



DEKALB COUNTY PUBLIC BUILDING COMMISSION
A MUNICIPAL CORPORATION AND BODY POLITIC ORGANIZED PURSUANT TO THE "PUBLIC BUILDING
COMMISSION ACT." ILLINOIS REVISED STATUTES 1977 CHAPTER 85, SECTIONS 1031 THROUGH 1054
CHAPTER 85, SECTIONS 1031 THROUGH 1054
AND CURRENTLY UNDER ILLINOIS COMPILED STATUTES 50 ILCS 20/1 et seq.

MEETING OF TUESDAY, APRIL 12, 2011

A regular meeting of the Board of Commissioners of the DeKalb County Public Building Commission (hereinafter "Commission") was held Tuesday, April 12, 2011, at 8:30 A.M. in Conference Room East of the DeKalb County Administration Building, pursuant to written notice to each Commissioner as required by the By-Laws.

ROLL CALL

The meeting was called to order by Chairman Matt Swanson at 8:30 a.m. Commissioners present were Chairman Matt Swanson, Dr. Richard Baker, Mr. George Daugherty, and Mr. Mike Larson. Mr. Larry Lundgren was absent. Also present were Mr. Gary Hanson, Treasurer, Mr. Matt Bickel of Wold Architects, Mr. John Farrell of the State's Attorney's office and Ms. Mary Simons, Secretary.

APPROVAL OF MINUTES

Chairman Swanson called for a motion to approve the minutes for the last meeting held Friday, January 7, 2011. Dr. Baker made a motion to approve the minutes. Mr. Larson seconded the motion. Dr. Baker indicated that the minutes were not complete since they did not reflect the frustration with Rockford Structures felt by the Commissioners. He suggested that the following statement be added to those minutes: "The discussion also noted our repeated difficulties to get Rockford Structures to acknowledge and repair non-conforming work on our Community Outreach Building." The Chairman asked for approval of the minutes as amended. The motion carried unanimously.

APPROVAL OF AGENDA

Mr. Larson made a motion to approve the agenda as printed and Mr. Daugherty seconded the motion and it was unanimously approved.

COMMUNITY OUTREACH BUILDING

Mr. Bickel distributed copies of a letter to Gary Hanson (attached as Exhibit "A") dated April 11, 2011 indicating the events that had taken place since his letter to Rockford Structures on February 1, 2011 regarding the non-confirming work resulting in the cracking of the exterior block walls of the COB. Mr. Bickel stated, at the direction of the PBC, the letter to Rockford Structures required a response from Rockford Structures within sixty days. Chairman Swanson stated that the minutes from the PBC meeting held on January 7, 2011 indicated that the time frame was for a ten- day response notification. Mr. Bickel agreed that he also noticed the ten day period in the minutes. However, he stated it was his recollection based on the discussion of the Commissioners during the meeting that the time period should be extended since fewer meetings were scheduled and some members would be out of town, and also because of the past history of slow response time from Rockford Structures. Mr. Bickel apologized for the confusion in the difference in the notification time and added that 60 days is not the usual contractual language used. However, he added that Rockford Structures had not responded in either ten days or sixty days. Mr. Bickel said that at the end of the sixty day period he placed a phone call to Gary Daub of Rockford Structures asking if a response could be expected. During the informal conversation Mr. Daub indicated that Rockford Structures was not walking away from the situation but indicated he did not agree with the position as stated in the letter to solve the cracking problem and was in the process of working with a masonry contractor to come up with a proposal for addressing the issue. Mr. Bickel stated that in another conversation Mr. Daub indicated he would be on site at the COB this week with someone to look at the cracking problem. Mr. Bickel then described a conversation he had with a representative from the International Masonry Institute to ask if he had seen a similar phenomenon occurring in cast stone products. It was his opinion that the mortar used probably caused some bonding issues and we would have seen some cracking of the mortar joints, but based on the fact that the units themselves are cracking, it is a more telltale sign that the units are shrinking. He added that shrinkage is consistent with the

concrete material because as it cures it continues to shrink for a period of time. Therefore, the shrinkage probably is causing the cracking of the units. Mr. Bickel said it was the representative's belief that saw-cutting in new control joints at the location where the cracking had occurred would remediate future cracking. Mr. Bickel explained that he brought forth this opinion as additional information from an independent party as an interpretation of the situation. Mr. Bickel added that ultimately the representative did not want to give a binding opinion as an outside observer. The representative did recommend that we contact a masonry restoration contractor and provided a list of those he recommends. Mr. Bickel said he contacted one and he is scheduled to be on site at the COB later today or on Thursday of this week. Mr. Bickel summarized by stating that Rockford Structures has not formally responded to the non-conforming work letter and has informally indicated that they are planning some type of response but do not feel that they should be responsible for complete replacement.

A lengthy discussion by the Commissioners followed with the opinion that, due to past performance and lack of response to this situation by Rockford Structures, it is necessary to take another form of action. Mr. Farrell asked if there is a performance bond in the contract with Rockford Structures and also wanted to know how that procedure works. Mr. Bickel responded that the performance bond acts as an insurance policy where a deductible can be involved, therefore Rockford Structures may choose to pay the cost of repairs if the deductible exceeds that cost and not involve the bonding company. Mr. Bickel described in detail the process that would come into play if the bonding company is required to become involved. Mr. Farrell then explained that before deciding to pursue the path of litigation we should: (1) Get a thorough analysis of what needs to be done to repair the problem, (2) Look at the performance bond and (3) If Rockford Structures will not respond and the performance bond will not fulfill the costs of replacement and repairs, we should at that time consider litigation. He added that the first two items he mentioned should be done as quickly as possible. A discussion followed regarding the cause of the cracking of both the exterior block wall and the interior wall. It was determined that we should find out why the cracking continues to occur before we decide what to do about repairs. Mr. Bickel stated that he felt that for the Commissioners to feel more comfortable with the explanation it may ultimately be wise to hire a forensic engineer. Mr. Farrell advised that from a legal standpoint if the decision is made to hire such a firm, it should be done as soon as possible. Dr. Baker made a motion that the Chairman work with our architect in selecting and contracting with a forensic engineer to do an analysis for the cause of the cracking on both the exterior block walls and the interior brick wall, the corrective action to be taken with separate reports for each containing the expected costs of the remediation. Mr. Larson seconded the motion. The motion carried unanimously.

PENDING LITIGATION

Mr. Farrell summarized the lawsuit where Maryott sued Rockford Structures for non-payment of their contract and the PBC is included in the lawsuit for an accounting even though Maryott is not seeking monetary damages against the PBC. He added the trial begins on Thursday and Gary Hanson will be testifying regarding the payment history and the documentation regarding the contract. Mr. Farrell added that Rockford Structures in turn is suing Maryott, claiming that Maryott is responsible for the problems with the COB parking lot and are therefore seeking damages. The case was originally set to be heard by Judge Klein but has been transferred to Judge Cargerman. He explained that Judge Cargerman is only scheduled to be here on Thursdays, therefore the trial will begin this Thursday and continue on subsequent Thursdays until the case is concluded. Mr. Farrell said this judge is very thoughtful and thorough and he has no doubt he will be fair to both sides of the issue. He emphasized that this case will not impact us monetarily but could go on for several Thursdays and involve a lot of time on behalf of Gary and the State's Attorney's office. Mr. Farrell also stated that he has been contacted by Panelbuilt because they are also owed money. Our contract was with the contractor of the file storage area and not directly with Panelbuilt. Their claim is that we should be responsible because we did not have a performance bond in the original contract. Mr. Farrell believes they do not have a case and will not prevail under Illinois case law but they may still file suit which we will vigorously defend.

FY 2010 Budget Amendments

Mr. Hanson distributed the 2010 year-end budget adjustments (attached as Exhibit "B") and explained that the \$5,000. salary item was for the additional help we hired to assist in relocating the records in the file storage areas located in the Health Department, Highway Department and the COB. He added that the second item in the amount of \$110,000. was for the repairs that became necessary for the parking lot. Mr. Hanson stated that these monies were a carry-over from the 2009 budget. Dr. Baker moved to accept the amendments and the motion was seconded by Mr. Daugherty. The motion carried unanimously.

Old/NEW BUSINESS

Mrs. Simons presented the report for Mr. Scheffers the Facilities Director who is recovering from recent knee surgery. In an e-mail, Mr. Scheffers reported that the air-handler coil project in the jail was completed last week and that both hot and cold coils were replaced. The e-mail also indicated that the Legislative Center boiler project has not been set up at this time but will be as soon as we can be assured that warmer weather has arrived.

Mr. Larson requested that an Executive session be called to discuss a personnel matter. Mr. Larson made a motion to move to an executive session. The motion was seconded by Mr. Daugherty. A roll call vote was taken with all Commissioners voting "Aye". The meeting moved to Executive session at 10:15 A.M.

A motion was made by Dr. Baker to reconvene the regular meeting of the Public Building Commission at 10:30 A.M. Mr. Daugherty seconded the motion. A roll call vote was taken with all Commissioners voting "Aye".

A motion was made by Mr. Larson that the Chairman confer with Mr. John Farrell to review our contract with Wold Architects and Engineers to ascertain if there is any conflict contained in our contract that would prevent Wold from recommending a forensic engineer to advise the PBC in seeking a solution to the issues at the COB. Mr. Daugherty seconded the motion. The motion carried unanimously.

NEXT MEETING DATE

The next meeting date was previously set in the published annual schedule to be held on Tuesday, June 7, 2011, however, it was decided that if an earlier meeting is required to address issues of concern, all Commissioners will be notified to set a convenient date.

ADJOURNMENT

Mr. Larson made a motion to adjourn the meeting and the motion was seconded by Mr. Daugherty. The meeting adjourned at 10:40 A.M.

Matt Swanson, Chairman

Mary G. Simons, Secretary

<u>Commissioner</u>	<u>Expiration of Term</u>	<u>Office</u>	<u>Original Appointment</u>
Mr. Matt Swanson	September 30, 2012	Chairman	September 19, 2007
Dr. Richard Baker	September 30, 2011	Vice Chairman	September 30, 2005
Mr. George Daugherty	September 30, 2013		September 30, 2008
Mr. Larry Lundgen	September 30, 2014		April 2, 2010
Mr. Mike Larson	September 30, 2015		November 17, 2010

Non Voting-Commissioner:

Ms. Mary G. Simons	September 30, 2011	Secretary	March 7, 2000
Mr. Gary H. Hanson	September 30, 2011	Treasurer	February 18, 1984