

Information Network of Kansas Board Meeting Minutes

May 2020 INK Board Meeting – via Teleconference May 7, 2020

Opening

A regular meeting of the INK Board was called to order via teleconference at 10:04 a.m. on Thursday, May 7, 2020 by Chairman Aaron Kite with the following members present:

Mark Burghart, Secretary of Revenue
Patty Clark, representing the Secretary of Commerce
Jennifer Cook, representing the Secretary of State
Glen Yancey, representing the Executive Branch Chief Executive Technology Officer

Others Present

Kate Davis, Legislative Liaison, Office of the Governor; John Yeary, Board Counsel (arrived at 10:24 a.m.); Suzie Schmitz, PayIt; Duncan Friend, Information Network of Kansas; Nolan Jones, Ashley Gordon, James Adams of the Kansas Information Consortium, LLC.

Consent Agenda

Kite requested that the approval of the Consent Agenda be deferred until after the first item on the Regular Agenda in deference to the guest on the call from the Office of the Governor who was scheduled to discuss that item and then depart. The Consent Agenda was addressed at the end of the meeting after the last agenda item and included the Draft April 9, 2020 INK Board Meeting Minutes, the Draft April 22, 2020 INK Board Special Meeting Minutes and the April 2020 Network Manager Report. The minutes for the March 5 regular INK Board meeting and the March 13 special INK Board meeting were not yet available for review/approval.

Action Taken: Kite moved to approve the Consent Agenda except for the March 5 and 13 meeting minutes. Yancey seconded the motion. Unanimously approved.

Regular Agenda

1) Governor's COVID-19 Grant Status (Consideration of Additional Grant Projects, if applicable)

Friend began by noting that he had approved two additional projects under the grant subsequent to the previous meeting using the authority that had been delegated to him to do so at that meeting. These were for a statewide address by the Governor on the plan for reopening the state and another project to develop and distribute information and “messaging” about that. He has sent out information about this previous to the Board. He then deferred to Davis to introduce herself and discuss the grant and project status with the Board.

Davis briefly summarized the impact that the grant funding had and how successful these projects had been, including the significant number of viewers of the livestreamed addresses by the Governor that had been occurring daily. She thanked the board and emphasized that it had been really helpful for them to be willing to meet so often as it supported them being nimble and knowing they would be able to proceed with things they identified they needed quickly. She also recapped the two new projects that Friend had approved for the Governor's address and messaging around the reopening.

She then discussed the KDHE phones project. It was the first project approved and they had estimated it to

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be around \$3,000 with Amazon which is still close to what would be expended for that. However, they had not taken into account the telecom charges from AT&T for running the phone bank. However, in this case, the phone line only exists because of the pandemic. So, they have asked to move that total to \$13,500 because the phone expense will be about \$3,500/month based on what they were billed in March 2020,

She closed her remarks by saying that her main purpose was to say thank you and that the people associated with the Governor's office thought it had been really successful in accomplishing their goals. But, she also wanted to answer any questions. Friend thanked her and then explained his thinking briefly in approving the two projects. He noted that the Board had also asked in the previous meeting as part of delegating Friend authority that he confirm that they were considering INK's capabilities as well, and he noted that neither of these projects around outreach were really in INK's "wheelhouse", but definitely met the grant criteria. He then told the Board that, even with the increased amount for KDHE phones and the two new projects, there was still in excess of \$90,000 "ceiling" remaining in the grant pool.

Cook thanked Davis for taking time to come update the Board and her work, then continued with several questions. Looking back, she recounted that originally INK had done some work for KDHE in mid-March, the redirected the work to CivicPlus and Bajillion. She asked if Davis could talk a little about what went into the process to make that shift and some about the thoughts behind that.

Davis responded that this was also something that she and Friend had talked about, too. She thought it was good that the Board put in the provision that they were on the same page about what KIC could do and they had been moving quickly to get things in place. She continued that she had conversations that day with people who had been more closely involved in the website projects. There were two vendors – they had used CivicPlus for KDHE and Bajillion Agency for the Governor's office project (statewide). It sounded to her from the discussions that there were some things that CivicPlus provided in terms of their specialization with municipalities and the way they work with them, so it seemed like they had some expertise there. There was the ability to put tabs on the pages that made it easier to navigate, there was a document center that made it easier for them to do guidance and updates in a central location and import the documents. She wasn't sure what kind of tech foundation the CivicPlus website was on, either. The person she talked to thought that it was something they'd built themselves over time. It may be that KIC could have implemented this as well.

Davis continued, stating that no one had anything bad to say about KIC or their experience working with KIC. KDHE felt that the microsite getting up was really, really great. There had just been some ways that the CivicPlus site they had looked at seemed to have the right format and functionality and style and CivicPlus was just ready to hop in and provide those things, including some things KDHE didn't know to ask for. With the Governor's office and a statewide site, she thought there was always an eye toward probably trying to do more of a media campaign and some of the social media things. One of the proposals included making TV ads, digital media and placing it. She felt there was a little design aesthetic in Bajillion's work that matched what they were looking for – there was a feeling that they were just sort of immediately in sync with what they were thinking of and needed. But, she also felt a lot of it was wanting to be able to tie together the media effort and her understanding was that this was not something KIC did.

Cook thanked Davis for the response and then asked to confirm what the contracting process had been for working with Bajillion, as she understood they had a master contract with the state and she assumed that was what was used for the Governor's office. She asked if CivicPlus was in the same situation. Davis responded that she didn't know that, but she could find out. Cook continued that if the Board could get some

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information on how that process worked, she thought it would be helpful for the Board to know, not just for this, but going forward if there are future scenarios like this, they would have something as a basis for.

Davis said that she could certainly ask and figure out what that process looked like and get her some information on that. Davis added that, as she had said, she felt it would be a good idea for her and Friend to keep talking about the services that KIC provides so that they can make sure they are fully utilizing them. Cook thanked her for her response. Friend noted that at the time, there were some other quotes – he remembered one from Sprout.

Cook had one last question for Kate. Usually when the Board does a grant, and she recognized this was an unusual scenario, they normally asked the grant requestor to indicate whether there have been other funding sources explored or attempted to be identified. She asked “Is there an effort to look more broadly than just INK if costs continue or they go beyond a place that they are not anticipating at present?” Davis said absolutely. One of the bigger amounts of money is for the Department of Labor (DOL) phones. DOL is clear that these are just “startup” costs for getting things going. But, once it hits \$100,000, they will switch over to their federal Unemployment Insurance Administration costs for which they have seen the funding increase on the federal side. When things were being set up, it was sort of iffy if that was going to come in and when it was going to come in.

The other phones projects are much smaller in costs and her expectation – she hadn’t really talked with anyone about this and would be open to the Board’s thoughts, too – but she would guess that since KDHE was really COVID-based, then as soon as the pandemic piece of this is over, they would shut down. So, her guess is that they are likely to look to INK to fund that for its duration. But, they will see how it looks. They may shut it down for the summer then have to figure something out for the fall. She didn’t know if Yancey might have some more insight on that. Yancey said that he anticipated once the initial pandemic had abated so that they were not longer getting hotline-type calls, the Amazon service would probably spin down. And, quite honestly, the beauty of that service is that it can spin up and down quickly. Cook asked Davis is there were thoughts on the websites and messaging, as far as what that might look like going forward, past the initial grant.

Davis said that she thought that the idea with the messaging was that those amounts are finite. If something got really bad in the fall, then she thought that would be a whole different conversation. At this time, she thought that this was the amount they were going to spend. She indicated she was reviewing her list to see what might also have ongoing costs. The website may have a monthly maintenance charge – she needs to go back and look at the invoices. She thinks that all of that stuff could be absorbed by the budgets relatively easily, and she thinks that will be the plan. She said the PSA’s might continue depending on how things change. She felt like the rest of it will likely be absorbed by agency budgets.

Yeary joined the call at 10:24 a.m.

Davis had asked Friend earlier if he could think of anything else. He did want to add that at the previous meeting there had been talk about the “reopening” effort. So, the Governor’s talk and the messaging project both related to reopening, so he could see there may be more efforts at messaging around that ahead. Davis said that there was a lot of work being done with a new committee even that day, but she had not yet heard there would be a desire to come back to INK to use any of the remaining funding for those efforts. She hasn’t heard how that is going to work. But, if there is anything around it, it would probably be pretty quickly forthcoming.

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Friend deferred back to the chair. Kite indicated he did not have any additional questions and thanked Davis for joining the call and asked her to tell the Governor that the Board was glad to be of service. He asked if the other members had any additional questions. There were no other questions. Davis thanked the Board, saying they were very grateful for the Board's help and the possibilities it had given them to be able to respond to the pandemic.

Action Taken: None.

Kite then suggested, due to time constraints, that the Board move Item 4 next on the agenda to make sure it was covered.

4) INK Administrative Update (Finance / Investment Status, Board Counsel, etc.)

Finance Committee and Banking decisions. Friend began by updating the Board on what had happened with the Finance Committee based on a motion at the previous meeting to convene them. First was to determine the disposition of funds from a CD that was coming due from CoreFirst. The second was to determine if and how INK idle funds should be distributed across existing or additional banks in light of potential economic impact from COVID. Friend briefly recapped the parameters of those decisions and said that he had approached the committee late and they had not been able to convene. However, there is a 10-day grace period on the CD decision and all INK funds were fully securitized at the institutions where they were held.

Action Taken: Kite moved to authorize the Finance Committee to direct the placement of the funds, including the Kaw Valley funds and the \$1MM CD at CoreFirst in such fashion as they reasonably see fit based on the guidelines that had previously been put in place for the safeguards of those monies. And, that they are empowered to authorize the Executive Director to take whatever actions they deem necessary and appropriate to get the funds moved around. Yancey seconded the motion. There was no discussion. Approved unanimously.

Engagement of new Board Counsel. Friend indicated to Kite that there was another item on the agenda that addressed the need to hire a new Board Counsel. He had received a letter in February from the Secretary of Administration indicating she was exercising the termination clause of the Board's contract with them for Board Counsel. Friend said he had gotten some names of potential firms, he thought from Yeary and another attorney, not from the Board although he had run them by Kite. To recap where things stood: First, Yancey had asked if Friend would create something like a position description for the legal work, which he has completed. It was in some detail (two pages, single-spaced), but he has not distributed it to the Board. Second, however, he has talked through it in conversations with the legal firms.

Friend has spoken with three firms who had some experience in government. The three firms were Goodell, Stratton, Edmonds, and Palmer who had been the INK's board counsel for a number of years; Foulston, Siefkin; and Frieden, Unrein, and Forbes. Friend said that he had conversations with each of the firms and that were things were at was that he wanted to make sure he was in sync with the Board on next steps. He continued that he had conversed briefly with Kite about the level of services the Board might need, and he also talked with John Yeary, the current Board Counsel about that. If the new counsel does attend the Board meetings, it might be 5-6 hours a month. However, he emphasized that sometimes there may be additional work, even 20 hours in a month. He gave examples such as KDOR redoing a major contract with some of

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the companies they provide driver history records to, or, like what the Board encountered with KBI – which was an unusual situation. So, he could approach budgeting incrementally, putting an amount in at a smaller level, but setting the expectation that it might need to be revised later depending on what was encountered – there could be cases where there was a reason to review some legal aspect of KIC operations, or language to move to the cloud in the master contract, for example.

He stated that he saw varying rates from something like \$250 hour for an associate partner up to as high as \$425 for work from a partner. It sounded more like the going rate was closer to \$300 for a partner. So, he wanted to know what the Board's pleasure was in this matter, whether they wanted to grant him authority to proceed and figure out who he could work best with in this situation to support the Board, or some other process. He had been talking with them about the scope of work and rates, but he did want to note one thing. While he meant this in the "layman's sense", not as a legal term, he did talk with them also about conflicts of interest and some of them may have them in terms of other government agencies they represent that could be INK customers. He conjectured that, in representing, say, three small boards or commissions, they may seldom interact. But, in the case of INK, it may do business with all of them. For example, one of the firms works with Department of Revenue and suggested that they already have some way they handle conflicts of interest.

He deferred to Kite for the discussion. Kite said that he had looked at all of the names and they were all reputable firms with good lawyers that he knew or knew to have good reputations that are qualified to do the work. His advice was for the members to provide their input if they had any thoughts on the firms and then pick someone they feel comfortable working with. In considering whether or not they would take the work, the first should vet their conflicts of interest themselves and then let them know whether it is a big issue or not. He doubts that it will be in the case of INK. He asked Friend if he had a recommendation or preference.

Friend responded that he had only collected information to-date, he wasn't sure if the Board wanted him to bring a name forward or how they wanted to handle it – if the Board wanted to talk with a person or have them come to a meeting. His general feeling from talking to them is that all three firms could do this. From that, he favors Goodell Stratton from his conversation with the partner there who took over the previous counsel, Phil Elwood's, work – he is familiar with INK and has been on state boards. And, their rates are below \$300/hr, which is more in the range of where the Board has been previously. He would say that he has interviewed them and is preliminarily leaning that way, but he has not indicated that to them. He would be happy to move forward directly himself, but wanted to check with the Board on their thoughts on approach. Friend noted that Yeary was on the call if anyone had questions for him.

Kite asked Yeary if he had any thoughts on the firms mentioned. Yeary responded that he agreed with Kite's comments – they were all reputable firms that could do the work, it really is up to the Board's preference and pleasure as to who they want to work with. He also agreed with Kite on them assessing their conflicts of interest and thought they should probably address how they would deal with anything if it did come up in their engagement letter. Burghart then expressed that he had been engaged with attorneys from all of the firms over the last 25 years. And, they are all excellent firms. At this point, he stated that he also would be leaning toward Goodell Stratton. Yancey asked about which firm would be the low bid and that he understood Friend to say it was Goodell Stratton. Friend responded that "at present", yes. However, he wanted to clarify to the Board that he just wasn't sure whether they wanted him to formalize those bids for people and distribute them to the Board. So, he has only had the informal conversations, but based on what he has heard so far, from the people that have given him rates, yes – if not low bid, the others are certainly commensurate or higher than it. Yancey responded that he has worked with Goodell Stratton in other

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situations not related to the INK Board and he was certainly comfortable with their expertise in this area and it would be perfectly acceptable to him to select them.

Kite asked the members if there were any other thoughts on the topic. There was no further discussion. Kite continued, saying his suggestion was to get the matter taken care of right then. He had no problem with Goodell Stratton and felt comfortable making a motion to proceed.

Action Taken: Kite moved to authorize Friend to move forward in negotiating an engagement letter or contract with Goodell, Stratton, Edmonds and Palmer LLP that would suit the Board's needs for legal services. Seconded by Burghart. There was no discussion. Friend took the role by voice vote. Motion passed unanimously.

Friend closed the topic by talking about next steps on proceeding with the Appointments Office on the outstanding INK appointments.

5) Status of INK Operations re: Pandemic (Any notable changes / impacts on work or processes)

Jones said that they were continuing to work remotely and they were looking at a process to return to the office but were approaching the consideration of it slowly to minimize disruptions. Friend added that materials were continuing to be updated for reopening plans for the state itself and the workforce.

Action Taken: None.

6) April 2020 Network Manager Report

Jones noted status on the KBI Scrap Metal project, which was continuing on schedule. They had also been continuing to work to put processes in place to facilitate working remotely in a more efficient manner. He ended his update by saying that while he didn't have detailed numbers, it appears that revenue from processing driver records is down about 15% for April. It was not surprising, but he will keep an eye on May. Friend requested that Jones update the Board on a new form being developed to collect information for the Governor's office and noted that they were going to need to update the contract with them as they did more work over time.

Friend and Jones then briefly discussed a new corporate naming policy from NIC that would identify what has been Kansas Information Consortium as NIC-Kansas. He had talked with the Board Chair and Board Counsel and confirmed with Jones that there would not be any contractual impact of this change and the direction was still to transition branding to promote INK. Jones confirmed the intent was only to get consistency across the company.

Action Taken: None

7) Approval of 4th Quarter 2019 INK Financial Reports

Friend introduced the discussion by stating that the approval of the financial reports had traditionally been a quarter behind. So, these reports would normally be on the March agenda. However, he'd been delayed in his review as he was looking closely at last year end both due to the upcoming audit and also as part of addressing the issue with variances in the budgeted revenue that had been reported by KIC. He reemphasized that he had full faith in the integrity of the figures presented in INK financial statements and

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this was supported by an unbroken streak of successful annual audits by multiple firms during INK's history. This was an issue of how the anticipated revenue was reported in the management reports under additional information, something he continued to work with KIC and NIC on. Friend briefly discussed the financial reports. Kite asked how recently Friend had distributed these documents and he responded that he had sent them out this morning. Kite's feeling was that the Board members should be granted some more time for review and Friend agreed along with Cook.

Action Taken: The 4th Quarter Financials will be included on the next month's agenda.

New Business

1) Go-forward meeting schedule / approach: Dates, methods, special meetings

There was no discussion or action on this item.

The meeting was adjourned at 11:15 a.m.