

MINUTES

STATE BUILDING COMMISSION MEETING

SPECIAL EXECUTIVE SUB-COMMITTEE

DECEMBER 4, 2007

The State Building Commission Executive Subcommittee met this day at 10:00 a.m. in House Hearing Room 29, Legislative Plaza, Nashville, Tennessee.

STATE BUILDING COMMISSION SUB-COMMITTEE MEMBERS PRESENT

Dave Goetz, Commissioner, Department of Finance and Administration
John Morgan, Comptroller of the Treasury
Dale Sims, State Treasurer
Riley Darnell, Secretary of State

OTHERS PRESENT

Mike Fitts, State Architect
Georgia Martin, State Architect's Office
Alan Robertson, State Architect's Office
Charles Garrett, Real Property Administration
Charles Harrison, Comptroller's Office
Janie Porter, Attorney General's Office
Genie Whitesell, Attorney General's Office
Pat Haas, Bond Finance
Cindy Liddell, Bond Finance
John Carr, Finance & Administration
Mark Cherpack, Finance & Administration
Annette Crutchfield, Legislative Budget
Lois Riggins-Ezzell, State Museum
Mary Jane Crockett-Green, State Museum
Mike Morrow, Finance and Administration
Lola Potter, Finance and Administration
Jim Shulman, Finance and Administration
Representative Barbara Cooper
Representative Joe Towns, Jr.
Representative G. A. Hardaway
Rhonda Myers, State Treasurer's Office
Tamara Hanserd, Rep. Cooper's Office

DEPARTMENT OF FINANCE AND ADMINISTRATION

NATIONAL CIVIL RIGHTS MUSEUM, MEMPHIS, TENNESSEE

- 1) Commissioner Goetz called the meeting to order at 10:25 a.m. and noted that the only agenda item was for approval of a Lease Agreement between the State of Tennessee and the Lorraine Civil Rights Museum Foundation, Inc.

Comptroller Morgan stated that he had received documents that morning from Representative Barbara Cooper with changes from the LCRM Community Oversight Committee that they would like to see incorporated in the Lease. He said some of them were more style than substance, and some were substantial. Commissioner Goetz asked what the differences were in the term of the Lease. Mr. Fitts stated that the draft that was sent to the Subcommittee was for a lease term of 20 years. He said a 10 year term, with right to renew for 20 years, was discussed. Comptroller Morgan said that the compromise term recommended was a 15 year term with 15 year extension, which was supported by the Foundation.

Representative Cooper asked why there was neglect over maintenance of the Museum for over 16 years, which, she said, had caused distrust. She said she suggested a re-evaluation after 10 years, and that Greg Duckett suggested 15 years. Representative Towns was recognized and spoke on the make-up of the Board. Representative Hardaway was recognized and spoke regarding the ability of the State to enforce the Memorandum of Understanding.

Comptroller Morgan commented that the MOU does not address the make-up of the Board other than to the extent that the Foundation had agreed to 60% African American representation and they will have representatives from labor and the Tennessee legislature. Treasurer Sims stated that the MOU outlined what the Board's commitment was and he believed they will move immediately to conform. He said the Lease requires the Foundation to submit a report to the SBC describing the progress they have made on all fronts by the 5th anniversary date of the Lease.

Representative Hardaway discussed issues he had regarding the make-up of the Board. Secretary of State Darnell stated that they had a draft lease that was ready to be executed, and he believed most of the issues raised were being reasonably addressed.

Representative Hardaway asked Mr. Fitts about other Foundation Boards. Mr. Fitts replied that the State has no control over the make-up of private Foundation Boards that operate State-owned facilities, such as the TPAC and Frank G. Clement Foundation Boards. He added that the MOU was drafted by the LCRM Foundation in response to the concerns of the community and they were willing to voluntarily commit to that. Commissioner Goetz said he understood that there was a lack of trust. However, he said, the Foundation needed to be given an opportunity to execute the MOU. Comptroller Morgan stated that, at one point, the Lease was separate from the MOU and now the MOU is a part of the Lease, which gives the State better leverage. He said that, in addition, there was a reporting mechanism included in the Lease. He said he believed there will be a lot more

communication and didn't think the five years for reporting was problematic. He said the State had a basis to enforce the MOU and the remedies were against the Lease. He said he was impressed with the Foundation's interest and willingness to try and go forth, and believed the Foundation was intent on repairing their relationship with the community because that was a common interest for all. He said he didn't question personnel motives of Board members.

Representative Hardaway asked what the justification was for the Lease term. Comptroller Morgan responded that, in order to raise money for substantial improvements for the Museum, they believe that it takes certain longevity. He said that, frequently, people don't want to give their money to the State, but will give to other Foundations. He said that the length of term really creates a better opportunity to raise capital, and that it made sense to him. He added that there was an earlier discussion of tax credits, which probably started discussions of a 40 year lease, but that it was not currently on the table. Representative Hardaway asked Mr. Fitts how the term compared with other Foundations. Mr. Fitts responded that the War Memorial lease with the Veterans is a 99 year lease; TPAC has a perpetual lease; and the Hermitage property was transferred to the private foundation.

Representative Hardaway asked if the State was incapable or unwilling to conduct the audit. Comptroller Morgan replied that the State was capable, but that it was a matter of resources. He said the mechanism is in place for an adequate review and control process, as well as the ability to audit anytime. Secretary of State Darnell stated that the MOU is referenced in the Lease and they expect the commitments to be carried out, and that the State would be watching the process. He added that the community and Black Caucus had raised some good issues, but that there are some limits on how minutely the State can make the Foundation do things. He said we don't want the Board to be run out of town so the Museum closes. Comptroller Morgan added that this is normal provision and good language for an independent CPA.

Treasurer Sims made a statement that, through this whole process, everyone wants the facility to succeed. He said he has been impressed by the sincerity of the Black Caucus and community in their trying to move this forward, and he really believed that the Foundation understands they have work to do to reconnect with the community, and acknowledges in the MOU that they are committed to that. He said that everyone has done so in good faith and believed that, together, they can make the Museum world-class. He said he appreciated the coordination that Representative Cooper had provided in being an intermediary.

After discussion, Secretary of State Darnell made a motion that the SBC Executive Subcommittee approve the execution of a Lease Agreement between the Lorraine Civil Rights Museum Foundation, Inc. and the State for an initial term of 15 years commencing on January 1, 2008 and ending on December 31, 2022, with an option to renew the lease for an additional 15 year period commencing on January 1, 2023 and ending on December 31, 2037, contingent upon the Foundation substantially conforming to the requirements set forth in the Memorandum of Understanding (MOU). Further, that the independent audit required in the Lease Agreement shall address the "MOU substantial conformance requirements" in the independent auditor's report

issued at the end of Year 13 of the Lease Agreement. Treasurer Sims said he was fully supportive of, and seconded, the motion.

The Subcommittee approved the motion and further directed the staff to develop a final document for signatures considering the discussions made at this meeting. The staff, in concert with the Attorney General's Office, was directed to prepare the final document, including appropriate changes, for signature.

SBC Project No. 529/000-16-1998

There being no further action, the meeting adjourned at 11:42 a.m.

Approved by: M. D. Goetz, Jr.
M.D. Goetz, Jr., Commissioner
Department of Finance and Administration