

**Public Building Commission  
Special Meeting  
Windsor Town Hall – Ludlow Room  
August 31, 2005**

**Draft Document – subject to approval**

**Present:** Chairman Novak, Commissioners Alford, Gustafson, Hazelton (arrived at 5:36 p.m.), Johnson; and Alternate Commissioner Bennett; Al Neumann, Building Superintendent; Dennis Shevel, Physical Plant Manager; Frank Williams, Board of Education Business Manager; Vincent Oswecki, Town Attorney; Darlene Whitmore and Barbara Joslin, Best Joslin Architects; and Leslie Cristini, Jr., Michael James Company.

**1. Call to Order**

Chairman Novak called the meeting to order at 5:32 p.m.

**2. Clover Street School Window Replacement Project**

Mr. Shevel reported that the contract states "final completion" as no punch list items left. Mr. Shevel indicated that the contractor has 9 items left on the punch list. On August 18, 2005 there was a job meeting, which was after the August 12, 2005 completion date. Mr. Shevel distributed a packet of information including a memorandum to the Public Building Commission outlining the status of the project. Also included in the packet was a copy of the contract with regard to the \$25,000 bonus and the final completion date.

Mr. Shevel reported that the project was not completed on August 12, 2005. At the August 18 meeting, the architect and Mr. Shevel spoke with the contractor and informed him that the project was not complete and discussed the penalty clause in the contract. Mr. Shevel indicated to the Contractor that if the work could be completed by the end of that week, he would recommend to the PBC that the penalty be waived. (Commissioner Hazelton arrived)

Mr. Shevel reported that the Michael James Company feels strongly that they are entitled to the bonus. Mr. Cristini of Michael James Company was asked to attend tonight's meeting to discuss the bonus and penalty issues with the commission.

Since the August 18<sup>th</sup> job meeting, a proposed change order (PCO#3B) with additional scope items was submitted. PCO #3 and Bulletin #29 were previously received as a no cost change order to the project. PCO#3B is a revision that increases the change order to \$12,854.21. Proposed Change Order #3B also includes a request for a time extension of 21 days.

Mr. Shevel stated that at each weekly job meeting, he asked the contractor if they were on schedule and if they would finish the project on time. The response was that the project would be completed with no problem. Mr. Shevel informed the Commission that as of today, August 31, 2005, the project is still not complete.

(Mr. Leslie Cristini of Michael James Company arrived at 5:40 p.m.)

Chairman Novak stated that the Public Building Commission is having a discussion as to whether the project was completed on time to warrant the \$25,000 bonus and to discuss the penalty phase of the contract. Chairman Novak asked Mr. Cristini why the project was not complete.

Mr. Cristini indicated that there were some circumstances that occurred that were not foreseeable and they did not know until they got into the project. He stated that they had to reconstruct some of the project in a different way and this took longer. He requested a time extension to the August 12 date, but he was not certain when the request was made. He thought it was around the August 12<sup>th</sup> date.

Michael James Company feels they accomplished the use of the facility. He indicated that some punch list items were given to him last night. There is a crew on site right now working on the punch list.

Mr. Cristini stated that the delay was due to:

- Conditions different than anticipated,
- Had fabricated framing on site prior to the completion of school,
- All work done ahead of time was scrapped because of changed conditions.

They feel that they did not delay the use of the building and feels that Michael James Company is entitled to the \$25,000 bonus.

Chairman Novak stated that during the summer meetings, Mr. Cristini reported that the project was on schedule. The PBC reports the status to the Town Council and each month they were told the project was on schedule. It was just within the last 1 to 1.5 weeks that the PBC heard that the project would not be finished on schedule. Chairman Novak stated that there have not been many change orders and there was not a request for a time extension, otherwise there would have been a previous discussion on this.

The first time the Commission was aware of a time extension was Proposed Change Order #3B that was issued on August 18, 2005, after the August 12, 2005 completion date.

Mr. Cristini stated that he always focused on getting school in operation safely and on time and felt that would be within the time frame. If you go by the letter of the contract, Mr. Cristini stated that they were not complete with the project on August 12, but were completed in sufficient time to turn over the school in time to do what was needed to open school. Mr. Cristini was of the opinion that the project was complete until yesterday. He did indicate that now the building is being occupied, little punch list items will continue to be brought to their attention. This will also push back the completion of the project.

Commissioner Hazelton confirmed that Michael James Company agreed to the August 12, 2005 final completion date when they signed the contract and they did not state that this was not achievable.

At the time the contract was signed, Mr. Cristini stated they did not know they would not meet the August 12 date. They only became aware of the conditions after school was dismissed for the summer and they did not feel they would have trouble meeting the August 12<sup>th</sup> date.

Chairman Novak asked if a Certificate of Occupancy was issued on August 12, 2005. Mr. Shevel reported that there was not a C.O. on August 12, 2005. Mr. Neumann reported that he and the Building Official toured the building on the 12<sup>th</sup> and reported finding missing door hardware, incomplete thresholds, missing screens, roof leaders not connected to drains, broken windows, cabinets not installed, open framing, electrical outlets not properly installed. Mr. Neumann reported that this walk through was conducted between 4:00 and 4:30 p.m. on August 12, 2005.

Mr. Shevel reported another inspection on Monday, August 29<sup>th</sup> with the Fire Marshal and the Building Official was conducted and a Temporary Certificate of Occupancy was issued.

There were some items that maintenance staff did to help obtain the temporary certificate of occupancy. Mr. Shevel stated they were not significant items. Commissioner Johnson asked if the Certificate of Occupancy was at substantial completion. Mr. Shevel pointed out that the contract defines final completion date of August 12, 2005.

Commissioner Alford asked Mr. Cristini what were the changed conditions, when did Michael James found out about this, and what was done to mitigate the changed conditions. Mr. Cristini indicated that every surround of every window and every door had to be removed by hand and each opening then had to be framed. The prefabricated frames were done ahead of time and at the time of demolition realized they would not fit. The contractor indicated they increased manpower and hours worked to mitigate the project. The prefabricated frames could not be modified and they had to start their framing over again. They did not prepare shop drawings for approval, and Mr. Cristini felt that even if they did, you would not be able to determine a problem until you cut into the existing space.

It was noted that the contractor prefabricated the framing as a way to get ahead of the project. The prefabrication was not done as a result of a contract requirement.

Commissioner Alford clarified that when they determined a problem, they increased their manpower. They worked with the architect to correct the problem. Commissioner Alford questioned if at the time they discovered the problem did they feel they would be able to meet the schedule. Mr. Cristini did not think the letter of the contract was the issue, but the intent of the contract (in the use of the facility) as being the target. They were confident they would achieve the projected intent to get school opened on time. Mr. Cristini felt the staff was not impaired by the contractor's presence.

Regarding the electrical work that was completed by town forces, Mr. Cristini was not aware of this and would have worked to complete the work for the certificate of occupancy. Chairman Novak stated he received a call with the concern of not getting school opened on time. He directed Mr. Shevel to do what was necessary to assure that school opened on time. There were electrical wires hanging out and Mr. Shevel stated he could not find the contractor (he was not on site) to complete this work.

Chairman Novak stated that it was reported that at the weekly job meetings the completion date was always identified as August 12 and that it would be met. Chairman Novak questioned why that report was given weekly and the first time the PBC heard otherwise was on August 18<sup>th</sup>.

Mr. Cristini stated that all times he felt the situation was under control and they would be finished. According to the letter of the contract, Mr. Cristini said they were not completed by August 12, but the time extension would push the completion date back, but would not impede opening the building on the first day of school. Mr. Cristini indicated that the time extension is indicated in the contract. He did not feel they needed to get an extension because he felt the project would be ready for the beginning of school.

Regarding the electrical work, Mr. Cristini indicated that this was not part of the project but something they were asked to do outside of the contract. This involved the moving of furniture with electrical outlets. He stated they did not submit a change order for this work.

A punch list was issued on August 18<sup>th</sup> and Mr. Cristini stated they were on site the following Monday and essentially completed the project within the next two days. After that, Mr. Cristini indicated there was no need for them to be on site. He stated they were on standby and ready to service the project, but they were not on site because there was nothing to do.

Regarding the proposed change orders, Chairman Novak questioned the no cost change order that was revised to reflect an increase of \$12,000. Mr. Cristini responded at that point in time there had been no discussion regarding the \$25,000 bonus or penalties, so they did not charge for the changes. The revision is their way of recouping their costs.

Ms. Joslin stated that the punch list was created on August 19 and copies were given to the workers on site. Following the punch list Mr. Cristini send two letters to the architect on August 23, and August 24. It was noted that none of the exterior doors have been weather-stripped. Mr. Cristini reported that the weather stripping was shipped incorrectly. The new weather stripping supplier provided standard weather stripping. They have found the weather stripping that will be going on as a sample today. This weather stripping can be purchased in stock lengths. This will be worked on for the next two to three days. Mr. Cristini stated they are working to correct the situation and this has not affected the use of the school at this point. The threshold weather stripping was addressed the following two business days after the punch list was generated. If the sample test tonight is approved, they will put on the remainder immediately.

Commissioner Johnson asked about the Bulletins. Mr. Cristini indicated these were memoranda to the architect. Commissioner Johnson asked if the contractor prepared any schedules during this project, to which Mr. Cristini indicated that weren't any schedules submitted.

(Mr. Cristini left the meeting at 6:25 p.m.)

### **3. Windsor Library Renovation and Expansion Project**

Ms. Whitmore reported on one item regarding the 1-inch reveal on the existing brick. The original contract documents called for a 1-inch reveal, which the contractor neglected to do. The architect has asked for a credit and received a very small credit amount for not doing this work.

There is another change with copper flashing not on the drawings but was on the original ceiling around the perimeter of the building. Ms. Joslin, Ms. Whitmore and Mr. Neumann will work further with the contractor to clarify these two issues.

### **4. Executive Session – Clover Street School Window Replacement Project**

**MOTION: A motion by Commissioner Gustafson, second by Commissioner Johnson to go into executive session, at 6:30 p.m., for the purpose of discussing the liquidated damages and bonus claim of the contractor, Michael James Company LLC, on the Clover Street School Window Replacement Project. The motion passed 5-0-0.**

(Mr. Williams left the meeting at 6:31 p.m.)

**Present:** Chairman Novak, Commissioners Alford, Gustafson, Hazelton, Johnson; and Alternate Commissioner Bennett; Al Neumann, Building Superintendent; Dennis Shevel, Physical Plant Manager; Vincent Oswecki, Town Attorney; Darlene Whitmore and Barbara Joslin, Best Joslin Architects; and Janet Burke, Recording Secretary.

**MOTION: A Motion by Commissioner Gustafson, second by Commissioner Alford to come out of Executive Session, at 7:41 p.m. The motion passed 5-0-0.**

### **2. Clover Street School Window Replacement Project**

**MOTION: A motion by Commissioner Gustafson, second by Commissioner Hazelton that the Public Building Commission finds that the Michael James Company has not reached final completion on the Clover Street School Window Replacement Project, that the contractor has not earned the \$25,000 bonus, and they will defer any further discussion on the penalty clause in the contract until final completion has been achieved. The motion passed 5-0-0.**

**MOTION: A motion by Commissioner Alford, second by Commissioner Johnson that the Proposed Change Order #2 in the amount of \$29,307.50 for sidewalk work not be accepted. The motion passed 5-0-0.**

The Commission discussed the procedure of change orders in that the work should not be done without prior authorization and an agreement on the price. The cost should be discussed ahead of time. Ms. Whitmore stated that the only item in the no cost change order (PCO##) was the credit to eliminate the four windows.

**MOTION: A motion by Commissioner Gustafson, second by Commissioner Hazelton to accept Proposed Change Order #3, dated 8/2/05, a no cost change order as defined in Bulletin #29, dated 8/3/05, however the Public Building Commission does not agree that any or all of the items on the change order constitute legitimate changes nor do the prices reflect legitimate prices. The motion passed 5-0-0.**

It was noted this proposed change order was approved because it was a no cost change order per Bulletin #29.

**MOTION: A motion by Commissioner Alford, second by Commissioner Gustafson to reject Proposed Change Order #3B, dated 8/18/05 in the amount of \$12,854.21. The motion passed 5-0-0.**

**MOTION: A motion by Commissioner Johnson, second by Commissioner Hazelton to approve Proposed Change Order #4 in the amount of \$416.13. The motion passed 5-0-0.**

Commissioner Johnson discovered the time extension of 5 days included in Proposed Change Order #4, which the Public Building Commission does not agree with.

**MOTION: A motion by Commissioner Johnson, second by Commissioner Hazelton to rescind the previous motion approving Proposed Change Order #4 because the Public Building Commission does not agree to the time extension of 5 days. The motion passed 5-0-0.**

Mr. Shevel reported that he received Certified Payrolls from Michael James Company for this project. Mr. Shevel pointed out that work that was completed prior to June 27 (prefabrication of frames) was not included on the certified payroll. It was also pointed out that during the period Mr. Cristini stated there was an increase in manpower, this is not reflected on the payrolls. It appears that more hours were expended than are reported on the certified payrolls.

It was agreed that no further payments should be made until an accurate certified payroll is received. Not all the trades are included in the payroll report (asbestos removal, hardware contractor are two). Ms. Whitmore will convey this request to the contractor.

Haz-Pros was contracted to complete the asbestos abatement on this project. There was a budget of \$5,000, of which only \$4,500 was expended. A change order should be processed for this credit. Ms. Whitmore will also work on this. There should also be a credit for downgraded hinges.

**5. Staff Reports - None**

**6. Adjournment**

**MOTION: A motion by Commissioner Hazelton, second by Commissioner Gustafson and passed unanimously to adjourn the meeting at 8:15 p.m.**

Respectfully submitted,

Janet M. Burke, Recording Secretary