

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: COUNTY FACILITIES

DATE: JULY 16, 2010

---

---

COMMITTEE MEMBERS PRESENT:

SUPERVISORS THOMAS  
VANNESS  
CHAMPAGNE  
GIRARD  
BELDEN  
PITKIN  
MCCOY

OTHERS PRESENT:

WILLIAM LAMY, SUPERINTENDENT OF PUBLIC WORKS  
JEFFERY TENNYSON, DEPUTY SUPERINTENDENT OF PUBLIC WORKS  
FRANK MOREHOUSE, SUPERINTENDENT OF BUILDINGS  
FREDERICK MONROE, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ATTORNEY/ADMINISTRATOR  
JOAN SADY, CLERK OF THE BOARD  
KEVIN GERAGHTY, BUDGET OFFICER  
SUPERVISORS LOEB  
KENNY  
MCDEVITT  
SOKOL  
STEC  
TAYLOR  
JOHN HORGAN, BOVIS LEND LEASE  
JON NORRIS, CLARK PATTERSON LEE  
DON LEHMAN, *THE POST STAR*  
THOM RANDALL, *THE ADIRONDACK JOURNAL*  
AMANDA ALLEN, SR. LEGISLATIVE OFFICE SPECIALIST

---

---

Mr. Thomas called the meeting of the County Facilities Committee to order at 9:00 a.m.

Motion was made by Mr. Belden, seconded by Mr. Pitkin and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

The meeting agenda was distributed to the Committee members, a copy of which is also on file with the minutes.

Mr. Thomas announced that previously unidentified sources of asbestos had been found in a section of the old Department of Social Services (DSS) Building and the meeting had been called to discuss the options available for demolition. He noted that John Horgan, of Bovis Lend Lease, and Jon Norris, of Clark Patterson Lee, were in attendance to provide specific information on the issue, as well as to outline the options available for continuation of the demolition project.

Privilege of the floor was extended to Mr. Norris who distributed copies of a geographical map depicting the former DSS Building campus and the surrounding area. He pointed out that the small section of the map outlined in green indicated the basement of the old DSS Building. As a point of clarification, Mr. Norris advised that when speaking about the three-story portion of the building, he would be referring to the part extending to the rear, while the two-story portion consisted of the face of the building, visible from the road.

Mr. Norris explained that although an initial hazard survey had been performed to determine the presence of any hazardous materials within the building, it was typical in any demolition or renovation project for the chosen contractor to obtain independent material samples for testing. He expounded that although the hazard survey findings were included in the bid documents, the demolition contractor, RPCI, had chosen to perform independent studies for hazardous materials, during which asbestos was detected within the mastic on the two-story portion of the old DSS Building, but not in the three-story section. Mr. Norris apprised that the contaminated mastic was

located on the exterior wall of the building, as well as on the interior wall face beneath the plastic underlay; he added that this material was most likely used as a waterproofing compound. He said that upon receiving this information, they had directed the abatement designer working on the project to review the mastic materials located in both sections of the old DSS Building, subsequent to which the findings of the demolition contractor were confirmed. As a result of this new information, Mr. Norris said RPCI had offered three options for continuance of the DSS Building demolition project, including a summary of additional costs for each, which were outlined in the documentation provided in the agenda. He proceeded to briefly outline each of the options as follows:

- Option 1 - Demolish building and dispose of contaminated materials off-site, using the uncontaminated three-story portion of the building as backfill;
- Option 2 - Demolish building and use all materials as backfill; since a certain size material is required for backfill use, the demolition contractor would be required to prepare demolition materials by compacting them to the necessary dimensions before they could be used; and
- Option 3 - Dispose of all two and three-story building materials off-site and provide new clean backfill.

Mr. Norris apprised they had applied to NYSDOL (New York State Department of Labor) for a variance allowing demolition of the old DSS Building to continue with the contaminated mastic in place, noting that the alternative would be to perform a labor intensive procedure to remove the mastic materials and then proceed with demolition. NYSDOL had subsequently approved the request for variance, he said, based on the fact that demolition with the mastic material in place would not create the airborne generation of any hazard. Mr. Norris further noted that as per NYSDEC (New York State Department of Environmental Conservation) review, the mastic was determined to be a non-contaminated material that could be disposed of without special precautions, meaning that it could be transported to any C&D (construction and demolition) landfill, or could be used on-site for backfill purposes. He advised that the demolition contractor was required to submit an analysis of the backfill material proposed for the site post-demolition, including information on the size and composition of materials, for approval before it was used and they had not yet received this information.

Mr. Horgan stated that the amounts included in the bid submitted by RPCI had been based upon the use of some of the debris materials, consisting of pulverized concrete and brick from the DSS Building, mixed with gravel for backfill as a cost savings measure. He noted that as per NYSDEC standards, the materials could be used as backfill, but could not be pulverized as desired by RPCI because this manner of compaction might cause an airborne hazard issue; therefore, he said, RPCI had determined these materials would have to be hauled to an off-site location for disposal, thereby increasing the projected contract costs. Mr. Horgan said there were some questions regarding the amount indicated for the fees associated with the unanticipated hauling costs which were now being negotiated. He cautioned that although NYSDEC had approved the use of the demolition materials containing asbestos to fill in the basement portion of the current building, issues might arise in the future if new construction required the removal of these materials, as airborne hazards could potentially occur due to disturbance.

Mr. VanNess opined that if the hazardous materials were buried on-site to reduce costs now, they may be rendering the property useless by causing environmental hazard issues, such as those associated with the Ciba-Geigy property. He advised that he was in favor of disposing of the asbestos materials at an off-site location, but was not happy with the inflated costs presented by RPCI. Paul Dusek, County Attorney/Administrator, disagreed with Mr. VanNess' statement and noted that the Ciba-Geigy property was classified as a NYSDEC cleanup site with severe deed restrictions in terms of use, which was not the case in this matter. Before making a decision, he counseled that the Committee needed to consider whether they foresaw future construction in the area indicated as the basement of the old DSS Building where the mastic materials would be buried. Mr. Dusek reminded the Committee that when they had previously considered constructing the Human Services Building on the DSS campus, they had intended

to build behind the foundation of the current building and pave over the basement site for use as the parking lot. He advised that construction could occur anywhere on the property and that an issue would arise only if the basement area was disturbed, at which point removal of the contaminated materials would be required. Mr. Dusek said that in this case, it was simply a matter of whether the Committee preferred to have the materials removed from the site upon demolition, or excavate and remove them in the future; he added that future excavation was likely to incur a higher cost.

In response to Mr. Pitkin's questioning as to the accountability of the firm contracted to provide for the initial hazard survey, Mr. Dusek apprised that in assessing liability in this case, they would have to determine whether the contractor operated according to proper standards and tested appropriately. Mr. Dusek said it was conceivable that all of the tests had been performed correctly, as asserted by the contractor, and the presence of asbestos could have still gone undetected; he added that a determination on this matter would require some in depth investigation and review. However, Mr. Dusek advised, the prevailing issue was the cost exposure to the County. He said that since the cost to the County was the same now as it would have been if the asbestos was detected in the initial investigations, they could not claim this expense against the contractor. Mr. Dusek apprised that restitution could only be sought for additional costs incurred as a result of the problem, none of which had been identified as of yet.

William Lamy, Superintendent of Public Works, pointed out that consideration should also be given to water, sewer, electric, gas and other similar utility lines that would have to be undergrounded in connection with new construction which might be hampered by materials buried on-site. Additionally, he noted that NYSDEC disposal regulations might change in the future, no longer allowing these contaminated materials to be disposed of at typical C&D landfills. Mr. Champagne pointed out that there should be no issue with running utility lines through the pulverized construction debris once the asbestos was removed from the building materials and Mr. Horgan interjected that because the asbestos was located within the brick and concrete, the debris could not be pulverized and compacted to the specified dimensions initially stated as per NYSDEC standards.

Mr. Loeb stated his agreement with Mr. VanNess' opinion that all of the contaminated materials should be removed from the site, adding that the construction debris would not be appropriate for use in the environmental portion of the Gaslight Village Project, so neither did he feel it would be appropriate to bury the materials on the former DSS Building campus.

Mr. McCoy questioned whether it was reasonable to determine which option was preferable before reviewing the costs associated with each and Mr. Dusek replied that the Committee was not being asked to vote on expenditures, but rather to determine the option best suited for the property. He advised that once an option was chosen, Mr. Horgan would return to RPCI representatives to negotiate the associated costs.

Subsequent to further discussion, Mr. Dusek recommended it would be appropriate to enter into executive session to discuss legal issues regarding claims against responsible parties.

Motion was made by Mr. VanNess, seconded by Mr. McCoy and carried unanimously to enter into executive session for Attorney/client privilege pursuant to Section 105(d) of the Public Officer's Law.

Executive session was held from 9:34 a.m. to 10:01 a.m.

Upon reconvening, motion was made by Mr. VanNess and seconded by Mr. Girard in favor of Option 3, which included the removal of all demolition debris from the old DSS campus, and to seek a monetary figure for same.

Mr. Pitkin asked if it was more appropriate to sell the entire parcel for \$1 on an "as is" condition which would eliminate the need for County funding of any further work on the site. Mr. Dusek replied that if this was the inclination of the Committee, they would have to bid the sale of the property. He added that the old DSS Building was situated on a large parcel that also housed the remaining County Annex Buildings, as well as the Westmount Health Facility; therefore, he advised, additional costs would be incurred to separate this portion of the property before it could be sold. Mr. Girard noted that there had been discussions along these lines in the past and it was determined there would be issues with separating and selling the property in light of limited access and utility availabilities relating to the landlocked nature of that portion of the property. Mr. VanNess added that the presence of the co-generation facility at that location should also be considered as the site could be used in the future for additional County offices if it was determined further expansion was necessary. Mr. Girard stated that while he had no objections to further research on the implications of selling the property "as is" for a nominal fee, he felt they should move forward in choosing one of the three proposed options so that Mr. Horgan could proceed with negotiations and determine the cost for the demolition work.

Mr. Thomas called the question and the previously stated motion was carried unanimously.

As there was no further business to come before the Committee, on motion made by Mr. Belden and seconded by Mr. Pitkin, Mr. Thomas adjourned the meeting at 10:04 a.m.

Respectfully submitted,  
Amanda Allen, Sr. Legislative Office Specialist