

MINUTES
TAX INCREMENT FINANCING GUIDELINES REVIEW COMMITTEE
April 27, 2010

MEMBERS PRESENT: Malcom Chapman, Bill Waugh, Karen Gundersen Olson, Deb Hadcock, Sam Kooiker, Dan Dryden, Mike Tennyson, Marcia Elkins, Robert Ellis, Jason Green, Pauline Sumption

OTHERS PRESENT: Diane Dahl, Nancy Jensen, Dale Jensen, Alan Hanks, Karen Bulman, Sharlene Mitchell

Call to Order

Elkins called the meeting to order at 7:01 a.m. **Chapman moved, Gundersen Olson seconded and carried unanimously to address Agenda Item #3 at this time.**

Tax Increment Finance Amendments and Interest Rates

Elkins indicated that the Tax Increment District valuation spreadsheet is included in the packet materials.

Kooiker suggested that the Committee address the feasibility of reviewing and applying the new guidelines to existing districts when a request for reallocation of the project costs is brought forward.

Elkins addressed the recent revision of a Developer's Agreement which highlighted this issue. Elkins indicated that the developer had indicated that due to the current economic climate he would be unable to secure an interest rate compliant with the new guidelines. Chapman recommended that the impact of requiring an existing district to comply with current guidelines be evaluated noting the potential for there to be a negative impact.

Kooiker indicated that interest rates in excess of nine percent are feasible given the current economic climate. Kooiker suggested that existing districts be reviewed when amendments are requested to determine what changes could be made to bring the district into compliance with the new guidelines. Discussion followed regarding the financial cost to process the reviews, including the establishment of a review fee to address the staff time to complete the reviews.

Kookier addressed the flexibility in the current interest rate policy noting that the current interest rate of District 19 would be an example of an item that would prompt a review. Sumption indicated that developers are unable to refinance their existing loans to a lower interest rate given the current financial atmosphere.

Tennyson suggested that the City assume the outstanding debt on those districts which are self-funded in order to retire the debts as quickly as possible at the lowest interest rate possible. Sumption indicated that most communities bond for City funded tax increment projects. She noted that the intent of the City of Rapid City's tax increment financing is to place the risk on the developer. Sumption stated that she could not support a recommendation for the City to refinance developer funded districts.

Green addressed the impact the uncertain nature of tax increment financing would have on bond interest rates. Green indicated that he had no objection to reviewing existing districts when funding reallocation is requested but encouraged caution as this might impact the use of tax increment districts for City projects.

Discussion followed regarding amending the guidelines to require the review of existing tax increment districts and the evaluation process for existing tax increment districts for the purpose of determining secure repayment income. Sumption addressed the coverage ratios required on City revenue bonds noting that tax increment district bonds would require a much higher ratio. Green indicated that the City's transactions costs must also be considered. Discussion followed regarding the cost/benefit ratio for the City to bond to refinance existing tax increment districts and the cost in staff time to review the existing tax increment districts.

In response to a question from Hadcock, Elkins indicated that the application fee is assessed for project cost reallocation requests noting that changes to documents such as the Developer's Agreement or Assignment of Proceeds do not require a fee.

Green moved to acknowledge the report on Tax increment Finance Amendments and Interest Rates. Hadcock seconded the motion.

Hanks addressed the risk factors associated with a new tax increment district noting that interest rates would reflect that risk. Hanks addressed the taxpayer benefit when districts payoff.

In response to a question by Gunderson Olson, the Committee concurred that a review process results in real costs that should be the responsibility of the developer. In response to a question by Gunderson Olson, Green indicated that he is comfortable with the current fee structure noting that changes to the Developer's Agreement or Assignment of Proceeds are minimal unless tied to a project plan amendment.

The motion to acknowledge the report on Tax increment Finance Amendments and Interest Rates carried unanimously.

Application Requirements to Revise Approved Tax Increment District Project Plans

Tennyson indicated that he was unaware of the impact the new guidelines have on the process to reallocate project costs for final cost certification. Tennyson indicated he had no objection to the application fee but was concerned with the additional time and certified mailings required by the new guidelines.

Discussion followed regarding the amendments that might be allowed without notification, elimination of the notification process and the transparency provide by the notification process.

Chapman indicated that the Tax Increment Financing Policy was revised to address the public concern of transparency and he stated that he could not support elimination of the notification process for that reason. Discussion followed regarding the reallocation of project costs for final cost certification.

Discussion followed regarding the information included in the notification letter and the possible use of a "percentage of change" method to determine when notification would be required.

Hanks indicated that the notification process could be waived subject to all the project improvements being completed and the reallocation is for the purpose of certification of final costs only. Chapman indicated that the notification process was established to address the public concerns for transparency.

Tennyson indicated that he was seeking confirmation that the Committee had intended for the notification process to be applied to new and existing districts.

Waugh moved to acknowledge the report on Application Requirements to Revise Approved Tax Increment District Project Plans. Hadcock seconded the motion.

Discussion followed regarding the transparency achieved by the notification process.

The motion to acknowledge the report on Application Requirements to Revise Approved Tax Increment District Project Plans carried unanimously.

Receiving Payments prior to Final Cost Certification

Tennyson indicated that the current process does not allow release of the district revenues until the final costs have been certified. Tennyson indicated that interim cost certifications have been provided on the Federal Beef Tax Increment District noting that if the revenues could be released prior to project completion the debt would be paid down sooner resulting in the district being retired sooner.

Sumption indicated that the Developer's Agreement addresses the payment process noting that some projects have been done in phases with the agreement allowing for release of revenues for the costs certified for each completed phase.

Green indicated that the current process gives the developer an incentive to complete all project plan items on a timely basis. Green indicated that requiring the project to be completed prior to the release of revenues avoids the utilizing of the revenues to cash flow the project.

Discussion followed regarding structuring phased project plans to permit district revenues to be released in advance of the five year certification. Hanks cautioned against using too much phasing noting that a developer may elect to place a City required improvement in a later phase to avoid or delay its completion.

Chapman recommended that the developer be advised that phasing is an option. Hadcock voiced support for project phasing if it would return the district to the tax rolls sooner. Sumption addressed the additional staff time required to track phased projects.

Waugh moved, Hadcock seconded and carried unanimously to acknowledge the report on Receiving Payments prior to Final Cost Certification.

Deadline for Submitting Costs for Certification

Elkins advised that one of the two developers participating in District #50 will be unable to certify his costs due to failure to follow State bid laws. Elkins indicated that a request has been received to modify the Developer's Agreement to redirect the revenues identified for developer "B" to developer "A". Elkins indicated that having an established timeframe for submission of the final cost certification would identify these problems sooner.

Tennyson recommended a 90 day requirement for submission of the final cost certification. Discussion followed regarding establishing a timeframe for submission of the final certification costs and inclusion of the timeframe in the Developer's Agreement.

Sumption commented on the revenue distribution process established for a multi-developer district. Discussion followed regarding the revenue distribution process established for District #50 and the bidding requirements. Tennyson recommended that future Developer's Agreements address the release of revenues in default situations.

Sumption indicated that the deadline for submission of certified costs would move projects forward sooner noting the two year process to finalize and certify costs on one district.

In response to a question from Waugh, Elkins recommended incorporating the deadline for submitting final costs for certification into the Tax Increment Policy Guidelines.

Waugh moved to request that staff prepare language to amend the Tax Increment Financing Guidelines for presentation to the Planning Commission and City Council to establish a 120 day deadline for the submission of the final costs certification. Tennyson seconded the motion.

In response to a question by Chapman, Green recommended that the deadline be placed on the certification of final costs and not on project plan amendments for flexibility purposes. Discussion followed.

The motion to request that staff prepare language to amend the Tax Increment Financing Guidelines for presentation to the Planning Commission and City Council to establish a 120 day deadline for the submission of the final costs certification carried unanimously.

Adjourn

There being no further business Green moved, Waugh seconded and carried unanimously to adjourn the meeting at 8:17 a.m.