

East Side Fire Station Building Committee Regular Meeting

East Side Fire Station

980 New Haven Avenue, Milford, CT

Wednesday, April 17, 2013

Call to Order: Chairman Healy called the meeting to order at 1830 hours. A quorum was present.

1. **Roll Call**

Committee Members John Healy, Carmen Corvino, William Brennan, Alderman Phil Vetro, Bill Bevan, Judith Toohey, and Jack Jansen. Also present was Ret. Battalion Chief William Healey; from DeCarlo & Doll, Inc., Emanuel Machado; and Attorney Jeff Donofrio.

2. **Consideration of Minutes**
Regular Meeting - March 14, 2013

Committee Members Corvino and Toohey made and seconded a motion to accept the minutes of the March 14, 2013, regular meeting as presented. Motion carried unanimously.

3. **Report of Chairman**

Chairman Healy commended Committee Members Toohey and Corvino for their excellent work on the dedication ceremony. He commented the ceremony went very well. He added he owes the Committee a great debt for their support during this process. The Chairman said Former Chief LaVecchia had asked if the Committee would no longer be meeting; Chairman Healy informed him the Committee would be working on a few remaining issues. Chairman Healy said the project is at the stage where the Committee will be settling the accounts with Salce Contracting and DeCarlo & Doll, Inc. The Committee will most likely rely on Attorney Donofrio more than they have to this point. The next stage is to get to final completion contractually in order to completely close out everything. He added the Committee still has a few remaining issues to discuss.

Chairman Healy confirmed all Committee Members were in receipt of the updated punch list forwarded to them on April 15th; the punch list was updated by Ret. Battalion Chief Healey.

Chairman Healy said they have not received the as-builts for the plumbing and electrical items; the as-builts are required to complete the building commissioning. He said they have been requested from Salce Contracting. Mr. Machado added he has requested the as-builts himself several times. Attorney Donofrio noted Salce Contracting will not receive the remaining 2.5% of the retainage until the as-builts are received by the owner. Mr. Machado noted the 2.5% retainage equals about \$85,000.

Chairman Healy asked beyond that what does the Committee owe Salce Contracting that is not in dispute. Mr. Machado said there are some change orders that the Committee will go over

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tonight. He commented change orders are a sticky issue because Salce Contracting has to agree to the amounts before the payments go through, and more than likely Salce Contracting will make the process difficult. If Salce Contracting rejects what the Committee proposes, he reserves that right; but Mr. Machado noted to date, Salce Contracting has not provided any requested backup documentation.

Chairman Healy explained an item on the punch list is the framing and gypsum board for access points. He stated Salce Contracting has shown no interest in installing the required access points. An estimate has been obtained to install additional access and create a safe platform for the access panel in the men's room; the estimate is from DeCarlo & Doll for \$5,000, which is what they quantify the work to be worth. Committee Member Brennan inquired if that figure represents each access point or as a total job; Mr. Machado informed him that number is a total. Committee Member Brennan commented that without the as-builts, there is no real ability to get a fair estimate because it isn't known how many panels are needed. Mr. Machado said the building was designed mechanically to be technically three zones, and so in that respect, a fair estimate can be drawn.

In regard to the punch list, the glue and adhesive has been removed from the windowsills in the exercise room.

Also, the countertop crack in the watch room has not been remedied. The Chairman informed the Committee he received an estimate for fixing a dent in the kitchen stainless steel countertop for about \$500. He commented that Salce Contracting should fix the dent in the counter or do something comparably priced. Chairman Healy informed the Committee that Salce Contracting has offered to install door sweeps, which is not an equal trade-off.

Chairman Healy explained the chip in the exterior soffit had been repaired satisfactorily. Other completed items include the leaders and gutters, door hardware, Door 6, the weather-stripping on the storefront, the remote programming, and the sink vent.

Chairman Healy informed the Committee that Overhead Door 3 has a problem. Ret. Battalion Chief Healey said an operator came to assess the problem and the door is still out of service. Chairman Healy said Salce Contracting has noted this is a warranty issue. Ret. Battalion Chief Healey reported he was informed it is an electrical issue and so the responsibility remains with Salce Contracting and it is Salce Contracting's own subcontractor that is stating the issue is electrical. Chairman Healy asked Mr. Machado to send notification to Salce Contracting regarding this.

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The Chairman said the overhead door is still an issue. The floor is not level where it and the door meet. Chairman Healy suggested a possible solution and asked Mr. Machado notify Salce Contracting of the issue. Mr. Machado said he can speak to the subcontractor directly about the suggested solution.

The Chairman said the VCT flooring is still an issue because one is cracked and some have cupped. Mr. Machado said in the punch list they have been very specific about the locations of the flooring that needs to be remedied, but only one side has been repaired. Chairman Healy said he knows Salce Contracting is aware of this issue and it still needs to be fixed.

Chairman Healy explained to the Committee a floor drain in the decon room is not covered properly. Committee Member Brennan explained the drain itself is 12-by-12 and there is a 6-by-12 drain cover on it, leaving an open hole on the back half of the drain. Ret. Battalion Chief Healey suggested purchasing a drain cover themselves and getting reimbursed out of the retainage.

Ret. Battalion Chief Healey said one of the showers drips. He added that Salce Contracting reported fixing it and testing it, but the shower is still dripping. Mr. Machado said the vendor for plumbing will be coming to the station in the near future and he will discuss this issue with him. Ret. Battalion Chief Healey said one side of the building's plumbing (hot water) seems to work better than the other. Chairman Healy asked Mr. Machado to inform Mr. Rick Bialecki of when the meeting is to occur because he believes it is important for the Committee to obtain an independent opinion on the issue. He noted there might be a cost associated with obtaining Mr. Bialecki's opinion.

Committee Member Brennan noted the LG condenser issue will most likely have to be remedied by the Department. Chairman Healy said it was installed in an area approved by DeCarlo & Doll.

The Chairman explained he is waiting for a response from CES regarding the specified tape to use to seal the kitchen hood. Mr. Machado said he hasn't received any information on that subject. The Chairman asked Mr. Machado to follow up.

Chairman Healy reminded the Committee the call for aids remains an open item. He said he has an estimate from All Electric for \$2,342, which represents the installation cost. Ret. Battalion Chief Healey inquired how many bathrooms will need to have the call for aids, single occupancy versus public bathrooms. Chairman Healy said he is not sure it will be required in the single occupancy bathrooms. Ret. Battalion Chief Healey offered to check the code. Mr. Machado

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suggested getting a second estimate, as this one seems high. Committee Member Brennan explained the installation will be through tile and a light will need to be installed over the door. Chairman Healy suggested determining first if two or three call for aids is required. Committee Member Brennan noted the plans call for three. Chairman Healy asked Ret. Battalion Chief Healey to contact All Electric to update the estimate to reflect three call for aids. The Chairman asked Ret. Battalion Chief Healey to obtain a second estimate from another company. Committee Member Jansen inquired if the call for aids are specified on the original drawings. Chairman Healy said Salce Contracting claims the call for aids were not abundantly clear on drawings, and that is essentially the dispute. The Chairman noted he has himself seen the call for aids in various places; and again, it's a code item. The Committee must quantify this. Ret. Battalion Chief Healey asked Attorney Donofrio if Salce Contracting does not install the call for aids, requiring the Committee to hire a separate subcontractor for installation, could the Committee then back charge Salce Contracting for the work performed; Attorney Donofrio said he will be writing a letter to Salce Contracting regarding the items on the punch list he refuses to complete and confirmed that there will be a back charge for such items.

Chairman Healy explained the light in the ladies' room on the public side of the building does not illuminate properly or timely; he said All Electric's opinion is that it might be a ballast issue. Ret. Battalion Chief Healey said he will inform Mr. Bialecki of the issue so he may investigate possible solutions. Mr. Machado said this is a pretty efficient building overall so it might be smart to install a non-energy-efficient light bulb in the ladies' room. Committee Member Toohey commented the light stays low and never gets brighter. It was also noted that the fixture does not take a low-efficiency bulb.

Committee Member Brennan suggested having City Maintenance change the location of the thermostat from the EMS room to another location. Chairman Healy explained the thermostat is currently located in a closed room. He added he is not sure why it was put in there. Mr. Machado noted no one was consulted about the final location of the thermostat. It was supposed to be in the decon room, which has a return, but also is a damp room. He said the ideal location is in the hallway (east side). Ret. Battalion Chief Healey explained the issue of having the thermostat in the EMS room. Chairman Healy suggested asking All Electric to quantify the work needed to move the thermostat. Committee Member Brennan inquired if the thermostat is on the computer system; Ret. Battalion Chief Healey said it is.

Attorney Donofrio said that at the same time he sends correspondence on the PCOs (Proposed Change Orders), he will also send correspondence regarding the outstanding impediments to final completion, which will include but not be limited to the punch list. Ret. Battalion Chief

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Healey informed Attorney Donofrio that Salce Contracting has not been sent the updated punch list.

4. Executive Session

- a. Discussion of Legal matters related to the Construction Contract
- b. Attorney Jeff Donofrio

The Committee did not enter Executive Session.

5. Financial Report

Committee Members Brennan and Bevan made and seconded a motion to pay the invoice in the amount of \$50 to Recording Secretary Colleen Birney from account 0040-4320-5527-4168-0000 (secretary). Motion carried unanimously.

6. Architect Report

Mr. Machado said there was a meeting last week regarding outstanding change orders and there was a lot of discussion on the following items. Chairman Healy noted that the Committee should decide and vote on the outstanding change orders; Salce Contracting will be notified immediately by Attorney Donofrio.

PCO#42: vinyl base on mezzanine floor and access doors. Salce Contracting is requesting \$2,002. Mr. Machado recommended the Committee approve the PCO, including overhead and bond, \$1058.28.

Committee Member Toohey asked Mr. Machado's reason for the difference in his recommendation. Mr. Machado said the charge of \$500 for access panels seems to be an overcharge, and the vinyl base was not specified in the contract. Committee Member Brennan explained the vinyl base prevents leaking.

Committee Members Brennan and Corvino made and seconded a motion to approve PCO#42 in the amount of \$1,058.28, as recommended by Mr. Machado.

Chairman Healy said if Salce Contracting agrees to the amount recommended by Mr. Machado, then that is the final amount that will be paid. Salce Contracting will be notified of the Committee's vote.

Motion carried unanimously.

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PCO#43: mechanical room ceiling. Salce Contracting has claimed no ceiling was specified in the drawings and claims the Building Inspector required the installation of special tile. Mr. Machado said he disagrees strongly. He has asked for a copy of the instruction from the Building Inspector and the instruction from anyone regarding a change in the sprinkler heads. Salce Contracting is requesting \$2,180. Mr. Machado explained the only thing the Committee owes is the cost of three sprinkler heads. Mr. Machado recommends the Committee approve the PCO in the amount of \$100.

Committee Members Jansen and Bevan made and seconded a motion to approve PCO#43 in the amount of \$100, as recommended by Mr. Machado. Motion carried unanimously.

PCO#44: gypsum board soffit shop drawings. Salce Contracting has requested \$1,200. Mr. Machado explained the Committee initially rejected this PCO on December 13, 2012. He added he gave this item additional consideration based on a letter received on March 1, 2013; the Committee again denied this PCO on April 8, 2013. Mr. Machado noted there was no basis for the soffit shop drawings, and recommended the Committee again deny the PCO.

Committee Members Vetro and Corvino made and seconded a motion to uphold the recommendation made by Mr. Machado to reject PCO#44.

Mr. Machado added there is no record of any first-set of shop drawings anywhere.

Motion carried unanimously.

PCO#45: power modifications for the day fuel tank. Salce Contracting has requested \$1,767. Mr. Machado explained this PCO lies between the owner and contractor. He said he has tried to resolve this issue between the parties and suggested holding a meeting to discuss possible resolutions. Salce Contracting and the subcontractors never committed to such a meeting. Huntington Power gave the opinion that because of the modifications that were made, they are of the belief that a credit is owed to the City. Mr. Machado recommended the Committee deny the PCO.

Ret. Battalion Chief Healey explained the generator is specified as a load manager. Huntington Power recommended taking the load manager out and putting a day tank in. Salce Contracting only hooked it up. Huntington Power has stated it will stand by the City and Department that Salce Contracting owes the City a credit on this issue.

Committee Members Jansen and Bevan made and seconded a motion to reject PCO#45, as recommended by Mr. Machado.

Committee Member Vetro suggested instead of asking for credit, the Committee should consider it a wash.

Motion carried unanimously.

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Mr. Machado suggested accepting a small amount of change orders might help to keep the lines of negotiation open. Committee Member Vetro said the Committee doesn't want to set a precedent. Mr. Machado reminded everyone present that the Committee previously voted on having the Chairman use his discretion on any requested change orders under a specified amount, but the Chairman has only used this granted discretion once.

Attorney Donofrio explained that in change orders two things need to be considered, entitlement and quantum. The Committee can approve a PCO, but at a number that is commercially reasonable. If the Committee can find entitlement on a PCO, then there is no problem moving to the quantum phase.

PCO#46: additional electrical subpanel. Ret. Battalion Chief Healey commented the electrician has stated the City should be entitled to a credit on this item. Salce Contracting is requesting \$9,000. Mr. Machado informed the Committee the issue with this change order is that it was submitted months after end of change order window. Mr. Machado recommended the Committee reject this PCO. Mr. Machado added he has asked Salce Contracting to submit a copy of the owner's instruction explaining the extra work to be performed. Mr. Machado noted no such document exists.

Committee Members Vetro and Brennan made and seconded a motion to reject PCO#46, as recommended by Mr. Machado. Motion carried unanimously.

PCO#47: disconnect assembly in day room. Salce Contracting is requesting \$24,000. Mr. Machado recommended the Committee approve this PCO in an amount between \$6,000 and \$8,000. He noted the owner has an estimate of \$2,500. Committee Member Corvino suggested approving the PCO in an amount not to exceed \$2,500. Chairman Healy noted that most of the work associated with this issue is contract work.

Committee Members Vetro and Bevan made and seconded a motion to approve PCO#47 in an amount not to exceed \$3,000, as recommended by Mr. Machado. Motion carried unanimously.

PCO#48: traffic control disconnect. Salce Contracting is requesting \$483. Mr. Machado said he had analyzed the invoice and the material portion seemed to appear legitimate, but the labor portion was a little suspect. He said he then reviewed the invoice with Committee Member Brennan, and they found the City is owed a credit for the underground fee.

Committee Members Bevan and Toohey made and seconded a motion to reject PCO#48, as recommended by Mr. Machado. Motion carried unanimously.

PCO#49: power to Zetron system. Salce Contracting is requesting \$480. Mr. Machado recommended the Committee reject this PCO. Ret. Battalion Chief Healey said this work is contract work.

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Committee Members Bevan and Vetro made and seconded a motion to reject PCO#49, as recommended by Mr. Machado. Motion carried unanimously.

PCO#50: power to heat recovery units. Mr. Machado informed the Committee this was work performed pursuant to the contract. Mr. Machado said he disagrees that the installation should be considered extra work. He added Salce Contracting is stating the owner requested extra work. Mr. Machado recommended the Committee reject this PCO.

Committee Members Jansen and Bevan made and seconded a motion to reject PCO#50, as recommended by Mr. Machado.

Committee Member Toohey inquired if there has been any communication from the owner to Salce Contracting for the duration of the project; Mr. Machado said there has not been.

Motion carried unanimously.

PCO#51: power to gear washer. Salce Contracting is requesting \$499. Mr. Machado stated the material cost is \$82.65, and recommends the Committee approve the PCO in an amount between \$250 and \$499.

Committee Members Bevan and Vetro made and seconded a motion to approve PCO#51 in an amount not to exceed \$300, as recommended by Mr. Machado. Motion carried unanimously.

PCO#52: additional power to MagneGrip system. Salce Contracting is requesting \$1,314. Mr. Machado stated there has been a lot of back and forth on this issue. MagneGrip has offered to meet with Salce Contracting to discuss this item, as Salce Contracting is claiming they installed a 7hp motor and 40 amp, as per instruction as an upgrade. Mr. Machado said MagneGrip has required those specs from day one. Mr. Machado read the shop drawings to the Committee specifying the original motor and wiring. No additional labor is required for this work. Mr. Machado said he recommends \$200.

Committee Members Bevan and Corvino made and seconded a motion to approve PCO#52 in an amount not to exceed \$200, as recommended by Mr. Machado. Motion carried unanimously.

PCO#53: repaving of New Haven Avenue. Salce Contracting is requesting \$35,000.

Committee Members Brennan and Bevan made and seconded a motion to reject PCO#53, as recommended by Mr. Machado. Motion carried unanimously.

PCO#55: allowances. Mr. Machado said this type of item needs to be closed out at the end of each project, but no money changes hands. He explained somehow Salce Contracting thought the money in allowances allowed him to submit a change order. He added Salce Contracting is disagreeing with contract allowances 5 and 6 (UI fees for bringing power to building, station

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sign) in that Salce Contracting wants labor costs for the installation, even though the work is in contract.

Ret. Battalion Chief Healey said he has submitted the final bill from Altera Telephone to Salce Contracting.

Chairman Healy explained Salce Contracting is requesting \$19,068. Mr. Machado noted that all allowances that should be paid have been. The Chairman added any amount of money remaining in the budget related to the total allowances shows the project was under budget and it is not owed to Salce Contracting.

Committee Member Jansen inquired after the UI fee. Ret. Battalion Chief Healey explained that is contract work. Mr. Machado said this PCO is not really a PCO; it's more of a closeout item. Committee Member Toohey inquired if the Committee needs to take any action; Ret. Battalion Chief Healey said not at this time.

PCO#8: time of the project and liquidated damages. Mr. Machado noted Salce Contracting has gone way over on time. The Committee should not pay the money they would have paid if the job was finished on time. Mr. Machado explained if the job was finished on time, the Committee would have owed Salce Contracting, as they suffered significant weather delays at the start of the project. Mr. Machado suggested the Committee reject the PCO.

Committee Members Vetro and Bevan made and seconded a motion to reject PCO#8, as recommended by Mr. Machado. Motion carried unanimously.

PCO#s 17, 18, 19. Mr. Machado noted these PCOs had been amended and submitted late, but had been rejected by the Committee in February, 2012. He recommended the Committee again reject the PCOs, as no evidence or documentation has been submitted to support the request.

Committee Members Toohey and Bevan made and seconded a motion to uphold the Committee's original vote on PCOs 17, 18, and 19 as rejected. Motion carried unanimously.

PCO#29: sectional door supports. Salce Contracting is requesting \$7,208. Mr. Machado noted the contractor is responsible to provide a finished product. He added the ceiling in the apparatus bay was changed from the original design from open beams to covered beams, so the overhead door installer did spend some extra time. Mr. Machado recommended the Committee approve the PCO for \$1,200.

Committee Members Vetro and Toohey made and seconded a motion to approve PCO#29 in an amount not to exceed \$1,200, as recommended by Mr. Machado.

Committee Member Vetro withdrew his motion.

Committee Members Vetro and Bevan made and seconded a motion to approve PCO#29 in an amount not to exceed \$1,200, as recommended by Mr. Machado. Motion carried unanimously.

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Metal pan stair railing. Salce Contracting is requesting \$9,871. Mr. Machado said he has the shop drawings for both the installed stairs and the original metal shop stairs and he determined this item should be a credit to the Committee, as the installed stairs are a simpler design.

Committee Members Bevan and Vetro made and seconded a motion to reject the PCO, as recommended by Mr. Machado. Motion carried unanimously.

PCO#60: air balance. Mr. Machado said CES has given solutions to this issue. Mr. Machado recommended the Committee reject this PCO.

Committee Members Vetro and Toohey made and seconded a motion to reject PCO#60, as recommended by Mr. Machado. Motion carried unanimously.

Mr. Machado discussed Change Directive #2, the house trip lights. He reminded the Committee their approval was for an amount not to exceed \$16,000. He explained that figure was approved to get the work done so the building could be occupied by the Department. He said he felt at the time and he still feels now that work is contract work. He added the change order contains not only the house trip light work but essentially all the electrical work that needed to be completed in order to get the station in a functioning state, and a lot of work performed by the last electrician is contract work. Mr. Machado commented the trip light work alone is worth \$2,500. Committee Member Vetro inquired if the \$2,500 contract work should have been free to the City. Chairman Healy informed the Committee All Electric gave their opinion that if they were to do the work, \$5,000 to \$6,000 would be a generous amount. Ret. Battalion Chief Healey affirmed a lot of contract work was included in the invoice, along with the work not being performed within timeframe set. He added the requested amount is much higher than the ceiling set by the Committee.

Attorney Donofrio explained on the entitlement side of the Change Directive, there has always been a dispute as to whether or not this was considered contract work. He said he felt CES may have had a conflict of interest, so a third party reviewed the work. Attorney Donofrio further explained under the general conditions to the City contract with Salce Contracting, in the event the parties do not agree on the method of adjustment, the architect is supposed to choose the method and amount of the adjustment. Attorney Donofrio added if the Committee puts aside the entitlement portion of the issue and focuses on the quantum portion, \$2,500 to \$6,000 are reasonable expenditures for the work performed.

Committee Member Brennan suggested approving the Change Directive in an amount not to exceed \$5,000.

Committee Member Vetro commented the house trip lights were either specified on the contract or they weren't, and he doesn't understand why there should be any question whether it's contractual work or not. Chairman Healy said although he is not absolutely sure how this works, could someone still be responsible if the house trip lights were not crystal clear on the

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drawings. Mr. Machado said the house trip lights were pointed out to Salce Contracting at the recent meeting on the plans.

Committee Member Toohey commented she has a big issue with the fact this item was clear on the plans and was not followed and strongly disagrees the Committee pay anything extra. She added the reason the original \$16,000 figure was proposed was because the item was going to be completed within a week, and that did not happen.

Mr. Machado reported CES issued a bulletin in this matter. The bulletin was issued because Salce Contracting wanted instruction how to complete the installation. Mr. Machado noted the bulletin served as instruction only, not additional work. He added Salce Contracting was informed they can install the trip light system any way they want to.

Committee Members Toohey and Vetro made and seconded a motion to reject Change Directive #2.

Mr. Machado explained with change directives, the intention is that even though an amount cannot be immediately agreed upon, the owner understands the contractor is owed something for the work. He said the Committee has made a promise to pay Salce Contracting something towards this work. Chairman Healy said the lower end estimate lies at \$2,500.

Committee Member Jansen suggested approving the Change Directive contingent upon a final ruling on if the work was contractual or not.

Attorney Donofrio said although there is still a question of whether or not the work was contractual, there continues to be a dispute as to whether or not this is base contract work. For settlement purposes, it might be in the City's best interest to agree to pay a certain amount of money. Any number the Committee approves is going to be a compromise for both parties. He added it is better to resolve this issue...

Chairman Healy added that if it is found that CES not make the work abundantly clear, then it will be considered an omission on their part. He said the Committee first needs to quantify the work.

Committee Member Vetro expressed concern that if this is considered contract work and the Committee approves payment on the Change Directive, then Salce Contracting would be paid twice for contract work. Committee Member Brennan noted the City got the benefit of the work and the City should have to pay something.

Chairman Healy agreed with the comment that it would be disingenuous to direct Salce Contracting to do the work with the promise of payment and then reject the Directive. He noted this work has been evaluated by CES and All Electric. Salce Contracting is requesting more than the not-to-exceed amount, which was \$16,000.

Committee Members Brennan and Corvino made and seconded a motion to approve Change Directive #2 in an amount not to exceed \$5,000.

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Committee Member Vetro commented the suggested payment is still too high. Committee Member Toohey added if this number is rejected by Salce Contracting, this discussion will have to happen again.

Attorney Donofrio commented he believes the \$5,000 suggestion is a fair one. He noted there will be further discussions on this issue in the future.

Motion carried unanimously.

Mr. Machado said he would be interested to know how much the Department is paying in utilities at the new East Side Fire Station as opposed to the utilities paid at Stations 5 and 6. Ret. Battalion Chief Healey said utilities are still being paid at Stations 5 and 6 and so it might be a little difficult to obtain accurate information. Mr. Machado said he would like to know in the future to confirm for the City that this project was a solid investment.

Mr. Machado thanked the Committee for their time and effort. He said it was a tough project, but they completed it. Committee Member Jansen thanked Mr. Machado for his efforts as well.

7. **Dedication Committee Report**

None.

8. **New Business**

Attorney Donofrio asked Mr. Machado to send the draft PCO letter to him to he can then forward the information to Salce Contracting. He noted April 18 marks two weeks from the final completion date.

Chairman Healy informed the Committee Salce Contracting has not yet called to schedule the final inspection to get the permanent CO.

The Chairman asked Ret. Battalion Chief Healey to contact the Building Department and inquire about the call for aids and to obtain an updated estimate from All Electric.

9. **Adjournment**

Committee Members Bevan and Vetro made and seconded a motion to adjourn at 2024 hours.
Motion carried unanimously.

Recorded by C. Birney