

**South Windsor Public Building Commission
Minutes – Special Meeting– October 28, 2015**

A special meeting of the Public Building Commission was held on October 28, 2015 at Timothy Edwards Middle School, Room Alt 6. The following people were in attendance:

Members Present: Howard (Hap) Fitts, Carol Kelley, Jim Neary, Charley Lyons, Matthew Montana, Edward O'Connell and Bernard Thomas.

Also Present: SWPS Representatives, Dr. Kate Carter, Patrick Hankard; Strategic Building Solutions Representatives Marc Sklenka and Chuck Warrington; Drummey Rosanne Representative Jim Barrett; Gilbane Representatives Peter Adamowicz and Kari Kratz; Town Manager Matthew Galligan; Town Attorney Keith Yagaloff and Public Building Commission Attorney Kari Olson.

Chairman Fitts called the meeting to order at 6:30 PM.

Approval of Minutes: On a motion made by Mrs. Kelley seconded by Mr. O'Connell, the minutes of the October 14, 2015 PBC meeting were approved unanimously.

Public Comment

Chairman Fitts opened the public comment advising residents that comments would be limited to three minutes.

Mr. David Joy, 100 Bramblebrae, restated the board of education's concerns regarding the ability of the commission to deliver the new school on schedule and within budget. He stressed that the schedule would not allow for any significant delays and recounted that the complexities of the work involved in redistricting the town should not be underestimated. He noted that even a one-month delay could result in a one-year delay in closing Wapping Elementary School and opening the new school. He also referenced the bid alternate list and suggested that rather than considering adding cost to the project, the commission seek to achieve the best possible bidding results to fund the bid alternate list.

Mrs. Daria Plummer, 235 Orchard Hill Drive, a 48-year resident and chairperson of Support South Windsor Schools, commented on the successful 2014 referendum, noting that she is looking forward to the completion of the 10-year plan. She relayed her concerns regarding possible delays or cost increases and the collective objective of all parties in delivering a quality product on time and on budget. She urged the commission not to take any risk with a delay in Phase I, as Phase II depends on its success.

Mr. Craig Zimmerman, 5 Amato Drive, member of the Board of Education noted his agreement with Chairman Joy and Daria Plummer. He stated his appreciation of the fact that they are starting to have a discussion regarding PLAs and noted that as a member of the Board of Education he is committed to having a discussion very early on in Phase II with the board and council to fully vet the topic of PLAS. He stated that this phase of the project needs to be on time and on budget.

Mr. Paul Grey, 34 Governor's Highway noted that he has been in the commercial construction business for 45 years, both union and non-union. He stated his opposition to PLAs, noting that they have a history of being over budget, precluding open competition and citizens from participating in the project.

Mrs. Betsy Viar, 74 Talcott Ridge Road, 15-year resident, noted the excitement in town for the 10-year plan and relayed her hope that this project happens on time in order to continue on in the future.

Mrs. Marge Glater, 21 Hazel Street, noted that she has been the owner of Mother Goose Nursery School for 42 years and that she was representing the early childhood community in town. She reminded the commission that parents and children have been waiting for this school to be built and encouraged them to break ground on time.

Mrs. Diane Behler, 30 Willow Street, member of the Board of Education, thanked the PBC for all the work they have done to date on the Orchard Hill School. She asked that they remain focused on bringing the project in on time and on budget, as this was critical.

Mrs. Debbie Manning, 98 Cornerstone Drive, spoke in support of the elementary school plan and stressed the importance of the first phase being on time and on budget.

Mr. Tim Rodrigue, a business owner in town for 40 years and taxpayer, noted that he was looking forward to this project moving forward on time and on budget. He noted that the town worked very hard on the project and stated his disagreement with last minute changes and potential wants by individuals for a PLA. He noted that it was not the right decision for this phase or any other phase.

Mr. Kyle Zimmer, 50 Burbon Street, lifelong resident of South Windsor and member of Local 478 noted that after the referendum he and his colleagues reached out to Kate Carter to discuss partnership opportunities. He also noted that Bob Cheverie and he appeared before the commission on February 11 to request a discussion on PLAs, however, were met with obstacles and delays. He closed by stating that there is nothing more that the CT Building Trades would like to see than this project coming in on time and on budget.

Mr. Bart Pacekonis, 39 Blue Ridge Drive, a 30-year resident, stated that the question regarding a PLA was brought up early in the year and was never answered. He restated that there were hundreds of tradesmen and women in South Windsor and that the only projects that have significant amounts of residents are PLAs. He noted that they are successful and they do work and that they would appreciate the opportunity to have one on this school and schools that come up.

Mr. Chris Syrek, of ABC, noted that an open and competitive bidding process is in the best interest of the town and students. He noted what a PLA would guarantee is an all-union labor pool. He noted that everyone would have the opportunity to make a project successful and safe and that contractors would be prequalified by the state. He stated that a PLA will shut out local contractors and residents and requested that the commission give everyone a fair and open opportunity to bid.

Mr. John Fussell, Attorney with Robert M. Cheverie, countered Mr. Syrek's claim and noted that under the PLA statute everyone can bid. He noted that there have been hundreds of

projects done on time and on budget and that there are provisions in a PLA that would not require union membership. He encouraged the commission to seek a PLA.

Mr. Jeremy Zeedyk, Hartford Building Trades, noted that while true that contractors are vetted through the Department of Administrative Services, that some contractors “skirt” the law and do not pay their employees and do not classify them properly. He noted that a PLA would protect that.

Mr. David Joy, 100 Bramblebrae, referenced a Beacon Hill Institute Study which stated that in CT a PLA can raise the cost of school projects by 18% over non-PLA projects. He also noted that the commission had been provided with a local and current example from the Rocky Hill PBC Chairman showing that a PLA increased the cost to their project. The project was bid without PLA contractors. The analysis showed that if open shops had not bid on these jobs, the awarded bids would have been an increase of \$3.5MM or 9% to the project. He encouraged the commission to have the most competitive bidding process available.

Presentation of 90% Construction Document Estimate by Gilbane Company

Mr. Peter Adamowicz provided a PowerPoint presentation outlining 90% estimate and advised that Gilbane had been working on the project for 12-13 months and had provided three major milestone estimates. Gilbane has been tracking the budget and offering cost reduction options. He reviewed the estimate in detail noting that the costs awarded for trade contracts was \$24,695M, there is a 3% indirect cost contingency, a \$610,000 contingency for market fluctuation and 10% left to be designed. The overall current estimate totaled \$28,081M compared to the budget of \$28,084M or \$3,000 off goal. He noted that he is confident that Gilbane will be able to capture the overage. Mr. Adamowicz responded to questions posed by commission members.

Mr. Thomas inquired as to whether the market conditions did you consider PLA or non-PLA, to which Mr. Adamowicz noted that the estimate projections accounted for union and non-union participation and that when the job is priced they seek to capture an even blend of the two delivery systems.

Orchard Hill Elementary School Project Update

OPM Report – Colliers International: Mr. Warrington reviewed bid alternates verbally, noting that there is a listing of thirteen bid alternates, which hasn’t changed since the design development phase. He reviewed the milestone schedule, noting that the schedule has not changed since the start of the project. Gilbane will be looking to go to bid during the third week in November. On November 4 the team will be requesting the approval of the project contract documents and final estimate in order to go to the Office of School Facilities. On November 10 Colliers will be seeking approval of the Board of Education and a meeting will be held on November 17 is meeting with Office of School Facilities which has been scheduled for over two months. Bids will be due December 15.

DRA Report – Design Status: Mr. Barrett advised that DRA will be prepared to bring the set of construction documents forward to the PBC next Wednesday. He noted that the team has received back third party review comments and are working on them and working through the issues and continuing to finalize the documents. All in preparation for the presentation next Wednesday evening of documents and specifications.

Presentation of legal opinion by PBC attorney and town attorney with regards to use of a project labor agreement on the South Windsor Orchard Hill Elementary School project, and discussion with staff and Town Manager.

Attorney Kari Olson noted that the PBC had been provided with a joint legal opinion from she and Attorney Keith Yagaloff relating to the issue of whether a PLA is permissible under the town's charter and the process that the commission would be required to follow. She advised that she and Attorney Yagaloff researched the town charter, ordinances, legislative history, general statutes and case law and provided a comprehensive response to the commission regarding its question of whether or not the commission could enter into a PLA. She noted that the research was not clear, however, that the attorneys had provided a joint conclusion regarding the course of action that the commission should follow. If the commission desired to utilize a PLA, they would be required to seek a waiver from Section 715 of the town's charter requiring sealed bids in excess of \$5000. She noted that in addition to the recommendation to request a waiver, the attorneys suggest that if the commission desired to enter into a PLA, it should consider the criteria set forth by the State of CT to determine whether it was in the interest of the public. The criteria were included in the legal opinion submitted to the commission prior to the meeting and the attorneys agreed that, although the criteria are not required to be met for this project, it would be a helpful guideline.

Attorney Keith Yagaloff clarified that by adopting the resolution to waive competitive bidding, the commission would still send out requests for bid, but that action of the part of the town council would clarify whether entering into a PLA would constitute interference in the bidding process. He stressed that the attorneys were not opining whether a PLA would or would not constitute interference. He restated that it would be good for the commission to go to the council in order to avoid having a claim one way or another.

Town Manager, Matt Galligan, advised that he reviewed the opinion. He noted that given the fact that this is an election year and a new council will be elected, the next Town Council meeting would not be held until November 16. He cautioned that in his past experience the issue of waiving competitive bidding led to a good debate with the councilors. He surmised that this review could take two meetings. He also noted that there is new state legislation with regard to minority business participation and that he did not know how the PLA will affect that requirement. He reiterated that the process for a PLA discussion would need to have taken place before you start your project and that this project was too far out.

Attorney Yagaloff noted that, given the time constraints, the commission could amend the resolution to state that the vote to move forward with a PLA could be contingent upon the Town Council approving the waiver on or before November 16, without which the project would go by way of a non-PLA. Non-PLA would not require waiver from the council. He also surmised that the council may give deference to the commission in making its decision in a more timely fashion. Attorney Olson cautioned that if the commission did state in the resolution the November 16 date, they would also need to consider the impact on the design team.

Following the discussion with the attorneys, town manager and commission members, Mrs. Kelley noted that the single most important vote is to bring this project in on time and on budget. She stated that if the project were to go way over budget and make it impossible to turn Wapping over to the town, that she did not think the community would look upon the commission favorably for the next project. As such, she moved the following resolution:

MOTION:

Mrs. Carol Kelley moved to adopt the following resolution, Mr. O'Connell seconded the motion.

WHEREAS, the Commission has held a public meeting to discuss whether to pursue a project labor agreement for the Orchard Hill Elementary School Project; and

WHEREAS, interested parties were permitted to make presentations regarding project labor agreements; and

WHEREAS, the Commission has received additional input and information from consultants, staff, the Town Manager, the Town Attorney and its own counsel; and

WHEREAS, the Commission has considered all relevant factors regarding project labor agreements in accordance with the Connecticut General Statutes; and

WHEREAS, the Commission has been advised that entering into a project labor agreement will require a bid waiver from the Town Council pursuant to Town Charter Section 715.

BE IT RESOLVED, that the Commission has found that utilizing a project labor agreement for the Orchard Hill Elementary School Project is not in the best interest of the Town and directs the project team to move forward with seeking sealed bids for the project in accordance with the requirements of Charter Section 715.

VOTE: Approved (4-2)

Approval of Invoices: On a motion made by Mr. Neary, seconded by Mr. O'Connell, the following invoices were approved unanimously.

- Requisition #1 from Gilbane Building Company in the amount of \$78,462.00
- Requisition #2 from Gilbane Building Company in the amount of \$13,077.00
- Requisition #3 from Gilbane Building Company in the amount of \$13,077.00
- Invoice#511675 from Murtha Cullina in the amount of \$960.00
- Invoice#513054 from Murtha Cullina in the amount of \$1,968.00

There being no further business to be brought before the commission, a motion was made by Mr. Neary, seconded by Mr. O'Connell to adjourn the meeting at 7:55 PM.

Respectfully submitted,

Ann Walsh
Clerk to the Public Building Commission