

**DOWNTOWN DEVELOPMENT DISTRICT  
BOARD OF COMMISSIONERS MEETING MINUTES  
Tuesday, December 7, 2021 – 4:00 PM  
Zoom Teleconference**

Meeting called to order by Chair Curtis at 4:09 pm.

The time, location, and agenda had been adequately and publicly noticed.

Roll was taken and a quorum was present.

**Members Present:** Gregory Curtis, Carla Major, Chris Ross, Cleveland Spears, Coleman Adler, Judy Barrasso, William Bradshaw, Damon Burns, Jim Cook, Paul Flower

**Members Absent:** Leo Marsh

**Staff/Counsel Present:** John Pourciau, Anthony Carter, Sabrina Smith, Leigh Ferguson, Devona Dolliole, Joshua Vairin, Ryan Bordenave, Scott Whittaker & Brittany Carnes (Stone Pigman) General Legal Counsel & Christopher Kane (Adams & Reese) Legal Counsel for Litigation

**Public Comments:** Letter from Sally Shushan asking for update on hiring of Davon Barbour was read into the record.

Letter from Aaron Jordan in reference to the presentation of the 2022 budget and plan by Anthony Carter, Director of Finance & Administration, to the New Orleans City Council was read into the record. **NOTE:** This letter was previously submitted at the November 17, 2021 Executive Committee meeting and it was agreed by the committee members and Mr. Jordan that this be taken up at the next full board meeting, December 7, 2021. A response to Mr. Jordan's letter from John Pourciau, Interim-President & CEO and Anthony Carter, Director of Finance & Administration was also read into the record.

**Action Items –**

1. Approval of Meeting Minutes from October 5, 2021 Board Meeting
2. Approval of Meeting Minutes from November 9, 2021 Board Meeting
3. Approval of Meeting Minutes from November 12, 2021 Special Board Meeting
4. Motion for Approval of October 2021 Financial Reports by the Finance Committee
5. Approval of 2022 Board, Executive & Finance Committees' Calendar

**Approval of Meeting Minutes from October 5, 2021 Board Meeting – Action Item\*** - Chair Curtis requested a motion to approve the meeting minutes from the October 5, 2021 board meeting. Moved by Commissioner Jim Cook; Supported by Commissioner Major. The motion carried unanimously.

**Approval of Meeting Minutes from November 9, 2021 Board Meeting - Action Item\***

Chair Curtis requested a motion to approve the meeting minutes from the November 9, 2021 board meeting, Moved by Commissioner Spears; Supported by Commissioner Bradshaw. The motion carried unanimously.

**Approval of Meeting Minutes from November 12, 2021 Special Board Meeting – Action Item\***

Chair Curtis requested a motion to approve the meeting minutes from the November 12, 2021 Special Board meeting, Moved by Commissioner Spears; Supported by Commissioner Ross. The motion carried unanimously.

**Presentation by 8<sup>th</sup> District Commander Captain Walls** – Captain Walls was unable to attend.

**Presentation by City Representative – Peter Bowen, Deputy CAO** – Highlighted that \$500,000 was approved in funding to create a new office of the nighttime economy. This is a prime example of why OBES is a catalyst in converging land use and economic development in the cultural economy. The Administration has been trying to pursue this for many years. They have met with other cities that have the situation that we do. They have offices that are opened overnight to make sure they are representing our culture barriers in bridging the gap between policy and enforcement. This will allow the immediate hiring of four positions to get it off the ground. Tom Mulligan, Chief of Staff, is leading the charge in this area. Peter invited anyone that wants to be a part of the stakeholder conversations.

Commissioner Cook stated that it would be helpful to have a better understanding what the expectations should be for the impact of this for the DDD and it appears to be an interesting project. Availability of time lines and what we should expect and how it would implement over time. He feels it feathers in nicely with what has been talked about in the past with the deputization of a variety of city employees relative to their capacity to issue summons for other violations to the City Ordinance.

Peter stated that the entire office would propose to be deputized. Community stakeholders don't want there to be an enforcement piece but that has to be in place.

John Pourciau asked if in Peters budget presentation if there were any slides and or presentations available in reference to the night time economy office and if so, once there was more put to paper would he please forward it to the Board and staff. Peter stated that there should be something in place for a presentation in the beginning of the year.

**Treasurer's Report**

**Approval of October 2021 Financial Reports by Finance Committee– Action Item\* -**

Anthony Carter reviewed the following items:

**Line 72: City Sources** – Collections are 451.20% of the amount reforecast for October and 106.20% of the amount reforecast YTD and 105.78% of the total amount reforecast for 2021.

On the expense side we received the invoice from the Low Barrier Shelter for January through June 2021.

There being no further discussion Commissioner Ross moved on behalf of the Finance Committee to approve the October 2021 Financial Report. Motion carried unanimously.

**Update on Status of 2020 Audit** – Auditors still have not received the report from City Department of Finance concerning our receipts and receivables. They are reaching out to the City on a regular basis and we just found that our original contact is no longer there. We now have a third extension deadline with the State, which is March 31, 2022.

**Update 2022 Budget Reserves Status** – Anthony Carter stated that he and John Pourciau were tasked with scrubbing the budget to keep from using funds in the reserve account. This is the breakdown of the adjustment to the budget.

- Commitment of \$100K in Wisner Grant Funds from the Mayor.
  - Funding for Vacant Store Front Art (\$30,000)
  - Funding for Lighting Projects in 100 Blocks off of Canal St. (\$30,000)
  - Funding for Graffiti Remediation (\$40,000)
- Reduction in Traditional Façade funding (\$60,000)
- Reduction in Funding for Programs at Legacy Park (\$3,000)
- Reclassify funding for Andrew Higgins Streetscape Project to come from Bond Proceeds as a Capital Project (\$150,000)

<b>Budgeted Reserve Funds Utilized</b>	<b>\$ 311,878</b>
<b>Increase in Revenues (Wisner Grant)</b>	<b>\$ 100,000</b>
<b>Reduction in Funding (Façade &amp; Legacy Park)</b>	<b>\$ 63,000</b>
<b>Reclassification of Funding for Capital Project</b>	<b>\$ 150,000</b>
<b>Adjusted Reserve Funds Increase</b>	<b>\$ 1,122</b>

John Pourciau stated that there have been ongoing conversations with the City that will allow for an even greater amount of Wisner funds that occurred in the spirit of increased coordination and cooperation between the two entities. We are trying to make sure that whatever we propose is in alignment with what the requirements of the Wisner Fund are. The funds cannot be used for any and everything. The process by which we would accept those dollars has to be routed through the DDD’s C3 and not as a direct payment to the DDD. There might be additional flexibility for us to provide additional services in alignment with our priorities. In trying to figure out the rest of the pieces to make sure they are clear and fully thought out and would also go to our sub-committees prior to getting the full approval at the board level.

Chair Curtis interjected that this is what partnership looks like with the City and we thank the Mayor for her leadership and courage and for her knowing that we need to be full partners and this is how we want to operate moving forward.

## Chair's Report

### **Approval of 2022 Board, Executive & Finance Committees' Meeting Calendar – Action**

**Item** - Approval of the calendar carried unanimously. Chair Curtis asked that there be a discussion at a later date on possibly starting the meetings at a different time. Commissioner Cook asked that we end the virtual meetings and move back into physically being together. Scott Whittaker of Stone Pigman has offered their board room as a possible location to hold the future meetings, which is larger than ours and it also has the capabilities for teleconferencing. Anthony will meet with Scott to go over everything that is needed to make this happen. Commissioner Bradshaw agreed with finally meeting in person.

Chair Curtis noted that everyone entering into the location of the meeting must show proof of vaccination or a negative reading on the Covid-19 test.

**Discussion of Proposed Amendment to Infrastructure CEA with CNO** – Leigh Ferguson has been in on-going conversations with the City. He has also met with Scott Whittaker & Brittany Carnes (Stone Pigman) General Legal Counsel to discuss the proposed amendment submitted by the City.

The original CEA was signed in 2019 and efforts were going forward to proceed. The key items are the timing and time table involved. There will need to be an extension of the time table considered in the agreement otherwise it would cease to be effective in less than a year and it will take longer than that to get the work done. Additionally, the method of getting the work designed and implemented that was contemplated in an exhibit to the cooperative endeavor agreement but not specified in the agreement itself in conversations with the City, DPW has indicated that doing the engineering in house seems to be overloading the capacity of an already busy staff so the recommendation has been made to go to outside engineering services to get the engineering work done. The suggestion in the CEA amendment is for the DDD to fund the initial civil engineering work that would be a contract that would be led by the City that would initially be funded out of DDD dollars and DDD remaining dollars, once engineering work was done and approved by the DDD Board the rest of the funds would go towards actual construction implementation.

There are a couple of revisions to CEA that might be worthwhile. One is to actually attach the City's memorandum October 2021 about the implementation procedures. A similar document was attached to the original CEA but the original attachment is no longer affective. The October 2021 memorandum is more appropriate and should be attached to the amended CEA.

There would also be an extension of time, which makes sense. Also, there is a statement that says "supplemental costs to complete construction made by the City's discretion..." it should say "will be provided by the City in the use of engineering funds for engineering and design part of the provision". That is the brief summary.

Megan Williams is the Stormwater Program Manager the Department of Public Works. She stated that the reason they went to procuring engineering is that many utilities are in the street in the blocks that have been identified are very close together. There is a lot of unforeseen

circumstances when breaking ground. We want to ensure that the work being done will actually meet the need for stormwater management. This requires more than just their maintenance program, which was originally proposed. She and her director Josh Hartley discussed going to more of a traditional engineering route to make sure they are meeting the needs of the DDD. They do have a qualified pool of engineers to do the work so as soon as the CEA is agreed upon a firm can be selected. Their mindset is to have the DDD as the first program to be awarded to an engineer in that pool.

The memo that was submitted details the process and the list of the 19 blocks are the same as in the original CEA.

Commissioner Ross asked that we be allowed to receive the timeline. What is the timeline from issuing the RFP to the engineering firm to getting them the work to actually getting the work started and then completed? Leigh stated that there is a specific timeline for work to be done. It contemplates the survey being done by February 2022, preliminary design completed March 2022, final design bid agreement and construction completed August 2022. It was stated that due to Hurricane Ida that schedule will be updated. Because the CEA is multi year it does have to go to the city council. This should not cause a great delay. They do not foresee having to issue a formal RFP to the engineering pool because they have already been prequalified to do the work.

Commissioner Barrasso wants to make sure the design is for the project just in the DDD and to make sure that it is stated that the funds are only being utilized in the DDD. She also asked if there is a way to put a cap on the design amount whatever is considered a reasonable amount. That way if someone should ask what is being spent on design there is an actual number available. Leigh stated that this project being for the DDD is in the CEA but it should be made clearer. Also, public projects in Louisiana have an architectural fee schedule and there may be a similar one for public civil engineering work.

Megan stated she did not know the generally expected amount that they thought this design work might cost but there is a similar fee curve. It is the facility and planning's curve that the State of Louisiana uses for capital projects and that is typically what is used to determine engineering funds or professional services funds. What they would do is use the \$2.5 million available at this time to determine how much is allocated towards the design. We would use some of that money up front and public works would supplement during construction what they feel will be more than the \$2.5 million. They will be able to supplement those funds with City Bond funds to complete the work. Megan will send Leigh the information on how the curves work, which is based on a construction cost.

Leigh asked that verbiage be placed in the document stating that of the \$5 million dollar commitment from the DDD the engineering cost the DDD would fund up front would be no more than xx amount of money and the balance would be used to fund construction work and the design would be agreed upon by the DDD and the City. The City would then run and manage the project and once the DDD money is gone the City would fund the balance. That would be the simple structure that would give everyone the comfort that this project could expeditiously move forward.

Commissioner Cook reminded the commissioners that when this was first contemplated one of the concepts discussed was that the funds would be placed into escrow. The City with collaboration, would handle managing. We define the scope of phase one and as work was being completed the DDD would have its own either consultant architect who would be validating the work was being done in accordance since all other components were all under the City control. He did not see an element for that taking place. This should be recognized and the funds for this should come out of operating as it was not part of the escrow fund at the time. It is important to think about what our validation process is because this designer, while funded by the DDD, would be under contract with the City not with the DDD. We still need to account for a verification of that work as it is completed. Commissioner Cook asked Scott Whittaker, Legal Counsel, does it make sense to identify a phase one of the scope to put some guard rails around the amount of the scope and the financing as part of the CEA. Our goal should be to create enough guard rails to that we can then release the work to the City and their contractor to move forward as expeditiously as possible. The CEA goes beyond the first \$5 million. It goes for a full five years. Can a scope adjustment or addendum be done to this accomplishing both what the City is intending and provide some guard rails from the DDD stand point?

Scott Whittaker stated that it could get more specific and he thinks that design and implementation of the plan that was disseminated to the Commissioners is intended to be the scope. But it could be more specific as to which blocks would be done and in what order. In reference to the DDD outside engineering firm to review, inspect and approve the disbursements from the escrow fund that is part of the original CEA that requires that. It also does state that these funds are apart from the escrow funds. That engineer firm has already been selected by the DDD, which is Myer.

Commissioner Bradshaw asked if the role of Myer Engineering firm was to act as a construction inspector and not as a second professional of record and it was confirmed by the members. He also asked what the anticipated budget of the total of the job would be and whether there is a sense of that scope and how much of the \$5 million would cover and how much the City is expected to put in and if there is a similar escrow requirement that those funds be available when they are needed.

John Pourciau stated that there is not a set number in place. There are funds that are specifically being dedicated by the DDD for the shorter-term piece but also the longer-term commitment that can potentially happen with those funds. You also have additional City funds being devoted to storm water management within downtown. The ideal situation with this has always been in that if we can spend this initial money well to the satisfaction of the DDD, the stakeholders and the City, that would allow for the broader larger and longer-term projects to move forward.

Commissioner Bradshaw stated that as projects are being scoped, identified and bid, then there can be a determination made about what additional funds are necessary and what the pipe line looks like and funds can be obligated as available in order to take on those scopes.

Megan stated that they will have the engineers come up with phased approach for construction that will make life a little bit easier. They are also trying to minimize how much they inconvenience businesses. They should have an approach to how to do the entire design. It will also be able to speak to what funds are needed at what point.

Commissioner Major asked how often they will come to the Board to give updates. Megan stated that they anticipate quarterly meetings with all groups involved at the same time. However, they can do more frequent meetings as they get into the design process. These meetings would include DPW, RTA, Sewerage & Water Board and whomever else is a part of the process.

Commissioner Ross asked if these meetings will be within or for the community and John Pourciau said it would initially be at the staff level but we could figure out what the Commissioner interaction would be because it will be staff from all of the different organizations involved. Commissioner Ross would like the community to also be informed quarterly.

**Discussion of DBE Policies and Processes** – This item was deferred to the next meeting on February 1, 2022.

**President's Report** – The Directors presented their reports, which were part of the packets.

**Old Business** – No old business

**New Business** – Anthony Carter announced the resignations of Leigh Ferguson, Director of Economic Development, effective December 17 and Ryan Bordenave, Retail Attraction Specialist, effective December 31. He also stated that the individual replacing Sabrina Smith, Finance & Administration Manager, will begin on December 20 and that we are currently interviewing for the Executive Administrative Assistant position.

Chair Curtis welcomed Commissioner Flower to the board as it was his first meeting and then appointed Commissioner Bradshaw to the Marketing Committee.

There was a discussion on the safety of the District and how we need to become a decisive voice on making sure we have a safe district and it make take us being creative. Also, the Board needs to be briefed when things happen in the area, which should include if any of our staff were in the area when it happened. Commissioner Major asked if we knew if employees at other companies are receiving training on active shooters and whether or not we could have someone go into the companies where this has happened to speak to the employees to make sure they are ok.

**Executive Session** – Chair Curtis requested a motion to move into Executive Session to discuss the following items: legal matters relative to Civil District Court Case #2018-3901, Downtown Development District of the City of New Orleans v The City of New Orleans, et al. Moved by Commissioner Bradshaw. Roll call was taken with a vote as follows: 8 yay (Curtis, Major, Ross, Spears, Bradshaw, Burns, Cook, Flower), 0 nay, 3 absent (Adler, Barrasso, Marsh). The motion passed to move into executive session.

Commissioner Flower requested a motion to return to the regular session noting that no decisions were made during the executive session. Roll call was taken with a vote as follows: 7 yay (Curtis, Major, Ross, Bradshaw, Burns, Cook, Flower), 0 nay, 4 absent (Spears, Adler, Barrasso, Marsh). The motion passed to return to the regular session.

**Adjournment** – Chair Curtis requested a motion to adjourn the meeting. Moved by Commissioner Major, Supported by Commissioner Bradshaw. Motion passed unanimously.

Meeting adjourned at 6:17 pm.