

**WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)**  
**Special Board Meeting**  
**July 18, 2022**

Meeting Began At: 9:04 A.M.

Meeting Ended At: 9:37 A.M.

Members Present: Leirion Gaylor Baird and Tim Clare

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

Gaylor Baird advised that this is a public meeting subject to the open meetings act posted at the back of the room.

**Item 2 - Public Comment and Time Limit Notification.**

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

**Item 3 – WH 22-6 Resolution to approve Amendment No. 2 to the DAS Concession Agreement between the West Haymarket JPA and Concourse Communications Group, LLC for an extension of the agreement to provide DAS services at the Pinnacle Bank Arena for two additional five-year periods through July 1, 2034. (Chris Connolly)**

Chris Connolly, Law Department, explained that in 2013 as the arena was being completed there was a DAS or Distributed Antenna System that was installed by Boingo who is the current vendor. The agreement was for ten years, although it was modified in 2014, therefore expiring in 2024. Boingo approached the JPA and asked for an extension of the agreement for up to 10 years. The concern for Boingo is longevity. The JPA is looking for more carriers. There currently is only one carrier but Boingo has assured staff that they have another carrier lined up. This carrier requested that Boingo have an agreement with the JPA by the end of July 2022 in order for Boingo to enter into an agreement with AT&T, the other carrier. If they don't enter into this agreement, it will be a loss of revenue for the JPA or roughly \$3,000 a month. Essentially, this will be an upgrade to the current system. They will be installing 5G capabilities in the coming years. In terms of revenues, the JPA added a provision that requires them to pay an additional \$3,000 a month if they fail to line up another carrier. This will make up for the revenues we expect to receive with another carrier. Boingo stated they have a second carrier lined up, but this has not been firmed up. Then they would actually have all three of the carriers they were supposed to have before 2024. Other aspects of this agreement are if they fail to get the upgrades discussed the JPA can cancel before 2024. There is also the carrier deficiency payment as previously discussed totaling \$9,000 each quarter. Connolly stated he appreciated the Board's willingness to review this at a special meeting as opposed to a regular meeting as they felt it was important to complete this agreement with Boingo so that they can bring on the other carrier. This would provide the JPA with additional revenues and provide a better experience for the fans. Connolly further explained they looked at other possible vendors. They talked to a potential vender and were given a quote. The pricing in the quote was structured different than this one, but the total dollars to the JPA would be about the same. The problem in switching vendors is there would be a transition period between vendors. This means that

Boingo would have to come in and remove all of their equipment and the new vendor would have to then install all of their equipment. While there is some possibility of coordination on the project there is a risk that between the speed of equipment being torn out and other equipment being put in, there may be events where we don't have service and that is a big concern. The current system has worked well. Staff recommended approval of the agreement.

Clare stated that he has an issue with the twelve-year term and commented technology is going to substantially change, so locking ourselves into something for twelve years is quite a long time. Clare asked if the JPA has outs on this after five years. Connolly stated there is a termination provision that would allow the JPA to terminate the agreement. Clare asked if the JPA has the ability to say no during an option to renew. Gaylor Baird asked if the initial term of the agreement ends in 2024 and Connolly confirmed this to be correct. Gaylor Baird asked if at this time it would be our first evaluation point. Connolly agreed and stated then it could be reevaluated five years after that or the JPA could terminate for convenience at any time. However, doing this would create additional expenses for the JPA and one of the expenses would be lining up a new vendor and getting them ready to go. The JPA would have to pay undepreciated costs on the system, so it gets more expensive if the JPA were to terminate the agreement.

Gaylor Baird asked Connolly to explain more about the background of the number of carriers and what value the JPA has missed out on since we didn't get all the carriers we were expecting and if there are any penalties written into the agreement. Connolly stated the original agreement called for three carriers. They have only had one carrier so this was something they discussed. Boingo is working on getting three carriers. They have a second carrier lined up, but they need to get this agreement done by the end of July for that carrier to agree to come on line. The payment is not technically a penalty because if it's a penalty then we don't get to keep it. Therefore, it is called loss revenues which is effectively what this is. It is damages for them not getting the other carriers on board. Tom Lorenz, General Manager of the Pinnacle Bank Arena, stated that right now we are moving toward 5G technology. The carriers will want to see upgrades also so that is built in. It is always on the carrier side for them to put in the upgrades. Boingo will have to continue to keep upgrading so that they keep their carriers happy. The great part about this is that all of the installation costs are on their side. We simply make revenue off of it and it doesn't cost us anything to put up additional infrastructure. As we expand carriers, there will be more monthly revenue received. For the first nine years Verizon has been the main carrier for the system. He stated they have never had any complaints about anyone not being able to get service. Gaylor Baird asked Lorenz what the advantages and disadvantages are with having a lengthy agreement. Lorenz explained the current system initially was over a million dollars. If you give a much shorter time frame, then the carriers are much less likely to sign up because they won't be able to put in the new equipment for 5G. What will happen is the wiring will stay, new antennas will come in, separate buildings on site will have to be upgraded and if we only give them five years, we may lose AT&T and even Verizon possibly will be lost. We would have to start over. If there is a transition between vendors, we are talking about months without service. If this happens during basketball season, this would cause a problem as this is how people get back in as they use their phones to access their tickets. This is a logical way for a company to come in at no cost to us within a neutral DAS and expand their system.

Clare stated he doesn't like being pressured to make a decision within only 14-15 days and if we don't approve this, then we lose a potential carrier. He asked what is going to be different from

the past eight years and why are we now all the sudden, with 80% of the agreement done, coming in and saying we are going to get a new carrier this time and maybe a second additional carrier. Lorenz stated hopefully what you see different is nothing. Hopefully you continue to see great connectivity to make calls inside the arena. As the other two carriers expand within the area it is their interest to put additional dollars into this. It should be a seamless transition. Timing wise, there is now an aggressive representative that wants to bring other carriers on. The carriers are ready to move now, and staff doesn't want to lose this opportunity. Clare asked if what they are providing is best practices. If somebody can't get connectivity it impacts the Pinnacle Bank Arena. Clare asked if this is the best technology out there that we can hope to ever get. Lorenz explained they had another company come to the arena and take a look and do a walk through for their neutral DAS system they would provide. They will deal with the same issues, and they don't necessarily have ties with Verizon to start with. We need to have the key vendor in Lincoln for the system and we need to expand. Connolly commented the only difference is we would get additional revenues if we had this deal and AT&T comes on board. Lorenz commented we are not coming here asking you to spend money. We are asking you to expand the system to make more money.

Gaylor Baird asked for an explanation about the idea that switching is too hard because there is a risk. She further asked, what kind of risk are we talking about? If we don't approve this and we have to go get another carrier, wouldn't we just plan for a timeline that would work. Lorenz explained that if they don't approve this then we don't get AT&T. They will then just leave it with Verizon as the main carrier and hopefully we are able to pick up some other carrier. The difference you would see with this would be less revenue per month. If we had to switch to an entirely different company, then Boingo will run their agreement out to the end of their ten years and then they will take their equipment out and we would have to wait for another entirely different DAS vendor to come in and install a whole new system which includes a pretty extensive piece outside the building, new wiring, and it would be months of no coverage and months of no revenue. Gaylor Baird asked if it really would be or would you do the RFP and develop the agreement and have them begin installation the day after Boingo. Connolly stated we can do all of the procurement aspects ahead of time. Gaylor Baird asked if installation takes three months. Connolly stated that is what they are being told as there will be a transition period which is what they are concerned about. With the new system going in and the old system coming out at the same time, there will be times when both vendors will need to be in the same spaces. They are trying to avoid this as they didn't see that there was going to be large new revenues that were going to come in as a result of a different vendor coming in. With it going to be the same amount of dollars, it made sense to stay with what we have and avoid the issue of whether or not we would run into outages in a transitional period. The company that came in and took a look provided a quote. Their pricing was different in that we would get so much a month for the carriers, and they would give you so much per carrier up front. The money on the per month over ten years was more than the carrier up front type monies. This is a system that is already there, it works, it just needs an upgrade. The revenue over ten years was better.

Clare asked if they have spoke to the athletic department to see what they are doing and what the future holds for them with regard to WiFi. Lorenz stated they included him on a call a while back. WiFi is a different system than the DAS. The arena uses the Legacy system. The athletic department uses a separate system, and they are not able to use the infrastructure from the arena's system. The Legacy system is a standalone system and we are not able to coordinate with their system.

Clare asked if the Board has to approve this. Connolly explained that AT&T will not go through with their deal with Boingo if this agreement is not completed by July 31. Clare asked if they are guaranteeing that AT&T will be on this system. Connolly stated that is what staff is being told. He further explained that they have a deal with them that is contingent upon this agreement being completed as they do not want to commit with the agreement expiring in less than two years. Clare asked if this gets approved, when will we know that AT&T has signed the deal with Boingo? Clare commented that his concern is this agreement has gone on for a long period of time and they haven't fulfilled getting three carriers and now we are getting held over a barrel for two carriers. He further commented he is okay with moving forward but he wants to know when AT&T will commit and when will a third carrier come on so that they are in compliance with the agreement. He asked when we will have 5G to provide the total fan experience which is what the Board looks at in terms of clientele. Lorenz stated if this is approved, we will pass it along and then Boingo and AT&T will go into the design phase regarding expanding and upgrading the DAS. Boingo is talking to T-Mobile and hoping to bring them on also. The main idea here will be between Boingo, Verizon, and AT&T and upgrading to 5G. Boingo's agreement goes through July of 2024 so they would have the 5G installed prior to that. If we don't do this deal and we try to get someone new in, we won't have 5G until long after July of 2024. Lorenz commented that he didn't come in with the idea of holding the Board over a barrel. He felt this was great timing as they have another carrier ready to go and he appreciated the Board coming in today to discuss this. Clare commented that there are things going on over at the athletic department that we may want to look into and now we are potentially boxed in for twelve years. Lorenz stated that if we don't get AT&T, we still have an out. They don't have a guaranteed third carrier, but they are confident they can bring a third carrier on. Lorenz explained if they don't get a third carrier then we can get out. Connolly explained Boingo also has the option to get out if they don't want to pay the extra money that we should be getting with the third carrier. In this instance, we would have to scramble to get someone to come in and put in a new system. Clare stated he will move to approve, but he wants this agreement to be fulfilled and three carriers to come on board. He commented the Board has a duty to provide the best environment, fan experience, technology, etc. He further commented he would like to know when the arena will get 5G. Connolly stated through the discussions with Boingo and examining all of the alternatives with doing an RFP, searching for a new vendor, and discussing this with a new potential vendor, they felt more comfortable going forward and working with Boingo through a new representative who they believe is doing a better job than the last representative. He further commented that Boingo got an ear full from multiple people on the City/JPA side with regard to the fact that they haven't gotten three carriers to begin with. They also felt it was too much of a risk to switch vendors as the potential new vendor was not offering anything different and the fan experience would be the same, so it made sense to staff to stay with Boingo. Clare asked if they have an out to terminate the agreement if they don't get three carriers and not fulfilling the terms of the agreement. Connolly confirmed this is correct and that we can terminate with thirty days' notice. Gaylor Baird asked if Clare would like to have updates on this process as a future agenda item. Clare confirmed he would. Connolly stated updates can be provided.

There being no further discussion or public comment, Clare moved approval of the resolution. Gaylor Baird seconded the motion. Motion carried 2-0.

**Item 4 – Motion to Adjourn**

Clare moved to adjourn. Motion seconded by Gaylor Baird. The meeting adjourned at 9:37 a.m.