

Arena Tax Oversight Committee
October 28, 2008 – 3:00 p.m.
Minutes

Committee members present: Mark Dennett, Christina Ricke, Dolan Pelley, Greg Sevier, Max Weddle, Bradley Hawthorne

Committee members absent: John Clevenger, Bruce Armstrong, Frank DeSocio, Tim Short

Others in attendance: Chris Chronis, Rich Euson, Ron Holt, Ginger Radley, Anne Smarsh, Josh Shaw, Tricia Thomas, Eddie Sheppard, Commissioner Kelly Parks, John Dailey, Charlie Peaster

Call to Order: The meeting was called to order by Committee Chair Greg Sevier.

Acceptance of Minutes: An old version of the minutes was included in the handout packet. Greg Sevier postponed acceptance until the committee received the revised minutes later during the meeting.

New Business: Reports

The first report discussed was the revenue summary from the SAP financial system. Chris Chronis reported that arena sales tax revenue remains the same as reported at the last meeting since all of the sales tax for the project has already been collected. Referring to information displayed on the screen, Chronis pointed out additional revenues coming from charges for services that are not available for use on the construction project.

- The County has received \$165,000 in deposits for arena suites from suite tenants. Eventually, the County will write a check to SMG for this amount and any additional suite fees collected, as per the terms of their contract for providing suite services.
- The County has received a \$300,000 advance payment for naming rights from Intrust Bank. Eventually, this amount will be supplemented by additional naming rights fees from other partners before the facility opens. These revenues will go into the operating maintenance reserve to offset future operating losses and major capital expenses.
- Chronis moved on to another page displaying monthly receipts of sales tax, which he reported had not changed since the last meeting.

The second report discussed was a summary report from SAP, the county's financial system, regarding commitments against the budget to date.

- Numbers appearing on screen differed slightly from those in the written report because an additional expenditure was incurred after the report was printed.
 - On screen encumbrances were slightly lower than the written report indicated.
 - On screen expenditures were slightly higher than the written report indicated.
- Chronis reported that to date, \$182.4 million of the \$205.5 million adopted budget has been released by the budget office. This means that project managers have the ability to spend up to \$182.4 million.
- Of the total released to project managers, \$514,000 has been pre-encumbered, meaning that a transaction is in process but there is no contractual commitment yet to spend that money. Just over \$85 million (\$80 million of which is outstanding encumbrances for the construction contract) has been encumbered through contractual obligations, but the checks have not been written to vendors because they have not completed services yet.
- Chronis reported that checks have been written for \$87.26 million; \$57.5 million went towards construction.
- Adding together pre-encumbrances, encumbrances, and expenditures brings the total commitment to \$172.86 million. Compared to the \$182.4 million released by the budget office, project managers have \$9.56 million available to spend. Compared to the total project cost of \$205.5 million, \$32.64 million of budget authority remains.

The third report discussed was a summary report regarding project expenditures to date. Chronis stated that the new report column of the printout listed expenditures since the last meeting. He then walked the committee through the new expenditures.

- \$143,000 has been spent on A & E fees since the last meeting. A & E fees to date total \$6.84 million. The total A & E adopted budget is \$16.64 million, leaving nearly \$9.8 million in budget remaining in this category. Architectural work on the project is 41 percent complete.
- Under the land acquisition category, \$19,000 has been spent since the last meeting (primarily on demolition services). Land acquisition expenditures to date total approximately \$15.99 million. The total budget for the project is \$16.98 million, leaving \$991,000 budget unspent in this category. Land acquisition activities are 97 percent complete.

- Chronis reported that there were no new expenditures under the infrastructure category in this reporting period. The total budget for infrastructure is \$3.54 million. Infrastructure activities are estimated to be 5 percent complete.
- Under the construction category, \$30.25 million was spent since the last meeting, bringing total construction expenditures to \$57.55 million. Compared against the total construction budget of \$139.97 million, \$82.4 million of budget remains. Facility construction is 37 percent complete.
- No contingencies have been used thus far, so \$3.47 million of budget remains under that category.
- Under the pavilions category, \$995 was spent on A & E fees since that last meeting. The county is reviewing architect estimates on potential additional pavilion improvements that have been requested by users of the facilities.
- Under the project management and planning category, \$143,219 was spent since the last meeting, bringing the total to \$821,205 spent to date (most of the money was spent on the naming rights commission). Compared against a total budget of \$2.92 million, \$2.1 million of budget remains. Project management and planning is 28 percent complete.
- Adding all of the expenditures together, \$30.56 million has been spent since the last report, bringing total expenditures to \$87.26 million. The total project budget excluding the parking, operation and maintenance reserve account is \$189.6 million, leaving \$102.4 million of budget authority remaining.
- The parking, operation and maintenance reserve is \$15.86 million, which consists of total revenues budgeted less the portion of those revenues allocated to project spending (\$189.6 million). This leaves just over \$1 million in additional sales tax revenue collected but not yet budgeted; this amount will go to the reserve once the commission revises the project budget.
- The total project is estimated to be 39 percent complete right now. Project managers say that the project is on budget in all categories and on schedule for completion around January 15, 2010.
- Chronis then paused for questions.
- Commissioner Parks asked what the time frame was for bringing the amended budget to the commission.

- Chronis responded that he did not have an estimate, but there was no urgency.
- Chronis asked if there were any more questions and there were none.

The fourth report discussed was the construction modification log containing a summary of changes orders to date.

- Ten change orders have been approved to date. Change orders to date have totaled \$337,714.
- Added to the base contract with Dondlinger/Hunt, the new contract totals \$138,360,612.
- Chronis asked if there were any questions and there were none.

The final report discussed was an overview of the city/county infrastructure project arrangements needed prior to arena opening.

- Chronis reported that the County has now agreed to pay a total of \$9.1 million of street and street-related improvements driven by the arena project. He then walked the committee through these improvement projects.
 - Emporia from Waterman to William (\$903,738)
 - Topeka from Kellogg to Waterman (\$1.35 million)
 - Washington & Waterman intersection (\$5.31 million)
 - William from Emporia to Commerce (\$739,958)
 - St. Francis from Arena to Douglas (\$646,000)
 - Waterman overpass (\$168,509)
- Chronis asked if there were any questions and there were none.
- Chronis then stated that \$7 million of the \$9.1 million in improvements is included in the adopted arena budget. \$2 million needs to be drawn from the contingency account to cover the difference.
- The City of Wichita will undertake the improvements and the County will write checks to the City for the not to exceed amounts outlined in the agreement. When the projects are complete, a reconciliation will be performed.
- Max Weddle then asked if the County has any claim to the interest that the City might gather by putting the funds in the bank.
- Chronis responded that the county does not.
- Greg Sevier asked about the nature of a \$6,000 travel expense in the construction category.
- Chronis responded that this expenditure paid travel expenses for Superlative representatives traveling to and from Wichita and their office in Cleveland to perform sales activities.
- Mark Dennett asked if increases in cost elements on the list were from new projects or changes in existing projects.

- Chronis responded that the changes were a little of both. Engineering estimates for construction of Washington & Waterman intersection has increased. The William Street project was added to the new version of the agreement. \$204,000 of the \$646,000 for the St. Francis project has always been in the Arena budget (project connects the Arena to William Street). The City has persuaded us that extending the improvements from William to Douglas is important to manage traffic flow before and after Arena events.
- Ron Holt added that the County is also now responsible for changing Topeka Street from Kellogg to Waterman to a two-way street.
- Mark Dennett remarked that, given that the decision has already been made, the committee's function appears to be to acknowledge the decision.
- Chronis responded that Dennett's assessment was correct, but added that the committee is responsible for making sure that the projects outlined in the agreement are the only things that the County is spending money on.
- Mark Dennett then asked how the County felt it came out of the interlocal agreement negotiations.
- Ron Holt said the County came out well because Chronis was at the negotiating table. The agreement is for not-to-exceed costs. Any amounts over those costs must be approved by the Commission.
- Bradley Hawthorne asked if this was the extent of the infrastructure improvements.
- Ron Holt responded that the only other thing is parking, but this will ultimately be decided by the Commission. This discussion between the City and County will be driven by how parking serves the arena project.
- Chronis responded that there is also infrastructure on site, but it is already included in the construction project. A sewer system must be built to connect to the City's mainline.
- Referring to the Construction Modification Log, Bradley Hawthorne then asked who initiates owner requests.
- Ron Holt responded that these requests come from Claussen, project manager Larry Pecenka, or SMG (Chris Presson).
- Max Weddle asked what the County's take was on the amount of change orders since they appear to be running low.
- Ron Holt said that the consensus is that change orders are on track and that the project manager is doing a good job

of catching problems and making changes before they escalate.

- Bradley Hawthorne then asked at what point will SMG starting paying itself out of arena income as opposed to sales tax dollars.
- Chronis responded that pre-opening costs are all part of the project budget. This covers SMG's fees and out of pocket costs until the Arena opens.
- Bradley Hawthorne asked why money paid for the naming rights commission could not be paid out of money coming in for naming rights as opposed to sales tax dollars.
- Chronis stated that the point was well taken. He said that the County could legitimately record the payment of Superlative's sales commission against the receipts received from those sales, but that doing so would obscure those transactions since the suite and premium seating lease revenue was being segregated from the project budget to assure that it can't be mis-used on project expenditures. In the interest of assuring full disclosure of all project costs to the committee and the public, the County chose to record the sales commission payments as project expenses.
- Max Weddle then asked if there is going to be an official close out time on legal constraints on the sales tax.
- Chronis responded that the legal restraint on the sales tax exists forever because it cannot be used for anything other than this activity. However, the County can always put additional revenue from other sources into this fund.
- Max Weddle asked if this really was true, referencing Attorney General opinions that he had researched.
- Mark Dennett rephrased Weddle's question.
- Chronis said he thinks that the state law is being misinterpreted. The state law says that interest has to go to the County's general fund, which the Commission has full authority to transfer however it pleases for authorized County activities. There is no time constraint on this usage. This is the basic state law for all public investments.
- Ron Holt remarked that the decision that needs to be made is what to do with the oversight committee when the committee sunsets, given that direct sales tax revenue will likely be left over when the doors to the arena open.
- Greg Sevier stated that he understood the resolution to wrap up the oversight committee thirty days after the arena is open.

- Ron Holt stated that the intent is for the sales tax to always be a restricted fund.
- Greg Sevier agreed, stating that once sales tax is gone, however, the County is free to do what it wants.
- Chris Chronis then rehashed a fund structure discussion from meetings several years back. Revenues and expenditures are set up in different funds. Money is transferred from the revenue fund to the expenditure fund to pay for project costs. There is no operating and maintenance fund yet, because the County is not spending anything on operations. The revenue fund will become the operating and maintenance reserve when the arena opens.
- Max Weddle then asked for a more detailed description of change order #3, regarding when and why the change was made.
- Ron Holt said the contaminated dirt was discovered at the beginning of the demolition process. The City put in a mitigation process to extract the contaminants from the soil under the supervision of KDHE. About a month ago, that level reached an acceptable threshold for removing the foundation. \$18,985 of the \$19,254 spent in the land acquisition category went towards removing the foundation at 330 S. Commerce.
- Max Weddle asked for a history of the real estate transaction on the Indian Hills property.
- Ron Holt walked Weddle through the property history.
- Then Weddle asked how the asset was recorded.
- Ron Holt responded that it was a net deal.
- Rich Euson added that he can provide agenda backup to the committee that shows records of the money transfers at the Indian Hills property.
- Audience member Charlie Peaster asked a question about a change order for changing stainless steel plating to zinc plating.
- Chronis responded that SMG said it was cheapest.
- Charlie Peaster then asked a second question about why shelf angles were removed.
- Chronis and Holt responded that they did not know.
- Max Weddle then asked a question about stainless steel plating.
- Greg Sevier responded that the committee was getting off track with things outside of their expertise.
- Commissioner Kelly Parks said that he would track down that information and speak with committee members later on.

- Max Weddle stated that he was overjoyed with the small amount of change orders thus far.
- Mark Dennett seconded Weddle's comments and said that Larry Pecenka added value to the project and is doing a wonderful job.
- Greg Sevier asked if there were any other questions.
- Bradley Hawthorne then asked about the nature of a credit of \$3,374.50 to Stafford Sports on the expenditure report.
- Ginger Radley responded that the amount was never paid because an invoice was not received.

Acceptance of Minutes: This item was postponed at the beginning of the meeting until the revised minutes were received. The committee approved the revised minutes without any changes.

Next Meeting Greg Sevier stated that the next meeting of the Arena Tax Oversight Committee will be **Tuesday, January 27, 2008 at 3:00 p.m. in the Ark Valley Board Room.**

Adjourn Greg Sevier adjourned the meeting at 4:03 pm.

Handouts

- Minutes from the July, 22 2008 meeting
- SAP Revenue Detail
- SAP Expenditure Detail
- Arena sales tax revenue forecast
- Project Budget
- Infrastructure Projects Needed Prior to Arena Opening
- Construction Modification Log