

**WHEELER OPERA HOUSE
MINUTES OF THE MEETING OF
THE BOARD OF DIRECTORS**

DATE: Wednesday, June 24, 2009

TIME: Noon

LOCATION: Wheeler Lobby

PRESENT: Board Members: Ron Erickson, Chairperson
Brian O'Neil, Vice Chairperson
Matthew Loden
Pamela Cunningham
Barbara Conviser
Cathy Markle, Secretary
Jane M. Battaglia

City of Aspen Financial Advisory Board: Jenny Elliot CFO, MAA
Pete Lorus

Wheeler Staff: Gram Slaton, Executive Director
Heather Larson, Senior Operations Manager
Rose Bennett, Senior Finance Manager

City Staff: Randy Ready, Assistant City Manager
Don Taylor, City Finance Director
Scott Miller, City Capital Asset Director
Steve Bossart, City Asset Project Manager

FMG Team: Michael Schnoering
Michael Farewell

Architect: Sarah Broughton

RECORDED BY: Jeanne Kayne, Administrative Assistant

I. CALL TO ORDER

Chairperson Erickson called the meeting to order at 12:15 pm.

II. APPROVAL OF MAY 13, 2009 MINUTES

Chairperson Erickson called for the approval of minutes from May 13, 2009. O'Neil made the motion with Battaglia seconding the motion. The minutes were unanimously approved.

III. FINANCIAL ADVISORY BOARD REPORT

Erickson deferred the discussion of the Wheeler Financials and the Executive Director's Report. The City's independent Financial Advisory Board attended the meeting and were asked to introduce themselves to the Wheeler Board. Pete Lorus introduced himself as a retired financial executive from the Clorox Company; he also served on the Citizens Budget Task Force. Don Taylor, the Director of City Finance, introduced himself as the second member. Jenny Elliot introduced herself as the CFO of the Aspen Music Festival and School. Howie Mallory, who is also part of this Board, was in France and unavailable to attend the meeting.

The Financial Advisory Board was asked to review the financing of the proposed expansion of the Wheeler. They went through a set of assumptions, and built a pro-forma of how the revenues and expenditures for construction and operation of an expanded facility played out. The sheet provided to the Wheeler Board was determined to be the preferred financing alternative from the Financial Advisory Board. Taylor explained that this review was a snapshot and will change as actual costs come in. The pro-forma showed if the facility has a \$30 million budget the Wheeler would have to borrow \$5.2 million to complete the facility, and the projected revenues over a 30-year period would service the debt and pay for the operation of the facility. Taylor listed the assumptions the Financial Advisory Board used for the basis of the pro-forma and then commented on the findings.

Assumptions:

- Real estate transfer tax stays down for two years then begins to increase at 5% per year.
- Cost of the project is \$30 million, including contingencies.
- Facility will be closed for a period of time while the excavation for the foundation takes place.
- Minimum Fund Balance is 25% of annual operating budget
- Remainder of Fund Balance and Endowment to be used for construction costs. Use of cash is deemed more economical than larger borrowing.
- Revenues from the expansion will exceed expenditures related to the expansion by \$100,000 (not including debt service).

Findings:

- Fund balance will decrease to near the minimum (25% of annual operation budget) in 2016 before increasing again on an annual basis.
- A bond issue in the amount of \$5,200,000 amortized over 30 years at approximately 5% interest cost will be required to complete the financing of the facility. The city will also evaluate negotiating with local banks for construction-loan type financing.
- An election will be required to authorize the issuance of the bonds and to extend the expiration date of the real estate transfer tax.
- Election question authorizing the issuance and extension needs to be set by August this year if construction is to begin in 2010.
- City use of new space (or old converted space) should be considered as an alternative to placing additional retail commercial space on the market.
- The Financial Advisory Board strongly recommends that adequate contingencies be built into the construction budget for the facility. There are no margins for error and there are no contingencies for major maintenance repair to the existing facility other than what is provided for in the pro-forma.

Elliot explained that the Financial Advisory Board was not asked to do an evaluation of the total dollar amount of \$30 million and whether or not that amount was reasonable or needed. The question posed was: If you will need to spend \$30 million, what is the most economical way to finance this?

Cunningham asked Taylor if the issuance of debt referred to strictly bonds or a loan from a financial institution. Taylor explained that in either scenario there will be a need for the extension of the RETT. He explained that there is a mechanism to do a loan without going to an election called a lease purchase agreement or a certificate of participation.

This is subject to an annual appropriation by City Council and is not considered debt under the constitution. But in either scenario you will have to have an extension of the RETT, so there will be an election required for that.

Taylor said the general obligation bond would be the least expensive way to go and is what the Board recommends, or possibly a construction loan with an equivalent interest. Elliot voiced that a construction loan has shorter time constraints for payback and there would be the concern that we would not be able to pay the loan off quickly enough.

Loden asked the Financial Advisory Board to offer their opinion of the timing of this expansion. Lorus responded that the driver will depend on doing a good job of construction negotiation with the bids received from the contractors. He was not so concerned with the half a point interest rate differential in the bond issue. Lorus went on to explain that we are in a unique situation and believed the best way to finance this facility is to use the endowment.

Elliot raised a concern regarding the institutions interested in using the facility and their viability in the funding of their programming. O'Neil voiced concern that the arts groups might be hesitant for the Wheeler to use the endowment as they will be concerned with losing their grants and funding. Taylor added that support of the grants is built in to the pro-forma at about the same level. There is a bit of a dip during construction but it does go back to the same level of continued support. Lorus highlighted that the Financial Advisory Board strongly recommends that adequate contingencies be built into the construction budget for the facility.

Loden asked if the 25% minimum fund balance was a standard calculation. Taylor responded that it is different for different funds and seemed to be adequate from an operational standpoint. Taylor added if you had to dip into that you are pushing the envelope at that point.

Markle questioned the increase in ticket revenues during 2011, which will also be the primary year of construction. Taylor said the assumption was that the facility would be closed for a period of time in 2010 and ticket revenues would be less but that it would be open through the balance of the construction once the foundation had been dug. Slaton added that the Wheeler never takes in as much in tickets sales as is put out in terms of programming.

Erickson asked about the reduction of the RETT by one third (\$3.24 million versus \$2.40 million). Taylor explained he took this off his revised forecast for 2009. The Wheeler budget shows through May of 2009 that we have 42% of what the projections are, so it looks like the Wheeler will be at \$2.8 million, or \$2.9 million. This is substantially higher than what Taylor was projecting for 2010. Taylor explained that January and February were better months because of closings at the Little Nell and Dancing Bear, and when those sold out their contracted commitments the revenues fell to half of that on a monthly basis. So what the projection is based on is continual and at the same level of receipts we've been receiving in March through June, then adding on what was received in January, which made it higher.

Regarding the findings, Erickson asked about the City's use of new space (or old converted space) and whether or not it should be considered as an alternative to placing additional retail commercial space on the market. Where does this finding come from and how will that affect the ancillary income to the Wheeler, which is used to fund the non-profits? Taylor said that if the

City used it they would pay market rate to the fund. Erickson expressed that he thought there would be one of three scenarios; the first being partial use by non-profits, in which case the Wheeler would probably not get fair market rent. The second scenario would be community directed retail or commercial operations in which they want to remain in the building. The third is the plan of using the City as a fallback alternative. Taylor explained the model was built on \$85.00 per square foot for the new space, which he said may be a bit optimistic given the parameters Erickson has outlined. Taylor said that might be an adjustment the committee will have to make.

Cunningham thanked the committee and then asked them if they were asked to review the operating expenses for efficiency. Elliot answered no. The AMP or capital improvement plan is still in the draft form for 2020 and was incorporated into the pro-forma. Slaton commented that the 2nd and 3rd phases were taken out, which were re-doing the balcony, and expanding or otherwise reconditioning the stage house. Monies were left in for any kind of redesign of the two lease spaces downstairs, and that's another piece that can come out if necessary. Cunningham expressed that there was public support for the re-doing of the balcony and it might be a concern to leave that phase out.

Lorus explained it is the assumption of the Finance Department that all of the monies owed to the Wheeler fund from the affordable housing loan would be repaid in 2009 and 2010. Markle asked what this assumption was based on. Taylor explained that for 2009, the repayment is included in the affordable housing fund budget, and explained the expenditures were built around a lesser RETT. In 2010 it will be submitted to City Council to repay the balance and the projections for building Burlingame #2 are built around not proceeding until 2011, with the prerequisite that the repayment is made before they start.

IV. FINANCIALS

Slaton explained that the financial report shows some changes. We are recognizing all of the investment interest instead of 1/18 of it, which is what we were instructed by the last Director of Finance to recognize. The housing fund repayment is reflecting interest only rather than reflecting interest and principle. They offset each other by about \$300,000. The ending fund balance number is affected, as it's taken down a bit.

Markle had a question regarding the transfer to the general fund for ACRA marketing. She wanted to know if this was part of the 2009 City Council decision to increase funding to the ACRA based on a request or if it was a 2008 budgeted amount. Taylor answered that it was a 2009 request and City Council did adopt that. The City Council was looking to expand ACRA's marketing by a total of \$200,000, most of which came from the general fund and a small portion came from the Wheeler and Parks funds, as a combined marketing effort for both the Wheeler and its operations. Slaton said that with money that was given to the ACRA, it was made clear that it had to go to marketing events which were happening at the Wheeler.

V. 21st CENTURY MASTER PLAN

Michael Farewell of FMG gave a quick overview of the approvals process and the design refinement process. There was a meeting six weeks ago with the combined P&Z and HPC committees, which included a public comment segment. The last month and a half was used to extract the important issues from this meeting and to give an overview of what FMG has learned. The directive is to maintain the primacy of the Wheeler and keep the new building subordinate to it, defer to the Wheeler, maintain the character of the Wheeler, and let that be the iconic identity

of the performing arts center. What this means for the new building is to step it back and try to make it subordinate to the Wheeler. There are five specific areas which are affected. The first would be to set the building back from the facade line. This would give the town community space, give the Wheeler facade continued primacy, and create the opportunity for a softer zone in terms of landscape treatment. The second point would be to decrease the mass or the height of the addition to have less impact on the streetscape. The third point is to maintain the historical entrance into the Wheeler, which was specifically requested by the HPC. The fourth point is to look at the elevations in terms of the amount of glazing vs. masonry, to increase the amount of masonry in the interest of creating a continuous facade. The fifth issue was to address the level of transparency vis-à-vis this very monolithic facade. And finally there are a host of issues in regard to service access, infrastructure, bus parking, and deliveries in back. The drawings have been revised and FMG has made a submission to the HPC. In return they've received a staff report and commentary on the submission. FMG will be prepared tonight to address those issues.

What FMG is proposing is exploratory and they expect and want to receive comment from boards and people so that drawings can be refined. Nothing is set in stone.

FMG's responses to the previous HPC/P&Z comments include setting the building back by ten feet, which will impact the lobby space. The setback impacts the circulation of the lobby, which will be more compressed. Space for stairs, elevators, and access is not as ideal, but it does give the ability to have a green zone in front of the building and makes the Wheeler elevation and facade the primary one. There would be a recess to the entry, making a corner turret or bay or tower-like element that will allow them to make the very important connection, which occurs on all the upper levels of the building. They are proposing to remove the elevator and build this circular bay, or it could be octagonal or take on the geometry of the building. They would like to ease it around the corner and not have it be a blocking element. Maintaining the historic entry into the Wheeler stands as an issue as there is really no effective way to do it. The historical entry into the Wheeler is simply nonfunctional for a contemporary theatre. On the issue of the mass, FMG is proposing to eliminate one of the affordable units. This speaks to the cost considerations that were held earlier. There will thus be two units: an artist unit and an affordable housing unit. The affordable unit will drop down to the next level and be behind the offices, which will be, in effect, compressed. This will reduce the area and reduce the height, and in turn set back the line of the upper level 4th floor. In response to the issue of glazing, there will be 20% less glazing in regard to the treatment of the elevations. FMG is purposing to maintain more masonry, both in the corner adjacent to the Wheeler and also showing more of a solid cornice like element across the top.

Loden asked how FMG would respond to a 20 foot setback on ground level with a cantilevered space above, so you still have the lobby space. Farewell answered that the space they are really pitched on is the ground floor, because of the need for the ticket office, queuing space and the flow to all the different areas. They are trying to keep this building grounded. If there is an undercut with a deep void they will lose that relationship. Loden asked what impact the changes have on the \$30 million estimate vs. \$25 million. They have not re-estimated, but clearly the area has been reduced and the amount of surface and volume taken down.

Erickson said his understanding was that this was conceptual approval, and that everything does not have to be nailed down. He voiced that as a member of the Housing Board he is not happy about losing a housing unit. He said that the HPC and P&Z are not the theatre professionals here. Lobby space is very important and he disagrees with reducing it. Erickson was concerned with a need for an urban landscape and wondered why all the other facade lines come out to the sidewalks. He said that ten feet back does not make for an urban landscape, and he suggested we

ask for a variance. Regarding the issue of masonry vs. glazing, we want the new building to stand on its own, be unique, and not replicate the Wheeler. He was concerned with not going down as far as originally planned and losing space.

Farewell expressed that this is a delicate balancing act. He stressed that FMG are theatre planners and are extremely focused on how theatres and lobbies function. He said that they believe this is a functional arrangement that will work for our purposes. He said they couldn't make it any smaller, and can't go any further and still make it work. They are reducing volume because the Wheeler is up against a cost issue, and there is a need to build consensus in the community. The Wheeler Board is listening and is going to respond to what it's getting back from the community about aesthetic issues. FMG felt these compromises and recalibrations met the larger objectives.

Ready stated that as part of an effort to strike the right balance between compromise and assertiveness they have scheduled a work session with City Council on July 7th. It's a very informal work session and the City Attorney has made it clear to Council that they cannot take a stand at that time, but compromises will be discussed. Ready said this would be a good time to bring the two new members of Council up to speed.

Markle had questions regarding the 10-foot setback and its impact on energy efficiency and whether or not there would be a major impact on the geothermal and air exchange design. Farewell said the space issue is a big one and the solar chimneys that were discussed are in jeopardy because of the space which has been lost. Markle went on to state that the pictures and the GIS maps all emphasize that the vast majority of buildings in the commercial core are built to the frontage. The lobby square footage is now compromised, because it has been dropped down to the minimum square footage allowed by code.

Farewell suggested that this meeting be approached with an attitude that this is what we can build which will accommodate our program. We can make this work and it's a good acknowledgement of issues raised on the streets. His plan is for FMG to go in with a strong conviction that this is right and responsive.

VI. EXECUTIVE DIRECTOR'S REPORT

- The second Rooftop Comedy Festival was a great artistic success, even though our paid attendance numbers only hit half of what we had hoped for (which may have been far too optimistic). Still, we had increasing audiences with each show, the comedians and Rooftop had a great time and will come back, and Rooftop and the Wheeler will continue to refine the program for its third iteration next June.
- The first MountainSummit Festival is on for the end of August, and will feature an exciting line-up of activists and artists, including visual artist Chris Jordan, and Tim DeChristopher. We hope to include National Geographic photographer Steve Winter as a third non-film speaker. Perhaps the most high-profile event presently scheduled is a screening of "Rock Prophecies" with rock photographer Robert Knight, which will conclude with an impromptu concert by one of Robert's guitarist friends, Wheeler friend John Oates, and special guests. Aspen Film decided after the May festival in Telluride to pull out of any kind of partnership on MountainSummit, despite many weeks of negotiations.

- The video piece is in final edit and should be released shortly. We will distribute it through our box office and other sources, and Plum TV will be running it in a half-hour edition through the summer and into the fall.
- After extensive interviews, a six-person committee (John Laatsch, Steve Bossart, Scott Miller, Sara Broughton, Ron Erickson, and Slaton) selected Seamus Henchy of New York as the Wheeler's owner's rep for the expansion project. It was a close decision between Henchy and Pfocus, who we have been using periodically through the first stages of this project, but Henchy's experience with colder-climate construction and with both Jaffe Holden and Fisher Dachs gave them the final edge that Henchy needed to secure the position.
- For the first time in four summers, we have no large capital projects to plan and execute before the fall season. The pit substructure is done, the remodel of the upper backstage is 90% complete, and all other projects need to tie into the expansion.

V. ACTION ITEMS. None.

VI. INFORMATION AND DISCUSSION ITEMS. None.

VII. MEMBERS COMMENTS: Tyler Bake who was a student representative for the Wheeler Board of Directors is in the process of building a multi-lingual bi-cultural school in Jerusalem for young Jewish and Muslim children.

VIII. CITIZEN COMMENTS: None.

IX. OLD BUSINESS UPDATE: None.

X. NEW BUSINESS: None

XI. ADJOURNMENT.

Erickson called for a motion to adjourn. Cunningham made the motion to adjourn. Battaglia seconded the motion. The meeting was adjourned at 2:14pm.

THE NEXT REGULAR MEETING IS SCHEDULED FOR WEDNESDAY, AUGUST 12TH, 2009, IN THE WHEELER SECOND FLOOR LOBBY.