

Utah State Building Board



MEETING

May 5, 2004

MINUTES

Utah State Building Board Members in attendance:

Larry Jardine, Chair
Kerry Casaday, Vice Chair
Steven Bankhead
Manuel Torres
Katherina Holzhauser
Darren Mansell
Cyndi Gilbert
Richard Ellis (Ex-Officio)

DFCM and Guests in attendance:

F. Keith Stepan	Division of Facilities Construction & Management
Kenneth Nye	Division of Facilities Construction & Management
Shannon Lofgreen	Division of Facilities Construction & Management
Kent Beers	Division of Facilities Construction & Management
Blake Court	Division of Facilities Construction & Management
Jeff Reddoor	Division of Facilities Construction & Management
Wayne Smith	Division of Facilities Construction & Management
Vic Middleton	Division of Facilities Construction & Management
Rick James	Division of Facilities Construction & Management
Darrell Hunting	Division of Facilities Construction & Management
Dan Clark	Division of Facilities Construction & Management
Bob Anderson	Division of Facilities Construction & Management
Tim Tucker	Division of Facilities Construction & Management
Bill Bowen	Division of Facilities Construction & Management
Craig Wessman	Division of Facilities Construction & Management
Brent Windley	Utah State University
Kevin Womack	Utah State University
Mark Spencer	Utah System of Higher Education
Matt Rich	Jacobsen Construction
Jackie McGill	Spectrum Engineers
RoLynne Christensen	VCBO Architecture

Mike Perez	University of Utah
John W. Huish	University of Utah
Pieter J. van der Have	University of Utah
Raymond Duda	Utah National Guard
Jim Michaelis	Utah Valley State College
Dennis Geary	College of Eastern Utah
Jim Evans	Mountainland ATC
Rob Brems	Mountainland ATC
Gregory G. Fitch	Utah College of Applied Technology
Stan Plewe	Dixie State College
Michael Wollenzien	USOR
Kim Wixon	DOH
Michael Jensen	State Fire Marshal
E. Bart Hopkin	Department of Human Service
Greg Peay	Department of Corrections
Bill Juszczak	Utah Department of Transportation
Wendy Mabey	Owen & Associates
Robyn Smith	HFS Architects
Stacy Meyer	HFS Architects
Jeremy Blanck	Okland Construction
Gary Adams	Department of Workforce Services
Clay Christensen	Alpine School District

On Wednesday, May 5, 2004, the Utah State Building Board held a regularly scheduled meeting in room 303 of the Utah State Capitol, Salt Lake City, Utah. Chairman Larry Jardine called the meeting to order at 9:00am. Keith Stepan excused Camille Anthony from the meeting.

Mr. Stepan mentioned the Building Board would hold a working session after the formal meeting to focus on the process the Board uses to prioritize buildings.

A handout honoring the Performing Arts Center at Snow College was distributed. This project has won several in-state awards, as well as national awards by the College of Planning and Management. The building was on time, on budget, and has set standards for performing art centers throughout the State.

APPROVAL OF MINUTES OF MARCH 17, 2004

Chair Jardine sought a motion to approve the minutes.

MOTION: Manuel Torres moved to accept the meeting minutes of March 17, 2004. The motion was seconded by Katherina Holzhauser and passed unanimously.

□ ALLOCATION OF FY2005 CAPITAL IMPROVEMENT FUNDS

Kent Beers referred to DFCM's recommendations for the allocation of FY2005 capital improvement funds. DFCM staff reviewed each of the improvement requests from state agencies and institutions of Higher Education in an attempt to address the highest priority needs across the state. This year DFCM received approximately \$170 million in requests for funding from the state agencies and institutions of Higher Education. The Legislature granted approximately \$43.9 million. DFCM worked with the agencies and institutions to minimize the \$170 million list to the \$43.9 million figure.

DFCM primarily focused on issues relating to critical repairs in HVAC, structural and electrical systems as well as infrastructure items. Issues relating to life safety were given a higher priority. In general, remodeling and the addition of new space were given a lower priority, although some projects were included.

Documents were identified summarizing the prioritization process. Mr. Beers referred to the summary of replacement costs of facilities versus the share of FY2005 capital improvement funding. The document showed that of the \$44 million allocated this year, \$24,573,800 went to Higher Education which represented 61% of the funding. State agencies received \$16 million and represented 39% of the funding. The share of funding received from the buildings in Higher Education represented 66% of the funding. Of the .9% of funding DFCM received, the buildings in Higher Education represent 66% and state agencies represent 34%.

Mr. Beers referred to the next report summarizing capital improvement funding for FY2001-FY2005. This document provided a history of funding over the years and showed a history each agency and institution has received in funding from capital improvements.

The FY2005 capital improvement projects were acknowledged in a document which identified the agency and a brief description of the project, the requested amount of funding from the agency or institution, and a third column representing the amount of funding DFCM recommended for each agency and institution. Mr. Beers highlighted the totals recommended for each agency and institution, however all projects were not included on the list. Of the \$170 million, those shown totaled approximately \$60 million.

Cyndi Gilbert questioned how DFCM determined which projects were included in the recommendations. She asked what the criteria was used to determine the recommended requested projects. Kent Beers responded he met with each of the agencies and institutions to review the requested priorities. Based on their prioritization and direct observation from DFCM's capital improvement staff and their in depth analysis of each project.

Steve Bankhead speculated that at least half to two thirds of the requested projects were in dire need. He asked Mr. Beers to provide the borderline projects that barely missed making the recommendations in effort to allow the Board to analyze the projects better. Keith Stepan felt the columns closely identified the projects in this concept. Kent Beers stated he also had a list of 12-15 projects considered as the next highest priorities.

Mr. Beers stated that at the College of Eastern Utah, DFCM recommended \$1,075,800 in funding, with one change that was not included. At the Price campus, DFCM proposed a conversion of church space into classroom and office space; however, the negotiations on the exchange with the LDS Church had not yet come to fruition. DFCM will continue to work on the exchange over the upcoming months to finalize the details. They hoped to present this project again next year. Therefore, DFCM recommended that the \$450,000 be combined with the CEU San Juan Campus demolition of two old homes, one adobe structure and old trailers for the addition of academic space in the Student Center. The project will be \$550,000 from DFCM to assist in the replacement space. The final cost is not finalized. DFCM is also working with UCAT to join together to use \$200,000 to construct a small classroom building and combine their funds. The College of Eastern Utah is also willing to provide some funding. Right now DFCM is performing the planning and programming to determine how much space is going to be needed. They may also discuss the options with Utah State University as they have a presence on that campus as well and some of the increased need is to increase their faculty.

The following recommendations were made for each agency and institution:

Dixie State College	\$1,242,000
Salt Lake Community College	\$1,770,200
Snow College	\$1.1 million
Southern Utah University	\$2,757,500
University of Utah	\$6,959,800
Utah State University	\$4,146,000
Utah Valley State College	\$2,151,000
Weber State University	\$2,487,800
UCAT	\$883,700
Alcoholic Beverage Control	\$89,100
Department of Agriculture	\$148,300
Capitol Preservation Board	\$806,700
Community and Economic Development	\$30,000
Department of Corrections	\$2,606,600
Courts	\$1,439,500
DFCM Managed Buildings	\$2,147,600
State Fairpark	\$253,600

Department of Health	\$724,000
Department of Human Services	\$2,143,900
National Guard	\$583,100
Natural Resources (including Parks & Wildlife)	\$2,637,300
Office of Education	\$75,900
Office of Rehabilitation	\$23,400
Public Safety	\$321,000
Tax Commission	\$51,000
Utah Department of Transportation	\$1,183,600
Department of Workforce Services	\$774,200
Statewide Programs for DFCM	<u>\$3,444,300</u>
Total FY2005 Capital Improvement Projects	\$44,056,900

DFCM received \$43,976,900 in FY05 funding from the Legislature. \$50,000 was received from a settlement on Department of Correction 300 bed facility. \$30,000 was received from a canceled FY04 project for the Rampton H2O expansion tanks. These funds will cover the capital improvement projects for FY2005.

Steve Bankhead asked how the money allocated for Oxbow would be spent. Mr. Beers responded negotiations appeared to have stalled, but the decision should be finalized in the next couple of months. If the purchase does not take place, the Department of Corrections would propose remodeling facilities at the Draper site and increasing the security level in order to accommodate the women's facility proposed for Oxbow, as well as distribute funds to other projects identified by Corrections.

Kent Beers then distributed a list of other high priority projects requested by agencies, but not recommended. He explained how the funding mechanism and the determination for each of the agencies and institutions occur. It is difficult to balance the amount of funding each agency received with their priorities. Each of the agencies and institutions has a certain number of buildings that contribute to the pot of money granted through the Legislature. In an attempt to be fair, DFCM strives to ensure each of the agencies and institutions are provided some funding each year. In addition to DFCM's recommendations, the list is also distributed to the agencies and institutions to provide an opportunity to comment.

Keith Stepan mentioned that the State of Utah has lagged in taking care of buildings due to the requests exceeding funding for several years. Statutorily, 1.1% is allocated for capital improvements; however, this amount has yet to be received.

Steve Bankhead did not understand the pressing need for some of the projects not funded. He wondered if it would be possible for DFCM to prepare a presentation on some of the critical, unfunded projects that the Board members could then address in the prioritization

to the Legislature this fall to provide the impact of .9% versus 1.1%. Kent Beers agreed to provide the information and stated this year, the difference between the percentages is approximately \$10 million.

Cyndi Gilbert was concerned that the State keeps building buildings, but is unable to continue to address their needs. Kent Beers stated DFCM spent several million dollars having ISES, a professional firm with architectural and engineering services; evaluate the majority of the state owned buildings. They identified approximately \$400 million in immediate needs and over a billion dollars in needs over the next ten years. He felt this presentation helped raise the funding from .9% to 1.1% because they were able to document the dollars needed for deferred maintenance. Unfortunately there has been a budget crisis over the last few years and they have never achieved the 1.1% of funding. DFCM should continue to present their case and update their condition assessments every five years. Their accurate database will represent the amount of deferred maintenance and documentation that they are not receiving adequate funding, possibly increasing the 1.1%.

Cyndi Gilbert asked if the Board could ease the frustration of the agencies and institutions to not have viable facilities. The Board needs to be proactive to support DFCM, the agencies, and the institutions to ease the frustration level in comparison to the maintenance level. Keith Stepan stated their support is critical, as were discussions with legislators. Part of DFCM's role is to balance and demonstrate the needs on both ends.

Chair Jardine asked if the funding available versus requests was getting worse year to year. Kent Beers responded the ISES report showed the deferred maintenance amounts was holding steady. When the reassessments are completed, it will be easy to determine if the maintenance is increasing, holding steady, or declining.

Steve Bankhead complimented DFCM staff on their efforts to examine each project, including the volume of work and detail involved.

Chair Jardine sought comments from the audience. Mark Spencer, Board of Regents, stated they appreciated the process as they represented 2/3 of the buildings. The process is an important part of their strategic planning.

MOTION: Cyndi Gilbert moved to approve the FY2005 capital improvement projects as presented to the Board including the modifications. The motion was seconded by Kerry Casaday.

Mr. Beers then referred to the Board to the FY2004 capital improvement project status report. This report card identified the progress made on projects authorized for funding last year. There were 150 project managed by the improvement team in FY2004, not including the projects at the University of Utah and Utah State University and those few managed

through force accounts. Of those 150 there are 140 that are either completed or currently under construction. This represents 93% of the projects that are currently under construction or completed. In addition, they have also completed another \$3.8 million in projects above and beyond those authorized by the Board. They were funded directly by the agencies or the institutions of higher education with their own money, but DFCM manages the project.

Mr. Beers also reviewed the color coded spreadsheet highlighting where canceled projects and moved funds.

☐ DFCM CAPITAL IMPROVEMENT GROUP

Kent Beers introduced the capital improvement team. He noted that each team member cross trains and handles different types of projects.

Craig Wessman is a mechanical engineer and has been with DFCM for 12 years. He handles a majority of the HVAC related projects.

Dan Clark is the paving manager.

Jeff Reddoor is the manager of the facility condition assessment reports (ISES reports) and is also a project manager. He primarily does projects in the southern part of the state.

Darrell Hunting is a roofing manager and also manages construction related projects. He primarily addresses projects in the northern part of the state.

Wayne Smith is the manager over the facility audit where the agencies that have accepted the delegation responsibility to maintain the buildings. He performs the audit function on them to ensure their maintenance meets the state DFCM maintenance standards. He primarily handles the National Guard projects.

Bob Anderson is the hazardous materials manager. He coordinates surveys to determine if hazardous materials exist before construction begins and coordinates abatement contractors to remove materials. He also manages a number of construction related projects as well.

Bill Bowen is from the private sector and has been with DFCM approximately two and a half years. He has picked up several of the larger and more complicated projects.

Rick James is a licensed architect who brings a great deal of expertise to the capital improvement team in terms of planning and analysis of designs. He manages several of the remodel projects and some water line and sewer replacement projects.

Vic Middleton is also a roofing manager who has been with the state for many years in various occupations.

Gaylen Rogers was not present. He is an electrical engineer who has been with the State for 31 years. He provides an outstanding resource to the state in terms of a knowledge and understanding of every electrical system and every campus in the state.

Chair Jardine thanked the group for their efforts and expertise which does not go unnoticed.

□ DEVELOPMENT OF DFCM CLAIMS RESOLUTION PROCESS

Kenneth Nye stated the Legislature passed HB217 during the last session which primarily deals with the resolution of claims and disputes on construction projects and also encompasses a broader application.

Mr. Nye referred to the handout on DFCM claim resolution process. The concerns generating this legislation deal primarily with the University of Utah housing project. There were a number of concerns that arose due to the claims on the project. The document summarized the key points from the bill.

DFCM is required to develop rules to create a dispute resolution process to encompass more than construction contracts. They would also apply to architect/engineer agreements and to the leasing agreements. DFCM will be developing a process to apply to the broad spectrum, but will focus primarily on construction.

DFCM's approach in developing the statute was to limit detail specifying the process. The Legislature agreed to allow DFCM to develop a process and document it in administrative rules. Those rules would then govern the process. Developing this through the rule process allows DFCM to adapt the rule as needs change or problems are identified, rather than waiting for the next Legislative session.

DFCM will set up a requirement for a preliminary effort to be made between the claimant and the other parties involved before going to the formal dispute resolution process.

DFCM will also determine what types of claims are eligible to be considered and process requirements, which will allow DFCM to potentially define which types of claims are allowed through the process. DFCM will need to address the ability of subcontractors to submit

claims directly to the State. Under typical processes, subcontractors can only present a claim to the general contractor and not directly to the owner. The degree DFCM allows subcontractors to file claims directly with the State may be a controversial aspect of the issue.

The legislative representatives of this bill discussed limiting the ability of subcontractors to file a claim with the State only if they can demonstrate the State has some culpability for the issue. This will be a topic of substantial discussion when defining what can be presented by a subcontractor. DFCM will also be able to set up the processes that involve hearing officers and handles mediation and arbitration and can allocate the cost of the dispute resolution process to the parties involved.

One complication of the bill is the requirement for claims to be resolved within 60 days. The bill basically allowed two methods for extending the 60 days including giving the ability to a hearing officer or panel to extend the period for an additional 60 days if it is determined progress is being made and potential satisfactory resolution of the issue is probable. The other extension option includes parties to the dispute agreeing to extend the process indefinitely.

DFCM will also need to provide a method for administrative appeals. The bill provides that the decisions made at each step of the process are binding unless an appeal is filed. This will help in obtaining closure on some of the issues.

DFCM will also be able to require that certain types of claims use this process before they can be filed in court.

DFCM is required to develop draft rules with the industry as well as with the Building Board to be presented to a legislative interim committee by August 18. Mr. Nye was setting up an advisory group to provide input in developing the rules. The representatives desired for their involvement include two Building Board members, four representatives from general contractors, two or three subcontractors, two or three architects, and some representation from DFCM. The Board members should have a construction background since the claims issue is fairly technical.

Mr. Nye also mentioned that the Legislature has assigned its auditors to conduct an audit of DFCM. One key issue set for examination is the dispute resolution process. They anticipate in participating with this committee to find a solution. Representative Harper, sponsor of the legislation, has also been invited to participate. DFCM may also request input at a mid-point to ensure the direction desired is being adequately pursued.

Mr. Nye referred to the proposed schedule for the panel. In between the scheduled meetings, there will be a fair number of staff meetings to develop proposals. Mr. Nye

suggested there be four advisory group meetings and identified dates and times for those meetings. The advisory group will conclude prior to July 21 in order to have a final determination draft on August 4. After legislative review on September 10, they would then ask the Building Board to do the final adoption of the rule for submission into the rule making process. Mr. Nye anticipated they would be looking at other entities that have successful claims resolution processes. UDOT has recently implemented a program and has received positive comments. DFCM will also review suggestions made during the re-write of the general conditions.

Mr. Nye sought comments from the Board.

Steve Bankhead wanted to ensure a representative from the Attorney General's office would be participating as it is a potential dilemma. He felt it would be helpful to the Board if they could be brought in on the details of a few claims where there have been major disputes to provide an existing frame of reference. Mr. Nye anticipated providing live examples in the advisory group meeting in order to provide exposure to members. Mr. Bankhead posed passing a motion to strongly urge Representative Harper and other concerned members of the Legislature to be extremely involved due to the complexities involved. Kenneth Nye shared the concern and spoke with Representative Harper previously and proposed approaching it in various methods. One was to involve a broad spectrum of legislators in the discussions. Another alternative would be to try to talk to them in separate discussions involving only a few advisory group members. This has not been determined by DFCM yet. Keith Stepan felt that would be compatible with the original intent and appreciated the notion of a motion.

MOTION: Steve Bankhead moved to urge Representative Harper and other concerned members of the Legislature to be highly involved in the process. The motion was seconded by Manuel Torres and passed unanimously.

Chair Jardine and Steve Bankhead will be the Board members to participate on the advisory group.

☐ ARCHITECT/ENGINEER STANDARD OF CARE AND PEER REVIEW.....

Keith Stepan indicated there were two issues including the standard of care or change order error and omission issue with architects and engineers and the second is peer review. DFCM recommended some changes in the architectural/engineering consultant agreement in processes reviewed through the VBS committee work and other sources. The peer review process indicated DFCM previously performed peer review through their engineers in-house. In an effort to cut costs, the DFCM staff was reduced in 2002 and it was determined to put the drawing review responsibility back on the architect

commissioned for the job. They would be required to review the documents through another architectural/engineering firm. This has not proved to be fruitful or cost effective. Mr. Stepan suggested peer review be done independently of the commissioned architectural/engineering team and through Enzo Calfa, DFCM's new Building Official, who will do limited code reviews. Depending on the size of the project, other reviews will be sent to an independent firm specializing in code review or an appropriate engineering firm independent of the team.

DFCM recommended peer review be handled independent of the commissioned architect/engineering team and included the proposed language in the packet. It indicated that the consultant shall comply with any review process required by the Owner and the Consultant shall make submissions to the reviewing entity in a timely manner so as not to delay the reviewing entity.

Chair Jardine sought comments from the Building Board. He recalled the Board went through the process a few years ago and this was a change to make it more functional.

Cyndi Gilbert asked if there was ever a time that the Owner would not require a review process and what was the fallback position. Keith Stepan responded the minimum review would be done in-house to ensure codes and compliance was met. The Project Manager would determine if no further review was required, which would be developed through approval of the Director and based on the size of the project. She wondered if there was potential liability if the documents were not reviewed completely. Keith Stepan stated none of the liability for the content of the documents is taken away from the architect. Alan Bachman added that it is more the desire of the Owner than the responsibility. This is included in the full consultant's agreement.

Steve Bankhead asked if the results of a review process were included in an architect/engineer rating for future projects. Keith Stepan stated it had not been fully discussed, but it would be part of the project review and could very well be part of the rating system.

Katherina Holzhauser felt the agreement should state the consultant should comply with a minimum review and any additional review processes. Kent Beers noted that for some projects, there would not be any review primarily in the improvement area and the agreement needed to provide some leeway.

Keith Stepan suggested having the document include that the consultant shall comply with any review process that may be required by the Owner.

Blake Court stated in the International Building Code, which is the adopted code of the state, the projects requiring a code review were clearly stated. There is an exception in the

code for items such as carpeting, painting, ceiling tile replacement that are excluded from life safety code review processes. DFCM would rely on that statement in the Code to except those projects.

MOTION: Cyndi Gilbert moved approval of the changes as explained for Article II.B.3 and 4. The motion was seconded by Manuel Torres.

Alan Bachman clarified that the Board desired to include the words as written with the clarifications regarding the Code.

Keith Stepan stated another part of the article discussed refining the errors and omissions language in the contract. Currently the architectural contract indicates they will not be required to pay to correct any errors and omissions less than 2% of the initial construction contract amount. There is also some confusion about the 10% premium accepted by the owner in terms of paying for work that adds value to a contract. The agreement would now say "The Consultant shall be liable to the Owner for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e., a Contractor claim against the Owner), related to errors or omissions that do not meet this standard of care." The standard of care is defined in the agreement and is the expected standard of the industry.

Cyndi Gilbert revised her previous motion to approve only Article II.B.4.

MOTION: Darren Mansell moved approval of Article II.B.3 and deletion of Article II.B.5. The motion was seconded by Steve Bankhead and passed unanimously.

☐ MOUNTAINLANDS ATC LEASE PURCHASE.....

Kenneth Nye stated one of the projects approved for the Legislature last year was for a lease purchase at the Mountainlands ATC. This project had not come before the Building Board. Part of the legislative authorization was a requirement for the Building Board to determine the lease purchase option is less costly to the State than the current lease prior to entering into a lease purchase agreement. MATC has been negotiating with Alpine School District to resolve how to proceed with the lease purchase and desired a determination from the Building Board.

A revised document was distributed as there was previous miscommunication with the ATC regarding the information Mr. Nye desired. After further discussion, Mr. Nye felt they had met the desired standard.

Rob Brems, campus President for MATC was present to address the purchase. Mr. Brems introduced Clay Christensen who is the Applied Technology Director of the Alpine School

District and Jim Evans, elected member of the Alpine School Board and UCAT Board member, and President Greg Fitch of the Utah College of Applied Technology.

Mr. Brems stated they had been working on the project for some time and felt this would be a good situation for MATC, Alpine School District and the State. MATC's mission is to serve Utah, Wasatch, and Summit Counties. The preponderance of their business takes place in Utah County and in the northern part of Utah County where significant growth is taking place.

In 2001, prior to the formation of UCAT, MATC along with Utah Valley State College, entered into a lease agreement on a facility in American Fork on East State Street. Formerly this newer facility served as a hardware lumber business.

Mr. Brems provided a history of the MATC, which opened under Utah Valley Community College in 1987 as a job training center. In 1993, the Mountainland Applied Technology Service Region was established under joint governments of public and Higher Education. In 2001, they became a regional campus under the Utah College of Applied Technology. The current facility was leased in June 2001 under a 10 year lease agreement. Some initial renovation took place that fall and programs began in January of 2002. Additional renovation took place inside of the facility in the summer of 2002 and programs started in August of that year. The facility has 25000sf of finished space currently in use. They wished to discuss an additional 20,000sf behind the facility for their use and operation. The back of the facility would expand their space by about 20,000sf and would provide a connection between the two buildings with a breezeway and some enhanced restroom facilities, as well as allow the rapidly growing automotive program to move into that facility. Mr. Brems referred to the intent language passed by the Legislature this year granting permission to use the existing funds to enter into a lease purchase agreement with the school district. The school district made an agreement with a private owner for a potential purchase if all of the approvals were met. They planned for the school district to become the owner of the facility.

Mr. Brems referred the Board to a table showing the "as is" status of the building and how this lease purchase agreement will work if the additional space is not taken. One column showed the annual scheduled payments under the present lease with a private owner up until 2010. They estimated the same increase through a 15 year period of time to provide perspective of what the potential savings to the State would be. The next column identified the annual lease purchase agreement negotiated and approved by the Alpine School Board, the MATC Board and the UCAT Board of Trustees. The first column showed the difference between the private lease and the lease purchase concept. Until 2017, they would be upside down in terms of savings to the State when they could pay the facility off mid-year and provide savings for two years. Under the "as is" scenario, the savings to the state would be a little bit over \$600,000 over a 15 year period.

MATC believed it was best to finish the remaining space due to increasing enrollment. The private owner indicated they would be willing to finish off the space, at an increase of \$7.00/sf per year escalating at a 3% rate. The column identifying the private owner lease has been adjusted accordingly. The next column indicated the same arrangement with the district including the \$600,000 to renovate the back area. The savings to the state in this scenario would begin immediately and would be approximately \$3.2 million.

Steve Bankhead compared the charts and stated without the improvement, the lease to the owner is \$242,000 and with the lease improvement \$382,000. He asked why the Alpine/MATC lease did not change. Mr. Brems responded they were asked to present the agreed upon lease purchase agreement between MATC and Alpine School District, which is reflected in the second table with the additional space. Kenneth Nye stated he had asked Mr. Brems to compare the lease purchase option to the current lease. He thought there were three different ways the Board could look at that determination including comparing the amount being paid under the current lease agreement without considering any additional space versus the proposed lease purchase which does include the additional space. A second way is to acknowledge the current lease did not include all of the space needed and allow that number to increase to reflect the cost paid to the private owner for the additional space. The third way is to look at the total cost over a period of time. Under either scenario under the third approach, as long as more than the initial 13 year period was considered, the savings were there for the lease purchase. Mr. Nye felt they were meeting the legislative requirement under all scenarios.

Darren Mansell expressed concern with the lease rate remaining the same. They were leasing 20,000sf more, yet the lease didn't change under the scenarios.

Mr. Nye responded that under the lease purchase plan, the current amount of space was not planned on. Instead their plan included a full build out of the additional space. Mr. Mansell felt that for the Board to be able to analyze the leases, they would need to know what the lease was on the whole package. He questioned how it could be the same on less square footage in the first analysis. Mr. Nye stated the schedule compared the proposal to two different alternatives of the private direction. The proposal is to build out the additional 20,000sf regardless. The private owner lease increases in the first schedule because the space increases through the private owner. Mr. Mansell did not feel it was a proper comparison and was hesitant on the savings. Kenneth Nye added that the maintenance and operations would be paid through the MATC.

Kenneth Nye stated for the lease purchase approach, both schedules have the identical proposal and include the additional space. The two different schedules were included because of the legislation requesting comparisons of the current lease not including the additional space. Steve Bankhead added the Building Board is supposed to determine the

lease purchase option is less costly to the state than the current lease, not including the additional space.

Kenneth Nye stated the document presented to the Legislature by MATC clearly identified their plan was to add the additional 20,000/sf as part of the package. The document also provided a comparison of the lease payment if they proceeded with having the private owner do the build out of the additional space. The adopted legislative language referred to the current lease instead of the lease as it would have been amended. In Mr. Nye's opinion, the language could still be satisfied by looking at a longer time period for the first schedule and then for the second schedule it obviously saves money from the beginning.

Manuel Torres asked who would pay the additional \$600,000 in order for them to have the 45,000sf total. Kenneth Nye responded the school district would be paying it as part of their financing. They would buy the building and pay for the built out. Part of what generates the savings in the school district doing it versus the private owner, is the school district has a much lower interest rate for the financing than the private owner. The biggest difference is the private owner being able to charge a market rate compared to the cost of enclosing the space. The school district will own the building until the lease is paid off in 2011 and UCAT will become the owners.

Darren Mansell felt it was escalating at a very high rate. He questioned if the numbers were correct. Kenneth Nye stated the current lease for the private owner is a ten year lease and it has a 3% annual escalation built into it.

Greg Fitch, UCAT, stated that in looking at the 15 year lease and the private owner lease annually, the present lease includes the 3% escalation clause for those 10 years. In 2007 under the Alpine lease purchase agreement, the lease decreases and they eventually end up with \$600,000 as part of the overall purchase. Alpine School District considered a bonding issue for the total amount. The legislative intent language desired consideration of the current lease with the lease purchase. Alpine School District would share these lease arrangements with the school district and provide an essential, value added service to those students. They could provide this type of bonding arrangement and lease purchase agreement. In 2017, there is a distinct change from what the 3% escalation clause would have done compared to what Alpine would do to help them own the building. This is a benefit of the owner allowing them to use the additional 20,000sf and then increasing his lease by 3% annually. The comparison of state agencies working together provides a positive bonding and financial sequence.

**MOTION: Manuel Torres moved to accept the Mountainlands ATC lease purchase.
The motion was seconded by Cyndi Gilbert and passed unanimously.**

AUTHORIZATION AND DELEGATION OF U OF U INDOOR PRACTICE FACILITY

Keith Stepan stated the University of Utah had placed a request for authorization from the Board to build an indoor practice field for their football program. Mike Perez stated it would be 100% donor funded and the University will not request any future O&M or capital improvements dollars from the State. This project is in the master plan and has been approved by their Trustees. They would like authorization or delegation to proceed with the design and construction. Because this project is just over \$6million, they required delegation. Keith Stepan added that HB226 gives the Board authority to authorize such a project and delegate it to the University.

MOTION: Vice Chair Kerry Casaday moved to approve authorization and delegation to the University of Utah for construction of the indoor practice facility. The motion was seconded by Darren Mansell and passed unanimously.

☐ ADMINISTRATIVE REPORTS FOR UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY

John Huish reported on the administrative report for the University of Utah for February 26 to April 16, 2004. During this period, the University awarded eight new contracts for design of facilities, one in programming and two studies. There were three remodeling contracts and two site improvement contracts awarded. There was no significant activity in the contingency reserve or project reserve funds.

Mike Perez directed the Board to a reallocation request for statewide roofing surplus funds. DFCM started a process a few years ago to include roofing and paving as part of the statewide program. Therefore, the University is trying to replace roofing and paving systems in a more responsible manner. The University was using primarily built up roof systems and are migrating to single-ply system creating a surplus due to changes in specifications. The single-ply system is less expensive and when the capital improvements were submitted with the older system, it reflected a higher cost. The University intended to reallocate their surplus within the roofing category.

Another frustration is with having to estimate capital improvement requests a year in advance. The University desired to use approximately \$130,000 of the roofing dollars towards the better development of some projects for next years capital improvement submission in hopes to firm up some of the estimates and curtail some reallocation requests.

Kent Beers stated this will better enable DFCM to understand the projects, funding requirements, and provide the ability to obtain better estimates. Mike Perez stated it will also help the University attempt to be successful in getting the project completed within that fiscal year.

MOTION: Steve Bankhead moved to approve the reallocation of the roofing funds to the three projects identified and also approve the establishment of this consulting fund of capital improvements for the University of Utah.

Kent Beers stated Randa Bezzant had requested that the University of Utah identify the projects in the administrative report to provide accountability of the funds.

Steve Bankhead amended his motion to include the project accountability in the administrative report. The motion was seconded by Cyndi Gilbert and passed unanimously.

MOTION: Manuel Torres moved to approve the University of Utah's administrative report. The motion was seconded by Darren Mansell and passed unanimously.

John Huish closed by expressing his appreciation and acknowledged the Board members who recently participated in the value based selections.

Brent Windley reported on Utah State University's administrative report for February 25 to April 14, 2004. During this period, three professional contracts were awarded. Mr. Windley noted the groundbreaking for the Recital Hall was held during this period and it served as the first phase of the redevelopment of the School of the Arts program. Four construction contracts were awarded and the Romney Stadium Turf is underway.

The project reserve fund activity included the Old Heat Plant Tank Removal and asbestos abatement being underway. The current delegated project list has approximately 40 items with approximately 14 items under construction, 8 in design and 5 in substantial completion.

MOTION: Manuel Torres moved to approve the administrative report of Utah State University. The motion was seconded by Katherina Holzhauser and passed unanimously.

ADMINISTRATIVE REPORTS FOR DFCM.....

Keith Stepan distributed acknowledgement of demolition of a building at Bear Lake. DFCM will begin this as a new policy and procedure to inform the Board of what is being built and what is being demolished. This will be included as part of DFCM's administrative report.

ADJOURNMENT.....

MOTION: Manuel Torres moved to adjourn at 11:23am. The motion was seconded by Katherina Holzhauser and passed unanimously.

The Board then proceeded to hold a working session to discuss the prioritization process of capital development projects.

BUILDING BOARD WORKING SESSION

Immediately following the regular business meeting of the Board, the Board convened a work session for the purpose of receiving a presentation from Ernie Nielsen regarding best practices in prioritizing projects. Mr. Nielsen is the managing director of Enterprise Project Management at Brigham Young University.

Mr. Nielsen presented a model that consisted of the following components.

1. Strategic Objectives – These are broad objectives of the State as a whole which have an impact on facility needs. These objectives need to be validated by the leadership of the State.
2. Criteria – The criteria interpret each objective and identify the discriminating factor that differentiates the degree to which each request satisfies the strategic objective. There should be one criterion for each objective. It is usually helpful to state the criteria in the form of a question.
3. Weighting Factor – Each objective should be “born equal” with a weighting factor of “1”. The weight for some of the objectives can be adjusted to either 1.5 or 0.5 but the majority should remain at 1.0.
4. Scoring Anchors – Scoring anchors define what a specific score means to facilitate consistent application.
5. Project Score – A project’s score is determined by multiplying the score for each objective by the applicable weighting factor. These amounts are then summed to arrive at the total score. The total score indicates how well the project meets the objectives as a whole.

Mr. Nielsen acknowledged that a project may have unique issues that act as a “trump card” and move the project up the priority list. He recommended against setting up objectives and criteria to address trump card issues.

Board members expressed interest in pursuing the development of a model for prioritizing capital development requests and asked DFCM to develop some ideas that could be addressed at the next meeting.