

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
July 22, 2010

Meeting Began At: 3:05 P.M.

Meeting Ended At: 3:40 P.M.

Members Present: Chris Beutler, Tim Clare, Jayne Snyder

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

Chair Snyder opened the meeting and introduced herself, Mayor Chris Beutler and Regent Tim Clare.

The open meetings law is in effect and is posted in the back of the room.

Item 2 – Approval of the Minutes of the JPA Meeting July 8, 2010

Snyder asked for any corrections or changes to the minutes from the JPA meeting on July 8, 2010. Hearing none, Beutler motioned for approval of the minutes. Clare seconded the motion. The motion passed 3-0.

Item 3 – Public Comment and Time Limit Notification

Snyder stated that the Board will allow public comments related to the specific items listed on today's agenda. Anyone in attendance wishing to speak should come forward to the microphone and will be given a total of five minutes to speak.

Item 4 – Bond Resolution/Preliminary Official Statement/Facilities Agreement

Lauren Wismer and Scott Keene came forward to discuss the Bond Resolution for the issuance of the first series of bonds by the JPA. The authorization before the Board is not to exceed \$100 million with an interest rate not to exceed 5.5% for a term not to exceed 35 years. Those are the general parameters for financing that are frequently used by the City of Lincoln and University of Nebraska. It is anticipated that the bonds will be sold in a public sale. The plan is to go to market in the middle of August and close at end of August or early September.

Keene explained to the Board that the market for Build America bonds has been choppy over the last month. He has seen a bit of dislocation in the market place but still feels there is a

significant amount of savings that can be achieved through Build America bond financing. Current interest rates have Build America financing with net costs of 4.5% to 4.6%. The Bond Resolution allows for a rate not to exceed 5.5%, so there is still a fair amount of cushion available. Build America financing provides for the bonds to be issued on a taxable basis with the federal government paying 35% of the semiannual interest payments back to the issuer. Keene and Wismer are currently working with the rating agencies and will know more about the ratings in early August.

Clare asked Keene to explain the pros and cons of Build America bonds and why those are preferable over tax exempt bonds. Keene stated that the interest rate is a big advantage of the Build America bonds. Currently they estimate tax exempt financing would be in the 4.9% to 5.0% range. Build America bonds tend to have a greater advantage the longer the maturity period which is beneficial with a 35 year financing. The down side to this financing is the required filing of an 8038-CP that provides for the repayment of the subsidies back to the issuer. The guidelines state that it must be filed no less than 45 days and no more than 90 days in advance of an interest payment date. There is also some additional scrutiny with this financing as the IRS has indicated that they will be looking at these carefully in relation to pricing and how the proceeds are used. There could be some additional administrative costs if the IRS comes in to look at the financing.

Clare inquired about what would happen if we did not comply with the IRS guidelines. Wismer acknowledged that the federal government could discontinue the subsidy. If that should happen the JPA would have the option, if we are in the period in which the bonds are callable, to roll into tax exempt financing. However, that would be a worst case scenario. The government could do a number of things ranging from nothing to removal of the subsidy.

Snyder asked Keene to explain to the public what happens when the bonds go to market and how they can be purchased. Keene explained that the City of Lincoln usually sells their new money issues through a competitive sales process in which a public auction is held. Bid specifications will be provided to all of the securities firms in the country. Those firms will be communicating with potential buyers the week prior to the sale. Hopefully on the day of the sale we will receive a number of bids and the bonds will be awarded to the lowest responsible bidder. The winning firm will then turn around and immediately begin the process of selling the bonds. Until the winning bidder is known it is hard to say how interested parties can purchase the bonds. Keene does plan to bring the second series of bonds, which may be Recovery Zone Economic Development bonds, to market through a negotiated sale. This will give local firms a chance to market the bonds and make an effort to sell the bonds locally to interested investors.

Clare inquired if Keene felt that the market would react favorably to the sale of these bonds with the market being choppy over the past few months. Keene noted that what he has seen in the market has been limited to the Build America financing due to the additional interest by the IRS and some negative press in regards to how the IRS will be looking at these financings. He is still seeing some wide spreads but much more comfort from the buyers. He will continue to monitor the situation and would look at switching to tax exempt financing if there is a problem.

Snyder opened the floor for public comments on this item. No one came forward.

Beutler made a motion to approve the Bond Resolution Preliminary Official Statement and Facilities Agreement. Clare seconded the motion. Motion approved 3-0.

Item 5 – JPA Resolution for Assignment and Assumption Agreement

Rick Peo informed the Board that this resolution is to accept the assignment and assumption of various contracts that the City has entered into for the West Haymarket project. A couple of the items have been approved for reimbursement at previous meetings. This resolution is broader and includes not only the obligation of payment but the JPA would assume the responsibilities of carrying out the contract obligations. It has been understood that when the Board was created, it would be the owner and operator of the facilities; therefore it would be the party entering into these contracts. If the resolution is adopted, this agreement should be signed by Chair Snyder as well as a separate assignment assumption form that UP has requested we utilize.

Clare asked if the Board would have the opportunity to review the agreements as he had not seen some of them previously. Dan Marvin indicated that he would get the Board members copies of the agreements. Marvin then reviewed the agreements listed in Exhibit A with the Board.

1. Reimbursement of the pledge that 2015 made to the City to get the project going. They pledged up to \$1.6 million to do some of the architectural work and planning documents. The understanding was that if the project were to move forward there would be a reimbursement of those funds back to 2015 and if the project didn't get voter approval there would be no reimbursement. Subsequently 2015 has made a pledge to raise \$20 million to contribute towards this project. Snyder added that this agreement has been public previously as the City Council approved this resolution on January 11, 2010.
2. Reimbursement to Burlington Northern for the design of their track. Burlington indicated that if we wanted to start construction in 2010 we need to help get the track design completed. The estimate for that work was \$100,000 and that money will come off the purchase price. The City also agreed to reimburse BNSF \$25,000 for outside counsel as we were fast tracking the legal agreement.
3. Items 3, 4, 9 and 10 are somewhat related as they are Right of Entry and Access Agreements for properties independent of Burlington Northern. This agreement is to do environmental testing on property owned by JayLynn LLC.
4. Right of Entry Agreement with JayLynn LLC in order to secure an area in which the University could send out anthropologists and archeologists to conserve historical items.
5. Service Agreement for \$14,157 with the University to bring in a team to conduct historical testing at 660 N Street.
6. Relocation Agreement with Qwest Communications to reimburse their costs to relocate their conduit system. The reimbursement request came before the Board and was approved on June 10, 2010.
7. Purchase and Sale Agreement with Union Pacific. This agreement consists of constructing new track in what is known as the Y area and the cost of purchasing land for Union Pacific. The cost of the track relocation is an estimate, but the design has been completed. That work will hopefully begin this fall.

8. Reimbursement Agreement with MCI to relocate their conduit system. The reimbursement request came before the Board and was approved on June 25, 2010.
9. Right of Entry Agreement with Magdalen Franssen in order to do environmental testing.
10. Right of Entry Agreement with Noohznik LP in order to do environmental testing.
11. Engineering Agreement with Speece Lewis to perform survey work on the Charleston Bridge. Items 11 and 12 were discussed at the last Board meeting and are within the JPA boundaries.
12. Engineering Agreement with JEO to perform survey work at M and N Streets.
13. Service Agreement with Benesh to have a team come in and trench to look for artifacts or other historic elements in the area near Salt Creek. This is something that was needed in order to move railroad tracks. They did not find anything but it was an effort to ensure we conserved any historic items that might have been there.
14. Consultant Agreement with Benesh for work as our lead agency for environmental remediation.

Peo noted that all of these contracts are public record and are on file with the City Clerk's Office for inspection by anyone in the public. Agreements approved by ordinance or resolution by the City Council are available on the City website. Those approved by Executive Order are not on the website but anyone can come and ask to see the document. Snyder added that the JPA was officially formed on June 10, 2010. If these agreements had not been entered into earlier this year, the project would not be moving at the speed it is.

Snyder then opened the floor for public comment. Coby Mach came forward and suggested that the JPA put the agenda online with clickable links to documents as the City Council and County Board do. As Regent Clare has not had an opportunity to review the documents, it would be appropriate to delay a vote to the next meeting. Snyder observed that the JPA currently has no stationary and no webpage since it is only five weeks old, however, there is great interest to create a website and get all of the documents online. Due to the speed that the Board is trying to move at, some of the documents were still being proofed and edited over the weekend.

Snyder inquired if delaying the vote would cause any problems. Herz observed that the Board does not meet again for four weeks and although a delay is not optimal, it wouldn't create a crisis. Clare indicated that the only agreement he has an issue with is the purchase agreement with UP. The agreement says the JPA is agreeing to be bound by and to perform and observe fully and faithfully all of the covenants, stipulations and conditions outlined in the purchase agreement. He did not feel comfortable agreeing to that without knowing what all of the conditions are.

Marvin suggested amending the Resolution to exclude item 7 on Exhibit A. He will make sure Clare gets a copy of the UP Purchase Agreement and will bring forward a new Resolution for that agreement at the next Board meeting.

Beutler moved to approve the Resolution for Assignment and Assumption Agreements excluding lines 11 through 18 and item 7 on Exhibit A. Clare seconded the motion. Motion approved 3-0

Item 6 – Set Next Meeting Date: Friday August 13, 2010 3:00 P.M.

The next JPA Board meeting is scheduled for August 13, 2010 at 3:00 P.M.

Item 12 – Motion to Adjourn

Clare motioned to adjourn. Beutler seconded the motion. Meeting adjourned at 3:40.

Prepared by: Melissa Ramos-Lammli, Engineering Services