

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
April 30, 2020

Meeting Began At: 2:39 P.M.

Meeting Ended At: 3:14 P.M.

Members Present: Leirion Gaylor Baird present in Council Chambers
Tim Clare present via zoom videoconference at 6712 Hickory Crest Circle, Lincoln, Nebraska
Tammy Ward present via zoom videoconference at 641 N.W. 20th Street, Lincoln, Nebraska

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

Gaylor Baird advised that during this time of the COVID-19 pandemic and in an effort to provide social distancing and to follow the recommendations to stay home as much as possible, fellow JPA Board members Tim Clare, University Nebraska Regent, and Tammy Ward, Lincoln City Council member, are participating through remote locations. Legal counsel for the JPA Board has advised the Board that state law allows for bodies formed under the Joint Public Agency Act to conduct meetings via videoconferencing as long as reasonable advance publicized notice is given of the time and place of the meeting. The Board has met all of the public meeting requirements for the meeting, including providing opportunity for the public to participate virtually as well. This public meeting is subject to the open meetings act posted at the entrance to the room.

Item 2 - Public Comment and Time Limit Notification

Gaylor Baird advised individuals from the public are given a total of five minutes for public comment on specific items listed on today's agenda and those testifying should identify themselves for the record.

Item 3 – Approval of the minutes from the JPA meeting held February 27, 2020

Clare moved approval of the minutes as presented. Ward seconded the motion. Motion carried 3-0.

Item 4 - Approval of February and March 2020 Payment Registers and Review of February and March 2020 Expenditure Reports (Brandon Kauffman)

Brandon Kauffman, JPA Treasurer, stated in reviewing the February 2020 payment register the operating budget had \$442,008.21 in operating expenditures with the major payments consisting of \$76,500.00 for the Olsson Streetscape project; \$26,046.76 for arena repair and maintenance; \$98,621.61 for parking management costs; DEC payment of \$224,677.50 for heating and cooling of which approximately 69% is billed to West Haymarket private customers and the JPA pays about \$31,000.00 or approximately 31%; and PC Sports payment for \$4,606.50 for project management.

Kauffman stated the financial reports for the JPA for the period ending February 29, 2020 reflect revenues of \$17.8 million and expenditures of \$21.9 million, for a deficit of \$4.1 million and an ending balance of \$40.5 million.

Kauffman stated the Pinnacle Bank Arena Income Statement for the five months ending January 31, 2020 shows total revenues for Pinnacle Bank Arena of \$1,823,997.00 and total expenditures of \$2,238,140.00 for a deficit of \$414,143.00, and an ending balance of \$468,403.00 in retained earnings.

In reviewing the March 2020 payment register, the operating budget had \$789,109.99 in operating expenditures with the major payments consisting of the Second Quarter City staff reimbursement for \$100,377.75; \$25,069.65 for arena repair and maintenance; Third Quarter Sponsorship payment from IMG of \$281,540.50; Third Quarter Operating Increment of \$150,000.00; DEC payment of \$219,270.00 for heating and cooling of which approximately \$151,000.00 is billed to West Haymarket private customers and the JPA pays about \$68,000.00; and PC Sports payment of \$4,735.00 for project management.

Kauffman stated the financial reports for the JPA for the period ending March 31, 2020 reflect revenues of \$21.4 million and expenditures of \$22.9 million, for a deficit of \$1.5 million, and an ending balance of \$43.2 million.

Jane Kinsey, Watchdogs of Lincoln Government, appeared virtually and asked what the \$500,000 Transfer of Funds, page 2 of the operating expenditure report, was for and where it was coming from. Kauffman explained this is a \$500,000 payment budgeted as a transfer to the park foundation regarding the closing costs for Block 5 and the development of that land. The payment has not been made yet but is budgeted for. The payment will likely be paid and reflected in the April payment register. Kinsey asked if the ancillary income on the PBA Income Statement is carrying the arena. Tom, Lorenz, General Manager of Pinnacle Bank Arena, explained that the ancillary arena income is income from food and beverage sales, sale of merchandise, ticketing revenue, and parking revenue. He further explained that the arena has multiple revenue sources.

Clare commented that arena events are down so income is down and asked where we sit financially relative to what was budgeted for at this point in time. Kauffman explained as of March 31, occupation taxes were up 5.83% and remain ahead of the original projections by 27% corresponding with the year 2032. Kauffman explained for the upcoming revenues the occupation taxes will be impacted and there most likely will be significant losses to parking revenues for the three garages, premium seat revenues will eventually decline with upcoming renewals, interest earnings based off of the treasury rates will fall dramatically, and no events will occur at Pinnacle Bank Arena for an extended period of time. Clare asked if it is too early to tell what the overall financial impact is for April. Kauffman explained he does not yet have all of April's numbers but as of right now the total overall revenues compared to the prior year for April were down 36%, food was down 32%, hotels were down 59%, and car rentals were down 2%. He explained that of the occupation taxes for food, about \$75,000 was deferred or about 9% of the total. Some of the restaurants deferred but the majority of them continue to pay the occupation taxes that they collect. April and May will most likely be the toughest months and depending on restrictions, future impacts are tough to estimate. Clare commented that the Board has a duty to make sure it is being transparent and that is especially important during these tough

economic times. There being no further discussion or public comment, Ward moved approval of the payment registers. Clare seconded the motion. Motion carried 3-0.

Item 5 – WH 20-14 Resolution to approve a Right of Entry Agreement between the West Haymarket JPA and the University of Nebraska to enter upon an abandoned railroad bridge to conduct load testing experiments. (Chris Connolly)

Chris Connolly, Chief Assistant City Attorney, explained this Resolution deals with a project that the University of Nebraska College of Engineering wants to do with an old railroad bridge that crosses Salt Creek just west of the ice rink. There are no tracks leading up to the bridge on either side, there is no vehicular traffic, and there are no pathways on either end of the bridge. The college would like to be able to modify a vehicle and put it on the bridge to do various load testing experiments to determine what kind of weight this bridge can hold to further their educational goals. The college has asked for a Right of Entry to go on to the bridge and conduct these experiments. Connolly stated there were discussions about what will happen if the bridge is damaged or destroyed as a result of doing these experiments and it was determined that the college will take responsibility for this. If something were to happen and there was major damage, the college would just pay us for the value of the bridge instead of restoring it. If there is minor damage, they will probably just pay for it. There is not a great risk to the public and the college would like to get this done soon. The agreement calls for them to have it done by June 1, however, if they don't get it done by then they can have an extra thirty days. Clare asked if the indemnification issue and keeping the bridge blocked off to keep trespassers off have been addressed. Connolly stated this is not specifically addressed in this agreement and after this testing is done, proposals will be brought to the Board to make the bridge safe and to keep pedestrian traffic off the bridge. He explained there is no need to take the bridge down so if there is no damage to the bridge we may as well leave it up. Kinsey asked where this bridge is. Connolly explained the bridge is just west of the ice rink located on property owned by the JPA in the West Haymarket area. There are two bridges in this area, one is an active railroad bridge used by Union Pacific and the other bridge is north of the active railroad bridge west of the ice rink. Connolly explained the engineering students want to do load testing experiments and asked if they could use this bridge that is not being used for their experiments. Kinsey asked if this was an educational thing that the University wants to do. Connolly confirmed this to be correct and stated they will provide a copy of the report once it is completed. There being no further discussion or public comment, Clare moved approval of the resolution. Ward seconded the motion. Motion carried 3-0.

Item 6 - WH 20-15 Resolution denying claim of Heather Exon Eureka against the West Haymarket JPA for alleged injury incurred while attending an event at the Pinnacle Bank Arena on February 8, 2019. (Jeff Kirkpatrick)

Jeff Kirkpatrick, City Attorney, stated he believes this is the first claim that has come before the JPA Board. This claim was filed by a woman who was a patron at a concert at the arena. Her allegation is that while she was attending the event, she leaned back against a curtain and fell and injured herself. The City Law department has conducted an investigation, along with the Pinnacle Bank Arena, and we are recommending that this claim be denied. He explained that what could happen going forward is the claimant will have an opportunity to evaluate her legal options. One option could be to file a legal action against the JPA. Ward asked how a claim comes to the Board, did she have legal counsel, or send an email? Kirkpatrick explained there is an attorney involved who represents the claimant who filed claims with both the City, because it is a municipal auditorium, and now the JPA. The City Council has already denied this claim.

There being no further discussion or public comment, Ward moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 7 - Set Next Meeting Date

The next meeting date will be Friday, May 15, 2020 at 2:30 p.m. in the County-City Building, Council Chambers, First Floor.

Item 8 – Motion to Adjourn

Ward moved to adjourn. Motion seconded by Clare. The meeting adjourned at 3:14 p.m.

Prepared by: Kasey Simonson, City Law Department