

**MINUTES
of the
SECOND MEETING
of the
CAPITOL BUILDINGS PLANNING COMMISSION**

**June 23, 2014
Room 311, State Capitol**

The second meeting of the Capitol Buildings Planning Commission (CBPC) was called to order by Edwynn L. Burckle, secretary of general services, on June 23, 2014 at 2:43 p.m. in Room 311 of the State Capitol.

Present

Edwynn L. Burckle, Secretary of General Services, Co-Chair
Rep. W. Ken Martinez, Speaker of the House of Representatives, Co-Chair
Tom Clifford, Secretary of Finance and Administration
Anne Green-Romig, Designee for Veronica N. Gonzales, Secretary of Cultural Affairs
Loren Hatch, Designee for Tom Church, Secretary, Department of Transportation
Sen. Stuart Ingle
James B. Lewis, State Treasurer
Sen. Mary Kay Papen, Senate President Pro Tempore
Patrick Simpson, Designee for Barbara J. Vigil, Chief Justice of the New Mexico Supreme Court
Rep. Thomas C. Taylor

Absent

Ray Powell, Commissioner of Public Lands

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Renée Gregorio, LCS
Caela Baker, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, June 23

Approval of Agenda

Members of the commission voted unanimously in favor of adopting the agenda.

Adoption of Minutes

Members of the commission voted unanimously in favor of adopting the minutes of the April 9, 2014 CBPC meeting.

HJR 8

Bill Brancard, general counsel, Energy, Minerals and Natural Resources Department (EMNRD), explained that House Joint Resolution (HJR) 8 from the 2014 regular session authorizes the sale of property on De Vargas Street in Santa Fe, which is owned by the State Parks Division of the EMNRD. Mr. Brancard indicated that the property was formerly used as office space for the EMNRD, but that the property is no longer needed.

Mr. Brancard provided a history of the steps taken by the EMNRD upon its decision to vacate the property. First, the EMNRD issued a public notice and requested offers to lease the property. The terms of any proposed lease were left open to negotiation. The EMNRD received only one offer to lease the property, from Galisteo Street, Inc. In its offer, Galisteo Street, Inc. indicated that substantial upgrades were needed to make the property suitable for commercial use and that the lease offer was contingent on a first right of purchase provision in the lease. Further, Galisteo Street, Inc.'s lease offer indicated that the sale price of the property, in the event that the EMNRD chose to sell it, should be based on the appraised value of the property, less 50 percent of the cost of improvements made by the lessee. Through the negotiation process, the parties agreed that Galisteo Street, Inc. would have a first right to purchase the property at fair market value based on an up-to-date appraisal; however, the lease agreement did not provide for any reduction in purchase price based on the cost of improvements. Mr. Brancard emphasized that a first right of purchase is different from a right of first refusal.

Mr. Brancard then turned to the proposed sale before the commission. He explained that the last time the commission met to review the proposed sale, the parties had negotiated, but they had not yet entered into, a purchase agreement. Mr. Brancard stated that the parties now have a signed purchase agreement. Galisteo Street, Inc. has paid all expenses related to the purchase. Mr. Brancard explained that the appraiser — who was approved by the Taxation and Revenue Department — initially appraised the property at \$500,000. This appraisal was presented to the commission at the April 9, 2014 meeting. Since that meeting, however, the EMNRD reviewed the appraisal and realized that the appraiser had made adjustments that would apply to a third-party purchaser, rather than the existing lessee. The appraiser had adjusted down the value of the property by approximately \$67,000. Additionally, the lease was no longer at market rent. Accordingly, the EMNRD and Galisteo Street, Inc. renegotiated the sale and agreed upon a purchase price of \$570,000.

Mr. Simpson asked whether the appraiser has verified that \$70,000 is the correct amount that should be added to the appraised value to account for these factors. Mr. Brancard indicated that the calculations were contained in the appraisal.

Senator Papen expressed concern that the appraiser had been chosen by Galisteo Street, Inc. She also indicated that a first right of refusal provision, rather than a first right of purchase provision, would have been more prudent. She expressed doubts that selling the property for \$570,000 would achieve the best result for the state and the taxpayers of New Mexico.

Representative Martinez indicated that the phrase in HJR 8 stating that "the property shall not be sold until the sale has been reviewed by the capitol buildings planning commission" is ambiguous. Mr. Brancard responded that he was involved in the drafting of HJR 8. Mr. Brancard stated that joint memorials from previous legislative sessions were consulted during the drafting process and that many of the joint memorials in the past contained similar language requiring the CBPC to "review" a property sale. Mr. Brancard told the commission that his understanding of the term "review" was that the commission would review the proposed sale in the context of the commission's purpose, which is related to master planning for state-owned property.

Representative Martinez expressed concern that:

- ▶ the appraiser was chosen by Galisteo Street, Inc.;
- ▶ even with the additional \$70,000, a sale at the price of \$570,000 is not in the best interests of the state;
- ▶ the lease should have contained a first right of refusal provision, rather than a first right of purchase provision;
- ▶ the building is within the boundaries of the capitol campus and there is already a shortage of space in the capitol campus; and
- ▶ the title of HJR 8 was misleading because it stated that the resolution was "authorizing the disposal of surplus land"; however, the subject property cannot fairly be characterized as "surplus land".

Members of the commission asked Mr. Brancard what improvements had been completed by the lessee pursuant to the lease agreement, which requires at least \$250,000 in improvements. Sharif Seret, representing Galisteo Street, Inc., told the commission that approximately \$200,000 had been expended on improving the building. Mr. Seret produced no supporting documentation.

Mr. Lewis pressed for further details about which improvements were made to the property pursuant to the lease requirement. Mr. Seret responded that the improvements were mostly "finish improvements", although there were repairs and improvements made to the sidewalk, parking lot, stucco and plaster. Mr. Seret indicated that additional work is needed on the heating, cooling and electrical systems and that changes are needed to comply with the federal Americans with Disabilities Act. Secretary Burckle questioned whether many of the items listed by Mr. Seret were actually "repairs" rather than "improvements". Mr. Seret believed that the work should be considered "improvement" to the property.

Secretary Clifford asked Mr. Brancard to clarify whether the property had been offered for sale in the past. Mr. Brancard responded that when the EMNRD decided to vacate the

premises, the property was twice offered for lease, but was not offered for sale. Only one offer was received proposing to lease the property. Secretary Clifford asked whether the existence and potential uses of the property had been considered in the context of the needs of the capitol campus. Andy Aguilar, Architectural Research Consultants (ARC), responded that although the building is within the boundaries of the capitol campus, the building was not listed on the inventory of owned buildings because it was not under the purview of the General Services Department (GSD) and because it was under lease. Secretary Clifford questioned whether the rent is truly below market value and indicated that there appear to be many terms that are favorable to the state. He expressed support for the property sale.

Secretary Clifford stated that, due to the historical designation of the property, it cannot be demolished, and that maintenance on the property could be very costly. On the point of cost, Mr. Brancard added that Galisteo Street, Inc. would have to comply with all zoning requirements and would have to work with the Historic Preservation Division of the Cultural Affairs Department (CAD) before proceeding with the intended renovations to make external modifications to the building.

Representative Taylor stated that since the purpose of the commission is planning, the property sale should be reviewed from that point of view. He expressed concern that the property is so close to the capitol, but yet it was not included in the inventory. He further stated that it is surprising that a building appraised at \$500,000 would need \$200,000 in improvements. He questioned why the appraiser determined that the rent was below market value if the property needed so many improvements. Finally, Representative Taylor stated that the only relevant consideration before the commission is whether the building is integral to the capitol campus, but that the decision carries no weight because the commission can merely "review" the sale and cannot block the sale.

Senator Ingle suggested that the commission find out if there are any other buildings that are not included in the inventory. Mr. Aguilar indicated that there are known to be other buildings that are not part of the inventory and that ARC is diligently working to update the inventory. Several other members echoed concerns about completing the inventory.

Secretary Clifford asked whether the LCS has any advice pertaining to the term "review" in this context. Mr. Burciaga responded that the term "review" is ambiguous. He suggested that the commission could go on record as either approving or disapproving of the sale, but that the decision may not have the weight of law. Alternatively, the commission could simply approve a motion stating that it has reviewed the sale.

Mr. Hatch made a motion that the commission has reviewed the sale. The motion was seconded by Representative Taylor. Representative Martinez and Senator Papen expressed disapproval of the sale. Mr. Lewis requested clarification on the motion and the meaning of the phrase "reviewed the sale". Secretary Burckle proposed an alternate motion that the commission "reviewed the sale with concerns or objections". Representative Taylor made a motion that the commission adopt the language proposed by Secretary Burckle, and the motion was seconded by

Senator Ingle. The motion passed and was opposed only by Representative Martinez. Senator Papan, Senator Ingle, Mr. Simpson, Secretary Burckle, Ms. Green-Romig and Mr. Lewis supported the motion but expressed specific concerns or objections.

Recommendations from the Space-Use Assessment Study

Pam Nicosin, deputy director, Facilities Management Division (FMD), GSD, explained the space-use assessment study undertaken by the FMD and described the scope of work. She explained that interviews were conducted to understand the unique mission and facility requirements of each agency. The study analyzed space allocations, room by room, and compared the allocations to the State of New Mexico space standards. Three firms were selected to conduct the space-use allocation study:

- ▶ Fanning Bard Tatum Architects and ARC studied the old Public Employees Retirement Association Building ("old PERA Building") and the Toney Anaya Building ("Anaya Building");
- ▶ Greer Stafford Architects studied the Joseph Montoya Building ("Montoya Building"), the Jerry Apodaca Building ("Apodaca Building") and the Wendell Chino Building ("Chino Building"); and
- ▶ Spears Architects studied the Bataan Building and the Harold L. Runnels Building ("Runnels Building").

The buildings included in the study were selected because they are among the largest state-owned buildings in Santa Fe. Ms. Nicosin explained that the goal is for buildings to be at least 80 percent efficient. Mr. Lewis asked what is meant by building efficiency. Mr. Aguilar responded that building efficiency is measured by looking at how much space is being used for actual work as compared to the gross square footage of the building. Additionally, the architects took into consideration the type of job position and whether the position requires extra space, such as a private office, or special equipment.

Mr. Lewis inquired about the impact of morale on employees if the focus is on space-use efficiency. Mr. Aguilar acknowledged that when people are "packed-in" to work spaces, morale is reduced. The study contains certain recommendations aimed at improving morale, such as improvements to break rooms. The authors of the study also considered "flow" and not strictly space efficiency. The members asked what conditions must be present for a building to be omitted from the building inventory. Mr. Aguilar responded that if an agency has independent authority to purchase buildings, those buildings are not included in the inventory. Such entities with independent purchasing authority include the Department of Transportation, the judiciary, the New Mexico Spaceport Authority and the EMNRD.

Ms. Nicosin provided a summary of the study recommendations for improving building efficiency and the estimated cost of implementing the recommendations. The estimated costs of implementing all recommendations for each building studied are as follows:

- ▶ Bataan Building: \$1,479,430;
- ▶ Runnels Building: \$2,119,307;
- ▶ Apodaca Building: \$13,145;

- ▶ Montoya Building: \$10,489,006;
- ▶ old PERA Building: \$12,516,451;
- ▶ Anaya Building: \$958,139; and
- ▶ Chino Building: \$5,578,403.

Ms. Nicosin explained that, with many of the buildings, a common problem that is contributing to inefficiency is storage. Otherwise usable office space is being converted to storage and in some cases offices are being converted into break rooms because of the lack of space for a proper break room. Ms. Nicosin described the specific recommendations for each building.

Bataan Building

Recommendations for the Bataan Building include consolidating departments' space, taking back space that is being used for the wrong purpose, locating communal break rooms along plumbing walls and renovating the basement for additional storage. Some "out-of-the-box" ideas suggested by the architects include improving the café, creating outdoor seating for the café and converting courtyards into offices. Ms. Nicosin noted that some of the buildings, including the Bataan building, are historic and that the Historic Preservation Division of the CAD would have to approve of any modifications.

Runnels Building

Recommendations for the Runnels Building include consolidating departments' space, reorganizing rooms and circulation to meet space standards, locating communal break rooms along plumbing walls, consolidating the storage center, creating a shared print and mail room and converting atrium space into offices.

Apodaca Building

Ms. Nicosin stated that no physical changes to the Apodaca Building are recommended at this time. She indicated that short of tearing down the building or gutting it, there is little that can be done to improve efficiency. The amount of \$13,145 was recommended to improve signage.

Montoya Building

Ms. Nicosin indicated that the Department of Environment will be moving out of the Montoya Building and relocating in the Runnels Building. Additional recommendations were made concerning space consolidation and renovation.

Old PERA Building

Ms. Nicosin told the commission that the old PERA Building has significant building efficiency problems. The building has five floors, two of which are underground. She indicated that people do not like to work in offices that are located underground and that agencies are spread out over several floors. Ms. Nicosin indicated that, unlike the other buildings, where the recommendations could be adopted piecemeal, the recommendation for the old PERA Building

is a series of sequenced steps, all of which must be implemented in order to improve efficiency. The steps involve various renovations and agency relocations.

Anaya Building

Ms. Nicosin stated that the Anaya Building is relatively new and there are low-cost measures that could be implemented to improve efficiency. Recommendations include moving some employees into leased space, renovating or reconfiguring certain areas of the building and adding four private offices for the human resources and legal functions of the Aging and Long-Term Services Department.

Chino Building

Ms. Nicosin indicated that the Chino Building also has issues with several agencies located throughout various parts of the building. Agencies could be relocated within the building to improve efficiency. She stated that the EMNRD has already implemented some of the recommendations.

Next Steps

Ms. Nicosin stated that direction is needed from the executive concerning the Executive Office Building (EOB) and the Health and Human Services Building. Additionally, the FMD has requested the governor's chief of staff to issue a memorandum directing agencies to freeze all office moves until requests have been submitted to and approved by the FMD Modification Committee.

Secretary Burckle asked whether there is funding available to engage the services of ARC in reviewing the master plan. Mr. Aguilar responded that reviewing the master plan is within the scope of ARC's responsibilities. Mr. Burciaga stated that this project is already funded.

Representative Martinez stated that there needs to be a firm time line on the EOB. Mr. Aguilar stated that the EOB project is already fully funded. Secretary Clifford clarified that the project is a "GRT intercept" project. In other words, the funding would come from gross receipts tax money that would have otherwise gone to the general fund. Secretary Burckle stated that he would ask the Governor's Office for guidance on the EOB project.

Ms. Green-Romig asked whether higher education buildings are included in the inventory and indicated that they should be. Mr. Burciaga stated that this is not currently part of the responsibility of the commission and that it would take a legislative amendment to change the scope of the commission's duties.

Mr. Burciaga summarized the next steps for the commission, which included 1) having ARC revisit the master plan; 2) having ARC report its progress on the inventory to the commission; and 3) determining whether the governor wishes to move forward with the EOB project. Mr. Burciaga indicated that LCS staff will meet with ARC to determine the cost and scope involved with reviewing the master plan.

Senator Papen requested an update on the Los Luceros project. Ms. Green-Romig responded that the CAD could provide an update.

Adjournment

There being no further business before the commission, the second meeting of the CBPC adjourned at 5:06 p.m.