WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
June 25, 2015

Meeting Began At: 3:34 P.M.

Meeting Ended At: 4:15 P.M.

Members Present: Chris Beutler, Tim Clare, and Carl Eskridge

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

Chair Beutler opened the meeting with the introduction of fellow Board members Tim Clare and Carl Eskridge. Beutler advised that the open meetings law posted at the entrance to the room is in effect.

Item 2 -- Public Comment and Time Limit Notification

Beutler advised the audience that public comment is welcome. He further stated that individuals from the audience are given a total of five minutes to speak on specific items listed on today's agenda and that those testifying should identify themselves for the official record and sign in.

Item 3 -- Approval of the minutes from the JPA meeting May 7, 2015

There being no corrections or changes to the minutes of the May 7, 2015 JPA meeting, Clare moved approval of the minutes as presented. Eskridge seconded the motion. Motion carried 3-0.

Item 4 – Election of JPA Secretary

Beutler asked for nominations for Secretary. Clare nominated Carl Eskridge to serve as JPA Secretary and Eskridge seconded the nomination. Hearing no other nominations, on a roll call vote, Eskridge was elected as Secretary 3-0.

Item 5 -- Approval of April and May 2015 Payment Registers

Steve Hubka, City Finance Director, presented the April and May 2015 payment registers. He pointed out the April payment register total of $480,146 includes $336,158 in payments from the Operating Budget, a good share of which are payments to the District Energy Corporation and City of Lincoln Parking. Payments from the Phase 1 Budget totaled $143,238, and there was a small payment of $750 from the Phase 2 Budget. Hubka then reported on the May payment register which totals $645,720. Payments from the Operating Budget totaling $564,074 contain two significant payments – one to the District Energy Corp of $170,919 and one to the Pinnacle Bank Arena in the amount of $255,000 for advance sponsorships. Payments from the Phase 1 Budget total $77,057 and Phase 2 total $4,589. In response to questions from Clare, Hubka

confirmed that the JPA is still on budget in the Operating Budget; that there is a matter in the Contingency Budget that will be cleaned up before the end of this fiscal year relating to an interest payment on the turn back tax bonds; and that all matters have been handled according to the audit standards.

There being no public comment, Eskridge moved approval of the April and May 2015 payment register. Clare seconded the motion. Motion carried 3-0.

Item 6 -- Review of April and May 2015 Expenditure Reports

In presenting the April and May 2015 Expenditure Reports, Hubka reported the expenditure reports reflect the activity of the Joint Public Agency showing budgets in comparison to expenditures and available balances. Hubka deferred additional comments to Paula Portz who will be presenting modifications to the Project Budget (Item 10 below). The amendments made to the Project Budget will be reflected in the expenditure reports made next month and will clean up a few of the overages. Hubka explained that the proposed amendments do not mean an increase in the budget, but a shifting of available funds.

No public comment was offered on the April and May 2015 Expenditure Report. No action on this item was necessary.

Item 7 -- WH 15-8 Resolution to approve the Contract for Appraisal Services with Great Plains Appraisal, Inc. to perform an appraisal regarding the fair market value of the South 1/2 of Lot 3, Block 6, West Haymarket Addition.

Rick Peo, City Attorney's Office, reported that this resolution is a request to hire an appraiser to appraise the property being sold to TDP Phase Three for the Hudl Project. He said this project is on a fast track with hopes of getting the Redevelopment Agreement approved by the end of August. Peo said that to help reach an agreed upon sales price for the property, it is important to get an appraisal of this property. Prior developments have been sold for $15/sq.ft. Peo pointed out that this value was not based upon direct appraisals of the property involved, but rather upon the value of the property when it was acquired from the Railroad in its environmental condition and taking into consideration the cost to get the property ready for development purposes. Peo stated the $15/sq. ft. value was also supported by some appraisals done of abutting properties in the area when smaller purchases were made to acquire title in order to develop those properties. Peo believes that in order to have a direct correlation to the property involved, it is time get an official appraisal of the property.

There being no public comment offered, Beutler open the discussion to questions from the Board. Clare stated he understood the valuing of the other parcels that have been sold, but questioned why the cleanup caused the property to be valued lower. Peo clarified that the lower value was the value when the property was bought from the Railroad. Peo pointed out that that value was $2/sq. ft., but the JPA had to move all tracks and do the environmental work. Adding all those costs together, it was concluded that the property was worth about $15/sq. ft. Clare asked what did the property then sell for, and Peo responded that Project Oscar was still at $15/sq. ft. He said that the County Assessor is currently assessing the Railyard, the Canopy Lofts, the Hotel, and Project Oscar at $15/sq. ft. He added that an appraisal might shake out the

same number, but the parties just want to get an actual fair market value at today's current values. Clare encouraged consistency and fairness when pricing this property. Peo reminded the Board that there are use restrictions and environmental use restrictions on the property that will affect the negotiation price on value. Appraisers sometimes do not consider those factors.

There being no further discussion, Clare moved approval of the resolution. Eskridge seconded the motion. Motion carried 3-0.

Item 8 -- WH 15-9 Resolution of the JPA's Intent to enter into a Redevelopment Agreement upon acceptable terms and conditions between the JPA, City of Lincoln, and TDP Phase Three which will include (1) the sale of the South 1/2 of Lot 3, Block 6, West Haymarket Addition with prepaid parking rights in the JPA Green 2 Parking Garage for five years to TDP Phase Three LC for fair market value, and (2) the JPA's purchase of TIF Bond A to be issued by the City in the amount of $5,000,000.

Rick Peo explained that this is the Redevelopment Agreement being negotiated by the Law Department and Urban Development with TDP Phase Three for redevelopment of the JPA land previously discussed (Item 7) for a large office building and some retail development. The agreement is on a fast track process in order to secure construction financing. In addition to needing to determine the value of the property, the Redeveloper has proposed that the JPA purchase a TIF Bond in the amount of $5 million. Peo pointed out the JPA previously did this for TDP Phase One (Railyard Canopy Lofts). At that time, JPA purchased a bond in the amount of $3.5 million. Redeveloper is seeking to get the same type of funding mechanism which would pay a 4% interest rate to the JPA which is a little higher than typical investment strategies. It saves money for the Redeveloper which gives them more bang for their buck for their improvements. This financial plan is being proposed by the Redeveloper and they would like some assurances that the JPA is on board with this concept as we go forward. The timeline is very short and the Redeveloper is looking for a 'nod of approval' to the concept, understanding that it has to be on acceptable terms and conditions.

Clare asked Peo about an email from Councilman Camp relating to this matter and the sale of parking rights. Peo confirmed that Camp's concerns had been addressed. The parking for this project will be sold at the City's standard operating rate for parking garages. A commitment has been made that parking will be made available and the number of stalls is currently being negotiated.

There being no public comment, Eskridge moved approval of the resolution. The motion was seconded by Clare. The motion carried 3-0.

Item 9 -- WH 15-10 Resolution to approve Amendment No. 12 to the Agreement for Environmental Remediating Consulting Services between Alfred Benesch & Company and the JPA to include project management under existing Task 1, preparing plans and specifications for the cleanup of contamination at the Alter South Site under new Task 31; and conducting remediation oversight and documentation of the Alter South cleanup under new Task 32.

Adam Hoebelheinrich of PC Sports presented this item. He said Amendment 12 extends the project management support fees for Benesch through the remainder of 2015 for the environmental remediation services. The funds will allow for preparation of plans and specifications for the Alter South cleanup project located south of N Street which will most likely be the last large environmental cleanup in the West Haymarket. The Amendment provides cleanup construction oversight documentation and preparation of the final remediation action completion reports for the site. Hoebelheinrich read a note prepared by Frank Uhlarik, the City's Environmental Compliance Administrator, relating to this item: "The continuity and institutional knowledge of Benesch/OA Team has been critical to meeting NDEQ's expectations and staying within the original projected environmental budget for this project."

There was no public comment on this item. The Board's discussion on this matter began with Eskridge asking if there is a sense of how much contamination there is at the Alter site. Hoebelheinrich said initial assessments of the property were previously conducted and strategies have been submitted to the NDEQ. He said there is a small sliver of soil that may have to be trucked off to a site in Oklahoma and the rest of the areas can be capped or removed in whole to a landfill. Clare questioned the status of the environmental budget. Hoebelheinrich advised that this project should be well within the current budget. Clare also asked if the individual interested in archeological surveys of the cleanup areas had been contacted regarding this project. Hoelbelheinrich confirmed the individual had not expressed any interest in areas south N but that he would be contacted prior to commencing the cleanup.

There being no further discussion, Eskridge moved approval of the resolution. The motion was seconded by Clare. The motion carried 3-0.

Item 10 -- WH 15-11 Resolution to amend the Project Budget for the West Haymarket Joint Public Agency.

Paula Portz of PC Sports presented this item. She said this resolution updates the JPA Official Project Budget to match how it has been operating over the past year. The job cost report is typically amended once a year. This resolution cleans up line items to reflect savings and increases. Portz reported that the current contingencies are sitting at $1,923,102.37 in Arena Contingency; Infrastructure, $11,694,608.61; and Phase 2, $385,677.86, for total contingencies of $14,003,388.84. Most of the savings cover some of the overages and some are shifting dollars from one line item to the other. Overall we are sitting really well. We are carrying some line items in the budget for dollars that we know we are going to spend over the next several months but, again, we will come back and update it as needed. In response to statement by Clare, Portz confirmed that this is something that is done every year. The purpose of this resolution is to "clean it up and make sure that the job cost report matches the actual budget that we are working towards."

There being no public comment, Clare moved to approve the resolution. The motion was seconded by Eskridge. The motion carried 3-0.

Item 11 -- WH 15-12 Resolution to approve the Independent Consultant Contractor Agreement with Venue Solutions Group to conduct a Financial Performance Review and Operational Review of the Pinnacle Bank Arena.

Steve Hubka presented the contract with Venue Solutions Group (VSG). He said the contract will result in a report that will provide points of information valuable to the Board. VSG will provide an apples-to-apples comparison with similar arenas. They will look at the operational aspects and sources of revenue of the Haymarket Arena and other arenas, including other arenas that have universities as a prime tenant. They will analyze staffing, building maintenance, and a number of other areas included in the Scope of Services. Due to the way the JPA and our bond issues are structured, only $1 million of the $3.4 million generated by the Arena itself gets to be reported as revenue by the operator. That $1 million is from the sponsorships approved in the operating budget last year. As we near the end of this fiscal year, it is clear that the Arena operations as we report them will not get back to a zero or positive result for the whole year. We are looking are at likelihood of a $400,000 to $500,000 deficit, so the timing of this contract is perfect. Hubka continued saying VSG is ready to start work next week and will likely have a report available in time to provide guidance that will help in dealing with the deficit prior to the end of the fiscal year.

No public comment was offered and the Board's discussion followed.

Eskridge stated his understanding of what the contract provides and in response Hubka added that it will not only look at how the Arena is performing but how it is set up between operations and debt service, etc. Hubka believes the report will provide some reasons to look at different alternatives, i.e. revenue sharing or cost sharing that provides the operator with the best chance of success. He said we are only in the second year of operation. The first year was phenomenal with 18 concerts, all of which made money, but that may not be the typical year in the long term. We need to know what to expect in the future in a more average-type year; make sure that the building is being run as efficiently as possible, cost-wise; and find out if we are being realistic with our expectations. Clare pointed out that it is also important to look at how we are doing from an accounting standpoint and where we are putting revenue. He reminded the audience that when initially set up, a larger portion of revenue was put into the "debt service bucket" because that is where the obligation to repay the bonds lies. From a total financial picture of this project, looking at the operations and the debt service, the debt service is doing extremely well. Hubka confirmed that fact and stated that the income from the occupation tax has been higher than expected. Over the last year, the amount collected was equivalent to what was earlier projected for 2021 or 2022. So far this year, that revenue is up again about 7%, when it was projected at 2%. Over a long period of time, the base of revenue is much higher than expected. If it continues to exceed the 2% projection, it will be vastly greater than expected years down the road.

Beutler presented a prepared statement wherein he identified all income sources: sponsorships, premium seating, food and beverages, event income, miscellaneous sources of income, and money generated by the use of the Festival Space and Pinewood Bowl. He pointed out that last

year all of these revenues generated $6.8 million in revenue. Hubka clarified that the numbers used were projected, not actual, revenue dollars for the current fiscal year. Beutler went on to state that of the $6.8 million, $5 million will go to pay for the operation functions that SMG is responsible for. Beutler stated this means there is $1.8 million more made by Arena operations than paid in Arena expenses.

Although Hubka agreed $5 million in expenses is correct, he said the problem right now is that the projected SMG revenues will be $400,000 or $500,000 less than that; but, if all revenue money was given to the operator to make up that deficit, total revenue would be $1.8 million over expenses.

Expanding on the relationship between the income and expenses of the Arena, Beutler stated that the actual revenues generated by that facility would be more than the expenses of that facility, except by virtue of how the operation was broken down in the first instance, which added two more large categories of expense. One expense is the debt payment on the capital expenditures, the payment for the bonds; and the other is the operational expenses that SMG was never charged with but which the JPA itself was charged with taking care of – such things as road infrastructure in the area or a whole number of things.

Hubka agreed and cited paying the parking operator as an example.

Beutler, continuing his discourse with Hubka on the relationship between income and expenses of the Arena, made the following assertions which Hubka agreed with (Hubka responses noted parenthetically). "So you have those three basic categories. The SMG part generated an excess of 1.3 or 1.8 million, however you want to look at it, and that money then could be taken and used to paydown one of the other two categories. Right? (yes) And in addition, the tax money that we haven't talked about yet, that was always to be there to pay for JPA expenses, would be applied to cover those other two categories in conjunction with what was left over from the Arena Operation. Is that accurate? (yes, it is). And when you do that, if you look at the cash flow and you look at the bottom line, cash at the end of the year is $26,000,000. (yes) And that cash at the end of the year for each succeeding year increases in amounts that are way more than sufficient to pay for anything we know about now with regard to bond coverage or with regard to those other operating expenses that are outside the SMG responsibilities. Is that accurate? (yes)"

Hubka went on to state: "In fact this morning, I was visiting with Don Herz and he was updating some figures on his model, which an earlier copy you have there before you. We were taking a look at where we expected to be in 2022 when we're paying the full amount of principle. There is a ton of assumptions between now and 2022 but the number that was on the bottom line of the page was $43.2 million, which is a date in time where we've got to make sure we've got a lot of cash on hand because our expenses go up a lot every year because of starting to pay principle."

Summing up this conversation, Beutler said "If you look at what this body said we could do this whole thing for, and if you look at what we said we needed in taxes and what we said the Arena could generate, this operation is not losing money. This operation is in a very good place when it comes to taking care of all three of those categories of expenses that constitute the whole – the SMG operations expense, the JPA operational expenses, and the JPA capital bond payment expenditures."

Hubka agreed stating: “When you look at that set of expenditures and all of the revenues, including the occupation taxes, yes – it’s doing very well.”

Clare moved approved of the resolution. The motion was seconded by Eskridge. Motion carried 3-0.

Item 12 -- Set Next Meeting Date

Without objection, the next meeting date was set for Thursday, July 30, 2015, at 3:30 p.m. in the City-County Building, Bill Luxford Studio, First Floor.

Item 7 -- Motion to Adjourn

Eskridge moved to adjourn. Motion seconded by Clare. The meeting adjourned at 4:15 p.m.

Prepared by: Cheryl Eno, City Law Department