

POCATELLO DEVELOPMENT AUTHORITY
MEETING MINUTES
Special Meeting – August 14, 2019

Members present: Mayor Brian Blad, Matt Bloxham, Chad Carr, Thomas Ottaway, Scott Smith, Terrell Tovey

Members excused/absent: Rob Lion, Jim Johnston, Scott Turner

Others present: Melanie Gygli, Interim Executive Director; Ashley Linton-Welsh, Pocatello Deputy CFO; Merril Quayle, Pocatello Public Works Development Engineer; Jeff Mansfield, Pocatello Public Works Director/City Engineer; John Regetz, Bannock Development Corporation; Mike Ennis, Bannock Development Corporation; Tiffany Olsen, Bannock County; Matt Parks, Stacey & Parks (by phone); Raj Basu and Ben Krause, Solargise; L. D. Barthlome and Darren Miller, Portneuf Capital; Heidi Adamson, Pocatello City Council Member; Max Cohan, Channel 3/8; other members of the public

Agenda Item No. 1: Call to Order and Disclosure of Conflicts of Interest. Chairman Scott Smith called the meeting to order to 11:10 a.m. No conflicts were disclosed.

Agenda Item No. 2: Executive Session – North Portneuf TIF District. Smith called for a motion for the Board to approve participation in an executive session as outlined in Idaho Code § 74-206(1)(f) to communicate with legal counsel for the PDA to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated, concerning the disposition of the Hoku property and the lawsuit filed by Celtic Life Sciences LLC with respect to the Hoku property.

At approximately 11:11 a.m., **it was moved and seconded (T. Tovey, C. Carr)** to adjourn to executive session pursuant to Idaho Code §74-206(1)(f). **The motion passed by roll call vote (Ayes: Tovey, Carr, Bloxham, Ottaway, Smith. Nays: None. Note: Blad joined the meeting right after the roll call vote.)** At approximately 11:37 a.m., by **MSC (Tovey, Carr)** the Board reconvened to regular session. **Smith** invited other meeting attendees to return.

Agenda Item No. 3: North Portneuf TIF District. Smith updated the Board on the status of the property disposition, outlining the PDA's action of 7/24/19, allowing an extension to 8/19/19, conditioned on a \$400,000.00 payment to the PDA with closing by 8/19/19, including payment in full of back taxes. He briefly described the assignment request, Portneuf Capital assuming the property purchase obligation under the DDA, and that the latest word is that one or both of the parties to the request may no longer desire this. He asked that each respond to that concern.

Raj Basu stated Solargise is no longer interested in going ahead with the assignment of the property purchase obligations. He stated that some of the parties to existing litigation and V.A. Metals are also involved with Portneuf Capital. He has not been able to get sufficient clarity on the situation to want to move forward, despite requesting information on the stakeholders involved with Portneuf Capital. Further, there has been no lease created. He requested that the assignment not be approved.

L. D. Barthlome agreed that they have not yet been able to come to an agreement, but they are willing to go ahead with the assignment as written and close on the property by Monday, 8/19/19.

Agenda Item No. 4: Public Comment. Per the published agenda, **Smith** opened the meeting to comments from the public regarding the assignment of the property purchase obligation on the Disposition and Development Agreement between the PDA and Solargise America LLC to Portneuf Capital LLC. No one present offered any comment.

Agenda Item No. 5: Assignment of Property Purchase Obligation. Board members discussed the issue at length, including the issue of unpaid taxes, with at least 2015's amount due by 8/19/19 to prevent the County issuing a tax deed on the property on the above ground items and the PDA's requirement of closing on 8/19/19 included payment in full of the tax delinquency. If the assignment were not approved, under the terms of the PDA's latest extension approval (\$400,000.00 nonrefundable payment to the PDA by 8/2/19 with closing and payment of all taxes by 8/19/19) would be terminated, as well as the Disposition & Development Agreement.

Basu stated he is willing to pay the 2015 tax liability now, pay the PDA \$400,000, with the remainder at closing by 9/20/19. **Parks** clarified that the property can be transferred without full payment of the tax liability, but the PDA has no authority to force tax payment except as a condition of closing.

Discussion continued, including the terms of the latest extension to Solargise, the assignment and that if it is not approved, funds paid by Portneuf Capital are to be refunded, whether the PDA can consider an extension request that is not part of the agenda, whether another extension is in the best interests of the PDA and the community with the lack of progress to this point. **Smith** pointed out that, at the meeting discussing a potential assignment on 8/1/19, the parties were aware that the details needed to be worked out so should have been done.

Basu again stated Solargise cannot continue under the assignment. In response to questioning from Board members, he explained their stakeholders had an agreement with the litigators, but found that they are also part of Portneuf Capital, which is a conflict. He wanted to be able to clarify the situation before proceeding to closing. **Barthlome** explained they have been working toward a lease, but without issues on the title being cleared, they could not close. Therefore, they felt there was no point in finalizing a lease for something that might not happen. They do have an LOI, which he believes the PDA's attorney has seen. **Darren Miller**, representing Portneuf Capital, stated they needed an acknowledgment of asset ownership and have had no access to the existing assets. **Basu** replied that he cannot close on the basis of an LOI, cannot confirm lack of interest in any assets due to the conflicted parties involved.

With the information provided and the Board needing to again consult with their attorney, **Smith** called for a motion to return to executive session as outlined in Idaho Code § 74-206(1)(f) to communicate with legal counsel for the PDA to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated, concerning the disposition of the Hoku property and the lawsuit filed by Celtic Life Sciences LLC with respect to the Hoku property.

At approximately 12:00 noon, **it was moved and seconded (T. Ottaway, T. Tovey)** to adjourn to executive session pursuant to Idaho Code §74-206(1)(f). **The motion passed by roll call vote (Ayes: Ottaway, Tovey, Bloxham, Ottaway, Smith. Nays: Blad.)** At approximately 12:22 a.m., by **MSC (Tovey, Blad)** the Board reconvened to regular session.

Smith invited other meeting attendees to return. He questioned the representatives from Solargise and Portneuf Capital whether their stance on the assignment had changed. **Basu** stated no, their position has not changed; they do not want to go ahead. **Barthlome** stated no, their position has not changed; they do want to go ahead.

Following brief discussion, it was **MSC (C. Carr, T. Ottaway)** to deny approval of the proposed assignment, based on the fact that one of the parties has requested that it not be approved.

Adjournment: Smith thanked those present for attending. There being no further business noticed for this special meeting, it was **MSC (T. Tovey, C. Carr)** to adjourn at approximately 12:26 p.m.

By: _____
Melanie Gygli, Interim Executive Director/Secretary