

Minutes of the Property Committee Meeting

The Property Committee of the McLean County Board met on Thursday, December 4, 2008 at 3:45 p.m. in Room 404, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Bostic; Members Moss, O'Connor, Wendt and Wollrab

Members Absent: Member Ahart

Other Members

Present: Member Soeldner

Staff Present: Mr. John Zeunik, County Administrator; and Ms. Jude LaCasse, Assistant to the County Administrator

Department Heads/

Elected Officials

Present: Mr. Eric Schmitt, McLean County Engineer; Mr. Mike Steffa, Director, Parks and Recreation; and Mr. Jack Moody, Director, Facilities Management

Others Present: Ms. Michelle Anderson, Financial Reporting Specialist, County Auditor's Office

Chairman Bostic called the meeting to order at 3:52 p.m.

Chairman Bostic presented the Minutes of the Thursday, November 6, 2008 Property Committee meeting. Hearing no objections or corrections, Chairman Bostic accepted and placed the minutes on file as submitted.

Mr. Eric Schmitt, McLean County Engineer, presented a request for approval of Change Order #2 for the County Highway Department Vehicle Storage Building. He explained that this Change Order is for the installation of a ground wire from the new building panel to the service disconnect by the transformer. Mr. Schmitt stated that the ground wire was required to make the system comply with the electrical code because of the Automatic Transfer Switch and Generator. This Change Order includes labor, materials and supervision. The final cost of this Change Order is \$1,166.00. Mr. Schmitt requested that the Committee recommend approval of Change Order #2.

Motion by Wollrab/O'Connor to recommend approval of Change Order #2 for the County Highway Department Vehicle Storage Building.
Motion carried.

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Mr. Schmitt invited members of the Committee to call him and arrange a tour of the Highway Department facilities.

Chairman Bostic asked if there were any questions. Hearing none, she thanked Mr. Schmitt.

Mr. Mike Steffa, Director, Parks and Recreation Department, presented a request for approval of an Ordinance amending an Ordinance Adopting and Enacting Rules and Regulations pertaining to the public use of all County Parks and Recreational areas, and providing for the enforcement of said Ordinance and the fixing of penalties for its violation.

Mr. Steffa asked that the Committee recommend approval of the following fee changes consistent with the fiscal year 2009 adopted budget.

| <u>Campsite Type</u> | <u>McLean County Residents</u> | | <u>Non-McLean County Residents</u> | |
|---------------------------------|--------------------------------|---------|------------------------------------|---------|
| Non-Electric/Primitive Campsite | \$12.00 | \$14.00 | \$14.00 | \$16.00 |
| Electric Campsite – 30 amp | \$15.00 | \$17.00 | \$17.00 | \$19.00 |
| Electric Campsite – 50 amp | \$18.00 | \$20.00 | \$20.00 | \$22.00 |

Mr. Steffa indicated that these fee changes are based upon fee surveys of similar facilities, especially the County's closest competitors, state parks and increases in operating costs.

Ms. Wollrab asked if the difference between the fee for McLean County residents and Non-McLean County residents is a typical difference. Mr. Steffa replied that Parks and Recreation offers discounts to McLean County residents in several different areas of the Park. Ms. Wollrab suggested that the non-residents be charged more than a \$2.00 difference in fees so that the gap is wider. Mr. Steffa replied that the Parks and Recreation Department is the only agency in the area that gives its County residents a discount. Chairman Bostic advised that the Park is right near the line of Woodford County and it would be a shame to punish a close neighbor by virtue of where the property line goes through. She added that the gap has always been a \$2.00 difference.

Chairman Bostic recommended that Mr. Steffa monitor the Park to see if the use increases due to the closing of State parks. Mr. Steffa anticipates that the Park will be busier. He advised that camping on the weekends is at nearly 100% capacity every weekend May 15th through September 15th. Mr. Steffa indicated that he believes the Park will pick up some weekday uses as well.

Mr. Soeldner asked if there is room for expansion. Mr. Steffa replied that there are plans in the Capital Budget to expand the campground to include a campground on the west side of the park. Mr. Soeldner asked if there is a timeframe for the expansion. Mr. Steffa replied that the expansion should take place within five years or so. Chairman Bostic asked if the new campground will be rustic. Mr. Steffa responded that the campground will start out as a primitive area with parking pads and eventually be upgraded with electricity.

Mr. Moss asked what is the difference between a 50 amp campsite and a 30 amp campsite. Mr. Steffa replied that the 50 amp campsite is for the large "homes on wheels" that run many electrical items. The 30 amp campsite is for average campers.

Motion by O'Connor/Wollrab to recommend approval of an Ordinance Amending an Ordinance Adopting and Enacting Rules and Regulations Pertaining to the Public Use of all County Parks and Recreational Areas, and providing for the Enforcement of said Ordinance and the fixing of Penalties for its Violation.

Motion carried.

Ms. O'Connor asked, should the Governor give McLean County Moraine View State Park, will the Parks and Recreation Department be ready to take it over. Mr. Steffa replied that they would not be ready to take over Moraine View State Park because of the costs involved that are not budgeted for 2009. He added that there would need to be some planning and available budget funding for the following year.

Ms. O'Connor announced that she would like to see the State Parks saved and be given to the County. Chairman Bostic shared her view that the taxpayers might not mind having to pay a little more to keep the parks open, if they could be guaranteed that those funds are used to keep the parks open.

Mr. Steffa noted that he included the General Report for the new members.

Ms. Wollrab asked what does he attribute the decline in boat registrations. Mr. Steffa responded that a majority of the boat registrations are fishermen. He felt that the poor spring weather was the largest factor in the decline. Mr. Steffa noted that gas prices may have been a secondary factor. Chairman Bostic suggested that the limited motor size permitted on Evergreen Lake may also be a factor.

Mr. Steffa invited members to call him and arrange a tour of the Park facilities.

Chairman Bostic asked if there were any additional questions or comments. Hearing none, he thanked Mr. Steffa

Mr. Jack Moody, Director, Facilities Management, presented a request for approval of an Amendment to the Lease Agreement between County of McLean and Collaborative Solutions Institute, Inc. He noted that Collaborative Solutions is a long-time tenant located on the 4th floor of the Health Department Building. Mr. Moody indicated that they have had a multi-year lease for several years. This year, Collaborative Solutions had the contract reviewed by their corporate attorney who recommended that the contract be amended. Mr. Moody advised that Mr. Eric Ruud, First Assistant Civil State's Attorney reviewed the contract and agreed with the changes.

Mr. Moody advised that the following language from Paragraph 9(a) of the Lease will be deleted:

“...whether or not arising out of the partial or sole negligence of COUNTY or its officials, agents, or employees...”

Mr. Moody explained that with this paragraph, the County was held harmless for any event that could occur at the facility, including negligence on the part of the County. He added that it was unlikely that a court would rule in favor of the County if the County were liable and responsible for negligence.

Mr. Moody indicated that the following language from Paragraph 9(a) shall remain in full force and effect:

“9, **Insurance and Indemnity.**”

“a. **Covenants to Hold Harmless.** CSI agrees to save and hold harmless COUNTY (including its officials, agents, and employees) free and harmless from all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorney's fees, court costs, expenses, causes of action, claims or judgments, resulting from claimed natural persons and any other legal entity, or property of any kind (including, but not limited to choses in action) arising out of or in any way connected with this undertaking, and shall indemnify COUNTY from any costs, expenses, judgments, and attorney's fees paid or incurred by or on behalf of COUNTY and/or its agents and employees.”

Mr. Moody requested that the Committee recommend approval of the amendment to the original lease.

Motion by Wendt/O'Connor to recommend approval of an Amendment to the Lease Agreement between County of McLean and Collaborative Solutions Institute, Inc.

Mr. Moss asked for clarification on the phrase that was in parentheses "including, but not limited to choses in action." Mr. Moody replied that it is a legal term.

Chairman Bostic asked if the other contracts are in compliance. Mr. Moody replied that the other leases are worded exactly the way this contract was originally worded, which was constructed by the County's legal department 12-15 years ago. This is the first time in the history of the leases that anyone has questioned this paragraph or any part of the Lease. Mr. Wendt acknowledged that it is impossible to get rid of negligence simply by writing into a contract. He noted that it was unlikely any court of law would uphold the language that is being recommended for removal.

Mr. Zeunik agreed with Mr. Wendt that the court may not sustain this broad of a hold harmless clause if the action results in the tenant losing occupancy due to the County's negligence.

Mr. Zeunik read a lengthy legal description of the term "including, but not limited to choses in action." The Committee members concurred that they would be willing to vote as long as they know that Mr. Ruud wrote the language into the amendment to the contract.

Chairman Bostic called for a vote on the Motion.

Motion carried.

Mr. Moody invited the new members of the Committee to call him and he will take them on a tour of the County's facilities. Chairman Bostic advised that the Committee can go together for a tour, but it would constitute an official meeting and staff would be required to attend, which may or may not be a good use of staff time. She urged the Committee members to individually contact the various department heads and arrange tours.

Mr. John Zeunik, County Administrator, indicated that he is presenting three items for action. He advised that all three are the result of the approval of the Fiscal Year 2009 Adopted Budget and all relate to the three properties which the Public Building Commission owns and which the County leases, namely the Old Courthouse, the Law and Justice Center and the Government Center. Pursuant to State law, McLean County is authorized to enter into a lease agreement with the Public Building Commission ("PBC"). Mr. Zeunik indicated that, as a PBC tenant, the County levies a property tax to pay that lease payment. The amount of the lease payment is equal to the cost to maintain and operate the facilities, which the PBC, as part of the lease agreement,

requires the County to do. Mr. Zeunik reiterated that the three items relate back to the budget and the budgeted amount of reimbursement that we expect to receive from the PBC for the operation and maintenance of the Old Courthouse, the Government Center and the Law and Justice Center. He noted that the County pays for one-half of the Government Center and the City of Bloomington pays the other 50%.

Ms. O'Connor asked what is the Public Building Commission. Mr. Zeunik replied that the Public Building Commission is a public body that was created by the County Board in the mid-1970s. The PBC is established pursuant to Illinois law and has one function only, namely to provide a mechanism for public bodies to finance the construction of public buildings. The PBC, when it was created in the mid-1970s, was created to build the Law and Justice Center. The County Board had been unsuccessful in securing approval from the citizens, through referendum, to finance the construction of the Law and Justice Center. As a result, the County created a Public Building Commission.

Mr. Zeunik advised that, once a Public Building Commission is created, it can finance debt for any of the governmental bodies that are located within the County seat. He noted that the County's PBC includes members appointed by the City of Bloomington, McLean County, District 87, Central Illinois Regional Airport and the Bloomington-Normal Water Reclamation District. There are nine members appointed to the PBC. Since the PBC was created by the County, the County appoints five of those members. The PBC has the ability, under Illinois law, to issue debt in the capital markets for any one of the entities with a majority approval of the County Board. The local government retires the debt through a property tax levy that ultimately pays the principal and interest on the bonds. Once a Public Building Commission is created, there is also a provision in Illinois law which allows the Public Building Commission to then lease the facility to the individual government for its use and to contract with the local government to maintain the facility.

Mr. Zeunik indicated that in larger communities, such as Chicago, the Public Building Commission has a very large staff and can provide maintenance and operation services. The County's PBC has no staff. He noted that Mr. Bob Rush, President and CEO of County Financial Services, is the Chairman of the Public Building Commission of McLean County and Mr. Dave Wochner is its local counsel.

Ms. O'Connor asked who owns the buildings. Mr. Zeunik replied that the Public Building Commission owns the building until the bonds are paid off. When the bonds are paid off, the building is turned over to the governmental entity for which it was financed. For example, the PBC issued a \$3.5 million debt in 1994 to finance the McLean County Centralized Communication Center on East Empire. When the bonds were retired, at the end of the 10 year term, the building was turned over to the County.

Chairman Bostic pointed out that the Old Courthouse was owned by the County, but, due to the renovation costs, it was turned over to the PBC. She noted that the County has no mechanism to go out and borrow money. The County exists on the tax dollar year by year, while the PBC can finance long-term debt. Mr. Zeunik advised that one of the reasons the County turned the Old Courthouse over to the PBC is that the County was successful, through the efforts of Mr. Moody, in securing a half million dollar grant to redo the dome of the Old Courthouse. The total project cost ended up being close to \$1.1 million. Mr. Zeunik stated that the County was able to deed the building to the PBC and have the PBC finance the remainder of the cost. He indicated that the County pays back to the PBC \$50,000.00 per year over ten years with no interest. Mr. Zeunik added that the Old Courthouse dome project received National and State recognition.

Ms. Wollrab asked if the County were to build a new Jail, would it be done through the PBC. Mr. Zeunik responded that it would very likely be done through the PBC unless the Legislature changes the law. McLean County is not a home-rule County and is restricted on how it can finance capital projects. Also, McLean County does not have tax caps. Mr. Zeunik stated that, as a non-tax cap County, McLean County has access to the Public Building Commission. If McLean County were to fall under the property tax extension limitation law ("tax caps"), it would preclude the County from going to the Public Building Commission for capital financing.

Chairman Bostic advised that the gentlemen that make up the Public Building Commission are talented bankers, attorneys and financiers here in McLean County who serve without a salary.

Chairman Bostic presented the request for approval of Lease and Contract Extension Agreement No. 6 extending the Lease of the Courthouse Building and the Contract for Operation and Maintenance all dated December 3, 2002.

Motion by Wendt/Wollrab to recommend approval of Lease and Contract Extension Agreement No. 6 Extending the Lease of the Courthouse Building and the Contract for Operation and Maintenance all dated December 3, 2002.
Motion carried.

Chairman Bostic presented the request for approval of Attachment Number Seven to the Amendment to the Lease and Operation and Maintenance Agreement for the City/County Office Building.

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Motion by Wendt/O'Connor to recommend approval of Attachment Number Seven to the Amendment to the Lease and Operation and Maintenance Agreement for the City/County Office Building.
Motion carried.

Chairman Bostic presented the request for approval of Attachment Number 18 to the Amendment to the Lease and Operation and Maintenance Agreement for the Law and Justice Center.

Motion by O'Connor/Wendt to recommend approval of Attachment Number 18 to the Amendment to the Lease and Operation and Maintenance Agreement for the Law and Justice Center.
Motion carried.

Under "Other Business and Communications," Chairman Bostic opened up a discussion on a possible meeting day and time for the Property Committee. After a brief discussion, the Committee concurred to set the meetings on the first Thursday of the month at 3:45 p.m.

Chairman Bostic presented the November 30, 2008 Property Committee bills, which have been reviewed and recommended for transmittal to the Property Committee by the County Auditor. The Property Committee bills include a Fund Total of \$398,571.57 and a Prepaid Total that is the same.

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Motion by O'Connor/Moss to recommend approval of the bills as of November 30, 2008, which have been reviewed and recommend for transmittal by the County Auditor.
Motion carried.

Chairman Bostic asked if there was any other business or communication for the Property Committee. Hearing none, Chairman Bostic adjourned the meeting at 4:28 p.m.

Respectfully Submitted,

Judith A. LaCasse
Recording Secretary