

**Board of Directors Business Meeting**

**Tuesday, April 13, 2021, 7:00 a.m.**

**Location: Idaho Falls Auditorium District Office/Zoom Videoconference**

<https://zoom.us/j/8694715148>

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

**Attendees: Terri Gazdik, Bob Nitschke, Steve Vucovich, Mike Carpenter, Rob Spear, Mark Fuller, Mike Clements, Blake Davis, Kathy Wheadon (joined late), Ben Rogers, Chad Hammond, Rebecca Casper, Kevin DeKold, Chris Nations, Stephanie Bonney, Laura Lewis**

**Agenda**

1. **Action Item** - Call to Order 7:05 am
2. **Action Item** - Accept the Agenda. Carpenter moved to accept the agenda. Vucovich seconded. Motion passed.
3. **Action Item** - Accept the Consent Agenda
	1. Meeting Minutes 3-23-21 & 4-6-21 – Spear said changes were made to the minutes.
	2. Review of the Payables/Financials – The payable list totaling $18,630.92 was presented for approval. Gazdik pointed out the revenues for the month of February were 95% of 2019 levels. Spear said that the financial position of the District remains strong but does expect legal expenses to increase because of the work Fuller is doing on reviewing all the financial documents.

Nitschke moved to accept the consent agenda. Vucovich seconded. Motion passed.

1. **Discussion Item** –Public Comment (Any member of the public is welcome to take three minutes and share concerns or questions with the Board). There were no comments during the public session.
2. **Discussion Item** – Stephanie Bonney will brief the Board on documents relating to the event center financing plan. Gazdik introduced Stephanie Bonney and stated Bonney would be addressing the Board and summarizing the financing plan. Bonney said the Primary Lease, Annual Lease, and the Trust Indenture were the main financing documents. Bonney explained all the documents are being developed according to a lease purchase. A lease purchase is where investors purchase shares for the right to receive lease payments. After all the lease payments are made, the District will own the building. These lease payments are subject to a higher interest rate because the District must determine whether to make an annual appropriation. In this situation, the bank takes the risk that the Board could decide to not appropriate revenues for a given year. If that happened the bank could lease out the facility to another party. Bonney said if the District defaulted and the lease payments were made by another entity that at the end of the lease period, the District would own the facility. Bonney said right now we are dealing with a single buyer who can later sell to other buyers. Bonney said the current buyer is more involved and pickier than any buyer that she has been involved with. Bonney said because IFAD is a fairly new District, the building is not built yet, and the COVID impact on hotels, people are surprised that we can get financing done. We are also doing this transaction very quickly to maintain the construction schedule.

Bonney then described the Primary Lease – the purpose of the primary lease is it serves as the ground lease for the property the district owns. Everything in the primary lease goes through a trustee who is Zions Bank. The purpose of a primary lease is easy, the District leases its property to the Trustee and then the Trustee leases it back to the District for as long as the District is making payments under the appropriation lease. If there is an event of default the land is no longer leased back to the District, the bank takes the land under a lease and can lease it for 30 years or until the bank gets its money back. The property then comes back to the District.

Bonney then described the Annual Appropriation Lease Agreement. The appropriation lease is also with the Trustee/Bank. This is the agreement that requires payments on the Certificates of Participation (COPS) from the District’s TRT revenues. Bonney said the Financial Advisor is working on determining the best timing for the payments because IFAD’s revenues vary from month to month. Along with requiring payments, the appropriation lease also requires insurance, assurance that there are no claims, if the Center burnt down what would happen, promise to not pollute the property, etc. Primarily, the appropriation lease is to provide payments and to ensure the facility will operate properly. Bonney said there is an option to purchase outstanding COPS. Because lease purchase agreements have higher interest rates, at some time in the future, once the facility is built, IFAD may consider going out for a bond and paying off the COPS. This would eliminate the bureaucracy of the current structure and IFAD would be back in control with a much lower interest rate. Bonney said she has experience with several governmental entities who started out with a lease purchase and then converted to bonds. In conclusion, Bonney stated that every year the District will need to approve the annual appropriation lease and allocate its tax revenues.

Gazdik asked about the timing of the payments. Bonney said that Lewis is still working on the timing, but it is currently a May and November structure. Lewis said she sent her analysis to Spear and stated that the challenge in identifying the right payment structure is related to the variance of how monthly TRT revenues flow into the District. Basically, they come in as bell shaped curve. Lewis is advocating that the revenues be collected and held in a lock box and then deposited into the bond fund prior to payment. Rather than being deposited into the bond fund monthly. Lewis said it appears the May/November structure works.

Bonney then described the Trust Indenture. This is the most important document in the eyes of the purchaser. Basically, what the trust indenture does is cover all the things related to the transaction and establish pay funds (construction fund, costs of issuance fund, rebate fund, capital reserve fund and casualty/condemnation fund) that are put into trust for the Trustee to administer. This document creates the trust and is the security for the purchaser. Bonney said the primary lease, annual appropriation lease and trust indenture work together. Bonney said things like the management agreement are subordinated to the Trust through the Subordination, Attornment, and Nondisturbance Agreement (SDNA). Bonney said the default provisions, describing a default event and describing what happens after a default, are a big part of the document. In the event of a default, the Trustee would come in and operate the building on behalf of the COPS holder. It also identifies what capitalized interest is. Capitalized interest is the interest the District can borrow the first year until it gets operations up and running. Bonney said the Trust Indenture provides directions on the pay funds (construction fund, costs of issuance fund, rebate fund, capital reserve fund and casualty/condemnation fund). Bonney also said the Trust Indenture outlines what happens if a Trustee is replaced, describes the rights of the COP holders, and defines limited indebtedness (not being able to issue additional bonds without permission but allowed to enter into equipment leases). There are also references to the management and licensing agreement (even though it doesn’t exist yet). Bonney explained the Trust Indenture references that if the licensing agreement is not complete by September 1, 2021, then IFAD will need to ask permission from the Trustee to access construction funds. If the licensing agreement is still not signed by November 1, 2021 this is considered a default. Fuller said the hockey organization is organized and the licensing agreement will be between the hockey club and Centennial Management. Finally, Bonney said a control agreement will need to be put into place to allow the Trustee to have oversight of funds listed in the management agreement. Bonney said once Lewis identifies the principal and interest amounts and payment dates, those will be input into the document.

Bonney said there will be additional documents as part of closing. And that IFAD will get a book containing all the documents related to this transaction after closing.

Bonney then briefly described the Certificate of Purchase. This is a purchase agreement between IFAD and the bond underwriter. It just describes the amounts (transaction amount, how much underwriters are being paid) of the transaction. As part of the SEC requirements this transaction is called a limited public offering. Because we are dealing with sophisticated investors, a complete SEC document is not necessary and instead a Preliminary Limited Offering Memorandum (PLOM) is completed. The PLOM eventually becomes a Limited Offering Memorandum. It explains the big picture things (war, stock exchange shuts down) that would allow the underwriter to walk away from the agreement. However, Bonney said in 22 years she has never seen this happen. Lewis said even though numbers still need to be placed in the document, the details listed in the term sheet (call provisions, interest rates) will not change.

Fuller asked about documents the Board will need to approve for the next meeting on April 20, 2021. Bonney said she sent out a draft authorization resolution that the Board will need to approve if they want to proceed with financing. The resolution will include as exhibits the Primary Lease, Annual Appropriation Lease, Trust Indenture and Certificate Purchase Agreement. So, the Board will also be approving these four documents when it approves the resolution.

Bonney said this is one of the most complicated deals that you can do in Idaho and because IFAD wanted to get going, she is shocked that we can meet the closing schedule.

Nitschke said that if all the revenues to finance the building are coming from TRT revenues and none from the operations of the building, why is there concern that the building operates at all. Bonney said revenues from operations are pledged in case TRT revenues are insufficient. Bonney said the purchaser sees operational revenues as a backstop. Nitschke stated that historically event centers are not revenue generators. Spear said his cash flow analysis would provide some additional information on how the debt service would be paid.

1. **Action Item** – To discuss CRSA contract and adopt a path forward for handling the construction administration duties for event center construction. Spear said there have been numerous issues that have been discussed with CRSA and his goal is not focus on those but rather to focus on solutions and moving forward. Spear said it is important for CRSA to stay involved. However, it is in everyone’s best interest to have Perkins Will handle 90% of the Construction Administration and CRSA 10% because Perkins Will (PW) has individuals who have been working on the project since its inception.

Nations commented that the issue before the Board is how to move forward with Construction Administration (CA). Nations said that after meetings with Kathy Wheadon explaining the issues, Wheadon came back with a 60/40 CA recommendation with Perkins Wills assuming 60% and CRSA 40%. Nations said he did have conversations with PW and Perkins Will is only interested in a 90/10% split with Perkins Will performing 90% of the CA. Nations indicated he had a conversation with Wheadon on 4-1-21 and again on 4-12-21 and relayed that a 90/10% fee is what is being recommended for CA with Perkins Will taking the lead. Nations said this is a recommendation on behalf of the project team (Bateman-Hall/Hogan, IFAD, and Nations Group.

Gazdik asked about the mechanics (contract amendment) for implementing a change in the CA percentages. Nations, Spear and Fuller said it was important to hear from CRSA. Wheadon then commented that the request to change CA administration came at 6:15p on 4-12-21 and she has not had time to discuss with CRSA partners, project team or counsel. Wheadon stated she is not aware of all the issues on the project because she has only been involved with the project for three weeks. Wheadon said CRSA is doing an exceptional job of serving the project and have a qualified team staffing the project. Wheadon said she respects the views of the Board but does not feel the Board has heard from CRSA. Wheadon wanted 24 hours to seek counsel from her team but felt the 60/40% split was more than accommodating. Spear said that he wants CRSA to have more time to review but wanted Wheadon to understand where the Board stands in its recommendation to have PW more involved.

Gazdik asked if PW had enough capacity to dedicate toward the CA duties. Nations said that PW does have the capacity and since PW has been involved with the project since the inception, they want to take the lead role on the CA responsibilities. Nations said his main concern is to have the CA serviced appropriately and having one point of contact is important and believes Mike Harvey and Jon Williams of PW can make that happen.

Gazdik asked if there was time for Wheadon to discuss with her team. Spear said there was time and agreed with Gazdik that this could be discussed at the 4-20-21 meeting. Nitschke said he would like a better justification on how the percentages were arrived at. The 60/40 and 90/10 seem arbitrary. Carpenter said he doesn’t understand why the Board is taking the time to evaluate how the CA should be administered. The Board should be focused on who is the best entity to carry this forward. Spear said that it is important to allow CRSA to respond to the 90/10% proposal even though it is clear that is the Board’s position. Nitschke said he didn’t recall the Board taking action and agreeing to a 90/10% split. Spear clarified that when he stated the Board, he was referring to the project team. Spear said this recommendation was not taken lightly and involved Nations Group, PW, and Bateman-Hall/Hogan. Basically, said the percentages were communicated/suggested by PW. Nations said that is correct. Nitschke said the Board needs more information before any decisions are made. Wheadon said CRSA would provide a summary to the Board, continue conversations with Spear and Nations and make a recommendation on how to proceed.

Gazdik said this will be an action item for the next Board meeting. Carpenter suggested a deadline be established as to when CRSA would provide the information. Gazdik asked if Friday 4-16-21 would work. Wheadon said she would like to have until Monday 4-19-21 but would attempt to have something by Friday 4-16-21. Nations said this is a very fluid situation and asked if Clements can live with the current CA spilt. Clements said they can and mentioned that a large amount of stuff will hit at the end of the month. Nations said he prefers Friday for CRSA to response. Fuller suggested that CRSA send a proposal by Friday 4-16-21. Wheadon agreed that she could provide something by Friday.

**Report and Updates**

1. **Discussion Items** - Executive Director Report
	1. Fundraising/Financing – Cash Flow Analysis. Spear provided a fundraising update and was confident that several gifts would be closing soon for the inside of the arena, conference space and another gift for a seating section and ticket area within the arena.

Spear then provided the Board with a detailed cash flow analysis. Spear said for purposes of the cash flow analysis he estimated 2021 revenues to be at 95% of 2019 levels. Included in the revenue projections was revenue coming from fundraising estimated to be $150k in 2021 and then $200k in future years. Spear believes that amount will even increase once the construction of the center starts. As for expenditures, Spear included the estimated annual operating expenses for the District and then added the City Fees for the project, and the Idaho Falls Power transformer cost which has been reduced to $57,954. Spear also included amounts for the Owner’s Representative, Architectural and Engineering Fees (A&E) pre-opening services costs, builders risk insurance and inspection fees. Spear said the builder’s risk insurance and inspection fees are only estimated at this time. Spear said the builders risk insurance was estimated to cost between $55K and $75K and he used $72K for the analysis. The inspection fees we estimated to be between $125K and $150K. Spear said he used $150K for the analysis.

Spear said he wasn’t sure if the District would need to deposit its $11M construction account contribution up front or if the District could allocate monthly through the construction period. For purposes of the analysis, Spear allocated $10.5M over an 18-month period. Spear used $10.5M instead of $11M because the total GMP was $50.7M and IFAD shouldn’t have to contribute $11M. At the $10.5M figure, this left IFAD with an $800K construction contingency. This combined with the $650K contingency in the GMP gives IFAD $1.45M in project contingency.

For 2022, Spear estimated revenues at 95% of what the Hunden study forecasted. Fundraising was estimated at $200k per year and would remain at $200k per year for the next 20 years. 2022 IFAD operational costs were unchanged until November of 2022 when rent and utility costs would be eliminated because IFAD would be using the Mountain America Center for its office space. Spear said in 2022 costs for A&E services, Owner’s Representative, Pre-opening services costs, Builder’s Risk Insurance and Testing and Inspections would last through October of 2022. Spear said starting in January there will be $10K per month allocated for an equipment lease. Also, in November of 2022 the first debt service payment will be made.

For 2023 and 2024, Spear estimated revenues to be 100% of the Hunden base study projections with fundraising revenues remaining at $200k. Spear estimated ongoing operational expenses would level off at $200K per year. This does not include the debt service payments that will be due every May and November.

Spear said the if he used the pessimistic Hunden projections, the project would still cash flow. Spear said for the years 2025-2028 he summarized the revenues and expenditures and did not have detail for those years.

Vucovich asked if the $150K in 2021 was a sure thing. Spear said it was and is part of the $500K Teton Auto Group term sheet.

* 1. State Tax Commission Reports – Spear said he is awaiting the detail for February
	2. Guaranteed Maximum Price Update - Mike Clements stated they are working on the rebidding packages.
	3. Action Items
		1. Schedule a Special Board Meeting for 4-20-19
1. **Discussion Item** - Legal Report

 C**alendar and Announcements**

1. Upcoming IFAD Meeting – **Next Meeting on April 27, 2021.** The Board decided to hold a special meeting on April 20, 2021 to consider an authorization resolution for approving and authorizing the execution of a primary lease, annual appropriation lease, annual appropriation trust indenture, certificate purchase contract, and other financial documents. The Board will also revisit the CRSA responsibilities for handling the construction administration duties.
2. **Discussion Item** - Announcements and Minor Questions
3. **Discussion Item** - Agenda Items for April 27, 2021 meeting. Discussed in A. above.

Adjourned 8:45a