

**PERMANENT SCHOOL FACILITIES BUILDING COMMITTEE
REGULAR MEETING
September 5, 2012**

The Permanent School Facilities Building Committee held a meeting on Wednesday, September 5, 2012 at Joseph A. Foran High School, Art Room 123. Chairman Woods called the meeting to order at 7:00 p.m.

Committee Members Present

M. Woods, Chairman
J. Quish
M. Hardiman (7:11 p.m.)
S. DiBiase (BOE)
C. Saley (BOE)
R. Nunno (BOA)

Excused: Ald. R. Vitali (BOA)

Also Present

B. Silver, Silver Petrucelli Assoc., A/E
C. Nardone, Silver Petrucelli Assoc., A/E
P. Jorgensen, Silver Petrucelli Assoc., A/E
M. Cummings (MPS)
J. Richetelli (MPS) (7:10)
K. McCarthy, Fuss & O'Neil
P. Bradbury (MPS) (7:13 p.m.)

Consideration of the Minutes of August 22, 2012 meeting

Ald. Nunno and Ms. DiBiase made and seconded a motion to approve the minutes of the August 22, 2012 meeting as presented. Motion carried unanimously.

Status Report RE: Elementary Schools Asbestos Abatement Project.

a) John F. Kennedy Elementary School – Mr. Jorgensen referred the Committee to p. 1 of the handout for the punch list. He stated the Committee saw this list at the last meeting and explained what he typically does is ask the contractor to note next to each item what has been taken care of. Mr. Jorgensen stated all items are done. He also reported he received the first warranties on the project yesterday, which he is still going over. He stated the Committee should have all of the warranties by the next meeting at which time the Committee could close out the project.

Status Report – Joseph A. Foran High School – Additions, Renovations, Code Compliance Phases III and III-A and Status Report and Joseph A. Foran High School – Phase II Lead Asbestos Abatement

Mr. Nardone reported for the most part the projects are now substantially completed. He stated Paragon Construction is working on a punch list and that he expects all items to be completed for next month. Mr. Nardone stated there was one change order for the Committee to consider. He referred the Committee to p. 2 of the handout and explained during their walk through the Fire Marshal requested two (2) additional self-closers on two of the doors in the 'infill' area. He stated the cost was \$1,046.50, with the backup found on p. 3 of the handout.

Chairman Woods asked if the Fire Marshal was essentially ordering these two self-closers.

Mr. Nardone replied yes, adding without it they would not be able to obtain the final certificate of compliance.

Ms. DiBiase and Ald. Nunno made and seconded a motion to approve a change order to the Paragon Construction Company Contract in the amount of \$1,046.50 for the two additional self-closers.

Mr. Quish questioned the charge for travel and time.

Mr. Saley asked why this could not have been done in-house. He also asked if the price quoted was fair value.

Mr. Richetelli commented by doing the work in-house it would not be eligible for State reimbursement.

Motion carried unanimously.

Chairman Woods asked if that would be the last request for a change order from the Fire Marshal.

Mr. Nardone stated they should be all set.

Chairman Woods asked about the certificate of occupancy.

Mr. Silver explained since a school never gives up occupancy on a renovation project, they only need to receive a certificate of compliance.

Mr. Nardone stated they are still waiting on the approval of the reverse-swung doors on the addition upstairs.

Mr. Silver pointed out they have been inspected, but they are waiting for the inspection of Phase III. He also noted they are still holding approximately \$35,000 of Mountford Construction Company's retainage.

Mr. Quish and Ms. DiBiase made and seconded a motion to accept the Joseph A. Foran High School – Additions, Renovations, Code Compliance Phases III and III-A projects as substantially complete effective August 28, 2012.

Mr. Quish noted there are still a few outstanding punch list items and asked if Mr. Bradbury was satisfied there would be no problems with the value of the work remaining beginning on August 28, 2012.

Mr. Bradbury responded yes, he was satisfied.

Motion carried unanimously.

Ald. Nunno and Mr. Saley made and seconded a motion to accept the Joseph A. Foran High School Additions, Renovations, Code Compliance – Phase II Lead/Asbestos project as substantially complete effective August 28, 2012.

Mr. Quish stated he wished to renew his earlier question to Mr. Bradbury as to whether he was satisfied there would be no problems with the value of work remaining beginning on August 28, 2012, based on the items on the punch-list.

Mr. Bradbury replied no.

Motion carried unanimously.

Chairman Woods stated he would entertain a motion to re-order the agenda and move East Shore Middle School Addition/Renovations to the end of the agenda.

Ald. Nunno and Mr. Saley made and seconded a motion to re-order the agenda and move East Shore Middle School Addition/Renovations to the end of the agenda. Motion carried unanimously.

Status Report – Jonathan Law High School – Roof Replacement

Mr. Jorgensen reported they are 1-2 weeks away from completing the job. He stated they have 2-3 days of seam work and 4-6 days of metal work remaining. Mr. Jorgensen stated they have been following and negotiating one change order, but they are not ready to present at this point. He also reminded the Committee they expect to have a change order credit of approximately \$2,000, a result of the change order offset against unused allowances. He explained there is some additional plumbing work that needs to be done. He stated it should be finalized by the next Committee meeting.

Status Report - Joseph A. Foran High School – Roof Replacement

Mr. Jorgensen reported they are still waiting for the observatory dome delivery.

Chairman Woods asked where it is in production.

Mr. Jorgensen stated it is not in production as yet.

Chairman Woods asked if they have experienced any leaking with the current dome.

Mr. Bradbury replied no, although with heavy rain there may be a slight drip or two.

Status Report – Joseph A. Foran High School – Phase III Lead Asbestos Abatement

Mr. Nardone reported they conducted a walk through with the Fire Marshal. He stated the natatorium is not quite complete and that they have produced a punch-list of items that still need to be completed. He stated there are only 5-6 items between the Fire Marshal and the Building Official and noted most of the Building Official's list has been completed.

Mr. Silver stated there are some substantial completion dates in the handout. He explained it is customary to complete the certificate of substantial completion between the contractor and City and Silver Petrucelli. He stated in this instance it's when the teachers and students take occupancy. He stated the substantial completion date for this portion of the project was August 28, 2012.

Mr. Quish and Ald. Nunno made and seconded a motion to accept the Joseph A. Foran High School – Phase III Lead Asbestos Abatement project as substantially complete effective August 28, 2012. Motion carried unanimously.

Mr. Silver referred the Committee to p. 6 of the handout regarding the change order for W.B. Meyer Moving. He stated last month this Committee approved their moving out expenses. He stated this change order is for the internal move of the weight room and summer storage.

Mr. Quish questioned the difference between an installer and a mover.

Mr. Bradbury stated these are all weight room items and that there were a number of pieces that had to be put back together.

Mr. Silver stated there would be another change order next month for the move back in.

Chairman Woods commented he wanted to clarify there are a total of 3 moves and that the final change order next month is for the move back in.

Mr. Silver responded yes.

Mr. Quish asked why the charge is being factored as 4.5 weeks in a month. He stated he thought it was 4.3 weeks per month and asked that it be corrected and stated these are the types of things that they need to make sure are accurate.

Ms. DiBiase and Mr. Hardiman made and seconded a motion to approve the change order to the William B. Meyer account in an amount not to exceed \$8,015 based on the actual number of weeks for internal move/installing at Joseph A. Foran High School. Motion carried unanimously.

Status Report – East Shore Middle School Additions/Replacements

Chairman Woods stated there had been some developments since the Committee met last month. He stated at the last meeting the Committee considered the bids for East Shore Middle School (“ESMS”). The Committee was faced with a claim by Salce Construction that they had arrived at the Purchasing Department prior to 3:00 p.m. and were denied an opportunity to bid which they also claim was lower than others. Chairman Woods stated the industry standard is that you go by the purchasing authority’s clock. He stated Salce Construction has hired Attorney Paul Sobel who has laid out reasons why Salce Construction’s attempt to submit their bid was timely. Chairman Woods also stated Attorney Sobel came up with a revelation that the City of Milford had not followed recently changed statutory procedures. He continued with a lengthy explanation of Section 4b-91. He stated it is Attorney Sobel’s opinion that the City of Milford did not comply with the bid and read the language from Section 4b-91.

Mr. Quish interjected stating that was a totally separate issue.

Chairman Woods continued with an explanation of the statute regarding the State contracting portal.

Mr. Quish asked if Bismark Construction had submitted his prequalification certificate with this bid.

Mr. Silver replied yes. Chairman Woods stated the recommendation of the City Attorney is “why take any chances,” adding at the end of the project the City Attorney has to sign off that all statutory requirements have been satisfied including this new revelation.

Mr. Saley commented the language states it is required, but there are no punitive damages for not complying.

Chairman Woods agreed the statute does not provide any punishment.

Mr. Quish asked why they needed to advertise on the DAS portal.

Mr. Richetelli explained the Superintendent of Schools and City Attorney both have to certify that all statutory requirements have been met.

Mr. Silver explained the DAS requires that portal and that 4b-91 changed from the newspapers to the portal. He continued with an explanation of the packet distributed to the Committee. Mr. Silver stated he called the BSF and they were surprised and stated they do not administer that section. He continued with an explanation of the handout. He also pointed out on p. 11 of the 87 page document; this Committee has complied with the provisions of 10-287 (b) (advertising in a local newspaper) and not 4b-91 (a).

Chairman Woods commented the City was always putting bids on the portal and then it stopped doing so in 2010.

Mr. Quish commented what the City Attorney is signed is compliance of 10-287(b) and not 4b-91(a).

Mr. Silver stated in his discussion with Kevin Kopetz, the DAS attorney stated there is no harm because the bidders that were there knew of the project. He also stated Carlos Velez, Procurement Program Manager of the DAS is active in this issue and sees the conflict. Mr. Silver also explained the DAS is parent department and that the BSF is technically a sub-division of DAS. He also stated the BSF is not administering a statute of DAS. He also stated the DAS does not track or manage BSF compliance and that they have come to the realization that there are many towns that could be in violation of this statute changed in 2010.

Mr. Richetelli stated he conducted an informal survey today of other towns with school projects in the State and approximately 75% had not heard of this statute, but 25% did post on the portal, but were not aware of the statute.

Mr. Saley suggested the Committee get a letter confirming 10-287 is correct and meets the requirements.

Mr. Silver continued with an explanation and his discussions with Mr. Velez. He stated the Deputy Commissioner is out this week and due back next Monday and that they know this Committee is in limbo and have concerns regarding state reimbursement.

Chairman Woods stated the issue this Committee has to face that the new found information also affects the Jonathan Law roof project. He stated the safest way to go at this point would be to re-bid the ESMS project and take a chance with any claim by Bismark on account of the rebidding.

Mr. Quish stated he did not feel the Committee needed to make a decision tonight, but could wait.

Chairman Woods stated it was his feeling this Committee needed to get something in writing that they would receive reimbursement and that the State reimbursement is not jeopardized.

Mr. Saley asked if any town had ever had their funding revoked. He also asked about the downside of being sued by Bismark for lost profit.

Mr. Silver reminded the Committee the contract has not been offered or signed.

Mr. Saley commented these were all verbal conversations and that there does not appear to be anything in writing.

Mr. Nardone explained the Notice to Proceed letter to Bismark.

Mr. Quish commented the City of Milford is totally exposed.

Mr. Saley expressed concern with the City's exposure and what they could expect from Bismark. A brief discussion ensued.

Mr. Saley asked what the time line would be if they have to go out to bid again.

Mr. Silver responded they would recommend the town ordinance minimum which he stated is 10 calendar days.

Chairman Woods stated the invitation to bid has to read "clock in the Purchasing Office and/or time stamp."

Mr. Saley asked when the Committee would need to bid again.

Mr. Silver reiterated the Deputy Commissioner was due to return next Monday, adding this is an important statewide issue and they expected to hear something soon.

Chairman Woods asked what the Committee is to do if week after week goes by with no DAS decision.

Mr. Silver commented the State is motivated to move this quickly. Discussion resumed.

Chairman Woods reminded the Committee they needed to be cognizant of **at least** the Jonathan Law roof project which could be impacted.

Mr. Quish pointed out the form references the old legislation, so the City Attorney actually could sign the form because it actually is in compliance.

Chairman Woods commented he wondered if the Committee had to rebid ESMS, if that would reflect negatively on the two recently completed projects, Jonathan Law High School Roof and Joseph A. Foran High School III – Lead/Asbestos. He also stated after lengthy discussions, it was the consensus of the Committee to take no action at this point and keep Bismark on hold while the Committee awaits written assurances that reimbursement is not in jeopardy.

Mr. Saley suggested someone contact Bismark and gather some sense of where they are.

Mr. Silver referred the Committee to p. 9A of the handout which shows the add alternate which the Committee approved last month. He noted the prime contract would be \$10,486.00, with a separate \$330,000 contract for asbestos abatement.. He stated based on the numbers there should be approximately \$200,000 in contingency in the ESMS bond.

Mr. Quish asked about bonding if it is more than the project actually amounts to and the balance of those funds.

Mr. Silver referred the Committee to p. 10 and explained the inspection testing services. He stated the Committee does not need to decide tonight. Mr. Silver continued on pgs. 11-14, which he stated shows the actual bids, structured all the same. He then referred the Committee to p. 15 of the handout which he explained the Silver Petrucelli's August rebidding efforts.

Chairman Woods confirmed the \$7,814 change order to the Silver Petrucelli contract was for the August rebidding documents and that the following month the bid was awarded. He asked if the Committee ends up going out to bid again what that charge would be.

Mr. Silver stated there would not be a charge if the bid period was brief as hoped.

Mr. Hardiman and Ms. DiBiase made and seconded a motion to approve a change order in the amount of \$7,814.00 to the Silver Petrucelli contract in the amount for the rebidding charges for the month of August. Motion carried unanimously.

Mr. Quish asked if the Committee could receive the Silver Petrucelli fee proposal for construction administration services before the next meeting.

Mr. Silver replied yes.

Chairman Woods asked the Committee if they wished to have the architect put the Phase II portion of the project together and get it to the State for review so the Board of Aldermen could consider funding in February.

Mr. Nardone stated the Committee would need to think about prioritizing Phase II work items since the cafeteria work was not in Phase I.

Mr. Quish stated he would like to see a fee proposal from Silver Petrucelli for the repackaging and rebidding of Phase II. Discussion ensued.

Consideration of Payment Requisitions

Mr. Silver referred the Committee to p. 16 of the handout

Chairman Woods asked if Mr. Silver if he represented to the Committee that all the requisitions had been reviewed and were found to be in order and if payment was recommended at this time.

Mr. Silver responded affirmatively.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Paragon Construction (9) 2.5% Retain in the amount of \$53,430.77 Joseph A. Foran High School – Phase II Lead Asbestos. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Paragon Construction (9) 2.5% Retain in the amount of \$55,371.73 for Joseph A. Foran High School Phase III and IIIA Additions. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli III CA (#12-1280) in the amount of \$609.00 for Joseph A. Foran High School Phase III and IIIA Additions. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli (12-1262) in the amount of \$320.00 for Joseph A. Foran High School – Partial Roof Replacement. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli (#12-1249) Rebidding in the amount of \$7,814.25 for East Shore Middle School Expansion/Alterations. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silktown Roofing, Inc. (#6) in the amount of \$298,442.50 for Jonathan Law High School – Partial Roof Replacement. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli (12-1279) in the amount of \$820.00 for Jonathan Law High School – Partial Roof Replacement. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to THP General Contractors (#5) in the amount of \$22,258.80 for John F. Kennedy Elementary School – Floor and Ceiling Replacement. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli (#12-1205) in the amount of \$29,591.00 for John F. Kennedy Elementary School – Floor and Ceiling Replacement. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Paragon Construction Co (#2) 2.5% Retain in the amount of \$177,348.75 for Joseph A. Foran High School – Phase III – Lead Asbestos. Motion carried unanimously.

Ald. Nunno and Mr. Hardiman made and seconded a motion to approve payment to Silver Petrucelli (Abtmnt/Lead Desgn (#12-1317) in the amount of \$4,620.00 for Joseph A. Foran High School – Phase III – Lead Asbestos. Motion carried unanimously.

There being no further business to discuss, Mr. Hardiman and Mr. Quish made and seconded a motion to adjourn at 8:36 p.m. Motion carried unanimously.

Respectfully submitted,

Kathleen K. Huber
Recording Secretary