WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
July 15, 2011

Meeting Began At: 3:33 P.M.

Meeting Ended At: 5:10 P.M.

Members Present: Tim Clare, Jayne Snyder, Chris Beutler

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

Chair Snyder opened the meeting with introductions of the Board members. She advised that the open meetings law is in effect and is posted in the back of the room.

Item 2 – Public Comment and Time Limit Notification

Snyder announced that public comment is welcome. Individuals from the audience wishing to speak will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should come forward, identify themselves for the official record and sign in, and comments need to be relative to the item on the agenda.

Item 3 – Approval of the minutes from the JPA meeting held June 24, 2011

Snyder asked for any corrections or changes to the meeting minutes of June 24, 2011. Hearing none, Clare motioned for approval of the minutes. Beutler seconded the motion. Motion carried 3-0.

Item 4 – West Haymarket Progress Report
None

Item 5 – Approval of Payment Registers

Don Herz, City Finance Director, presented the June financial reports to the Board, both for the capital and operating budget. One additional modification was made to the report this month to give additional information, which now shows not only the nature of the payment but a description for each project number. There were three payments to Union Bank and Trust. Those were the first interest payments for the first $200 million JPA debt. This is the taxable rate. These are Build America Bonds and the subsidy comes in from U.S. Treasury as revenue. Then we make a total taxable payment to Union Bank. Clare wondered about the impact if the government shuts down. Don explained that the next payment is not due until December so we hope things are up and running then. We do have the cash in the bank to make the next payment.

There is a payment to Lonnie and Caroline Simpson for a temporary easement for the 'M' and 'N' project. Also, there is a $3.3 million payment to BNSF Railroad for the additional payment

authorized at a prior meeting. Clare asked for confirmation that those dollars are in escrow and asked where that is held. Don confirmed that it is in escrow at U.S. Bank and paid out on a prescribed schedule. Snyder asked if we had bills approved against that amount. Don explained we are paying on a schedule, but he did not believe we had gone into the excess yet. On the second page, there shows a small payment to Eagle Eye Enterprises for a relocation expense. There is also a small payment to DeLeon's Mexican Food, which represents a rebate of an overpayment of Occupation Tax. The Board may occasionally see similar small payments for the same type of rebate. There is a $57,000 payment to Engineering Services. Clare inquired as to the status of all payments being within the budget, and if we were clean from an audit standpoint -- behind the scenes paperwork, etc. Don affirmed that these are all part of contracts that have been approved and that we have made every effort to be sure everything is on track procedurally.

Snyder asked for any further comments from the public. Hearing none, Clare made a motion to approve the payment registers. Beutler seconded the motion. Motion carried 3-0.

Item 6 – Review of the June 2011 Expenditure Reports

Don Herz noted that there is no significant change from prior reports. There will be a modification coming to the total budget in the respect that they will be moving around dollars to create a budget amount for the general coordination line item; bringing those dollars from various projects. The intent is to bring before the Board a budget modification for the capital project in August for the total budget of $321 million, and the operating budget for next fiscal year during that same time.

Snyder inquired about the parking dollars for Garage No. 2 as it appears there is none shown on this report. Don explained that will be coming as a reallocation from other line items when we do an annual modification to the capital budget. The contract is approved, but the modification is not. Responding to Clare, Don confirmed that there is no change to the bottom line as money is within the budget – just not shown right now in this line item.

Item 7 – Update on Next JPA Bond Issue (Herz/Keene)

Don introduced Scott Keene, Financial Advisor for the City with Ameritas, and Lauren Wismer, Bond Council for the City with Gilmore & Bell. Lauren distributed some draft documents for the Board to consider. They feel it is wise for the Board to consider issuing the last significant series of bonds due to the favorable interest rates. The draft information will be in packets and they will be suggesting approval at the next Board meeting. Don turned the presentation over to Scott Keene to discuss the market and why they feel it is wise to move forward now. Scott began by again stating that the interest rate environment is very favorable to proceed to market right now with this financing. Tax exempt rates have actually dropped about 80 basis points since the first of the year, so we are trying to catch that swing as best we can. Market activity is still very light. Pre 2008 market crash, the typical issuance in the U.S. of tax exempt debt was $8 to $12 billion every week. For the first part of this year it was $2 billion and inched its way up to $3 billion per week; so still very mild. But bond issues have been received well, and there is demand out there. Tax exempt interest rates have actually held better than treasury rates over the last two or three weeks. They started working on this in April and are trying to move along as

quickly as they can. They plan to be back before the board on July 29. Meetings are scheduled with Moody's and Standard and Poor's next week. It is expected they will affirm the AA1 and AAA ratings for the financing. Unlike prior ones, this will be done as tax exempt financing. They will be asking the Board for authority to issue up to $100 million. They are currently doing an evaluation of the private activity component of the arena itself. This will determine how much, if any, the JPA will need to issue in taxable bonds. That analysis is what will drive the difference between $80 and $100 million. The hope is that there will not be any private activity issues that will require any taxable bonds at all, allowing the JPA to move forward with the $100 million in tax exempt financing on August 9. Ratings are expected by August 2 allowing the sale to be finalized on August 9. The big question is what will happen in the market between now and then. The debt ceiling discussions are not putting a lot of panic into the market yet. The expectation is that an agreement will be reached before August 2 somewhat resolving the issue, if not permanently resolved. If changes are seen that may impact the market, delaying the timeline and pulling the financing will be considered.

Beutler wondered if the cost of issuance was the same as for the two prior. Scott explained that it was a little higher. The prior two issuances saved the JPA a significant amount of money. Rates were approximately 3.25% and 3.75%. A 35 year financing on a tax exempt right now would be 4.5%. A blended rate on the three financings would be 3.85% -- well below the 5% target when putting together the financing plans.

Snyder asked if this was the same bond issue on the City Council agenda under first reading for Monday. Lauren responded that yes, as under the JPA agreement, the City is required to approve any bonds. Hopefully, approval will be giving by the Council on July 25, which would be prior to the next meeting of the JPA Board. Final form documents will be given out with the next packet of information sent to the JPA Board members.

Clare asked if there was any real advantage to try to get this done sooner – ahead of the anticipated August 2 date. Scott explained that we are pretty boxed into the timeline as we want the ratings information available. Clare re-phrased the question about the consequences of the federal government not coming to agreement. We get a subsidy back from ARRA and he wondered if those subsidy payments would be in jeopardy. Scott stated that one of the ongoing questions was whether there was a guarantee these payments would be made. They were thought to be treated like tax refunds and, as long as someone is there to collect and pay out, they may be more stable. We were certainly given some assurance that these may actually be higher quality than Treasury Bonds. Rating agencies are going to be looking at different financings that have a link to the federal government. There is concern those payments or backstops could be interrupted if the federal government were to have difficulties. These would have been pre-refunded and secured by an escrowed account with treasuries or agencies. Neither agency ever mentioned ARRA bonds as being the least bit in jeopardy. We are getting a lot of assurances those payments will continue to come in. Clare confirmed the blended rate on the three financings as 3.85% and that the budget showed 5%, and stated that was a great job. Beutler asked if there was a cap on the issuance costs for the last financing. Lauren explained that in Section 2.12 of the draft, a cap is shown of 1.5% of underwriter's discount with true interest costs not to exceed 5.25%. This allows for some room for movement in the market. Scott anticipates to have priced lower, but this allows for some cushion without coming back.

Jayne Kinsey, during the public comment period, stated that some economists and financiers are talking about not buying municipal bonds as a good investment. Has there been any problem selling these and who is buying – Nebraska people or people over the country? Scott explained that people all over the country are buying as there is still a strong demand for these tax exempt bonds. There have been concerns about interest rates rising and the impact on any "fixed-income" investors. There are concerns, but still very active buying by individuals. Some had been pulling their money out of tax exempt mutual funds and appear now to be putting back into direct bonds. There is added security for those with high quality and ratings, especially with property tax backstop. We expect to see low interest rates and good demand. Don added that banks are also investing in select municipal bonds.

Item 8 -- Bill No. WH 11-45 Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (existing Watson Brickson site). (Marvin/Austin)

Item 9 -- Bill No. WH 11-46 Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (stormwater mitigation site/conservation easement). (Marvin/Austin)

Dan Marvin noted this was the third meeting where this item, along with Bill No. WH 11-46, appeared on the agenda. This was a very complex transaction, but we have come to an agreement and Peter Katt, attorney for Watson Brickson, is here as well. Bill Austin was pleased to announce that they have reached a full agreement with Jaylynn, the owner of Watson Brickson Lumber, to present to the Board today. There are two agreements. One is for the acquisition of the existing site of the Watson Brickson yard for $481,000. Also, included within the agreement is relocation assistance which is consistent with the estimates.

Several of the Board members expressed that they had agreements showing a different amount. Dan and Bill thought those changes were a result of the back and forth negotiations on racking expenses that went from $201,000 to $121,000 and a determination as to where the $80,000 difference should be appropriately allocated; $40,000 moved from racking to compensation for the old site purchase and $40,000 went to the new site. The total contractual amount is the same.

Clare stated he was not comfortable approving the agreement without having seen the latest information. Dan apologized as they were trying to meet a closing date for next week – closings are scheduled on the old site for the 19th and new site on the 20th. Bill stated that was the only change in the documents.

Snyder wondered about substituting pages 7 and 8 to show corrected amounts on to how the breakdowns are accounted for in the same overall amount. Dan explained that he and Bill went on site with Clint Thomas and Midwest Relocations. Jaylynn attorney was present also.
Section 5.1 remains the same at $314,000. Section 5.2 for racking goes from $201,446 to $121,446. The total in Section 5.3 is $435,446. Snyder again wanted to confirm with City Attorney Rod Confer that these could be amended and move forward with approvals.

Beutler requested confirmation that these were the only changes to the contract. He requested explanation as to the basic premise of the salvage agreement and whether this attachment would be blank in the final agreement. Bill stated that they were working on reaching an agreement on salvage. Dan thought we had a way to negotiate that on-site. Bill said the salvaged items in

Attachment B would not be left blank in the final. He also stated that there was a small adjustment in the Conservation Easement in WH 11-46. There would be no loss to the JPA in the salvaged items. This list is a work in progress. Beutler wanted to know what JPA would approve today regarding this salvaged list.

Peter Katt, representing Jaylynn, expressed his surprise that these detailed items were being requested. None of the material items are changing. He felt these were closing documents that could be handled as such. All the people working on behalf of the City and JPA have done a phenomenal job of working with a small business owner who is being displaced through no desire of their own. They have tried to ease as best they can a traumatic move. Beutler appreciated those efforts and just wants to be sure no one was back at a future meeting as items were not spelled out specifically. Dan again reiterated that everyone has worked at finalizing this contract over the last six months and was confident material items have been addressed.

Clare appreciated comments, but expressed again that documents need to be approved only after being fully reviewed. He indicated a willingness to stay as long as needed if corrected contracts could be provided to Board members for their review to facilitate approval yet today. Snyder wondered about changes on the next related item. Bill stated that the only change on WH 11-46 is the total adjustment from $512,900 is $552,900, reflecting the $40,000 change in compensation. Also, as mentioned previously, there was a small change to the Conservation Easement. Snyder stated they would hold WH 11-45 and WH 11-46 (agenda items 8 and 9) and return to them at the end of the agenda.

Item 10 – Bill No. WH 11-48 Resolution delegating to the Project Manager/Secretary of the West Haymarket Joint Public Agency the power to execute Change Orders to contracts for the provision of services under certain conditions provided that the fiscal impact will be $25,000.00 or less and delegating to the Chair of the West Haymarket Joint Public Agency the power to execute Change Orders to contracts for the provision of services under certain conditions provided that the fiscal impact will be $100,000.00 or less. (Marvin)

Beutler suggested a motion to remove this item permanently from the agenda. He indicated that in checking with Law, it was his understanding that the previously executed Facilities Agreement already covers this process.

Clare asked for confirmation that this is covered in the Facilities Agreement. Confer stated that Assistant City Attorney Rick Peo may have reviewed the document but he was unfamiliar with this item. Dan did say it could be added back on if need be, but they would request a memo from Rick Peo in the meantime stating if it was covered in the Facilities Agreement.

Beutler made a motion to permanently remove this agenda item. Clare seconded for purposes of discussion. Snyder offered a friendly amendment to the original motion to hold this item until the next Board meeting on July 29. The amended motion carried 3-0.

Item 11 – Bill No. WH 11-54 Resolution to approve the Management Services Agreement between the West Haymarket Joint Public Agency and Marvin Investment Management Co. to render professional assistance in management oversight of the West Haymarket

Redevelopment Project for a one year term from June 15, 2011 through June 14, 2012, with the option to renew for one additional year. (Peo)

Rod Confer, Lincoln City Attorney and counsel for the West Haymarket JPA, acknowledged that this item was to renew an existing agreement with Dan Marvin. It is the same contract with a slight increase in compensation, from $84,760 to $88,150. His last contract expired on June 14, 2011. Clare clarified that this was covered in the budget.

Snyder asked for further comment. Being none, Clare moved approval of the resolution. Beutler seconded the motion. Motion carried 3-0.

Item 12 – Bill No. WH 11-55 Resolution to approve cancellation of SAIC contract. (Marvin)

Dan Marvin stated much had been in the paper regarding this last week. He explained that they had done an analysis of the management structure in place over time and this provided an opportunity for savings and consolidation. Beutler wanted to thank SAIC for their services to the JPA and City of Lincoln. They have helped to get the project to where it is today. This decision was based on the fact that a determination was made that we are management heavy on the project. With the assistance of a good sized engineering consortium called LHIT, our own Engineering Services engineers, and with PC Sports handling oversight of the arena itself; Beutler felt the JPA was well served and could afford to scale back on management costs. He indicated that the project continues to be on time and on budget, and he looked forward to continue on with the partners to get the project completed.

Jane Kinsey inquired if the paper was correct in that the project would save $500,000 in cancelling this contract. Snyder explained it was unclear until completed, but hoped it was $500,000 or more in savings. Jane wanted to know if we had to pay anything for cancellation of the contract, to which Dan responded there was no cancellation fee for termination. Jane wondered if we anticipated any legal action as a result of this cancellation, to which Confer responded that we do not anticipate legal action. In reference to Jane's question, Board members again responded it would not be until the end of the contract when we would know the exact savings.

Being no further discussion or questions, Beutler made a motion to approve the cancellation in WH 11-55. Clare seconded the motion. Motion carried 3-0.

Item 13 – Bill No. WH 11-56 Resolution to approve PC Sports agreement to provide interim services. (Marvin)

Dan Marvin explained that this allows us to retain PC Sports to provide services on the arena project, while allowing time to negotiate a full contract. Clare wanted to stress it was important to understand the role of PC Sports. Are they stepping into SAIC shoes or just expanding their own individual scope? Dan explained it was a little of both. They would be providing fuller project management experiences for a number of areas beyond the arena. But that program management for those levels of coordination will be minimized or written out of the contract. As Mayor Beutler suggested, we have a number of disciplines on task that can coordinate issues themselves. Clare asked who would be in charge from a hierarchical standpoint, to which Dan

responded it would be Paula Yancey of PC Sports. Clare expressed his concern that as part of this outstanding project, we not only complete the project on time and on budget, but that the process be correct as well. We owe that to the taxpayers.

Being no further comments, Beutler made a motion to accept the agreement with PC Sports. Clare seconded the motion. Motion carried 3-0.

Item 14 – Bill No. WH 11-57 Resolution authorizing Jayne Snyder to execute on behalf of the West Haymarket Joint Public Agency the Corporation Warranty Deed and all closing documents associated with conveyance of City Parcel One and City Parcel Two to Star City Federal LLC and the Star City Parcel to the West Haymarket Joint Public Agency. (Peo)

Rod Confer detailed that these documents were previously approved, but failed to include the authority for the Board chair to execute those closing documents. This is a housekeeping item to give that authority.

Being no further discussion or questions, Beutler made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 15 – Bill No. WH 11-58 Resolution approving Change Order No. 3 to the TCW Construction Inc. agreement regarding the 10th and Salt Creek Roadway Haymarket Infrastructure Improvement Project to reflect additional cost due to unforeseen conditions and delays resulting in a contract increase amount of $24,522.82. (Blahak)

Confer wanted to declare that Regent Clare has a conflict of interest since his law firm represents TCW. He will not be eligible for voting, but his vote is not necessary for approval of this item.

Chad Blahak, Public Works, explained this is Change Order No. 3 for the TCW contract on the 10th and Salt Creek roundabouts project. A couple of items of note within the change order are the incentive of $7,000, which was the full amount of incentive available. Incentives are processed via change orders. Other items included are unforeseen things found underground. Snyder asked if the work had been completed. Chad confirmed that most of the work has been completed to avoid delays.

Jane Kinsey expressed concern with the number of changes coming forward. Is there an item in the budget to allow for these changes? Chad explained all projects include a contingency amount based on a percent of the estimate, as there is always the possibility for change orders. It is built into the budget.

Being no further discussion or questions, Beutler made a motion to adopt the resolution for Bill WH 11-58. Snyder seconded the motion. Motion carried 2-0, with Clare abstaining.

Item 16 – Bill No. WH 11-59 Resolution approving Change Order No. 1 to the Judds Brothers Construction Company agreement regarding the Initial Haymarket Site Preparation Project and the USPS Parking Lot Reconstruction Project to reflect additional work and quantities resulting in a contract increase amount of $589,410.79. (Blahak)

Chad began by noting that the amount of this change order is greater than a normal change order. This is the first phase of the mass grading for the arena pad site, as well as developable sites when we get to them. To do this we had to bring in a substantial amount of materials to bring the grade up. The fill was planned to come from two locations. One quantity item in the contract is for fill to come from an off-site location. There is also a second quantity item showing fill to be relocated from an on-site stockpile to come from Burlington Northern's portion of the grading. The second stockpile has been rendered unusable at this time due to lack of access. That stockpile will be used later on. Therefore, on this change order we had to increase the amount of fill material from the off-site location. However, we can't decrease the amount of fill materials from the on-site amount until the end of the project after we actually use that material. That is why the substantial increase is showing now without the savings being realized. Snyder asked for clarification on access. Chad explained that there is a railroad temporary crossing that has not been completely updated. We cannot drive across as the heavy trucks have the potential to displace the preliminary grading before the tracks are laid and a proper crossing is constructed.

Being no further comments on this item, Beutler made a motion to accept WH 11-59. Clare seconded the motion. Motion carried 3-0.

Item 17 – Set Next Meeting Date

The next meeting will be held on Friday, July 29, 2011 3:30 P.M. in Room 112, City Council Chambers.

Snyder called a recess at 4:41 p.m. to give time to complete Items 8 and 9. Board came out of recess and back on the record at 5:02 p.m.

Returned Discussion to Items 8 and 9

Rod Confer explained that the original, as specified by Mr. Austin, was attached to Motion to Amend No. 2. However, the Board copies were made prior to that attachment. This item would require two votes to pass.

Board members were given copies of the updated Motion to Amend No. 2 for WH 11-45. Beutler asked for clarification that the copies just received by the Board on Bill No. WH 11-45 contains the latest agreements with the substitution of Attachment B as filled out on salvaged items provided to the Board separately. Bill Austin affirmed that to be true.

The compensation for the acquisition of the existing site for Watson Brickson Lumber is $481,000. The next significant item is in Sections 5.1, 5.2 and 5.3 – those are the relocation costs agreed upon as $314,000 for moving and $121,446 for racking. Section 5.3 reflects that and under this provision Jaylynn will be paid one-half of the total relocation costs at closing with the remainder being paid once relocated.

Also attached to the agreement is a Lease Agreement including an understanding that Jaylynn will be able to remain on the site until November 30, 2011 to allow them to make an orderly transition to their new site. This will not impact progress on the project as truck traffic will be allowed to cross property, as well as other necessary uses. Finally, we do have a completed Attachment B allowing Jaylynn to salvage certain items with the understanding that the buildings will remain secure and their integrity will not be impaired.

Clare made a motion to approve WH 11-45. Beutler seconded the motion as described by Mr. Austin at the podium.

Beutler made a motion to approve Motion to Amend No. 2. Clare seconded the motion. Motion carried 3-0.

Main motion carried 3-0.

Regarding new documents handed to the Board for WH 11-46**,** Bill Austin explained briefly that this document is the one under which JPA will make two acquisitions. One is the storm mitigation site of approximately 5 acres, which is about half of the property that First Street Properties had available as a new site for the Watson Brickson yards. Item 1.2 should now reflect $552,000 as the purchase price.

The JPA is also acquiring a Conservation Easement under which it will have assigned to it 10,271 cubic yards of fill within Storm Site 9 under the stormwater provisions of the Lincoln Municipal Code. This is being acquired for $80,000. Overall compensation was increased by $40,000. In summary, we have worked with several goals in mind including acquiring property needed by the JPA, providing some stormwater mitigation, and avoiding condemnation and bring a business that has been existing and flourishing in this area to a new site successfully.

Clare made a motion to approve WH 11-46. Beutler seconded the motion.

Clare made a motion to approve Motion to Amend No. 2. Beutler seconded the motion. Motion carried 3-0.

Main motion carried 3-0.

Item 18 – Motion to Adjourn

Clare made a motion to adjourn the meeting. Beutler seconded the motion. Motion carried 3-0.

Meeting adjourned at 5:10 P.M.

Prepared by: Pam Gadeken, Public Works and Utilities

West Haymarket JPA Meeting

Date 7/15/11

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Name (Please Print)	Address	Phone/E-Mail
JANE KINSEY	6705 HAWKINS BEND	