

February 3, 2011

Regular Meeting
Minutes

Council Chambers

Call to Order: Chair Barnes called the meeting to order at 4:00 p.m.

Members Present: Chair Bob Barnes, Tom Hally, LaMar John, Linda Martin, Dave Radford and Lee Radford.

Members Absent: Bob Utterbeck

Also Present: Renée Magee, Agency executive director; Thane Sparks, Agency treasurer; Brad Cranmer, City of Idaho Falls assistant planning director; Greg Crockett, Idaho Falls Downtown Development Corporation (IFDDC); Terry Wadsworth and Sam Cook, representatives for Taylor Crossing; Scott Bond, Rudd & Co.; Donna Carlson, recording secretary; and approximately two interested citizens.

Barnes noted the request of Taylor Crossing for developer's fees will be heard following the finance report.

Minutes: January 20, 2011. Lee Radford moved to approve the minutes of January 20, 2011, as written. Motion seconded by LaMar John. Motion passed.

Approval of Bills: Chair Barnes presented the finance report dated February 3, 2011. The following bills were presented to be paid from the Snake River revenue allocation fund: Donna Carlson, \$60.00; Kent Lott for management of the Brunt Management, \$4,153.77; and Harlan Mann, \$100.75. The following payments were presented to be ratified: Taylor Crossing, \$2,274.12 and AmeriTitle-Renaissance OPA, \$168,205.68 from for Snake River Revenue allocation fund; Exchange Services-Ball Ventures OPA, \$167,060.21 from the River Commons revenue allocation fund; and Exchange Services-Ball Management OPA, \$19,725.23 from the Pancheri-Yellowstone revenue allocation fund. **Dave Radford moved to approve the bills as read. Motion seconded by Lee Radford. Motion passed.**

Request of Taylor Crossing for Developer's Fees. Magee explained Attachment 8A of the Owner Participation Agreement (OPA) has a maximum amount set for the construction for each project and a development fee which is five percent of the total of the construction costs. For each construction project, i.e., ABF relocation, Army surplus demolition, and the Greenbelt improvements, the construction costs in Attachment 8A were considered by Taylor Crossing and herself as the maximum amount awarded for a project.

When she estimated the Agency cost for the ABF relocation, the low estimate was approximately \$570,000 and the high estimate was \$650,000. It was reasonable considering this estimate and the invoices submitted by Taylor Crossing to pay \$600,000 for construction costs. To this \$600,000, a development fee of \$30,000 or five percent

should have been added. The development fee is added to the reasonable cost for relocation estimated by the Agency.

With the Army Surplus building, the cap on construction costs is \$200,000. A five percent development fee based on the maximum construction cost is \$10,000. The invoices submitted exceed the construction costs of \$200,000. The note for the Army Surplus building was \$200,000, not \$210,000 as permitted under Attachment 8A.

Magee continued and stated there is an issue with the railroad lease. Taylor Crossing is asking for \$1,350 as the development fee for the railroad lease. The negotiation was most likely difficult but was completed years ago. The question arises as to whether the development fee of \$1,350 is justified and considered an ongoing expenditure to be calculated on each annual lease payment. For ABF relocation, Army Surplus demolition, and the railroad lease, Taylor Crossing has requested \$41,350 in development fees.

Barnes clarified the annual railroad lease is \$4,500 per year. Five percent of the first year's lease, the year in which negotiation should have occurred, is \$225. **Tom Hally moved to pay Taylor Crossing \$40,225 for development fees. Motion seconded by Dave Radford.** In response to questions from Board members, Magee explained Taylor Crossing noticed its invoices to the Agency and subsequent notes from the Agency were set at the maximum construction amount and did not include development fees in addition to the construction amount as outlined in Attachment 8A.

Lee Radford asked why relocation costs were not set at actual invoiced costs but estimated costs. Magee replied legal counsel had explained relocations are not based on actual costs, but the costs the Agency would have had if the Agency had undertaken the project itself. Property costs, estimated demolition costs and estimated administrative costs are considered, and formulas developed by the City of Idaho Falls and the Idaho Transportation Department (ITD) were applied. Lee Radford confirmed actual costs exceed the Agency commitment and reimbursement amount. Dave Radford clarified the reimbursement is treated as a negotiated agreement.

Barnes clarified the note for ABF relocation should have been \$630,000 rather than \$600,000. This has recently come to light and Taylor Crossing is requesting the difference. John referred to the email from Ryan Armbruster, dated February 3, 2011, indicating the development fee is more than arithmetic. Magee responded, to date, extensive documentation to substantiate the figure has not been required from developers. Documentation can be requested in the future. Lee Radford wants to ensure the fee is applied in the future only when projects require management and administration to accomplish. The ABF and Army Surplus buildings fit within that definition.

Dave Radford asked if the agenda should have been modified at the beginning of the meeting. Magee replied the agenda was revised and posted prior to 3 p.m. on February 1, 2011.

Sam Cook understands the concern regarding ongoing payments for the lease. While he is grateful for reimbursement, he wants to ensure the Agency understands the effort involved with the railroad lease. It was a two-year ongoing process requiring two commercial flights back east by Lorin and Rollie Walker. He asked how to recoup the total amount of development fees listed on the attachment. It is his understanding the development fees had already been negotiated.

Dave Radford responded he is aware of the difficulty and expense involved with negotiating with the railroad but he believes the Agency should follow the advice of legal counsel. The email from Armbruster refers to the definition of development's fee in the OPA as management services pertaining to the development of the urban renewal area.

Sam Cook responded the request for \$1,350 is based upon what has been paid for the lease rather than future expenses. Perhaps the request was submitted in an improper form. Lee Radford asked the name of the tenant on the railroad lease. Cook answered Taylor Crossing on the River LLC. Lee Radford asked the owner of the entity and Cook answered a limited partnership that basically consists of Rollie Walker. Lee Radford inquired about any interest Mr. Walker has in the unfinished hotel along the greenbelt. Cook indicated Mr. Walker is a partial owner of the hotel. Lee Radford questioned if the railroad lease is being used as a defense in the mechanic's lien action in the courts. Cook indicated depositions are being taken, but he is not involved and is not certain. Lee Radford believes the railroad lease has been part of the defense due to the fact the lease does not belong to the hotel. Cook confirmed the lease does not belong to the hotel and the application is being requested by Taylor Crossing on the River LLC. Taylor Crossing on the River and Idaho Falls Redevelopment Agency are parties to the OPA. The hotel is owned by Our Hotel LLC with several owners. Barnes suggested there are times when a fee is harder to earn than at other times.

Cook asked if it is possible to collect the full amount set for development fees. Barnes replied, if everything on Attachment 8A is completed, it will be possible to collect the full development fees. Dave Radford added the decision is based on having funds available as well as confirming expenses are legitimate. Dave Radford believes if a legitimate case is made, the Agency will pay any reasonable bills. Cook asked, if a development fee for one project is disallowed or reduced, may a fee greater than five percent be requested on another project. Barnes said the terms and conditions of the OPA will be followed. Cook said five percent on the railroad lease is included in the OPA and paying less constitutes a deviation. Magee suggested Taylor Crossing submit invoices such as the airfare for the development fees. Cook confirmed verifiable expenses may be submitted to obtain the maximum set for development fees as outlined in the OPA Attachment 8A. Barnes indicated a motion is on the table. **Motion passed 4 to 1 with Lee Radford opposing.**

Audit Report: Rudd and Company. Scott Bond explained an unqualified opinion was provided to the Agency. Page 14 of the audit report notes the reserve made by the Board of \$1.6 million for the Memorial Drive improvement project. Also reserved is \$680,000 for demolition and parking lot construction on D and Park Streets. The unreserved fund

balance as of September 30, 2010 was \$990,355. The net change to fund balances is \$991,752. The two most significant footnotes, found on pages 22 and 24 of the audit, indicate there were additions to two notes in the Pancheri-Yellowstone revenue allocation fund as well as issuance of a new note for the Memorial Drive improvement project. Mr. Bond believes the Agency had a good year. Approximately \$60,000 was earned in back interest and penalties. Most outstanding taxes had been paid by time the audit was completed.

Dave Radford explained the County played an essential part in the mechanics of the audit by providing assistance to the auditor. Mr. Bond, in response to a comment from Radford, explained the terms of the River Commons note were established several years ago in the Owner Participation Agreement. Currently only interest is being paid on the note to Ball Ventures. Thane Sparks does not expect principal to be paid. Mr. Bond was appreciative of support received from Bonneville County personnel. Some deficiencies in the collection system were noted and remedied. Dave Radford clarified Agency projects cost other entities including both the City and County. Barnes said the audit can be reviewed by Agency members and considered at the next meeting.

Bid Tabulation for Demolition and Site Preparation for Brunt and Messick Properties. Magee explained the City received 21 bids for demolition of the Brunt and Messick buildings. The bids ranged from \$57,000 to \$279,000. The City's engineering department is recommending the contract be awarded to the second lowest bidder, Hawkeye Builders, with a bid of \$87,000. The lowest bidder, Rhodehouse Construction, does not have a valid public works contractor's license as required by the bid documents. Dave Radford indicated the lowest bid is a non-responsive bid. **Dave Radford moved to recommend to City Council approval of the Hawkeye Builders Inc. bid for \$87,000. Motion seconded by Tom Hally.**

Barnes said this bid is about \$100,000 less than estimated originally by the City engineer. Magee said there may be one change order which was addressed in the bid documents. Asbestos friables were identified in the furnace area. However, if more friables are found, a change order will be requested. Dave Radford confirmed if a change order is necessary, it will be necessary no matter which bidder is awarded the contract. Barnes indicated an environmental group inspected the building prior to purchase and some asbestos was identified in the furnace area. It was not possible to see the interior portions of the walls. **The motion passed unanimously.**

Update on Parking Lot Construction. Magee explained a third meeting was held with the owners of the Idaho Professional Building (IPB). The City engineer believes it is in the best interest of the Agency and City to combine the Agency's property with the property owned by the IPB in the design of the parking lot. This provides a better traffic flow as well as an increase in the number of parking spaces. The function and appearance of the entire block will also be improved. Reconstruction involves the sidewalks, curbs and gutters. Landscaping will also be uniform.

The IPB owners are willing to consider a parking lot encompassing both properties if 32 parking spaces are allocated and marked for IPB usage. The owners also requested a joint use agreement including snow removal by the Agency or City on both properties. Easements will need to be altered to include cross access and ensure the IPB has the use of 32 spaces. IPB asked if Kent Lott can be approached regarding leasing spaces west of the Bonneville Hotel during construction. Agency representatives suggested the possibility of deeding the IPB property to the Agency in exchange for parking easements due to the IPB concern about taxes. IPB is not interested in that option.

Magee explained the preliminary estimate for a half block of parking is \$409,000. This estimate includes \$22,000 for resurfacing the alley if Idaho Falls Power undergrounds the line as mentioned in the previous meeting. The cost for reconstructing the parking area and rebuilding curbs, gutters and sidewalks on and adjacent to the IPB parcel is \$51,500. This amount is included in the \$409,000 estimate. The estimate for seventy spaces on the Agency property only, including sidewalks, curbs and gutters, is \$335,000. Magee clarified there was a misunderstanding and Idaho Falls Power is not willing to underground the lines in the alley at its expense. A ballpark figure for undergrounding the power lines in the alley is \$120,000. The design of the parking lot becomes more efficient with the utilities underground and 108 spaces are gained on the half block. If the power poles stay, there will be approximately 104 spaces with 74 of those spaces being on Agency property. The concepts do not include handicapped parking spaces and the numbers will be slightly lower when the designs are completed.

Barnes stated it appears the Agency gains very little compared with what IPB is requesting for combining the parking areas. He opposes using public funds to improve and maintain private parking. Hally agreed the cost is too high for what is gained. In order to avoid being in a position of improving and maintaining private property, John believes it is best to work with Agency property only. Hally agreed. Barnes said the half-block concept looks good with landscaping and sidewalk, but the bargain is too high at this point. Hally asked when a decision needs to be made on the power poles. Magee answered the project was originally scheduled for bidding by the end of March but can be postponed a short time. Magee said \$680,000 is allocated to demolition and construction, and the bid for demolition is lower than expected. Given the current economy, parking lot construction bids should also be lower than previously anticipated. Hally said it appears it might be possible to pay \$140,000 for undergrounding utilities and stay within the amount allocated. Barnes indicated one of the poles is on property adjacent to the IPB property.

Greg Crockett is familiar with the cost of burying power lines and suggested private owners have to cover the cost of reconnecting service lines. It appears the Bonneville Hotel and the IPB will need to be reconnected. Barnes indicated there is a net gain of four parking spaces with underground utilities at a cost of more than \$30,000 per parking space. Lee Radford stated the commitment is to replace 70 spaces and the layout needs to accommodate that commitment. Hally believes removing the poles fits into the overall goal of beautifying the entire area. Magee will ask for better cost estimates as well as address service line concerns. Transformers have to be above ground.

Miscellaneous. Magee stated House Bills 95 through 99 on urban renewal have been introduced. The bills are summarized in a memo distributed to the members.

The meeting adjourned at 5:07 p.m.

Donna Carlson, Recording Secretary