, discussions with the highest ranked firm shall be terminated and DFCM's project manager will initiate talks with the second ranked design professional.

MOTION: Steve Bankhead moved to approve the architect/engineer fee proposal. The motion was seconded by Cyndi Gilbert and passed unanimously.

❑ LEGISLATIVE PREVIEW .....

Kenneth Nye stated the Building Board prepared its capital budget recommendations for the Governor and the legislature. Governor Walker then released her recommendations last month. Included in the packet was a comparison of Governor Walker's capital budget recommendations to those of the Building Board.

Governor Walker recommended the capital improvements be funded at the 1.1% level, although at a lower level than the Building Board based on revised replacement value calculations. DFCM revised the number of the Board's formal recommendations in the five year book to reflect a lower number of $53.6 million as opposed to the $59.9 million. The statute still provided for 1.1% funding level as a minimum, but allows for an exception at a .9% level in times of budget shortfalls.

Governor Walker recommended a more substantial capital development budget than anticipated at $119 million, including $100 million in surplus for the current fiscal year and $19 million as general obligation bond. The $119 million did not include the Capitol renovation which Governor Walker recommended to be fully authorized for GO bonds at $135 million. However, this was based on intent language restricting the issuance of bonds to be $50 million a year for this year and next year and $35 million for the last year.

The specific capital development projects recommended by Governor Walker were similar to the Building Board's recommendations. The biggest departure was not recommending the Board's number one priority of the Dixie Health Sciences Building and the number six priority of the Southern Utah University Teacher Education Center. Governor Walker's recommendation of $7.5 million for the Richfield Regional Center included the state funds and the Workforce Services funding. The UCAT UBATC/USU Vernal Campus was also recommended, which was a lower priority of the Board.

A few years ago there was an authorization to do a lease purchase through the County for the DNR Price Regional Office which did not prove to be successful. DNR has forwarded a proposal to find $1.5 million in internal trust funds to reduce the amount the County would have to finance under a lease purchase.

Governor Walker recommended all the other funds projects the Building Board recommended including the West Valley Court purchase, although it was not addressed directly.

Governor Huntsman's team is reviewing Governor Walker's budget recommendations and is expected to distribute his recommendations shortly.

Kenneth Nye stated the Building Board and Capital Facilities Committee will meet January 26 to discuss the Building Board's recommendations. This provides an opportunity for dialogue between the Board and the Committee.

Mr. Nye also noted DFCM requested the general funds for its administrative operating budget be restored. The request assumed the capital improvement staff could be funded out of capital improvement funding with the balance of the budget coming from a request for general fund money. Governor Walker recommended restoring approximately half of the general fund money at $1.1 million, and it was unknown if Governor Huntsman would maintain the recommendation.

Currently very little legislation was publicly available. One piece of legislation pertaining to the Board was being sponsored by Senator Knudsen which reallocates the $4.8 million previously authorized to purchase Oxbow Jail and fund the Bridgerland ATC Bourns Building. Senator Mayne was looking at pursuing a preference for Utah Construction Workers. Other bills that may interest the Board pertained to lease purchase agreements for UCAT, procurement, contractor bonds, lien notices, and design/build procurement.

Current procurement code prohibits any gift or benefit to anyone involved in procurement and provides for that to be a felony for both the recipient and the company. Senator Patrice Arent is working on a bill to provide clarification and set a de minimus amount.

These bills and other legislative information can be accessed through the internet at http://utah.gov and connecting to the legislative session page. The legislative tracking page prepared by DFCM could be distributed to the Board members if they desire.

John Misel, facility coordinator for Workforce Services, stated at the last Board meeting, a decision was made that if the Richfield Regional Center did not get funded, that Workforce Services could go out on their own. He questioned if the recommendation was still valid. Kenneth Nye stated the Building Board's recommendation was still in place, but they would need the final decision from the Legislature.

❑ LEGISLATIVE AUDIT OF DFCM .....

Keith Stepan introduced Jim Behunin, Derek Byrne, and Paul Hicken of the Office of the Legislative Auditor General, who had performed the legislative audit of DFCM. The report was presented to the Legislative Committee in December and will need to be presented to the Appropriations Sub-committee and Government Operations Committee.

Kenneth Nye stated the audit focused on the construction management efforts, but not the facilities management or real estate areas. A copy of the digest was provided in the packet, as well as DFCM's response. The digest stated that "although the agency has serious problems with one past project, DFCM has learned from its mistakes. Today the division is a well-managed organization that provides quality construction management services for the state."

A large portion of the audit report focused on the U of U housing project, which continues with ongoing litigation and is not reflective of DFCM's current processes. The audit was

complimentary of the changes made regarding construction delivery methods. Previously DFCM used a traditional process with design/bid/build. Over the past number of years, DFCM has converted to a construction management/general contractor approach or design/build. The recommendations of the audit indicated DFCM should require contractors to submit a payment waiver with each one of their monthly pay requests. DFCM is working on implementing this process. Another recommendation was for an analysis of cash flow be periodically done on each project. This will be done consistently through standard reports to aid in the analysis.

The third chapter of the audit focused on U of U housing issues and found the dispute resolution process and construction process were lacking. It was recommended that bidding documents be completed before bids are requested which is normally protocol, but was a very glaring problem on the University housing project due to time constraints. DFCM will continue to reinforce this with staff to ensure documents are complete. The second recommendation dealt with resolving a formal change order or a construction change directive prior to the work being performed. DFCM will be placing a greater emphasis on paperwork completion. The construction change directive is a very useful tool for getting work started while resolving the actual cost. DFCM is addressing this within their general condition update to provide mechanisms for resolution. It was also recommended for DFCM to put contractors and subcontractors on notice that they will not be compensated for additional work unless they provide a separate accounting and demonstrate the cost associated.

The audit also discussed dispute resolution and the length of time it has taken to resolve the disputes on the housing project. It was supportive of the new dispute resolution process that the Board approved a few months ago which is currently in the formal rule making process. Dispute resolution was strongly emphasized in the revision of the general conditions which will be presented to the Board this spring.

The audit also addressed the procurement process and identified significant improvements were made, but additional improvements were required. The auditors concerns primarily dealt with the same issues raised in the procurement practice review. DFCM has not fully implemented all of those recommendations and current practices were not reflected in the audit. DFCM will continue to fully implement concerns for better definition of submittals and provide this as a standard. There is also desire to be more explicit regarding the selection criteria and ensuring selection committees base their decisions on the criteria included in the RFP. DFCM is working with their staff to fully develop their criteria and ensure the weight provided for each criteria reflects the importance of the criteria. DFCM must also finalize their revision of the performance evaluation process and the information provided to the selection committee regarding past performance. The recommendations involved ensuring the criteria are currently identified with a weight provided and are followed in the selection process. DFCM is updating their standard RFP documents, and developing an instruction guide for staff to manage the procurement process and an instruction guide for selection committee members. DFCM will also provide some training

for staff and conduct training/orientation with each selection committee to discuss the balancing of scoring. Kenneth Nye emphasized the importance of Board members and user representatives closely following the stated selection criteria when they participate in selection committees.

Other issues addressed in the audit included wise use of construction and delivery methods, prompt payment of contractors, use of a wide variety of subcontractors, general contractor conflicts of interest being managed properly, and eliminating the Owner Controlled Insurance Program.

Kenneth Nye distributed a document from Governor Walker's budget recommendations for Administrative Services. One of DFCM's performance measures pertained to the improvement in controlling the use of contingency on projects. In FY1997, DFCM was spending approximately 75% more out of contingency than budgeted. Improvement began in FY98, but a dramatic improvement took place in FY2000 and has continued over the last four years. DFCM currently averages approximately 35% less than the amount budgeted for contingency. This is a reflection of both delivery method and procurement process that have brought DFCM better contractors, as well as the efforts to improve the management of projects.

The supplemental document from the detailed audit report identified the timeliness of completion of projects with substantial improvement starting in FY2001. Ongoing performance measures are continuing to be developed in this area.

The audit also looked at the level of change orders prior to the implementation of VBS. DFCM previously averaged $11 million on an annual basis, and is currently averaging $2.2 million.

❑ APPROVAL OF U OF U LONG RANGE DEVELOPMENT PLAN UPDATE.....

Mike Perez, University of Utah, stated in 2003 the University realized they were challenging the 1997 LDRP with upcoming anticipated projects. Since then the University engaged Hanbury Evans Wright Vlattas and Co. to develop the 2003 supplement which has been reviewed and endorsed by President Young, the Board of Trustees and the Board of Regents. The new plan was driven by strategic academic planning and current mission of the organization to coincide with the 1997 LDRP. The academic strategic planning will be completed in 2005 and the University will then segway into a comprehensive LDRP. The comprehensive LDRP will address the future of the golf course, Research Park and the long term plans of the University. The next wave of projects is starting to test the timing of the master plan and needs to be updated.

With the 2003 supplemental, the University hoped to create a sense of place while preserving large areas of open space. It dealt with the addition of Trax, the possibility of

creating a mall area for an academic core, and creating a more pedestrian friendly environment and being environmental stewards.

Keith Stepan questioned the timing on eliminating the golf course. Mr. Perez responded there was no timetable, but wanted to ensure it would be available as it became needed.

Several challenges were noted surrounding Research Park and the University hoped to provide a solution to balance the interests. The current master plan at Research Park has been structured with neighborhood involvement, but was not conducive to the University's desires.

Keith Stepan noted the significance of the orthopedic facility opening this year in Research Park. Mr. Perez stated the orthopedic facility is a developer constructed and financed project. The University is leasing the project and will then receive the building in forty years. Lease payments are being made by the orthopedic doctors.

Mr. Perez requested conceptual approval of the 2003 supplement.

MOTION: **Cyndi Gilbert moved for conceptual approval of the 2003 supplement of the LDRP. The motion was seconded by Kerry Casaday and passed unanimously.**

❑ ADMINISTRATIVE REPORTS FOR THE UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY.....

Mike Perez introduced Randall Funk as the interim director for Campus Design and Construction for the University of Utah in John Huish's absence.

Mr. Perez provided the administrative report for the period of October 29 to December 17, 2004. There were three A/E agreements and two construction contracts awarded. It was noted the construction budget for the Red Butte Gardens Head House Addition was $187,000 and was less than the contract amount of $226,968. Donor funds will cover the variance.

Mr. Perez noted inaccuracies on the improvements account report with the project status and the percentage completed columns being miscalculated. Most projects were well beyond the completion date noted.

Two reallocations occurred in the contingency reserve fund for the 12470 Volt System Conversion, Phase III, and the Business Loop Road Paving due to unforeseen conditions.

MOTION: **Steve Bankhead moved to approve the administrative report of the University of Utah. The motion was seconded by Katherina Holzhauser and passed unanimously.**

Brent Windley presented the administrative report for Utah State University for the period of October 27 to December 15, 2004. There was one professional contract and three construction contracts awarded. The contingency reserve fund had decreases for the Science Engineering Research Utility Corridor, the Buried Natural Gas Pipe Replacement and Guard Rails/Hand Rails. The current delegated projects had 49 total projects with 15 in completion or substantial completion, seven in design, and the remaining in various stages of deign or construction.

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

❑ 2005 BUILDING BOARD MEETING SCHEDULE.....

A revised schedule for the 2005 Building Board meetings was reviewed.

The February 2 meeting was rescheduled for January 26, with an afternoon meeting being held with the Capital Facilities Committee.

The May meeting was moved to April to facilitate the capital improvement allocation and the construction period.

The date for the July meeting will be reviewed in the future.

Tour dates will be determined in the future.

MOTION: **Kerry Casaday moved to approve the 2005 Building Board meeting schedule. The motion was seconded by Cyndi Gilbert and passed unanimously.**

❑ ADMINISTRATIVE REPORTS FOR DFCM .....

Keith Stepan reviewed the report for October 23 to December 14, 2004. There were 22 new A/E agreements awarded and 28 construction contracts awarded for the period.

❑ ADJOURNMENT .....

MOTION: **Cyndi Gilbert moved to adjourn at 10:56am. The motion was seconded by Katherina Holzhauser and passed unanimously.**

Minutes prepared by: Shannon Lofgreen