

MINUTES

JOINT COMMITTEE ON STATE BUILDING CONSTRUCTION

December 8, 2008
Room 136-N—Statehouse

Members Present

Senator Dwayne Umbarger, Chairperson
Representative Joe Humerickhouse, Vice-Chairperson
Senator Pat Apple
Senator Laura Kelly
Representative Steve Brunk
Representative Bill Feuerborn
Representative Bob Grant
Representative JoAnn Pottorff

Staff Present

Audrey Dunkel, Kansas Legislative Research Department
Jonathon Tang, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Mike Corrigan, Office of the Revisor of Statutes
Helen Abramson, Committee Secretary

Conferees

Ray Dalton, Department of Social and Rehabilitation Services
Madeleine Burkindine, Kansas School for the Blind
Bonnie McKely, Kansas School for the Blind
John Martello, Kansas School for the Blind
Robert A. Maile, Kansas School for the Deaf
Denny Stoecklein, Kansas State Fair
Richard Gaito, Department of Administration
Laura Howard, Department of Social and Rehabilitation Services
Keith Bradshaw, Juvenile Justice Authority
Trudy Aaron, AIA
Debbie Rosacker, State Board of Indigents' Defense Services
Laura Howard, Department of Social and Rehabilitation Services
Sabrina Wells, Insurance Department
Jennie Chinn, Kansas State Historical Society
Teresa Gordzica, University of Kansas

Others Attending

See attached list.

Morning Session

Chairperson Umbarger recognized Ray Dalton, Deputy Director, Social and Rehabilitation Services (SRS), who presented the agency's five-year capital improvements plan for State Hospitals and the Chanute Service Center ([Attachment 1](#)). In FY 2010, the agency requests \$3,450,450 for rehabilitation and repair as its first priority. Repair and rehabilitation projects and various other projects, including debt service, requested in FY 2010 totaled \$29,306,257.

Mr. Dalton reviewed the FY 2009 \$7.2 million rehabilitation and repair projects and added that the agency also received approval to use the remaining balance of bond funds from the new State Security Facility (Isaac Ray) at Larned State Hospital (LSH) for other rehabilitation and repair projects. Over \$9.0 million in maintenance and repair projects have been identified at the five-state hospitals for aging facilities. \$3.5 million is needed for the most urgent repairs.

LSH also is in need of \$1.6 million for a critical major repair and renovation project. Critical major repair and renovation projects are projects over \$1.0 million and historically have been approved as an addition to routine maintenance and repair projects.

LSH in FY 2008 received planning funds for the addition of a 30-bed Crisis Stabilization Unit (CSU) to the existing Adult Treatment Center (ATC). The agency is requesting \$8.7 million in FY 2010 for the construction of this addition. Last year, the patients in the CSU moved out of the old Hospital Building when KDHE determined the building to be unsuitable. As a result, those patients moved into the Dillon Annex building as a temporary solution, as the existing space in the building will be needed to support the growing Sexual Predator Treatment Program (SPTP).

At Larned State Hospital, the SPTP current census is 169 as of November 10, 2008. The bed capacity for the SPTP at LSH is 214. If current growth projections hold true the total bed capacity available at Larned will be reached at the end of FY 2012. In FY 2010 the agency is requesting \$2.5 million for planning funds for a 90-bed expansion at LSH, and \$30 million over FY 2011 and FY 2012 for construction of a new facility. Part of the planning expansion being looked at is the possibility of building a new 120-bed facility for the ATC and using the current ATC building for the expansion of the SPTP. However, because of the location of the current SPTP units, it would add additional administrative expenses to locate the expansion of the program across the LSH campus at the ATC location.

The current census at the SPTP located at Osawatomie State Hospital (OSH) is ten. The bed capacity in the unit is 13. If a projected increase in census holds true, total bed capacity at the end of FY 2010 will be reached. The agency's FY 2010 request addresses the short- and long-term needs. \$263,350 is requested for the short term to renovate the area adjacent to the existing SPTP in the Biddle Building to add a 28-bed expansion and \$5.4 million is requested in FY 2011 for the construction of the 28-bed expansion. This expansion would consist of building an apartment building at OSH with 14 two-bed apartments, for a total of 28 beds.

Deputy Secretary Dalton pointed out a proviso to last year's appropriations bill. The proviso directs SRS to conduct a study to consider the feasibility of transferring the SPTP from LSH and

relocating it to a new location within the state or expanding the SPTP at LSH to an additional location within the state. The agency currently is putting together estimates of the additional costs associated with building a facility for the SPTP program off site from LSH. The agency also is currently collecting data to conduct this study. The five-year capital improvement plan is based on the SPTP remaining at LSH and the Transition Program remaining at OSH.

Discussion followed concerning the fundamentals of the current sexual treatment program, the average rate of increase in the program, the number of patients released after treatment, those being released because of a technical glitch, the Department of Corrections running for a short time one of the sexual treatment programs inside their facility, the definition of the constitutionality of what the State must provide in terms of program facilities, are things being done now that are not constitutionally required, and the possibility of using some facilities across the state for SPTP, such as conservation camps in Labette County or the proposed mothballing of facilities in Stockton or Toronto for a transition program.

Madeline Burkindine, Superintendent, Kansas School for the Blind (KSB), introduced Bonnie McKely, Finance Officer, School for the Blind, who presented the agency's five-year capital budget plan. Ms. McKely informed the Committee that in developing the agency's five-year plan, one of the main things looked at was not only are the students entitled to a free and appropriate education, but it is believed the students are entitled to be educated in a facility that has a safe environment for learning, and is the premise on which the agency put its five-year capital improvement plan together. Today's presentation covered the agency FY 2010 plan, but a five-year plan has been presented, and subsequent to the plan that was submitted to the budget office, the agency solicited the state energy department and obtained assistance from TAC, one of the energy providers who are part of the facility conservation program, who came in and looked at the building. The estimates that are on the proposal submitted to the budget office are understated compared to after TAC looked at the agency's buildings, so listed in the agency's plan is the estimated total of TAC's cost.

The first thing proposed is to repair roofs (seven are leaking) and the roofs have not been replaced in over 20 years. The first one is the Vogel Building that houses one of the KSB's construction programs for the students. Water is leaking into the ceiling. The Johnson Building roof also needs repaired, as there is water damage seeping into the interior of the building partially caused by the separation of the building's flanges, which resulted in damage to a ceiling vent and mold growth.

The agency requests the placement of a backup generator that will be installed to provide power to critical areas of the campus during a utility interruption (such as ice storms and blizzards that cause power blackouts). Some students are housed 24 hours in dormitories and during an outage there is no power on campus. There are medically fragile students in attendance at the school and in addition, whenever there is a power outage, electrical ability is lost for the security and fire systems.

Students have to travel between the Vogel and Johnson Buildings daily as well as during a campus lockdown who are exposed to the weather elements, and therefore, the agency would like to have the breezeway enclosed.

New HVAC systems for the Vogel and Johnson Buildings are requested. The current HVAC is antiquated, the original cooling system is inadequately zoned, window units currently cool the majority of classrooms because of the ineffective present HVAC system, existing heating units have failed, and an energy savings will result from replacement of the current HVAC.

Requested is replacement of single-pane windows in Johnson and Vogel Buildings with double-pane windows; or replacement of some glass with insulated aluminum panels. This would reduce the glass surface and reduce the load on the heating and cooling system.

The agency is requesting continuation of the phased implementation of the campus security system at an estimated cost of \$1,840,489 for Phase I. In FY 2010, new doors will be added.

Committee discussion followed about the mold and mildew in buildings, the size of the roofs that need replacing, and the backup generator.

John Martello, Human Resource Director, Kansas State School for the Blind, provided additional information concerning the generators.

Robert A. Maile, Superintendent, Kansas School for the Deaf, said that the agency's current priority beyond the routine maintenance of facilities is continued progress toward the renovation of the Roth Building. The east wing of the building has been renovated and currently houses secondary age students. One floor of the west wing also is currently in use. The projects requested for FY 2010 are preparatory to proceeding with renovation, that is, development of blueprints and electrical utility upgrade.

Included in the Roth renovation is installation of a visual alarm system and a sprinkler system. These systems presently are in the renovated east wing, but not in the center portion of the building, which includes the dining room, auditorium, and business operations. These systems are not in the one occupied floor of the west wing.

The repairs to the Roth foundation are necessitated by the ongoing deterioration of an aged drainage system. It would be best to correct this prior to or in conjunction with the renovation.

In the five-year capital budget plan requests (Attachment 2) projects in FY 2010 total \$919,449, as follows: \$279,449 for architect fees; \$242,000 for electrical utility distribution upgrades; \$200,000 for rehabilitation and repair; and \$198,000 for repair to the Roth foundation, window wells, and drains.

During last fiscal year, the interior stairwell that had be enclosed to meet fire codes was approved and is being focused on this year.

Committee discussion followed concerning architectural fees for the west wing, the alarm and sprinkler systems for the center portion of the building, the number of rooms in the East and West wings of the Roth Building, the criteria for housing students, out-of-state students, and tuition.

Denny Stoecklein, General Manager, Kansas State Fair, presented the agency's five-year capital budget plan (Attachment 3). The primary focus of the Kansas State Fair's Capital Improvement Plan for the next three fiscal years is completing its obligation toward the repayment of bonds issued for its facilities master plan. The agency's commitment is \$400,000 per year and continues through FY 2012. During the years the agency is completing this commitment; planned capital improvement expenditures will be limited and will focus on small projects and preventative maintenance items. During this time, it is imperative the State continue its statutorily required match of the agency's contribution to the State Fair Capital Improvement Fund. Without the State's match, the agency will not be able to meet its obligation toward the bond payments.

This past fiscal year, there was an expenditure of about \$18,500 from the State Fair Capital Improvement Fund for an air-conditioning repair (for a compressor that went out during the 2007

State Fair) and was repaired and replaced on an emergency basis at that time. Also, in the previous fiscal year, there was an expenditure of just under \$30,000, also from the State Fair Capital Improvement Fund, for some roof repairs which were completed on the Encampment Building to alleviate some leaking problems. Three other repairs were done this past summer on an emergency basis because of a significant storm in May that did damage to the roofs of the Pride of Kansas Building, the Grandstand, and to the FFA Showcase Building. The damages totaled \$246,000 that was funded through the State Finance Council.

Under the current fiscal year, at the time the agency submitted this, there was a potential expenditure for what was called racetrack improvements. The State Fair had received feedback from racers and promoters who use the track the most, saying that one-half mile track is not what they wanted, but they wanted a three-eighths of a mile track to be more in line with what the majority of other racetracks in the state offer. The agency did preliminary work concerning the expense involved in shortening the track, which was estimated to be \$60,000. During the Hutchinson National Auto races this past July, the race teams were surveyed, and half of them said to leave the track the way it is as it is unique, and the other half said to shorten it. When the agency got back with the promoter, he said if it was up to him he would not spend the money, so the track will remain as is. The use of this track is pretty minimal and appears not to be worth \$60,000 at this time.

Committee discussion followed concerning the Kansas State Fair being insured under the new State insurance policy, attendance being down this year at the Fair because of bad weather, and the present good working relationship with the State Fire Marshal.

Chairman Umbarger recessed the meeting at 11:00 a.m. to allow members to attend other Committee meetings and for lunch.

Afternoon Session

Chairperson Umbarger reconvened the meeting at 1:15 p.m.

Richard Gaito, Deputy Director, Division of Facilities Management (DFM), Department of Administration, represented the State Board of Indigents' Defense Services 10-year lease at 115 E. Park Street #1, Olathe ([Attachment 4](#)).

Mr. Gaito said that the agency has been at this location since 1994. The current lease expires in February 2009, but has a one-year renewal option. The original lease was presented to the Committee at its last meeting, at which time it was tabled and DFM was requested to renegotiate the price.

The revised lease being presented today reflects the reductions through re-negotiations. Mr. Gaito provided the following background information. In July 2008, the agency advertised in the local newspaper for four days and also placed the advertisement on the DFM's website. In addition, an email notification was sent to approximately 60 potential bidders who had registered on the city's list. Also, the current landlord was informed of the RFP and was directed to the DFM's website and the Kansas Department of Administration website. The RFP requested 6,500 square feet (s.f.) and a minimum of a five-year lease. The RFP closed on September 15, 2008, and received only one proposal. The current landlord did not submit the proposal.

In order to meet the Committee's recommendation, the DFM went back to the original bidder and he proposed two revised proposals: a five-year lease with a five-year renewal option at an initial rate of \$15.50 per s.f. and a ten-year lease at an initial rate of \$12.97 per s.f. Both proposals are full-service leases except for custodial/janitorial services. Both proposals contain a 3 percent yearly escalated rate increase. Both proposals include \$30,000 in remodeling costs that is to be payable by the bidder, and in addition the agency will be responsible for the installation cost of telephone and data wiring, which is estimated to be \$0.15 per s.f. as reflected on line 46 of today's lease proposal. The proposal includes 1,135 s.f. of common space (this equals 52 percent of the total common space of the building) which is the agency's proportional share of the building. The proposed lease does exceed the space standards, but the agency requested 6,500 s.f. in the RFP which did meet the state lease standards. In addition, the agency now has dedicated space for a clothing bank and client interview rooms. The proposed lease did follow the acceptable procedures for procurement of leases.

Committee discussion followed concerning the total number of the agency's employees, the number that are public defenders, and the number of vacancies.

Representative Humerickhouse moved that the Committee review favorably the 10-year lease for the State Board of Indigents' Defense Services at Olathe. Representative Brunk seconded. Motion carried.

Chairperson Umbarger excused himself from the meeting in order to attend another meeting in the Statehouse, and turned over the Chairperson's position to Vice-Chairperson Humerickhouse.

Mr. Gaito next presented a proposed lease amendment for the State Department of Social and Rehabilitation Services (SRS) at Kansas City (Attachment 5). The original lease was approved by the Committee in March 2007. The Committee reviewed an amendment during its November 2008 meeting and requested that the agency and DFM renegotiate the amendment.

The first part of the amendment is for the amount of \$442,000. The bidder believed that he was requesting an upfront payment for the purchase of a mechanical filing system and other building items. The procurement negotiating committee believed that these costs were included in the base bid. The cost could have been paid by the agency by one of two methods, *i.e.*, an upfront payment which the agency did not have the funding for, or to shift the cost into the base lease amount. In order to assure that this error does not occur again with vendors as to whether this is an upfront payment or an item included in the base cost, the PNC now informs the bidders if any upfront payment is allowed. In addition, the DFM's forms have been revised so the agency believes this will not happen again.

The second part of the amendment involves three change orders totaling \$201,000. The first change order is for \$21,822 for expenses incurred to prepare a large conference room to be utilized for a divisional emergency command center of the Kansas City Metro Region of SRS and their partners in the event of a disaster. The expenses included the addition of floor boxes for power and wiring and additional dedicated circuits were added to the ceiling for future power placement. The second change order was in the amount of \$166,110 for addition of data outlet panels and cabling for possible future use. The third change order for \$13,039 was for the addition of actuators providing ADA accessibility due to design changes during construction. The payment for all these costs could have been made through a one-time payment by the agency for the entire amount; however, the agency believed that to minimize it, that a more prudent solution would be to spread the cost over a longer period by extending the amount of leased years. The total cost for all the items discussed today is \$633,240.

The amendment brought to this Committee at its last meeting, which is listed as the first proposal in column "C" on the lease comparison sheet, addressed the cause of the change orders and the initial upfront payment by adding a five-year series to the end of the lease. The amendment allowed the initial five years to remain at its current level of \$19.25, the amendment changed the rate from year 6 through year 10 to \$21.75 per s.f. and for the remaining 10 years of the lease period to \$21.01 per s.f. The total estimated cost of the 20-year lease for operating expenses would be \$38,432,000.

The Committee requested at its last meeting that the agency and DFM meet with the landlord to renegotiate for a 15-year lease period at a rate that included the additional cost of the amendment. In meeting with the landlord it was requested that a new cost be presented that included a possible one-time payment by the agency and a reduction in the amount of costs associated with the upfront payment.

Column "D" of the lease comparison sheet is the response from the landlord to this request. The landlord proposed the 15-year lease with the first three years of the lease at the current rate of \$19.25 per s.f. The rate increases from \$20.25 in years four and five. In years 6 through 10, the rate is \$23.05 and it increases to \$24.95 for years 10 through 15. The landlord would not make an adjustment of the \$432,000 upfront amount payment. In addition, he stated that the loan terms do not allow for the prepayment by the agency. The total cost of the revised 15-year proposal is estimated at \$29,699,460.

The first proposal previously presented differs from the most recent second proposal in two ways. The first amendment allowed the agency to lock into a rate of \$23.01 for the last ten years of the lease while maintaining their initial five-year rate of \$19.25. The second proposal has years 6 through 15 at a higher rate than the first proposal. In addition, the second proposal lease cost of \$29 million is almost \$2 million higher than the initial lease approved by the Committee for a total cost of \$27 million. The bidder is requesting approximately \$1.4 million in addition to the \$643,000 for the amendment.

While it is realized by both the agency and the Department of Administration that mistakes were made in the procurement of this amendment, it is the DFM's belief and the belief of the Department of Administration that the first proposal presented by the landlord for the 20-year period is in the best interest of the State.

Mr. Gaito said he believes that this proposal is in the best interest of the State because the 20-year lease allows the DOA to lock into a rate of \$23.01 for years 11 through 20, which is a very good rate especially for Kansas City. In addition, if the DOA were to take the current rate amounts and projecting that out, it would come out at a higher rate than that of \$23.01 for years 16 through 20, which the Committee proposed.

Mr. Gaito noted that the original space standards exceeded State standards by six s.f. and this was shown in the original amendment and approved by the Building Committee in March 2007.

Mr. Gaito presented background on the present SRS building. The building which SRS is now in is a newly constructed building. It is adjacent, within two feet of the current building. The previous building is being demolished and turned into a parking lot. The lease the Committee approved in 2007 with this amendment presented today is for a newly constructed building, and that is why there is a cost associated with change orders, as some items were not anticipated. The change orders totaled \$201,000 and then there is the initial upfront cost of \$432,000 which the landlord thought he was getting as part of the base rent.

Senator Kelly expressed her opinion that she did not like the leasing proposals.

Mr. Gaito said there are three ways out of this situation: accept the first proposal for a 20-year lease, accept the revised proposal for the 15-year lease, or the agency could go back and tell the landlord that the State has chosen not to pay for the payments, which will probably result in further problems for the agency, such as litigation.

Mr. Gaito noted that the agency moved into the new building on October 8, 2008, and that the 400 parking stalls are included in the lease.

Laura Howard, Deputy Secretary, SRS, remarked that she agreed with Mr. Gaito's suggestion as to the best interest of the State

Senator Kelly noted that the landlord is a heck of a negotiator as he comes back with a worse deal and she recommends that the State does not negotiate business with him in the future.

Laura Howard said the agency regrets what has happened and that the \$432,000 will be rolled into lease payments and paid through a mix of State/Federal funds in out years of the lease. It would come out of the SRS budget after five years.

Discussion followed concerning what would happen if the lease amendment is not reviewed favorably. Mr. Gaito said the agency currently has a lease for 15 years but what is being reviewed here is adding an additional five years to the lease, and adjusting the numbers from year to year for the yearly rate. He continued by remarking that if there is not some form of changes by the agency that this matter will probably end up in litigation. Also, the landlord feels that he has presented a fair first proposal and applicable to the State, that he has tried to be a good business partner with the State, and would like to continue the partnership.

Representative Feuerborn moved that the Committee review favorably SRS's first 20-year lease amendment as listed under column "C" of Attachment 5. Representative Grant seconded. Motion carried.

Representative Brunk remarked that he feels that the vote was made under duress, objects to the way negotiations were handled, and believes that this expresses the feelings of the majority of the Committee members.

Representative Brunk moved that the Committee reconsider today's action on the proposed lease amendment for SRS and to table the item until the Committee's January meeting. Representative Pottorff seconded.

Committee discussion followed concerning if delaying the action passed today would make any difference, mistakes being made on both sides, and in the future that SRS be made more accountable in the budgeting process.

Representative Brunk, with the agreement of Representative Pottorff who seconded his motion, withdrew his motion.

Trudy Aron, Executive Director, AIA Kansas, expressed AIA Kansas' pleasure in accepting the Committee's request that its organization assist the Capitol Area Authority and the Committee in the development of a process for a Capitol Area Master Plan. The AIA is very comfortable in helping the Building Committee get the process down the road; however, it will not provide the Committee with a full master plan, as it believes that an architectural firm should be hired to develop

that for the Committee. However, AIA will assist whomever the Committee may designate to establish a request for proposals so that the Committee has a very good request for proposals for soliciting input from firms that might be interested in helping the Committee implement a plan.

Ms. Aron also remarked that the Committee needs to tell AIA whether that is something the Committee would like and AIA will go from there.

Ms. Aron stated that AIA Kansas will provide a workgroup of experienced senior architects who will review past master plans, and:

- Provide a one-day charette (discussion) that will discuss the previous plans, invite input from the Capitol Area Authority, the Joint Committee on State Building Construction, and other interested groups. This one day charette will culminate in recommendations that the State consider what a future master plan should address.
- Assist the Capitol Area Authority, the Joint Committee on State Building Construction, and other authorized groups in establishing a Request for Proposal process to select firms to proceed with implementation if the State should choose to take action.

A student group also might participate in the one-day charette. Ms. Aron stated she felt that the procedure will well serve the Building Committee.

Vice-Chairperson Humerickhouse noted that this information will be shared with Committee members at their second meeting during the 2009 Legislative Session.

Committee discussion followed concerning putting off this matter.

Senator Kelly wondered what benefit it would be to put off this matter. The Committee is being made an offer here without a time frame, but if the Committee was to put its blessing on this and take AIA up on its offer, then that gives the Committee the freedom to put some of the other puzzle pieces together and go forward. At the last Committee meeting, it was discussed that this would be a good time to allow funds for planning, and that is going to be part of the planning anyway. If there is no money for a master plan, then it could be put on the shelf and it would remain there until later when it could be retracted. Therefore, Senator Kelly thinks the Committee should take AIA up on its offer.

Representative Pottorff agreed with Senator Kelly's remarks.

Staff said that the Committee's responsibility to review and made recommendations for the final report on the proposed remodel study of the Kansas Juvenile Correctional Complex for the Juvenile Justice Authority administrative offices was done in the Committee's September 2008 meeting (Attachment 6). Vice-Chairperson Humerickhouse remarked that the majority of the Committee at the September meeting reviewed favorably the renovation study of the Kansas Juvenile Correctional Complex Administrative Office project and that the final report on this item is that the JJA do a study on improvement of the Center for administrative office space.

Keith Bradshaw, Director of Operations, Juvenile Justice Authority, said the agency is waiting on the Governor's recommendation before any further action is taken on the Kansas Juvenile Correctional Complex Administrative Office project.

Vice-Chairperson Humerickhouse stated that it appears that some Committee members believe that there was not a majority of Committee members present during the September 2008 Committee meeting when a motion was reviewed favorably for a study to be done on the Kansas Juvenile Correctional Complex Administrative Office project, and therefore, he would recognize any type of motion about the previous action taken on this item.

Representative Pottorff moved that in the Committee's final report, it shows that the Building Committee has reviewed favorably minutes concerning the renovation project at the Kansas Juvenile Correctional Complex Administrative Office which was recorded in the Committee minutes. Representative Grant seconded. Motion failed.

Senator Kelly remarked that at the last Building Committee meeting, there was discussion about trying to get Representative Humerickhouse on the Capitol Area Plaza Authority, and there is one vacancy, but Representative Humerickhouse would not be eligible for that particular vacancy because it is from the fourth Congressional district and Representative Humerickhouse is from the second Congressional district, but if there is another avenue open he will be contacted.

Prepared by Helen Abramson
Edited by Audrey Dunkel

Approved by Committee on:

June 4, 2009

(Date)