

DENVER UNION STATION PROJECT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
February 4, 2010
MINUTES

BOARD MEMBERS PRESENT

Mario Carrera
Michael West
Tom Gougeon
Jennifer Schaufele
Robin Kneich
Jerry Glick
Terry Howerter
Russell George
Don Hunt
Elbra Wedgeworth
Judy Montero
Marla Lien

BOARD MEMBERS ABSENT

Claude Pumilia

I. CALL TO ORDER

Elbra Wedgeworth, DUSPA Board President called the Meeting of the Board of Directors of DUSPA to order at 1:30 p.m.

II. WELCOME AND INTRODUCTION OF GUESTS

President Wedgeworth welcomed the Board Members and Guests.

III. PUBLIC COMMENT

Elbra Wedgeworth asked for public comment. There was no public comment.

IV. ROLL CALL

Dawn Bookhardt called roll. Please see above.

V. APPROVAL OF MEETING MINUTES

Elbra Wedgeworth asked for comments to the January 21, 2010 meeting minutes. Jerry Glick moved to approve the January 21, 2010 meeting minutes. Mario Carrera seconded the motion. The motion carried unanimously.

VI. DISCUSSION ITEMS

A. TIFIA/RRIF Progress Report and Update

Chad Fuller reported that the project received a positive response from Credit Council subsequent to the meeting a few weeks ago and that he is waiting for DOT and Secretary of Transportation approval of the loans.

Robin Kneich stated that there is a media event scheduled for tomorrow and asked whether it is about approval of the loans.

Diane Barrett responded that she did not know and that her understanding is that no one is leaking early information regarding the press conference.

B. Owner's Representative Report

i) Update Regarding Design Elements

Bill Mosher suggested that Mike Sullivan will provide the Project Progress report.

Mr. Mosher then handed out a memorandum regarding Audit Issues and a floor plan of the below grade portion of the bus facility. He reported that the floor plan was generated to provide an image of all of the activities including ingress and egress, bus gates, and ticket counters within the pedestrian concourse. He suggested that the diagram has been helpful for people, including the RTD Board, to visualize the amount of activity in the concourse to assist with the decision regarding removal of the moving walkways.

Mr. Mosher also reported that the only new planning activity is the schedule for the Landmark Commission to review the ventilation tubes and that Kiewit is preparing a constructability analysis of the vents. He suggested that the final design may be refined, but that it should go to the Planning Commission very soon.

Mr. Mosher reported that the Landmark Commission must also approve one of the four options for the canopy connection to the historic building. He stated that the idea is to obtain preliminary approval prior to spending dollars on the final design. He reported that the review is tentatively scheduled for February 16.

Ellen Ittleson reported that the canopy connection issue will also go before SHPO and that she and that DUSPA wants to make sure that SHPO is involved in the process of selection of one of the options.

ii) Update Regarding Project Progress

Mike Sullivan reported that the new construction related item is that RTD has moved into Suite 250 of the Historic Building.

He reported that DUSPA is still awaiting comments from Amtrak regarding MOU #3.

Mr. Sullivan stated that the license agreement with the City of Denver, via Peter Baertlein, has been substantially negotiated and that he is waiting to arrange a meeting with Councilwoman Montero before they finalize the agreement.

He reported that he is waiting to release Kiewit on the notice to proceed once all of the approvals have been obtained.

Bill Mosher directed the Board members to the memorandum regarding the Audit Issues and recommended that the Board proceed with creating an Audit Committee to include staff by the financial and audit representatives of the City, RTD, DRCOC and Trammell Crow in order to resolve the audit issues and outlined the memorandum as follows:

1. If DUSPA is to be a component unit of the City, the audit must be complete by April 1.
2. Procurement of the auditor is an issue within the federal requirements. He reported that Terry Howerter suggested that DUSPA use RTD's auditor (Bondi) to compile financial statements and then retain another auditor to perform the audit of those statements.
3. The next issue is to ensure that all grants are on DUSPA's books, even though DUSPA does not have finalized agreements with RTD or CDOT on who is responsible for federal compliance.
4. The booking of assets and ownership of improvements is an unresolved issue. Mr. Mosher reported that the City and RTD are in discussions as to whether the improvements are owned by DUSPA or are transferred to RTD during construction.
5. The chart of accounts will be contingent upon resolution of item #4.
6. Mr. Mosher reported that some legal documents may conflict with each other. He suggested that the process and function should be determined and then the documents should be revisited to reflect the process.

Mr. Mosher suggested that DUSPA is running out of time with respect to the PNRS and SB-1 funds and that all of the players should be in the same room to work out the compliance issues. He suggested that the audit committee could be used to make this happen.

Marla Lien stated that this issue also goes to the 5309 bus money, which stays with RTD, but that ARRA funds are also 5309 and compliance for those funds is the responsibility of RTD while ARRA funds are being administered through DOT. She also stated that SB-1 funds are State funds, not federal.

Marla Lien suggested that RTD will take responsibility for the \$40 million in grants through 5309. She was not certain whether RTD would have responsibility for the approximately \$50 million of PNRS funds.

Chad Fuller reported that the financial team agrees with everything that Bill Mosher has set out in the memorandum.

Terry Howerter suggested that RTD believes that its auditor, Bondi, would work out for DUSPA.

Cole Finegan suggested that DOT should be included in the resolution of these issues to ensure that it gets what it wants.

Bill Mosher reported that the Owner's Representative is looking for any possible guidance to resolve these issues.

Terry Howerter suggested that because everything is in place with Bondi and RTD, that RTD and DUSPA should partner up on the audit.

Bill Mosher asked whether DUSPA could be a component of RTD to resolve this issue and suggested that, because the builder's risk insurance is in DUSPA's name, being a component of RTD could raise other issues.

Robin Kneich suggested that the appointment of Claude Pumilia to the DUSPA Board was because of concerns by the City auditor of the structure of DUSPA.

Elbra Wedgeworth stated that Mike West has volunteered to chair the audit committee.

Michael West confirmed that he has volunteered and stated that this committee will be a great learning experience.

Bill Mosher asked Marla Lien her opinion of DUSPA using Bondi to prepare the financial statements.

Marla Lien considered whether using Bondi violated the sole source policy of DUSPA and opined that since RTD conducted a competitive procurement process for Bondi that DUSPA should be okay using Bondi under federal requirements.

Bill Mosher requested that the Board propose a motion to retain Bondi subject to a letter of agreement from RTD and retainer letter with Bondi.

Terry Howerter stated that RTD's problem is that it needs to promise the auditors that RTD will build an asset and that the promise needs to come through DUSPA for the accounting to work out. He suggested that, because of RTD's asset requirement, having DUSPA be a component of RTD would be the best method to work this out.

Marla Lien moved that DUSPA retain Bondi for financial statement preparation for this and future years subject determination of a final scope and retainer letter with Bondi.

Jerry Glick seconded the motion. The vote was unanimous.

C. USNC Development Update

Tom Gougeon provided a power point presentation on the development program that USNC is creating. He also reported that USNC is working to close on the purchase of the first parcel in the first quarter of 2010 because the project was not ready in December of 2009.

The development essentially has six components as follows:

1. The Commons Planned Unit Development
2. The Westerly Commons
3. The DUS Subarea 2 (includes 2 buildings as wings on the new train room and two buildings west of the train room)
4. The DUS Subarea 1 (includes the two wing buildings next to the historic station)
5. 16th Street as the gateway to the Central Platte Valley
6. 18th Street termination.

Mr. Gougeon reported that the elevation criteria allow for the North Wing building to be 5 stories high and the South Wing building to be 4 stories high. A slide was shown that identified the building envelopes compared to the actual building sizes as designed. Mr. Gougeon reported that the actual buildings will not be as big as what could be constructed on the two wing parcels.

Mr. Gougeon reported that two levels of parking are planned under the North Wing building, along with bicycle storage and that they are currently contemplating a public access elevator wherein parking and the deck/pedestrian bridge can be accessed at all times from this elevator. Mr. Gougeon concluded that the goal of the two wing buildings are to have contemporary structures that compliment the historic station.

Mr. Gougeon continued his presentation by stating that the USNC goal is to have all buildings be Leeds Silver certified or higher. He showed a slide of the south end of the North Wing building with a set of stairs incorporated onto the exterior wall of the building that will go up to the pedestrian bridge and partially covered by a large canopy at the 18th Street Plaza and reported that design and approvals of the North Wing building should be completed by the end of 2010 with construction beginning in 2011.

Tom Gougeon reported that the upcoming USNC tasks include completion of several agreements, as follows:

- Purchase and sale for North Wing, closing on February 10.
- RTD/DUS Metropolitan District IGA
- Reciprocal easement and development agreement (may need for Cert of Occ.)
- DUSPA self help agreement
- Landmark/Planning Commission approval (for both Wing buildings)
- Construction Schedule

Mr. Gougeon also reported that he understands that someone is looking to develop another building within the DDA, in addition to the two currently planned by USNC. He suggested that if these three buildings are constructed, approximately one half of the moral obligation of the City will not be needed and that this is particularly good news because these buildings could be completed before the DUSPA project is completed.

Jerry Glick asked that Mr. Gougeon discuss the concept of shared parking.

Mr. Gougeon responded that the public access elevator would allow for a pool of public parking at the North Wing building evenings and weekends because the building occupants primarily need parking only during regular business hours. He also suggested that monitoring of the parking lots in front of DUS has provided a great deal of information regarding the current parking patterns in the area of the project.

Jerry Glick then asked if Mr. Gougeon would provide summaries of the contract documents discussed today.

Bill Mosher stated that the self help agreement arises because USNC wants the ability to step in and construct the plazas around the North Wing building in the event that DUSPA is unable to complete the work. Mr. Mosher suggested that, because Federal funds are slated for use to construct the plaza areas, a step-in provision may not work for this agreement and proceeds from the sale of land may be necessary.

Tom Gougeon stated that the amount of money required for the plazas necessary to get the certificate of occupancy is on the order of a few hundred thousand dollars and will not be necessary until 2013. He suggested that care should be taken regarding land proceeds since the necessity of the funds is highly theoretical.

Marla Lien suggested that this issue can be worked out in the cash flow model and, because RTD currently has step-in rights under its agreements with DUSPA, this issue can be resolved.

Bill Mosher stated that he wanted to make sure the Board knew that this issue is in the schedule.

Jerry Glick asked how the 18th Street termination happens.

Mike Sullivan responded that it is not a condemnation issue and that there are in fact already permanent easements in place on 18th Street that have been held by RTD and DUT that DUSPA has access to.

Tom Gougeon reported that, although it's tight, the existing easements provide sufficient access for the North Wing building.

D) Federal Procurement Issues.

Dawn Bookhardt reported that it has been decided that DUSPA needs a procurement policy and that the RTD policy will be used as a model. She suggested that once the draft is complete, it will be submitted to the Finance Committee for discussion and then to the Board for approval.

Robin Kneich asked whether prevailing wages can be included in the policy.

Elbra Wedgeworth stated that she has directed the attorneys to draft the policy for submittal to the Finance Committee where the initial discussion should occur.

VII. ACTION ITEMS

Marla Lien moved that DUSPA retain Bondi for financial statement preparation for this and future years subject determination of a final scope and retainer letter with Bondi.

Jerry Glick seconded the motion. The vote was unanimous.

VIII. EXECUTIVE SESSION

Elbra Wedgeworth read the following language for a motion to enter executive session: The Board will now enter into executive session to discuss certain matters as permitted under the Colorado Open Meetings Law (C.R.S. § 24-6-402 et. seq.) related to financial and contract negotiations and financial management negotiations.

Jerry Glick made the motion to enter into an executive session. Mario Carrera seconded the motion. The vote to enter an executive session was unanimous.

The Board entered into executive session at 2:33 p.m.

Jerry Glick made the motion to exit executive session. Robin Kneich seconded the motion. The vote to leave executive session was unanimous. The Board exited from executive session at 2:29 p.m.

XI. ACTION ITEMS RESULTING FROM EXECUTIVE SESSION

Marla Lien made the following motion: That the President of DUSPA shall be authorized to issue a final notice to proceed to Kiewit upon sufficient notice of loan approval from DOT, from

TIFIA, and from RRIF as well as upon written concurrence from the CDOT Executive Director, the RTD General Manager and the Mayor's office of the City and County of Denver.

Jerry Glick seconded the motion. The vote in favor of the motion was unanimous.

Don Hunt inquired whether the motion implies prior approval of RTD.

Marla Lien responded that prior approval of RTD is a requirement.

X. CARRYOVER AND FUTURE AGENDA ITEMS

Please look forward to an update of the RRIF and TIFIA application process.

Mr. Mosher will have an update regarding:

- i) The project budget and financial statement and;
- ii) AMTRAK issues.

XI. ADJOURNMENT

There being no further business, the meeting was adjourned at 3:02 p.m.