

Broward County Commission Regular Meeting

Item #: 15.

Date: 02/02/2010

Director's Name: Pete Corwin

Department: County Administration

Information

Requested Action

MOTION TO DISCUSS and determine the method of financing for the new courthouse complex.

Why Action is Necessary

Board direction is required to determine how to fund the new courthouse complex.

What Action Accomplishes

Provides staff direction to take the necessary steps to finance a new courthouse.

Is this Action Goal Related

Previous Action Taken

Summary Explanation/ Background

Background

On August 5th, the Board approved the Courthouse Task Force's final report (Exhibit 1). The Board agreed that a new courthouse should be constructed on County owned land at the corner of SE 6th Street and SE 1st Avenue; which is the site of the 400 space Judicial Garage. The Board also amended the agreement with Spillis Candela, Heery, Cartaya Joint Venture to design the new courthouse. The Board discussed the Task Force recommendation to fund the courthouse utilizing non-voted debt and discussed the advantages and disadvantages of voted and non-voted debt; however, the Board postponed a decision on financing the courthouse. The Mayor directed staff to bring the issue to the Board for determination.

Project Status

The consultant team has completed the architectural program totaling 674,000 sq ft to meet the space needs of the courthouse agencies plus one shell floor (34,000 sq ft) to provide for future expansion. The team also developed a master plan (Exhibit 2), consistent with the recommendations of the Task Force. The master plan provides for a judicial campus on County owned property that will meet the space needs of the courts for well over thirty years. The consultant team also developed over 30 design schemes for the courthouse footprint, which were reviewed by County staff with input from the courts. After detailed analysis using selection criteria which included site constraints, building and functional efficiency, natural lighting, way-finding, best practices, and cost , the team selected an "L" shape footprint (Exhibit 3) as the preferred conceptual configuration for the building. The 20 story structure will include 74 litigation spaces for judges and general masters; provide secure separation of the public, judges, inmates and juvenile detainees; centralize Court Administrator functions; include space for Clerk of Court and State Attorney functions; and will be an environmentally friendly and energy efficient building designed to achieve LEED certification.

The consultant team has initiated the schematic design phase of the project during which they will complete architectural massing and elevation studies to represent the preferred design solution for the building. Conceptual floor plans will be developed for each level during this phase, responding to the architectural program requirements. Preliminary project descriptions, with a narrative of engineering systems and material selections, will be provided so that a more detailed project cost can be prepared.

Schematic design will be completed in mid-March and will be followed by the design development and construction document phase to produce the design drawings used to bid the project. Since these drawings must conform to the most current building codes, staff does not recommend proceeding with design development until a financing plan is in place. If the project is delayed pending financing, the design development drawings would likely require significant and potentially costly modifications.

Project Costs

The following provides a summary of the \$328 million projected project costs:

- Courthouse, Demolition, Landscaping, Connectors and 120 Secure Parking Spaces (\$281.5 million)
- 1,380 Parking Spaces (\$34.5 million)
- Remodel Midrise (\$4 million)
- Additional North Regional Parking (\$8 million)

Staff and the consultant team is committed to designing the project within the project budget including the prospect of bidding the project next year at a time when the construction market is expected to remain “soft”. In addition, the project estimate does not include a separate allocation for public art since the consultant team will integrate art into the design of the new courthouse. The cost to add parking to the North Regional Courthouse may be less than projected if we can add capacity within the existing structure.

As the project has taken shape over the past several months, several items have been identified that will have to be taken into consideration when designing the courthouse and developing the detailed project budget. The initial project budget did not contemplate any remodeling in the East or North Wings. As the consultant completed the space program, it became clear that several State Attorney units that support judges in the North Wing (felony courts) should be located in the East or North Wings. By consolidating Court Administration and the administrative functions of the Clerk of Courts in the new courthouse, space can be freed up in the East and North Wings for the State Attorney. The team also identified additional work necessary to make the East Wing functional after the old courthouse is demolished. With the assistance of our construction project manager (Weitz), staff and the consultant team will design the courthouse so that the project is completed at or under the project budget.

Financing the New Courthouse

The County has \$60 million in the budget for courthouse capital projects plus \$60 million for a new jail which is not needed due to reductions in the inmate population. If additional jail capacity is needed in the future, the 700 bed Stockade can be reopened. By utilizing \$120 million in cash, the County can reduce the amount of borrowed funds needed for the projects to approximately \$208 million.

The key policy questions for the Board to address are:

- What is the best time and method to borrow the \$208 million to finance the project?
- What funds will be used to pay the annual debt service on the bonds?
- What is the impact of the annual debt service payments on the millage rate and taxpayers?

The County's Financial Advisor prepared a summary of several borrowing options (Exhibit 4). While there are several options available to the County for financing the courthouse project, the fundamental choice is between voted and non-voted debt. There are pros and cons of each method.

Voted debt (General Obligation bonds) has several advantages. Debt service is paid with property taxes that are not included in the County's General Fund and operating millage rate; interest rates are lower than non voted debt; and no debt service reserve is required.

The key advantage to non-voted debt is that financing can proceed immediately allowing the County to take advantage of a very soft construction market; take advantage of historically low interest rates; and utilize Build America Bonds before they expire December 31, 2010. Non-voted debt service payments are paid with general revenues and the millage required to fund debt service is included in the General Fund under the 10 mill cap limitation.

The total debt service on \$208 million ranges from \$12 to \$14 million per year. The Court Facilities Fee can be used to pay \$5 million per year of the debt service on the bonds (\$1million/year from rent savings plus \$4 million/year from increase in the fee). Therefore, by utilizing \$5 million/year in courthouse facilities fees, the amount of property taxes needed to support the bonds is reduced to approximately \$7 to \$9 million per year.

A key variable in the annual debt service payments is whether the County issues Recovery Zone and Build America Bonds (BABs), which can significantly lower borrowing costs, but must be issued by December 31, 2010. The County has been allocated \$40 million in Recovery Zone Bonds which provide a 45% credit towards interest payments. There is no limit on the amount of Build America Bonds that can be issued and they provide a 35% credit towards interest payments. The reduction in interest payments are based upon the Federal Government providing "rebates" and carry the risk that the Federal Government will suspend or eliminate the "rebates". As shown in Exhibit 5, the annual rebate averages approximately \$3 million per year. The Federal program is available for both voted and non-voted debt; the bonds are taxable; and bonds must be issued no later than December 31, 2010 unless the program is extended by Congress.

The County's Financial Advisor compared four borrowing scenarios based upon current market conditions:

- Voted Debt with Build America Bonds
- Non-Voted Debt with Build America Bonds
- Voted Debt without Build America Bonds
- Non-Voted Debt without Build America Bonds

Based on current market conditions, Exhibit 5 calculates the total amount borrowed (including issuance, underwriters costs, and revenues); total average annual debt service; tax supported annual debt service (netting out the Courthouse Facility Fee and Federal interest “rebate”); the “all in” interest rate (TIC); and total debt service. The following chart summarizes the annual debt service and “all in” interest rate for each alternative:

<u>OPTION</u>	<u>ANNUAL DEBT SERVICE</u>	<u>TIC</u>
• Voted Debt with BAB's	\$6.9 million	3.85%
• Non Voted Debt with BAB's	\$7.5 million	4.11%
• Voted Debt w/o BAB's	\$8.1 million	4.68%
• Non Voted Debt w/o BAB's	\$9.3 million	5.34%

Based on current market conditions, the lowest cost option would be voted debt utilizing Build America Bonds; however, a non-voted issue utilizing Build America Bonds is more attractive than a GO issue without Build America Bonds.

Policy Questions

Given the information presented above:

1. What is the best time and method to borrow the \$208 million to finance the project? Voted debt offers lower borrowing costs, but if the Board elects to finance the project with voted debt and voters do not approve the bond issue, the County could miss historically low interest rates, BAB rebates from the Federal Government and a soft construction market.
2. What funds will be used to pay the annual debt service on the bonds? The total debt service payments on \$208 million will be approximately \$12 to \$14 million per year. Courthouse Facilities Fees will provide approximately \$5 million per year. If voted debt is utilized, the difference will come directly from property taxes. If non-voted debt is utilized, general revenues will be pledged to make up the difference which ultimately impacts the general fund tax rate.

If the debt is incurred in the next 3 years, the increase in debt service payments can be offset by a \$36.4 million per year decrease in voted debt service payments. In FY 10, total annual

debt service taxes are \$74.4 million and in FY 14 they will decrease to \$38 million. These scheduled decreases in payments will occur as follows:

• FY11	\$17.3 million
• FY12	\$11.3 million
• FY13	<u>\$7.8 million</u>
Total	\$36.4 million

3. What is the impact of the annual debt service payments on the millage rate and taxpayers? No matter which method of borrowing (voted or non-voted debt) is used, there will be an increase in debt service payments. If the debt is “voted”, the additional \$7 to \$9 million will be offset by the programmed \$36.4 million decrease in existing voted debt service payments and likely result in a decrease in the “voted” millage rate depending on the tax roll for that year. If the debt is “non-voted”, the impact on the County operating budget and millage rate cannot be determined at this time, given the number of variables such as the tax roll, other increases/decreases in revenues and expenses, and the Board’s tax policy. The impact of the additional \$7 to \$9 million on the budget by itself would not require a supermajority vote since the County has developed ample capacity under the State-mandated maximum millage calculation by significantly reducing the County’s ad valorem tax levy each year for three years.

The following summarizes the impact on the average taxpayer based on the current combined millage rate (voted and non-voted) and current average taxable values:

- Current millage rate 5.3889 (4.889 operating plus .5 mills debt service)
- Less .25 mills decrease in voted debt service payments (\$36.4 million/year)
- Plus .05 to .06 mills for new courthouse debt service payments (\$7 to \$9 million/year)
- Total millage rate – 5.1889 to 5.0789 (3.5% to 3.7% decrease)
- The impact of the \$7 to \$9 million debt service payment on the average homeowner would be \$8 per year, which would be offset by the reduction of \$37 per year in voted debt service payments over three fiscal years.

The Courthouse Task Force met on January 22nd and voted to reaffirm their recommendation that the Board utilize non-voted debt.

Fiscal Impact

Fiscal Impact/Cost Summary:

Total cost of courthouse projects is \$328 million. There is \$120 million available in the Capital Program in the courthouse and jail projects. The balance (\$208 million) will be financed and supported by revenues generated in the Courthouse Facilities Fund and general operating revenues.