

**POCATELLO DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING**

**Pocatello City Hall
March 12, 2002
City Council Chambers**

11:00 a.m.

PRESENT Terry Brower, Steve Brown, Roger Chase, J. O. Cotant, Darsi Johnson, Dave Sanna, and Dan Schroeder;

ABSENT Harry Neuhardt, and John Ricks

STAFF PRESENT Ray Burstedt and Char DeWall, Bannock Development Corp; Dean Tranmer, City of Pocatello Attorney

11:00 a.m.

Vice Chairman Steve Brown called the meeting to order and determined that a quorum was present. He noted that the guests in attendance would be recognized as they made their presentations to the board. Char DeWall acted as recording secretary for the first half of the meeting.

CONFLICTS OF INEREST

The Board was asked for disclosure of any conflicts of interest. None were disclosed.

PROPOSED AGENDA

The Board of Commissioners were asked for any additions to, or deletions from, today's meeting agenda. DeWall made two clarifications on the agenda: 1) only an update will be made on the January financials, and 2) a motion will be needed to approve the February financial report. With these clarifications made, the meeting continued as outlined.

REVIEW OF MINUTES

It was noted that Dan Schroeder is listed as attending the February 12 regular board meeting. He was, in fact, absent from that meeting. With this correction made, a motion was received from Roger Chase, and seconded by J.O. Cotant, to approve the February 12 minutes. The motion passed by unanimous vote.

The Commissioners were asked for a motion to accept the minutes from the February 26 Special Meeting. A motion was received from Dan Schroeder to approve the minutes, with Darsi Johnson seconding. The motion passed by unanimous vote.

**FINANCIAL REPORT:
JANUARY INCOME AND EXPENSES UPDATE**

The discrepancy between the Wells Fargo bank statements and Char's records was reviewed. It was noted that a binder is being compiled by which Char can meet monthly with Treasurer Cotant to review the financial statements prior to PDA's board meeting.

**FINANCIAL REPORT:
FEBRUARY INCOME AND EXPENSES**

Income during the month of February included tax revenues received in the Central Corridor, Roosevelt, Newtown and Old Town districts. Interest Income for the month totaled \$987.71.

Expenses for February was a semi-annual payment of \$2,760.41 to Wells Fargo Bank in connection with the Kress Project, along with PDA lunch expenses for both meetings held during the month of \$171.31. Banking Expenses for February totaled \$47.85.

A motion was made by Dan Schroeder to approve the February income and expenses as presented. A second to the motion was received from J.O. Cotant, which passed by unanimous vote.

TAX REVENUES TO TRUSTEE

The Commissioners were asked to approve Char writing a check for \$516,869.30 that will be sent to Twyla Gauthier at Wells Fargo Corporate Trust. This will bring current the transfer of tax receipts to the Revenue Allocation Fund as required in the bond documents. A motion was received from J.O. Cotant to approve this check being prepared for signatures. A second to the motion was made by Roger Chase, which passed by unanimous vote.

Ray asked for a motion to also approve Char requesting a fund transfer in the amount of \$438,886.88 in order to make the Tax Anticipation Note payment which is due May 1. The Commissioners were reminded that the Tax Anticipation Note was used to make the upgrades to the Terry Substation. A motion was received from Dan Schroeder to make this request to the Trustee. A second to the motion was made by Dave Sanna, which passed by unanimous vote.

ROOSEVELT DISTRICT INVOICE

The Commissioners were asked to approve payment of an invoice for \$5,400, which was received from Rocky Mountain Engineering in connection with the Roosevelt Neighborhood project. J.O. Cotant asked if confirmation was made that the work was completed. Both Cac Turner and Robert Chambers were in attendance and confirmed its completion. A motion was made by Dave Sanna, with J.O. Cotant seconding. The motion carried by unanimous vote.

PROJECT HOPE UPDATE

This item was moved to Executive Session to allow the Commissioners the ability to discuss confidential issues.

STORMWATER SEWER PROJECT: PHASE I ISSUES

Vice Chairman Brown expressed the board's frustration to David Schiess for Schiess & Associates' failure to attend PDA's Special Meeting that they were aware was scheduled for February 26.

David asked if the Commissioners had been given a copy of the letter he wrote to Chairman Harry Neuhardt dated March 11 (copy attached). It was confirmed that the letter had been distributed to the Board members.

Ray stated that he took exception to the fourth paragraph of the letter that stated that the Board hadn't received all correspondence regarding the progress of the Phase I project. It was noted that all progress meeting minutes had been e-mailed out to the board members as they were received by Char. Color copied progress reports were also available for review by the members at each regular board meeting.

Roger Chase asked David and Paul to justify the charges which were requested by Schiess & Associates at PDA's February 12 meeting. David explained the reason for these charges which stemmed primarily from the additional time this project has taken due to the railroad change order, along with the additional time they have taken to make sure that the PDA board was kept updated on the project.

Dan Schroeder stated that he felt it more important that the engineer update the Board regarding the project's problems and not necessarily when the project was going smoothly. He also stated that the board had already approved additional funds to the original contract by which the engineer would complete their work. He didn't feel that the board needed to agree to any additional funds, as the request which was received by the PDA at their February meeting didn't demonstrate any justification of additional work done by Schiess & Associates.

Mr. Schiess stated that the scope of work on Phase I had changed which required additional work on the part of the engineering firm. He also related that the contractor had been compensated through the mechanism of change orders for their altered scope of work. He felt it only fair that they also be compensated for their additional work on the project.

Ray clarified with David Schiess whether they had been compensated for their work on Phase I between 14th and 18th Streets, as outlined in their original contract. Mr. Schiess did confirm that compensation had been made for that portion of the completed work.


Schiess & Associates representatives were asked whether there were things that the City staff should have done to direct the contractor regarding their work progress. Mr. Schiess

stated that the engineers, both City and contracted, generally don't direct the contractor's work unless it is in the case of an unforeseen problem. David did relate one time when the City engineer and Schiess' firm did directed the contractor in order to not have a portion of the project open for the winter months.

The board consensus was that they didn't feel that Schiess & Associates had demonstrated an increase in scope and justification for their request for additional dollars. David Schiess stated that his firm does keep timesheets for their work on their projects. He also related that they wanted to see this project to completion and are willing to negotiate their request. Mr. Schiess explained that the breakdown presented to the PDA Commissioners was a "worst case scenario" in order to allow the PDA to budget accordingly. He reconfirmed that the table was only an estimate and is only for work that **may** need to be done prior to the completion of Phase I.

A question was asked of Schiess & Associates if HK Contractors had caused the alleged 10-week delay in completing the project by not bringing in an additional crew. Should the PDA have compensated the contractor if they were responsible for a portion of this delay? Both Schiess and City staff felt that it would be hard to substantiate this claim.

Rayna Valentine joined the meeting: 12 p.m.



Charlene H. DeWall

ABBREVIATED MINUTES
POCATELLO DEVELOPMENT AUTHORITY
Meeting March 12, 2002
Noon until Adjournment

Members present: Steve Brown, Terry Brower, Roger Chase, J. O. Cotant, Darsi Johnson, Dave Sanna, and Dan Schroeder

Staff present: D. Tranmer, City Attorney; R. Burstedt and C. DeWall, Bannock Development

Continuing discussion of Stormwater contract: It was MS (Schroeder, Johnson) to direct the engineers to complete the work for the dollar amount previously approved in the contract and its amendment. Discussion ensued about the meaning of the wording "not to exceed" and whether the contract was open-ended to allow additional billing for hours over and above the estimate. D. Tranmer responded that the attachments were estimates of services, time required, materials, travel, and the like, from which a final sum was derived, but that the controlling wording was that the total to be paid could not exceed the sum listed. He also noted that "not to exceed" does not preclude equity adjustments for alterations outside the original scope of the project (*e.g.*, extra right-of-way improvements). D. Schroeder reminded the Board that PDA had already determined that about \$27,000 worth of time was allocable to those "beyond the scope" items and adjusted the contract accordingly--\$12,000 added to the total payable, and \$15,000 previously allocated for testing re-allocated for payments to the engineers. The question was called, with three members in favor, 4 against. **Motion failed.**

At this point, R. Chase stated that the consensus seemed to be the Board had received no more evidence or further information to support approving any further payments; that the hours of work paid for to date have slightly exceeded the approved amount, including the amendment, but that the Board appeared (on the basis of the vote above) to be willing to consider awarding additional funds **if** substantial evidence was presented beyond the material already approved. After brief discussion **it was MSC (Chase, Brower)** to place the matter on next month's agenda for consideration of additional specific justification for extra time or costs.

Phase II bid results. P. Scoresby and D. Schiess distributed bid tabulations. Lowest bid was from Pacific West at \$393,686.25. However, they are concerned about apparent non-compliance with the State bidding requirements for public works contracts. They have type 2 and 3 licenses and no specialty licenses. For sewer pipeline work, a type 1 license or a specialty "Utilities" license would be required prior to submitting a bid. Additionally, the original subcontractor listed was not so licensed and Pacific West has asked that the bid be changed to show a different subcontractor (who does have the "utilities" specialty license). D. Tranmer explained Idaho Code requirements are 1) in order to bid on this type of public works project, the general contractor must have a type 1 license prior to bidding and 2) any proposed subcontractor on the project must be listed as part of the bid.

G. Lanning commented that the cost summary he prepared for the Board shows that the whole stormwater project can't be completed for the original \$6.5 million dollars, since

\$6.1 has already been expended or committed for Phase I and there are still several weeks to go before completion.

Question as to whether ISU will go ahead with the project considering the state-imposed hold-backs on building projects. Curt Neville notes that the pipeline portion of the project is still worth doing, even if ISU doesn't construct a building, since the City still will need to provide stormwater detention and runoff facilities to cure current drainage problems, and also due to the fact that the City has no recorded easement for the pipe line current on ISU property.

Question as to whether there is any additional money besides bond proceeds.

Answer: yes, we do have some discretionary funds and the Trustee is holding excess monies beyond what is required for hold-back.

After further discussion and questions regarding legality and sufficiency of bids, **it was MSC (Sanna, Schroeder)** to place the matter for final determination of the lowest responsive bidder and whether to award the bid and proceed with construction on the April meeting agenda.

It was MSC (Chase, Cotant), pursuant to Idaho Code Section 67-2345 to adjourn into executive session to conduct deliberations concerning acquisition of an interest in real property which is not owned by a public agency.

The meeting was reconvened at 1:00 p.m. After brief discussion, **it was MSC (Sanna, Brower)** to authorize R. Burstedt to make an offer and handle procedures to effect PDA's purchase of property on the corner of Garfield and West Clark, for a sum not to exceed \$115,000.00. R. Burstedt will report back to the Board on the progress.

There being no further business, the meeting was adjourned at 1:05 p.m.

A handwritten signature in cursive script that reads "Rayna Valentine". The signature is written in black ink and is positioned in the lower right quadrant of the page.