Utah State Building Board

MEETING

November 17, 2004

MINUTES

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

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
Gary Adams	Department of Workforce Services
John Misel	Department of Workforce Services
Bart Hopkin	Department of Human Services
Rob Brems	Mountainland Applied Technology Center
Paul Hacking	Uintah Basin Applied Technology Center
Russ Galt	Davis Applied Technology Center
Kevin Walthers	State Board of Regents
Matt Rich	Jacobsen Construction
Jackie McGill	Spectrum Engineers
Jerry Oyler	Utah National Guard
Mike Perez	University of Utah
Stan Plewe	Dixie State College
Greg Stauffer	Southern Utah University
Rick Stock	Architectural Nexus

On Wednesday, November 17, 2004, 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 9:04am.

❑ APPROVAL OF MINUTES OF OCTOBER 21, 2004 .....

Chair Jardine sought a motion on the Utah State Building Board meeting minutes of October 21, 2004.

MOTION: Manuel Torres moved to accept the minutes of October 21, 2004. The motion was seconded by Steve Bankhead and passed unanimously.

❑ APPROVAL OF FIVE YEAR PLAN .....

The Board previously approved a priority list for state funded requests which became the basis for the first two years of the five year plan. Statute calls for the Board to maintain and update a plan each year for the facilities for the upcoming five years. Therefore, DFCM prepared a proposal for a five year plan and Kenneth Nye reviewed the few minor adjustments made to the copy included in the packet.

The proposal for the development of the five year plan was similar to last year with the first two years being divided in half and separated between year one and year two of the five year plan. The funding levels were significantly higher than what is likely to be achievable; therefore, DFCM placed a somewhat smaller proportion in the first year in hopes to achieve a more realistic proportion.

For the remaining three years, DFCM asked each agency and institution to submit a five-year plan for their needs. DFCM identified needs within the five-year plans, as well as some projects submitted for additional consideration. In some cases, DFCM also referred to previously submitted five year plans in attempt to identify projects for consideration of the five year plan. When allocating the projects between fiscal years 2008, 2009, and 2010, DFCM reviewed the priorities of the agencies and institutions within their five year plan and considered their perspective of the relative urgency and need for the projects. DFCM did not propose any priority order within a fiscal year as the information is likely to change.

Mr. Nye also included the capital improvement funding requirement at the 1.1% level for each fiscal year. Discussions are currently being held with the Governor's Office of Planning and Budget regarding capital improvements and the dollar amount associated with the 1.1% funding level. The statute governing funding for capital improvements requires funding at 1.1% of the replacement cost of state facilities. It allowed for a reduction to 0.9% in years of a budget shortfall. This year, the state expects to be out of

the budget shortfall and the Legislature will need to address the 1.1% funding. With the recent jump in construction costs, the estimated replacement cost has also jumped. DFCM and GOPB are discussing the inflationary impact in calculating the replacement cost. Mr. Nye noted the Governor's budget recommendations will be announced approximately mid-December.

Mr. Nye indicated there may be some issues requiring resolution between DFCM and the GOPB prior to publishing the five year book. He asked for the Board's approval to allow DFCM to adjust the number in the five year book to reflect that agreement. The Board authorized DFCM to adjust the numbers if necessary.

Steve Bankhead asked if there had been any discussion regarding funding DFCM operations instead of taking it out of contingency funds. Kenneth Nye was unsure of the Governor's recommendations, but expected relief in that area.

Kenneth Nye noted the operations and maintenance estimates were changed from the previous documents. At the previous Board meeting, the O&M estimates included a footnote indicating the Richfield Regional Center included the full O&M cost for the building. Upon further review by DFCM, it was determined the estimate for the required increase was $18,700, which was reflected on the new sheet. The balance would come from existing budgets for O&M in the O&M buildings, as well as the rent budgets from agencies leasing space.

Mr. Nye referred to priority 14 for Utah State University which included a small reduction in their estimated amount for O&M from $1,160,000 to $1,119,800. This reduction reflected a correction in the current funding level for O&M. Utah State University also requested DFCM change the project identified for them in FY2009 from the Biology Natural Resources addition, which they are attempting to fund through donations, to the Health Physical Education and Recreation addition and remodel.

DFCM also made a slight adjustment to the other funds list for the University of Utah College of Social Work building addition. DFCM has been working with them to refine the budget from $3,250,000 to $3,500,000.

Mr. Nye sought questions on the proposed five-year plan from the Board, agencies and institutions.

Steve Bankhead felt the Building Board was comfortable in evaluating and prioritizing higher education projects, but he was not as comfortable with UCAT and other state agencies. He felt the current approach and evaluation process enabled higher education projects to rank higher than other projects. He hoped for a philosophical discussion to develop a solid basis for placing those kinds of projects in the five year plan.

Kenneth Nye noted some state agency projects fared well within the priorities of the Board in this year's prioritization process. Higher Education currently makes up about 2/3 of the state's facilities and is generally more skilled at doing presentations and developing proposals than many state agencies. The developed criteria assist in balancing the issues.

Katherina Holzhauser thought they gave each project considerable attention and felt the process neutralized the projects. Steve Bankhead replied that the amount spent on non-higher education projects is significantly less.

Keith Stepan stated DFCM also aided agencies with their own revenue sources. Steve Bankhead considered the current ratio of non-higher education projects versus state projects and if enough was being spent on non-higher education projects. Kenneth Nye stated it would be difficult due to the current volume of buildings and the specific needs of the state varying from year to year.

Steve Bankhead stated the five year plan indicated they hoped to fund two to three times beyond the amount expected to be funded, and felt it was more of a 10 year plan and was unrealistic. Kerry Casaday felt it was the Board's charge to make the five-year plan and commended the agencies on their projects and efforts.

Keith Stepan felt attempting to limit it could have a negative impact on the existing realities, including receiving fewer funds than what is projected. It was also important to be upfront about the multitude of projects that are needed. Kenneth Nye stated is a frequent discussion within the Board and the Division. From his perspective, they needed to show the needs to remove the perception that the state's needs have been addressed once the priority list is funded. He recognized Mr. Bankhead's concern and recognized the level of funding each year is very optimistic and would impact projects being pushed into later years.

Chair Jardine sought comments from the audience and approval from the Board.

MOTION: Steve Bankhead moved to approve the five-year plan. The motion was seconded by Cyndi Gilbert and passed unanimously.

❑ APPROVAL OF ADDITIONAL OTHER FUNDS PROJECTS .....

Kenneth Nye stated the Mountainland ATC request was being presented to the Board for reconsideration. Previous concerns dealt primarily with Richard Ellis' concerns regarding the process this project followed dealing with obtaining legislative funding for the rent budget last session and then returning for lease purchase approval. The Board chose not to recommend the two lease purchase proposals for Mountainlands. Further discussion was held with concerned parties who later recognized there was some degree of ambiguity

in UCAT's process and greater latitude may be required to facilitate close working relationships with school districts. Currently, many UCAT programs are addressed in school district facilities on a very informal, short term relationship which puts the UCAT entity at risk of abruptly losing a location for their program. The MATC's proposal for southern Utah County would formally address the issue to protect the state's interest.

Due to the school district selling the elementary school to a developer, UCAT has the option to proceed with a lease arrangement or a lease purchase. By entering into a lease agreement with the school district, the school district will require them to repay the cost of the building over a set amount of time with no change in the lease terms pertaining to the financial aspects of the transaction. Gaining equity of the payments being made and regaining ownership at the end of the payments is much better for the state. A lease purchase authorization is required to achieve this.

Based on the previous discussions, Mountainlands ATC has agreed to withdraw their previous request for a lease purchase arrangement for land in Northern Utah County and pursue the lease purchase with Nebo School District for a facility in southern Utah County. There was also discussion about clarifying the UCAT statute regarding the ability to do lease purchases.

Rob Brems appreciated the reconsideration of their high growth situation.

Chair Jardine sought a motion to approve the revised south Utah County Mountainlands ATC project.

MOTION: **Katherina Holzhauser moved to include the Mountainlands ATC lease purchase in southern Utah County in the recommendation for other funds projects. The motion was seconded by Kerry Casaday and passed unanimously.**

❑ LEGISLATIVE REPORT ON REVENUE BONDING .....

Kenneth Nye reviewed the report prepared by Kevin Walthers, formerly of the Legislative Fiscal Analyst's office. The report was presented to the Legislative Executive Appropriations Committee in September 2004 and included some principal topics of discussion on projects previously recommended by the Board.

Mr. Nye stated individual legislators have expressed concern primarily about the regional center project proposals and using lease revenue bonds. Last session, legislation was passed calling for a study of this topic. Several concerns from legislators included the concept of building regional centers and moving agencies out of leased space into owned space and the effect on the local real estate market. Concerns also existed regarding the

revenue bond proposals being scrutinized strongly enough by the legislature. Previously revenue bond proposals were not frequently scrutinized.

Mr. Nye informed the Board of the legislative concerns and philosophies. All revenue bonds must be approved by the Legislature. The report states that revenue bonds are an appropriate financing mechanism as long as they are tied to a suitable funding source representing a user fee. A legislative concern rises when agencies request a conversion of lease obligations into bond payments. The Building Ownership Authority was originally created for the purpose of converting lease payments into debt service on a state owned facility.

Mr. Nye also identified the different types of bonds. General Obligation bonds carry the full faith and credit of the state. When the legislature adopts legislation to approve a GO bond, they are authorizing a statewide property tax which is then held in abeyance as long as they pay off the bond. If the state should go into default on the bonds, there is a statewide property tax available to repay the bond. It is unlikely these types of bonds will go into default by not being paid; therefore, the State receives low interest rates and tax exempt status. Those types of bonds have statutory and constitutional caps on the amount that can be issued and outstanding for the state at any one time. They receive the greatest level of scrutiny due to the substantial obligation associated with them.

Lease revenue bonds are backed by both pledged lease payments, as well as a formal mortgage placed on the property. The structure is true regardless of where the funding comes from and is a type of debt used in the financing markets. Those bonds are issued through the State Building Ownership Authority.

Revenue bonds are somewhat similar to lease revenue bonds, but have some significant differences. The only entity that deals with revenue bonds for state facilities is the Board of Regents/Higher Education. Revenue bonds are secured by a revenue stream. They pledge that revenue stream as collateral and there is no mortgage on the property. Most of the bond proposals outside of GO bonds stemming from Higher Education fall under the revenue bond process, including the University of Utah's Hospital project.

Mr. Nye referred to the legislative concerns regarding regional centers using existing lease payments as a funding source, and the State renting space when the funds could be more efficiently and economically put to use towards the purchase and acquisition of facilities. The purpose of the financing mechanism being put in place by the State was to facilitate conversion of agency leases into the ownership situation. Initially, the legislation did not allow for Higher Education to be able to participate in the program and it was only for state agencies. There have since been some unique circumstances on specific projects where there was desire for Higher Education to have access and the statute was amended to allow narrow types of Higher Education facilities to use the process.

Mr. Nye also pointed out that DFCM statute requires them to consider opportunities for converting to an ownership situation when leasing property, particularly on high cost leases. High cost leases are defined as anything more than ten years in length or $1 million in total lease payments. Most of the projects approved in the past for state agency facilities for just general office buildings have been financed through the lease revenue bond process. A list of projects approved since 1988 included the two projects funded this last session for the Ogden Regional Center and the Moab Regional Center, as both were funded out of lease revenue bonds.

State office buildings are rarely funded out of GO bonds, which have created some frustration in dealing with state agency office needs. Mr. Nye felt it would be appropriate to monitor legislative perceptions and to visit with the new Governor's administration about their perspectives on the State owning or leasing office space. If the desire is to shift more to a leasing approach as opposed to ownership, then they may wish to propose legislation in a future session to remove the requirements to look for opportunities to convert from leased to owned space.

Keith Stepan felt legislators were also concerned with the debt level. Randa Bezzant added an additional concern related to the business aspects of supporting local communities.

Kenneth Nye stated a lot of the concern was due to the limited commercial markets in many rural areas. If the state leases a building as opposed to owning it, the State then pays property taxes indirectly through rent payments to the owner. The local governments receive property tax benefits from the building. If the state owns it, no property tax is due.

Chair Jardine asked if the state bond rating included GO bond money or all bond money, and how the rating is developed. Mr. Nye responded as the rating agencies look at the state to issue new ratings, they look at the state's full financial picture, including debt level and lease obligations.

❑ APPROVAL OF PROGRAMMING FOR STUDENT HOUSING AT DIXIE STATE COLLEGE .....

Keith Stepan stated DFCM received a request for Dixie State College to develop an architectural program and business plan for a new student housing project on their growing campus. They would need to request the project as an "other fund" in 2006.

Stan Plewe, Dixie State College, stated there were several compounding issues, including the current dormitories are 40 years old and are no longer attractive or competitive in the housing environment for the students. This does not help with the food services or other auxiliaries due to the location and structure of dormitory rooms.

When the dorms were originally built back in the 1960's, they were to accommodate the growth of the current student population of 300. They have allowed the private sector to build around their campus and there is no longer private property adjacent to the campus. They are seeing housing in pockets, at a large distance from campus and not appealing to students.

This would be a 500 bed facility and built out in three phases. Their initial programming money would be approximately $70,000 and paid out of auxiliary services. They would program for the entire build-out and phase the construction.

Cyndi Gilbert asked if they would demolish the current housing. Mr. Plewe responded the Shiloh dormitory would be razed and made into parking. The master plan indicates that an academic building would be placed in that area. The College currently only has 250 beds and would receive a net gain of 250 rooms.

Steve Bankhead asked if there is a very restrictive amount of land on the campus, and given the projected growth for Washington County, he questioned if putting student housing in that area jeopardize further growth for core learning and teaching facilities. Stan Plewe responded they have several plans to develop sites away from the campus. DSC has also talked to city and county officials about relocating the sports facilities away from campus and into a sports complex for use by the community. Those facilities which dominate a large amount of space can then be made into academic space.

MOTION: Cyndi Gilbert moved to approve programming for student housing at Dixie State College. The motion was seconded by Katherina Holzhauser and passed unanimously.

Ms. Holzhauser reminded the Board that as economies get better, student housing will be more prevalent because it will be unaffordable for students to live elsewhere. A key issue will be determining if it should be handled by the institutions or community.

❑ REALLOCATION OF CAPITAL IMPROVEMENT FUNDS .....

Kent Beers stated DFCM recommends the Board reallocate $161,346 to the statewide emergency fund from the following projects: St. George Courthouse Paving ($40,200), Department of Community and Economic Development Improvements ($30,000), Ogden Juvenile Courts Lighting Upgrade ($36,846), and Weber State University Automation Center HVAC Renovation ($54,300).

At the May 2004 meeting, the Board allocated $250,000 to the statewide emergency fund. This allocation increased the emergency fund balance to approximately $331,300. Historically, DFCM has recommended that the emergency fund begin the improvement

cycle with a balance between $300,000 and $400,000. Normally, this amount has proven to be adequate. However, this year state agencies and institutions have experienced an unusually high number of emergencies which have depleted the fund leaving a current balance of only $10,000. This drop in the emergency fund balance has occurred even after DFCM has required a number of agencies and institutions to cover part of the cost of their emergencies.

DFCM requested the Board replenish the emergency fund by reallocating funds from the projects placed on hold or canceled. For example, the St. George Courthouse paving project was cancelled because Courts has decided to pursue a capital development project that will replace the existing courthouse. Improvements at DCED have been put on hold because DFCM's maintenance staff has determined that the repairs are not immediately necessary. The Ogden Juvenile Courts lighting upgrade has been canceled because the work will be included as part of a larger project planned for next year. The WSU Automation Center HVAC renovation has been postponed because the recently completed engineering study concluded the project will require significantly more funding than is currently available. WSU intends to request full funding for the project next year.

Mr. Beers noted that typically most requests for emergency funding have come during the winter months. As a result, DFCM may find it necessary to petition the Board for additional reallocations if the emergency fund balance falls too low. He sought questions of the Board.

MOTION: **Steve Bankhead moved to approve the reallocation of funds from the various projects to the emergency fund. The motion was seconded by Kerry Casaday and passed unanimously.**

Keith Stepan added that they are seeing the backlog of repairs and maintenance issues, and agencies and institutions are requiring some relief. He hoped the Legislature granted the 1.1% and considered the future of maintenance issues.

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

Mike Perez, University of Utah, stated there were three design contracts and three construction contracts issued for the period of August 14 to October 29, 2004. There was no change to the contingency or project reserve.

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

Brent Windley, Utah State University, reported for the period of August 11 to October 27, 2004. There were two new professional contracts and three new construction contracts. There was no activity in the contingency or reserve fund. A summary of the statewide accounts was included and there were two paving projects that had been completed during the period.

Mr. Windley noted that the Cogeneration/Chilled Water project has been completed and proven to be a very positive project. Utah State University expressed sincere appreciation to the Building Board and the Legislature for their support of this project.

MOTION: **Steve Bankhead moved to accept the administrative report of Utah State University. The motion was seconded by Cyndi Gilbert and passed with Chair Jardine abstaining from the vote.**

❑ ADMINISTRATIVE REPORTS FOR DFCM .....

Keith Stepan noted there were 53 architectural/engineering agreements awarded and 57 construction contracts awarded. Mr. Stepan noted the change order list over the last few years has been substantially reduced because of the VBS process. Contingency and reserve funds are still high in terms of numbers, but the contingency fund which is used for unforeseen conditions has an excess of approximately $2 million that may be reassigned back to projects should the Division be funded. The reserve fund is also being used more because of the bids and the economy.

❑ OTHER .....

Manuel Torres will serve on the CEU Prehistoric Museum Expansion Programming on December 9 and 16, 2004.

Kerry Casaday and Chair Jardine will serve on the Tooele Courts CM/GC.

A copy of the 2005 meeting schedule was reviewed.

Keith Stepan briefly reviewed the material pertaining to the transition and the transition team.

❑ ADJOURNMENT .....

MOTION: **Katherina Holzhauser moved to adjourn at 10:36am. The motion was seconded by Manuel Torres and passed unanimously.**