



City of Foley, AL

The City of Foley Public
Cultural & Entertainment
Facilities Cooperative
District
407 East Laurel Avenue
Foley, AL 36535

Meeting Minutes - Draft Public Cultural & Entertainment Facilities Cooperative District

Monday, November 2, 2015

3:05 PM

Conference Room

Call to Order

Acting Chairman Floyd Davis called the meeting to order at 3:55 p.m.

Roll Call

All members were present with the exception of Mr. Newton who had a business conflict. Mr. Welytok is the new member who took Mr. Duane Dickson's place.

Others present: Vickey Southern, Jeff Rouzie, Sue Steigerwald, Miranda Bell, Rusty Russell, Don Staley, Bill Swanson, Heyward C. Hosch, Reid Cavnar, and Mike Thompson.

Present: 4 - Floyd A. Davis, Charles Ebert III, J Koniar and Mark Welytok

Absent: 1 - Keith Newton

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Absent: 1 - Keith Newton

Approval of the Minutes

[15-0660](#)

10-05-2015 Minutes

Attachments: [10-05-2015 PCEFCD MINUTES.pdf](#)

The October 5, 2015 Minutes were approved on motion by Mr. Koniar and seconded by Mr. Ebert. The vote passed unanimously.

New Business

[15-0662](#)

Election of Officers

Mr. Ebert made a motion to appoint Mr. Davis as Chairman, Mr. Newton as Vice-Chairman and himself as Secretary/Treasurer. Mr. Koniar seconded the motion and the vote passed unanimously.

Enactment No: 15-0013-PCEFCD

[15-0673](#)

Authorizing Certain Board Members to Sign on the Checking Account at Centennial Bank

Mr. Koniar made a motion to authorize Mr. Davis as Chair, Mr. Newton as Vice-Chair, Mr. Ebert as Secretary/Treasurer, and add Mr. Welytok. Mr. Ebert seconded the motion and the vote passed unanimously.

Enactment No: 15-0014-PCEFCD

[15-0663](#)

A RESOLUTION AUTHORIZING (1) THE ISSUANCE AND SALE OF CULTURAL AND ENTERTAINMENT FACILITIES REVENUE BONDS, SERIES 2015, AND (2) THE EXECUTION AND DELIVERY OF FINANCING DOCUMENTS

Attachments: [Foley Cultural 2015. Minutes of Cooperative District \(03401916\). 11-02-2015.pdf](#)

Mr. Hosch reported this will need to be validated so that the Board and the City will have the proper protections of the law. The resolution is one that the Board has seen before that approves the financing for the cultural and entertainment center and the appropriate documents. It authorizes the Chairman to execute the documents and take the necessary actions. It also approves the validation. The main reason to validate is to ensure Amendment 772 does apply to the City's funding agreement so that it will be exempt from the debt limit. Amendment 750 does not authorize the incurrence of debt by the City so it does not provide for a debt limit exemption. The documents authorize the bonds in the traditional way providing the City will make the payments at times to provide the debt service and in the proper amounts. The officers of the District and the City are completely exempt from any responsibility for this action.

Mr. Ebert asked the amount of the bonds. Mr. Thompson reported it would be \$16.1 but validating a maximum of \$17 million. Mr. Hosch reported the notice stated between \$16 and \$17 million. Mr. Ebert asked about the New Market Tax Credits. Mr. Thompson reported this is off the table. Mr. Ebert asked if there was a viable option for new market tax credits next year. Mr. Thompson reported new market tax credits will be distributed to CDE's in the April/May time frame and we could apply for those if the bond was structured as a taxable bond; however, if we move forward with this tax exempt bond, which will save the City money, then the new market tax credits will be off the table. Mr. Ebert reported he was very uncomfortable with the issuance of bonds since the new market tax credits were looked at being used and now they are not. Mr. Koniar reported the new market tax credits were not included in the feasibility study and the new market tax credit was a bonus. Mr. Thompson reported at the time the two studies (the first was done in 2011) were done the new market tax credit reduction in cost was part of our study. The original study of 2011 did not include it. The tax credit deal that we were looking at to close this year was not a full tax credit. It was to provide \$1.2 million benefit to the City; however, by doing it as a taxable bond there is additional costs to the bond being taxable versus tax exempt that comes up to roughly \$700,000. The net effect was not as great as it initially viewed to be. The sales tax question was raised by Sue Steigerwald last week.

Mr. Welytok asked if the new market tax credit was to sell to Capital One. Mr. Thompson reported that deal is gone away. Mr. Koniar reported that was some leftovers from a deal that fell through but they had so much trouble trying to get the MOU done it was just too late to close in a timely manner, which was by the end of December 2015. The CDE, Community Development Entity, on Friday added some additional requirements that we could not accomplish by the end of December and that is why the deal fell apart. Mr. Rouzie reported that Mr. Hattier would actively continue to market the project for new market tax credits but thinks that it needs to be looked at as a tax exempt basis as well saving on materials on sales tax. The new market tax credits are nice as they offset some

costs but they are not an easy vehicle to try to manage and it puts a lot of strain and stress on a lot of people at the City of Foley (mainly the Finance Division). If we could get the full allocation it would be beneficial.

Mr. Ebert asked if they do a tax exempt bond how it would relate with a new market tax credit. Mr. Thompson reported you cannot do a new market tax credit without it being a taxable bond. The decision will be made when you decide if you go with a taxable or tax-exempt bond. If the City gets a full allocation of tax credits, the full \$16 million, then it would save the City approximately \$3 million. If you save \$3 million then it is worth giving up \$600,000 of sales tax abatements and \$750,000 worth of tax exempt savings for a tax exempt bond. However, if you don't get a full allocation but only half or quarter allocation like we were working on it's really a break even proposition. So unless you are comfortable with getting a full allocation it makes sense to go tax-exempt with this deal. In talking with Steven Hattier and Muni-Strategies (CDE) who offered this partial portion of tax credits they indicated the event center was not a real strong contender. The only reason we got any portion at all was because they had fallen out and were searching for a home to close quickly. It might be a pretty tough sell in May when we are competing against higher quality projects. Mr. Hosch reported that he could put alternative language in the documents for the validation. The validation requires him to set the highest interest rate, which he does at 15%. This is subject to the truth of what happens at the meeting after validation. If you say we want the resolution to provide this and the alternative being taxable or tax-exempt he can do that as well. If they want the validation to close this year he needs to get the documents to the court by tomorrow or the next day. He has set them up as taxable but can use taxable or tax-exempt in the documents.

Mr. Koniar made a motion to move forward with the bonds to finance the cultural and events center and Mr. Welytok seconded the motion. Mr. Ebert voted nay and the vote passed by a majority vote.

Aye: 3 - Chairman Davis, Member Koniar and Member Welytok

Nay: 1 - Secretary/Treasurer Ebert III

Aye: 3 - Chairman Davis, Member Koniar and Member Welytok

Nay: 1 - Secretary/Treasurer Ebert III

Enactment No: 15-0015-PCEFCFCD

[15-0661](#)

Consider Memorandum of Understanding between the City of Foley; PCEFCD; PASFCD; Foley Hotel One, LLC; Foley Hotel Two, LLC; BC Foley, LLC; and Creek Indian Enterprises Development Authority (CIEDA)

Attachments: [BC FOLEY MOU - New Page 7 Inserted old page 7 deleted 10-27-2015.pdf](#)

Mr. Thompson explained that the two cooperative districts have certain activities that they have to perform. For example, CIEDA has to build a hotel. The PCEFCD has to build the event center. Previously when ya'll had a meeting with the PASFCD, their group has agreed to complete the fields that are under construction. So each party has a certain responsibility.

A motion was made by Member Koniar, seconded by Member Welytok, that this Resolution be adopted as previously explained. The motion carried by the following vote:

Aye: 3 - Chairman Davis, Member Koniar and Member Welytok

Nay: 1 - Secretary/Treasurer Ebert III

Aye: 3 - Chairman Davis, Member Koniar and Member Welytok

Nay: 1 - Secretary/Treasurer Ebert III

Enactment No: 15-0016-PCEFCD

[15-0675](#)

Consider hiring an architect for the Cultural & Entertainment Center

Attachments: [SITE PLANS.pdf](#)
[GOODWYN MILLS CAYWOOD PROPOSAL.pdf](#)
[GOODWYN MILLS & CAWOOD AIA CONTRACT.pdf](#)

Appears both contracts for Architect and HPM overlap. Need further review/explanations.

Mr. Rouzie reported they gave Infinity Architecture the opportunity to look at the design for the multi-use indoor facility and they were purchased by Goodwyn Mills and Cawood. Mr. Cowart is still the architect that will be working with Goodwyn Mills and Cawood. Mr. Welytok asked if they were the only firm they requested to look at the project. Mr. Rouzie reported they looked at others but the reason they went with them is because Mr. Cowart was a specialist in the design of indoor sports facilities and did Auburn's facilities, Clemson's facilities as well as some other major facilities. He already had a prototype based on the square footage the City was looking at that reduced the cost of the overall building. They already have some schematics and layouts. This will be modified somewhat on the ceiling heights for volley ball and to make sure that it meets NCA standards but basically it is the same structure they used in the past. They actually have three prototypes. They have a 50, 80 and 100 so the majority of what they have done they plug it into CAD. Mr. Ebert asked if this firm was capable of doing the inspections and oversight while the job is being done. Mr. Rouzie reported that needs to be done by a third party and it would be his opinion to have HPM oversee it. Mr. Thompson reported Goodwyn Mills and Cawood would be the engineer of record and they would verify the design is built to their specs. Mr. Welytok asked why we have a construction management firm proposal and an architect proposal. It seems as though they are doing the same job. Mr. Ebert asked if Goodwyn Mills and Cawood's proposal includes construction review and oversight or if they exempted it from their proposal. Mr. Welytok reported that on page 15 of their proposal 25% of the proposal fee was for both construction review and oversight and felt there were some items that overlapped.

Mr. Thompson made a clarification that HPM was contracted because at the point of the new market tax credit the CDE required a detailed cost estimate for the event center project. HPM had to be contracted because of that requirement but since the new market tax credit deal went away we are not under a quick timeline to get them under contract as they once were with the new market tax credit deal. Mr. Rouzie reported HPM is the owner's (City's) representative on the project so they are watching out for our interests.

A motion was made by Secretary/Treasurer Charles Ebert, III, seconded by Member Mark Welytok, that this Resolution be carried over until the item has been vetted. The motion carried by an unanimous vote.

[15-0677](#)

Consider approving HPM Admendment #5 relating to Cultural & Entertainment Center

Attachments: [HPM Contract Amendment #5 11-02-2015 3502_001.pdf](#)

It appears both contracts (architect and HPM) overlap. Carried over for further review/explanation.

A motion was made by Member J Koniar, seconded by Secretary/Treasurer Charles Ebert, III, that this Resolution be carried over until the item has been vetted. The motion carried by an unanimous vote.

Visitor Comments

There were no comments to report.

Adjourn

A motion was made by Secretary/Treasurer Charles Ebert, III, seconded by Member J Koniar, that this meeting be adjourned. The motion carried by an unanimous vote and adjourned at 4:19 p.m.