

# Utah State Building Board



**MEETING**

**May 6, 2015**

---

## **MINUTES**

### **Members in Attendance:**

Ned Carnahan, Chair  
Chip Nelson  
David Tanner  
Gordon Snow  
David Fitzsimmons  
Fred Hunsaker

### **Guests in Attendance:**

Jeff Reddoor	Utah State Building Board
Rich Amon	Department of Administrative Services
Ken Hansen	Department of Administrative Services
Marilee Richins	Department of Administrative Services
Chamonix Larsen	Department of Administrative Services
Bruce Whittington	Division of Facilities Construction & Management
Jim Russell	Division of Facilities Construction & Management
CeeCee Niederhauser	Division of Facilities Construction & Management
Darrell Hunting	Division of Facilities Construction & Management
Lee Fairbourn	Division of Facilities Construction & Management
Alan Bachman	Attorney General's Office
Nicole Alder	Attorney General's Office
Ralph Hardy	USHE
Ken Nye	University of Utah
Kevin Hansen	Weber State University
Ben Berrett	Utah State University
David Cowley	Utah State University
Kevin Griffin	UDOT
Jerry Jensen	Department of Corrections
Tiger Funk	Southern Utah University
Darlene Batatian	Terracom
Rachel Legree	The Gordian Group
Jim Nielson	Dixon & Associates

Mike Steele	Utah State Fairpark
Greg Warner	Utah State Fairpark
James Kilpatrick	BNA Consulting
Tyler Brinkerhoff	UCAT
Steven Allred	Legislative Fiscal Analyst
Kris Bowser	VCBO Architects
Kim Johnson	Design West Architects
Barton Mace	Salt Lake Community College
Dallas Earnshaw	DHS – Utah State Hospital
Kendall Johnson	DHS – Utah State Hospital
Jennifer Evans	DHS
Robin Cahoon	UDWR
Mike Fowlks	UDWR
Dean Mitchell	UDWR
Spencer Hill	Snow College
Richie Wilcox	GOMB
Charles Goodman	DHS – Utah State Developmental Center
Guy Thompson	DHS – Utah State Developmental Center
Julee Attig	Reaveley Engineers
Tracy Neale	GSBS Architects
Vicky Golie	Babcock Design Group

On Wednesday, May 6, 2015 the Utah State Building Board held a regularly scheduled meeting in Room W30 of the House Building, Utah State Capitol Complex in Salt Lake City, Utah. Chair Ned Carnahan called the meeting to order at 9:06 am. Rich Amon, Deputy Director for DAS announced the reappointment of Gordon Snow, David Fitzsimmons, Chip Nelson and Ned Carnahan whose terms of service expired in May, 2015. Ned Carnahan was also reappointed as Chair of the Board. These Board members will receive a letter from Governor Herbert confirming their reappointments.

□ **APPROVAL OF MINUTES OF APRIL 8, 2015**

Chair Carnahan asked if there were any additions or corrections to the minutes. There were none.

**MOTION: David Tanner moved to approve the Minutes of April 8, 2015. The motion was seconded by David Fitzsimmons and passed unanimously.**

□ **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION FOR RULE R23-7, STATE CONSTRUCTION CONTRACTS AND DRUG AND ALCOHOL TESTING**

Assistant Attorney General, Alan Bachman explained this rule will expire unless a Five Year Notice is renewed. There will be some non-substantive amendments filed within the next several months regarding some statutory references which were changed in the last session wherein some sections of the code were moved around but didn't change the substance of the rule. A motion was requested to allow continuance of this administrative rule.

**MOTION:**     **Gordon Snow moved to approve the Five Year Notice of Review and Statement of Continuation for Rule R23-7, State Construction Contracts and Drug and Alcohol Testing. The motion was seconded by Chip Nelson and passed unanimously.**

Chair Carnahan discussed the requirements of SB 2 requiring a certification of funding process. The Senate Bill requires that

- 1) the Board receive credible evidence that any other funding sources for a building as presented to the State Building Board and the Legislature during their prioritization processes are actually available, and
- 2) until the State Building Board votes to certify that such funds are available" [SB 2] they may not continue. The Legislature prohibited the Division of Facilities, Construction and Management (DFCM) from moving forward with projects.

The Board discussed the need for a set criterion for which to judge and approve funding in the future. Several approaches for a guideline were reviewed, however it was determined agencies/institutions would present their verification of funding without a guideline at this time. Agencies and Institutions who present their projects for verification in the future should understand the Board may accept more or less evidence of substantiation as the process evolves and a potential rule is developed. Chair Carnahan opened the floor for discussion. Ralph Hardy from USHE said that the Legislative intent language speaks to the need to provide credible evidence of the availability of funds for projects. It does not have language requiring those funds be in place at the time construction starts. He believes this is not a process of guarantee but rather one of good faith. Mr. Hardy advised the Board to handle this certification process carefully so as not to offend donors. Written letters from University Presidents stating they have signed pledges in hand for review, should constitute credible evidence and allow projects to move forward for construction. Alan Bachman said we are dealing with line 386-398 in SB 2. "The Legislature intends that DFCM may not move forward with these projects until the Building Board has certifications." He said he believes the language is specific and requires the funds be available at the time of construction not sometime in the future. The Board must vote to certify the funds are available (not will be available as the construction project progresses). There were questions concerning the intent funds should be available for project expenses at the beginning of the project or proportioned throughout the project. What is the interpretation? Mr. Bachman explained the verbiage reads "are actually available." He feels as long as the amount is verified as "being on hand," then the Board can certify that it will be there for the project. Board members agreed there must be credible evidence in the form of a letter from the University President or Financial Officer stating the funds are available. Notwithstanding investment of funds or pledges from donors, the University must state they will guarantee these funds regardless of the outcome with donors or investments. DFCM Interim Director, Bruce Whittington also spoke to the issue stating that R23-24 Capital Projects Utilizing Non-Appropriating Funds also requires funding be available. State policy requires DFCM have a funding commitment letter in their possession before starting a project. They do not collect the funds at the beginning of a project, but have periodic billings. DFCM will continue with this process unless something changes with the Board's decision today.

Chair Carnahan excused Board member Bob Fitch and Senator Wayne Harper who could not attend the meeting today.

□ **FUNDING CERTIFICATION OF USU CLINICAL SERVICES BUILDING PROJECT**

USU Vice President of Finance, David Cowley explained his letter of funding certification to the Board. He indicated his letter was carefully worded so the Board did not misunderstand its meaning. He did not want to say, "trust us, our donors will come through," but wanted to convey to the Board that the University literally has the \$20 Million available which could be transferred immediately. He is highly opposed to this transfer because the funds are presently invested and the University would like to maximize their earnings; however, they literally have the entire \$20 Million and request permission to move forward with construction. Mr. Cowley explained he does not write letters of financial commitment easily and without careful thought as to the availability of funds. The CFO and the Vice-President of Finance at the University are the individuals who are most aware of the financial processes to make all of this happen. The University has a history of financed internal projects. Even though the pledges from donors will be coming in over a period of time, Mr. Cowley stated he would never commit to or allow a project to go forward unless there was actual cash in hand. It would be the University's responsibility to make sure they follow up with all donors and to replenish the funds advanced. In the case with investing, the comment was made about maybe an investment would go bad and the University wouldn't have the money. Mr. Cowley assured the Board USU has different pools invested but there is sufficient liquidity to meet this need. The President of the University has the authority to bind an institution and receives this power statutorily with his position. The Vice-President of the University is given authority by a resolution from the Board of Trustees and in that resolution he is also appointed to be Treasurer which is a requirement of the Money Management Act from the institution.

**MOTION: Gordon Snow moved to accept Utah State University's letter as credible evidence subject to the additional signature of University President Stan Albrecht along with the signature from Vice-President of Finance David Cowley and to approve the certification of funding for the USU Clinical Services Building. The motion was seconded by David Fitzsimmons.**

David Tanner felt that having two signatures would be a more stringent requirement. Mr. Cowley has the authority to bind the institution as well, understanding the Board of Regents appointment as Treasurer of the University. Two signatures may not be necessary for every certification letter. After Mr. Tanner's comment there was a vote on the motion.

**The motion passed unanimously**

Chip Nelson suggested in future "certification of funding" letters that the agency or institution be required to state the authority they have which binds the institution or agency. Alan Bachman said he could see how this might be helpful and would meet with Jeff Reddoor to discuss this possible requirement.

□ **FUNDING CERTIFICATION FOR DWR GREAT SALT LAKE NATURE CENTER**

Mike Fowlks, Deputy Director of Utah Division of Wildlife Resources addressed the Board with their certification of funding letter. He acknowledged the additional funding for their project had been secured and transferred to DFCM. The DWR letter was signed by CBA Director David Williams verifying the transfer of \$800,000.00 from the DWR via Finet as well as a \$100,000.00 donation from a non-profit organization. This completes the agency's obligation of \$900,000 for the project. Mr. Fowlks reported the DWR was recently approached by other potential donors to this program. Any additional donated funds will be used to enhance this project, perhaps adding an outdoor amphitheater or improving the nature trails in this location. Jeff Reddoor clarified the Salt Lake Nature Center Project was initially for \$2.5 Million; however the Legislature gave approval for \$2.1 Million with a request to scale back the project. Mr. Fowlks replied the DWR is committed to building a \$2.1 project so the donated funds will be used for some additional add-ons to the project.

**MOTION:** Fred Hunsaker moved to accept the letter from CBA Director David Williams as credible evidence and to approve the certification of funding for the DWR Great Salt Lake Nature Center. The motion was seconded by David Tanner and passed unanimously.

□ **FUNDING CERTIFICATION FOR SNOW COLLEGE, NEW SCIENCE BUILDING**

Spencer Hill, Vice-President of Finance and Administrative Services addressed the Board and distributed a certification of funding letter from Snow College President Gary L. Carlston. Jeff Reddoor explained due to issues with confidentiality, the list of donors for this project was not made public, however they are available for inspection should a Board member choose to view them. Mr. Hill informed the Board that as soon as the Snow College New Science Building project was placed at the top of the Priority List, the College began receiving donations. Twenty-two large donor commitments have been signed with a total of \$600,000 so far. Mr. Hill referred to a letter to CBA Director, David Williams committing Snow College for the \$3 Million for this project. Snow College has concerns with the confidentiality for donors and wants to be considerate of their identity. Some donors have asked to distribute the money to the College over a two to three year period so they may take advantage of tax advantages. If the College is required to receive this money at one time, they may have some hesitation from future donors who would not be able to make those donations work for them. Snow College is requesting approval to move forward with construction. Snow College has sufficient liquidity to cover the \$3 Million if needed for this project. Jeff Reddoor verified he and Ralph Hardy from USHE have viewed the donor pledges and feel these are solid commitments with information presented as credible evidence of funding. David Fitzsimmons reminded the Board they are not looking to the donors for certification, but looking to the institution. Viewing the list of donors is not necessary.

**MOTION:** David Fitzsimmons moved to accept the information and letter from Snow College President Gary Carlson as credible evidence and to approve the certification of funding for the Snow College New Science Building which satisfies the requirements of Senate Bill 2. The motion was seconded by Chip Nelson.

Before the vote on this motion, Chair Carnahan asked if Board members would like to speak to the motion. Jeff Hunsaker and Chip Nelson requested the motion be amended to include a statement that Snow College has sufficient liquidity of funds available for this project should they need to be used; however, David Fitzsimmons did not see a need to amend the motion since the letter was signed by President Carlson and accordingly to the minutes of this meeting, will state they have sufficient funding. Chair Carnahan called for a vote on the motion.

**The motion did not pass.**

**Yes: 2 votes (David Tanner and David Fitzsimmons)**

**No: 3 votes (Fred Hunsaker, Chip Nelson, Gordon Snow)**

**ALTERNATE**

**MOTION:** Fred Hunsaker moved to approve the certification of funding for Snow College New Science Building subject to an additional statement in the letter from President Carlson stating the institution has the funds available and will stand behind the pledges should that need arise. This will satisfy the requirement for credible evidence. The motion was seconded by Gordon Snow and passed unanimously.

**□ REQUEST FOR APPROVAL FOR THE MORGAN UDOT MAINTENANCE STATION REPLACEMENT**

Kevin Griffin, Director of Maintenance for UDOT reported the present maintenance station in Morgan was built in 1959. It is no longer functional and over time UDOT has obtained larger equipment, innovative technologies, new brining operations, etc. Currently, the existing Morgan Maintenance Station has structural deficiencies due to age resulting in numerous pieces of equipment being parked outside year round which accelerates aging of this equipment. There are also site problems which limits expansion. UDOT owns a new parcel of property in the Morgan area. During the past year, UDOT has developed a new prototype for their maintenance facilities consisting of an energy efficient cinderblock building with a 50 year design life. This would be a DFCEM managed project with funding for this facility coming from the UDOT Maintenance Line Item Budget for FY 2016. They are requesting approval for design and construction. The existing property will be sold as well as a portion of the property where the new facility will be constructed. Mr. Griffin responded to questions that the building was compatible with Morgan City and the surrounding area.

**MOTION:** Chip Nelson moved to approve the Morgan UDOT Maintenance Station Replacement. The motion was seconded by Fred Hunsaker and passed unanimously.

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

Ken Nye, Director of Business Services at the University of Utah reported their professional service agreements consisted of five design agreements and four planning/study/other agreements. Notable was the Stadium Restroom Addition and Remodel which was approved at the last meeting and the Marriott Library HVAC Controls Upgrade. There was only one

construction contract this month with nothing significant. There was no activity in the Project Reserve Fund. The Contingency Reserve Fund had one draw for \$46,000 for the HPER SE-Chiller Plant Upgrade. Half of this amount went for design omissions and the other portion was for unforeseen conditions.

Ben Berrett, Director of Planning, Design and Construction at Utah State University reported there were three professional contracts and seven construction contracts this reporting period. This is a brief report since they are at the end of the fiscal year and are looking forward to funding for their new capital improvements. There was one significant planning contract for an update to another phase of the Master Plan for the north end of campus and one significant construction project for a Nursing Lab Remodel for the USU program at the Uintah Basin ATC Building. The other construction contracts are for small asbestos abatement projects. There were no increases or decreases to the Project Reserve or the Contingency Reserve Fund this month.

□ **ADMINISTRATIVE REPORT FOR DEPARTMENT OF TRANSPORTATION**

Kevin Griffin reported they have no new contracts over the past reporting period but have received certificates of occupancy for four new facilities: Kamas Phase II, Dugway Salt Storage Building, Hanksville Salt Storage Building, and Kanab Salt Storage Building. There is a significant need for these types of salt storage buildings and the Board will see more of these constructed in the coming year in order to comply with requirements from the Division of Water Quality. UDOT does not have a Contingency Reserve Fund or a Project Reserve Fund.

□ **ADMINISTRATIVE REPORT FOR DFCM**

DFCM Interim Director, Bruce Whittington reported DFCM processed four leases during this reporting period – three were renewals and one for new space. There were also ten professional services agreements and 26 construction contracts. Noted this reporting period is that of all the construction contracts awarded, none of them accessed Project Reserve Funds. The Capital Development Contingency Reserve Fund had transfers into four projects that totaled \$113,000.00 and left a balance of \$3.5 Million. The Capital Improvement Contingency Reserve transferred funds to 12 projects totaling \$86,000.00 and resulted in a balance of \$4.2 Million remaining in this fund. To report of the Project Reserve Fund: The Capital Development Reserve Fund had no activity this period and has a balance of \$1.8 Million and the Capital Improvement Reserve Fund increased by \$262,000.00 leaving a balance of \$4.4 Million. Dave Tanner questioned Change Order #12 for \$338,000.00 for the USU Eastern Campus Central Instructional Building. Mr. Whittington explained this Change Order was an accounting error which resulted from the process of closing the contract and a reallocating a new contract. It was brought to the attention of their accounting people when they began pulling data for this report.

□ **FUTURE AGENDA ITEMS**

Chair Carnahan reminded the Board the solicitation for the DFCM Director is presently out until May 24<sup>th</sup> with an anticipated selection on June 5<sup>th</sup>. It was announced that Ken Hansen, Division Director for the Division of Administrative Rules will be filling in as Interim Deputy Director for DAS until a replacement has been found for Rich Amon. Chair Carnahan expressed

appreciation to Rich Amon for his dedication and support to the Building Board. Bruce Whittington, Interim Director at DFCM was acknowledged and appreciation expressed for his help with DFCM.

Gordon Snow said that by trial and error the Board has reached a consensus that at least two requirements are needed for certification:

- 1) A letter from the Executive Officer of an institution
- 2) When applicable, the institution should state in their letter that adequate funding is available to cover the project even though donations are pledged but not yet received.

Chair Carnahan requested Jeff Reddoor forward this information to other institutions/agencies for future certification. It was suggested a sample letter would be beneficial.

□ **ADJOURNMENT**

**MOTION: David Tanner moved to adjourn the meeting. The motion was seconded by David Fitzsimmons and passed unanimously.**

The meeting adjourned at 10:45 am.