WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
August 27, 2015

Meeting Began At: 2:01 P.M.

Meeting Ended At: 3:28 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 June 25, 2015

There being no corrections or changes to the minutes of the June 25, 2015 JPA meeting, Clare moved approval of the minutes as presented. Eskridge seconded the motion. Motion carried 3-0.

Item 4 -- Approval of June and July 2015 Payment Registers

Steve Hubka, City Finance Director, presented the June and July 2015 payment registers. He reported that the June payment register total was $8.4 million and said a vast majority of that amount is interest payments on the bond issues and the monthly payment to the District Energy Corp. Hubka said the July total was in the $750,000 range and consisted of such things as parking reimbursements, the DEC payment, and some bills to UNL for basketball tickets. Hubka pointed out that the typical monthly payments are diminishing greatly, with the exception of the semi-annual debt payments on the bonds.

There being no questions or comments from the Board or the public, Clare moved approval of the payment registers. Eskridge seconded the motion. Motion carried 3-0.

Item 5 -- Review of June and July 2015 Expenditure Reports

In presenting the June and July 2015 Expenditure Reports, Hubka said the reports show a comparison to the budgeted amounts, reflecting the activity on the payment registers. He pointed

out that an amendment to the 2014-2015 Operating Budget will be presented to the Board today. If the amendment is approved, the final year-end expenditure report will reflect those amendments.

There were no questions or comments from the Board or the public. No action on this item was necessary.

Item 6 -- Delivery and presentation of Venue Solutions Group's "Operational and Financial Review" report regarding its operational and financial review of the Pinnacle Bank Arena.

Mike Wolley of Venue Solutions Group (VSG) made a formal presentation of the company's findings and recommendations resulting from its Operational and Financial Review of the Pinnacle Bank Arena (PBA). Mr. Wolley began his presentation by setting out the overall scope of the project which included a review of the financial performance of the PBA; a review of the SMG operations of the PBA, focusing on how well it is being maintained and the processes SMG has in place to maintain the facility according to industry best practices; a benchmark comparison of the PBA with four peer arenas; and making recommendations for change where appropriate. The report was based upon (1) interviews with a diverse group of individuals including City employees, the staff and project manager of the Arena, UNL athletic administration, JPA board members, and others such as suite holders and individuals with opinions regarding their arena experiences; (2) a walking tour of the arena to see the overall cleanliness and maintenance of the facility; (3) the research resulting in the selection of four peer benchmark arenas to be used for comparison (Ford Center, Evansville, IL; John Paul Jones Arena, Richmond, VA; SaveMart Center, Fresno, CA; and Chaifetz Arena, St. Louis, MO); and (4) the experience and institutional knowledge of VSG's management and employees.

Wolley stated the first year of operations of PBA resulted in $32,000 in net income after the transfer of $465,000 in advertising revenue. He said the facility generated about $6.8 million in gross revenue and 50% of that was earmarked to go to JPA to pay debt service. That revenue stream was generated by the sale of naming rights, suite/loge leases, club seats, and advertising and sponsorships. Wolley pointed out that the Lease and Operating Agreement with UNL was advantageous to the JPA for generating revenue as it allowed the JPA to maximize advertising and sponsorship opportunities.

In summarizing VSG's financial review of the PBA, Wolley said PBA compared favorably to the benchmark facilities in Utilization (the number of events held) but underperformed in the area of family shows (likely due to the fact that such shows typically require set up days and multiple-day runs which are hard to accommodate with so many basketball games in the PBA schedule of events). As to financial performance, Wolley said that JPA revenues for debt service are exceeding projections. He said, like the PBS, some of the benchmark facilities have revenue going to sources other than arena operations and need additional funds from the owner to make up some of the costs of operations. Wolley reported that the largest PBA revenue streams are from rentals of the facility, food and beverage sales, ticket rebates, and advertising. Most of the revenue for the facility is generated on the event side, with concerts making up the vast majority of that revenue. He confirmed that much of the PBA generated revenues currently reside with the JPA for debt service and not for Arena Operations. Wolley said that the PBA revenues compare very favorably to the benchmark groups, including per capita food and beverage

spending, with the exception of UNL men's basketball games, adding that this is likely due to the lack of alcohol sales during UNL events and the many nearby dining and/or drinking options in the area.

The comparison of expenses between PBA and the benchmark facilities revealed that the PBA had higher expenses but those higher expenses resulted from the fact that almost all of the services are handled in-house compared to the benchmark groups that outsource services such as food and beverage, cleaning, and maintenance. When comparing salary and wages, Wolley said that PBA is in line or a little less than what the comparable facilities pay. He added that providing in-house services allows PBA management more control and easier changes to those services.

Turning to PBA food service, Wolley reported there was an initial over-projection relating to the amount of food service revenues the PBA would generate. This over-projection was likely due to SMG not understanding what customer behavior might be; what impact the businesses around PBA would have on food and beverage spending in the Arena, and prices higher than what they should have been when compared to the market. Wolley said time and experience has provided SMG with a much better ability to understand what the food and beverage revenues are going to be and credited SMG for all they have done to improve the food and beverage service in PBA. Wolley then addressed the fact that no alcohol is served at University events. He said everyone is aware of the University's position on alcohol. He said VSG is not taking a position one way or the other on the issue, but noted that alcohol is being sold in most sports facilities due in part to additional revenues related to the sale of alcohol, and in part due to the fact that facility operators seem to feel better about taking on the associated risk management issues. Wolley went on to address special events. He said SMG is trying to put as many events into the building as possible and is looking for creative ways to generate event activities, whether inside PBA, in the parking lots, or Pinewood Bowl. However, he pointed out that although PBA hosted successful watch parties during UNL football games, watch parties have been scaled back by the City Council for 2015 due to local dining/drinking establishments seeing them as competition. In closing on the revenue review, Wolley said that from a revenue standpoint, the facility is performing very, very well. "157th in the United States is very good." Wolley reminded the Board that the JPA needs to keep pushing, and monitoring, and making sure that the use of the building is maximized.

Wolley then reported on VSG's Operational Review of PBA and how the building is being maintained. He highlighted and summarized the wide variety of issues SMG looked at which relate to creating a positive customer experience in the facility: recycling, parking, surveys of customer experiences, cleanliness, staffing, preventative maintenance; building automation systems, capital planning, and safety and security. Upon closing his formal presentation, Mr. Wolley entertained questions from the Board.

In response to questions from Eskridge, Wolley pointed out that all four of the Benchmark facilities serve alcohol at University sporting events on a facility-wide basis, but there are other facilities that have designated family sections within the facility where alcohol is not allowed to be served or consumed. Wolley thought these family sections were not required , but rather were an amenity provided as an alternative to those who do not want to be around alcohol or experience it.

Clare did not have any questions but he told Wolley he appreciated the report. Clare explained this was a process the JPA Board underwent to review primarily the two things that Wolley laid out: the operation piece to see if there are things we are doing that could be done better or enhanced, and the financial aspect of things. Clare pointed out that from the financial standpoint, the way the JPA has been doing things and is continuing to do things to build up the JPA debt service account so we can pay the debt on the Arena bonds has been very advantageous. The fact that SVG's review shows that the Arena is performing very well both from income and expense standpoints validates what the Board has been saying for the past couple of years. From an operational standpoint, Clare felt that the review of the food and beverage service and other things will ultimately help improve the experience for guest and fans coming to the games. He wants to create that "wow factor" in the Arena.

Beutler asked if Wolley could summarize and prioritize two, three or four things in the report that the Board should focus on.

Wolley responded that food and beverage is the major priority. The JPA needs to maximize every opportunity on food and beverage service as almost 50% of the Arena's annual revenue comes from food and beverage. The JPA's ability to provide an environment where you can maximize per capita revenue is critical on an ongoing basis to insure that as much revenue as possible is being generated. The second priority is to put efforts towards bringing in as many concerts as possible. However, Wolley acknowledged that increasing concerts is always a challenge when you operate a building. You have to figure out how quickly you can get event and tenant schedules done and how quickly you can clear hold dates. Wolley stated he knew that the University is a partner in scheduling more concerts at the Arena and that they continue to want to advocate and work on that goal and they understand the importance of that goal. Wolley stressed the need to keep a continual dialog going. Turning to the expense side, Wolley stated that the JPA should focus on its ability to audit expenses and make sure that the building is being maintained in a first-class manner. Maintenance will be key as you move forward. Having a strategic plan for when capital improvements are going to be needed is going to be an important part of that. Look at technology that will allow you to capture data so you can make good sound operating decisions moving forward.

Beutler pointed out that the layout (geographically and physically) in the West Haymarket is an organized pattern that includes a lot of restaurants and bars in the very near vicinity of the Arena that creates a very competitive situation for food and drink. He asked Wolley if this competition, when compared to the benchmark facilities, is more intense, less intense or about the same.

Wolley felt the competition is a lot less for the comparison facilities; but he noted that the Arena's unique environment relative to the concentration of businesses is not all bad. He stated you may see them as a competitor but there might be some ability to partner with those businesses to create some special events. In a response to a question from Eskridge as to how do the comparison facilities conduct watch parties that do not fly in the face of the private sector, Wolley replied that the comparison facilities are not faced with that issue as they are not located in areas of concentrated restaurants and bars. In response to a follow-up question from Clare, Wolley stated that while it would be a good idea to survey and find out what other college towns with similar circumstances are doing, the JPA would have to do some pretty in depth research to

match up with other facilities with the Arena's unique circumstances, but he imagined they do exist.

Following up on Wolley's operations review, Eskridge inquired about Wolley's comments concerning new positions needed and what they are. Wolley pointed to two sales positions left unfilled because of attrition and ,more importantly, a vacant Director of Operations position which Wolley feels plays a critical role in the maintenance and presentation of the building.

Eskridge then inquired about excess energy use and whether there is a good plan in place to help reduce those costs. Wolley felt there is a very good plan in place. Although the cost per square foot is a little higher than the comparables, technological improvements are being implemented to monitor energy usage that are already making tangible results on energy use. In the 15/16 fiscal year, dramatic improvements are expected. Beutler clarified that the District Energy system supplies energy to the Arena and all buildings built south on Canopy Street. Each time one of those buildings is built, it adds a customer to the DEC system and each time a customer is added, the Arena energy bill goes down. When the HUDL building is built, the Arena bill will go down another $70,000 to $100,000.

Chair Beutler then opened the presentation to the public for comment. Jane Kinsey of Watchdogs of Lincoln asked Mr. Wolley his opinion on several subjects such as whether too many liquor licenses are being granted considering the number of complaints from restaurant owners about the Arena taking away business from them; what amount is paid for an event to come in to the Arena; and is it wrong of SMG to not outsource maintenance? Wolley had no opinion on whether Lincoln has issued too many liquor licenses. Due to confidential proprietary information, he could not answer Kinsey questions on the amount paid for an event to come to the Arena; and with regard to outsourcing maintenance, Wolley stated there is no right or wrong answer.

In response to Kinsey's last question as to whether BSG had any concerns about the construction or maintenance of the building, Wolley replied no and that it is an asset the community should be very proud of.

In closing, Beutler reiterated Wolley's statement that SMG is doing a great job and expressed the Board's appreciation for all of SMG's efforts, attitude, and hard work ethic, and caring for the community.

No action was required by the Board on this item.

Item 7 -- WH 15-13 Resolution to amend the 2014-2015 JPA Operating Budget.

Steve Hubka pointed out that this resolution amends the 2014-2015 Operating Year, which ends on Monday, August 31st. He said the purpose of amending this budget is to provide an Arena Operational Increment to the Operator of the Arena; to add funds for Arena Maintenance, Repair, and Replacement; to transfer funds to cover the City's Turn Back Tax obligation until the turn back tax revenue was received. Hubka added that the Facilities Agreement, which governs the building, clearly allows for these amendments.

Clare asked Hubka to address what these amendments will do, in terms of putting a burden on cash flow, in the years going forward. Hubka said it redirects some revenue to the Operator, however, our cash flow projections to 2032, after paying principal every year, is roughly $34,000,000 of cash at the end of the year. Hubka pointed out occupation tax receipts are estimated to be about $15.3 million (roughly a 7% increase over the prior year). Those receipts continue to come in very, very well. As a higher base is established, it will continue to make a difference going forward. In comparison, Hubka said that after this year, there is still only a 2% projected increase in cash flow projections which is a very conservative projection.

Public Comment: Jane Kinsey commented on the need for the budget to be more in depth. Hubka pointed out that Ms. Kinsey was looking at the Arena Budget contained within City Budget and provided her a copy of the Proposed Amended JPA Operating presented today. In closing, Kinsey expressed her belief that the Haymarket and Arena area is geared towards highly paid millennials while the large majority in Lincoln are either over 65 or in the low income group.

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

Item 8 -- WH 15-14 Resolution adopting the 2015-2016 JPA Operating Budget.

Steve Hubka stated that this is the proposed budget for the upcoming fiscal year that starts September 1. The budget provides an operational increment for the Operator and building repair, replacement, and maintenance expenses. He pointed out that the budget decreases from $26.6 million to $23.7 million. The big change is that last year there was $2.8 million budgeted for sales commissions. Those were paid and will no longer be in the budget.

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

Item 9 -- WH 15-15 Resolution to approve the Letter Agreement to engage BKD to perform an audit of the West Haymarket Joint Public Agency financial statements in accordance with generally accepted auditing standards for the year ended August 31, 2015

Chris Lindner, Audit Director with BKD said this Engagement Letter Agreement follows the normal auditing standards in the recommended format laying out the engagement objectives and scope of what the audit entails, auditor responsibilities, the JPA's responsibilities, and other matters as well. This agreement is standard to what the Board has seen in the past. He pointed out that BKD's initial four-year contract to provide audit services to the JPA expired after last year's audit and that BKD was again selected to provide services for a second four-year term only after competing with other firms by submitting a formal proposal through the RFP bid process. Lindner closed by saying BKD is thankful for the opportunity and looks forward to working with the JPA again.

Public Comment: Jane Kinsey renewed Watchdogs' call for an independent audit. The chair asked for clarification of independent audit. Kinsey responded "someone independent of your hiring somebody to do an audit" and added that Watchdogs sees that as a conflict of interest.

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

Item 10 -- WH 15-16 Resolution to approve the West Haymarket TDP Phase Three Redevelopment Agreement between the City of Lincoln, West Haymarket Joint Public Agency, and TDP Phase Three, LLC relating to the redevelopment of property generally bounded by R Street on the north, O Street on the south, Pinnacle Arena Drive on the west, and 7th Street on the east, including Canopy Street south to N Street, and the Project Site which is legally described as the South Half of Lot 3, Block 6, and the South 5 feet of the North Half of Lot 3, Block 6, West Haymarket Addition (HUDL Project).

Rick Peo reminded the Board that the Board had previously authorized the negotiation of a redevelopment agreement between the JPA, City, and TDP Phase Three regarding the HUDL project. Pursuant to that direction, a negotiated purchase price of $1,141,140 was reached for the sale of the property. Peo said that price equates $33 per square foot which is twice the price received for the Railyard or Project Oscar properties. He went on to explain that this agreement provides for an initial first payment at Closing of $700,000, which is $20/sq. ft. The remaining $440,000 would be deferred and paid from tax increment financing in later years of this project. Peo added that JPA will be getting a tenant in one of its underutilized garages and that the prepaid parking rights amount to $890,000. Another advantage of this agreement is that the new building will connect to DEC which will reduce Arena energy expenses.

The other major provision under this agreement would be the JPA's purchase of a TIF bond in the amount of $5,000,000. TIF is estimated to be $6,000,000. TDP Phase Three will buy a $1,000,000 bond and the JPA will buy a $5,000,000 bond. The JPA's $5,000,000 bond will have priority over the $1,000,000 bond. This priority provides a 17% cushion to the JPA as to whether the tax increment revenues will come in as estimated. TDP Phase Three has estimated the tax increment based upon the method the county assessor used to calculate the assessed value of the Project Oscar building occupied by Olsson Associates. TDP Phase Three is comfortable that the amount of TIF to be generated is accurate. In addition, this agreement provides if there is any shortfall in tax revenues for debt service on the bonds, TDP Phase Three will pay that deficiency on an annual basis. Peo believes there is very little financial risk to the JPA under this purchase. TDP Phase Three will make about a $30,000,000 investment to the project. Peo said this project is an enormous benefit to the City.

In response to question posed by Eskridge, Peo clarified that the project covers only the South Half of Lot 3, Block 6, West Haymarket Addition plus an additional 5 feet to the north.

Clare pointed out that this project is about three years ahead of expected development which he said shows how robust and dynamic the West Haymarket Area is. He feels having HUDL as a partner in that area is going the benefit the area in a number of capacities and credited those who were involved in working out this agreement.

Public Comment: Jane Kinsey acknowledged that HUDL is the "shining star of the City" but voiced the protests of Watchdogs for giving HUDL so many benefits and for the use of City money for developing beautification in their facility. Watchdogs sees that as an inappropriate

use. Kinsey said they hope the projections regarding this project do come true, but they see it as a "give away."

In response to questions and comments Kinsey made regarding Arena energy costs, Beutler said everything is calculated by engineers and architects and estimated before any particular facility is built. He confirmed that the plant is capable of managing new facilities and that the plant was built to deal with a large area. Beutler explained that as the plant reaches its capacity, the energy costs to the Arena go down because partners have joined and pay part of the total cost. Beutler confirmed that all new facilities subject to DEC cost sharing are aware of that requirement from the beginning. Adam Hoebelheinrich of PC Sports added that each new building decreases the energy cost to the other buildings on the grid as well as to the Arena.

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

Item 11 -- WH 15-17 Resolution to approve the Settlement Agreement and Release of Claims between the JPA and Hawkins Construction Company relating to the lawsuit filed by the JPA arising out the dispute over the responsibility for and cost to repair the pedestrian bridge following the partial collapse of a concrete bridge girder which supports the pedestrian bridge.

Chris Connolly presented a review of the Settlement Agreement between the JPA and Hawkins. He said the lawsuit regarding the partial collapse of the pedestrian bridge occurring in 2013 was filed last fall. Connolly said that during the discovery process, we were approached about doing some settlement negotiations; that those negotiations have taken place; and this agreement is the result. He went on to explain that the agreement provides for a payment by Hawkins to the JPA in the amount of $679,637.89 in two payments. The first is Hawkins' retainage in the amount of $353,637.89 which the JPA is currently holding. Those funds will be kept by the JPA and not paid out to Hawkins. The other payment is $326,000.00 which will be paid to the JPA in four installments of $81,500, the first of which will be paid upon closing which is expected to occur sometime in September. The JPA will then receive annual payments of $81,500.00 on January 5th of 2016, 2017, and 2018. That money will be put into an endowment to be used for streetscape purposes in the West Haymarket Area. Connolly said this settlement represents about 80% of the recovery sought.

In response to a question from Clare regarding the types of streetscape expenses to be covered by funds in endowment, Connolly said a firm list of those items has not yet been put together, but it would include items such as the cost of maintaining the canopy itself along Canopy Street and trees planted along the streets in the West Haymarket Area. He said it will be up to the Board to determine what those funds are used for and it is anticipated that expenditures from the Endowment will come back to the Board for approval. Eskridge, reading from the agreement, clarified that the purpose of the endowment fund is to enhance the current and/or future West Haymarket properties.

Public Comment: Jane Kinsey said "job well done." She added that after having problems with Hawkins two times, Hawkins should never be hired again.

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

Item 12 -- WH 15-18 Resolution authorizing the Chair to enter into a temporary Right-of-Entry Agreement with TDP Phase Three, LLC to enter upon the South Half of Lot 3, Block 6, and the South 5 feet of the North Half of Lot 7, Block 6, West Haymarket Addition prior to closing on TDP Phase Three's acquisition of said Property to begin mobilization, site preparation (fencing around site, scrape rock off site, install SWPPP barriers, rebar/ supplies ordered, etc.) and completing auger cast test piles to facilitate the building schedule agreed to in the Redevelopment Agreement between the JPA, City of Lincoln, and TDP Phase Three, LLC

Rick Peo said this resolution basically authorizing the Chair to enter into a Right of Entry Agreement. The agreement was not included in the Board's packets as the request came in late, but an agreement has since been prepared and agreed to by TDP Phase Three and Peo is asking the Mayor to sign that agreement today. The agreement follows the standard format used for right of entry agreements for both the JPA and the City of Lincoln. It will give TDP Phase Three the right to do some preliminary site work activities prior to actually buying the property and closing upon that sale. Peo explained that the agreement is needed for two reasons: (1) TDP Phase Three would like to hold a ground-breaking ceremony on Friday and are anxious to begin the preliminary activities to keep on a building schedule; and (2) the property is currently tax exempt but if you sell the property prior to the levy date for the 2015 property taxes, it becomes taxable for the entire year. If we close in mid-October after that tax levy takes place, assuming a 2% sales tax on a million dollar price tag, that would $20,000 savings to both parties. Thus, we would like to defer that closing until after the levy date to maintain the tax exempt status.

Public Comment: In response to questions posed by Jane Kinsey, Peo responded the terms of sale have been worked out and that the sale price is $1,141,000. The price was $33/square foot compared to the sale price of prior properties of $15/square foot.

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

Item 13 -- Set Next Meeting Date

Without objection, the next meeting date was set for Thursday, September 17, 2015 at 3:30 p.m. in the City-County Building, Third Floor, Room 303.

Item 14 -- Motion to Adjourn

Eskridge moved to adjourn. Motion seconded by Clare. The meeting adjourned at 3:28 p.m.

Prepared by: Cheryl Eno, City Law Department

West Haymarket JPA Meeting

Date: AUGUST 27, 2015

Name (Please Print)	Address	Phone/E-Mail
Dave Kinney	Watchdogs	