

DRAFT

MINUTES OF THE MEETING

August 20, 1007

10:00 a.m.

North Carolina Community Colleges System Office

The meeting of the Higher Education Bond Oversight Committee (the “Committee”) held at the North Carolina Community Colleges System Office was called to order by co-chair, Paul Fulton. Committee members attending were: Charlie Davidson, co-chair, Paul Fulton, co-chair; Kitty Barnes, Peaches Blank, William Marshburn and William Thurman. Legislative Staff, Jim Klingler, and Committee Assistant, Ann Faust, were in attendance. Others attending are noted on the sign in roster attached to the minutes.

The minutes of the April 23, 2007 meeting were reviewed and approved.

Martin Lancaster, President of the Community College System, was introduced and welcomed. He praised the work of the Committee on behalf of all the campuses of the System and acknowledged that most of the construction and improvements would have not been possible without the Bond money, and the needs of the State to re-educate many workers in the changing economy could not have been addressed. The System will have in the budget, for the first time, State funded facilities planning to meet the needs of further growth and minimize the impact of inflation. Since the bonds passed, there has been a 47,000 FTE growth in enrollment, and future growth and capital projects will be program driven.

Kennon Briggs, Vice President for Business and Finance for the System, reviewed some new emphases. Thomas Hunter, an engineer, architect, general contractor, has been hired for a year to facilitate planning for optimum use of \$8 million planning funds from the General Assembly. A good strategic plan is necessary to tie economic development and facilities needs to long range planning System-wide. This broad collaboration has not been done previously.

Sharon Rosado, Manager for Administration and Facility Services, made the report for the System. (See Attachment A) Through July 20, the State Board has approved a commitment of \$488 million – 98% of the new construction funds – and \$100 million -99% of repair and renovation funds – to projects. There are 15 projects of \$10 million or more - \$149 million of new construction funds and \$3.5 of repair and renovation funds and \$82 million of local funds totaling \$235 million. HUB participation for seven of these projects runs ahead of general HUB participation on the campus. All matching requirements have been met for release of all funds allotted from the bonds. HUB participation is 12.87% for a total of \$68.9 million for HUB contractors. 29 colleges have exceeded the 10% requirement and 24 of the colleges have consistently exceeded for the past 12 months. The Treasurer’s office has sold all the bonds and all funds are available for expenditures. Projections are off due to projects coming in over budget and having to find additional funding before awarding contracts. Time spent negotiating with the low bidder has had an impact. Mr. Marshburn questioned whether

the steep curve projection is achievable. Mr. Briggs responded that from the outset there were problems due to lack of planning and taking too long to get underway and there had been project escalations in the last three years. Mr. Davidson suggested that showing the actual curve would present a truer picture of progress. Current projections are what colleges propose for cash flow model. General Thurman questioned the process of release of funds. Mr. Briggs added that colleges cannot draw down faster than the cash flow. No money is drawn down until funds are actually spent and colleges submit reimbursements to the System, therefore, actual reimbursements should lag. The State Treasurer holds the money until the work is completed.

Ms. Rosado said that 191 projects are closed, 65 projects are completed, 65 projects are under construction, 2 are out for bid, 42 are under design, 15 have been announced for design services and 12 projects are still inactive – not approved by the State Board. Ten colleges have completed all projects and 46 colleges have all projects in an active status. \$449 million has been expended and \$150 remains. \$88 million is projected to be spent this fiscal year covering 110 projects. \$28 million is projected to be spent on 17 projects in 2008-09 and \$31.7 million is projected to be spent in 2009-10 for 9 projects. The final projects will be completed in May 2010.

Ms. Blank asked about the difficulty of the close-out process. Ms. Rosado reported that the biggest problem is getting the final reports and as-built drawings. Central Piedmont reports that it takes a year to get final documentation which seems to be the norm. The Office of State Construction does the final inspection, and the architect is responsible for providing the manuals, drawings and final documents. Ms. Blank expressed concern about having to wait for close out long after projects are complete at the end of the finish date for bond funded construction. Mr. Briggs added that any remaining monies for a project can be transferred to another project on campus to clear the account.

Ms. Rosado called on Thomas Hunter who has taken the role of putting documents and instructions together to assist with advanced planning, and Dr. Betty Adams, Associate Director of Institutional Effectiveness and Planning who also assisted with documentation.

Mr. Hunter reviewed the Advanced Planning Program found in the System Report on page 44. Dr. Adams is developing a plan to guide the colleges in integrating their institutional planning. They are currently doing strategic and effectiveness plans and long range plan is based on a six year window to deal with projected growth and demographic data of the service area and to determine how programs align with their institutional mission so that needs of the institution can be tied to facilities needs in a cohesive and comprehensive fashion. Once the progressive schedule is established, specific deadlines are to be established before the colleges receive state funds for facilities master planning. The master plan must be prepared by a professional consultant so that there is a good look at what needs and facilities are there and to determine if there are campuses experiencing no growth and if facilities should be adjusted for greater use. This is a bricks and mortar assessment. An itemized capital projects list will be required by the end of May 2008. The System Office will package this into a capital budget request that will be in place for the 2009 General Assembly Session. Target dates are included in the Report. Mr. Briggs said that some colleges have begun the process of

advance planning and may access funds before others. A Long Range Plan is needed for accreditation and is not new, although this process is.

Rob Nelson reported for the University System. He thanked the Committee for keeping the System on target and moving ahead through some difficult circumstances. Review times have improved and the General Assembly has been responsive to various requests. One campus, NC A & T, has had difficulty with review times, due in large part to design drawings which has hindered their meeting deadlines. Approximately \$32 million is left to award; 75% of that is for NC A & T and UNC-CH. UNC-CH has a lot of big projects coming in at the end. Cherry Hall on the NC A & T campus accounts for a great deal of its lag. The anticipation of federal funds for the project is causing some delay. Of the disputes raised, many are between subcontractors and contractors on a level that is not the direct responsibility of the University, but efforts are made to resolve them. Jim Klingler, staff attorney, led a study group with representatives of DOI and the Office of State Construction to work on some review issues. Some changes were approved by the General Assembly for Elizabeth City State and Pembroke, and work is proceeding on those campuses.

Shari Harris presented the HUB report for the University. (See Attachment B) The HUB dispute resolution process has found that dispute issues are usually between subcontractors and prime contractors, and efforts are made to assist in solving problems. Another problem is misunderstanding the goals of the dispute resolution process, and a flow chart is being developed to show contractors how to deal with non-payment issues. A workshop on better understanding of the claims process will help clear a lot of confusion among subcontractors. A *frequently asked questions and answers* sheet related to non-payment issues is being prepared for subcontractors and will be handed out and also available on the website. Contracts 101 is being developed, and several local resource centers will offer assistance to help contractors better understand their contracts and ask questions about problems during the construction process. The aim is to address problems on the front end while they are small and manageable, before they reach the dispute level.

Ms. Harris reviewed a report implying that the University is not paying African American contractors. A typographical decimal point \$247 million error was found that adjusted the amount paid on the \$318 million in contracts awarded to African American contractors from only \$36 million. After correction, there is still a disparity due in part to administrative slowdowns and scope changes and some contractors going out of business - situations which are not captured in the report. The HUB office will perform a quarterly review of the DOA HUB reports to assure there are no glaring differences, do random samplings of pay applications to stay on top of tracking, and create a more centralized opportunity tracking contract and payment issues to catch recurring problems with contractors paying in a timely manner. Mr. Davidson made the point that being paid short can lead to going out of business. The data is very difficult to decipher but contracts must be paid. Mr. Marshburn said that subcontractors cannot stay in business if they are not paid and in a timely manner. They deserve to be paid if they have done the work properly. Ms. Barnes added that general contractors need to be educated in order to be helpful to subs and must adhere to the terms of the contract. The Committee agreed that the general contractor has the responsibility to work with a subcontractor to assure payment applications are properly filled out if the first one is incorrect. If a general

contractor who does not disburse his draw to subcontractors, but attests that he has, he is guilty of fraud and puts himself in jeopardy. It is difficult to track lower level subcontractors. Rob Nelson cited lack of understanding by some HUB contractors and improper entry or interpretation of data on contracts and applications. Tracking data comes from general contractors. Construction audits are sporadic but on-going and pay outs are reviewed in the process. More audits will be performed as the work winds down.

Ms. Harris continued with the normal HUB report to the Committee related to the State's 10% goal. \$397 million have been spent, 16.7%, with HUB contractors 3.7% with African American contractors, 8.6% with women-owned businesses and 4.5% with other minorities. To maintain the participation percentages as the program winds down, the expenditures for contracts with African Americans must reach \$92.5 million and \$417 million awarded to all HUBs. In the last quarter \$5 million of the \$15 million awarded to HUB contractors were awarded to African American contractors. The four Historically Black Universities and NC State continue to lead in awarding contracts to African American businesses. Workshops and seminars continue to be offered. Four HUB Academies are scheduled for the next year. Contracts 101 at the Resource Centers around the state will fill a great need.

Terrance Feravich, Associate Vice President University Property Officer, continued the report for the University. The University has spent over \$2.2 billion of the program's funds – about 89%– in the six and one half years of the program. Emphasis is on four areas: HUB participation, commitments, getting things constructed/cash flow and close outs. There are eight to ten institutions that need to get their final projects committed and underway. Program progress shows that projects under design are diminishing in number, and close outs have increased from 27 in the last report to 49 in this report. When the final bonds were sold, those funds were allocated to cover current accounts and negate the necessity of moving funds among accounts, thus, saving money. Several large jobs have recently been bid. Two large projects at NC A & T are behind schedule; one is awaiting Federal funding, and the other has run into design difficulties. UNC-CH's Berryhill project is under review because of expansion in the medical program to be housed in the facility. Mr. Davidson asked if current projects were coming in on budget, and Mr. Feravich responded that for the most part they are. The final date has been pushed out to May 2009 due to the Cherry Hall project. In reviewing the time line charts, Mr. Feravich noted over-aggressive projections at the beginning of the program skewed the time/cash flow line at this late date of the projects, and efforts are being made to spend dollars in the most value-added way as projects are closed out. Discussion followed concerning the aberrations in the bell-curve and s-curve projections for cash flow.

Only a few claims have popped up during projects. There is knowledge of less than 1% for a \$2.5 billion program. Situations have been settled before reaching "claims status." Mr. Davidson and Mr. Marshburn expressed amazement at the low number of claims. An initial reserve of \$25 million was allocated for claims settlements. Each campus had a contingency plan for claims, and Mr. Feravich will work with UNC-C to deal with claims or prospective claims on that campus. Mr. Feravich expressed appreciation to DOI and SCO for their assistance in dealing with change orders and working with contractors to preclude claims arising. Seven campuses have no projects totally closed out which causes concern and closer oversight is called for. Mr. Feravich

referred to a July 2, *Raleigh News and Observer* article “Building Boom Coming to an End.” One billion new dollars was committed to the University and could distract from completing bond fund projects. It is imperative to stay focused on completion.

Vance Holloman reported for the Office of State Treasurer that all bonds have been sold and proceeds disbursed. For arbitrage purposes, new money is being spent before funds available in 2001-2002. Interest rates have been favorable: 3.97 in 2005, 4.24% in 2006, and 4.08% in 2007. North Carolina has achieved a AAA rating from Moody’s.

Bill Davis reported for the Office of State Construction. (See Attachments C1 and C2) An F Cap new team has been established to analyze state building solely for energy use and conservation. Statutes have changed establishing an informal contract at \$500,000 or below, except for bond projects. Designer selection process has been simplified. Under \$500,000 the owners can select their own designer. Designer interviews are not required for projects under \$1 million. State Construction does not analyze a life-cycle analysis to see if it is correct.

Wayne Goodwin reported for the Department of Insurance that significant improvement in plan review times continues due in great part of better and more frequent communication with the University and the Community College construction offices. HB 73 is helpful in establishing common deadlines across offices and projects. DOI received four additional engineers to expedite reviews, particularly one day reviews with designers. The State Building Code is the guide for signing off. DOI has met with the design team for Berryhill at NC A & T.

Mr. Marshburn reported that East Carolina University has only one major project left. Many projects are completed but not closed out, and efforts are being made to remedy that. HUB participation has been good. UNC-TV is still waiting on the FCC. A large equipment purchase was made recently. HUB participation is under the goal, but so much equipment is involved that it will be hard to meet the goal of 10%. UNC-W has three projects remaining and many complete but not closed out. HUB participation is good, but African American participation is low.

Ms. Barnes reported that Appalachian is nearly complete with bond projects and is concentrating on close-outs and is improving. A key for their campus is pre-qualification of contractors which holds down issues of failing contractors and subcontractors.

General Thurman reported that NC A & T campus looks radically different as a result of the bonds. The work is being done very carefully to protect the 35% of students who live on campus. The students are taking care of the new facilities. Two projects, Barnes Hall and Cherry Hall, \$13 million worth of projects, have not been completed. Mr. Perkins of A & T believes that they can complete the projects on schedule.

UNC-G has one large project remaining and Mr. Davis thinks they will finish on schedule.

Winston Salem State is way ahead of schedule.

General Thurman was encouraged at the differences he saw on campuses from just a few years ago.

Ms. Blank reported that UNC-C has completed all projects but close-outs are lagging. There is a \$7 million dispute which is being worked on.

UNC-CH has more than a billion dollars in construction underway, not all bond projects, and is 88% complete. Thirteen projects have been closed out. 56% of projects are complete but not closed out. 20% of projects are underway. January 2009 is the projected finish – way ahead of schedule. HUB participation is 16.7% of \$1.2 billion.

Mr. Klingler reported that HB 73 originated from concerns expressed by the Committee to streamline the state construction process. Other major legislation dealt with energy conservation in state buildings that will have significant impact on building design. There is much more construction underway that is not bond funded but was unleashed by the bonds. There is a big capital expectation that will face the legislature in the near future. It is important to be careful about the debt load of the state to protect the bond rating.

The next meeting will be held on October 15 at East Carolina University.

The February 4, 2008 meeting will be held at Nash Community College in Rocky Mount.

There being no further business, the meeting was adjourned.

Paul Fulton, Co-Chair

Charlie Davidson, Co-Chair

Ann Faust, Committee Assistant