

STATE OF ARIZONA

## Joint Committee on Capital Review

STATE  
SENATE

ROBERT L. BURNS  
CHAIRMAN 2005  
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TIMOTHY S. BEE  
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HOUSE OF  
REPRESENTATIVES

TOM BOONE  
CHAIRMAN 2006  
AMANDA AGUIRRE  
ANDY BIGGS  
JACK A. BROWN  
PHIL LOPES  
RUSSELL K. PEARCE  
STEPHEN TULLY

### MINUTES OF THE MEETING JOINT COMMITTEE ON CAPITAL REVIEW

Wednesday, October 26, 2005

The Chairman called the meeting to order at 2:05 p.m., Wednesday, October 26, 2005 in Senate Appropriations Room 109 and attendance was as follows:

Members:	Senator Burns, Chairman	Representative Pearce, Vice-Chairman
	Senator L. Aguirre	Representative Biggs
	Senator Bee	Representative Boone
	Senator Cannell	Representative Brown
	Senator Gould	
	Senator Johnson	
Absent:	Senator Giffords	Representative A. Aguirre
		Representative Lopes
		Representative Tully

Senator Burns moved the Committee approve the minutes of September 28, 2005 as presented. The motion carried.

#### **SCHOOL FACILITIES BOARD – Review of New School Construction Report.**

Ms. Leatta McLaughlin, JLBC Staff, presented the review on the School Facilities Board (SFB) New Construction Report for FY 2007 which includes its demographic assumptions, proposed construction schedule, and cost estimates. This item is included on the agenda to provide the Committee with SFB's current estimate of new school construction spending of \$308.4 million for FY 2007. This money will be spent on land, construction projects, and emergency deficiencies. The required amount will be funded from lease-purchase proceeds, appropriated monies, lease-revenues from the land department, and New School Facilities Fund balance. SFB expects to spend all remaining lease-purchase proceeds in FY 2007. \$250 million in financing will be from the general fund, which would not be an increase from the amount provided in FY 2006, however, the Legislature has already appropriated \$50 million for FY 2007 during the past session. SFB has also given its demographic assumptions. It expects to grow at a higher rate in FY 2006 and FY 2007 than in FY 2005, with the biggest growths occurring in the west end districts that surround the outlying Phoenix metro area and in Pinal County.

Senator Bob Burns asked how the approval from the JLBC meeting that increased the funding per square foot affected the \$308.4 million estimate.

Mr. John Arnold, Interim Director, School Facilities Board, stated that the spending estimates were based on the 4.8% increase, which was the original JLBC recommendation 3 months ago. The 12.8% approved by JLBC will change the expenditure plan. The impact for FY 2006 will be minor since the 12.8% only applies to schools that

will be approved during the upcoming year. Of those approvals, SFB would anticipate spending 5% of the total award in FY 2006. The remainder would be required and expended in FY 2007 and beyond.

Senator Burns asked if past projections have been analyzed to see how accurate they have been.

Mr. Arnold answered that it has not been done and will look at working on those projects. Part of the difficulty has been the switch in funding source from lease-to-own to cash. In prior years, the Legislature asked SFB to develop how much lease-to-own authority was needed, which is different than asking how much money will be required in any given year.

Senator Burns stated that SFB should work with JLBC Staff, since Staff will analyze the information, and advise the Committee as to the results.

Mr. Arnold stated that it will be done.

Senator Robert Cannell asked, in regard to the amount budgeted for land, why the builders could not donate land and what the Legislature can do to help encourage builders to provide the land for the school so that we are not spending over 10% of the budget on land instead of buildings.

Mr. Arnold stated that several years ago SFB took an aggressive position on land, which was if a developer was doing a new development, SFB would not put a K-6 school in the development unless the school site was donated. That was a fairly successful policy. Approximately 50% of land acquisitions were donated. Middle and high school sites were harder to obtain. It has been more difficult to obtain those donations with the increase in land values.

Senator Burns asked if there are tax credits that could be offered to developers.

Mr. Arnold stated that if the school district obtains a donation, SFB gives them 20% of the value of the donation when they begin construction. That requirement is in statute. The developer is also able to get a tax credit of 30% of the value of the property. Even on a donation, the state is paying 50% of the value of the property.

Senator Cannell asked if there were any restrictions on city or county ability to accept land donations from developers.

Mr. Arnold said that he does not know.

Senator Cannell stated that he would like someone to obtain that information.

Senator Burns stated that as recommended by JLBC Staff, action on this item will be deferred until the board has completed its project approval process in the current fiscal year. The JLBC Staff recommends that the board report by May 1, 2006 on its proposed construction schedule and cost estimates by project.

**ARIZONA BOARD OF REGENTS – UNIVERSITY OF ARIZONA/ARIZONA STATE UNIVERSITY –  
Review of Arizona Biomedical Research Collaborative Building Project.**

Ms. Amy Strauss, JLBC Staff, presented the Biomedical Research Collaborative Building Project for Arizona State University (ASU) and University of Arizona (UA). Statute requires that the Committee review any university projects financed through Certificates of Participation (COP), also known as lease-purchase agreements. Universities would finance this project with a COP issuance not to exceed \$33 million. UA and ASU plan on selling the COPs in December 2005 with a AAA credit rating for a term of 25 years at an estimated interest rate of 4.75%. This is an 85,600 square foot 4-story structure to be located between the Medical Campus and TGen. This project has an estimated cost of \$29.6 million, as well as, \$590,000 to purchase the land from the city of Phoenix. This building has a below average cost per square foot. ASU and UA have exhausted their financing for research infrastructure projects with this building.

Senator Burns asked if there is a contingency plan for this facility in the event that the Medical Campus does not proceed as proposed.

Mr. Jaime Molera, on behalf of the Arizona Board of Regents, stated that this is separate from the College of Medicine. This is a stand-alone facility as part of the university research infrastructure bill. These funds are available and used as allowed by the Legislature. This is a collaborative between UA and ASU.

Senator Burns stated that structure is a stand-alone and the functions housed within the structure would help support the College of Medicine. He asked if the building would be able to function without the College of Medicine.

Mr. Molera stated that the resources and operational costs are allocated separate from the College of Medicine.

Senator Karen Johnson asked for an explanation of what a principal investigator does.

Dr. Ann Cress, Associate Dean for Research at the College of Medicine, UA, answered that a principal investigator is a faculty member that initiates research and builds a research program. A principal investigator leads a group which does research in a particular area. UA and ASU expect to be able to combine efforts into bioinformatics and into molecular therapeutics. The principal investigator would initiate that effort and would build the program.

*Representative Pearce moved the Committee give a favorable review of the Biomedical Research Collaborative Building with the following standard university financing provisions for each:*

- *UA and ASU shall report to the Committee before expenditure of any allocations that exceed the greater of \$100,000 or 10% of the reported contingency amount total for add-alternates that do not expand the scope of the project.*
- *UA and ASU shall submit for Committee review any allocations that exceed the greater of \$100,000 or 10% of the reported contingency amount total for add-alternates that expand the scope of the project. In the case of an emergency, UA and ASU may report immediately on the scope and estimated cost of the emergency rather than submit the item for review. JLBC Staff will inform the university if they do not concur with the emergency nature of the change in scope.*
- *UA and ASU shall report to the Committee with a comparison between any compliance costs of the Governor's Executive Order 2005-05, concerning energy efficiency, and operating and other savings generated through those efficiencies when the Guaranteed Maximum Price is set. Future requests for capital project reviews should include these comparisons as part of the initial submission.*
- *A favorable review by the Committee does not constitute endorsement of General Fund appropriations for operational costs when the project is complete. These costs should be considered by the entire Legislature through the budget development process.*

Senator Johnson asked what budget increase was given to UA and ASU as referenced in the Board of Regents Meeting Recommendation.

Mr. David Harris, Senior Project Manager, stated that item was approved by the Board as a budget increase. Since the Board approved the increase, the next step is to bring the increase to JCCR for review.

Senator Johnson asked for additional information on the purpose of the increase.

Mr. Harris stated that they were shelling (no interior construction) a part of the building and found that additional funds were available in the research infrastructure appropriation and asked the Board to increase the budget so that none of the building was shelled and the entire interior space would be completed as well. That entailed a \$2.4 million increase from ASU for the bioinformatics program.

The motion carried.

**LEGISLATIVE COUNCIL – Presentation on State Archives and History Building Project. This item is for information only.**

Mr. Michael Braun, Legislative Council, stated the most recent activity concerning the State Archives Building was initiated by the Legislature in 2004. Earlier efforts and appropriations have been repealed, but the current project dates to 2004. In 2004 the Legislature appropriated \$2 million to the Arizona Department of Administration (ADOA) to begin site preparation and design work for an archives building. The session law in 2004 that appropriated the money was somewhat specific in that it called for a design site preparation for an archives and history building and related infrastructure. It stated the archives building should be located on the Capitol Mall in Phoenix as depicted on Capitol Mall Master Plan and the building shall provide climate controlled storage of archival and historical materials and secure access for researchers.

In June 2004, ADOA went through a public bidding process to secure an architect for the project and selected DWL Architects. A contract was then negotiated and signed in August 2004 for the design of the building. ADOA, in anticipation of funding for the construction of the building, went through a public bidding process to identify a construction manager at risk (CM@R), they selected Holder Construction and signed the first of 2 contracts. The first contract brought Holder in the pre-construction phase to solicit input about construction issues in the design phase of the project. There is a second part of the contract that has not been signed by ADOA that is the part of the CM@R contract that would provide the construction services at a guaranteed maximum price.

In February 2005, the State Library Board received a presentation about the various options for the Archives Building. They identified a plan that was estimated to cost \$35.7 million. That plan would have provided all of the construction space needed but half of the shelving for the space.

In March 2005, the capital outlay bill was enacted by the Legislature, sent to the Governor and vetoed. That bill appropriated \$30 million to ADOA for the project. ADOA then instructed the architect and the CM@R to cease activity on the project pending resolution of the budget and the budgeted amount.

In May 2005, another capital outlay bill was passed and signed into law. That bill appropriated \$15 million this fiscal year (FY 2006) and \$15 million next fiscal year (FY 2007) to Legislative Council, not ADOA. The appropriated money was for additional site preparation, construction, administration, actual construction, furnishings, fixtures, equipment, and relocation of library materials into the new archives building. In addition to the 2 year \$30 million appropriation, there are 2 reviews that must take place by JCCR pursuant to the terms of the session law.

Before Legislative Council can issue any request for proposal or procure any services related to this project, it would need to come to JCCR and submit the plan for the procurement method. After a subsequent meeting or both reviews at the same meeting, a second review has to take place before Legislative Council can undertake any construction activities. Legislative Council has to come to JCCR and submit the scope, purpose, and estimated cost of the project for its review. This presentation is not designed to fulfill either of the steps.

Elected members of the Legislative Council have not yet scheduled a meeting or taken any action relating to either the procurement method or the scope, purpose, or estimated cost of the project. This week the process of scheduling a Legislative Council meeting that will include those issues on the agenda will begin.

Senator Burns stated that he thought that following this presentation, it would be necessary for Legislative Council to meet.

Mr. Braun stated that there would be the need for 2 reviews by JCCR. It is decided by the JCCR Chairman as to whether to schedule the reviews at the same time. It might be that after the procurement method is reviewed favorably by JCCR, there would then need to be additional work done before getting an accurate idea about scope, purpose, and estimated cost. At a minimum, the work that has been completed to date has been based on a

\$35.7 million design. Something has to change because only \$30 million has been appropriated. The members of Legislative Council have not weighed in on their views about scope, purpose, and appropriate cost for the building. By session law, that is now their responsibility.

Senator Burns stated that this issue was scheduled to come before JCCR 3 months ago and there were requests to hold it. There have been rumors of the possibility of site changes and possible redesign of the building. His understanding when the budget was negotiated was that the building was to be built on the site that was predetermined and the construction would be a downsizing of the \$37 million to \$30 million.

Representative Russell Pearce stated that he understands there was an agreement not to the site, but to fund the archives building recognizing that it falls under the Legislature, and there is land that might be more appropriate and provide the best bang for the buck out of the building. He would like to see this move slowly to ensure that the \$30 million gets utilized in the proper manner.

Senator Burns stated that this project is moving slowly. The process at this point, is that it is up to the elected members of Legislative Council to make the next decision, and then bring their decision to the Committee for review.

Representative Jack Brown stated that he has been involved with this project for a long time. We have spent money that did not need to be spent because this is moving so slowly. If this would have been built 4 or 6 years ago we could have done it for less money than we are spending now. We went through the process, set the guidelines, set the hearings, and then dropped the ball. Now we are not getting as much as was previously thought. We should proceed with getting the building started and finished. Hold 2 hearings at once to get things going.

Senator Burns asked Representative Brown for more information or recent history since he sits on the library board.

Representative Brown stated that there is no recent history. There is inactivity; those in charge are wondering why there is a delay. There has been no official word from anyone on this project.

Representative Pearce stated that 3 or 4 years ago, there was no vote on this because there was no money. We now have money and have decided to move forward. If we are spending \$30 million of tax payer money, we are going to do it wisely. We need to review the options we have. They were not discussed before.

Senator Burns stated in regard to options that exist now versus options that did not exist during the budget, the options were taken out of the picture by the agreement that was reached at that point in time. It was agreed that the building would be built in a specific place and specific purpose. There was not a discussion of opening up the door for other options. He asked if additional statutory actions were needed if a different direction would be taken as far as site and design of the building.

Mr. Braun stated that design of the building is not set in the law. The site of the building is set in the session law and would require further Legislative action in his opinion.

Representative Andy Biggs asked where the site is located.

Mr. Braun handed out 2 maps. He explained the space located on the Arizona State Capitol Complex map prepared by ADOA in 1999 has been cleared and has been referred to as the site of the archives building. The Arizona State Capitol Mall Master Plan map is the title terminology that has been used in both session laws, but is not defined in the statutes. The term used in statute is Governmental Mall, which has different boundaries than the State Capitol Mall Master Plan.

Representative Biggs asked if the site in session law is on the Master Plan.

Mr. Braun stated that the session law says it has to be as depicted on the Capitol Mall Master Plan. In that map there is a Records Retention Expansion site identified. The building north of the site is the current Records Retention building. The Capitol Mall Master Plan depicts a Records Retention Expansion and also a Legislative Expansion area. There is no session law definition that Records Retention Expansion equals Archives Building. However, that is the site that has been prepared.

Representative Biggs stated the session law does not necessarily define the site on Jackson Street and 19<sup>th</sup> Avenue, but constrains the site to be as depicted on the Master Plan. Yet there is nothing labeled Archives Building.

Mr. Braun stated that it does not say Archives Building, it says Records Retention Expansion and it has never been defined. The only information available is testimony over the years that refers to the block as the site of the Archives Building. It was not called Archives Building when the Master Plan was developed in 1999.

Senator Burns stated that during the budget negotiation, that site was specifically referenced a number of times. It may not be spelled out in exact legal terms, but it was understood that it was the site.

Representative Pearce stated that it was during the very end of budgets and there was not enough time allocated for discussion on it. No one thought of other options until there was a great opportunity for the Legislature to find the best options.

There was further discussion related to pursuing other options and sites.

Senator Robert Cannell stated that he voted for the Archives Building because he and the taxpayers want an Archives Building. This building is to serve the entire state and has a huge amount of support. We cannot backup against what we said we were going to do, and do something different.

Representative Pearce stated that the voters did not vote on this building. They trust the Committee to make the decisions wisely. We are only reviewing that the money is spent wisely.

Senator Cannell stated that it is very clear what the budget process was. The longer we wait, the less we are going to get for our money. Sticking something in with the building does not fit what he voted for.

Representative Biggs stated that he wants to understand language under the session law because it does not fit. He asked what has to be done statutorily to correct it, or if past testimonies and hearings are enough to rely on.

Mr. Braun stated that testimonies are enough to rely on. The language in session law talks about the building being location on the Capitol Mall located in Phoenix, Arizona as depicted on the Capitol Mall Master Plan. There was no requirement in statute on how a Capital Mall Master Plan was to be created. Past bills introduced in the Legislature have that site identified.

Representative Tom Boone stated that he understands what Representative Pearce is saying. This Legislative building has opportunities for looking at ways of addressing needs of the Legislature, not doing it in place of the needs for Library and Archives, but as a better use of money. He asked if specific requests should go to Legislative Council.

Senator Burns stated that requests would be made through Legislative Council.

Mr. Braun stated if there are requests for a different site as opposed to a different design, that members of Legislative Council should be contacted. Members can be contacted to change the design and it would not require changes to the session law. Legislative Council does not have authority to change the site as it is special in the session law.

Representative Boone stated that some of the suggestions in design change are site specific and that could be a dilemma. Incorporating some features is difficult if you are locked into a site. He asked if suggestions can be looked at by Legislative Council then formed as part of a recommendation back to the Committee if the ideas and site changes are reasonable.

Mr. Braun stated that Legislative Council will be told that no matter what they do, there have to be 2 additional reviews by JCCR.

Senator Burns stated that we need to move forward on what was agreed to.

Representative Boone stated that he understood the current procurement method is a CM@R and the contractor for the pre-design work is separate from the construction and the guaranteed maximum price has not been negotiated.

Mr. Braun stated that Legislative Council has not had discussions with the current CM@R. The agreement is between ADOA and the current CM@R. Legislative Council is not bound by that agreement.

Representative Boone suggested that Legislative Council look at other methods such as qualified select bidders list and traditional hard bid. If the CM@R continues, hire an independent firm to work on behalf of the state to oversee the guaranteed maximum price.

Representative Brown suggested that we have Legislative Council proceed with getting construction started.

Senator Gould stated that Legislative Council should look at the CM@R as Representative Boone suggested.

Mr. Jack Pfister, stated that he is an amateur historian and frequent user of the Library and Archives and would like the Committee to proceed with the plan already approved by the Legislature. Redesigning a new facility would incur a loss of \$2 million for the architect especially if the site is changed. Additional functions will diminish the archives function space. Further delays would increase the costs 10% to 15% for construction. An agreement was reached for \$30 million, and it would be an unwise decision for the Legislature to go back on its agreement.

Representative Boone asked if the building would need to be redesigned since the original project was designed for a \$37 million project and it is now a \$30 million project.

Mr. Pfister stated that the process has been started to look at what can be done to the design.

Representative Biggs asked what the square footage of useable space is for the new building that is currently designed.

Mr. Braun stated that it is 125,000 total square feet.

This item is for information only, and no Committee action is required.

Without objection the Committee meeting adjourned at 3:20 p.m.

Respectfully submitted:

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Yvette Medina, Secretary

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Lorenzo Martinez, Assistant Director

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Senator Bob Burns, Chairman

NOTE: A full tape recording of this meeting is available at the JLBC Staff Office, 1716 W. Adams.