



JUDICIAL COUNCIL OF CALIFORNIA

COURT FACILITIES
ADVISORY COMMITTEE

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COURT FACILITIES ADVISORY COMMITTEE

MINUTES OF MEETING

September 7, 2017

10:30 AM –2:00 PM

Judicial Council of California – San Francisco Office

**Advisory Body
Members Present:**

Hon. Brad R. Hill, Chair
Mr. Anthony P. Capozzi (by phone)
Hon. Donald Cole Byrd
Hon. Keith D. Davis
Hon. Robert D. Foiles
Ms. Melissa Fowler-Bradley
Hon. William F. Highberger (by phone)
Hon. Jeffrey W. Johnson
Hon. Laura J. Masunaga
Mr. Stephen Nash
Hon. Gary R. Orozco
Hon. David Edwin Power (Ret.)
Ms. Linda Romero Soles
Mr. Larry Spikes
Mr. Kevin Stinson
Hon. Robert J. Trentacosta
Mr. Thomas J. Warwick, Jr.

**Advisory Body
Members Absent:**

Hon. Patricia M. Lucas, Vice-Chair
Mr. Stephan Castellanos, FAIA
Hon. Steven E. Jahr (Ret.)
Mr. Val Toppenberg

Others Present:

The following Judicial Council staff/others were present:
Hon. Andrew S. Blum, Presiding Judge, Superior Court of Lake County
Mr. Ron Duek, Project Manager, Construction Management Agency, Kitchell
Mr. Kevin Hallock, Architect, Construction Management Agency, Kitchell
Mr. Brad Saylor, Cost Estimator, Leland Saylor Associates
Mr. Kevin Harrigan, Court Executive Officer, Superior Court of Glenn County
Mr. Peter Birkholz, Principal Architect, Page & Turnbull (by phone)
Mr. Matt Wade, Project Director, Construction Manager at Risk, Kitchell (by phone)
Mr. Rob Nash, Senior Project Manager, Construction Management Agency, Vanir (by phone)
Mr. Mike Courtney, Director, Facilities Services (by phone)
Mr. Ed Ellestad, Security Supervisor, Facilities Services
Ms. S. Pearl Freeman, AIA, Manager, Facilities Services
Mr. Chris Magnusson, Senior Facilities Analyst, Facilities Services
Mr. Charles Martel, Supervising Attorney, Legal Services
Ms. Pella McCormick, Deputy Director, Facilities Services
Ms. Kristine Metzker, Manager, Facilities Services (by phone)
Ms. Deepika Padam, Senior Project Manager, Facilities Services
Ms. Akilah Robinson, Administrative Specialist, Facilities Services

OPEN MEETING

Call to Order, Opening Remarks, and Approval of Meeting Minutes

The chair called the meeting to order at 10:30 AM and opening remarks were made. The advisory committee voted unanimously (with the abstention of all members absent from the July 19, 2017, meeting and the exceptions of judges Donald Cole Byrd and William F. Highberger, as Ex-Officio, non-voting members, and of the members who were absent as shown above) to approve the minutes from its meeting held on July 19, 2017.

DISCUSSION AND ACTION ITEMS

Item 1**Lake County—New Lakeport Courthouse: Result of Sites Study**

The following persons spoke during the open comments portion of the meeting:

1. Hon. Stacey Mattina, Mayor, City of Lakeport
 - a. She spoke in favor of keeping the new courthouse site within the City of Lakeport and at a site on Bevins Street.
2. Mr. Kevin Ingram, Community Development Director, City of Lakeport
 - a. He spoke in favor of keeping the new courthouse site within the City of Lakeport.
3. Ms. Margaret Silveira, City Manager, City of Lakeport
 - a. She spoke in favor of keeping the new courthouse site within the City of Lakeport.
4. Ms. Nancy Ruzicka, Owner, Ruzicka Associates Consulting Engineers
 - a. She spoke in favor of keeping the new courthouse site within the City of Lakeport and at a site she owns on North High Street.

Ms. Deepika Padam, Judicial Council Senior Project Manager, introduced the project team for the New Lakeport Courthouse: from the Superior Court of Lake County, Presiding Judge Andrew S. Blum; from construction management agency Kitchell, Mr. Ron Duek, Project Manager, and Mr. Kevin Hallock, Architect; from Leland Saylor Associates, Mr. Brad Saylor, Cost Estimator; and from Judicial Council Facilities Services, Mr. Ed Ellestad, Security Supervisor.

Respectively, Ms. Padam, Mr. Ellestad, Mr. Hallock, Mr. Duek, Mr. Saylor, and Presiding Judge Blum presented the project's sites study, including current and alternative site locations, consistent with the powerpoint slides included in the project materials that were posted on line for public viewing in advance of the meeting and available at www.courts.ca.gov/documents/cfac-20170907-materials.pdf. Ms. Padam presented the project's overview, summary report, alternate site study, floor plans, and schedule. Mr. Ellestad presented the security analysis including his concerns about locating on the Bevins Court site because it is on a cul-de-sac street with more limited vehicular access and egress and his preference for locating the new courthouse on the South Bevins site because of better vehicular access and egress for the sheriff, emergency medical, and fire department compared to the other sites. Mr. Hallock presented the site schemes. Mr. Duek presented the construction delivery methods considered: Construction Manager at Risk (CMAR) and Design-Build (DB). Mr. Saylor presented a cost comparison of the sites delivered by the CMAR and DB delivery methods including recommending the DB delivery method. Presiding Judge Blum made a closing statement. In addition, the following comments were made:

- The existing site has many challenges including but not limited to slope, limited buildable area, environmental issues, and security:
 - the elevation difference between Lakeport Boulevard and the proposed building pad is approximately 50 feet. Therefore, utilities and roadway access must come to the top of the site, which results in more infrastructure and developable area as well as a longer path for ADA accessible travel by public (switchback) sidewalk. Retaining walls must also be provided, which increases cost;
 - a view easement must be maintained, which restricts placement of the building to only the south portion of the site;
 - mitigation measures for environmental issues include but are not limited to traffic features for a roadway intersection, construction of a bus stop for public transit access, and construction sequencing to work around sensitive bird and plant species; and
 - security concerns exist with the site's overlook from the existing chamber of commerce building.
- The search area for the sites study included the City of Lakeport and surrounding areas as well as the City of Clearlake;
- The criteria for the site search included: flat topography, not within the flood plain, no existing structures, and fewer environmental concerns. Applying these criteria resulted in selecting three sites to study in detail: the Bevins Court site, the Jail site, and the South Bevins site. Acquisition would be via donation or equity exchange, which are assumed to take approximately 36 months (because of two owners) for the Bevins Court site and 18 months for either the South Bevins site or Jail site;
- The court no longer processes criminal case matters in their Clearlake facility, which is approximately 30 miles from the jail, and only processes these cases at the existing Lakeport courthouse. The cost of transportation from the jail to the existing courthouse is very small. The court and Judicial Council staff have discussed the prospective sites with the county sheriff, and the sheriff has not indicated a specific preference;
- The option for the jail site includes an at-grade pedestrian connector between the courthouse and jail buildings for the transport of in-custody defendants. It also includes a sallyport at the courthouse to receive juveniles directly from the juvenile hall facility and certain in-custody defendant populations directly from correctional facilities other than the jail facility;
- Two delivery methods were considered for this capital project:
 - CMAR Delivery Method:
 - A Construction Manager (CM) typically joins the project in design development to assist in construction and design coordination and pricing;
 - Once the design is completed, the CM bids the project to all subcontractors needed for its construction;
 - The CM assumes all subcontractor contracts, with a Guaranteed Maximum Price (GMP) to complete the project agreed to by the CM and the owner;
 - The main advantage of this delivery method is the control an owner has over the design, by utilizing an architect/engineering team throughout the design phase. The result is a set of drawings that the contractor must build from without discretion;
 - Concerning change orders, the owner contracts with the architect first to prepare design drawings, and then, the CMAR provides a cost based on those drawings. Any corrections or changes needed are addressed as change orders during the construction phase;

- Typically, more change orders occur with the CMAR delivery method compared to the DB method;
 - The primary risk to the contractor is the GMP as of the date the contract is signed with the owner; and
 - This delivery method is a step better than Low Bid. After the state's financial crisis, and because of the eagerness of contractors to find work, prices for construction pushed this method close to parallel with the DB method. As the market evolved since that time, CMAR contractors have become busier and their costs and schedules increased, resulting in a greater cost differential between these two methods.
- Design-Build Delivery Method:
- The DB architect prepares criteria documents, which are a combination of prescriptive and performance requirements defining the level of quality desired—such as the number of courtrooms and their layouts, the number and types of holding cells, and types of security systems;
 - Prescriptive requirements dictate the requirements the DB team (i.e., architect and contractor) must meet, and the performance requirements describe how the DB team will use their design and constructability expertise to construct the project;
 - The DB team has some discretion during the design phase in delivering the design through the owner's prescriptive and performance requirements, such as choosing the type of foundation system (e.g., footing or mat) based on current market prices;
 - Because there is one contract for design and construction, and the DB team is motivated by speed to increase profitability, DB is typically faster than CMAR;
 - The DB method allows the owner the option, by state statute, to either: (a) set the budget and select the DB team that provides the most value for that budget or (b) define the requirements and allow the construction community to determine the cost of those requirements;
 - Concerning change orders, the burden is on the owner to clearly define its criteria documents, such that if something is left out of those criteria documents, the owner is required to pay for it as a change order; and
 - For large and complex projects, and because they attract large and sophisticated design and construction firms, they can typically be constructed faster, for a better price, and with less cost exposure for the owner through the DB method.
- For this project, it is estimated that the DB method could provide the new courthouse building approximately one year and three months earlier than the CMAR method. Costs savings are gained through a shorter schedule/less escalation and on project soft costs owing to a single design-build phase. Also, there is an opportunity for additional cost savings should this delivery method be selected and the cost estimate further studied once the design package is executed.

Action: The advisory committee—with the exception of judges Donald Cole Byrd and William F. Highberger, as an Ex-Officio, non-voting members, and the members who were absent as shown above—voted unanimously to approve the following motion:

1. The committee take the site options presented under consideration so it will be prepared to move the project forward once appropriate funding is back in place.

Item 2**Glenn County—Renovation and Addition to Willows Courthouse: Scope, Schedule, and Budget Review**

Ms. Deepika Padam, Judicial Council Senior Project Manager, introduced the project team for the Renovation and Addition to Willows Courthouse: from the Superior Court of Glenn County, Presiding Judge Donald Cole Byrd, and Mr. Kevin Harrigan, Court Executive Officer; from Judicial Council Facilities Services, Mr. Chris Magnusson, Senior Facilities Analyst; and by phone, Mr. Peter Birkholz, Principal Architect, from Page & Turnbull; Mr. Matt Wade, Project Director, from construction manager at risk Kitchell; and Mr. Rob Nash, Senior Project Manager, from construction management agency Vanir.

Respectively, Ms. Padam, Mr. Magnusson, Mr. Harrigan, and Presiding Judge Byrd presented the project's scope, schedule, and budget consistent with the powerpoint slides included in the project materials that were posted on line for public viewing in advance of the meeting and available at www.courts.ca.gov/documents/cfac-20170907-materials.pdf. Ms. Padam presented the project's overview, summary report, site context, and highlight of critical conditions, as well as two options, including their schedules and cost estimates, for moving forward—Option 1: Current Design and Option 2: Project Redesign for a Smaller Building. Mr. Magnusson presented the planning considerations of project Option 2. Mr. Harrigan presented the impact on the court's operations due to the delay of the project's construction start. Presiding Judge Byrd made a closing statement and indicated that because he recognized the advisory committee's constraints from the lack of statewide funding for the judicial branch courthouse construction program the project was being presented only for informational purposes to bring the advisory committee up to date on the status of its conditions. In addition, the following comments were made:

- In anticipation of the project's start of construction, court staff had been moved out of the Willows Courthouse to different facilities including leased facilities in the City of Willows and existing court facilities in the City of Orland. This move has been impacting the court's daily service delivery: For example, the public's ability to make payments or access files within the courthouse had to be suspended and relocated to a location four blocks away. Thus, operational deficiencies have been ongoing;
- The court's modular building, planned for use as swing space during the renovation project, remains unoccupied because of the delay to project's construction start. It requires monthly maintenance costs and is currently budgeted for funding only through January 2020;
- The Willows Courthouse is in the High Risk category of the Judicial Council's Seismic Risk Rating Database, ranking among the top 20 buildings statewide with the highest seismic risk rating for potential damage, business interruption, and injury or fatalities of occupants from a particular type of seismic event;
- The County of Glenn has not proceeded with the construction of the parking lot and separation of utilities because of this renovation project's funding delay; and
- A significant amount of this project's budget deficit is created by the delay, which estimates to several million. Mr. Mike Courtney, director of Judicial Council Facilities Services, indicated that cost escalation on courthouse capital projects ranges from three to five percent per year, and therefore, all projects delayed by July 1st of this year will be three to five percent more expensive at the end of fiscal year 2017–2018.

Action: Justice Jeffrey W. Johnson, sitting as advisory committee chair for this item, acknowledged Presiding Judge Byrd's closing statement by recognizing the project's presentation without recommendation and for informational purposes only due to the current economic impasse of the judicial branch courthouse construction program. He also indicated that this informational presentation would be accepted until such time the judicial branch's funding situation improved for courthouse construction and the advisory committee was then in a better position to provide needed guidance to move the project forward. He then called for a motion, and the advisory committee—with the exception of judges Donald Cole Byrd and William F. Highberger, as an Ex-Officio, non-voting members; Administrative Presiding Justice Brad R. Hill, who was absent from voting on this item; and the members who were absent as shown above—voted unanimously to approve the following motion:

1. The committee accept the comments of those present today on behalf of the Superior Court of Glenn County as well as the project budget status report and take these matters under advisement to be revisited as and when the committee has the funds available to continue discussion on the project's ability to move forward.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 2:00 PM.

Approved by the advisory body on April 3, 2018.