

CUMBERLAND COUNTY FACILITIES COMMITTEE
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
JUNE 2, 2011 – 8:30 AM
MINUTES

MEMBERS PRESENT: Commissioner Jimmy Keefe, Chair
 Commissioner Marshall Faircloth
 Commissioner Jeannette Council

OTHER COMMISSIONERS
PRESENT: Commissioner Kenneth Edge
 Commissioner Ed Melvin

OTHERS PRESENT: James Martin, County Manager
 James Lawson, Assistant County Manager
 Howard Abner, Assistant Finance Director
 Sally Shutt, Communications and Strategic Initiatives
 Manager
 Rick Moorefield, County Attorney
 Robert N. Stanger, County Engineer
 Al Brunson, Facilities Maintenance Manager
 Paul Hinson, Chief Deputy
 Major John McRainey, Detention Center Chief Jailer
 Darrell Handlesman, Fayetteville Swamp Dogs
 Lew Handlesman, Fayetteville Swamp Dogs
 Candice H. White, Deputy Clerk to the Board
 Press

Commissioner Keefe called the meeting to order.

1. APPROVAL OF MINUTES – MAY 5, 2011 REGULAR MEETING

MOTION: Commissioner Council moved to approve the minutes.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS

2. AMENDMENT TO ARCHITECTURAL AGREEMENT FOR DETENTION
CENTER EXPANSION PROJECT

Bob Stanger, County Engineer, stated the Board of Commissioners, at their April 18, 2011 meeting, approved the conceptual schematic design for the Detention Center Project which consisted of four (4) 64-bed dormitory housing units and one (1) 60-bed single-cell maximum security housing unit for a total bed capacity of 316. Mr. Stanger further stated the Board also authorized management and staff to negotiate with Moseley

Architects the fees for the balance of the design work and construction administration services.

Mr. Stanger stated he recalled during the presentation by Dan Mace with Moseley Architects that Mr. Mace suggested in addition to the base design, the Board may wish to consider including an alternate design for the one (1) 64-bed, four-man cell, medium security housing unit that was removed from the initial conceptual design due to budget constraints. Mr. Stanger recalled that the Board had established a maximum project cost of \$15 million for this expansion and based on the architect's preliminary estimates, the cost for the initial design construction was over \$16 million. Mr. Stanger stated one of the reasons Mr. Mace suggested that the Board may wish to include the alternate design was because bids could be taken for that housing unit and would provide the Board with an accurate cost for this housing unit and, in the event that the bid for the base design and alternate were within the construction budget, the Board may wish to construct the entire expansion project. Mr. Stanger recalled no formal action was taken at the April 18, 2011 Board of Commissioners' meeting as to whether to consider the architect's suggestions.

Mr. Stanger stated during his discussion with Moseley Architects, a fee of \$993,750 was negotiated for the base design and a fee of \$191,250 was negotiated for the alternate design that would carry the county through the bidding phase for a total fee of \$1.8 million. Mr. Stanger further stated were the alternate design to be constructed, then Moseley Architect's construction administration fee for the expanded project would be increased by \$52,700. Mr. Stanger stated reimbursable expenses were capped at \$25,000 and the fee for the basic services for the base design represents about 7.49% of the construction cost and is reasonable based on past experience.

Mr. Stanger stated the question is whether the county wishes to include architectural services for the alternate design in the amendment to its agreement with Moseley Architects. Mr. Stanger stated he met with management to discuss the issue and all believe the added cost for the alternate design is not justified at this time for the following reasons:

- Management and staff believe it is unlikely that the alternate design could be constructed within the project budget of \$15 million as established by the Board. The actual construction cost for the base design would have to be about 25% less than the architect's preliminary estimate.
- The alternate design of the medium security housing unit may not be the type of housing unit needed, particularly if the State of North Carolina mandates that misdemeanants serving six months or less be incarcerated in local detention facilities, which is currently being considered by the State Legislature. If enacted, the jail administrator believes a work release dormitory style housing unit is more appropriate than the four-man cell housing unit.
- Given the fiscal challenge of funding the annual operating costs of the expanded detention center, a larger project or more beds translates into a greater increase in

annual operating costs. Should the construction of the base design be under budget, the Board may wish to use the savings to offset the initial operating costs as opposed to building more jail space.

Mr. Stanger stated amendment #1 to the agreement with Moseley Architects reflects architectural and engineering services for the base design only as recommended by management and staff. Mr. Stanger also stated this amendment has been reviewed by the county attorney for legal sufficiency.

Mr. Stanger stated the recommendations of management and staff are:

- Limit the continued architectural and engineering services to the base design to the scheme that was approved by the Board at their April 18, 2011 meeting.
- Approve amendment #1 to the agreement with Moseley Architects for the base design in the amount of \$993,750 and reimbursable expenses not to exceed \$25,000 for a total amount of \$1,018,750.

Commissioner Faircloth stated the county may have a reprieve on the misdemeanor situation and inquired about the status of the bill put forth by Senator Mansfield for 64-bed dormitory style units. Rick Moorefield, County Attorney, responded there has been movement on the bill but it has not passed.

Commissioner Keefe asked whether the increase in the number of beds would necessitate an increase in staffing. Major John McRainey, Detention Center Chief Jailer, responded current regulations state there is a maximum of forty individuals in dormitory style housing, but the regulations do not address staffing.

Mr. Moorefield expressed concern that the process of bidding and negotiating the construction contract is the statutory responsibility of the construction manager and not the architect, and the contract as presented appears to have a joint assignment. Mr. Moorefield clarified his concern is that the architect will be paid to prepare the bid package and the construction manager will also be paid to prepare the bid package. Mr. Moorefield stated there needs to be a clear line of responsibility and if the construction manager delivery method is selected, the present contract needs to be changed. A brief discussion followed. The consensus of the committee was to temporarily suspend the matter and move on to the next item.

3. CONSTRUCTION DELIVERY METHODS FOR COUNTY DETENTION CENTER EXPANSION PROJECT

Mr. Stanger stated discussions need to begin regarding the construction delivery methods available to the county for this project. Mr. Stanger explained over the years, changes in state legislation have provided local governments with more options for construction of public facilities. Mr. Stanger stated the traditional multi-prime competitive bidding requirement has been expanded to allow local governments to use single-prime bids and most recently construction manager-at-risk (CMR) to construct public facilities. Mr.

Stanger also stated based on his twenty-nine years of experience in constructing public facilities and having had experience with all of the methods, he is convinced that with the construction of large public facilities, the CMR is the best construction delivery method for the following reasons:

- CMR is qualifications based as opposed to accepting the low bid from any contractor that can get bonded for the job regardless of past performance
- CMR promotes more of a partnership arrangement with the owner, although there are clear lines of delineation and risk assignment. It is less adversarial than other construction delivery methods because the fees/profit margin are negotiated upfront which tends to mitigate the contractor looking for money through the change order process.
- CMR can be incentive driven which can lead to a shortened project timeline. Any reduction in the construction timeline should result in reduced construction costs due to inflationary factors.
- With CMR, all costs are disclosed to the architect and the owner.
- CMR can have more impact on keeping the construction dollars local for which local subcontractors can reasonably submit bids. This can also be an effective tool in recruiting MBE participation on the project.

Mr. Stanger recalled that when the Board approved the conceptual design, it also approved a 40% MBE participation the project. Mr. Stanger stated every effort will be made to accomplish this goal.

- With CMR, the owner has more control over the selection process for subcontractors and therefore more control over the quality construction.
- CME provides a higher level of construction oversight, helps mitigate problems in the field, and expedite solutions to keep the project on schedule.
- CMR can be brought on during the design process to provide preconstruction services such as constructability reviews as the design of the facility evolves and value engineering for cost control.

Mr. Stanger stated during his discussion with management, there have been some concerns about when the construction manager would be brought on board and whether there would be any value in having a third party firm provide preconstruction services. Mr. Stanger further stated this could be negotiated should the Board decide on the CMR construction delivery method. Mr. Stanger stated the CMR was successfully used on the new Public Health Center and should be given serious consideration for the detention center expansion project.

Commissioner Council asked whether there were any negatives associated with the CMR method. Mr. Stanger responded there is a slight premium paid for the CMR because there is more project oversight provided.

Commissioner Faircloth asked whether there would be any costs knocked off the architect's fee. Mr. Stanger explained the architect would still provide oversight during

the construction project because the architect can not be divorced from the construction process. Mr. Stanger further explained that there gaps that occur between the plans and specifications and the construction process which necessitate discourse between the architect and the construction manager.

Mr. Moorefield referenced section 2.7.2 of amendment #1 and stated the county will not be able to force cooperation between the architect and the construction manager. Mr. Moorefield further stated the county may not necessarily want the architect and construction manager to be in a cooperative relationship because the bid process is the responsibility of the CMR and the contract is with the construction manager, not the county. Mr. Moorefield stated this should be made clear and section 2.7.1 should indicate those are the responsibilities of the construction manager and the architect shall provide the normal and customary assistance as may be required.

Commissioner Faircloth requested that Mr. Moorefield provide these clarifications and appropriate wording prior to the June 6, 2011 meeting. Mr. Moorefield stated another issue is that roughly 5% of the contract price is being paid to the architect for the bidding /negotiation process and the construction manager will also be paid a fee for this same work. Commissioner Faircloth stated the county should not double pay. Discussion followed regarding whether the contract contained double payments, and guarantees and liabilities as they pertain to the construction manager and the contract. Mr. Martin suggested that contact be made with the architect to seek an opportunity to further reduce costs and should it become necessary, defer any decisions to the Board's June 20th meeting.

With regard to Item 3. – Construction Delivery Methods for County Detention Center Expansion, the following motion was made:

- MOTION: Commissioner Faircloth moved to approve the recommendation of the county engineer and management to use the CMR as the construction delivery method for the detention center expansion project.
- SECOND: Commissioner Council
- VOTE: UNANIMOUS

With regard to Item 2. – Amendment to Architectural Agreement for Detention Center Expansion Project, the following motion was made:

- MOTION: Commissioner Faircloth moved for approval of the amendment to the contract subject to further negotiations on bid and construction management services otherwise being performed by the architect.
- SECOND: Commissioner Council
- VOTE: UNANIMOUS

4. OTHER MATTERS OF BUSINESS

Commissioner Keefe recognized Lew and Darrell Handlesman of the Fayetteville Swamp Dogs and asked if there had been discussion regarding road construction and their lease. James Lawson, Assistant County Manager, stated there had been some preliminary discussion regarding the lease that would expire at the end of 2012 and NCDOT's widening of Legion Road that would necessitate the relocation of their sign resulting in some possible needs with their marquee.

Darrell Handlesman stated the widening of Legion Road will require the removal of their old marquee and they thought this might provide an opportunity to obtain a new marquee that would better showcase and promote facility events. Mr. Handlesman stated they wanted to propose this to the committee before any plans were made. Mr. Handlesman provided a drawing and estimate of a double-sided illuminated road sign at a cost of \$25,405.40.

Commissioner Keefe asked if their interest was to renegotiate their lease early in order to give them some stability at their current location; and if their thought process was that now would be a good time to change the sign since it is being moved anyway. Mr. Handlesman responded in the affirmative.

Discussion followed as to whether the NCDOT would bear any responsibility for the costs and when the construction project would begin. Mr. Martin asked whether the Handlesmans' would provide the sign as a leasehold improvement in order for the county to extend the lease for another four years under the current lease payment and current terms/conditions. Mr. Handlesman stated they could possibly think about it. Mr. Moorefield stated the county has not been notified about the schedule for the road construction project and he did not think the project was that far along. Commissioner Faircloth stated the committee could take the matter under advisement. Commissioner Keefe stated negotiations should likely begin 90-120 days from the lease expiration date. Mr. Moorefield stated he would let the Handlesmans know when additional information on the road project is received from the state. Mr. Handelsman stated they are open to starting negotiations sooner rather than later and continue to improve the facility.

There were no further matters of business.

There being no further business, the meeting adjourned at 9:23 AM.