

PUBLIC BUILDING COMMITTEE

Regular Meeting Minutes

February 7, 2022

Subject to Approval

Chairman Ostop called the Regular Meeting of the Public Building Committee to order at 7:00 p.m. on Monday, February 7, 2022, via Zoom.

Present – Chairman Ostop, Messrs. Salvatore, Cortes, Kelly, Derr, Burns, and Dragulski; and Eric Wellman, BOS Liaison

Excused – Mr. Egan

Guests – Jeff Shea, Simsbury Town Engineer; for Simsbury Public Schools – Andy O’Brien, and Jason Casey; for Tecton - Jeffrey Wyszynski, Justin Hopkins, Alison Frost, and Sean Hayes; for Arcadis – Jack Butkus, Business Development Manager, and for O&G – David Cravanzola; for Richter and Cegan - Mike Cegan and Cynthia Jensen; and for CES -Brian Hamel

No public audience comments.

1. Minutes of the January 5, 2022, Regular Meeting Minutes

Corrections to the minutes included: On page 6 following “windows in schools cannot be opened” the addition of a very important point that “Mr. Derr also stated that this school in particular, being a 1-story addition, that we want to have our students and occupants to have the option of an emergency egress window opening to leave the building with supervision if under assault or threat by others, which has sadly happened in other school districts.”

Mr. Kelly made a motion to approve the January 5, 2022, Regular Meeting Minutes, as corrected. Mr. Cortes seconded the motion, and it passed unanimously.

Chairman Ostop noted further on page 6, that Mr. Wyszynski advised concerning safety problems that operable windows could not be done, but that his recollection was they would look into it, and if they had operable windows, they would research a means to control the extent to which they opened; Mr. Wyszynski confirmed that with the rest of the team they are absolutely looking at both as well as the emergency egress window and pricing for both.

2. Board of Selectmen Liaison Report

Mr. Wellman indicated BOS and BOE are kicking off the annual budget process which will go to referendum in May.

Mr. Derr noted conflict of interest concerns and the Board of Ethics response, and Chairman Ostop indicated he has a letter from Maria Capriola about Latimer Lane School construction management services regarding the Arcadia and O&G joint venture with the attorney stating there is no conflict of interest based on the definition under Chapters 139 and 1310 of the Simsbury Board of Ethics. Chairman Ostop requested Mr. Shea provide the clerk with a copy of that letter for the record. Mr. Cortes was concerned the lawyer did not contemplate that Arcadis is overseeing O&G, yet they are partners elsewhere, so the ability to oversee your partner in a different venue is inherently a conflict of interest; and the question is not is one going to make money off the other by doing this, and he never questioned motives for that, but he questioned whether Arcadis is willing and able to knuckle down on O&G as hard as they would on anybody else who was not in a relationship with them. Mr. Cortes clarified that is what the conflict of interest is, and the lawyer focused instead on enrichment, and he would like the lawyer to focus exclusively on oversight and the veracity of that oversight given the existing relationship – he would like the lawyer to opine exclusively on that particular piece. Mr. Burns suggested the Town Attorney's opinion be discussed in Executive Session, as it is a privileged document. Chairman Ostop agreed and indicated that Executive Session should take place at the end of the regular meeting for further discussion. Mr. Derr asked the BOS representative for the public record if PBC would hear as to the opinion from the Board of Ethics and are they ruling on this or not; Chairman Ostop believed it had been referred to them. Mr. Wellman indicated he reached out to the Board of Ethics Chairman, and at that time it had not been referred, and felt it would be fine to discuss this further in Executive Session and believed PBC could refer it to the Board of Ethics.

3. SHS Re-roofing Project

Mr. Casey indicated Mr. Jacunski had no business to bring before the Board at this meeting and so was not present, and he confirmed the remaining work is scheduled to be completed February 21st, weather permitting, and includes fan and safety railing installations.

4. Latimer Lane Renovation

a. Arcadis Monthly Report

Mr. Butkus noted their monthly written report was provided in the meeting packet and highlighted: 1) they successfully met the required design development documents deadline last Friday, and those documents were distributed to O&G and Tecton's estimator to get the design development estimates started; 2) good meetings were held with the Clean Energy Task Force and representatives of PBC to go over the HVAC system, which was well received, and 3) connected with that Mr. Hayes of SES, the Commissioning Agent, just issued the draft version of the owner's project requirements as of last Friday and is present to answer any Commissioning related questions; and 4) there is an additional item regarding environmental testing and design services. But first, Chairman Ostop requested a summary from Mr. Hayes.

Mr. Hayes introduced himself as the project manager regarding commissioning and confirmed the first draft of the owner's project requirements document on Friday with feedback from the design team and it is out for review and will be revised throughout the project. He said with the DD package coming out ideally they will receive a copy of the DD documents and begin their design review process when the time is right. He said going forward they will work with Mr. Butkus team and the design team to assure the owners best interests are being pursued through the design process and that absolutely covers the State design process as well.

Chairman Ostop invited questions from members; there were none.

Mr. Butkus indicated that PBC should have received today a copy of the quote received from TRC Environmental Services for environmental testing and design required for building abatement. He said that as directed this solicitation was received off the State bid list and the number received would lead to initial testing and review budget that he would recommend, if PBC is willing to move forward tonight with an initial purchase order to TRC; Chairman Ostop requested more information about it. Mr. Butkus continued one acceptable way for procurement of

a grant funded school project is if under \$10K it can be awarded directly as the Town sees fit, or beyond \$10K either full public solicitation or procure material services and construction off of State contracts. He said TRC is a firm the Town is familiar with and has done work on Town contracts in the past and holds a State contract as environmental designers and Arcadis was requested to solicit from them on a scope of work vetted through Town personnel that would provide review of the Phase 1 environmental site survey, as well as review existing documentation for asbestos and other hazardous materials in the building, and then provide both testing and design leading to deconstruction documents for removal of those materials. Chairman Ostop asked for TRC's number; Mr. Butkus responded \$33,285 including \$1K for review of existing site testing. Mr. Butkus said after review of the Phase 1 report, if a Phase 2 study, which would include some borings and other site testing is necessary, that would be another layer to the onion, but other than review of existing Phase 1 data and tank closure reports and existing documents, it is not known if that would be required so this is somewhat an ala carte menu depending on the results of the site soils investigation. He continued the number does include testing and inspection services necessary to determine materials in the building and how to deal with them and getting that information into the bid documents, so that part would be included in this and there is potentially another bite from the apple depending on what they find as far as site work and ultimately some funds to oversee the work during the abatement process during construction. Mr. Cortes was confused regarding TRC information received today and asked how much Phase 1 review costs. Mr. Butkus confirmed review of the existing Phase 1 document cost is \$1K as shown on page 5 of 7 of the quote; after Phase 1, they will determine whether additional borings and other investigations that would become part of Phase 2 and if Phase 2 identifies materials of concern that would become part of a Phase 3 designed remediation effort. Mr. Cortes has rarely seen a Phase 2, except for entities like dry cleaners and gas stations with more hazardous chemicals, and \$1K+ for Phase 1 sounds fine. Mr. Butkus clarified it is \$32,285 for environmental testing within the building plus \$1K for review of existing Phase 1 totaling \$33,285 as the initial purchase order value.

Mr. Cortes made a motion to accept TRC Environmental Services quote for environmental testing and design required for building abatement at Latimer Lane School in the amount of \$33,285.00. Mr. Salvatore seconded the motion, and it passed unanimously.

b. Arcadis Invoice #34279916

Mr. Kelly made a motion to approve payment of Arcadis Invoice #34279916 in the amount of \$13,750.00. Mr. Burns seconded the motion, and it was passed unanimously.

Chairman Ostop asked how the meeting went with Board members. Mr. Butkus said that was the meeting with Clean Energy Task Force and review of the HVAC design was well received and additional meeting information will be recapped tonight by Mr. Hamel of CES.

c. Tecton Report

Mr. Hopkins noted other members of the design team present included: Jeff Wyszynski, and Alison Frost from Tecton; and Michael Cegan from Richter and Cegan Landscape Architects; and Brian Hamel from CES. He recapped that for site plan development they received on January 20th administrative approval from the Conservation Commission and Inland/Wetlands; tonight they held an informal meeting with the Design Review Board which was a welcome bonus to the process and are scheduled to be formally before them on March 7th with a meeting and public hearing to take place with the Zoning Commission. Regarding site plan development and regulatory approvals, he said they are more or less on schedule. For building development, he said for building floor plan development they continue having meetings with Principal Luzietti and have also issued design development drawings and specifications for pricing on February 4th with 2-3 weeks to get cost estimates from O&G and their cost estimator. Chairman Ostop noted he saw in Tecton's report the project is over budget and the Town does not have the funding to be over budget. Mr. Hopkins responded that is correct and that after reconciliation between their cost estimator and the design team, they were about \$476K over budget and there are some things in the design development documents that are an effort to value manage that overage, e.g. the extent of poured landscape walls was reduced and elimination of pavers in favor of stamped concrete in some outside hardscape areas. He said the two big cost drivers from their schematic design estimate are the rooftop utility raceway concept both structurally and providing a building envelope above the existing roof level to house ductwork and piping from mechanical units to classrooms below; they

needed to account for building structure, building thermal envelope, as well as reconfiguration of the entire stormwater system at the existing roof level, so they have eliminated that in the design development documents in favor of diversification of the amount of rooftop units to smaller units providing narrower/shallower duct runs within the existing building envelope and feel they have accommodated some of the overage in that way. Mr. Burns asked about the roofing issue and changing to smaller units and whether that is to accommodate load or to reduce the amount of ducting. Mr. Hopkins responded it is multi-factored with more DOAS units providing shorter delivery runs to ventilated spaces requiring overall smaller duct areas to push the air; they are also in initial O&G discussions a concern about having 2 larger DOAS units to try and serve the entire renovation classroom wings and sequencing that in a way that made sense to the entire school. Mr. Burns concern was the footprint impact on the roof regarding net zero and allowing enough room on the roof for PV installation if that becomes the direction. Mr. Hopkins noted that was also Mr. Dragulski's concern in recent discussions. Mr. Hamel explained more DOA units on the roof will be less troublesome for solar while the larger enclosure/ductwork would provide more shading, but with more small units spread out they are leaving sections completely clear, e.g. over the taller gym, with less shading. Mr. Hopkins showed a CES diagram of areas served by each unit which will be important with further O&G analysis of construction sequencing partitioning the renovation more efficiently.

Mr. Hopkins continued they met with Messrs. Dragulski and Luzietti as requested to provide an update on mechanical systems design and maintaining the existing building service to allow for separating new construction from existing building systems. Mr. Hamel explained in the recent meeting they went over the entire DOA layout reduction and providing for all building ductwork; Phase 1 provides the new mechanical plant running piping down the corridors following phased construction and tapping off for the classrooms bringing on the new system while taking out the old; the mains mostly in the corridors would be removed/replaced as they go; and at the end of a phase they will valve off and cap ends and during the next phase of construction tap off the new piping and extend the system as they continue. Mr. Dragulski confirmed he and Mr. Luzietti are more comfortable regarding reasonable equipment and believe the project is moving in the right direction. Mr. Hopkins confirmed he recorded the meeting for the Chairman and will try to clean that up for easy access. Mr. Hopkins acknowledged they owe both the schools and PBC what a typical classroom with infrastructure looks like and plan to provide it at the next meeting. Mr. Dragulski requested a set of DDs, as did

the Chairman, and Mr. Hopkins agreed to provide it. Mr. Hopkins noted at the end of cost estimate/reconciliation they are going to OSCG&R in March and anticipate having a lot to discuss at the next PBC meeting.

Chairman Ostop asked how the schedule looks. Mr. Hopkins noted the design development documents were issued around the original schedule with some time lost for sequencing. Mr. Wyszynski clarified the project is behind the original schedule and if time is continued to be lost with CM concerns and if the CM is expected to work on a DD design estimate and there is a continued delay, a recovery schedule may need to be produced and alternate strategies considered to make up time. Mr. Cravanzola commented that before this evening's discussion they thought they received the green light and their estimating team has the design development package and they are working with Tecton's estimator to complete it in the next 2-3 weeks so they are ready for reconciliation, and their MEP coordinator is beginning review of mechanical systems to keep existing systems functioning while new systems are constructed and add onto them as each phase comes on board. Mr. Cravanzola continued there was a lengthy period of time where they did not know what was going on and are now coming back up to speed and forging ahead. Chairman Ostop asked if he saw the school being completed on time. Mr. Cravanzola said that is the big component and how much space the school needs to maintain throughout this and they do not have an answer yet, but they know there are 22 classrooms and the school has been very clear with their requirements.

Chairman Ostop asked for further questions. Mr. Shea asked if the SDS estimate included the geothermal system. Mr. Hopkins confirmed it includes the core hybrid geothermal system and there is an add alternate for the full geothermal system. Mr. Dragulski asked about class detection coordination. Mr. Hopkins responded that Mr. Sedenski asked for models which they have provided. Mr. Burns asked about the L100 drawing showing possible geothermal locations and existing wells and believed that was going to be a staging area with construction access. Mr. Hopkins believed that was part of O&Gs upcoming area regarding laydown staging areas. Mr. Burns confirmed they do not want to see equipment over those wells.

d. Tecton Invoice #44933

Mr. Salvatore made a motion to approve payment of Tecton Invoice #44933 in the amount of \$206,489.00. Mr. Kelly seconded the motion, and it was passed unanimously.

Mr. Butkus asked that the meeting attendee tonight, Mr. Gutsfeld, who raised the issue to be discussed be heard from. Mr. Gutsfeld confirmed he was not the individual raising the complaint nor was Downes; his inquiry was made after the formal complaint as he was interested.

At 7:45 p.m., Mr. Cortes made a motion to enter Executive Session. Mr. Burns seconded the motion, and it passed unanimously.

At 8:05 p.m., Chairman Ostop made a motion to exit Executive Session. Mr. Cortes seconded the motion, and it was passed unanimously.

5. Other

None.

6. Old Business

None.

7. New Business

Mr. Dragulski made a motion that the next Regular Meeting via Zoom will be held Monday, March 7th at 7 p.m. Mr. Salvatore seconded the motion, and it was passed unanimously.

Members will be contacted if there is need for a special meeting.

8. Adjourn

Mr. Kelly made a motion to adjourn the meeting at 8:10 p.m. Mr. Cortes seconded the motion, and it passed unanimously.

Respectfully submitted,

Janis Prifti

Commission Clerk



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January 24, 2022

Via Email

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Maria E. Capriola, MPA
Town Manager
Town of Simsbury
933 Hopmeadow Street
Simsbury, CT 06070

Re: Latimer Lane School – Construction Management Services
Letter Re” Arcadis and O&G Industries, Inc. Joint Venture

Dear Maria:

You have asked me to review the above referenced letter from O&G Industries, Inc. (“O&G”) regarding the potential conflict of interest in awarding the construction management contract for the Latimer Lane School Project to O&G.

O&G submitted the letter in response to a request by Town officials concerning a recent disclosure by Arcadis, U.S., Inc. (“Arcadis”), Simsbury’s owners’ representative on the above-referenced Project. The issue arises from a joint venture agreement involving O&G, Arcadis and a third party. The work of the Joint Venture involves school construction program management services for the City of Hartford Public Schools (the “Joint Venture”). The Joint Venture relationship was discussed during a December 22, 2021 Zoom meeting with Arcadis and O&G representatives. At that meeting, the Town asked O&G to submit a letter stating O&G’s position in writing that the existence of the Joint Venture does not create any conflict of interest as defined by Chapter 13-9 of the Simsbury Code of Ethics.

The O&G position is summarized as follows: Under Chapter 13-9 of the Ethics Code, a consultant may have a financial or beneficial interest incompatible with the proper discharge of the consultant’s responsibilities if there is reason to believe or expect that the Consultant will derive that interest by reason of the consultant performing its official responsibilities to the Town. The definition of “consultant” includes both business entities and individual employees/members of consulting firms doing business with Simsbury

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According to O&G, the Joint Venture will receive no financial or beneficial interest due to O&G's participation in the Simsbury Project. O&G takes the position that Chapter 13-9 specifically exempts Arcadis (and O&G) from the definition of "financial or beneficial interest incompatible with the proper discharge [of the Consultant's responsibilities] in the public interest..." by virtue of Arcadis's and O&G's Joint Venture Agreement because that relationship provides for the equal distribution of assets and liabilities to each of the three Joint Venture members (and, presumably, to the individual owners/employees of each Joint Venture participant). In other words, no member will derive added remuneration under the long-standing Joint Venture if O&G is engaged to perform construction management services on the Latimer Lane Project. Thus, there is no "Conflict of Interest" as defined under Chapter 13-9.

Regarding the disclosure requirements under Chapter 13-10 Simsbury Code of Ethics, at the time of qualification for the construction manager engagement, O&G acknowledges that Arcadis was clearly a "Consultant" as defined by the Simsbury Code of Ethics and, therefore, obligated to make certain disclosures as mandated by the Code of Ethics. Arcadis verbally disclosed the existence of the Joint Venture during the deliberation process, even though Arcadis does not have a "financial or beneficial interest, direct or indirect, in any contract, transaction or decision within the purview of his/her official responsibilities..." as set forth in Chapter 13-10A. According to O&G, the disclosure was made even though Arcadis did not "appear on behalf of any private person or party before any agency in connection with any cause, proceeding, application or other matter in which he/she has a financial or beneficial interest..." as provided in Chapter 13-10.B.

O&G takes the position that Arcadis did not technically need to disclose the Joint Venture. Both O&G and Arcadis express a desire to approach this Project and the relationship with Simsbury with complete ethical transparency. O&G takes the position that there is no tie whatsoever – either direct or indirect – between the unrelated Joint Venture and the award of the contract to O&G in its stand-alone capacity for the construction of the Project.

The December 22, 2021 Zoom meeting and the O&G letter provided important factual information concerning the Joint Venture and its possible effect on the application of the Simsbury Code of Ethics. After a review of the O&G letter and the applicable sections of the Simsbury Code of Ethics, in my opinion the existence of the Joint Venture does not create any conflict of interest as that term is defined in the Code of Ethics.

Maria E. Capriola, MPA
January 24, 2022
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Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink that reads "Robert M. DeCrescenzo". The signature is written in a cursive, flowing style.

Robert M. DeCrescenzo, Esq.

RMDe/psm
cc: Rick Jones, Chair (nokidshome@comcast.net)
Simsbury Ethics Commission