

11/06/06

SPECIAL MEETING

**VIDEOCONFERENCE
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION**
System Administration, Las Vegas
5550 West Flamingo Road, Suite C-1
System Administration, Reno
2601 Enterprise Road
Great Basin College, Elko
1500 College Parkway, Greenhaw Technical Arts Room 118
Monday, November 6, 2006

Members Present: Mr. Bret Whipple, Chair

Mr. Mark Alden

Dr. Jill Derby

Mrs. Thalia M. Dondero

Mrs. Dorothy S. Gallagher

Dr. Jason Geddes

Mrs. Linda C. Howard

Mr. James Dean Leavitt

Mr. Howard Rosenberg

Dr. Jack Lund Schofield

Mr. Steve Sisolak

Mr. Michael B. Wixom

Members Absent: Dr. Stavros S. Anthony

Others Present: Chancellor James E. Rogers

Executive Vice Chancellor Daniel Klaich

Associate Vice Chancellor, Information Technology, Kenneth McCollum

Chief Counsel Bart Patterson

Special Counsel Brooke Nielsen

President Richard Carpenter, CCSN

President Stephen G. Wells, DRI

President Paul T. Killpatrick, GBC

President Fred Maryanski, NSC

President Philip M. Ringle, TMCC

President David B. Ashley, UNLV

President Milton D. Glick, UNR

President Carol A. Lucey, WNCC

Secretary of the Board Scott G. Wasserman

Also present was faculty senate chair Mr. Alok Pandey, CCSN.

Chair Bret Whipple called the meeting to order at 8:04 a.m. with all members present except Regents Anthony, Schofield and Sisolak.

Regent James Dean Leavitt led the pledge of allegiance.

Chair Bret Whipple offered the invocation.

Regent Schofield entered the meeting.

1. Approved-Greenspun College of Urban Affairs CIP Revision, UNLV – The Board approved Chancellor James E. Rogers' and UNLV President David B. Ashley's request for a change in the 2007 Capital Improvement Project (CIP) request for UNLV to increase the amount for the Greenspun College of Urban Affairs Building by \$4 million, from \$10.8 million (*adjusted to \$10.86 million by the State Public Works Board*) to \$14.86 million. With this adjustment, in addition to \$2 million in additional funding provided to the project by UNLV (*and the additional \$10.8 million previously committed by the donor*), the contract for construction can be awarded. The Board also approved NSHE/UNLV going forward (*through the SPWB process*) to the November 15, 2006 Interim Finance Committee (IFC) meeting to request approval for the required budget realignments on this project in order to award the construction contract (*Ref. A on file in the Board office*).

At Chair Whipple's request, President Ashley provided a brief summary of the bid process to-date. On August 22, 2006 the Greenspun Building was presented to the Board of Regents. At that time, it was reported that 80% of the requests for quotes had been received. Based on those quotes, Clark Construction determined the estimated project costs; however, the actual bids substantially exceeded Clark's estimate. The State Public Works Board (SPWB), Clark Construction, UNLV, and representatives from the Greenspun Foundation worked together to modify the project scope and identify opportunities for value engineering. Final subcontractor bids resulted in an estimated \$7 million in additional costs. Of the \$7 million, Clark Construction was able to remove \$1 million and UNLV will supplement \$2 million, leaving the Board of Regents with a request to approve \$4 million in additional funding.

Regent Wixom inquired about the likelihood of additional cost increases over the construction period and requested clarification of the source of the proposed UNLV supplemental funds. Chancellor Rogers responded that the contracts have been finalized with the guaranteed maximum price to prevent further increase. Mr. Gerry J. Bomotti, Vice President of Finance & Business, UNLV, clarified that the source of the UNLV supplemental funds will include \$500,000 in projected interest earnings from the Greenspun Foundation, \$400,000 normally charged by Facilities staff for this type of project will be absorbed, approximately \$1 million in technology will be installed by staff and paid for with student fees and approximately \$150,000 will come from interest earning income to put as cash toward the project and to make up the difference.

Regent Geddes requested clarification regarding from which type of student fees the proposed \$1 million will come. Mr. Bomotti clarified that general improvement fees will be used for wiring of the facility. Regent Geddes asked how the \$770 per square foot cost compares with other buildings on campus. Mr. Bomotti stated that if the extensive Furniture, Fixtures and Equipment (FF&E) costs are removed from the equation, the construction costs reflect \$536 per gross square foot. Recent, significant cost increases have impacted public and private construction projects. To compare, the Science & Engineering building, a much more complicated structure, was \$480 per square foot only one year ago.

Regent Geddes asked whether the cost of the solar system, approved last month, replaced the canopy in the original design and whether that cost had been removed from the original budget. Mr. Bomotti responded that the shade canopy was part of the original design including the cost of the support structure. It was later decided to install a photovoltaic array at a cost of \$1.4 million. The shade structure, cost another couple of million dollars and was part of the original construction budget, was included in an effort to achieve LEED certification. The \$1.4 million photovoltaic array is in addition to the project and will be repaid with a 19-year loan.

Regent Geddes asked what the character, presentation, and quality of the facility is and if maintaining the square footage while keeping the character intact led to higher costs. Mr. Bomotti stated that it was important for square footage to be maintained because the College of Urban Affairs is moving into this facility. This building is to be constructed in a premier location on Maryland Parkway and will possibly be the first project as part of Midtown UNLV. Several options were considered to minimize costs including elimination of the tower and other material options for the exterior finish; however, in discussions with the donor, there was a concern that those types of

reductions would affect the quality of the project and would not be acceptable to all parties.

Regent Geddes asked whether an independent LEED expert was consulted regarding the proposed \$4.5 million for LEED Silver certification as projected by SPWB. Mr. Bomotti stated that the design team does have consultants with expertise in LEED certification at different levels. The \$4.5 million projected by the SPWB does not relate to any specific costs but rather is based on a formula provided by the SPWB.

Regent Geddes asked whether the subcontractor bids were reconciled with the projected LEED certification costs. Mr. Bomotti responded that when looking at all of the costs, LEED certification was a factor. Many subcontractors do not have experience with LEED like the proposed photovoltaic array. The sense was that some of the design of the building that relates to sustainability may have effected the higher cost. Regent Geddes suggested that the markup on the cost estimate may not be justified if it is based on an unknown level of risk.

Regent Geddes requested that someone at UNLV, who is a LEED expert, follow the project through and make sure costs actually exist. Mr. Bomotti stated that the UNLV design team includes professionals with LEED expertise. Clark Construction also indicated they too have LEED experience as well as the SPWB appointed project manager. This project will be reviewed to set a potential standard for LEED upgrade costs and corresponding certification points.

Chancellor Rogers stated that all of the partners are closely watching the costs of this project.

Regent Geddes expressed concern that the current proposed project costs will not hold firm and will increase before the project is complete.

Mr. Bomotti reminded the Board that Clark Construction has provided a guaranteed maximum price until November 22, 2006 including contingencies.

Regent Alden expressed his confidence with Clark Construction and with the Greenspun Foundation's ability and expertise. A cap has been provided. Construction costs nationwide are on the rise and he urged the Board to act affirmatively.

Regent Sisolak entered the meeting.

Regent Alden moved approval of a change in the 2007 Capital Improvement Project (CIP) request for UNLV to increase the amount for the Greenspun College of Urban Affairs Building by \$4 million, from \$10.8 million (*adjusted to \$10.86 million by the State Public Works Board*) to \$14.86 million and requesting IFC approval of the required budget realignments.

Regent Leavitt referred to the Briefing Paper (*Ref. A on file in the Board office*), paragraph 2, line 1, stating that the difference between the August 22, 2006 estimate of \$54.6 million and the current \$69.1 million construction budget was not clearly justified. The contractor's explanation for this variance indicates that it is based on market pricing, labor uncertainty, and selective material cost increases, copper in particular. Regent Leavitt asked if the differences in the price have been itemized. Mr. Bomotti responded that he does have details available of the individual costs and a comparison between the estimates. The design team reviewed the details, including those with the largest variations such as electrical, mechanical and structural exterior materials. Clark Construction did provide the lowest bid estimate that could be found. Jim Day, Clark Construction representative, further explained that 80% of the cost overrun was limited to specific trades including electrical, exterior and concrete and the lack of contractor depth of experience, and mechanical and plumbing were impacted by the tripling of copper. Most vendors knew they were the only suppliers within 500 miles. Mr. Bomotti stated that the issues of timing, and whether to re-bid or redesign the entire project have all been considered; however, given the current market, construction costs will only increase.

Chair Whipple left the meeting.

Regent Alden reminded the Board that this is a licensed Nevada contractor who has performed work for the System before.

Regent Dondero asked what furnishings will be needed to move into the facility. Mr. Bomotti responded that the \$14.7 million will cover FF&E provided that the additional funds are approved by the Board and by the Legislature during its next session. The FF&E is higher than usual on this facility due to its technical aspects. Regent Dondero inquired about funding of any extra equipment not currently identified. Mr. Bomotti clarified that technology prices are somewhat stable and the requested amount should be sufficient.

Regent Leavitt suggested that in the future the reference material should include the exact amount and justification for any funds under consideration. Chancellor Rogers stated that the Board needed to rely, to some degree, upon their partner's expertise in this matter. Mr. Bomotti stated that the information Regent Leavitt requested is available.

Regent Wixom seconded the motion.

Regent Gallagher asked about the contingency. Mr. Bomotti responded that the contingency is \$4.84 million, or approximately 6% of the project cost.

Regent Sisolak asked whether FF&E is usually a percentage of the total project cost. Mr. Bomotti clarified that, due to the digital equipment, this project required a more detailed list of equipment costs and was not based on a percentage. Regent Sisolak expressed concern that he would like more detailed information than what was provided. Chancellor Rogers stated that further delay could result in increased contract costs.

President Ashley said that this special meeting was requested due to the timing of the IFC meeting scheduled for November 15, 2006. Clark Construction's guaranteed maximum price expires on November 22, 2006. The Board will need an affirmative action on this or the State will need to start the bidding process over with the subcontractors. President Ashley reminded the Board that the estimates received in August were only quotes and the differences are due to the uncertainty of principle skilled labor and commodities. He urged the Regents not to delay approval of the contract.

Regent Schofield stated that Regent Geddes' concerns were valid because Regents have a fiduciary responsibility to the voters. It is important to spend public funds appropriately but it is also very important to act in a timely manner because material costs are on the rise.

Regent Geddes stated that he would support the motion if 1) as required by AB-3, the Board receives a copy of the required lifecycle analysis of what it will cost to construct and maintain the building for 30 years; 2) the incremental costs of obtaining LEED certification are provided; and 3) a UNLV staff member becomes trained in LEED certification. Regent Geddes expressed his concern regarding a lack of confidence in the construction estimates included in the budget.

Chancellor Rogers agreed that Regent Geddes' concerns would be more easily addressed if the policing of projects is conducted in-house and a resolution will be sought to that end.

Regent Derby left the meeting.

President Ashley said that he will provide the 30-year analysis to Board members as soon as possible following this meeting and will work on compiling a cost analysis of LEED certification. He also felt it is appropriate to provide LEED training to UNLV staff for future projects. Having the in-house expertise would be desirable and mandatory to effectively manage future projects.

Upon a roll call vote the motion carried. Regents Dondero, Gallagher, Geddes, Howard, Leavitt, Rosenberg, Schofield, Sisolak, Wixom and Alden voted yes. Regents Derby, Whipple and Anthony were absent.

2. Public Comment – Regent Leavitt suggested reviewing the pricing of certain commodities relative to all construction projects.

3. New Business – None.

The meeting adjourned at 9:03 a.m.

Scott G. Wasserman
Secretary of the Board of Regents