

MINUTES OF FRANCIS LOCAL BUILDING AUTHORITY MEETING

MEETING HELD AT FRANCIS TOWN RECREATION BUILDING JUNE 16, 2009

The meeting convened at 7:05 PM.

A public hearing to receive input from the public with respect to the issuance of Taxable Lease Revenue Bonds in the aggregate principal amount of not to exceed \$700,000 issued for the purpose of (i) financing a town hall and related improvements, and (ii) paying the costs of issuing the Bonds, and the economic impact that the improvements proposed to be financed with the Bonds will have on the private sector.

Mayor Bergen indicated this was a public hearing to receive input from the public with respect to the issuance of Taxable Lease Revenue Bonds, which is synonymous with loan, in the aggregate principal amount not to exceed \$700,000 issued for the purpose of financing a Town Hall and related improvements and paying the costs of issuing the bonds and the economic impact the improvements proposed to be financed will have on the private sector.

Eric Johnson, Bond Counsel, explained there are different ways for public bodies to borrow money and every one of those ways is called bonds; bonds are nothing more than a loan to a public body. The Lease Revenue Bond structure is a little more convoluted than others. Mr. Johnson explained how, historically, this type of bond got started. This bond will be financed through a Building Authority that has been created by the Town. It won't be done directly in the Town's name, but the Building Authority will borrow money and it will build the project (the Town Hall). It will lease the Town hall to the Town.

Mr. Johnson explained this type of process was originated in Iron County in the late 1970's. Iron County had a really old jail that a judge condemned and told Iron County they needed a new jail and it needed to be done quickly. If not, the prisoners would no longer be able to be housed in the Iron County Jail. The County Commissioners held an election to hold a vote for the new jail, and the vote failed. The Commissioners explained they were under Court order to get a new jail and called a second election and it failed again. At that time the Utah Legislature passed what was at that time called the Municipal Building Authority Act. That Act allows cities and counties to create a Building Authority. A Building Authority is a non-profit corporation. The Board of the Building must be the Town Council. The Building Authority borrows the money and builds the project and leases the Town Hall to the Town. This was challenged the Utah Supreme Court saying it looked like illegal fiction. It is really not two different bodies, it is just one. The Utah Supreme Court analyzed it and said here are some public projects municipalities are required to do. They are not always popular and there must be a mechanism to handle something like this. The Supreme Court approved it. Bonds that will be issued will be called Lease Revenue Bonds. The amount of the loan is the exact amount to repay the loan.

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Eric Johnson reported that Brian Baker from Zions Bank helped Francis to obtain a 0%-interest loan from the Community Impact Board (CIB). Right now the Town could probably get a loan with interest of 5% to 6%. At that interest rate, it would take \$1,000,000 to repay a \$500,000 loan. The CIB is subsidizing roughly 50% with a 0%-interest loan. At present construction costs are down and the Town can get a great value at this time. There is a possibility if bids come in low enough, the Town may say they don't want to borrow all that was authorized. Mr. Johnson stated this hearing is for the Local Building Authority to hear the comments of the public. No action will be taken tonight. When the 30-day comment period is completed, and the bids are received on the project that is the time the Building Authority will make the decision of whether to accept the loan.

The hearing was opened for public comment.

Tal Adair inquired what Brian Baker, Zions, would receive from the Town. Mayor Bergen replied \$7500 will be paid for financial advisory action subject to receiving the loan. Eric Johnson added those who did the footwork for the loan earned their money.

Mayor Bergen reiterated that the CIB gave approval for \$639,000 at 0% for thirty years; it was stated higher on the agenda along with a 35 year payback because that states the parameters. Francis Town has been saving \$35,000 a year toward a new office building. The scheduled payment of \$21,300 yearly will fit very well in the future budgets. Attempts were made to obtain grant money, but getting a no-interest loan is quite a coup.

Gene Atkinson asked how long the Francis LBA been in existence. Mayor Bergen replied it was formed about three months ago. Mr. Atkinson asked if when the LBA was formed it complied with the Brown act; was it noticed. Mayor Bergen indicated all of the meetings have been open meetings. Eric Johnson answered for actions to be valid, the Open Meetings Act must be complied with. All notices have been posted. Gene Atkinson asked what the necessity is behind the act of building this office; is there some entity from the State that is saying the Town of Francis is going to have to build a \$700,000 "city castle" are no more Town business will be able to be done. Mr. Johnson said he did not recall using the term "castle"; and it doesn't need to be required. This action is not tied in any way to what happened in Iron County. That was just the genesis for the legislative action.

Tina Early inquired if there is an architectural committee. Mayor Bergen replied some conceptual plans have been worked on and other city halls have been looked at. The process will solicit community input.

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Tal Adair questioned what would happen if the present crisis continues, and the Town can't afford to make payments because of other projects. Eric Johnson explained something fairly unique about LBA financing is the security used for the loan. The security given for this type of loan is the actual improvement that is built. There will be a deed of trust and the lender will hold it. Mayor Bergen interjected that the Town owns the property the office will be built on with no encumbrances. There is a unique thing about an LBA loan. In most other loans the Town must identify a certain source of money which will be used to repay the loan. For example, a sewer improvement bond would be repaid with sewer fees. With this type of loan, the Town doesn't say where it will get the money; the Town just says it will pay. The lease is not one lease for the full term of the loan; it is thirty leases of one year duration. Legally as well as in theory, the Town can decide if they want to continue with the loan. It is not a default if the Town does not make the current year's payment. The State really does not want a building in Francis. Someone from the CIB would meet with officials; no one has ever failed to make the payment. The State has a lot of power over a municipality; Mr. Johnson said he did not know what means they would use but they would make sure the payment would be made.

Mayor Bergen said the Council would not have moved forward if the Town could not have made the payments. The Town has been very prudent and has been able to set money aside and can make the payments.

Tal Adair agreed a new town hall is needed and asked if other options had been looked at. Mr. Adair also stated there are other projects needed such as sewer and roads. Has the Council looked at portable offices which would be comfortable? Mr. Adair asked what the chance of getting grants or zero-interest loans down the road. Eric Johnson commented he was stunned that we got this approval. The CIB has lent to Summit County before, but with interest. Mr. Johnson opined there was not a possibility of grants. To Mr. Adair's question of why, Mr. Johnson detailed it is because no mineral right monies in Summit County (the source of CIB's monies). Revenues for the CIB board are dipping. The demand is going up. Mr. Johnson opined the odds of getting this opportunity later are not good. Mayor Bergen commented he had gone to a CIB meeting a couple years ago to get Francis in front of the board.

Tal Adair repeated his request for comment on other options that may have been considered. Tim Butikofer said he has not looked into other options. Mr. Butikofer said any major project has a risk. Is this a good deal right now? Mr. Butikofer felt it was, because of reduced costs and it will cost more in the future because it is unlikely the option for zero interest will still be there for us. Other options such as a portable building, Mr. Butikofer questioned why that much money should be spent when it would have to

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be replaced in the future. If another trailer is going to be moved in, the office may as well stay where it is.

Mr. Adair stated he has heard comments that the building is being built now because when this administration is gone it won't get done. A year ago, the Council was poised to make major improvements to the sewer. Tim Butikofer asked where the people are who made those comments; they need to come to the meetings and not listen to or spread gossip. Mr. Butikofer assured the sewer is still a hot topic.

Gene Atkinson attempted to make additional comments and the mayor indicated he had already had an opportunity to make his comments.

Town Clerk Lynette Hallam asked for permission to reply to Tal Adair's comments concerning sewer vs. the office building. The sewer project will be paid for out of the Enterprise Funds. The Town office funding will be from the General Funds. It is totally different money and cannot cross over from one fund to the other.

Chad Mitchell asked where the money in the general fund comes from. Lynette Hallam replied it comes from property tax (this year property taxes are higher than last year), sales tax (which are down), building permits, any fees that are charged, business licenses, subdivision fees, annexation fees, B & C roads fund, gravel pit license fee, etc. Mr. Mitchell asked what the annual revenue from these sources was, to which Ms. Hallam replied it was about \$400,000. In answer to Mr. Mitchell's question, Lynette Hallam replied it was not likely not to dry up. Mayor explained the amount of excess funds which are carried forward will have to be reduced when the Town becomes a city. Some further discussion ensued concerning the excess funds and the ability to make the payments.

Mayor Bergen closed the public hearing.

Tim Butikofer asked how many years' payments the Town will have in the excess funds. Ms. Hallam said there may be at least one year's payment.

Mayor Bergen informed everyone that last Thursday it was critical that someone representing Francis be at a meeting at Brian Head. Scott Kettle attended the meeting; and the Town got the loan.

Lee Snelgrove indicated he hadn't looked into other options, but as this process started it has given the opportunity to consider the other options we do have. For instance the salt bay was needed, the whole building was needed; but the building of the rest of the building was put off until the monies to build it were available. The more input that can be given directly from the public the better the Council will be prepared to make the

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decision. The Town is not locked into taking the money. The public's input is needed to decide how to best meet the needs of the Town. Mr. Snelgrove opined that everyone should agree that the security of where we are operating and the ability to serve the public due to lack of room, it needs some improvement.

Approval of minutes from May 19, 2009 LBA Meeting

Lorin Prescott made the motion to approve the minutes of the May 19, 2009 LBA meeting. John Keyes seconded. The minutes were approved with a unanimous vote. Voting in favor: Tim Butikofer, John Keyes, Lorin Prescott, Lee Snelgrove and Mayor Bergen.

Adjourn

John Keyes made the motion to adjourn and reconvene in regular Council session. Lorin Prescott seconded the motion. The motion received a unanimous vote.

The Local Building Authority meeting adjourned at 7:45 PM.

These minutes were approved at the July 21, 2009 Town Council meeting.

John Bergen, Mayor

Lynette Hallam, Town Clerk