Minutes of the Meeting of the Board of Trustees
Friday, November 4, 2016, at 9:30 a.m.
205 East 42nd Street, Room 725
New York, New York 10017

Trustees Present:
Hon. Philip Berry, Acting Chairman
Hon. Guillermo Linares
Hon. Marcella Maxwell
Hon. Brian Obergfell
Hon. Michael Walsh
Jeffrey Beal, Team Leader, Division of Budget Higher Education Unit*
Edward Moore, Acting Section Head, Division of the Budget Higher Education Unit*

In Attendance:
Judith Bergtraum, Executive Director, CUCF
Frederick Schaffer, General Counsel, CUNY
Robert Lemieux, Executive Director, Department of Design, Construction & Management, CUNY
John Antonelli, Deputy Executive Director, CUCF
Bruce Henning, Assistant Director, Capital Budget, CUNY
Meghan Moore-Wilk, Director of Space Planning, FPCM
Gustavo Ordóñez, Chief of Staff, FPCM
Michael Stabulas, Managing Director, Managing Director, Downstate Operations, DASNY
Daniel Rothbaum, Controller, CUCF
Nancy Nichols, Special Assistant to the Fund

* Designee for Robert F. Mujica, Jr., Executive Director of NYS Division of the Budget in Albany, attending via videoconference.

At 9:35 a.m., Acting Chairman Berry called the meeting to order, noting there was a quorum.

Action Items

1. Approval of the Minutes of the October 14, 2016 Meeting of the Fund (No. 2234).

Acting Chairman Berry asked if there was any discussion or amendments to be made to the minutes. There being none, Mr. Berry entertained a motion that this item be approved. On motion duly made and seconded, the minutes were approved.

Acting Chairman Berry called upon Executive Director Judith Bergtraum. Ms. Bergtraum called upon Deputy Executive Director John Antonelli, who gave an informational presentation to give the Board some context of the resolution to be approved today.

Mr. Antonelli explained that the presentation would give the Board some overview of the Construction Fund, a public benefit corporation established in 1966. Chairman Berry made
special mention of Vice Chancellor Emeritus Donal Farley, who was attending the meeting, and his long and valuable role as the initial head of the Construction Fund in 1967, and for many years following. Mr. Farley said he participated in the development and approval by the legislature in 1976. Chairman Berry thanked Mr. Farley for his service and insight. Ms. Bergtraum stated that Mr. Farley’s knowledge of the history and function of the CUCF were unparalleled, and anyone on the Board with a question should ask it of him.

Mr. Antonelli said the CUCF was originally created to provide facilities for the CUNY senior colleges, and as of 1972, the community colleges as well. The Fund has provided planning, financial and legal, and other forms of support to the University for new facilities, reconstruction, renovation and improvements. The CUCF arranges for financing and construction through the issuance of taxable and tax-exempt bonds by DASNY. Through the budget process the expenditure levels are projected. The Fund pays rentals to DASNY, in repayment of the bonds issued through 2003. Since 2003, bonds are backed by personal income tax, paid directly by the state.

The CUCF issues contracts for architectural and engineering services, legal and financial consultants, professional and technical assistance as needed, which are brought to the Board for approval. The Fund also purchases real property in its own name, and executes and delivers deeds for real property held in its name. It enters into contracts, leases, sub-leases and other agreements necessary.

The majority of CUNY facilities are held by the Dormitory Authority, due to bond issuance and insurance requirements. A lengthy 3-party lease agreement among DASNY, CUCF and CUNY governs how the titles to properties move, depending on what kind of financing is in place. Mr. Farley explained that one benefit to CUNY is that, as the University is self-insured, DASNY buys insurance to cover major disasters at our facilities. Mr. Schaffer explained that the destruction of Fiterman Hall during 9/11 demonstrated the value of having DASNY insure the buildings.

DASNY still does many projects, although the CUCF can opt to take on projects, with bond proceeds sent to the Fund. Since 2008, a new agreement allowed CUNY to opt out of DASNY-managed project in favor of a CUCF-managed one. The bond proceeds are then transferred to the CUCF, should it desire. The result, Mr. Antonelli explained, has been a better product for both agencies. The split between DASNY and CUCF is about one-third CUCF, two-thirds DASNY, although it changes from year to year. Ms. Bergtraum stated it’s probably about 75/25. Two of the major buildings under construction, NYC Tech and Brooklyn PAC, are CUCF-managed projects.

Following the presentation, Acting Chairman Berry thanked Ms. Bergtraum and Mr. Antonelli for the explanation.

He then called upon Trustee Brian Obergfell, the Chairperson of the Audit Committee of the CUCF, for his report on the Committee meeting held at 9:00 a.m.

Mr. Obergfell reported that the Audit Committee of the City University Construction Fund considered one item at its meeting on November 4, 2016.

Mr. Obergfell then requested the Board of Trustees to approve this calendar item.

Acting Chairman Berry asked Mr. Obergfell if there was information that was presented to the sub-committee that he wanted to share with the members of the Board. Mr. Obergfell said that the auditors of the Fund, PKF O’Connor Davies, gave a presentation to the Committee. As a result, the Committee requested an internal cash flow report, explaining the fluctuation in the cash flow.

Executive Director Bergtraum stated that if anyone had a question they wished to address to Peter Spiess or Jonathan Zuckerman, the visiting partners of PKF O’Connor Davies, to ask them at this point.

There being no further questions, Mr. Berry entertained a motion that this item be approved. On motion duly made and seconded, the resolution was approved. Mr. Berry thanked the members of the Audit Committee for their service, and the auditors for their explanation.

REPORTS

Acting Chairman’s Report

Acting Chairman Berry stated that the next meeting of the Construction Fund Board will be held on Wednesday, February 8, at 9:30 a.m., followed by April 26, May 24 and June 28.

Executive Director’s Report

Mr. Berry called upon Executive Director Judy Bergtraum for her report. Ms. Bergtraum explained that she had two presentations, and would be mindful of the time needed.

The first presentation, an explanation of the Capital Budget Request for Fiscal Year 2017-2018, was given to the CUNY Board of Trustees Facilities Committee at the beginning of October, and to the Full Board on October 26, at which time the Request was approved. It explains where the money comes from, the status of these funds, and the mechanics of the writing of the Capital Request. Ms. Bergtraum mentioned there are more than 300 active capital projects underway across all the campuses; she also explained the timeline for two projects – Bronx Community College’s North Hall, and the Expansion at John Jay.

Following her presentation, Ms. Bergtraum asked the Committee if there were any questions.

There being none, Ms. Bergtraum stated that she had a presentation to give that was requested by the CUCF Board at a previous meeting. This second presentation will update the projects being worked on, and the projects that have been completed. Mr. Berry indicated that she should continue.
The second presentation showed images of projects that are underway, as well as those that have been recently completed. Ms. Bergtraum said these projects take time and tremendous capital investment on all the campuses. She said that the State of Good Repair Study in 2007 and updated in 2012 provided a look at where issues existed, and what the priority should be for addressing them. Projects completed include Phase III of the Bronx Community College campus-wide infrastructure upgrade; the Queens College HVAC upgrade in the new science building; bathroom upgrades for Hostos CC’s Allied Health Building; Queensborough’s Cafeteria and Kitchen Renovation, Phase 1; and The Graduate School of Public Health Facility Expansion.

Major construction projects include the NYC College of Technology’s New Academic Complex, expected to be completed at the end of 2017; Brooklyn College Tow Performing Arts Center, expected to be complete early 2017; LaGuardia Community College’s Center 3 Façade Replacement, to be completed late 2017, and LaGuardia’s Library Expansion, not updated since 1991, which opens next month.

Ms. Bergtraum said this presentation has given a picture of what has been completed, and the large projects being worked on. Mr. Berry asked if there were any questions or comments. There being none, he thanked Ms. Bergtraum for her terrific work.

Acting Chairman Berry then called upon Michael Stabulas for the report on the Dormitory Authority.

**Report of the Dormitory Authority**

Mr. Stabulas gave a report on general program size at DASNY-managed projects. He said the relationship between DASNY and the CUCF went back to the beginnings of the CUCF, and for the community colleges back to 1972. At the present, there are 267 active projects, at $2.1 billion. A little over half of these are in design, providing future projects to come into construction. There is a balance in the funding as well.

One difference from the past 6 years is the distribution of funds and size of the projects. At this point, probably only 70 of the projects are over $5 million. When capital expenditures are looked at, there is a big difference. For DASNY’s program with CUNY in FY 2010-2011, there were $460 million in expenditures per year.

Robert Lemieux explained that, regardless of the size of capital projects, they require the same steps, so from a managerial aspect managing a large number of small projects is much more difficult than managing a couple of large ones. So 260 projects, most of which are small, the effort of managing them is very difficult. In a very busy construction market, there are contractors for instance who don’t want to do public work, and will put their good people on other opportunities. DASNY does an excellent job, doing most of the small projects.

Mr. Stabulas stated that when a new building is constructed on a site you don’t have to worry about operations as much. A small project being worked on in an occupied facility constrains the coordination of the job.
Mr. Berry asked about the situation a few years ago when the job market allowed for very competitive pricing in our favor. Ms. Bergtraum said that was in 2008, and the curve is going the other way. Mr. Lemieux said that in 2008 the Bronx Library and the new Fiterman Hall were built, with excellent bids from excellent contractors, in some cases with bids that came in lower than our estimates, and allowing alternatives to be put back into the projects. When John Jay’s new building was bid, the curve was headed in the opposite direction. This is largely driven by the City’s housing policy and the 421 regulations that were ending. Developers rushed to put their foundations and their core-and-shell in place. The private sector construction in the City has picked up dramatically since 2008-09, so our bids are naturally higher.

Mr. Stabulas said in 2007 there was double-digit escalation in construction in New York City. After the 2008 recession it dropped to negative numbers. Currently it’s at 5-6% escalation, a high rate compared to 7 years ago. Mr. Lemieux explained that during those recessions, contractors who have been in business a long time are willing to take on projects with low-profit margins just to keep their key staff gainfully employed.

Mr. Berry asked about the impact of production in China and high cost of steel. Mr. Stabulas replied it was a big factor a few years ago. Currently, China is not as active as it was. It isn’t the material costs and labor costs so much, it’s more the competition. Escalation on the buying price of construction is driving the construction market in NYC. It’s not the escalation in labor, which is still 3%.

In 2010-11 we spent $460 million on DASNY-managed CUNY projects. Last Fiscal Year was $260 million, but the number of projects in 2010-11 was about three-quarters of the current number.

Mr. Lemieux explained further – if a building costs $400 million, in Year 1 about $10-20 million, Year 2 $120 million. Most of the money is spent in the second, third and fourth years of construction. That expenditure is the equivalent of what’s needed for 20 small projects.

Acting Chairman Berry asked if there were any questions or comments about the report.

Trustee Maxwell asked about recent accidents on our projects. Mr. Lemieux said there was one accident on the Brooklyn PAC job, about three months ago. The Construction Managers take safety very seriously.

Acting Chairman Berry then asked if there were further questions or items to discuss. There being none, he requested a motion to adjourn. On motion duly made and seconded, Mr. Berry wished everyone a happy and healthy Thanksgiving Holiday and the meeting of the Board of Trustees was adjourned at 10:29.