

JSCB

Joint Schools Construction Board

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Mary Robison, P.E.
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MEETING MINUTES FOR 5/31/07

Board Members present: Mayor Driscoll, Superintendent Dan Lowengard Calvin Corriders, Bea Gonzalez, Laurie Menkin, Nancy McCarty, Ken Mokrzycki, Van Robinson, Bill Ryan

Board Members absent: Mayor Driscoll, Dr. Ruben Cowart

Meeting minutes from 5/17/07 were accepted and put into the record.

The Secretary informed the Board that the Program Manager Proposals were due to the Division of Purchase by 2:30 pm on May 31, 2007. The proposals will be logged by the Division of Purchase for conformance to the submittal requirements and will be distributed to the Board on June 8, 2007.

The JSCB Secretary informed the Board that she had received two Freedom of Information Law requests which were distributed for the Board's information. The requests will be handled according to the JSCB FOIL Policy dated September 21, 2006.

Letters of introduction from AMERESCO and Dodge, Chamberlin, Luzine, Weber Associates Architects LLP were distributed to the Board.

John Gaal, attorney for the JSCB regarding PLA issues will be scheduled at a future meeting to discuss progress made on the potential PLA.

The MacKenzie Hughes law firm will be scheduled at the June 7, 2007 Board Meeting for an interview with Board Members to discuss their qualifications, experience and financial agreement to serve as the Board's Construction Counsel.

Board Members reviewed documentation relevant to the JSCB Diversity Plan that had been previously sent to them via e-mail on May 23, 2007. The documents included:

- "MBE Officer Training Notes" from the New York State Environmental Facilities Corporation in regard to the Westcott Reservoir project,
- "Contractor's Requirement Under Article 15-A" from the NYS Office of General Services,
- A legal opinion from Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C. regarding "Requirement to Hire Local Contractors for Capital Project."

Councilor Van Robinson distributed correspondence from the Minority Contractor's Association of Central New York given to him, dated May 31, 2007. The MCA's document was titled "Recommended Diversity Plan Changes." Councilor Robinson asked Joe Barry if a race and gender neutral program was allowable under the JSCB Enabling Legislation. Senior Assistant Corporation Counsel Joe Barry responded that the JSCB enabling legislation specifically mandates that the Diversity Plan must be in compliance with Article 15A of the Executive Law which mandates the use of M/WBE programs and that deviation from the mandate was not allowed. .

Commissioner Calvin Corriders added that he felt that the MCA's comments were based on past experiences with M/WBE and EEO goals on the projects at McKinley Brighten and Dr. King Schools.

Bill Owens clarified that the M/WBE and EEO goals are separate issues and that the M/WBE portion of the Diversity Plan is modeled after the City's current program which does not include EEO goals. He noted that the JSCB's Diversity Plan is the first of its kind to mandate EEO goals.

Superintendent Lowengard stated that he felt the written JSCB Diversity Plan was sufficient to govern the Board however, the proof will have to be the will of the JSCB to hold the Program Manager accountable and whether there is a PLA adopted for local labor participation.

Council President Bea Gonzalez and Commissioner Corriders suggested that Bill Owens and Joe Barry meet with the Minority Contractor's Association to outline a process that meets the goals of the project, keeps the lines of communication open and builds trust.

Dr. Cowart asked that the Advisory Staff bring back specific guidelines and expectations that the Board would use to monitor compliance with the EEO goals that would be within the parameters of the law.

The Superintendent asked that Advisory Staff put together a comparison chart showing the different levels of MWBE Compliance.

Councilor Robinson noted it is paramount that the JSCB have consultants on Board to negotiate the PM's contract for compliance with the Diversity Plan's goals.

Commissioner Corriders said that this issues it one of capacity and not trust and that he is advocating for an independent monitor be assigned to this task.

Superintendent Lowengard said that before action is taken on that suggestion that the Board would need to know if this services is being duplicated, how much the service would cost, how it would be paid for and he stated that it would need to be issued through an RFP.

Commissioner Menkin noted that she took issue with the timing of the MCA's memo. She said that she did not support changing the plan as that would hold up the project and felt that the Board had been deliberative while formulating the Diversity Plan and that this request was untimely due to the Program Manager RFP's due date. She felt the Board should work within the Plan that had already been adopted and that the amount of time the Board has spent discussing this issue is a testament to their commitment.

The Board decided that the next step was for Joe Barry and Bill Owens to meet with the MCA to find common ground on this issue and to report back to the Board at the June 14, 2007 meeting.

The Advisory Staff along with the Fiscal Team had prepared a spreadsheet showing the local share for each of the schools in Phase 1. The spreadsheet detailed: SED's Maximum Cost Allowance for both construction and an Energy Performance Contract, SED Building Aid, Excel Aid and total Phase 1 Project Available Funds. The Advisory Staff explained that this was a draft worksheet and was meant to be a starting point to determine where and in what amounts additional monies would be allocated for each school in Phase 1.

Commissioner McCarty asked if SED's Maximum Cost Allowances had been based on the School District's current enrollment projections. Superintendent Lowengard responded that SED had seen the enrollment projections for each of the Phase 1 schools and used them to calculate the MCA's for each of the projects.

Ken Mokrzycki asked how was the 97% SED Building Aid applied to the Energy Performance Contract and how the EPC was configured for Central Tech given that the building is unoccupied and there is no energy being used currently to be used to calculate a baseline.

Ron Kenyon responded that SED will pay 97% Building Aid on both the Maximum Cost Allowance and the Energy Performance Contract and that the School District had based their Energy Performance Contract estimates on two separate studies that they had conducted.

Council President Bea Gonzales asked if the bonding currently before the Common Council, which includes Excel Aid, would change the figures as they were shown on the chart. Superintendent Lowengard responded that those projects would not impact the JSCB's plans and that the Excel Aid necessary to pay the Local Share on those projects had not been included in these calculations. President Gonzales then asked for a procedural outline for authorizing the dollar amount for each school.

Superintendent Lowengard said he wanted to work with the Mayor and the Common Council to determine what amount of local share would be available for these projects and to discuss how this project would impact the annual city budget process. Superintendent Lowengard also asked the Fiscal Team to begin preparing calculations in increments of \$10 million dollars for bonding for \$155 million to \$224 million dollars.

The meeting was adjourned. Next Board meeting will be held on June 7, 2007 from 8:30 am to 10:30 am in the SyraStat room in City Hall.

Board minutes prepared by Christine M. Fix, JSCB Secretary. A complete audio recording is available upon request.