Minutes of the Meeting of the Board of Trustees
Wednesday, February 8, 2017, at 9:30 a.m.
205 East 42nd Street, Room 770
New York, New York 10017

Trustees Present:
Hon. Philip Berry, Acting Chairman
Hon. Guillermo Linares
Hon. Marcella Maxwell
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
Jane Sovern, Interim General Counsel, CUNY
John Antonelli, Deputy Executive Director, CUCF
Gwen Perlman, Director of Capital Budget, CUNY
Meghan Moore-Wilk, Director of Space Planning, FPCM
Gustavo Ordóñez, Chief of Staff, FPCM
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 9:26 a.m., Acting Chairman Berry called the meeting to order, noting there was a quorum.

Action Items

1. Approval of the Minutes of the November 4, 2016 Meeting of the Fund (No. 2236).

Acting Chairman Berry asked if there were 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.

2. Resolution of the City University Construction Fund Authorizing an Amendment to the C/M Build Contract for the Performing Arts Center at Brooklyn College (No. 2237).

Acting Chairman Berry called upon Executive Director Bergtraum for an explanation. Ms. Bergtraum gave a presentation to the Board about the project, which began in 2007. A year from now the building under discussion will be open, and the Board will be invited to attend the event.
It is one of two buildings being built this year. Ms. Bergtraum proceeded to illustrate what the building’s purpose will be, what it was designed for and what it will do for Brooklyn College.

Ms. Bergtraum asked Meghan Moore-Wilk for her comments. Ms. Moore-Wilk showed slides that explained what the new building replaced, its location on the campus, and then spoke about the progress of the construction, using recent pictures. A special feature of the project included keeping the Whitman Theater, one of the largest in Brooklyn, open during the construction process. Ms. Moore-Wilk explained a critical aspect of the construction process resulted from changes in the original design, that put the construction over a sewer line on campus. DEP ruled that not only could the building not be constructed over the sewer line, also there could be no risk of disturbing the line by using the site for construction staging.

Executive Director Bergtraum explained that as a result of the discussion with DEP, the building had to be redesigned, adding time and expense to the project. The new design preserved the fly tower over the theater stage, while adding a new front of house, new grand lobby, performance and practice rooms, and the gateway with a stairwell that runs up the whole building. The new lobby allows enough space to move audiences in and out, and also provides space for pre-theater functions and fundraising.

Ms. Moore-Wilk stated that the additional funds will provide for fit-out of the main performance space. Ms. Bergtraum elaborated that the fit-out was removed from the building’s $70 million cost, to keep the project within budget.

Trustee Walsh asked whether it was routine to do title searches, to determine easement on properties that CUNY owns. Ms. Bergtraum stated that was part of the architect’s responsibility, and that she agreed that it would normally be addressed by the architect. However, as she hadn’t been hired at CUNY at that point, she didn’t know whether the issue was addressed by DEP. She said she assumed if it were the responsibility of the architects that legal would have been involved.

Gustavo Ordonez clarified that originally DEP did not have oversight over sewer lines and that jurisdiction rested with Borough Presidents who routinely allowed for buildings to be built over sewer lines, including Gershwin Hall. It appears that once DEP exerted jurisdiction, it had a change in policy during the year between the approval of the designs and the start of construction, and it prohibited construction over the sewer line. This is one of the reasons why the project was delayed; there was also an increase in cost.

Ms. Bergtraum said it’s a good illustration of why we have a Board – her job is to explain why it took so long to build, and why there is a need for an increase.

Trustee Walsh asked whether there was a reduction in price as a result of the loss of square footage addressed in this situation. Mr. Ordonez explained that when an architect is engaged, their contracts stipulate they are not responsible for changes in law. In fairness, no consultant – real estate, architect – is liable if the law changes. Ms. Bergtraum replied that if this were an issue where the architect should have found something and didn’t, they would be liable. Ms. Moore-Wilk interjected that the college is getting the same square footage.
Trustee Walsh asked whether the furniture and equipment expenditure was unique to this type of building. Ms. Moore-Wilk replied that it was.

Trustee Linares asked whether the driver of the delay and additional cost was the underground sewer line, and the need to change the initial plans, along with remediation needed in the new construction. Ms. Bergtraum explained that there were also contractual issues going back and forth between CUNY and the contractor that affected the delay.

Mr. Berry thanked the group for the discussion. 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.

3. **Resolution of the City University Construction Fund Authorizing an Amendment to the Architectural Services Contract for the New Academic Building at New York City College of Technology (No. 2238).**

Acting Chairman Berry called upon Executive Director Bergtraum for an explanation. Ms. Bergtraum stated the resolution involves an increase of $3 million to the architectural contract that is part of the project total cost, covering changes in scope, design alterations, and payments to the architect. She gave a presentation of the project, illustrating the location of the new building on Tillary and Jay Streets, and showing the rendering. The new building will take the place of the old Klitgord building and will be a multi-purpose space with an auditorium, gymnasiums, classrooms, the dental clinic, laboratories, and faculty offices. She then showed a time-lapse demonstration of photos of the building being constructed. Ms. Bergtraum stated that the building will be finished a year from now.

Mr. Berry asked whether there were any questions about the resolution. There being none, Mr. Berry entertained a motion that this item be approved. On motion duly made and seconded, the resolution was approved.

4. **Resolution of the City University Construction Fund Appointing Jane Sovern as Interim General Counsel of the Fund (No. 2239).**

Acting Chairman Berry called upon Executive Director Bergtraum for her remarks. Ms. Bergtraum stated that Jane Sovern has been an active part of the Office of the General Counsel since 1991. Over the past two years, Ms. Bergtraum says she has consulted with her often, and has relied on her for advice on many issues. Mr. Berry welcomed Ms. Sovern to the position, commending her for her knowledge and expertise, and insight she has always shared on CUNY matters.

Mr. Berry asked whether there were any questions about the resolution. There being none, Mr. Berry entertained a motion that this appointment be approved. On motion duly made and seconded, the resolution was approved and the Board welcomed Ms. Sovern. Ms. Sovern thanked the Board and said it was a pleasure to work with FPCM and the Construction Fund.
5. Resolution of the City University Construction Fund in Appreciation of Frederick Schaffer, General Counsel, CUCF (No. 2240).

Acting Chairman Berry read the resolution thanking General Counsel Frederick Schaffer for his long years of service to the CUCF. Mr. Berry stated that he had worked with Mr. Schaffer throughout the years and thanked him for his counsel and great judgment, as he enabled the Fund to work smoothly through a number of issues and bring them to a successful resolution. He asked whether there were any questions or discussion. There being none Acting Chairman Berry entertained a motion that this resolution be approved. On motion duly made and seconded, the resolution was approved.

REPORTS

Acting Chairman’s Report

Acting Chairman Berry stated that the next scheduled meeting of the Construction Fund Board for April 26 will need to be changed. Other scheduled meetings will be held May 24 and June 28.

Executive Director’s Report

Mr. Berry called upon Executive Director Judy Bergtraum for her report. She stated that the State Executive Budget came out a few weeks ago, a great story for CUNY capital – with a budget of $456 million in new funding. Gwen Perlman passed around a fact sheet for the Board, and alerted the participants from DOB that the file should be in their emails.

Ms. Bergtraum reported that comparing the current executive budget with previous ones shows that this will be the highest amount CUNY has received in the past 4-5 years -- last year’s amount was $142 million, the year before $103 million, and the prior year was similar. There is $284 million for critical maintenance, and $80 million for critical maintenance at the community colleges – the highest received in 7-8 years. She explained that CUNY’s published budget request explains the needs of the university. $2.6 billion is re-appropriated, with over 300 projects in process – some in design, some in construction. There are at least 10 projects underway on every single campus.

Ms. Bergtraum asked if there were any questions. Trustee Maxwell asked about the radio station at NYCCT, and was it moving to the Graduate Center. Ms. Bergtraum replied it was previously on land near New York City College of Technology, the City-owned TV station, and had to be moved in order build the new building.
Trustee Maxwell asked whether the CUNY Board and CUCF Boards ever met together. Acting Chairman Berry stated that meetings are separate, as the Boards are two separate entities. The Facilities Committee of the CUNY Board acts as an interface with the CUCF. Ms. Bergtraum stated that many of the resolutions state that “the CUNY Board asks the CUCF,” indicating that the authority to perform the construction sits at the CUCF. The threshold of what must be brought to the CUNY Board is $500,000; while the CUCF’s threshold is $10,000. Mr. Berry explained that the CUNY Board meeting is a public meeting, is held at Baruch, and is open for anyone who wants to attend.

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 safe few days, with the snowstorm coming, and the meeting of the Board of Trustees was adjourned at 10:13 a.m.