

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Governing Board Members:

Angella Pinna, DSPD Director

Dr. Scott L. Smith, Public Appointee

Jennifer May, Family Advocate

Tonya Hales, DHHS Assistant Deputy Director

Tim Mathews, USDC Superintendent

Paul Smith, Public Appointee

Patrick Horrigan, Consumer Advocate

Scott Pingree, Family Advocate

Public / Presenters Present:

Mark Forbes, USDC Administrative Director

Lauren Gutierrez, Quality Assurance Director

Clover Meaders, Assistant Attorney General

Heather McGinley, Assistant Attorney General

Molly McDonald, Assistant Attorney General

Shauna Bradley, Records

Marshall Christensen, Finance Manager

William Exeter, USDC Project Manager

Cynthia Church, Administrative Assistant

BUSINESS:

Electronic Meeting:

This meeting will be held electronically in accordance with Utah Code Ann. 52-4-202, House Bill 5002, Open and Public Meetings Act pursuant to a written determination by the Chairperson, finding that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present. Due to the infectious and potentially dangerous nature of the COVID-19 virus, all agencies, institutions, and the general public may attend via a conference line. To attend please call (US) +1 413-308-2315 listen to the prompts and enter the (PIN: 254703178). Opinions and comments by the public may be presented as the meeting progresses or at the closing, as requested by the USDC Governing Board Chairperson.

Meeting Minutes Approval:

Dr. Scott Smith made a motion to approve the Governing Board Meeting Minutes, dated July 6, 2023. Scott Pingree seconded the motion.

Motion /Minutes Approval:

Yea – Dr. Scott L. Smith, Public Appointee

Yea – Paul Smith, Public Appointee

Yea – Jennifer May, Family Advocate

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Yea – Tonya Hales, DHHS Assistant Deputy Director

Yea – Tim Mathews, USDC Superintendent

Yea – Patrick Horrigan, Consumer Advocate

Yea – Scott Pingree, Family Advocate

The July 6, 2023 Governing Board Meeting Minutes were unanimously approved.

Dr. Scott Smith motioned to approve the minutes from the September 7, 2023 meeting and Jennifer May seconded the motion.

Motion /Minutes Approval:

Yea – Dr. Scott L. Smith, Public Appointee

Yea – Paul Smith, Public Appointee

Yea – Jennifer May, Family Advocate

Yea – Tonya Hales, DHHS Assistant Deputy Director

Yea – Tim Mathews, USDC Superintendent

Yea – Patrick Horrigan, Consumer Advocate

Yea – Scott Pingree, Family Advocate

The Governing Board Meeting minutes from the September 7, 2023 meeting were unanimously approved.

USDC Governance:

Open and Public Meetings Training:

Molly McDonald is one of the Attorney Generals who represents DHHS. Since she has prior experience with the Open and Public Meetings Act (OPMA), she provided the Governing Board with the required annual training needed for open and public meetings. This training is required because government bodies have to be open to public scrutiny. OPMA requires the public's business to be conducted in public. It provides the requirements for conducting meetings of public officials who have the authority to make policy and budget decisions in the public's interest. It requires that the meeting be posted so the public have the option to attend. OPMA requires that the process for making decisions be open to the public. Most importantly, votes must be taken in public.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



What is a Public Body?

OPMA defines a public body as: Any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

1. Is created by the Utah Constitution, statute, rule, ordinance, or resolution;
2. Consists of two or more persons;
3. Expends, disburses, or is supported in whole or in part by tax revenue; and
4. Is vested with the authority to make decisions regarding the public's business.

What is a meeting?

OPMA defines a meeting as: "The convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of receiving public comment about, or act upon a matter over which the public body has jurisdiction or advisory power.

A meeting does not mean a chance gathering or social gathering.

What is a quorum?

"Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law. When a quorum is missing the usual number of board members (due to seat vacancy, or "open seats"), the quorum consists of the majority of the board members who are present. If the seats are filled but the board member(s) is/are not present, this will decide whether a quorum is present or not.

A quorum does not include a meeting or two elected officials by themselves when no action, either formal or informal, is taken.

Notice vs. Agenda

A notice must be at least 24 hours in advance of meeting, posted at public body's office, on the Utah Public Notice Website, and in a newspaper of general circulation.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



The agenda must be posted with notice and be “reasonably specific” (an average person would be on notice as to all topics of discussion and action planned for the meeting).

Notice requirements

In addition, a public body that holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once a year of its annual meeting schedule.

Records of Open Meetings

Do we have to keep minutes and/or recordings? Yes, to both! Even though there’s an audio recording, the approved written minutes will be the official record. Include both written minutes and recording of the meeting. The public body shall establish and implement procedures for the public body’s approval of the written minutes of each meeting.

The written minutes must include the date, time, and place of meeting; names of members present and absent, substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments; record by individual member, of each vote taken by the public body, name of each person who makes a public comment and the substance of the comment; and any other information that is a record of the proceedings of the meeting that any member requests be entered in the meeting or recording. Public bodies for whom members are elected must record votes in a list format, but category for each action taken by a member, including yes votes, no votes, and absent members, and by each member’s name.

Angella Pinna mentioned that this board has been holding the public comment at the end of the meeting, and wanted to clarify that doing so follows OPMA standards. Molly stated that a lot of boards do it this way, and it should be okay as long as the board isn’t deciding on a controversial matter.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Posting Approved Minutes and Audio Recording to Public Notice Website
Pending minutes must be available to the public within 30 days after the meeting (State Public Body and Specified Local Public Body). All other public bodies are required to make the pending minutes available to the public in a reasonable amount of time. The approved minutes must be posted on the public notice website within three (3) business days after approval.

Audio recordings, or links to audio recordings, must be posted on the public notice website within three (3) business days after the meeting.

Electronic meetings

Public bodies may meet by phone or other electronic means that allow participants to hear or observe communications. The public body must adopt by resolution, rules or ordinance governing the use of electronic meetings, including how a quorum will be calculated in an electronic meeting. Notice requirements still apply. The public must have a means to attend or participate, even if the meeting is entirely electronic. A physical location must be provided for the public to make available the opportunity for public observation in the case the individual(s) has/have no means to observe electronically.

The meeting may be held without an anchor location if it presents a substantial risk to health or safety but requires written determination by the chair of the public body. A roll-call vote is required for non-unanimous actions.

Electronic Message Transmissions

The Open Public Meetings Act does not restrict members of a public body from transmitting an electronic message to other members of the public body when the body is not in an open meeting.

Emergency Meetings

An emergency meeting may be held due to unforeseen circumstances that must be articulable. An example might be a broken water line that cannot wait for the next scheduled meeting. Failure to comply with OPMA requirements isn't an unforeseen

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



circumstance. This requires the best notice practicable. For instance, a sign detailing where the new meeting will take place that is posted where the original meeting was being held would suffice. An emergency meeting cannot be held unless an attempt has been made to notify all members of the public body and a majority of the members approve of the meeting.

Closed Meeting

A public body can go from an open meeting into a closed meeting under certain circumstances. This may be necessary if the board is discussing a person or topic that should remain private, such as private information detailing a person's mental health, or if revealing what your discussions are could cause financial harm. Other instances include what the Government Records Access and Management (aka: GRAMA) classifies as private, such as social security numbers or medical records. A quorum must be present to go into a closed meeting. A motion to close the meeting must be made, naming the specific statutory reason for closure. A roll call vote must then be taken, in which two-thirds of the body must approve the closed meeting. If the meeting is closed for any other statutory reason (besides code 52-4-205), a recording and written minutes shall be made. The recording during a closed section is protected from being released, unless cleared for release by GRAMA. NO VOTES ARE TAKEN IN CLOSED MEETINGS.

Reasons a Meeting May be Closed

1. To discuss character, professional competence, or physical or mental health of an individual (this doesn't require a recording if the chair signs an affidavit);
2. To discuss collective bargaining,
3. To discuss pending or reasonably imminent litigation;
4. To discuss the purchase, exchange, or lease of a real property, if public discussion would disclose the appraisal value or prevent the transaction on the best possible terms;
5. To discuss the sale of property,
6. To discuss security personnel, devices, or systems,
7. To discuss investigative proceedings regarding the allegations of criminal misconduct

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



What is Forbidden During a Closed Meeting

You may not approve of an ordinance, resolution, rule, regulation, contract, or appointment to the board. You may not interview a person to fill an elected position. You may not take final action; final votes must be open and on the record.

What Happens if Someone Violates OPMA

A court can void any action taken in violation of OPMA. To fix a violation of OPMA, another discussion and revote is taken. Court costs and attorney fees may have to be paid. In addition to any other penalty under this chapter, a member of a public body who intentionally violates or intentionally abets or advises in violation of the closed meeting provisions of this chapter is guilty of a class B misdemeanor (up to 6 months in jail and/or \$1000 fine).

Remedies and Enforcement

Voiding final action: Any final action taken in violation of Section 52-4-205, 52-4-206, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction. A complaint must be filed within 90 days of the final action. If the alleged violation involves bonds, notes, or other evidence of indebtedness, the complaint must be filed within 30 days. This does not apply to some notice exemptions for municipalities or special districts with less than \$1 million in annual budgets.

Who can Take Action

The Attorney General's office, county attorneys, and any party denied a right by the action taken. The court may order compliance with OPMA and enjoin violation. The aggrieved party may recover attorney's fees.

Disruption of Meetings

OPMA does not prohibit the removal of any person from a meeting if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Training

The presiding officer of a public body shall ensure that the body receives OPMA training on an annual basis.

Common Violations of OPMA

- Closing a meeting without members of the public body voting first in an open meeting to close the meeting
- Conducting a closed meeting for reasons other than those allowed by OPMA
- Taking official or final action in a closed meeting
- Failing to properly provide notice of a public meeting
- Taking action or voting on items not listed on the agenda

Helpful Suggestions

- 24-hour notice
- Be specific with agenda items
- No "old business, new business"
- "Action taken on items discussed included meeting" is not enough
- Close meetings only for allowed statutory purposes and follow the process
- Provide minutes in a timely manner
- Do not text during meetings
- Receive training once a year
- Err on the side of transparency
- When in doubt, consult your legal counsel

USDC Projects:

USDC Maintenance and Projects Report:

The medium voltage project is scheduled to have a substantial completion meeting this afternoon (November 2nd). Bill is unsure about when this will be finished since there are still some items to complete. The issues we've previously had with the contractor seem to be resolved.

Our fire panel upgrade is still in process. We've had some problems with the server; IT is on-site today resolving the issues. The American Fork Fire Department has

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



been here three times in the month of October due to false alarms. Jennifer asked if there is a charge for the responses. Bill answered that the first three service calls are free and there is a \$1300 charge for each additional false alarm.

The camera replacement project is estimated to be completed on November 17th. We have 50 new cameras online that are reporting correctly.

The flooring projects are close to completion. There is one more apartment to be completed in Sunset and then we'll move on to the Oakridge building. They're currently working on carpeting the meeting room in Evergreen, which will replace the meeting room we had in the Heather building.

The substantial completion for the summer boiler project was estimated to be completed two weeks ago. There have been some communication issues between the boilers and some software issues that are currently being worked on. We anticipate completion in November. Dr. Smith asked if the boilers are centralized or if they're located in different parts of the campus. Bill replied that they're centralized in the southwest corner of campus.

The asphalt project was halted due to the weather. Before the project was placed on hold, the island and trees were removed and the parking lot between Willowcreek and the Heather parking lot was completed, which added 43 new parking spaces. The green space behind the Rose building was removed to make it easier for trucks to access the comprehensive therapy building project. There are also six new speed bumps, which will be raised and painted in the spring.

We had a pre-bid meeting last week for the Sunset HVAC project which will start in the spring.

Dr. Smith asked if we're under budget for our upgrade projects. Bill said that although some costs are paid by the contractors, there have been increased costs due to change orders and significant delays in the boiler and voltage upgrade project.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Comprehensive Therapy Building:

Demolition of the Heather, TLC and the old kitchen buildings started two weeks ago. We're three and a half weeks into an estimated six-week project. All three buildings have been demolished. The abatement went well, and the air quality reports have yielded good results. The next step is to fill and level out the holes left by the demolished buildings. We're about 90% complete on the design phase for the comprehensive therapies building.

Dr. Smith asked about the groundbreaking ceremony; Bill replied that we will likely proceed with that after the demolition process is complete.

Greenhouse

We received a notice from DFCM to proceed with the greenhouse. We haven't heard a specific date for when construction will start; Ashley Greenwood will have information for Bill today or tomorrow. The additional engineering costs and fees from DFCM are roughly \$54,400. A vote is needed to approve the extra funding, which Angella Pinna opened up for a motion. Dr. Smith moved that the Governing Board approve the additional fees for the greenhouse construction, which is approximately \$55,000. Jennifer May seconded the motion.

Motion Approval:

Yea – Dr. Scott L. Smith, Public Appointee

Yea – Paul Smith, Public Appointee

Yea – Jennifer May, Family Advocate

Yea – Tonya Hales, DHHS Assistant Deputy Director

Yea – Tim Mathews, USDC Superintendent

Yea – Patrick Horrigan, Consumer Advocate

Yea – Scott Pingree, Family Advocate

The motion to approve the additional fees for the greenhouse passed unanimously.

Stables/Riding Arena

There are some structural issues with the stables:

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Various cinder blocks have fallen and some of the surrounding blocks are starting to crack and crumble. Bill wanted to make the board aware of this problem so they can consider moving up the timeline for the riding arena to sometime in 2024 instead of 2025. We think we may be able to repair this on site instead of bringing in a contractor. We may make a formal request for these repairs at the next meeting. Dr. Smith wondered if certain codes need to be met since this is also a public facility. Bill is unsure if there are codes for stables; Angie asked Bill to look into criteria that have to be met. Jennifer asked what the next step in this process would be; Bill replied that the next step would be to choose which type of arena we're going to have, which would go through DFCM and then go out to bid.

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



USDC Finance:

Sustainability Fund Update:

There are two things to note on the sustainability fund update:

1. The estimates for interest gained have increased because of work with the Treasurer's office, who have hired professional personnel to invest in several funds at a higher level. The last three months have increased our estimate by an additional \$200,000/year, which includes gains and losses. We estimate that with these services, we will conservatively pull in an additional \$1.2 million/year over the next 2-3 years.
2. A short poll was taken from our direct care staff and QIDPs that details areas for potential improvement at USDC:

Description	Recommended By	Category	Community Component	Notes/Comments
Heaters & Fans for Patio Areas	Lonnie Ernst	Equipment	USDC	
Music room for individuals to play with different types of instruments	Aaron Draney	Equipment	Yes	
Sensory Rooms with multiple types of lights, kinetic sand, etc.	Aaron Draney	Equipment	USDC	Might need some remodeling in existing areas.
Water fountains	Art Jernigan	Equipment	USDC	Replace and add water fountains with water bottle equipped fountains
Wheelchair Bicycles	Ashley Dalton	Equipment	Potential	
Animal therapy	Aaron Draney	Program/Service	Yes	Expand farm with other therapeutic animals
Animal therapy	Jerrica Sperry	Program/Service	Yes	Dog Therapy program
Autism Unit	Aaron Draney	Program/Service	Yes	Should be part of autism center in new building. Need to define program and identify needs.
Drug Recovery Specialist for individuals that has had addiction issues in the past	Aaron Draney	Program/Service	Yes	
Art Studio	Jerrica Sperry	Structure/Facility	Potential	Can we repurpose an existing area?
Bowling Alley	Jerrica Sperry	Structure/Facility	Yes	Can we repurpose an existing area?

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Dance studio with stage for dance, music, meditation, yoga, karaoke, etc.	Jerrica Sperry	Structure/Facility	Yes	Can we repurpose an existing area?
Event Area, An area specifically designated and improved for events such as, Summer parties, Karaoke, Christmas Celebration, have a stage area, ability to put up decorations, lights easily	Aaron Draney	Structure/Facility	Yes	Can we repurpose an existing area?
Featherstone Ridge Dental Program Building	Mark Forbes	Structure/Facility	Yes	Construct or lease a separate building for the FRDP dental program.
Grilling area for Area/Unit BBQ	Aaron Draney	Structure/Facility	Potential	May just need equipment and repurpose existing areas.
Hair salon	Jerrica Sperry	Structure/Facility	Yes	Can we repurpose an existing area?
Indoor track for individuals to be able to safely run around and expend energy in	Aaron Draney	Structure/Facility	Potential	Can this be included as part of therapies building?
New patios for ASH	Art Jernigan	Structure/Facility	USDC	
Pickleball Court	Jerrica Sperry	Structure/Facility	Yes	Can this be combined with basketball courts?
Playground	Ivana Santillan	Structure/Facility	Yes	Wheelchair Accessible Playground
Playground	Jennifer May	Structure/Facility	Yes	Full-Service Playground
Playground	Jerrica Sperry	Structure/Facility	Yes	All abilities park (wheelchair swing, padded slide, etc.)
Renovating basketball courts	Aaron Draney	Structure/Facility	Yes	Combine with pickleball?
Replace horse stalls	Art Jernigan	Structure/Facility	Yes	
Small Movie Theater	Jerrica Sperry	Structure/Facility	Yes	Can we repurpose an existing area?
Splash Pad	Jerrica Sperry	Structure/Facility	Potential	Work in with landscape plan, combine with park
Large Patio Swings	Melissa Sprague	Equipment	USDC	
Covered Walkway between residences and therapies building	Melissa Sprague	Structure/Facility	USDC	

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



https://docs.google.com/spreadsheets/d/1Ysme_08lczcjsm0mtj_yCXceOYwz9VFcXA67WBUe4Y/edit#gid=0

Playground Project Discussion:

Angie proposed that to continue the playground project, the Governing Board needs to revisit USDC's master plan. This would help determine how much space the project would take up and if space is available. The master plan has involved a lot of public partners in developing, so we want to make sure that our partners are engaged. Dr. Smith wanted to know what the process is for the master plan. Angella said it's been about 10-12 years since the master plan was last updated, and that she and Tim will report on that at the next meeting. Mark will work with Cynthia to provide a link to the master plan for the Governing Board members. Scott Pingree has a lot of background in strategic planning around development and is happy to help out with the park.

Basketball Court Discussion:

The basketball court was originally paired with the playground project because of proximity and location, but it was decided to separate the two because the playground project is more complex. Jennifer found some quotes for Marshall, which consist of two adjustable courts and installation and ran around \$7,000. With additional elements and costs (resurfacing, painting, asphalt, etc.), the rough estimate is \$15,000-\$20,000. Due to the colder weather, this project probably wouldn't take place until spring. Dr. Smith questioned how large the court would be; Marshall replied that the court is slightly larger than half an average court. The recommended poles have an adjustable rim, padding, and are highly rated for longevity. The poles are crank adjustable and can be adjusted to a lower height for easier accessibility for those in wheelchairs. The quote also includes a storage container for balls and included items for a pickleball court. It was suggested that the pickleball and basketball court be combined.

USDC Procedure & Policy:

Food and Nutritional Services Policy 60.03.01:

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



This policy was reviewed by our dietician and food service manager with input from the speech pathologist and occupational therapist. It details the role the dietary department plays in meeting the needs of each individual on campus while following all health department food safety regulations. All redundant information and old procedure steps were removed, as was information that was better placed in the dietary services policy. Policy was separated from procedure. The dietary manager was identified as a registered dietitian.

Dr. Smith asked if the families or legal guardians have any input into the diets that are chosen for the individuals. Jennifer said that the nutritionist speaks with the family about the individual's diet as part of their BSP. Lauren explained that the dietician is also present at the intake meeting for the individual and will ask the family questions about the individual's diet. Paul Smith thinks that individual preferences should be considered. Lauren clarified that personal preferences about food are addressed in another policy that was discussed in the last meeting. Paul also had a question about the procedure for section 2, subsections a, b, and c. He wanted to know if an individual's diet would be reevaluated before the end of the quarter, if necessary. Lauren clarified that the guidelines in the policy are required by Title XIX, but there are some individuals whose diet might be reevaluated more often if needed. We can modify the policy to state that the diet must be reevaluated at least quarterly. Jennifer mentioned that if the policy is to be modified, that maybe they should add a reference to parent's/guardian's input through the PCP.

Jennifer May moved that the board pass the policy with the addendum that they include involvement of the parent/legal guardian in the review of the nutritional evaluation and program and that the individual's diet can be reviewed as needed. Dr. Smith seconded the motion.

Policy Approval:

Yea – Dr. Scott L. Smith, Public Appointee

Yea – Paul Smith, Public Appointee

Yea – Jennifer May, Family Advocate

Yea – Tonya Hales, DHHS Assistant Deputy Director

Yea – Tim Mathews, USDC Superintendent

Yea – Patrick Horrigan, Consumer Advocate

GOVERNING BOARD MINUTES

Utah State Developmental Center

November 2, 2023, 10:00 am-12:00 pm



Yea – Scott Pingree, Family Advocate

The Food and Nutritional Services Policy 60.03.01 was unanimously passed.

Visitors for Individual/General Public Policy 50.03.01:

Due to a lack of time, this policy will be reviewed at the next Governing Board meeting.

Lauren mentioned that she got a lot of good feedback for the Visitors Policy from Jennifer, as well as from other parents and staff. She would like to share the policy on Google Drive because there is likely to be a lot of development on this policy. Angella would like to move this to be the first item in the next meeting.

Dr. Smith said that he was always confused about who for sure needs to go to the switchboard for a visitor's pass. Lauren said that this procedure has been refined and we can continue to look at this policy and its changes until the next meeting.

USDC Community:

Public Comment and/or Questions:

No members of the public were present at this meeting.

Tim motioned to adjourn this meeting dated November 2, 2023; Dr. Smith seconded the motion.