

May 25, 2010

**LONG-RANGE PLANNING/REAL ESTATE & BUILDINGS
COMMITTEE REPORT**

The Long Range Planning/Real Estate & Buildings Committee met Tuesday, May 25, 2010 at 5:30 p.m., in the Quorum Court Meeting Room, Third Floor, County Administration Building, 215 East Central, Bentonville, Arkansas

Committee Members Present: Sandlin, Brown, Winscott

Absent: Lewis, Hubbard

Others Present: JP Kurt Moore, JP Jay Harrison, County Attorney George Spence, Comptroller Richard McComas, Benton County Juvenile Director Dennis Cottrell, Director of Public Safety Greg Hines

Media: Tabatha Hunter –Morning News

Call to Order

The meeting was called to order by JP Winscott at 5:30 p.m.

Public Comments

None

**Update on Crossland Contract – Construction Manager Versus Hard Bid:
Presentation by County Attorney George Spence**

JP Frank Winscott stated that in 2008, Benton County signed a contract with Crossland Construction to be the construction manager for the Juvenile Justice Center and that contract is being reviewed now by County Attorney George Spence. JP Winscott reported that this contract was signed by County Judge Gary Black, who was the County Judge at that time.

County Attorney George Spence stated that in 2008, a committee was formed to select professionals for the designing and building of the facility for the Juvenile Justice Center. He reported that Johnson-Troillet Architects had been chosen for the design work and that a contract was signed with Crossland Construction to do the construction management. He stated that the issue now is how we are going to build the Juvenile Justice Center facility. He stated that there are advocates who are requesting that rather than doing construction management, they want the county to do a hard bid, or competitive bid, for the project. He added that other advocates want to continue with the selected method of construction management. He stated that he has been asked by the Committee Chair and the County Judge to review the contract with Crossland Construction, to see if we can do it the other way, and to determine what is the effect of this contract. He stated that he became aware of an Attorney General's opinion given in April 2009 to a Prosecuting Attorney in the Fourth District, and that there is also a subsequent opinion listed regarding the subject. He reported that the opinions are about whether there is any other way

for a county to build a building other than competitive bidding. He stated that the Attorney General's opinion seems to say that you cannot use construction management, and listed several reasons why. County Attorney George Spence stated that his initial reading of the opinion was that the reason had not so much to do with construction management, but the type of construction management. He added that in this particular type of construction management, the construction manager analyzes the design, does the bidding, and actually picks the bidder that will win the contract for the subsidiary parts. The contract is actually between the construction manager and the subcontractors. The Attorney General's opinion states that it cannot be done that way. He stated that there was some implication that if it is done differently and just have the construction manager as a consultant, then ultimately the county official or employee is who chooses the low bidder. If the contracts are actually with the county and not the construction manager, it could be done. He stated that he had called and spoken with an attorney at the Arkansas Association of Counties to see what they thought. He reported that they did not think that construction management could be used under any circumstance, and there is some basis in the Attorney General's opinion for that. He stated that considering where we are in this process, the committee needs to direct him to ask for an Attorney General's opinion. He added that we need to know if we can do construction management, because the county does not want to be subject to some sort of liability for going forward if it is not proper. He stated that if we can do construction management, he would like to analyze whether or not we are required to do this, since we have signed a contract but have not appropriated any money. He stated that he would like to pursue this issue and that he is asking for this committee's authorization to move ahead. He added that one of the considerations in all of this is whether it would slow up the strong inclination of the committee and the court to move forward with the Juvenile Justice Center project. He stated that he had called the Attorney General's office and once they receive a request, it takes about 30 days to receive an opinion. He added that he had talked with State Representative Tim Summers who has said he will be happy to send the committee's opinion request. He stated that what he is asking from the committee is direction to go ahead and move forward.

JP Brown asked if the laws had changed since the county administration building had been built because it was done by construction management.

County Attorney George Spence stated that when the opinion came out in April of 2009 it made everyone look and say "oh that could be a problem." He stated that when he had talked with Tom Johnson of Johnson-Troillet Architects and Crossland Construction, they both agree that it cannot be done. He added that he had also talked with the Arkansas Association of Counties and they do not think it cannot be done.

JP Sandlin made a motion that the Long Range Committee authorize County Attorney George Spence to request from the Attorney General an opinion on whether or not the county can use contract construction management under these circumstances, seconded JP Brown.

Motion passed by unanimous voice vote.

Further discussion was held on contract construction management.

Presentation: Garver Engineering – Fisher Ford Bridge – Colonel Meyers Bridge – Senior Project Manager Ron Petrie and Director of Public Safety Greg Hines

Director of Public Safety Greg Hines reported that Fisher Ford Bridge has been closed to traffic since April 2005, and that asphalt at sometime had been laid over the Fisher Ford Bridge, which has caused further deterioration.

Ron Petrie, Senior Project Manager, Garver Engineering, stated that the asphalt will cause even more deterioration in the future.

Greg Hines reported that some of the concerns regarding Fisher Ford Bridge are the ingress/egress of the bridge; property owners on both sides of the bridge; time and cost for daily travel; and that emergency vehicle access is also a huge concern. He stated that emergency vehicle access does not change with respect to emergency medical or fire, if the court were to proceed forward with the repair of Fisher Ford Bridge.

Greg Hines then reported on Colonel Meyers Bridge. He stated that the bridge had an average daily traffic count of 67 in 1987 and that Colonel Meyers Bridge has been closed since May 2008. He stated that in essence, the bridge closure affects no residents with respect to emergency response. He stated that the bridge had the same concerns as the Fisher Ford Bridge, the ingress/egress, property owners on both sides, and emergency service vehicle access. He added that the repair cost or replacement cost are unknown, and that a feasibility study is currently being considered. He stated that one of the reasons that this was brought to the committee is to make a determination to appropriate funds for repair or replacement.

Greg Hines stated that the current structure of the bridges was not built for the current larger and heavier type of vehicles that are on the road today. He added that repair doesn't allow for emergency vehicles, such as fire or emergency vehicles, to use the Fisher Ford Bridge -- it limits usage to just Law Enforcement response. He added that the repair to the Colonel Meyers Bridge may or may not allow emergency vehicles to cross, and that it is a historical bridge. He stated that it would take \$450,000 to repair the steel Fisher Ford Bridge, and \$2.5 million to replace it. He stated that the cost on Colonel Meyer Bridge is unknown, but a study will cost \$20,000 to find out how much it would cost to repair or rebuild.

JP Winscott questioned what load capability the Fisher Ford Bridge would have. Greg Hines stated that the \$450,000 would take it back to the 3-ton maximum.

JP Moore stated that he would not consider repairing Fisher Ford Bridge without removing the asphalt and that the bridge is a time bomb waiting to happen.

Ron Petrie of Garver Engineering stated that he would recommend that the county remove the asphalt placed on top of the bridge's steel frame, and painting the structure to ensure that the bridge is safer and lasts longer. He added that the \$450,000 in repairs to the bridge will only fix the deficiencies identified by the state as reasons for closing the bridge. It does not cover paint or removing the asphalt. He gave an estimated cost of \$40,000 to remove the asphalt and \$200,000 to clean and paint the Colonel Meyer Bridge. He added that this is not currently considered a deficiency by AHTD, which is why the cost for removing the asphalt and the cleaning and painting of the structure is not in the estimate.

Ron Petrie stated that he would recommend that Garver Engineering's report of inefficiencies and recommendations of Fisher Ford Bridge be reviewed by the Arkansas Highway Transportation Department and that AHTD should also agree with the study before proceeding. He added that Garver Engineering recommends that the bridge be painted to make it last longer, which is fairly expensive.

Lengthy discussion was held on the costs involved with repairing or replacing Fisher Ford Bridge and Colonel Meyers Bridge and the load limits that would be allowed if repaired or replaced.

Greg Hines stated that he needed to know from the committee whether to act on pursuing a study on the Colonel Meyers Bridge, and the committee's direction for the Fisher Ford Bridge.

Ron Petrie stated that he would recommend that Garver Engineering's findings of the Colonel Meyer Bridge repair work be sent to the Arkansas Highway Transportation Department and request that they verify that we are on the right track with no cost to the county. He stated that the next step would be an extended study by an engineering firm. He stated that would not be a wasted study as the information is used on the design as well, and that the estimate would be around \$20,000. Greg Hines stated that he believes that he can get a response back from the state within 30 days.

JP Craig Brown made motion to proceed with giving Greg Hines permission to send the Garver Engineering's report on the Fisher Ford Bridge to the Arkansas Highway Transportation Department, seconded by JP Sandlin

Greg Hines stated that he would forward the whole report on to AHTD and ask that they review the recommendations that were not included as deficiency remedies. He added that he thought that he would get a response back from AHTD within a month.

Motion passed by unanimous voice vote.

JP Winscott stated as far as the Committee is concerned, should they let issue of the Colonel Meyer Bridge go dormant, as there is really no pressing need. He stated that the consensus of the Committee is that they do not recommend anything be done with the Colonel Meyer Bridge.

Greg Hines stated that for lack of action, that would be the direction that he would take.

JP Craig Brown stated that the committee needs to show proper consideration for all of the county's residents when making decisions. He added that when it comes to things like this, no matter how many people it affects, you have to remember they are important too.

Other Business

None

Announcements

None

Adjournment

After motion and second the meeting adjourned at 6:33 p.m.