WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
May 3, 2013

Meeting Began At: 9:33 A.M.

Meeting Ended At: 10:00 A.M.

Members Present: Chris Beutler, Eugene Carroll, Tim Clare

Item 1 -- Introductions and Notice of Open Meetings Law Posted by Door

Chair Beutler opened the meeting with introduction of the Board members. He advised that the open meetings law posted at the back of the room is in effect.

Item 2 -- Public Comment and Time Limit Notification

Public comment is welcome. Beutler stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 -- Approval of the minutes from the JPA meeting held April 18, 2013

Beutler asked for corrections or changes to the minutes of the April 18, 2013 meeting. Being none, Carroll moved approval of the minutes. Clare seconded the motion. Motion carried 3-0.

Item 4 -- WH 13-41 Resolution to waive the Joint Public Agency's option to extend the commencement date for payment of the District Energy Corporation's Demand Charge -- Facilities Financing under the Energy Services Agreement with District Energy Corporation from September 1, 2013 to September 1, 2014. (Dan Marvin/Michael Rogers)

Dan Marvin, Secretary for West Haymarket JPA, explained that this resolution changed a date. The District Energy Power Plant will provide heating and cooling for the arena, as well as some of the buildings south of the arena. When originally before the District Energy Board a number of years ago, we were asked for an opening date and we gave them September 2013. They built in to the agreement, which we adopted, some flexibility to start service later than that date, which was prudent at the time. Now that we are closer to the opening date of the arena, we propose to amend the original resolution to put the start date at no later than September 1, 2013.

Mike Rogers, Gilmore Bell Bond Council, explained that the Energy Service Agreement contains a provision that provides that the demand charge facilities financing will commence no earlier than September 1, 2013. However, it gives the JPA the option of extending that date to September 1, 2014. Before DEC moves forward with their financing to allow them to begin billing the JPA this September and for stability of their financing, the option to move that date is asked to be waived by the JPA. This will allow certainty as to when the DEC can start imposing the demand charge facilities financing fee as a component of the overall billing for heating and cooling of the arena facility.

Clare asked for clarification on how this affects the financing date. Marvin explained that originally there was flexibility to extend the date by one year. Now that District Energy is prepared to do the final financing for this project, we need to lock in the specific date. This would remove the ability to delay the start date for the arena by just setting it at September 1, 2013. If this were deferred for a year, we would incur approximately $75 million of interest within the financing increasing the overall project cost, plus approximately $600,000 more for the financing on the interest over a 30-year period. So, now that we know when the arena will be open, we want to lock in the date so they can finalize their financing. Continuing in response to Clare, Marvin explained this does not extend the financing and the first payment would be due September 1, 2013. Rogers agreed that facilities financing would be due September 1, which is when the facilities interest will start. This does not extend the debt out another year.

Jane Kinsey, Watchdogs of Lincoln Government, asked if this will affect taxpayer money at any point. Beutler responded that it saves taxpayer money. Marvin concurred stating that by allowing this to be locked in it allows for an opportune time and certainty of what the payments will be. Because of lower interest rates, a firm date, and by creating solid private customers in the Traction Project and Project Oscar; we believe we have created savings above what was expected a year or two ago. The overall project will be less expensive by not rolling the cost of the interest into the building.

Carroll moved approval and Clare seconded the motion. Motion passed 3-0.

Item 5 -- WH 13-42 Resolution to approve the Agreement with Hausmann/Dunn, a joint venture, to provide construction manager at risk preconstruction and construction phase services for Precast Parking Deck Nos. 2 and 3. (Paula Yancey)

Paula Yancey, PC Sports, reported that this resolution was to approve Hausmann Construction and J.E. Dunn Construction to serve as construction manager at risk for Parking Decks 2 and 3. They were selected through the CM at Risk process with the Purchasing Department. Based on proposals, interviews, and how they are performing on the Deck 1 construction Hausmann/Dunn is the recommended selected proposal. The contract follows the Deck 1 contract. The initial preconstruction fee is $31,173. They will work with Davis Design to go through the bid package process in order to develop a GMP (guaranteed maximum price) later this year.

Upon Clare's questioning, Beutler asked for clarification on the numbers assigned to the parking decks within the resolution. Yancey responded they are Deck Nos. 2 and 3. The resolution with WH13-42 incorrectly refers to Deck Nos. 1 and 2. Rod Confer, City Attorney, confirmed the resolution should be amended to correct the numbers to 2 and 3.

Kinsey asked if the amount is the same or larger than for Deck 1. Yancey explained that the only amount being approved today is for the preconstruction services, which is a little higher since it is for two parking decks. Kinsey asked Yancey to provide the difference in the cost to her. Responding to Kinsey's question on the duties, Yancey explained it would be similar to all the duties for construction at risk managers. Those duties would be to construct the parking decks through the CM process where they put out requests for proposals for subcontractors, provide the JPA a GMP for the construction, and then construct the garage. The GMP has not been determined and will be before the Board later. The only cost before the Board today is for preconstruction services for $31,173. Clare clarified there is approximately 940 spaces in Deck 1 and substantially more in these two decks. Yancey confirmed approximately 700 for Deck 2 and 900 for Deck 3. Kinsey asked if this was in the original budget. Yancey responded it was part of the budget for Decks 2 and 3 approved previously by the JPA.

Clare requested a summary of the process. Confer detailed that there is a State statute that allows the City or JPA to enter into a construction manager at risk contract. That is quite detailed as to the requirements. The City has adopted that procedure and, therefore, it applies to the JPA in an administrative regulation that sets for the statutory requirements. Initially, a list is formulated of qualified companies. Then a request for proposals is sent out to those companies. If they choose to participate in the process, they submit responses. Then there is a committee established to review the responses and make a recommendation to the Mayor. The Mayor then selects the most qualified company that fills the requirements of the project. That is the process used for the contract before the Board. There is an opportunity for protests if someone believes there is some impropriety in the process. The protest deadline has passed on this contract.

Beutler asked legal counsel to provide guidance as to the correct process for approval on this resolution. Confer provided a substitute resolution correcting the deck numbers in the original resolution. Beutler stated, without objection, they would substitute the corrected resolution and consider that in the matter before the Board. There were no objections. Clare reviewed the new resolution. It was then projected for public view with Confer pointing out the changes that were made. Rick Peo, City Attorney's office, confirmed for Beutler that the reference to Parking Deck 1 in line 7 was correct. Beutler asked for any additional public comment on the substitute resolution.

Kinsey asked if there was a price listed. Beutler explained there was not a price established for the construction yet.

Carroll moved approval of the substituted resolution. Clare seconded the motion. Motion carried 3-0.

Item 6 -- WH 13-43 Resolution to approve Customer Energy Services Agreement with Project Oscar LLC for the delivery of thermal energy to the Project Oscar LLC premises located on the southwest corner of Canopy Drive and P Streets. (Dan Marvin/Chris Connolly)

Item temporarily held over to a future meeting.

Item 7 -- Set Next Meeting Date

The next meeting date is set for Thursday, May 16, 2013 at 3:00 p.m. in City Council Chambers Room 112.

Item 8 -- Motion to Adjourn

Carroll made a motion to adjourn the meeting. Clare seconded the motion. The meeting adjourned at 10:00 a.m.

Prepared by: Pam Gadeken, Public Works and Utilities

West Haymarket JPA Meeting

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Name (Please Print)	Address	Phone/E-Mail
Jane Kinsey Watchdogs		