

**Board of Directors Business Meeting**

**Tuesday, April 26, 2022, 7:00 a.m.**

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

[**https://us06web.zoom.us/j/81688939870**](https://us06web.zoom.us/j/81688939870)

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

**Participants:** Terri Gazdik, Rob Spear, Bob Nitschke, Steve Vucovich, Mike Carpenter, Ron Warnecke (via Zoom), Mike Clements, Erik Hudson, Mark Fuller, Kevin Greene (via Zoom), Kevin Bruder (via Zoom), Bryan Laske, Chad Hammond (via Zoom), Blake Davis

**Agenda**

1. **Action Item** - Call to Order 7:03 AM
2. **Action Item** – Accept Agenda Carpenter moved to accept the agenda. Vucovich seconded. Motion passed.
3. **Action Item** - Accept the Consent Agenda
   1. Meeting Minutes – 4-12-22
   2. Review of Payables/Financials- A payables list of $74,717.62 was reviewed and approved. Nitschke moved to accept the consent agenda. Warnecke seconded. Motion approved.
4. **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 from the public.
5. **Discussion Item –**Receive a construction schedule update from Mike Clements of Bateman Hall and Ken Wheadon of CRSA. Clements provided an update and said the windy weather is having an impact on the project, especially the roofer. Clements said because the facility is not dried in, this impacts the interior concrete pours that need to take place. You don’t want water dripping on the freshly poured slabs. Clements said siding is being completed on the upper walls and that all the precast has been completed. Knife River has rough graded the interior bowl in preparation for the ice rink pour. Ice Builders is coming June 6 to complete the preliminary work.

Clements said it is critical the trades (mechanical, electrical, fire sprinkler, painter) get into the bowl within the next six weeks to complete as much work as possible before Ice Builders start. Acoustical panel work, touch up painting and railings for the rigging system can take place after the rink is poured. Clements said the ice rink pour is scheduled for July 8th or July 22nd, 2022, with July 8th the preferred date.

Clements said finishings for the back of house are progressing and that the first pour on the first floor is happening today. That will allow the bathrooms and concessions to start being poured. Clements said he is hopeful to have 2 to 4 of those areas poured so the mason can start work.

Second floor framing should be complete soon followed by drywall installation. Preparation for exterior (sidewalks) concrete has started. The exterior of the brick is being cleaned but Clements thought something additional will need to be done on the concrete portion to address the effervescence.

Phase II and Phase III of the parking lots will start in May in order to be complete by September.

Hudson asked about the type of railing that will be placed when the lower telescopic seats are retracted to accommodate bull riding and rodeo. Clements said those will be removable.

Clements was asked to address the accident that occurred last week. Clements said a person was caught between the outrigger on the crane and a trailer and was transported to the hospital. Fortunately, the person was not seriously hurt. Carpenter asked about an OSHA review and Clements said one has been completed and noted that because the injured person was released that day it is not reportable. Nitschke asked what was identified as the root cause. Clements said he has not reviewed the final report but attributed the accident to unawareness. Nitschke asked about having extra monitors at the site and stated an incident like this should require a vigorous review. Clements responded that a monitor was onsite and said training is required when incidents occur. Currently over 100 workers are at the site on a daily basis and said that OSHA and both Hogan and Bateman Hall’s safety people are on site often and have not identified many issues. Gazdik asked if training has been done. Clements and Davis said training has been completed.

She then asked Wheadon to comment on any information on the construction schedule that he wanted to share. Wheadon said he just continues to support Clements and his crew.

1. **Action Item –**Approve FF&E Financing Contract from Hogan and Associates. Spear provided the Board with an overview of the process including the updated contract that was received this morning. Spear then briefed the Board on the tax-exempt nature of the transaction. Spear said the original contract from Hogan required a tax opinion. Spear said that Gilmore Bell wanted up to 4 weeks to provide this. Spear indicated that this made no sense because this analysis was completed when the Board entered into the construction financing agreements. In conversations with Davis, Hogan agreed to remove the requirement of a tax opinion and provided new language.

Spear reminded the Board that many conversations were held regarding the management agreement with Centennial and the private business use (PBU) analysis. Spear said he reviewed the private business use spreadsheet that allocated PBU by square footage and noticed that all locker space, approximately 7,000 sq. ft. was assigned as bad space or PBU. Spear said all that space should be designated as good mixed-use space.

Spear then reviewed the details of IRS Revenue Procedure 2017-13. This revenue procedure provides safe harbor conditions under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds. Focusing on Section 5. Safe Harbor conditions under which management contracts do not result in private business use. Spear reviewed the following provisions that must be met to ensure the management contract does not trigger private business use:

* No net profits arrangements. The contract must not provide to the service provider a share of net profits from the operation of the managed property. Spear said the management agreement only provides a fee which is allowable and there is no mention of net profits.
* No bearing of net losses of the managed property. The contract must not, in substance, impose upon the service provider (Centennial) the burden of bearing any share of net losses from the operation of the managed property. Spear stated IFAD is solely responsible for any losses.
* Term of the contract and revisions. The term of the contract, including all renewal options must not be greater than the lesser of 30 years or 80 percent of the weighted average reasonably expected economic life of the managed property. Spear said the useful life has been estimated at 33 years.
* Control over use of the managed property. The qualified user (IFAD) must exercise a significant degree of control over the use of the managed property. This control requirement is met if the contract requires the qualified user to approve the annual budget of the managed property, capital expenditures with respect to the managed property, each disposition of property that is part of the managed property, rates charged for the use of the managed property, and the general nature and type of use of the managed property (for example, the type of services). Spear suggested IFAD approve the rates Centennial will charge for the MAC and document control oversight in meeting minutes.
* Risk of loss of the managed property. The qualified user must bear the risk of loss upon damage or destruction of the managed property. IFAD is responsible.
* No inconsistent tax position. The service provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the qualified user with respect to the managed property. Centennial is not entitled to any tax positions like depreciation, etc.
* No circumstances substantially limiting exercise of rights. In general the service provider must not have any role or relationship with the qualified user that, in effect, substantially limits the qualified user’s ability to exercise its rights under the contract. For example, a Centennial employee could not be an IFAD Board member.
* Functionally related and subordinate use. A service provider’s use of a project that is functionally related and subordinate to performance of its services under a management contract for managed property that meets the conditions of this section 5 does not result in private business use of that project. Spear said the service provider is responsible for the supplying the hockey team and concessionaire.

Spear concluded that it is not worth the expense to seek a tax opinion given how the current management contract meets all the provisions of Safe Harbor conditions under which management contracts do not result in private business use. Spear said the operation of this facility is exactly how the Maverik Center in West Valley Utah operates and asked Bruder to comment. Bruder said all of this was discussed with Gilmore Bell one year ago and that Gilmore Bell was provided all the contracts for review to ensure the safe harbor provisions were met. Bruder said extensive time and effort was spent on the square footage requirement and the conclusion was that that the space met the PBU requirements. Bruder said other language exists in the management agreement that requires compliance. Bruder added the City of West Valley has continued to use tax exempt financing for equipment purchases and there have not been any issues over the last 19 years.

Gazdik asked if Gilmore Bell is requesting to analyze this FF&E transaction as a separate transaction. Spear said that was the case and did not see the need to spend four weeks analyzing a $4.6M transaction when all of the safe harbor provisions are met. Nitschke asked Spear what the consequences would be if for some reason he was incorrect. Spear referred to the new contract language that states, “Should all or part of the payments hereunder be deemed by the federal government not to be exempt from income taxation (“non-exempt amounts”), Lessee agrees that it will pay to Lessor additional sums hereunder sufficient to adjust the interest to be paid to an amount equivalent to the income contemplated hereunder as a tax-exempt transaction on any such non-exempt amounts to equal six and 4/10ths percent (6.4%) per annum.” Nitschke asked what the financial impact could be and whether IFAD could cover the additional costs. Spear said this could result in approximately $50K per year in additional interest expense and showed the Board the potential impact. Spear said without adjusting TRT revenue estimates above the 2% annual increase the Board still gets to the period in which it would be eligible for refinancing within 5 to 7 years.

Nitschke stated that he would prefer an analysis be performed unless there were extenuating circumstances. Spear disagreed because although this is a separate transaction, Gilmore Bell already reviewed the PBU analysis and that if the Board was going to fund anything, it should fund redoing the PBU analysis because of the locker room space. Spear reminded the Board that Government Capital was not requiring a tax opinion. Spear said it was important to take action today because of the 4-29-22 closing deadline.

Gazdik said it has only been about four weeks since negotiations began with Hogan and there hasn’t been a lot of lead time to have an analysis done. Gazdik said she is grateful that Hogan has agreed to provide IFAD options. Nitschke said he is trying to understand why IFAD always seems to get painted into a corner. Gazdik said Board members have participated in all the meetings discussing FF&E and should understand the process. It isn’t that the Board has been painted into a corner, the Hogan proposal is a great option for IFAD. Gazdik said we can abandon all proposals, but we can’t wait. Vucovich asked that if the tax-exempt nature of the transaction was questioned couldn’t the PBU study be revisited. Gazdik said absolutely it could. Gazdik said the PBU calculations are based on something that doesn’t exist yet and we will have great opportunity to review the actual use of the facility once it is open. Gazdik stated we can make the operations happen to IFAD’s benefit. Nitschke recommended that be done.

Spear also said in the original PBU analysis hockey usage estimated hockey usage at 312 hours per year. Spear said he conservatively estimated public use at six hours per day which greatly increases the public use calculation.

Fuller said as he understands this, in the worse case scenario, IFAD would need to pay a 6.4% interest rate on part of the transaction and in a year that could end up being a favorable interest rate. Vucovich stated that IFAD could pay Gilmore Bell for an opinion, but that opinion is not guaranteed. Gazdik agreed.

Spear said that the other major change was the insurance clause that will be amended to include what ICRMP has suggested.

Spear said he recommends the Board approve the Annual Appropriation Equipment Lease-Purchase Agreement contingent upon approval from Fuller and Stephanie Bonney and with the updated insurance language included. Spear suggested the Board allow the Chair to enter into any agreements relating to the financing of this project. Nitschke asked if this work can be completed in two days. Spear thought it can be, but it is dependent on the attorneys completing their work. Gazdik asked Warnecke to express his thoughts. Warnecke stated that based on the information that Spear presented, he is comfortable approving the Annual Appropriation Equipment Lease-Purchase Agreement contingent upon approval from the various attorneys and the updated insurance language. Gazdik asked if Warnecke wanted to put that into a motion. Warnecke agreed and Vucovich seconded. A roll call vote was taken; Warnecke, yes, Carpenter, yes, Vucovich, yes, Nitschke, yes, Gazdik, yes. Motion passed.

1. **Action Item –** Approve Poll Sound Contract for Audio Visual. Spear described the two scopes work (SOW) and the overall contract. The first SOW was for cabling and plates for $153,101.74 and the second SOW was for $722,376.15 for the audio system. These amounts are included in the Master Solutions Agreement. Spear said these amounts are included in the FF&E list. Fuller stated that these contracts were modeled after the Revel TV contracts. Fuller said he still has concerns with the one-year warranty but understands that is standard in the industry. Gazdik asked about whether there is a service contract associated with these contracts. Spear said there is a software licensing agreement that will be paid for out of operations.

Nitschke asked if these contracts meet the design specifications. Spear said these contracts are a design build because the process was started from scratch because no one bid on the original specifications. Consultation with the AV consultant (WJWH), Nations Group and CRSA resulted in a new bid package with updated specifications. Spear said these contracts meet the revised specifications.

Nitschke asked about the statement that a because of the lower price, Poll will not be providing as heavy of a documentation process and won’t be burdened by with submittals and other time-consuming documentation required by consultants. Fuller said this is because it is an as-built process. Nitschke asked who provides the mark-ups on the as-builts. Laske said those are already being done based on the walk through conducted by Poll Sound.

Vucovich pointed out it appears the contracts were being passed through from Revel. Fuller said the cover sheets were not updated but did not change the internal wording of the documents.

Hudson said he toured the facility with Voltstar Productions (an Idaho Falls production company that supplies lighting and audio equipment to entertainment venues), and they were very impressed with the audio selection. Hammond said Voltstar is well respected and if they approve of the audio selection that is a good thing.

Nitschke stated that it appears Poll Sound removed a lot of things that were in the original bid. For example, the quote does not include JBL Studio monitors, etc. Nitschke asked who has gone through the proposal to make sure we are comfortable with those removals. Hudson said we had calls with Nations, Poll Sound and WJHW to discuss. Plus he toured the facility with Poll Sound and made sure the system being implemented was going to meet the center’s needs. Hudson described how the system would allow multiple portable microphone ports. In addition the AV equipment will be mobile. Spear responded that calls between CRSA, WJHW, Nations and Poll Sound to review and discuss the recommendations of Poll Sound were conducted. Spear also mentioned that some of the equipment that Poll was not supplying is on the video side and being provided by Daktronics. Fuller said he noticed the things that were removed but stated these are things that could be added back later just like the additional rigging. Nitschke just wanted assurance that Poll Sound wasn’t unilaterally making the decisions for removing items. Hudson said this system is designed to supplement the audio that entertainers bring with them and not to provide the only audio. Hudson said he recently was involved in the installation of audio in another facility and this system is comparable.

Carpenter moved to approve the Poll Sound contract. Vucovich seconded. Motion passed.

1. **Action Item –** Approve Centennial Management Pre-Opening Services Budget. Spear said the budget to approve is $532,520 and is within the amount that IFAD has budgeted. Hudson said the budget is adequate to accomplish what is needed within the next six months. Spear referred to a spreadsheet that he is using to track the pre-opening services. Nitschke asked why the October number in staff declined by $500. Bruder explained that was due to the use of consultant in lieu of staff time.

Nitschke moved to accept the pre-opening services budget. Warnecke seconded. Motion passed.

1. **Action Item –** Approve trade agreement with Silver Star for Wi-Fi installation in the arena. Spear said the trade agreement is for Silver Star to provide a Public WIFI Overlay Infrastructure which includes the Equipment & Network Installation for guest access in all public areas valued at $98,866.20. In return, Spear said IFAD will provide advertising on video boards, splash page for guests when accessing the internet, recognition on the donor wall, tickets to some events (incudes 4 seats for hockey), 2 reserved parking spaces and use of the facility for promotions.

Vucovich moved to accept the Silver Star contract. Carpenter seconded. Motion passed.

**Report and Updates**

1. **Discussion Item –** Update from Erik Hudson on Mountain America Center Operations and discuss communications plan. Hudson provided a draft communications plan to the Board. Discussion revolved around how confidential information would be communicated to the Board and then focused on how potential events that may not meet community standards would be communicated.

Gazdik referenced a clause in the management contract that states IFAD shall establish a community events policy in consultation with the Manager of the event center. So this is really a partnership between Centennial and IFAD and there needs to be discussion about what this community events policy is going to look like. This will provide guidance to Hudson and his team as to how they decide what events will come to the event center. Bruder said sometimes a show will need an answer in 24 hours. This would require us to expedite and talk through the policies and procedures of what needs to happen. This will continue to evolve but by no means are we going to intentionally violate the community standard. Hudson said he provides weekly updates to Spear that will include details of planned events in order to establish transparency. The goal of the communication plan is to be a living document.

Nitschke responded that there are other things that he would like to see in the plan because this plan is very basic and should have more detail. Nitschke said he would review and provide comments back.

Hudson then briefed the Board on the rate card that he drafted. Hudson said the rate card is established with every user group in mind and he used metrics from other community events centers, event centers that he has worked for in the past and used data from the Maverick Center.

Hudson said he has broken the rate card into one for the event center and one for the conference space. Hudson said he used a price per seat analysis and found the rates were right in the middle of price per seat rates of other facilities. Hudson said he consulted with Arena Alliance and they concluded that the rates were not too high and not too low. Nitschke asked for clarification on how Hudson arrived at the rates. Hudson said he looked at four or five different arenas that have similar capacities and broke it into a price per seat model. Nitschke said it was no surprise that the rates ended up looking like national standards. Nitschke said if Hudson used the region to develop the rates and then compared the rates to the region it is not a surprise you are in the same ballpark. Nitschke thought there would be another way to arrive at how much you want to charge and used parking as an example where you charge $1 per space or seating where you charge $2 per seat. Nitschke asked what is your cost? What is the hourly cost for that building? Hudson responded that the other facilities that he has worked at establish their rate cards exactly like he is showing and is industry practice.

Vucovich asked what the load in rate was and Hudson said it is the charge to set-up for an event the day before the event.

Hudson described the half house rate. This is possible because this facility will accommodate setting up half the house by curtaining it off. This allows us to cast a broader net for the type and size of events we can host on the arena floor.

Hudson then described the rate for the conference center which can be broken down into five different rooms or multiple setups. For this analysis he did not use the seating capacity as a metric and broke it down by price per square foot of usage. Nitschke again asked what it costs to support the rates and it isn’t helpful to just compare rates to what someone else charges. Nitschke said he is not comfortable with the methodology used by Hudson to establish the rates.

Bruder said the rate card is another one of those living breathing documents and will be adjusted over time. In response to Nitschke’s questions a lot of the costs are passed on and itemized to the show producer or promoter and that will be include in the rental rate. The rental rates are pretty consistent to what was initially in Centennial’s pro forma that was presented to the board. So the costs will be itemized in many cases and Hudson will show those expenses later in the document. Hudson said before an event is happens, there is a planning process that takes place with the event planner and expenses are approved prior to the actual event.

Spear said since this is the Board’s first opportunity to see this rate card, he suggested Hudson send it to the Board and then it could be thoroughly discussed at the next meeting.

Hudson then briefly reviewed some of the preopening assignments and the tasks that have been completed.

1. **Discussion Item** - Executive Director Report
   1. Fundraising/Cash Flow Update – Spear said that Bonham Wills is presenting a proposal this week for the mezzanine naming.
   2. State Tax Commission Reports – No update
   3. Construction Update/Change Orders – Covered in agenda item V.
   4. Action Items
      1. Work on completing FF&E closing
2. **Discussion Item** - Legal Report. Fuller had nothing additional to report
3. **Tour Event Center –** The Board conducted a tour of the event center.

C**alendar and Announcements**

1. Upcoming IFAD Meeting – **Next Meeting on May 10, 2022**
2. **Discussion Item** - Announcements and Minor Questions
3. **Discussion Item** - Agenda Items for May 10, 2022, meeting

Meeting adjourned at 9:25 AM.