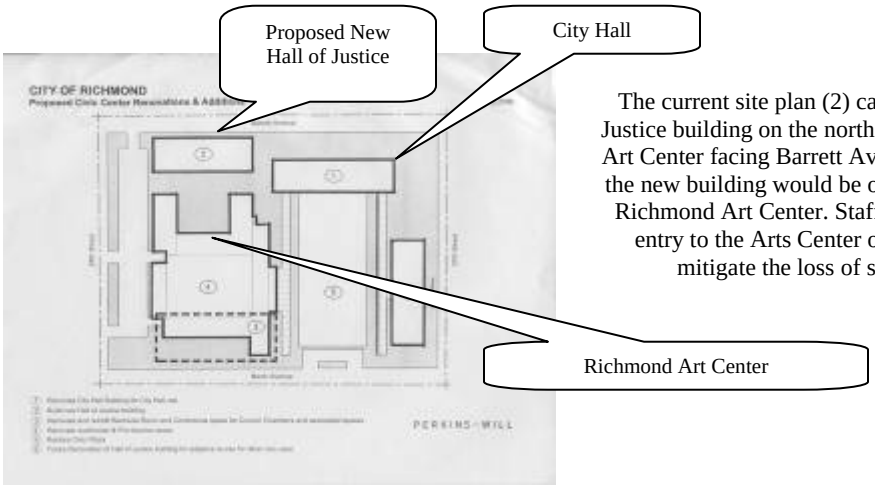
TOM BUTT E-FORUM: CIVIC CENTER DESIGN PROCESS SPARKS CONTROVERSY

A proposal to place a new Hall of Justice (Police building) facing Barrett Avenue in front of the Richmond Art Center has caused the first outcry about a Civic Center design process that has been largely a stealth endeavor insofar as the public is concerned.

The good news is that the Civic Center project is moving rapidly ahead, particularly the design of the rehabilitation of the City Hall, and it appears that Finance Director James Goins can cobble together some $80 million to pay for it. In addition, Phase 1, which originally included the City Hall and a new City Council chamber in the Memorial Auditorium where the Bermuda Room is now, has been expanded to include a new Hall of Justice.



The current site plan (2) calls for a new Hall of Justice building on the north side of the Richmond Art Center facing Barrett Avenue. Parking serving the new building would be on the west side of the Richmond Art Center. Staff suggests that a new entry to the Arts Center off the plaza would mitigate the loss of street frontage.

The Hall of Justice was a late addition to Phase 1 for two reasons. The deteriorating appearance and obsolete functional layout of the Hall of Justice was becoming one more obstacle to police recruitment in a tightening market, and the effects of water intrusion were resulting in numerous claims being filed by employees who complained about potentially adverse health effects of mold.

What Richmond Art Center supporters are concerned about is that the Hall of Justice will obscure the view of the Art Center from Barrett Avenue, and the juxtaposition of the public safety and criminal justice component of City government with that celebrating the arts is not an appropriate relationship.

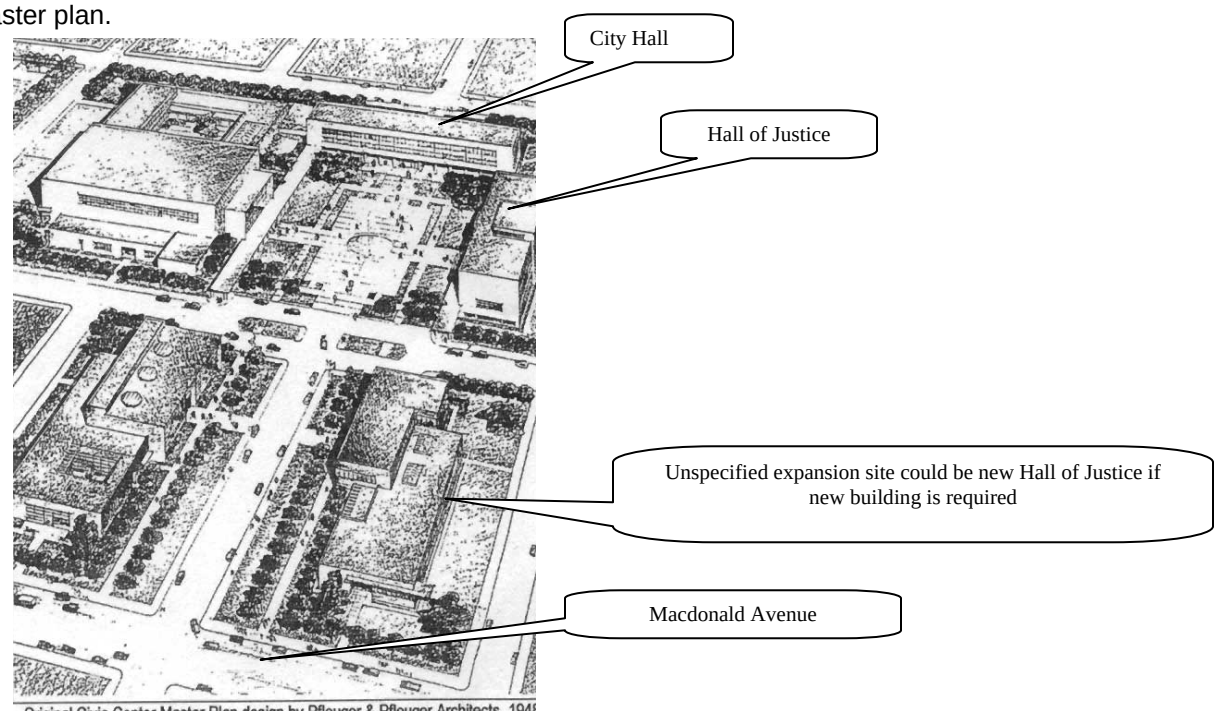
How did this happen? First of all, the delivery mechanism chosen by the City for the Civic Center revitalization is a method called design-build. In this method, both the contractor and the architect are part of the same team, as opposed to the design-bid-build method where the architect works directly for the client, and the contractor is chosen by competitive bid. Most public works projects continue to be design-bid-build, but design-build has gained popularity in recent years. The Hayward City Hall is a successful example of a design-build approach used for a Bay Area city hall. Other notable examples, such as the city hall of Berkeley, Oakland, Emeryville and San Francisco, used the traditional design-bid-build delivery system.

In the beginning of the current iteration of the Civic Center rebirth (this has been going on since about 1994), there was some thought that the design-build delivery system would include financing, a major concern in a city coming out of near-bankruptcy and without a credit rating. For whatever reason, the finance component didn't pan out, and Richmond's own James Goins is the genius who has found the money. It is puzzling that the selected design-build team of Richmond Civic Center partners, LLC, is still referred to as "the developer," when, in fact, they are simply a design-build contractor.

While still capable of providing for public scrutiny and input, the design-build process is not as conducive to public participation as is design-bid-build. In the Richmond process, however, public scrutiny and public input has almost been eliminated. The design process is being closely managed by staff and the design build team. City Council members have been offered a peek now and then but no real input.

I objected to the location of the new Hall of Justice primarily because of its relationship with Barrett Avenue and the original site design concept of the Civic Center. While the City Hall is set back from the street in a campus-like setting, the new Hall of Justice is set right up to the street as in a more urban context. The obscuring of the Richmond Art Center also troubles me.

I have suggested that if we are to build a new Hall of Justice, it could be placed on the southeast corner of the Civic Center site in a location reserved for a future building in the original 1948 master plan.

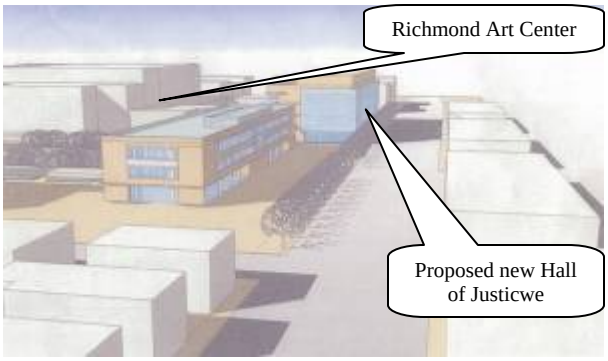


1948 Civic Center Master Plan prepared by Pfleuger & Pfleuger Architects in 1948

I had also suggested completely rehabilitating the Hall of Justice instead of building a new structure. Staff argued that the cost and inconvenience of two moves made this a non-starter. However, there is now the prospect that the Hall of Justice may have to be evacuated soon anyway due to the effects of water intrusion and mold.

There also seems to be certain level of mission creep in the program. When the current Civic Center was constructed in the early 1950s, the City of Richmond had essentially the same population it has today, and City leaders were optimistic about future growth. Instead of growing, the City lost population that it recovered only in the last decade. Various City departments have been moved elsewhere in the City, such as the Housing Authority, the Port and the Parks and Recreation Department. With computerization, the Internet, document imaging and such, you would think we could get along with less space, not more. The developing programs, however, have the existing buildings bursting at the seams.

There are other issues about the design that concern me. The issue as to whether or not the Civic Center is eligible for the California Register of Historic Resources has never been resolved.



This is important, because if it is eligible, the design will be subject to CEQA review as well as Richmond Municipal Code Chapter 6.06, Historic Structures. The design will have to be consistent with the *Secretary of the Interiors Standards for Rehabilitation of Historic Structures*, and this will have an impact on some of the design decisions that have already been made.

Best practice is to resolve the historic preservation issues before getting too far along with the design. Richmond City staff, however, is afraid to even utter the "H" (historic preservation) word because they largely don't understand it and don't want to. The only exception is a few of the younger Planning Department staff members. This same hesitancy to deal with historic preservation issues is delaying the Plunge rehabilitation. This Civic Center project, however, is being run like a railroad by the friendly Richmond Community Redevelopment Agency.

The Richmond Community Redevelopment Agency does not have a qualified architect on its staff managing the project, nor has it been yet vetted by the Design Review Board, which has several highly qualified architects among its membership.

I urge Richmond residents to demand a frequent show and tell and accompanying public discussion of the Civic Center Design as it develops.

What can you do? Press "reply to all" and let your city manager and City Council know that the public is, after all, the client for this project and deserves to be frequently briefed and listened to.

Following is a primer on Design-Build. For additional information see http://www.fhwa.dot.gov/reports/designbuild/designbuild2.htm.

DESIGN-BUILD PRIMER

Definitions

- **Design-Build (D-B)** - According to the Design-Build Institute of America (DBIA)[a], the design-build form of project delivery is a system of contracting whereby one entity performs both architectural/engineering and construction under one single contract. Under this arrangement, the design-builder warrants to the contracting agency that it will produce design documents that are complete and free from error (design-builder takes the risk). The selection process under design-build contracting can be in the form of a negotiated process involving one or more contracts, or a competitive process based on some combination of price, duration, and proposer qualifications. Portions of the overall design or construction work can be performed by the design-build entity or subcontracted out to other companies that may or may not be part of the design-build team.
- **Design-Bid-Build (D-B-B)** - Design-bid-build is another form of project delivery whereby the contracting agency either performs the design work in-house or negotiates with an engineering design firm to prepare drawings and specifications under a design services contract, and then separately contracts for at-risk construction by engaging a contractor through competitive bidding. Under this arrangement, the contracting agency warrants to the contractor that the drawings and specifications are complete and free from error (contracting agency takes the risk). The selection process for design-bid-build is usually

based on negotiated terms for the design contract and lowest responsible bid for the construction contract.

DESIGN-BUILD ISSUES

The rebirth of design-build as a project delivery method for government-sponsored infrastructure projects can be attributed to a number of complementary factors. First, design-build has its roots in the genesis of infrastructure development going back millennia when design and construction functions were integrated by the design-builder position. Second, in times of war or natural disaster the urgency to expedite projects has caused government agencies to suspend traditional procurement and contracting methods and permit alternative approaches such as design-build. Third, budget and personnel shortages or other constraints in the public sector and competitive pressures in the private sector have caused project sponsors to seek more cost-effective ways to deliver projects. Indeed, fiscal and national crises have often been the driving forces behind efforts to permit government to innovate and become more cost-effective. Design-build is viewed by many as one of the most promising "innovative" approaches to build highway infrastructure faster and cheaper without sacrificing product quality.

Proclaimed Advantages of Design-Build Project Delivery

Proponents of design-build contracting proclaim a number of advantages over typical contracting arrangements such as design-bid-build[7,8,9] including:

- **Time savings** through:
  - Early contractor involvement that enables construction engineering considerations to be incorporated into the design phase and enhances the constructability of the engineered project plans;
  - Fast-tracking of the design and construct portions of the project, with overlapping (concurrency) of design and construction phases for different segments of the project; and
  - Elimination of a separate construction contractor bid phase following completion of the design phase.
- **Cost savings** from:
  - Communication efficiencies and integration between design, construction engineering, and construction team members throughout project schedule;
  - Reduced construction engineering and inspection (CEI) costs to the contracting agency when these quality control activities and risks are transferred to the design-builder;
  - Fewer change and extra work orders resulting from more complete field data and earlier identification and elimination of design errors or omissions that might otherwise show up during the construction phase;
  - Reduced potential for claims and litigation after project completion as issues are resolved by the members of the design-build team; and
  - Shortened project timeline that reduces the level of staff commitment by the design-build team and motorist inconvenience due to reduced lane closures.
- **Improved quality** through:
  - Greater focus on quality control and quality assurance through continuous involvement by design team throughout project development; and
  - Project innovations uniquely fashioned by project needs and contractor capabilities.

In a design-build project development process, the procurement of the design-build contractor through a request for proposal (RFP) process might actually require substantially more time than the invitation for bid (IFB) process used to retain the construction contractor. However, overall time savings result from not having to go through two separate procurement processes, one for the design team and one for the construction team.

Proclaimed Disadvantages of Design-Build Project Delivery

Design-build contracting is also one of the most controversial of the innovative highway project delivery approaches, since it changes the fundamental way key stakeholders in the highway construction industry compete and cooperate with each other[10, 11, 12]. Critics claim that design-build:

- Reduces competition for construction services by excluding smaller firms unable to lead the larger projects most amenable to the design-build approach;
- Favors large national engineering and construction firms in competing for larger design-build contracts that are too big for smaller local or regional firms to pursue;
- Provides an opportunity for favoritism to enter into the contract award process by including non-price factors in the basis for selection;
- Undermines the inherent checks and balances between design and construction teams in the traditional delivery systems, with the design team no longer independent of the construction contractor;
- Strikes at the foundation of the traditional quality assurance/quality control roles through the combination of engineering and construction; and
- Increases project costs due to the elimination of the low bid contractor selection criteria.

In considering alternative project delivery approaches, proponents of more traditional approaches question whether adequate checks and balances are provided to ensure product quality, integrity in the procurement function, and fairness to established businesses that compete for these contracts. Others ask whether any one method of project delivery is preferred for all types of projects and situations, or if a portfolio of alternative approaches should be available to suit different situations and project types.