NEW JERSEY STATE BUILDING AUTHORITY
MINUTES OF BOARD MEETING
June 5, 2007

MEMBERS PRESENT

John Fisher, Chairman
Prentis Nolan
Dennis McNerney
William Maer
Debra Bell, State Treasurer's Designee
Gary Brune, Comptroller Designee
James Vari, Capital Budgeting & Planning Comm. Designee

OTHERS PRESENT

Charles Chianese
Kavin Mistry
Carl Costantino
John DiGiorgio
Vince Campanella
Anthony Faraca
Phillip Johnson
Michael O'Reilly
Bud Montague
Mark Kaminski
Ed Jenkins
Steven Sutkin
Raymond Arcario
Richard Flodmand
Michael Gherorf
Tom Moran
Guy Tassi
Michael Jonas
J. Hershberg
Joseph Alessi

Chairman Fisher convened the meeting at 9:40 AM and read the following announcement:

"Pursuant to the New Jersey Open Public Meetings Act, the New Jersey Building Authority gave notice of the time, place and date of this meeting by providing notice of time, place and date to the Secretary of State of the State of New Jersey, the Newark Star Ledger, the Trenton Times, and the Bergen Record."

Chairman Fisher introduced two new board members: Debra Bell replacing Robert Smartt as the State Treasurer's designee and James Vari replacing Michael Lihvarcik as the Capital Budgeting & Planning Commission's designee.

Chairman Fisher also noted the resignation of two board members: John Pehlivanian and James Kearney.

I. ROLL CALL FOR ATTENDANCE

Mr. Chianese proceeded with roll call. Members and others present are noted above.

II. MOTION TO APPROVE THE 2006 ANNUAL REPORT & AUDIT REPORT

On motion by Mr. Maer, seconded by Mr. Nolan with all members voting in favor, the 2006 Annual Report and Audit Report were approved.

III. PROJECT STATUS REPORT

Mr. Costantino, Mr. DiGiorgio and Mr. Campanella gave a brief description of all projects for the benefit of the two new board members.

Mr. Brune asked at what point is a project deemed to be closed out. Mr. Chianese stated once the punch list is completed and all litigation is resolved.

Mr. Brune asked when the upholstery at the War Memorial was last replaced. Mr. Campanella stated within the last seven years. He stated that the upholstery would normally last longer, but due to the construction of the old chairs the fabric is wearing more quickly. There are some safety issues with the current chairs as well as complaints of them being too small.

Ms. Bell asked if there is more traffic going into the War Memorial now that it has been renovated. Mr. Campanella stated that with the new lighting and sound system in place the War Memorial is getting bigger acts and therefore having more people in attendance.

Mr. Nolan asked if the flooding issue at the State House Garage has been resolved. Mr. Costantino stated that it is being incorporated into the structural site review currently underway.

V. ARTS INCLUSION

Mr. Moran gave an update on the arts inclusion on various projects.

Mr. Nolan would like to see a picture of the plaques that will be placed in the Labor Building. Mr. Moran stated that he will e-mail it to him.

Chairman Fisher asked that Mr. Moran come back to the Board before any commitments are made regarding the arts inclusion for the Health and Environmental Laboratory project. Mr. Moran stated that he would.

V. ARTS INCLUSION continued...

Mr. Brune asked what the process for selecting an artist is. Mr. Moran overviewed the process

VI. EXECUTIVE SESSION

Chairman Fisher asked for a motion to move into Executive Session to discuss certain contractual matters relating to the Cultural Campus, the Thomas Edison State College project and the State Museum project and resolving that minutes of the executive session shall be disclosed to the public at such time as the Authority determines that the matters discussed can be disclosed. On motion by Mr. Nolan, seconded by Mr. McNerney the Board moved into Executive Session. On motion by Mr. Maer, seconded by Mr. Nolan the Board returned to Regular Session.

VII. ADJOURNMENT

There being no other business, on motion by Mr. Nolan, seconded by Mr. Maer, the meeting was adjourned at 11:30 AM.

The next Authority meeting is scheduled for October 16, 2007 at 9:30 AM at a location to be determined.

Respectfully submitted,

Charles Chianese
Secretary

jf/F0784

Resolution of the New Jersey Building Authority Accepting and Adopting the 2006 Audit and Approving the 2006 New Jersey Building Authority Annual Report

WHEREAS, pursuant to the New Jersey Building Authority Act, *P.L.* 1981, *c.* 120 as amended, *N.J.S.A.* 52:18A-78.1 *et seq.* (the "Act"), the New Jersey Building Authority (the "Authority") is established in, but not of, the Department of the Treasury; and

WHEREAS, the Authority is constituted as an instrumentality of the State of New Jersey (the "State") exercising public and essential governmental functions; and

WHEREAS, the Authority, pursuant to Section 26 of the Act, is required to make an annual report of its activities for the preceding calendar year to the Governor and the Legislature (the "Report") and is required to cause an audit of its books and accounts to be made at least once in each year by certified public accountants (the "Audit"); and

WHEREAS, the members of the Authority's Audit Committee have met with representatives of the auditor and have discussed the Audit for the Authority for 2006 (the "2006 Audit", and together with the Report, the "2006 New Jersey Building Authority Annual Report");

WHEREAS, the members of the Authority's Audit Committee recommend the acceptance of the 2006 Audit;

WHEREAS, the Authority wishes to accept and adopt the 2006 Audit, which is included in its entirety as part of the 2006 New Jersey Building Authority Annual Report; and

WHEREAS, the Authority also wishes to approve the 2006 New Jersey Building Authority Annual Report in its entirety.

NOW, THERFORE, BE IT RESOLVED BY THE AUTHORITY, THAT,

1. The Authority hereby accepts and adopts the 2006 Audit, which is included in its entirety as part of the 2006 New Jersey Building Authority Annual Report.

2. The Authority hereby approves the 2006 New Jersey Building Authority Annual Report in its entirety.

3. The Authority hereby authorizes its Executive Director to do all such acts and things as may be necessary or desirable in connection with submitting the 2006 New Jersey Building Authority Annual Report to the Legislature and the Governor.

4. This Resolution shall take effect upon adoption in accordance with the Act.

Motion to Approve the Resolution for the 2006 Annual Report and Audit Report

VOTED	AYE	NAY
Chairman Fisher	X	
Charles Marciante	Not Present	
Prentis Nolan	X	
Dennis McNerney	X	
Morris Rubino	Not Present	
William Maer	X	
Debra Bell, State Treasurer Designee	X	
Gary Brune, OMB Director Designee	X	
James Vari, Capital Budgeting & Planning Commission Designee	X	

This resolution represents the true and lawful actions of the New Jersey Building Authority taken at its June 5, 2007 meeting, signed and sealed on its behalf by its Secretary, this 19th day of June 2007.

CHARLES CHIANESE
Secretary

jf/F0795

NEW JERSEY BUILDING AUTHORITY

EXECUTIVE SESSION
June 5, 2007

-CONFIDENTIAL-

Mr. Sutkin briefed the Board on the ongoing litigation on behalf of Mr. Martorelli.

CULTURAL CAMPUS

Mr. Sutkin stated that the case is about to be settled. The general terms of the settlement are that Paphian's balance in the amount of $75,000 will be released and $75,000 will be paid in settlement of the litigation. The $75,000 is in settlement against $2M in claims. The State also had counter claims which are being dropped.

THOMAS EDISON

Mr. Sutkin stated that this litigation is in the appeal process. Mr. Martorelli has filed a brief on behalf of the Division of Property Management and Construction and the NJ Building Authority. A brief has also been submitted by Gibbson. Mr. Sutkin stated that this litigation will be ongoing for the next 6 months to 1 year.

STATE MUSEUM

Mr. Costantino stated that in 2006 the project was behind schedule and it was determined that Fletcher-Harlee could be terminated. A meeting was held and a list of terms and conditions was agreed upon to move the project forward to avoid termination of the contractor. The contractor subsequently did not

adhere to the recovery schedule and by the end of December 2006 they were called back to the table. Mr. Costantino indicated, at this point Fletcher-Harlee stated that they were having financial trouble. Shortly after March 3, 2007, Mr. Costantino received a call from the on-site construction manager that Fletcher-Harlee was vacating the job abandoning the project. Under advice of counsel, the contractor was terminated. By March 28, 2007 the DPMC and the Building Authority had structured, through Mr. Martorelli's office, an interim memorandum of understanding between the surety and the State. This being a multi prime project, if one contractor is not doing their part it delays the other contractors.

There continues to be issues with the representatives from Fasano, Acchione & Assocates (FAA) with regards to quality control, lack of understanding of State procedures and safety issues. Mr. Costantino continuously has communicated to FAA the need to provide a recovery schedule and completion date for the project. Work continues to move, but at a much slower pace than it should be.

There was a recent meeting in which the State presented to the surety several options for moving forward. Mr. Costantino indicated that Mr. Sutkin had suggested that the State solicit a price to complete the project from one of the other prime contractors. One contractor stated that they were not interested. Altchem presented the State with a number last week.

The first option would be to work with the surety to do a take over agreement where FAA would ratify the contract with the existing Fletcher-Harlee contractors and complete the project. Mr. Costantino sees this as the least likely option due to the continuing problems with FAA. The second option is to ask the surety to engage in a contract with Altchem and have Altchem come in and finish the project as a pre-qualified general contractor not utilizing FAA. The third option is for the surety to compensate the State for all

damages and the State proceed to take over the project in its entirety. The State is currently awaiting a response from the surety.

Mr. Nolan asked what the original completion date was. Mr. Costantino stated that it was April 2007 and the new date is September 2007. Mr. Nolan asked about liquidated damages. Mr. Costantino stated that liquidated damages are around $360,000 and growing.

Mr. Brune asked if there was any negative feedback on Fletcher-Harlee. Mr. Sutkin stated that they were the low-bidder and the State made several inquires on jobs that they had recently completed. It is Mr. Sutkin's understanding that Fletcher-Harlee has walked off all of their jobs. Mr. Brune asked if prior experience is factored into the pre-qualification process. Mr. Sutkin stated yes.

Ms. Bell asked if the general contractor is required to let the State know who is on the team. Mr. Costantino stated that they asked post-bid for the superintendent and the project manager names and resumes.

Ms. Bell asked if they were filing bankruptcy. Mr. Sutkin stated he did not know.

Mr. Maer asked if there is anything that the Board can do to help prevent this situation in the future. Mr. Sutkin stated that they exercised due diligence in selecting the general contractor and this is just one of those unfortunate situations.

Mr. Nolan stated that the process in place is a well organized process and does not feel that there is fault with DPMC or the Building Authority. Mr. Maer agreed. He was just looking at the situation and wondering if there was a lesson to be learned and if there was anything that the Board could do to support the Authority.

Mr. Brune asked if there is a way to have a larger data base in which to verify the performance of the contractors; work in conjunction with other departments, etc.

Mr. Sutkin, Mr. Costantino and Mr. Arcario explained the process that is currently in place for evaluating a contractor on any given project. This evaluation is then used in the pre-qualification evaluation for future projects.

Chairman Fisher agrees with Mr. Brune that it would be a great idea if the State could have a larger pool to verify contractor's performance and possibly avoid using contractors that have a record of poor performance.

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