

MINUTES
of the
FOURTH MEETING IN 2010
of the
CAPITOL BUILDINGS PLANNING COMMISSION

September 20, 2010
Room 311, State Capitol
Santa Fe

The fourth 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, September 20, 2010, at 1:34 p.m. in Room 311 of the State Capitol in Santa Fe.

Present

Arturo L. Jaramillo, Secretary of General Services, Co-Chair
Rep. Ben Lujan, Speaker of the House, Co-Chair
Larry Kehoe, Designee for Patrick Lyons, Commissioner of Public Lands
Emilio Martinez, Designee for Stuart Ashman, Secretary of Cultural Affairs
Rick Martinez, Designee for Dannette Burch, Secretary-Designate of Finance and Administration
Patrick Simpson, Designee for Charles W. Daniels, Chief Justice of the Supreme Court
Clarence Smith, Designee for James B. Lewis, State Treasurer
Rep. Thomas C. Taylor, House Minority Floor Leader
Max Valerio, Designee for Gary Giron, Secretary of Transportation

Absent

Sen. Stuart Ingle, Senate Minority Floor Leader
Sen. Timothy Z. Jennings, Senate President Pro Tempore

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Roxanne Knight, LCS
Tom Pollard, LCS
Ric Gaudet, LCS
Bill Taylor, Director, Property Control Division (PCD), General Services Department (GSD)
Larry Miller, Deputy Director, PCD
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, September 20

Action Item: *The minutes of the August 10, 2010 meeting of the commission were adopted without changes.*

New Mexico School for the Deaf — Master Planning for the Main Campus and Other Properties in Santa Fe

Dr. Ronald Stern, superintendent, New Mexico School for the Deaf (NMSD), and Richard Gorman, projects manager, NMSD, reviewed for the commission the school's master plan for its properties in Santa Fe. Dr. Stern said that the school was established in 1885 and is the only land grant school for the deaf in the country. In 2000, the board of regents of the school spent much time deciding whether to keep its Santa Fe campus or to move the school to Albuquerque. After deciding to keep the school in Santa Fe, the board developed a master plan for revitalization of NMSD facilities in 2006. For many years, the facilities at the campus were neglected, but with recent legislative support, the NMSD has completed more than 50 percent of its master plan. The school also has 255 acres near Capital High School in Santa Fe, which land is currently being planned for development. That land was given to the school in the early part of the twentieth century for the benefit of the school. Also, the school currently leases out a small triangular (one-quarter acre) lot located adjacent to the northeast corner of the St. Francis Drive and Cerrillos Road intersection.

Mr. Gorman said that once the decision to stay in Santa Fe was made, the school embarked on an aggressive campus revitalization plan. He described some of the capital projects at the school campus, including the renovation of Connor Hall and Dillon Hall. Other components of the plan include electric utility upgrades, a new maintenance building, new interior campus roads, campuswide roof repairs, demolition of old buildings, a new athletic track and field, library renovations and the expansion and development of parking and a play field.

The NMSD also owns 255 acres of land within Santa Fe, referred to as the "Dairyland" property, which it plans to develop. Five acres of the original 260-acre gift were recently sold to the Santa Fe Community Housing Trust. Forty acres of the land have been identified as suitable for commercial and office space, including the potential for state government functions. The acreage is adjacent to land owned by the New Mexico Department of Transportation (NMDOT) and to Jaguar Road. The rest of the property is suitable for residential development. The 40-acre tract is less than two miles from the proposed RailRunner stop at the Las Soleras property and is currently on a city bus route. Mr. Gorman said that recent litigation with the City of Santa Fe regarding water rights on the property is being settled out of court.

Mr. Martinez asked if the NMSD is ready to develop the property. Mr. Gorman said that the board wants to develop the property for the benefit of the school. The board would prefer a long-term lease of the property, but it would be willing to consider selling portions of the land.

Ms. Knight said that representatives from the school were invited to make a presentation to the commission because the main school campus is adjacent to the state's South Capitol

Campus. Mr. Gorman noted that the Dairyland property was analyzed by the state master planners and the GSD in their search for a suitable location for the health and human services (HHS) complex. At the time of the analysis, the NMSD notified the GSD that the property was not yet available for acquisition due to litigation of the water rights.

Representative Taylor asked about the nature of the water rights litigation with the City of Santa Fe. Mr. Gorman said that the city's new water use rule requires that any new water user relinquish water rights to the city. However, the NMSD board believes that the school's annexation agreement with the city does not require the acquisition and relinquishment of new water rights. He said the board used a precedent set by the development of Tierra Contenta to pursue its case against the city. Speaker Lujan asked for more detail on the status of the water rights case. Dr. Stern said that the city and the school have decided to settle out of court, and the two parties are currently in the process of working out the settlement terms. Mr. Gorman said that the property did not have water rights when it was donated. The negotiated settlement will not require the school to purchase water rights for any affordable housing development, but the NMSD will purchase water rights for any other developments. Speaker Lujan commented that, as a constitutional school, the NMSD should have water rights on its properties.

Secretary Jaramillo asked if the Dairyland property development has progressed sufficiently to estimate the prices for long-term leases. Mr. Gorman said that the previous plan developed a few years ago is no longer viable because the economic downturn has made that property currently undesirable.

Mr. Martinez asked whether legislative approval would be needed for any NMSD land development. Mr. Gorman responded that he would research that question and report back to the commission.

Mr. Simpson asked whether the NMSD master plan provides for adequate space at the current school campus for the foreseeable future. Dr. Stern said that the campus does have enough space. Mr. Gorman added that the NMSD also has a small campus in Albuquerque, and it leases space in Las Cruces and Farmington.

PCD Regional Updates

Mr. Taylor gave an update to the commission on the activities of the PCD.

Santa Fe

- Penitentiary of New Mexico (PNM) Wastewater Treatment Facility. Secretary Jaramillo recently met with Katherine B. Miller, Santa Fe County manager and former CBPC member, to discuss the possibility of the state entering into a long-term lease with the county for the wastewater treatment facility at the PNM. The facility needs many infrastructure improvements that will be expensive, and leasing the facility to the county will alleviate the state's responsibility for its maintenance. Any property transaction would have to go to the State Board of Finance (BOF).

Ms. Knight commented that the state master planners have made recommendations regarding the wastewater treatment facility.

Speaker Lujan asked which entity would be the recipient of return-flow credits from wastewater discharges. Mr. Taylor said that this issue has not yet been discussed with the county. The intent of the GSD is to ensure that the Corrections Department retain its water rights.

Speaker Lujan asked whether the county intends to use the wastewater facility to serve future housing developments. Mr. Taylor said that there is currently a plan for a housing development in the area. Currently, the facility serves the PNM facility, the National Guard facility nearby and the county correctional facility. Secretary Jaramillo said that there is another wastewater facility in the area that the county will use if no agreement is made with the state for use of the PNM wastewater facility. Mr. Taylor said that the county has been leasing the facility for several years, and it is currently under a one-year lease extension.

Speaker Lujan asked if the state would pay operational fees to the county for wastewater service and asked if the state would earn any money from the lease of the facility. Mr. Taylor said that the PCD wants to establish daily water usage levels at which the state would begin paying fees. An appropriation for the fees would need to be added to the Corrections Department operating budget. The benefit accrued to the state would consist of the value of the infrastructure of the facility. The county currently operates and maintains the facility, and it has done so for several years. Secretary Jaramillo said that if the county stops leasing the facility, the state will be forced to spend a significant amount of money on infrastructure improvements soon.

- State Office Space Utilization Request from the Legislative Finance Committee (LFC). Mr. Taylor reported that the LFC recently sent out a letter to all state agencies requesting them to identify the number of full-time-equivalent positions at each facility. This will enable the LFC to understand better the space utilization of agency facilities and possibly lead to cost-savings in the future. These data are similar to data needed by the PCD and the state's master planners.

- Las Soleras Acquisition. The contract with the Las Soleras developers for the purchase of land for the HHS complex is awaiting final review of the attorney general and the BOF. The BOF is investigating whether it can make an advance to the GSD of \$2 million for a portion of the land price or whether the New Mexico Finance Authority (NMFA), which may be providing financing for the building construction, will issue a bond anticipation note for the same amount. The contract for the land purchase will be reviewed again by the commission within the next two months, possibly in October or November.

- Santa Fe University of Art and Design Land Acquisition. The state recently finished the purchase of 15 acres of land, consisting of Tracts A, B, C and D, on the campus of the Santa

Fe University of Art and Design, formerly the College of Santa Fe, and is proceeding with the acquisition of approximately nine additional acres in Tract O.

- Executive Office Building. The programming report for the new executive office building on the Main Capitol Campus was delivered by the contractor to the PCD on September 15, beginning a two-week comment period.

Albuquerque

- Youth Diagnostic and Development Center (YDDC). Funded improvement projects at the YDDC are ongoing. The demolition of the "white house" at the center is slated for this year.

- Tri-Laboratory Facility. The new facility is occupied by the user agencies and is in operation.

Los Lunas

- Building Demolitions. Demolition of four buildings at the Los Lunas old hospital campus has been completed.

- Requests for Extension of Lease with Los Lunas Public Schools. The Los Lunas Public School District has requested a lease extension from the state for land leased by the district for a school. The lease is set to expire in two years.

Speaker Lujan asked about the acreage of the lease for the school. Mr. Taylor said that the acreage is very small and that he will report back to the commission with the actual number of acres. Secretary Jaramillo said that he believes the school district has invested \$6 million in the school facility. He said that Senator Michael S. Sanchez has indicated that he wants to sponsor legislation transferring title of the property to the school district.

Roswell

- Rehabilitation Center. The completion date for a planned rehabilitation center is scheduled for November 2010.

- Dormitory Demolition. The demolition of the old Roswell rehabilitation center dormitory will be completed in October 2010.

- Children, Youth and Families Department (CYFD) Cambiar Facility. The CYFD wants to build a youth treatment facility in the Roswell area, and land acquisition will probably be necessary.

Speaker Lujan asked if the PCD had made contact with the Interstate Stream Commission (ISC) about purchasing land acquired by the ISC from the *Pecos River* Settlement. Ms. Knight said that her conversations with the ISC staff indicated that any land acquired would not have water rights associated with the property. Two parcels are still available for purchase. Mr. Taylor indicated he would follow up on this.

Direction to Staff: *Staff was directed to ask the Office of the State Engineer about the process of transferring water rights from state-owned property to other property the state may purchase in the Roswell area.*

- Old Rehabilitation Facility Uses. The Veterans' Services Department recently toured the existing rehabilitation facility in Roswell, scheduled to be vacated at the end of the year, and has expressed interest in using the building for a veterans' wellness program. The department has identified potential funding from the U.S. Department of Veterans Affairs for the program.

Fort Bayard

- Medical Center Construction. The new Fort Bayard Medical Center, which was lease-purchased from Grant County, will be ready for occupancy in October 2010. The PCD is working with the Department of Health on a strategy to evacuate the old facility. There is a large amount of local interest in keeping the historic facility in use, including a proposal to use the building for a posttraumatic stress disorder clinic for veterans.

Santa Teresa

- Port of Entry Land Trade. The federal General Services Administration (GSA) has been in contact with the GSD regarding the trade of remaining state land in Santa Teresa that is not needed for the port of entry. This could be an opportunity for the state to acquire the GSA property located adjacent to the West Capitol Campus in Santa Fe.

Las Vegas

- New Meadows Nursing Home Construction. The New Mexico Behavioral Health Institute facility project broke ground on September 9, 2010. The facility is expected to be completed in September 2011.

Lease-Purchase Requests from Agencies and August Requests for Information

Ms. Knight reported that no state agency has submitted a request to enter into a lease-purchase agreement for capital infrastructure.

Ms. Knight also distributed handouts requested by the commission at its August meeting regarding the ethnic breakdown of youths in the custody of the CYFD. Speaker Lujan expressed concern that 75 percent of CYFD clients are Hispanic and asked if more Hispanic youths are referred to the CYFD by the Children's Court in the southern portion of the state than the northern portion. Bill Dunbar, secretary-designate of children, youth and families, said that he recently studied those data, and he is very concerned about that trend. He said that he has asked CYFD legal counsel to investigate those data further.

Cambiar Feasibility Study and Master Plan for the CYFD — Review for Compliance with the Master Plan

Andy Aguilar, CBPC master planner, Architectural Research Consultants (ARC), reviewed for the commission the compatibility of the CYFD master plan with the Capitol Buildings Master Plan (CBMP) adopted by the commission. The CBMP recommends that

agencies align their capital planning with programmatic functions of the agencies, and the CYFD master plan does that very well, said Mr. Aguilar. He identified one area in which the CBMP and the CYFD master plan differ. The CBMP recommends that the YDDC in Albuquerque eventually be moved to the correctional campus in Los Lunas in order to make room for the development of the Albuquerque "superblock" site for state agencies. In Phase III of the master plan for the CYFD (to occur between 2019 and 2023), the strategy offers two options for consideration. Option A maintains the YDDC in Albuquerque but with reduced bed space. Option B relocates to Los Lunas the YDDC, including the Albuquerque boys' population, the acute mental health population and the girls' facilities.

Mr. Aguilar said that he hopes the CBPC is better able to communicate master planning principles to state agencies in the future, and he suggested that future state agency master planning efforts include cost-benefit analyses.

Discussion of Lease-Purchase Request Review Process

John Petronis, CBPC master planner, ARC, presented to the commission issues for the commission to consider in developing a lease-purchase review process. The commission is charged with reviewing proposed lease-purchase agreements and developing recommendations for deferred maintenance and disposal strategies and whether the state should lease, lease-purchase or purchase needed additional facilities. The lease-purchase review process will better assist the commission in making those recommendations. One of the main criteria in statute that the commission has in reviewing lease-purchase agreements is determining whether the agreement is the most cost-effective alternative for acquiring the property.

The Public School Facilities Authority (PSFA) has a system to review public school lease-purchase projects that focuses mainly on the needs of schools, rather than on the cost-effectiveness of the proposal. The PCD has developed a proposed lease-purchase review process for state agencies under its jurisdiction, which process has been promulgated in draft form for public comment; however, the PCD lease-purchase review process would only apply to agencies under its jurisdiction.

Mr. Petronis proposed a basic review process, composed of three steps, before a proposal is submitted to the legislature. The first step is for the agency to perform a space needs assessment, life-cycle costing analysis and other costs and benefits analyses for the proposed project. The agency would need to follow other state agency rules and instructions, in addition to receiving guidance materials and assistance from the CBPC and PCD staff. If an agency is within the jurisdiction of the PCD, the agency's proposal would need to go through the PCD review process before being submitted to the commission. The next step in the process is for CBPC staff to perform a technical review of the proposal and present findings to the commission. The commission would then review them and provide written findings to the legislature.

The authorizing statute directs the commission to review any lease-purchase agreement in which the total value of the project exceeds \$5 million and to review those projects that the

commission chooses according to adopted criteria. Mr. Petronis suggested that all projects for the next five years be subject to CBPC review, as well as any project that does not get reviewed by the PCD. The commission may also consider reviewing any specialized facility proposal because there may be extenuating circumstances affecting the cost-benefit analyses.

Mr. Petronis proposed that the CBPC should issue guidance material to agencies regarding what information is required for CBPC review, including current space use and issues associated with that space; how much space is needed based on adopted state agency space guidelines; documented compliance with agency master plans and the CBMP; demonstration of why existing state facilities cannot accommodate agency needs; documentation that the proposal meets all the statutory and constitutional requirements of lease purchases; and documentation that the proposal is the most cost-effective alternative.

The rest of Mr. Petronis' presentation addressed how to determine whether a project is the most cost-effective alternative. All things being equal, because the cost of capital to the public sector is less than that available to the private sector, the public sector should be able to own assets at a lower total cost than leasing them over the long term. There are, however, many mitigating factors that can make that assumption untrue, including the cost of construction or operations that might be higher in the public sector; that federal leases are often reimbursed to the state using simple lease formulas; that leasing may be cheaper when lease rates fall below a certain level; that it may be better to purchase and renovate an existing asset rather than building a new asset; and that there may be other broad external costs and benefits that are difficult to quantify.

The master planners studied several other states' capital asset management systems and whether they had asset management policies, cost-benefit analysis processes and statewide inventories of assets. Some states use a discounted cash flow analysis, in which the cost of leasing and the cost of owning over time is calculated, taking into account inflation. The lowest cost over time is the best alternative. Other states use a technique called life-cycle cost analysis (LCCA), which takes into account the total cost of ownership of a facility, including the costs of acquiring, owning and disposing of a building. Mr. Petronis recommended that the commission use this type of analysis in evaluating lease-purchase proposals.

Several assumptions involved in an LCCA need to be standardized in order to ensure consistent results and to include establishing a realistic discount rate, the maintenance and operations rate, the replacement cost and the residual value proportion. Each of these assumptions can have significant effects on the outcome of an LCCA.

Mr. Petronis gave an example of a simplified LCCA for a building in Santa Fe, with current lease rates of \$24.64 per square foot. In the example, the highest total life-cycle cost would be for the state to continue leasing, and the lowest cost would be for the state to construct a new building with cash financing. Lease-purchasing with financing from the public sector was second cheapest, and financing through the private sector was slightly higher. In this example, with high lease rates such as those in Santa Fe, the state would best be served by either

appropriating cash to construct a new building or, if that money is not available, to lease-purchase the building from the public sector, using NMFA financing.

For another example, Mr. Petronis used Albuquerque, where average lease rates are \$17.50 per square foot. In this example, constructing a new building with cash was the most cost effective, but it was only slightly cheaper than retaining the current leases. Lease-purchasing a new building was significantly more expensive than both of those options. Although leasing was the cheapest alternative, Mr. Petronis said that other mitigating factors, such as the fact that there are many scattered state offices throughout the Albuquerque area, could be used to offset the LCCA result.

Mr. Kehoe asked how many lease-purchase proposals the state deals with on an annual basis. Ms. Knight said that since the constitutional amendment allowing lease-purchases was adopted in 2006, only two have been acted on: the new medical center at Fort Bayard and the HHS complex. Those two projects had separate authorizing legislation setting out the lease-purchase process.

Mr. Taylor said that he feels the process outlined by Mr. Petronis should be used for all state acquisition proposals and not just for evaluating lease-purchase proposals.

Mr. Kehoe commented that changing the dollar-per-square-foot lease assumption changes the financial scenario dramatically.

Mr. Simpson asked whether the Davis-Bacon Act (the Public Works Minimum Wage Act for New Mexico purposes) applies to lease-purchase agreements. Mr. Pollard said that depends on how the building is financed. If a lease-purchase agreement is executed with a private developer, that act would not apply; but if the NMFA finances the building, the act does apply. That means construction costs will be higher, but at the same time, financing costs will be much lower than with the private sector.

Secretary Jaramillo said that financing a project with cash often takes several years to complete, which means the real purchasing power of that cash is diminished by inflation by the time the money is available.

Commission members discussed the next steps in developing the lease-purchase review process. Mr. Petronis suggested putting together guidance documents for agencies, and Ms. Knight suggested that agencies not under the jurisdiction of the PCD be approached to see if they would be in favor of being governed by the new process. Secretary Jaramillo said that, at a minimum, PCD agencies should be governed by the process.

Directives to Staff:

- *The master planners are to provide a simplified version of the lease-purchase recommendations to the commission.*

- *CBPC and PCD staff are to make contact with other agencies not under the jurisdiction of the PCD about the possibility of being governed by the new process. The agencies should be briefed and given an opportunity to participate.*

- *The process should be developed as a guidebook for agencies.*

There being no further business, the commission adjourned at 4:12 p.m.