

South Dakota Ellsworth Development Authority (SDEDA)

Meeting of the Members

Board Meeting Minutes
April 18, 2011, 10:00 AM CDT

at
Richard F. Kneip Building
700 Governors Drive
Pierre, SD 57501
Conference room on the 1st floor

1. Call to Order: Chairman Burchill called the meeting to order (10:02 AM CDT)

Board members present: Michael Bender, Pat Burchill, Kenny McNenny, Kent Mundon, Stanley Porch, Mark Roby, and Bob Sutton.

2. Acknowledgement of Special Guests

Chairman Burchill recognized Mr. Dusty Johnson, Chief of Staff for Governor Dugaard, as being present and gave Mr. Johnson the floor for comments. Mr. Johnson indicated that Governor Dugaard and Commissioner Costello wanted to attend the Board meeting but were unable. Mr. Johnson made comments on behalf of the Governor and wanted the Board to know the importance of the Authority to the State of South Dakota. Mr. Johnson also expressed the importance that the Governor's Office, the Governor's Office of Economic Development, and the Authority work closely together.

3. Approval of the Agenda

MOTION: Stanley Porch made a motion to approve the agenda. Michael Bender seconded the motion. The agenda was unanimously approved.

4. Approval of the minutes from the November 17, 2010 Board meeting

MOTION: Mark Roby made a motion to approve the minutes from the December 13, 2010 Board meeting. Stanley Porch seconded the motion. The minutes were unanimously approved.

Note: Past Chairman Rampelberg, who chaired the Dec 13, 2010 meeting, had previously reviewed and acknowledged the minutes.

5. Executive Session

MOTION: Kenny McNenny made a motion to go into executive session pursuant to the provisions provided for executive sessions under S.D.C.L. § 1-25-2 and/or S.D.C.L. § 1-16J-18. Bob Sutton seconded the motion. The motion was unanimous approved and the Members entered into executive session at approximately 10:13 AM.

6. Recess out of Executive Session

Chairman Burchill declared the Members out of Executive Session at approximately 1:45 PM at which time the meeting reconvened.

While in Executive Session, concerning the GlenMar Enterprises, Inc. professional services contract, the Authority considered the following:

- i. The size of the transaction (as set forth in Exhibit C of Resolution 11-06);
- ii. The fair market value of the transaction;
- iii. Historical ties between the parties;
- iv. The Authority's overall budget;
- v. The timing and length of the transaction; and
- vi. Whether the transaction was an "arms length" transaction.
- vii. Upon completion of the above review, there was no objection from Legal Counsel that the agreement was inappropriate in regards to the Authorities adopted conflict of interest policy.

The Authority determined that, based upon GlenMar's experience, relationships, and qualifications, it is unable to obtain a more advantageous transaction or arrangement from another person or entity. The Authority determined that the transaction with GlenMar is in the Authority's best interest, for its own benefit, and is fair and reasonable.

7. Comments by Chairman and Executive Director

Chairman Burchill discussed the flow of information to the Board Members and asked Greg Erlandson, legal counsel, to discuss general fiduciary standards for Board due diligence.

8. Public Comment Period

A public comment period was on the agenda, but there was no public in attendance.

9. Old Business – None

10. Consideration of Transferring 20 Acres of Skyway Property to Douglas School District.

Executive Director Merchen discussed transferring approximately 20 acres of the Skyway property to the Douglas School District. A Plat of the Skyway property was reviewed and discussed by the Board.

MOTION: Kent Mundon made a motion to approve the resolution to transfer approximately 20 acres known as Tract B of the Skyway Property to Douglas School District. Stanley Porch seconded the motion. The motion was unanimously approved.

11. Consideration of Resolution approving State Revolving Fund Program and Consolidated Water Facilities Construction Program grant agreements for the Regional Waste Water Treatment Plant Design Phase.

Scott Landguth, SDEDA Managing Director updated the Board on the Regional Waste Water Treatment Plant and the funding process. The Board discussed the grants and the funding required for the final design phase of the project. Executive Director Mark Merchen and Greg Erlandson, SDEDA legal counsel gave the Board an update on the Authority's position on the competitive bidding process.

MOTION: Michael Bender made a motion to approve the resolution to approve the grant funding. Kent Mundon seconded the motion. The motion was unanimously approved.

12. Consideration of Resolution approving Professional Services contract related to Owner's Representative for final design phase of the Regional Waste Water Treatment Plant.

Executive Director Merchen gave an update on the duties related to the owner's representative for the final design phase of the Regional Waste Water Treatment Plant. Mr. Scott Landguth, Member of Incentive Consulting LLC, gave an update on his background and qualifications. The Board discussed the resolution.

MOTION: Mark Roby made a motion to approve the Professional Services contract with Incentive Consulting to become the SDEDA Owner's Representative for the final design phase of the Regional Waste Water Treatment Plant. Stanley Porch seconded the motion. The motion was unanimously approved.

13. Consideration of Resolution approving Professional Services contract related to Owner's Representative for final design phase of the Regional Waste Water Treatment Plant.

Executive Director Merchen introduced the Dream Design and SEH, Professional Services contracts. Mr. Scott Landguth reviewed the review process the Authority used in recommending both Dream Design and SEH. Mr. Landguth

also reviewed the qualifications of both Dream Design and SEH. The Board discussed the resolution.

MOTION: Bob Sutton made a motion to approve the resolution to enter into Professional Services Contracts with Dream Design and SEH for services related to the Final Design of the Regional Waste Water Treatment Plant. Michael Bender seconded the motion. The motion was unanimously approved.

14. Consideration of Resolution approving Professional Services Contracts related to Management and Operations.

Executive Director Merchen gave an update on the Management and Operations agreement the Authority has been operating under with the Future Foundation and stated that the Management and Operations actual expenditures was well within budget. Under the current Futures Foundation Management and Operations agreement, specific professional services were retained by the Future Foundation and then provided to the Authority, with the Authorities approval, as part of a comprehensive management and operations agreement. The Executive Director suggested a change in that approach to having the Authority directly contract for specific professional management services with three service providers -- Incentive Consulting LLC, Tanner Consulting LLC, and GlenMar Enterprises Inc. The Board reviewed and discussed the professional services agreements presented.

MOTION: Kenny McNenny made a motion to approve the resolution authorizing the contracts with Incentive Consulting LLC, Tanner Consulting LLC, and GlenMar Enterprises Inc.. Kent Mundon seconded the motion. The motion was unanimously approved.

15. Consideration of Resolution approving Management and Operations Services Agreement.

Executive Director Merchen suggested that a revised Management and Operations agreement be executed between the Authority and the Future Foundation. This agreement would still provide for office space and office systems as did the past agreement and at the same rates. The budget for the operations services is current and under budget. The new agreement with the Future Foundation would narrow the management professional services provided by the Future Foundation to that of an Executive Director i.e. Mark Merchen; who would continue in that role at no cost, at the pleasure of the Authority Board. The Board reviewed and discussed the Future Foundation agreement presented.

MOTION: Stanley Porch made a motion to pass the resolution approving the Management and Operations Services Agreement with the Future Foundation, contingent upon language being added to the contract indicating that it would

supersede previous contracts. Mark Roby seconded the motion. The motion was unanimously approved.

16. Adjournment (approximately 2:30 PM CDT)

Mark Roby made a motion to adjourn the meeting. Kent Mundon seconded the motion. The motion was approved unanimously.

Minutes Approved:

Chairman Burchill: 