

Whitewater University Technology Park Board
Lakefront Conference Room, City Municipal Building
312 W Whitewater Street
Minutes for October 13, 2010

1. Call to Order.

The meeting was called to order at 9:00 am by President Telfer. Members present: Peter Zaballos, Kevin Brunner, Ronald Gayhart, Richard Telfer, Jim Stewart and John Chenoweth. Excused: Knight. Others present: Wallace McDonell (City Attorney), Gary Albrecht, Mary Nimm, Denise Ehlen, Jim Caldwell, and Dan Swanson, Mark Cullen and Neal Day (J.P. Cullen).

2. Approval of Minutes from September 8, 2010 Meeting.

It was moved by Chenoweth and seconded by Gayhart to approve these minutes as read. Approved.

3. Review EDA Compliance Issues.

President Telfer read the following statement.

“On September 28, 2010, a letter from the Chicago Regional Office of the Economic Development Administration (EDA) was received by representatives of the Whitewater Community Development Authority, the City of Whitewater, and the University of Wisconsin-Whitewater. This letter advised the co-grant recipients to cease and desist all construction activities associated with the grant.

Upon receipt of the letter, City Manager Kevin Brunner advised the contractors of the letter and put them on notice that construction may need to be stopped. On Wednesday, September 29th, he sent an e-mail to members of the Common Council, the Community Development Authority, and the University Technology Park Board, explaining the situation and including a copy of the September 28th EDA letter.

A meeting with the EDA in Chicago was scheduled for the morning of October 6th. Kevin Brunner, Mary Nimm, Denise Ehlen, Jeff Knight, Richard Telfer, and Cliff Goodhart attended this meeting. During the meeting the EDA’s concerns were discussed and elements of a possible resolution were considered.

On October 7th, a letter was sent to C. Robert Sawyer, Regional Director of the EDA explaining what had happened and why and proposing a resolution going forward. Also on October 7th, in response to this letter, a letter from the EDA was received accepting the proposed solution and lifting the stop advisory. These letters were shared with members of the Common Council, the Community Development Authority, and the University Technology Park Board.

The area of non-compliance indicated by the EDA concerned the use of J.P. Cullen as the construction manager and as the general contractor. While a number of safeguards were in place to ensure a bid process in compliance with federal regulations regarding competition, the EDA determined that awarding this contract did not satisfy the requirements of the code. The agreed-upon resolution to the situation involves EDA providing support for labor and materials associated with construction management

and the general contract. The Whitewater partners must fund all overhead costs incurred by J.P. Cullen to ensure compliance.

It is clear that the EDA understands the importance of this project for Whitewater and for southern Wisconsin. They continue to be strongly in support of this project and recognize its importance for job growth and economic development in the region. The partners in the project are committed to moving this project forward. We are taking additional steps to ensure compliance, including conducting regular telephone conferences with our EDA Construction Project Manager. We appreciate the EDA's cooperation and support for this project."

After Telfer's statement, there was general discussion regarding the financial impact that the EDA compliance issues might have. In response to a question from Chenoweth, Brunner explained that we don't know exactly the net financial impact but it could result in additional dollars being paid under the EDA grant for construction management services that previously were thought not to be grant-eligible. The financial impact will be dependent upon how the EDA treats overhead and profit on the general construction contract as well as what construction management costs will be allowable under the grant. Brunner indicated that he would keep the Board informed as the administration of the EDA grant goes forward.

Gayhart questioned whether or not we should have known earlier in the process about the noncompliance issue. Ehlen responded that there was mutual culpability on the compliance issue. Telfer noted that the general construction contract was bid on in an open competitive process with Eppstein Uhen, as project architects, to serve as the overseer of the general construction contract.

City Attorney McDonell stated that the City was never alerted about the non-compliance with the CFR until a new EDA project engineer was assigned to the project a few weeks ago.

Telfer concluded this discussion by indicating that this was an advisory order not a mandatory stop work order. McDonell commented that this advisory order placed the City and CDA in a difficult position. Since it was advisory, the various contractors were alerted to the issue and some construction was slowed down but there wasn't an order to stop construction because of the belief that this matter could be readily resolved with EDA officials. Telfer also stated that, while this was a violation, the situation has been resolved with EDA officials and that communication with the EDA would be improved as these projects go forward.

4. Update on EDA Grant.

Telfer stated that this item was sufficiently covered under previous item, however, he noted that all three EDA grant projects: 1) Construction of the Whitewater Innovation Center, 2) Extension of Starin Road and 3) Construction of the Whitewater University Technology Park improvements are proceeding ahead on schedule and within budget.

5. Update on Innovation Center Construction.

Neil Day, project manager with JP Cullen, gave the following report.

Safety: The project has gone 112 working days without a safety incident.

Schedule: The originally scheduled substantial completion date is December 30, 2010 with 10 days of float. Current substantial completion date is December 30, 2010 with 6 days of float.

We have lost no float since the last report.

Bedrock: We are dealing with a final bedrock item at the complete south end of the parking lot. The plans call for a raw drainage ditch cut in three feet deep. At one point we only have eighteen inches of soil over the bedrock. The consulting engineer is determining the revised plan.

Recent progress: 1) Geothermal system completed. 2) Interior steel stud walls complete. 3) Interior mechanical and electrical rough-in over 90% complete. 4) Glass exterior wall system 90% complete. 5) Composite metal panel on exterior 30% complete. 6) Masonry complete. 7) South landscaping complete. 8) Drywall 70% complete.

Upcoming activities in October: 1) Roofing flashing. 2) Prepare northwest and east grade for hardscape and landscape. 3) Curbside walks and asphalt paving. 4) All remaining landscaping. 5) Interior painting. 6) Acoustical ceiling. 7) Bathroom finishes.

6. Update on Starin Road and Infrastructure Projects

Brunner indicated that the Starin Road project is going along well and that the three detention ponds as well as the rough in of Greenway Court have been completed for the Technology Park Infrastructure. Substantial completion date for Starin Road continues to be November 15; however, the Starin Road extension will not be open to traffic until sometime in spring of 2011. Similarly, the substantial completion date for the Technology Park infrastructure is November 15; however, the East Main Street extension as well as final asphalt lifts will not be completed until spring of 2011.

7. Dark Fiber Update.

Telfer provided a brief update on the Dark Fiber project. He indicated that the City has approved a MOU with Wisconsin Independent Network (WIN) to extend Fiber from the University Data Center to the Innovation Center. This work will be completed this fall with the Innovation Center providing the space for the head end of the Dark Fiber to be extended from the University.

8. Approval of Technology Services Agreement.

It was moved by Brunner, seconded by Gayhart to approve a contract with the University for the Technology Services Agreement as previously presented to the Board. Ayes: Zaballos, Gayhart, Brunner, Stewart, Chenoweth. Noes: None. Abstain: Telfer.

9. Update on Innovation Manager Search.

Telfer indicated that the Search and Screen Committee did not recommend hiring any of the three candidates Telfer interviewed for the Innovation Manager position. He indicated that Denise Ehlen was pursuing hiring a manager on an interim basis to perform these duties and that the Search and Screen Committee would reconvene in the near future to begin the recruitment process again for a full time manager.

Zaballos expressed an interest in becoming a member of the search and Screen Committee for this position. It was moved by Chenoweth and seconded by Brunner to appoint Zaballos to the Search and Screen Committee. Approved.

10. Review and Approval of JEDI Lease.

Brunner presented a proposed lease for approximately 800 square feet in the Innovation Center

by the Jefferson Eastern Dane County Institutional Network (JEDI). It was moved by Gayhart, seconded by Telfer, to approve the lease as presented. Approved. Chenoweth noted that he would like to see a standard lease document that the Tech Park Board can approve so that all these individual leases do not have to come to the full Board for approval. Brunner indicated that the EDA was still reviewing the standard lease document and pending EDA approval a standard lease document will be brought back to the Board at a future meeting.

11. Innovation Center Strategic Plan.

Denise Ehlen distributed a draft strategic plan to the Board. It is requested that the Board respond to Ehlen with any comments or suggestions for improvement by October 22nd.

12. Lease Agreement Template.

This item was previously discussed; however, Ehlen distributed a draft incubator/client services agreement for virtual tenant space. A master relationship agreement was distributed as well. These items will be reviewed by the Board with action at a later date.

It was moved by Brunner, seconded by Stewart to approve a Tenant/Entrepreneurship Development Committee to be chaired by Zaballos with Chenoweth and Ehlen as members. Approved.

13. Convene to Closed Session

It was then moved by Gayhart, seconded by Stewart to convene to closed session at approximately 9:45 am to reconvene at 10:00 am pursuant to Wisconsin State Statutes 19.85(1)(c) considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. The purpose of the closed session is to review the Innovation Center Manager position and possible interim appointment. Ayes: Zaballos, Gayhart, Telfer, Brunner, Stewart, Chenoweth. Noes: None.

It was then moved by Zaballos, seconded by Chenoweth to reconvene to open session at 10:05 am. Ayes: Zaballos, Gayhart, Telfer, Brunner, Stewart, Chenoweth. Noes: None.

14. Next Meeting

The committee set its next meeting for Wednesday, November 10th at 9:00 am.

The Board then took a tour of the Innovation Center Building at 1231 Innovation Drive for approximately 45 minutes.

15. Adjournment.

It was then moved by Brunner and seconded by Stewart to adjourn. Meeting adjourned at 11:15 am.

Respectfully Submitted,

Kevin Brunner, Secretary