

Economic Development Committee Minutes
November 7, 2019 – 3:00 p.m.

Present: Chairman Phil Barrett; Committee Members Art Johnson, Todd Kusnierz, Jack Lawler, Tom Richardson, Tim Szczepaniak, Matt Veitch; Supervisors Tara Gaston, Ed Kinowski, Jon Schopf and Chairman of the Board Kevin Tollisen; Spencer Hellwig, Chad Cooke, County Administrator; Steve Dorsey, County Attorney; Craig Hayner, County Clerk; Jennifer McCloskey, Employment & Training; Jason Kemper, Jeff Williams, Planning; Marty Vanags, Shelby Schneider, SCPP; Dennis Brobston, Angelo Calbone, Tori Riley, Susan Roland, Steve Seaboyer, Ryan VanAmburgh, SEDC; Tom Samascott, Malta Development Company; John Munter, Munter Enterprises; Thomas Longe, DA. Collins; Frank Parillo, Saratoga Prime Properties; Theresa Skaine, Skaine & Associates; Bill Teator, G-Force Consulting; Press.

Chairman Barrett called the meeting to order and welcomed all in attendance.

On a motion made by Mr. Veitch, seconded by Mr. Kusnierz, the minutes of the October 3, 2019 meeting were approved unanimously.

Mr. Barrett said that two different proposed SEDC contracts were sent to the committee via email. Mr. Barrett said that he emailed this committee and the Law & Finance Committee with a proposed contract that he had drafted. A separate draft was sent by Mr. Dorsey to the committee also. The prior contract with SEDC from several years ago was reworked by Mr. Barrett who reviewed the differences between the two agreements. One difference was the number of payments during the year. Mr. Dorsey's version had 2 payments per year, Mr. Barrett's version had 4 payments per year. Another difference was language included in Mr. Dorsey's version, under 5. General Legal Responsibility which specified compliance with the ABO. Mr. Barrett's version under the same section states: The contractor shall comply with all applicable laws, ordinances and regulations including non-discrimination and labor laws.

Mr. Barrett questioned the need for the specific ABO language being included in the contract. Mr. Dorsey said that it provides for circumstances where SEDC would not have to comply with the ABO. The last correspondence he has from the ABO is that based on the unity agreement they would have to comply with public authorities law. Mr. Barrett said that "all applicable laws, ordinances and regulations" could cover compliance if required. Mr. Lawler expressed concern with supervisors drafting contracts rather than the County Attorney and questioned what happens if SEDC does not comply with the laws. Mr. Barrett said that there is language contained in the contract that allows the county to end the contract if SEDC does not comply with all laws. Mr. Barrett said that a process that would be needed to move forward from that point. If at the end of the day, a decision is made by the courts, at that point there is no more question. Mr. Barrett said that the specific language in Mr. Dorsey's agreement is not in any other contract that the County does. Mr. Lawler said that the difference is that they have an opinion issued by the ABO interpreted by the County Attorney that they would need to comply and an organization that has stated publicly that they do not intend to comply. Mr. Lawler said that he agrees with having language in the contract that states what happens if they do not comply. Mr. Lawler confirmed that both contracts would have a process for non-compliance however Mr. Dorsey's version defines the process. Mr. Barrett questioned Mr. Dorsey as to why he believes the language in his version is crucial, Mr.

Dorsey said that because the ABO has taken a position based on the unity agreement that they need to comply, and SEDC has stated that they are not going to comply, it is necessary to have something to guide them through and provides an option for SEDC to get a waiver. Mr. Barrett said that it's descriptive in nature and is purely informative. Mr. Tollisen said that it's important to keep in mind is that these two organizations are moving forward together. Mr. Tollisen commended both organizations on the steps already implemented to make this happen. Mr. Tollisen said that he communicated with Mr. Dorsey and has expressed that in his personal opinion, he does not believe there should be a contract that is different from a contract with any other organization. Mr. Lawler said that he is not uncomfortable with the language in Mr. Barrett's agreement however, he would like to have a clear understanding of what to do if the ABO comes back with a determination that they must comply. If this happens, at that point they are immediately in violation of the contract.

Mr. Barrett said that if this happens, they deserve a process. Mr. Lawler agreed that they deserve a process but questioned if the County continues to pay SEDC if the ABO says they are not in compliance. Mr. Richardson agreed and questioned if the County continues to pay SEDC through the process or if payment stops until the process is complete. Mr. Tollisen said that this would be a decision of the Board of Supervisors at that time. Mr. Barrett said that it would be at the end of the process. Mr. Barrett referred to section 9.3 regarding termination of the agreement. A brief discussion took place regarding where the funds will be spent and whether those activities would trigger compliance with the ABO.

Mr. Barrett said that the third difference between both agreements is the services themselves. At the back of each contract is a list of services. The MOU was negotiated by the Partnership and SEDC and ratified by the board. Mr. Barrett said that he recently sent out the SEDC budget request, which identifies how the county funds would be spent. Mr. Barrett said that SEDC did specify that their payroll costs and benefits will continue to be paid for by membership donations and private sources of investment. Mr. Barrett said that the allocations of funding were different from the MOU between the two organizations, and what the County may want SEDC to provide as service to the County. Mr. Barrett also said that the full reporting requirements for funding requests would be provided by SEDC. Mr. Lawler asked that the 2018 audited financial statements be provided as soon as they are completed as the audit statement provided are from 2017. Mr. Lawler reiterated that his concern is that if the ABO requires compliance, is the county then obligated to continue to disperse money for services to an organization that is not in compliance, even though they may be fighting that designation. Mr. Lawler said that for the sake of transparency, the contract would best serve the taxpayers if any funds that were due to SEDC, be held in escrow pending a decision. Mr. Lawler said that this would be a reasonable compromise to keep this agreement moving forward. It would allow for the contract with SEDC, set up payment mechanism, gives the opportunity to send the agreement to the ABO and the two organizations can proceed to work together. Mr. Barrett reiterated that it would need to go through a process and it would not be a good idea to penalize an entity just because they are accused of non-compliance. Until it is absolutely proven through a process, why penalize them. Mr. Barrett said that SEDC is a private company and has been a very successful organization for 40 years.

Mr. Richardson requested clarification that the Board of Supervisors could terminate an agreement at any time if the organization is out of compliance. Mr. Dorsey said that standard language in 9.3 states that if any of the public service contractors do not comply with any provision of the contract, they will be given a 30-day notice, and if they don't comply after 30 days, the contract is to be terminated. Mr. Dorsey said that he was asked to include section 9.4 which provides for a claw-

back provision based on discussions at the last meeting, which recovers the money after the contract is terminated. This language is in both versions of the agreements. Mr. Lawler said that it is his understanding that this claw-back would mean that if the contract is terminated, all funds previously paid to the contractor have to be returned. Supervisors Veitch, Johnson and Richardson agreed. Mr. Barrett said that he does not read it that way and would like that portion of the agreement amended. Mr. Barrett said that based on the four payments, if a payment was made and the contract was terminated a week later, the amount refunded would be the quarterly payment minus one week.

Mr. Barrett suggested revised wording as follows: Contractor shall refund funds allocated but unspent within 30 days of the termination date of the agreement with the amount of funding to be refunded based on the date of termination. Mr. Barrett further clarified that four payments will be scheduled, if a payment is sent and a week later the agreement is terminated, those are obviously unspent funds. Mr. Lawler said that this number is difficult to quantify as they could have contractual liabilities for example orders already placed. A discussion took place regarding section 3.2 of the agreement which states that any unused portion will be refunded at the end of the contract term or upon earlier termination of the contract. Mr. Lawler suggested that termination would require repayment of a certain percentage of the funds paid prior to termination, such as 50%. Mr. Barrett said that prorating it by the day normally be how this is done. Supervisors Lawler and Richardson agreed to a daily per diem rate.

A motion was made by Mr. Barrett, seconded by Mr. Kusnierz, to amend section 9.4 of Supervisor Barrett's version of the agreement: Contractor shall refund funds paid but unspent within 30 days of the termination date of the agreement, amount of funding to be refunded on a pro rata basis based on the date of termination. Unanimous.

A motion was made by Mr. Richardson, seconded by Mr. Lawler, to approve Supervisor Barrett's version of an agreement with SEDC as previously amended. Unanimous.

Mr. Kemper previously distributed his memo via email to the committee members.

A motion was made by Mr. Richardson, seconded by Mr. Szczepaniak, to authorize a logging revenue agreement with Prentiss and Carlisle for a timber harvest on a county-owned parcel in the Towns of Wilton and Northumberland, and authorizing a logging revenue agreement with G and T Enterprises for a timber harvest on a county-owned parcel in the Town of Wilton. Unanimous.

Mr. Kemper said that this is related to the habitat mitigation work for the work being done at the airport. This went out to bid, two bids were received for each parcel. This harvest will result in approximately \$138K in revenue to the County.

A motion was made by Mr. Richardson, seconded by Mr. Veitch, to authorize the acceptance of a 3,500 SF parcel from James Floud for the Zim Smith Trail. Unanimous.

Mr. Kemper said that this area will be used to construct a shed to store DPW equipment associated with the trail. The piece of land is valued at approximately \$800.

Mr. Kemper gave a brief update on open space projects which will move forward to Law & Finance committee. Four open space projects were approved by the committee, fully funding each of the projects for a total project cost of \$274,377. This will require a transfer of \$174,377 that is not already committed to other projects from the open space reserve account. The details of the projects are listed in Mr. Kemper's memo. .

A motion was made by Mr. Lawler, seconded by Mr. Johnson, to award 2019 trail grants. Unanimous.

Mr. Richardson said that regarding the Trails projects, they had 10 communities apply for funds for a total of \$92,022.68. There was \$50K budgeted in 2019 and a little over \$18K in the trails reserve fund which when combined would fund all of the applications at 74%. Mr. Richardson said that they are requesting an additional \$23,487.24 from the County fund balance to be able to fully fund all of the requests. Mr. Richardson said that there is a real economic benefit to these trails especially in the smaller communities.

Mr. Richardson said that the trails budget has been at \$50K for the past several years. Mr. Richardson said that he will also be requesting from Law & Finance for trails funding in 2020 be increased from \$50K \$75K.

A motion was made by Mr. Veitch, seconded by Mr. Richardson, to amend Resolution 235 of 2018 to revise the scope of work for a Town of Malta trails grant project. Unanimous.

Mr. Kemper said that the grant amount awarded was \$4987. The grant was to assist the Town of Malta in constructing 250 linear feet of sidewalk along Raylinski Road and the installation of a pedestrian crosswalk. Due to right of way issues and resident concerns, the sidewalk could not be installed as originally intended. The Town of Malta is now requesting to change the scope of work, eliminating the 250 feet of sidewalk and instead constructing three pedestrian crosswalks. There is no change in the grant funding amount.

A motion was made by Mr. Lawler, seconded by Mr. Richardson the meeting was adjourned unanimously.

Respectfully submitted,

Therese Connolly
Deputy Clerk of the Board