

Utah State Building Board



MEETING

June 1, 2011

MINUTES

Utah State Building Board Members in Attendance:

N. George Daines, Chair
Jeff Nielson
David Fitzsimmons
Ned Carnahan
Chip Nelson
Ron Bigelow, Ex-Officio

DFCM and Guests in Attendance:

Kim Hood	Department of Administrative Services
Gregg Buxton	Division of Facilities Construction & Management
Cee Cee Niederhauser	Division of Facilities Construction & Management
John Nichols	Division of Facilities Construction & Management
Cheryl Searle	Division of Facilities Construction & Management
Wayne Christensen	Division of Facilities Construction & Management
Alan Bachman	Attorney General's Office/DFCM
Nichole Sherwood	Legislative Fiscal Analyst Office
Ken Nye	University of Utah
Mike Perez	University of Utah
Chris Lino	University of Utah
Jason Perry	University of Utah
Ben Berrett	Utah State University
Darrell Hart	Utah State University
David Tanner	Southern Utah University
Alan James	Utah Correctional Institution
Ralph Hardy	Office of the Commissioner of Higher Education
Leisa Bare	Psomas Engineering
Gemma Gough	Diamond Phillips
Jessie Robertson	Steel Encounters

On Wednesday, June 1, 2011 the Utah State Building Board held a regularly scheduled meeting in Room 250 of the Utah State Capitol Building, Salt Lake City, Utah. Chair George Daines called the meeting to order at 9:04 a.m.

ADMINISTRATION OF OATH OF OFFICE TO NEW BUILDING BOARD MEMBER

Notary Public, Cee Cee Niederhauser administered the Oath of Office to Scott "Chip" Nelson, the newest member of the Building Board.

Chair Daines informed the Board there was an additional item on the Agenda, listed as item seven, however this item will be moved to item six. The training session, originally listed as item six, will be at the end of the meeting with a short break before it begins.

APPROVAL OF MINUTES OF MAY 4, 2011

Chair Daines sought a motion for approval of the minutes.

MOTION: Ned Carnahan moved to approve the meeting minutes of May 4, 2011. The motion was seconded by Jeff Nielson and passed unanimously.

LONG TERM LEASE REQUEST IN SALT LAKE CITY, UTAH FOR DABC STORE #1 LOCATED AT 405 SOUTH 200 WEST

DFCM Real Estate and Debt Manager, John Nichols reported this was a liquor store lease for the Department of Alcoholic Beverage Control located in the downtown area, 405 South 200 West. The state presently leases seven liquor stores. They prefer a ten year renewal because of the retail nature of the site, public awareness of this location and a very advantageous rental rate. State statute indicates the DFCM Director may renew leases of up to ten years; however DFCM Real Estate Division has always brought such leases to the Board so they are aware and understand the details of the transaction. Mr. Nichols requested the Building Board renew this ten year request for renewal at this time.

Jeff Nielson asked what happens if the Legislature does away with state-owned liquor stores? Will the lease continue? Mr. Nichols said there is a non-appropriation clause in the lease that if the ABC is abolished, the state will be able to get out of the lease. If state liquor stores are privatized, this would trigger the clause.

Chair Daines sought a motion for approval of the lease request.

MOTION: Chip Nelson moved to approve the Long Term Lease Request in Salt Lake City, Utah for DABC Store #1 Located at 405 South 200 West. The motion was seconded by David Fitzsimmons and passed unanimously.

□ **ADMINISTRATIVE REPORTS FOR UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY**

Ken Nye from the University of Utah reported their activity for the month consisted of eight design agreements and four planning/study/other agreements awarded. There was nothing unusual to report on any of those. Under construction contracts, there was one new Space Contract. The University wanted to clarify they are not starting a new building. This project involves the management installation of the security system in a building which was delegated by DFCM. There were six remodeling contracts and four site improvement contracts awarded. The Project Reserve Fund did not have any activity during this reporting period. The Contingency Reserve Fund had two small decreases this month for unknown conditions. The quarterly report on page five compares the total amount drawn from contingency for each project for last quarter. Page six shows the summary of the improvements account which is a list of the Capital Improvement Projects delegated to the University. In this report, the University tracks the status of projects approved for Capital Improvement Projects. Of the projects on the list, there are two which are not under construction or substantially complete. They are: 1) the Eyring Chemistry HVAC System Upgrade, now in the bidding process and a FY10 project; 2) the Fletcher Building Fume Hood Upgrade which came in over budget and as a result the University is trying to find money to cover it. These projects will be proceeding shortly. Lastly, the construction contract status on page eight is a list of all construction contracts open at the current time.

DFCM Director Gregg Buxton had concerns about two projects on the list from FY 06 and FY 09 which were both chiller plant projects and should have been completed by now. Mr. Nye said the High Temperature Water Plant Replace Motor Control from FY 06 was part of a much larger (sixteen to eighteen million) project and took several years to complete. When the project was completed there were some failures within the system and the University spent a year working with the contractor trying to get it corrected and as a result part of the work in the building was suspended while the contractor addresses specific issues. Their contract with UCI for abatement and demolition progressed slower than they had anticipated which further contributed to the problem but the University is close to completion on this project. The Student Services Building from FY 09 which consisted of replacement of the chiller and cooling towers had budget difficulties for the University. However, they were able to find internal funds for the project and should be completed shortly.

Jeff Nielson asked about the University's Practice Field Turf Replacement project which was previously approved by the Board. Mr. Nye clarified it was the turf in their indoor practice facility and was included on the list of contracts. The contract on this work was just awarded and is not due for completion for a while. Mr. Nielson had concerns that the turf was being replaced because of color matching, however Mr. Nye clarified it was because the artificial turf was worn out and needed to be replaced with something suitable

for football.

Ex-Officio, Ron Bigelow questioned Item #2 under professional services agreements which was the Red Butte Amphitheater Restoration. He recently heard in the media the amphitheater was not ready due to clean up from the Chevron Oil spill last year. Will the cost of this clean-up be reimbursed? Mr. Nye confirmed that this work was caused by the Chevron spill and will be reimbursed by Chevron.

Chair Daines sought a motion for approval of the report from the University of Utah

MOTION: Jeff Nielson moved to approve the Administrative Report for University of Utah. The motion was seconded by Ned Carnahan and passed unanimously.

Ben Berrett gave the administrative report for Utah State University. He reported they had two professional and four construction contracts issued during this reporting period. There was no activity on the Contingency Reserve Fund and one transfer to the Project Reserve fund. Under professional contracts, there was a contract issued to Intermountain Consumer Professional Engineers which was work associated with replacing a substation transformer at the south substation and a contract issued to Cache Landmark Engineering for paving in the Student Living Center Parking Lot. Under construction contracts there were four contracts issued this month: 1) Chiller Controls Upgrade for control panels which have gone obsolete on some of their chillers, 2) Rich/Davis Hall Renovation which is a housing project funded by housing and mostly consists of cosmetic and window replacement to the dorms in the Student Living Center on campus, 3) Geology to Maeser Steam Replacement consist of a contract for asbestos abatement. There is a tunnel underneath the Geology and Animal Science Building nearing one hundred years old. It's been approximately fifty to sixty years since the steam line's been renovated, therefore they are replacing a fairly short section of steam line in the old tunnel and repairing ventilation and lighting, 4) Medium Voltage Upgrade is associated with replacement of the transformer at the south substation. They had to widen the road and improve the bridge over the canal in order to provide access to the substation. The Contingency Reserve Fund had no activity for this reporting period. Their quarterly report is also included this time. The Project Reserve Fund had the Water Research Laboratory Fume Hood Upgrade Project close, which contributed \$31,000 back to the fund. The summary of the statewide accounts quarterly report has a paving project recently underway. Their initial estimates have come in which indicate this project may be over-budget due to the rising cost of asphalt. This information is based on our Engineer's estimates and has not gone through the formal bidding process. There is the possibility this may be phased and the University will have more information once this project goes out to bid.

Ned Carnahan wanted more information about the Medium Voltage Upgrade resulting in the bridge demolition. Mr. Berrett responded they were replacing the substation

transformer and discovered the access to their substation was not large enough to allow a truck carrying the transformer to maneuver around the corner. They are replacing a bridge with a couple of large culverts to widen the access which amounts to \$10,000 to the project.

Chair Daines sought a motion for approval of the report from Utah State University.

MOTION: Ned Carnahan moved to approve the Administrative Report for Utah State University. The motion was seconded by Chip Nelson and passed unanimously.

Chair Daines recognized Darrell Hart from Utah State University who will be retiring at the end of June. He expressed appreciation to Mr. Hart for his time and service to the Board.

☐ ADMINISTRATIVE REPORT FOR DFCM

Kurt Baxter from DFCM reported there were fifteen architectural agreements signed this month and twenty-eight construction contracts awarded. He mentioned a few of the larger ones included Southern Utah University Museum of Art design, the State Hospital Medical Services and Pediatric Facility Programing. There was one large construction award for Dixie Heating Plant Upgrade, Phase I. The Contingency Reserve Fund is at \$10.3 Million. They had several decreases from the fund the past month. The largest was from several change orders from the USU Agricultural Building. The Project Reserve Fund is at \$5.3 Million and is slightly higher than last month. DFCM Accountant, Dave Williams feels confident with the fund amount. Pages 21-32 of the report show DFCM's construction projects currently underway.

Chair Daines recognized Senator Stuart Adams in attendance at the meeting

☐ UNIVERSITY OF UTAH – PIONEER THEATRE COMPANY ACQUISITION OF DONATED PROPERTY

Mike Perez, Associate Vice President for Facilities Management from the University of Utah introduced Chris Lino, Managing Director for Pioneer Theatre Company. Mr. Perez explained that in 2009 the University's Pioneer Theatre Company worked with Cowboy Partners, a private developer to rehabilitate property at the intersection of 1300 East and 200 South, known as University House. This property was previously occupied by a transient population. It was discovered there were eleven registered sex offenders living there at the time. This development will be a great change to the type of occupants who are in this area. Cowboy Partners will retain the lower level of the structure which has a retail component; as a result La Frontier Mexican Restaurant will open an establishment there. Donors have come forward who would like to gift the upper levels to the University of Utah to use as apartments to house guest artists for Pioneer Theatre.

Chip Nelson asked if the University was planning to file a condominium plan on this property to make it OSHA correct? Mr. Perez answered in the affirmative. Mr. Nelson also asked since they were going to receive this as a gift, do they have any input into building plans for the units to make sure they are up to University standards and would not require future renovation. Mr. Perez indicated yes. They not only have University approval but City approval as well.

Ned Carnahan asked if this property would be going to a foundation or directly to the University and Mr. Perez responded it is going directly to the University. In addition, David Fitzsimmon questioned if there are any complications involved in acquiring this property in the historic district? Mr. Perez replied they have complied with all the requirements through the city. Mr. Lino added the exterior has been preserved in its original form so they are in compliance with historic renovation requirements. Ron Bigelow asked what type of agreement does the University have on the use of the main floor? He felt a restaurant was a comfortable arrangement, but was concerned about changes in the future. Mr. Lino said there was nothing contractual but there is an agreement in principle. He added Cowboy Partners had quite a few applicants to fill the space on the ground floor; however they chose the restaurant because they thought it was appropriate. Mike Perez said the University has the right of first refusal to purchase the ground floor if the current owner elects to sell in the future.

There was considerable discussion concerning the legal problems that could arise with the acquisition of this property specifically with the ground floor, the responsibility of operation and maintenance, the funding source, the names of the donors, etc. Alan Bachman clarified the reason the University of Utah is bringing this issue before the Building Board today was to notify the Board of their project and to publically acknowledge no state funds will be used.

Chair Daines said that the collective concern of the Board was to make sure the contract for the "shared building" had addressed all the issues with clarity. To ensure there are not problems in the future the Chair suggested DFCM conduct a review and set a standard for this process. At this point the Board trusts that the legal counsel of the University of Utah has performed a thorough review of the situations concerning this property.

Chair Daines sought a motion for approval of the acquisition of property for the University of Utah.

MOTION: Chip Davis moved to approve University of Utah – Pioneer Theatre Company's acquisition of donated property. The motion was seconded by David Fitzsimmons and passed unanimously.

Chair Daines announce there would be a short break followed by a training session for Board members. The public is invited to stay for the training session.

**☐ TRAINING FOR BUILDING BOARD MEMBERS
(See attached Powerpoint for Training Information, pages. 8-15)**

During the training session members of the Board discussed the following items:

- Electronic participation
- Building Board quorum
- Preparation of the agenda
- Rule-making authority
- Video conferencing
- Meeting times
- Public hearings
- Media attention
- Relationship with Legislators
- Appointment of a Vice-Chair
- The Open and Public Meetings Act
- Specialization of Board assignments
- Parliamentary Procedures
- Delegation Authority
- University Reports
- Lease Rates

☐ ADJOURNMENT

MOTION: Chair Daines asked for a motion to adjourn. Ned Carnahan moved to adjourn the meeting at 11:56 a.m. The motion was seconded by David Fitzsimmons and passed unanimously.



Utah State Building Board

Training Points



ROLE & RESPONSIBILITIES OF BOARD MEMBERS

All members are expected to:

- Make the Board a priority and devote an appropriate amount of time and energy to the assignment.
- Prepare for, attend and actively participate in all Building Board meetings.
- Learn about the specific role you play as a member.
- Read the informational packet each month, research issues, and form reasonable opinions based on facts.
- Maintaining a state-wide perspective. Your decisions affect all citizens in Utah and you are responsible to keep the best interest of the public in mind.



Media Guidelines

Media Requests:

- High standards of professionalism when working with the media.
- DAS Public Information Officer – Department spokesperson.
- May be occasions when it is appropriate for the board or commission member to give comment to the media.
- Timely: Response usually within two hours. If the Board member receives a request, contact the DAS Public Information Officer, and ensure that pertinent information is shared.





Attendance Requirements

- A quorum must be present (majority of voting members). Meeting attendance is crucial.
- Governor Herbert expects his appointees to adhere to those policies and make Board meetings a priority.
- Electronic Media- Attendance by conference call when required.





Open and Public Meeting Act

PURPOSE: *(Section 52-4-102)*

State and local agencies exist to conduct the people's business, which must be done openly.

WHAT DOES THE OPEN MEETINGS ACT DO?

- "It requires government to take actions openly."
- "Ensures deliberations allow for an open public process."



Open and Public Meeting Act

WHAT IS A MEETING? *(Section 52-4-103(4)(a))*

- ❖ Convening of a public body with a quorum present to discuss, receive comment, or act on a matter under its jurisdiction or advisory power.

WHAT IS NOT A MEETING? *(Section 52-4-103(4)(b))*

- ❖ A chance meeting
- ❖ A social meeting



Facilities Construction
& Management
a division of the Department of Administrative Services

Open and Public Meeting Act

WHAT IS A PUBLIC BODY? (Section 52-4-103)

Any administrative, advisory, executive or legislative body of the state or its political subdivisions that:

- Is created by constitution, statute, rule, ordinance, or resolution;
- Expends, disburses, or is supported by tax revenue; and
- Is vested with the authority to make decisions regarding the public's business.



Facilities Construction
& Management
a division of the Department of Administrative Services

Open and Public Meeting Act

PUBLIC NOTICE (Section 52-4-202)

- A public body must give notice at least 24 hours before each meeting. The public notice must:
 - include the date, time, and place of the meeting;
 - include an agenda that lists topics to be considered;
 - be posted in specified place; and
 - be provided to a newspaper or local media correspondent.
- A public body may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic.



Facilities Construction
& Management
Division of the Department of Administrative Services

Open and Public Meeting Act

MINUTES AND RECORDINGS (*Section 52-4-203 and 52-4-206*)

- ❑ A public body must keep written minutes and a recording of all meetings. Written minutes of a public meeting must be:
 - available to the public within a reasonable time;
 - approved by the public body; and
 - Considered public when prepared in a form awaiting formal approval and identified as “unapproved.”
- ❑ A public body must make a recording of an open meeting available to the public within three business days.



Facilities Construction
& Management
Division of the Department of Administrative Services

Open and Public Meeting Act

CLOSED MEETINGS (*Sections 52-4-201, 52-4-204, and 52-4-205*)

- ❑ Meeting are open to the public. However, it can be closed by a two-thirds vote with a quorum present at the open meeting.
- ❑ Reasons for the closed meeting must be announced and enter into the minutes of the open meeting.

SOME REASONS FOR A CLOSED MEETING

- Discussion of a person’s character, competence or health
- Investigation of criminal conduct
- Discussion of security system
- An acquisition of real property including water rights or shares
- Pending or imminent litigation



Facilities Construction
& Management
a division of the Department of Administrative Services

Open and Public Meeting Act

EMERGENCY MEETINGS (Section 52-4-204)

A public body may not hold an emergency meeting unless:

- ❖ It makes an attempt to notify all members
- ❖ A majority of the members approve the meeting.

A public body need not give a 24-hour notice if:

- ❖ Unforeseen circumstances require an emergency meeting
- ❖ The best practical notice is given.



Facilities Construction
& Management
a division of the Department of Administrative Services

Ethics and Conflicts of Interest

What is a Conflict of Interest?

- Any direct and immediate interest or relationship (including financial interest), with persons or businesses regulated by or directly affected by decisions of the Board
- The interest of a spouse or other members of the immediate family/household
- The interest of any other person which is constructively controlled by the member is included

Some types of interests to be considered as potential conflicts:

- Business enterprises, nonprofit, professional
- Charitable, religious
- Social, educational, recreational
- Public service
- Civic organizations
- Any organization, where you have financial interest



Facilities Construction
& Management
a division of the Department of Administrative Services

Ethics and Conflicts of Interest

Conflicts of Interest --Approaches include:

1. Oral disclosure of the conflict before discussion and then participating in the discussion but not the vote;
2. Oral disclosure of the conflict at the beginning of the discussion with no participation in discussion or the vote; or
3. Oral disclosure of the conflict and physically withdrawing from meeting when an action is being discussed and voted upon.



Facilities Construction
& Management
a division of the Department of Administrative Services

Parliamentary Procedure At a Glance

RULES OF ORDER

- Roberts Rules of Order -- the most widely set of rules for conduct of meetings.
- Copies are available online and in most bookstores.
- Boards are encouraged to develop a consistent protocol for their meetings.
- When in doubt, the underlying rule is:
 - . **Respect the wishes of the majority**
 - . **Protect the minority**
 - . **Do what seems fair and equitable**





Parliamentary Procedure At a Glance



In a smaller meeting, like a committee or board meeting, often only five motions are used.

- . To introduce (motion)
- . To second (motion)
- . To change a motion (amend)
- . To adopt (accept a report without discussion)
- . To table (to further study and return for vote)
- . To adjourn (end the meeting)