

**MINUTES**  
**of the**  
**FIFTH MEETING IN 2010**  
**of the**  
**CAPITOL BUILDINGS PLANNING COMMISSION**

**October 18, 2010**  
**Room 311, State Capitol**  
**Santa Fe**

The fifth meeting of the Capitol Buildings Planning Commission (CBPC) in 2010 was called to order by Secretary of General Services Arturo Jaramillo, co-chair, on Monday, October 18, 2010, at 1:36 p.m. in Room 311 of the State Capitol in Santa Fe.

**Present**

Arturo L. Jaramillo, Secretary of General Services, Co-Chair  
Stuart Ashman, Secretary of Cultural Affairs  
Dannette Burch, Secretary-Designate of Finance and Administration  
Sen. Stuart Ingle, Senate Minority Floor Leader  
Sen. Timothy Z. Jennings, Senate President Pro Tempore  
Larry Kehoe, Designee for Patrick H. Lyons, Commissioner of Public Lands  
Patrick Simpson, Designee for Charles W. Daniels, Chief Justice of the Supreme Court  
Clarence Smith, Designee for James Lewis, State Treasurer  
Rep. Thomas C. Taylor, House Minority Floor Leader

**Absent**

Rep. Ben Lujan, Speaker of the House, Co-Chair  
Gary Giron, Secretary of Transportation

**Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Roxanne Knight, LCS  
Tom Pollard, LCS  
Ric Gaudet, LCS  
Larry Miller, Deputy Director, Property Control Division (PCD), General Services Department (GSD)  
Lemoyne Blackshear, Staff Architect, PCD

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other materials provided to the commission are in the meeting file.

## **Monday, October 18**

**Action Item:** *The minutes of the September 20, 2010 meeting of the commission were adopted without changes.*

### **Interstate Stream Commission (ISC) — Transfer of Water Rights to Properties — Roswell and Southern New Mexico Areas**

Ms. Knight explained to the commission that, as a result of the presentation to the commission of the Children, Youth and Families Department (CYFD) master plan, questions arose about the availability and suitability of lands acquired by the ISC for potential use by the CYFD to implement the Cambiar model of treatment for youth in the Roswell area.

Estevan López, director, ISC, described for the commission the properties that the ISC still has in its possession as a result of the *Pecos River Settlement*. In 2003, after being sued by Texas for its share of water from the Pecos River, the affected parties agreed that New Mexico would reduce its water allocations. The ISC purchased 12,000 acres of land in the Roswell and Carlsbad areas and retired the water rights on those lands. In 2008, the legislature allowed the ISC to sell the lands, which no longer have any water rights associated with them. Section 72-1-2.6 NMSA 1978 stipulates that land must first be offered to the party from which the ISC purchased the land, and if the prior owner does not purchase the land, the ISC can sell the land according to normal property disposition law. All lands sold have deed restrictions that prohibit domestic wells and require that any water use on the property necessitates the transfer of other valid water rights to the property.

The ISC has sold all of its excess properties except four parcels. The Troost property consists of 381 acres 13 miles north of Artesia; the Waggoner property consists of 157 acres six miles south of Artesia; the Uriquidez property consists of 20 acres three miles northwest of Loving; and the Willow Lake property consists of 164 acres one mile south of Malaga. Mr. Lopez said that the ISC does not have any available water rights to transfer to any property should the CYFD or other agency desire a parcel; however, the ISC could assist the state in identifying water rights in the region that might be purchased and transferred.

Mr. Simpson asked whether any of the properties have nearby domestic water sources. Mr. López responded that he does not believe there are any, and he added that the appraised values of the properties are very low because the properties have no immediate access to water. A typical land price with water rights in the Carlsbad area is \$2,500 per acre, compared to the \$50.00 per acre appraised value of some of the ISC's properties.

Representative Taylor asked about the economic impact to the state of removing 12,000 acres from agricultural production. Mr. López said that he did not know the answer to that question; however, prior to the settlement, the ISC had estimated the economic impact to the state of \$300 million in the first year if the state were forced to place a priority call on all secondary water rights holders.

Secretary Jaramillo suggested that information on the ISC properties be kept for future analysis of the state's property needs. Mr. Lopez said that the current plan is for the ISC to divest of all of its excess properties by the end of 2010. If the state has any interest in a property, the ISC can delay the sale until a final decision is made. Mr. Miller said that the CYFD needs land close to an urban area and that any land purchase will take some time.

Senator Jennings commented that he has heard of many complaints about the ISC properties. The ISC has not been able to keep the properties maintained since their acquisition, and weed migration to neighboring lands has become an issue.

### **Lease-Purchase Review Process**

John Petronis and Andy Aguilar of Architectural Research Consultants, master planners for the commission, presented a draft of the Lease-Purchase Agreement Review Process Guidance. The guidance document is intended to assist agencies in submitting lease-purchase proposals to the commission for its review. Agencies will submit the proposed agreements, with supporting documentation, to the commission. Commission staff then perform a technical review of the agreement and make a recommendation to the commission. The commission then submits its findings on the proposal to the legislature for its consideration. If an agency is under the jurisdiction of the PCD, it needs to have the proposal reviewed by the PCD before its submittal to the commission.

The agency submitting the proposal should provide information demonstrating how the agreement meets the needs of the agency. The draft document requires the agency to:

- identify current space and issues with the current space or location;
- identify how much space is needed based on a facility program using state space guidelines;
- submit any studies that have been completed in support of the project;
- demonstrate why the agency's needs cannot be accommodated within existing state-owned facilities;
- determine whether the proposal complies with the Capitol Buildings Master Plan principles;
- document that the proposal complies with the legal and technical requirements of Section 15-3-35 NMSA 1978 and Article 9, Section 8 of the Constitution of New Mexico; and
- document that the proposal is the most cost-effective alternative, based on a life cycle costing analysis (LCCA).

Mr. Petronis said that an LCCA is a method for assessing the total cost of facility ownership, taking into account all costs of acquiring, owning, operating and disposing of a building or building system. Total life cycle costs are the total dollar costs of owning, operating, maintaining and disposing of a building over a period of time, using the present value of money. The life cycle costs for a number of comparable alternatives are examined, and generally, the alternative with the lowest life cycle cost is favored. Some of the factors studied include the cost of acquiring the building, operational costs, renovation and renewal costs during the life of the building and residual value at the end of the life cycle period. An LCCA can be a very detailed financial analysis with many variables affecting the final outcome. The lease-purchase guidance document establishes parameters over many variables to ensure that proposals are evaluated using the same assumptions. Controlled parameters include the construction cost per square foot based on building type, standard operating and maintenance costs, replacement and renewal costs, residual value calculations and financial calculation standards.

Because the cost of capital to the public sector is usually less than that available to the private sector, all things being equal, the public sector should be able to own assets at a lower total cost than leasing over the long term. But things are not necessarily equal, and many variables may impact the choice of the best alternative, including:

- the cost of construction or operations may be higher in the public sector than the private sector;
- the public sector may not be able to finance and construct a facility as quickly as the private sector can;
- the cost of a lease can be reimbursed to the state from federal sources for certain agency programs; however, the state has the ability to capitalize federally reimbursed leases, although that process is more complex;
- it may be better to lease when the lease rate is below what the state could construct or could acquire in a comparable facility;
- it may be better to purchase and renovate an existing building than build a new one; and
- there may be broad external costs that are difficult to quantify, such as the tradeoff between having a state agency scattered across an area in multiple leased offices versus paying for a new state-owned centralized office.

Secretary Ashman suggested that the guidance document clearly state that the review by the CBPC is not the end of the process for a lease-purchase proposal; the legislature would still need to ratify the agreement.

Senator Ingle asked if the Administrative Office of the Courts would be subject to the lease-purchase review process. Mr. Petronis said that lease-purchase proposals would be reviewed by

the commission, but leases would not be. Senator Ingle said that there needs to be a better review process for leases and said that some agency leases have astronomical rates.

Senator Jennings asked if any entity would review a lease-purchase proposal that is less than \$5 million in total value. Ms. Knight said that all lease-purchase proposals from state agencies need to be ratified by the legislature. Projects costing less than \$5 million are not required to be reviewed by the CBPC, but the commission can elect to review such projects. Senator Jennings said that it may actually be cheaper for the state to choose a private developer to acquire a lease-purchased facility, due to the high cost of statutorily mandated union labor and the new executive order requirement that new state facilities be constructed to meet sustainability standards. He also said that he foresees a significant reduction in the state government work force in the near future, which may alleviate the dire need for new agency facilities.

Mr. Miller stated that, from the PCD's perspective, the draft guidance document looks very useful for state agencies in preparing lease-purchase proposals. He said that the PCD sometimes receives lease-purchase proposals from private developers who need to divest their assets.

Secretary Jaramillo noted that the state needs assurance that any building it acquires does meet quality standards. Mr. Petronis said that the PCD has set standards for facilities under its jurisdiction, and the commission would evaluate proposals using similar standards. He said that although a privately built building may be cheaper to construct, it may not be on par with a building constructed to PCD standards.

Ms. Knight said that commission staff have discussed the lease-purchase guidance process with staff from many state agencies. She suggested that the commission consider adopting the guidance at its November meeting, after receiving feedback from commission members and state agencies.

## **Staff Report**

### Lease-Purchase Requests

Ms. Knight reported to the commission that no state agency reported that it would be submitting a lease-purchase agreement for the legislature's approval in 2011.

### Preliminary Discussion of CBPC Legislative Proposals and Agency Requests in Master Planned Areas

Ms. Knight briefly discussed legislation endorsed by the commission in 2009 but never introduced in the legislature due to the lack of an executive message. She asked the commission to consider endorsing some or all of the legislation for introduction in the upcoming legislative session. The endorsed legislation includes bills to require state agencies to develop and submit five-year facilities master plans; to require state agencies under the jurisdiction of the PCD to develop and implement preventive maintenance plans for any new proposed capital outlay project; to exempt the PCD from the \$10 million threshold for the design-build project delivery method; and to eliminate the approval requirement by the State Board of Finance of construction

contracts issued by the PCD. Details of the legislation are available in the CBPC's 2009 interim report.

Ms. Knight suggested that the commission endorse language specifying the PCD's authority to regulate lease-purchase agreements for agencies under its jurisdiction. There is staff disagreement about whether the PCD has statutory authority to regulate lease-purchase agreements based on current law.

Secretary Jaramillo said that the commission will consider endorsement of this and any other proposed legislation at the commission's November meeting.

**Directive to Staff:** *Staff was directed to provide a written synopsis of legislation endorsed by the commission in 2009.*

There being no further business, the commission adjourned at 3:47 p.m.