

**Board of Directors Business Meeting**

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

**Location: Idaho Falls Auditorium District Office and Zoom Conference**

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

**Attendees:** Terri Gazdik, John LoBuono, Steve Vucovich, Bob Nitschke, Rob Spear, Salem Thomas, Rebecca Casper, James West, Mike Clements, Kevin Greene, Kevin DeKold, Blake Davis, Chad Hammond, Mark Fuller, Trenton Saxton

**Minutes:**

1. **Action Item** - Call to Order – at 7:05 a.m. LoBuono moved to accept the agenda. Nitschke Seconded. Motion passed.
2. **Action Item** - Accept the Consent Agenda – Gazdik asked if everyone had been able to include their comments on the minutes and if legal counsel and the Executive Director had taken time to review the comments. Spear and Fuller indicated that they had. He pointed out that the 3-13-20 minutes are not included on this agenda because there is still some questions on the details included in the minutes. These details include items that may be more appropriate as part of the document control plan. Gazdik asked if Spear had any questions about any of the payables. Spear said no. LoBuono asked about the IE Productions $80 cost. Hammond said that the board should not have received that amount on the bill. He would look into it and have it removed. Gazdik asked if there were financials. Spear explained that he had received the updated financials list from the State Tax Commission the evening prior and would send to WIPFLI so the February financials could be developed.
   1. Meeting Minutes – 3-20-20, 3-24-20
   2. Review of the Payables

LoBuono moved to approve the consent agenda. Vucovich seconded. Motion passes.

1. **Discussion Item** – Public Comment (Any member of the public is welcome to take three minutes and share concerns or questions with the Board) - None.
2. **Discussion Item –** Update on Subcontractors response to the request to honor most recent bids through September 2020 for the construction of Phase II of the Mountain America Center – Spear said that the majority of subcontractors agreed to hold their prices until September. There were two subcontractors that elected to not agree to the extension. The precast structural subcontractor wants the ability to negotiate coronavirus impacts. The Nations Group was going to reach out to other precast companies to see if anyone else would be interested in the project. The other subcontractor was the framing and dry wall subcontractor who will not hold their price and wants to rebid. Spear explained that this bid was $500k lower than any of the other bids. However, because there was some concern about this subcontractor to complete the work in a timely manner, rebidding may not be a bad idea.

Spear emphasized that the Board does not have a current GMP because the previously offered GMP expired at the end of March. They will need to create a new GMP in September, 2020.

Clements clarified that he feels the precast contractor has not pulled his offer like the framing company, he has simply asked for an exception. Clements thinks they might be willing to get very close to their current bid again in September.

Nitschke said he is still unsure what this all means. He stated there still is no GMP. Spear said that if everything falls into place then he will be trying to solidify a GMP 30-45 days before the bond closing process.

Gazdik pointed out that arena seating subcontractor has not been selected yet. She asked if it would need to be an action item in a future meeting. Spear said that it will definitely be an action item in a future meeting and indicated that the arena seating is now part of the FFE. He said the vendors will want to come and present to the Board at some point. He said it is not time sensitive right now. Clements said that after COVID-19 clears up the companies want to sit in front of the Board and walk the Board through the seating options. He said they completely understand the situation and don’t necessarily expect a decision right away.

Discussion item requires no action.

1. **Action Item –** Approve MSBT Law as Bond Counsel, Gilmore Bell as Disclosure Counsel, and Skinner Faucet as Underwriter Counsel and discuss information received from Raymond James and Laura Lewis regarding the financing of the Event Center – Spear explained the three different type counsels involved in the process. The MSBT Law Firm is proposed as bond counsel. Stephanie Bonnie from MSBT has been working with IFAD for a number of years. Laura Lewis recommends having a separate bond counsel. Lewis negotiated the cost of MSBT to not exceed $37,500. The bond counsel will become a member of the “Debt Issuance” team which included Raymond James and the Board. They would be a kind of checkpoint. They will also provide a legal opinion, meet all legal requirements necessary for the issuance. They will analyze the legality of the project, the security of the structure, and drafting the documents. Spear said Lewis has been a great help. According to Lewis, anything under $100k for all three types of counsel is a good price.

Gazdik asked if this is supposed to be paid up front or if payment will come once the bonds are sold. Spear said he is unsure but will clarify during a conference call on Thursday, 4-16. Spear said it is his understanding the Board is responsible for paying the bond counsel and the disclosure counsel. The underwriter counsel will be paid from the expense component of the underwriter’s gross spread. Gazdik asked when the services would begin. Spear said the next step is to develop a timeline. Lewis will put together a draft. Spear anticipates it will mimic the process the Board reviewed last June. These various counsels will certainly be part of that process. LoBuono reminded the Board that they were under the estimated cost.

Spear reviewed what a disclosure counsel does. It is retained by a government entity to assist with federal securities law and disclosure documents related to public bond issuances. This may include, but is not limited to, drafting or reviewing documents such as the official statement, continuing disclosure agreements (CDAs), notices of sale or intention to sell, and preparation of negative assurance on the official statement. Following the issuance of bonds, governments are responsible for managing agreed upon post-issuance compliance responsibilities. Disclosure Counsel may be retained for periods following issuance of bonds to coordinate annual filings with the issuer and to confirm that the content and timeliness of the filings satisfy the requirements of the CDAs. In addition, disclosure counsel may assist with other material event filings and may assist issuers in any enforcement proceedings with the SEC, IRS, or other regulatory bodies. Disclosure counsel may also review or draft policies and/or procedures related to post-issuance compliance.

Spear said that Lewis’s recommendation is to select Gilmore Bell as the disclosure counsel. They have been instrumental with the contract negotiation with Centennial Management (CM) and ensured the language in the contract complied with tax-exempt status of the certificates of participation.

Fuller said that Stephanie Bonnie has been involved longer than most of the current Board members. She has been involved so that she would be ready to help at this time without having to get up to date. Gilmore Bell has also been involved for a while now so all their expenses will be less than what would normally be because they won’t need to take time to get oriented to the project. He said that his understanding is that none of the legal firms will be expecting any pay until the Certificates of Participation are sold. As for the underwriter’s counsel, Fuller understood that the underwriter counsel’s fees would be paid by the underwriter out of the underwriter’s payments.

Spear said that is correct. Skinner Faucet is the underwriter counsel Lewis suggested. They will be really good from a cost perspective. Gazdik said that Raymond James was on the call and that they agreed Skinner Faucet is a good choice.

Fuller suggested authorizing the Chair and the Executive Director to negotiate contracts with these counsels when the time comes. So at this time, the Board will be approving the process not the counsels. Motion made by LoBuono authorizing contract negotiations with the three named lawfirms. Seconded by Vucovich. Motion passes.

1. **Action Item –** CRSA request for additional services for building exterior - Spear explained that this design was reviewed briefly at a previous meeting. The Board needs to decide if they want a final rendering of the newest suggested exterior design.

DeKold said that the $150k is the estimated cost for adding band lighting and repositioning louvers; the cost to produce the rendering is $5,730. He took a minute to explain what changes would be included in the new rendering. The louvers would be moved from the Northwest side, and they would include band lighting on the other side of the building. There is a possibility that there would be modifications to the tilt up panels. DeKold said they are currently unsure of what electrical and structural changes may be necessary but the estimated cost would be $3,500-$4,500 for structural and electrical engineering design review. CRSA would provide a progress rendering to the Board, for review, before the final rendering was produced.

LoBuono asked if the building could be portrayed in red brick. DeKold said they would make a few progress renderings in different colors so the Board could make a decision based on the provided colors. It will take 3-4 extra hours of work to change the color, but they think it will be beneficial for the Board to see multiple options. Spear reaffirmed that the up-front cost is $5,730, with a potential additional cost of $3,500-$4,500 for electrical and structural engineer design piece. DeKold said about 1/3 of the up-front cost is producing the rendering while about 2/3 is designing to get to the production point.

Vucovich asked if there could be more colors than just two. He asked if there would be any additional charge, as long as they are the same kind of brick, to have accent colors around the windows. DeKold said that if there is specific design with colored bricks, such as accent around the window, that comes with extra cost. CRSA is currently planning on providing two progress renderings, each showing a single color option. Providing more renderings will cost more.

Spear asked what the drop-dead date is to make the final exterior design decision. He reminded the Board that everything is contingent upon the Board receiving funding from the sale of Certificates of Participation and donations. Clements said that having the decision 30-45 days before construction in the fall of 2020 would be enough time. Spear just wanted the Board to know they had time to make this decision. DeKold said that the only thing that might require a quicker decision made would be if the tilt-up panels need modification. Then the engineers will need to know earlier.

Gazdik said she thinks this is a great time to be discussing the exterior design because there is so much time available right now. It allows the Board time to come to a decision and make sure everyone agrees on the exterior. Gazdik asked if anyone had a specific idea of what color they want to see in the brick. Vucovich said he would be interested in something different than what the rest of Idaho Falls looks like. It should be a novel building, not the “same-old same-old.”

DeKold said there should be time now to get some actual brick samples in front of the Board. Spear said they have brick samples in the office already. Spear asked DeKold if he was aware of the Snake River Landing guidelines for color. DeKold said there are coloring requirements for Snake River Landing. Spear said he would get those in front of the Board to make sure they had that information in order to make an informed decision.

Vucovich moved to approve CRSA moving forward in doing additional work on the exterior design options at a cost of $5,730. Lobuono seconded. Motion passes. Nitschke abstained from voting.

1. **Action Item –** Reopen 2020 budget and discuss the impact of the coronavirus on tax revenues. - Gazdik explained that the Board may not have to “reopen” the budget. The Board is not expecting to overspend their current budget, but is more worried about not meeting their expected income.

Spear said that the first assumption is that there will be a 50% decrease in the income totals from the Transient Room Tax (TRT). James West said that having 50% of the income is on the optimistic side. Even if the lock down lifts soon, the large tour buses from other countries will not be visiting Yellowstone so there will definitely be less TRT throughout the year. Right now the hoteliers are holding rates as much as possible, but when the travel ban is lifted there will likely be price battles between hoteliers. Because the Board gets their tax based on a percentage of the income of hoteliers, having prices drop for each hotel room will affect the TRT income even if the rooms eventually fill up as much as they were last year.

Spear said that he produced his number by reducing TRT revenues to 50% for the months of March and November and to 20% of 2019 revenue for the months of May through October. West said this strategy will help get a more accurate prediction. Spear was hoping to present more of a “worst-case” scenario so made it very conservative. Even with these low numbers, he is still predicting a $10 million cash balance at the end of the year. The cash balance is an important piece to the financing plan. Spear said that he had received the TRT information from the State Tax Commission and the TRT revenues for February 2020 decreased 1% from February 2019.

Nitschke asked James West what percentage of hotel income comes from international travel. West said it is difficult to give a percentage. Some of the hotels in town were 80% full of foreign travelers. Others were only full with about 20% of international travelers. All of these amounts are based on the hotels closer to Yellowstone already being full. West gave a statistic from the Strategic Travel Institute that the national hotel occupancy rate is at about 12%. West said that after the travel bans are lifted, he is hoping it will get back up to 40%-50%. LoBuono said that Idaho will be re-evaluating their travel ban on Wednesday, April 15, 2020. He also pointed out that even if travel opens up for Idaho soon, travel is also based on other states being able to travel in order to fill Idaho hotels.

Gazdik said she would like to have this item on the agenda once a month so they can be aware of what is happening with the hotel tax revenue for the rest of the year. Spear did a quick calculation and said that if hotel occupancy is able to get back up to the 40% as West has predicted, that would increase the yearly revenue about half a million dollars.

Spear explained that the capital expenditures, through April, are based on actual expenditures. The $466k that was approved previously for early construction has been reduced down to $109k and is reflected in the May expenditures. Because this work is part of the construction phase, the Board needs to decide how to compensate CRSA. A recent CRSA invoice included construction administration charges of $5,000. Although the CRSA contract specifies that construction administration does not begin until either a GMP is adopted or a Notice to Proceed is authorized, CRSA has performed some construction administration activities; worked through the submittal process, finalized construction documents and incurred costs from the various engineering subcontractors. DeKold said that he and Saxton estimated that it will take another 5% of the construction administration time to complete the work required for the pre-approved early construction activity. The total will be roughly $75k including the $50k that has already been submitted. Most of that is for engineering costs. They are getting a jump on the structural engineer submittals. Civil engineering submittals are almost complete. It also includes the construction set of drawings. All of this work should equal about 15% of the construction administration budget.

Clements stated that he is receiving landscaping bids tomorrow 4-15. Critical submittals have all been submitted, they are just waiting on CRSA to get back with them. LoBuono asked what the $22k per month covers. Clements said that it covers supervision, trailers, port-a-potties, trash receptacles. Spear asked if the $109k covers the $22k per month. Clements clarified that it does not. Clements said that the $109k includes the general conditions (GCs) for the event center site and Pioneer Drive for the month of March. There is a clause in the contract that says if construction is not started, the Board will still need to cover the GCs for Pioneer drive through the month of September. It will be about $22k per month. The Board will need to budget another $110k ($22kx 5 months) for General Conditions. Spear will need to add that to the 2020 budget. The landscaping cost is included in the budget as part of the Owner’s cost.

Fuller said that payment for the construction phase services for CRSA would be premature at this point. The contract is very clear that the Board will move into Phase II construction services only when there has been approval of a GMP or the issuance of a Notice to Proceed. Neither has occurred yet. Only a small portion of construction has started yet. Fuller does not understand a $75k bill to supervise $120k worth of work. He doesn’t think CRSA was authorized to move forward with construction services. DeKold said they are getting a jump start on the structural submittals. That is being done by Thornton Thomasetti. The Board approved civil work being done in advance. That has also required the civil engineers to do their work. They are submitting a construction set of documents that Clements needs so this isn’t just one weeks’ worth of work, but more like 6 weeks' worth of work. The rest of the bill will go three weeks into April. He said the current bill is for only $50k, and the remaining $25k will be billed in the next couple weeks of April. Gazdik asked if the work done is within the scope of the contract or if it is extra work. DeKold said he thinks it is all in the scope of the contract, they are just getting a jump start because of the previously approved early construction piece. Saxton explained that they are also covering the work that has been done by Horrocks. Horrocks is nearly done with 90% of their work on the project and this will cover their payment.

Nitschke asked if Spear was aware of the extra dollars spent as the construction companies continued to work. Spear said he was aware that having the construction companies work would cost money. Spear asked DeKold and Saxton to include the amounts that they owe to their subcontractors on the invoices. That would allow Spear to know who is getting paid what amount. DeKold said that CRSA would proivde that information.

Spear said that he is taking steps to make sure to reconcile the budget and cash flow projections with the financials he receives from WIPFLI.

Spear concluded the 2020 budget review by explaining the total costs for Pioneer Road and Event Center Phase I include the reductions for rock removal. $274k for Pioneer Road and $74k for Event Center Phase I. Other actual expenditures included $30k payment to Centennial Management and payments to Thornton Thomasetti for early steel work.

Spear requested approval from the Board to submit the revised budget to Dorothy Banner at WIPFLI. Gazdik said she is hesitant to advise submitting a new budget because if construction is approved in September to move forward then the board would be spending more than is projected in the current budget. Gazdik asked Fuller if other municipalities were reopening their budgets due to Covid-19. Fuller said he advises against reopening the budget because the point is not to prove how good you are at guessing what your budget will be throughout the year. He said it would be better to reopen the budget in September when construction might start. Gazdik agreed. Vucovich suggested having a column that compares actual TRT numbers to the originally budgeted TRT revenues. Gazdik agreed that it could be very beneficial. She suggested adding “Initial Budgeted Amount” as a reference point. No action taken to approve CRSA payment request.

1. **Action Item** – Discuss Phase II of the Nations contract - Spear said there were a few very simple changes. It reads, “PHASE I PROJECT FEE shall be amended to $35,000 a month, on a month to month basis until such time as project financing has been approved by Owner and PHASE II commences or the Agreement is terminated under its terms.”

Spear recommended that the Board not approve the amendment at this time because there doesn’t appear to be enough work available for The Nations Group right now. Spear stated that Nation’s has been very beneficial to the project and will be useful again when construction begins. Spear is expecting Nations Group to provide a few documents as part of its Phase I contract. LoBuono asked when the current Nations Group contract is set to end. Spear said it ended at the end of March.

Gazdik pointed out that other subcontractors have agreed to hold their prices to be used at a later time and asked if Nations Group would be willing to retain their prices as well. Spear said that they had not indicated anything of the sort, but feels that they would likely be willing to negotiate the prospects.

Fuller read a statement from the contract and explained that regarding the contract the Board will not only need to not approve the new amendment, but also send them a letter of termination. Spear asked if he could take some time to talk with Chris Nations before a termination letter was sent. The Board agreed that contacting them and being sure to follow the termination requirements of the contract are both good ideas. Spear said he would contact them. No motion made.

1. **Discussion Item** – Role and Mission of IFAD and how to meet community expectations – Gazdik said that she and Spear had discussed this earlier in the week and Spear sent out a statement that was included in the ballot initiative. Spear explained that they just want to make sure the whole Board is aware of the role and mission as the Board works toward meeting the expectations of the community. Nitschke had provided him with the information in the voter’s ballot. The question asked of the voters was: “should an auditorium district be formed encompassing all of the area within the city limits of Idaho Falls, Idaho, in order to fund the construction, maintenance and marketing of a multi-purpose convention and community events center.”

Fuller said that the language from the ballot was quoted from Code Sec. 67-4902 which explains what an auditorium district’s purpose is. Fuller said that the Pocatello Auditorium District was sued because TRT revenues were being used outside the boundaries stipulated by Idaho Statutes, which dictates the money be used to build and/or maintain a facility. Fuller explained that the money has to be used to construct a facility and can be used for maintenance after, but the primary responsibility is to construct. Fuller pointed out that who is benefitted is not a direct assignment to the Board. The media has kind of pointed the District toward benefitting the local residents. Gazdik said that this may have an impact on what is done in the future.

LoBuono suggested contacting the media and letting them know the current construction plans. Chad Hammond agreed that it could be very beneficial. He doesn’t think the public will be too upset that construction hasn’t started. Hammond said a full press conference will not be allowed so it will have to be more of a one-on-one situation. Gazdik said not going silent right now is very important. Fuller agreed and suggested restating the fact that the Board runs on the TRT. They could even meet with James West or some other hotelier to share their opinion on the situation.

Hammond said he would meet with Spear later to put together a plan for a public announcement.

Vucovich suggested pointing out to the public the amount of money that has been put into construction as well as what is in the bank. It could increase the public’s confidence in the Board. LoBuono said that this Board has already spent more money on the capital improvements than the Pocatello Auditorium District spent on their whole project. Plus, this Board has more money in their account than has been spent which means the Board has been good stewards of the money. Nitschke said he is unsure of what answer he would give if someone asks him what if the Board doesn’t get the funding in September. He still feels the Board only strategy is to build this particular design no matter how long it takes or how much it costs. There is also the issue of the public being willing to sit in large groups once the building is built. He said the Board needs a back-up plan so that they can answer the public when they ask if there is another option. LoBuono said he would like to keep the public up-to-date factually so that there is no question what the Board has been doing. Hammond said no one really knows where COVID-19 is going to be in 3 months, so speculating on either side isn’t very helpful. He thinks people will understand the situation.

No action required for this discussion item.

**Report and Updates**

1. **Discussion Item** - Executive Director Report
   1. Fundraising Campaign and status of prospects - Spear has reached out to people who were hoping to support the event center. It is exactly what is to be expected. They appreciate the call, but they cannot commit to any amount of donation at the moment. Spear said he would continue to engage them. Fuller asked if there are any construction grants available due to the money the government is spending to spur the economy. Spear said he has been looking for opportunities like that. He found one and will be applying for it later this week. Spear will continue to monitor those opportunities closely.
   2. Pioneer Road Construction progress report - Spear said there has been significant winter delay. Construction will start soon and probably last until September.
   3. Event Center Phase I progress report - Spear said they are completing their light pole bases. Four of the 24 light poles had rock issues with their bases. So far they are staying under budget and on schedule.
2. **Discussion Item** - Legal Report
   1. Transient Room Tax Update - Nothing further to add.

C**alendar and Announcements**

1. Upcoming IFAD Meeting – **Next Meeting on April 28, 2020**
2. **Discussion Item** - Announcements and Minor Questions
3. **Discussion Item** - Agenda Items for April 28, 2020 meeting - Spear pointed out that the Centennial Contract should be on the next meeting agenda. Spear said there will hopefully be a rendering to review. Gazdik said the Board will need to review and approve the bond counsel and underwriter contracts. Nitschke said he would like to discuss plan B options if funding falls short in September. Spear said he would like to first discuss that in the Building Committee Meetings. Gazdik said the Board should have the timeline from Laura Lewis by then. Fuller pointed out that the March 13, 2020 minutes still need to be approved.
4. **Action Item** - Adjournment from Public Session - Motion to adjourn. Seconded. Motion passes. Meeting adjourned at 8:49 a.m.