

**Board of Directors Business Meeting**

**Tuesday, January 14, 2020, 7:00 a.m.**

**Location: Idaho Falls Auditorium District Office**

**467 Constitution Way, Idaho Falls, Idaho 83402**

**Attendees:** Terri Gazdik, John LoBuono, Bob Nitschke, Steve Vucovich, Rob Spear, Mark Fuller, Salem Thomas, James West, Joe, Chad Hammond, Rebecca Casper

**Minutes:**

1. **Action Item** - Call to Order – At 7:07 a.m. Motion to approve the agenda. Seconded. Motion passes.
2. **Action Item** - Accept the Consent Agenda
	1. Meeting Minutes – 1/3/2020 - The Board has had insufficient time to review the minutes and suggested waiting to approve until the next meeting.
	2. Review of the Payables/Financials - No financials are available. Spear shared some confusion about a check that is to be sent to Snake River Landing. Gazdik agreed that the check had already been sent and this written check should not be sent out at this time. Motion to approve the payables absent the $17,344 check to Snake River Landing. Seconded. Motion passes.
3. **Discussion Item** - Public Comment (Any member of the public is welcome to take three minutes and share concerns or questions with the Board) - None.
4. **Discussion Item –** Discuss the logistics and a possible press conference to communicate to the general public the status, progress, and next steps for the Event Center. Spear has been talking with Chad Hammond in order to prepare the best way to share what the Board has been working on and accomplished during the last several months. They want to spread the message that the actions of the Board have reduced uncertainty or created more certainty. There is potential for two different meetings. Some items discussed included: beginning some early construction; having the construction go out to bid, hiring an underwriter (to date several entities have proposed different and promising approaches); and having the state take over the Transient Room Tax (TRT) collection. Spear shared that in conversation with James West he learned that the hoteliers pay tax on what they sell a reservation to online booking programs, but they don’t have any say in what tax the online booking programs pay. The State Tax collection will be able to control that better.

Hammond shared that it would be wise to have a press conference and be in front of the public before the public starts coming to the Board. He did suggest having the conference after the bid opening to have an even greater increase in certainty. Gazdik asked Hammond how the Board should handle an increase in building costs if that is what the bids say. He said that having transparency is the best way to be in front of the public and suggested that the bid estimates are not something they can control so it would be acceptable to share them with the public without a decision made. Gazdik asked if it would be better to have two separate functions; one that explains what the Board has completed in the last year and a different one that shares the current cost estimate and request for support from the community to complete the fundraising amounts. Spear said he thinks it would be best to combine them. Gazdik asked if there were some photos of the site that could be included in the presentation. Spear said that Bateman-Hall has been taking photos of the site throughout their progression that could be included.

Fuller asked who the audience for this would be. Hammond said it would be similar to a “State of the Board Address.” Fuller suggested that there be a packet of information for those in attendance, that television and radio and news reporters all be invited and that the Board be as transparent as possible. Hammond suggested a press conference the first week of February. Fuller agreed, indicating that it would be good to review the incoming bids during the January 28th meeting. Gazdik said her preference would be to share what the Board has done throughout the last year and then share that they are expecting the bid opening in the next couple of weeks. Spear agreed and shared that the conference would need to happen before Wednesday the 22nd. Nitschke said that he agrees with holding the conference before the bid opening. They can hold another one when it is necessary. Fuller pointed out that the Idaho Falls magazine article will be published after February 1 which will reach a different audience.

Hammond said that his concern with that plan is that the press will want to be present at the bid opening. Spear said the information received at the bid opening would not result in a final Gross Maximum Price calculation (GMP). That number will not be available until mid-February. Gazdik asked Hammond if it was worth having a press conference concerning the state of the Board. Hammond said that it is well worth it. After some discussion, the Board decided to host the conference after the holiday weekend on Tuesday, January 21. There will be plenty of time to put a presentation together and gather a good audience. It will be at 11 a.m. The Board decided to not include information about the bid conference the following day.

**Action Item –** To approve the changes to the 2020 Idaho Falls Auditorium District operating budget. Spear shared that this was a discussion item at the last meeting concerning an omitted 2020 Budget item. Spear added in the Snake River Landing owner’s assessment to the budget. It is estimated IFAD will have $11.2 million in cash at the end of 2020. Spear believes that with the help of the state tax commission there will be an added amount of income from the TRT. Spear indicated the budget included actual construction costs for Pioneer Road and Event Center Phase I. Gazdik asked if there were any questions. Hearing none, the chair called for a vote to approve the operating budget for 2020 as amended. Motion made. Seconded. Motion passed.

1. **Action Item –** To approve the changes in the Pre-Opening Services portion of the Centennial contract. Fuller made a public records request to West Valley in order to obtain the Centennial Management (CM) contract with West Valley City for operating the Maverik Center. The language in the contract is very similar to the contract the Board is currently reviewing from CM. The Board reviewed the change to section A of the contract, the pre-opening phase. It says that the pro forma will be delivered after the contract is signed and that $30,000 will be paid to CM and be an advance payment of the $120,000 that will be paid in the first year prior to operation, as part of the pre-opening services costs.

Nitschke said that he is still concerned about not having the pro forma before signing the contract. He understands the Board may need to pay for this work. Fuller said his concern is with the wording in the exhibit A that indicates that the pro forma doesn’t have to be approved before the Board owes CM the amount of $30,000. Gazdik said that she sees the required $30,000 as an amount put in escrow to establish a business partnership. She and Fuller both acknowledged that CM has already put a lot of effort into this and it doesn’t seem unreasonable to request an amount of payment. Nitschke said he hasn’t really noticed significant work from CM. Fuller explained some of the things that CM has done including traveling to meetings frequently, paying their own attorneys to negotiate the contract, the Board toured the facility, etc. Gazdik explained her understanding of the requested amount as a type of prepayment in good faith for signing the contract later on. Fuller said that the stipulation within the contract that the pro forma will not be given until the contract is signed is unacceptable. Nitschke agreed.

Spear called Kevin Bruder and invited him to be part of the discussion during the meeting. Fuller explained to Bruder that he is recommending to the Board that IFAD will compensate CM in the amount of $30,000 as a recognition of the good faith effort CM has given and an effort to show good faith in moving forward with the contract. Fuller stated that he cannot recommend the Board sign a contract without reviewing the pro forma first. Bruder indicated his understanding was that if the Board didn’t agree with the pro forma there are enough “out clauses” in the contract for the Board to void and they wouldn’t have to move forward with CM as the manager of the event center. Fuller said the Board would rather sign a nondisclosure agreement and review the pro forma before they accept the contract thus not having to negate a signed contract based on the pro forma. Bruder said that he would work to get a pro forma to the Board sooner than February 28. Fuller said he would negotiate with the CM legal counsel to confirm all that was discussed.

Nitschke pointed out a few more items that needed to be revised. There are several items listed that are too late to accomplish. For example suggesting changes to the construction drawings in 1.2.A. Nitschke wanted to add snow removal to 1.2.G.b. Nitschke is still concerned about the Board’s involvement in the security plans of the building under 1.2.G.b. Another discrepancy is in 1.5a. It sounds like the Board will be increasing the amount they are paying CM if the start date is delayed. Fuller said he would negotiate to clarify the language.

LoBuono asked when the Board would be obligated to pay CM for pre-opening services costs. Gazdik explained clearly that the Board is to tell CM by August of 2020 when the opening date will be. For example, if the Board knows for sure on May 1, 2020 that the construction will be complete by August 15, 2021, then they are to confirm with CM that on August 15, 2020 they will begin to manage the arena in preparation for opening. Payment will not begin until one year previous to the opening date, at which point $10,000 per month, less the $30,000 upfront fee will be paid.

1. **Discussion Item** – Review and discussion of Centennial Management Contract for operating the Event Center and discuss other possible options. Spear said the he had not received any comments from any Board members since the last meeting.

Nitschke shared a couple of big-picture issues with the contract. The first is that he wants a list of people who will be directly working at the event center. Second, he would like an opinion letter from legal counsel indicating that the private use IRS issues are adequately covered. Third he thinks it is important to include key provisions that must be in the affiliate contracts. For example, Nitschke feels that the Board will need some revenue from concessions in order to cover operations. Spear drew the attention of the Board to the CSL feasibility study which showed that concessionaires typically pay ~45% of concessions income to the arena. Fuller reminded Nitschke that the agreement between CM and the hockey team is between CM and an entity that does not yet exist so it may not be feasible to wait to sign the Board’s contract with CM until the affiliate contract has been written.

Spear asked if there were any comments on section 5. Nitschke asked about what arenas CM is going to consider “comparable” and how they decide who is “comparable.” He still is uncomfortable with the ambiguous definition of applicable standard. He would like to see what the process is of how to implement the applicable standard and would like to see two real world examples where the applicable standard was used. Gazdik stated that having nebulous language and not having an exact definition of applicable standard can actually be in favor of the Board.

Fuller said that it may be possible that West Valley City required CM to file their affiliate contracts with the city. Fuller said he would make another public records request for the hockey team and concessionaire contracts.

Spear asked the best way to proceed. The Board agreed to complete their individual reviews and send them to Spear by Friday, January 17. He would send out the information to the Board so as to be ready for the special meeting on Tuesday, January 21.

**Report and Updates**

1. **Discussion Item** - Executive Director Report
	1. Fundraising Campaign and status of prospects - Spear shared information about the Business Advisory Committee (BAC) meeting held Monday night, 1/13. He showed his fundraising opportunity pyramid showing that it is still possible to raise the necessary amount, just that it will likely be in smaller increments than originally planned. Spear mentioned that there are some outstanding proposals currently. The BAC is still working on contacting new entities. Nitschke asked how the fundraising entity representatives were feeling about the project. Spear said that they remain optimistic and continue to identify new prospects. Gazdik said that they are good at making assignments on who will contact potential donors to make sure the fundraising is moving forward. Nitschke asked when the fundraising deadline is. Spear said that fundraising will continue until all the naming rights are sold, but that March 1 is a key date because of the proposed construction start time of March 1.
	2. Pioneer Road Construction progress report – Spear said that HK is currently shut down. The good news is almost all the pre-construction items are complete. The bridge structure is due to arrive in the middle of February. There are some issues with the power pole removal which is a shared responsibility between two power companies. Something that the Board needs to consider is adding lithium to the concrete items to protect against Alkali-silcia reaction (ASR), ASR is the potential for deterioration due to the aggregate used in the concrete mix. Gazdik asked if they were actually 45% complete with the road construction. Spear explained that based on what’s been paid 45% is pretty accurate. Nitschke asked James West’s opinion on putting lithium in the sidewalk. West explained that broken up concrete really is an eyesore in front of some buildings. There is an option to pay more for a higher quality of salt to not ruin the sidewalk.
	3. Event Center Phase I progress report - project is continuing through the winter
2. **Discussion Item** - Legal Report
	1. Transient Room Tax Update - The entity that promised all the past due tax funds delivered one check that bounced. Fuller contacted them and they are continuing to promise the full payment by the end of January. However, the Board has yet to receive September through December payments. Fuller has created a formal complaint that he will share with the owners in an effort to persuade them to move forward with payment. He visited the state tax collection website and they have moved forward on the collection of the 2020 taxes on behalf of IFAD. All the forms are readily available on their website.

 C**alendar and Announcements**

1. Upcoming IFAD Meeting – **Next meeting on January 28, 2020**
2. **Discussion Item** - Announcements and Minor Questions
3. **Discussion Item** - Agenda Items for January 28th meeting - Action Item. Pathway contract extension.
4. **Action Item** - Adjournment from Public Session - At 9:16 a.m.

**Action Items**

Fuller reword some areas of the pre-opening services portion of the CM contract

Fuller request documents from West Valley concerning their affiliate contracts

Special Meeting: the CM Contract

Board review CM contract and send Spear comments by January 17

ASR potential – consider adding lithium