

MINUTES
TAX INCREMENT FINANCE PROJECT REVIEW COMMITTEE
February 26, 2013

MEMBERS PRESENT: Ritchie Nordstrom, John Roberts, John Brewer, Lyndell Petersen, David Janak and David Hillard

MEMBERS ABSENT: Steve Rolinger

OTHERS PRESENT: Patsy Horton, Jeanne Nicholson, Terry Wolterstorff, Hani Shafai, Pauline Sumption, Brett Limbaugh, Mayor Kooiker, Dale Tech, Ted Johnson and Joel Landeen

Call to Order

Brewer called the meeting to order at 7:02 a.m.

Approve Minutes

Motion by Janak, seconded by Hillard and carried unanimously to approve the minutes of the February 5, 2013 meeting.

East Minnesota Street (13TIF002)

Horton reviewed the district boundary noting that the current tax increment district boundary is in green and that the new district boundary is identified in gray and overlaps the previous boundary and the additional property. She also reviewed the location of the existing East Minnesota Street, the proposed extension of East Minnesota Street and the proposed master plan. She identified the current and proposed residential, commercial and industrial development within the proposed district. Horton explained the projected costs for the Minnesota Street extension, the drainage facility, the irrigation pipe ditch, the relocation of power lines, professional costs and contingency costs. She presented photographs of the area identifying the location of the bike bath, sidewalks and residential development.

In response to a question from Janak, Horton briefly reviewed the costs for Tax Increment District 65 and the proposed tax increment district.

Shafai reviewed the history of the project and the boundaries of Tax Increment District 65. He explained that when the Southeast Connector was built, the emergency access to South Valley Drive was eliminated which resulted in one access for the residents of Plum Creek and Elks Country Estates. Shafai added that Tax Increment District 65 was created for the purpose of constructing Minnesota Street to allow residents additional access to their subdivisions. He added that the extension of East Minnesota Street to the east will provide an alternate route for the community and will help eliminate some of the traffic congestion on S.D. Highway 44. Shafai explained that developer agreements are in place and that the components for the proposed tax increment district will be the same as those for Tax Increment District 65. Shafai explained that when the project was set for bid on December 20, 2012, it was discovered by the bank that the tax increment district had expired and that the bid should have been completed by the end of October, 2012. He added that a meeting was held immediately with the City to discuss available options and that it was determined that the only option available was to establish a new district for overlapping costs that were not completed in Tax Increment District

65. Shafai added that the proposed boundary of the new tax increment district has been expanded to include undeveloped property for industrial uses.

In response to a question from Janak, Horton informed the Committee that Tax Increment District 65 was approved by the City Council on September 4, 2007. Discussion followed regarding the proposed payout schedule for the new tax increment district.

In response to a question from Roberts, Shafai reviewed the proposed development for Plum Creek, Elks Meadow and Elks Country Estates. He added that the homes being built in this area are moderately priced homes in the \$180,000 to \$200,000 price range and that the developer has been working with Teton Coalition about housing in the area. He noted that the increase in industrial property will provide additional revenue to the community.

In response to a question from Roberts, Limbaugh explained that due to timing issues and the economy, the project was not completed as projected.

Shafai added that the developer just wants another chance to finish the project.

Horton responded to a question from Petersen and explained that the Tax Increment Finance Project Review Committee meets when an application has been submitted. She briefly reviewed the responsibility of the Committee and the approval process for tax increment districts. She added that if the Committee has questions and would like additional information from the applicant, the Committee can continue the application to another meeting date.

Nordstrom questioned the substantial increase to the payment schedule for 2013. Sumption explained that the 2011 and 2012 payments were actual property taxes paid by the developer and that she would anticipate, due to a small amount of development occurring in the area, that the 2013 projected payment is not probably accurate. Additional discussion followed.'

Janak inquired as to whether the developer could stay on the existing schedule for Tax Increment District 35 or if it is possible for a shorter payment schedule for the new tax increment district. Shafai responded that he cannot guarantee that the existing payment schedule for Tax Increment District 65 would work for the new tax increment district.

Brewer briefly reviewed the history of tax increment districts and noted that they have an excellent performance history.

In response to a question from Roberts, Horton advised that the project plan is not created until the Committee recommends approval of the tax increment district. She recommended that the Committee review the criteria checklist submitted by the applicant to determine if the criteria have been met. Horton briefly reviewed the criteria check list.

Shafai explained that the criteria used for the new tax increment district was the same criteria for the new tax increment district and addressed specific evaluation criteria as it relates to access, water flow, irrigation ditch, the extension of Minnesota Street, heavy traffic flow on S.D. Highway 44 and tax revenues. Shafai stated that the project plan for Tax Increment District 65 identifies the same components of the new tax increment district.

In response to a question from Petersen regarding the boundary map, Horton reviewed the boundaries for Tax Increment District 65 and the new tax increment district.

Petersen asked if the proposed tax increment district is located in the City limits. Horton advised that the entire tax increment district is located in the City limits.

Hillard expressed concern with determining whether the projected facts and figures provided with the application substantiate the need for a tax increment district or whether the developer will receive additional profit or subsidy for the project. Hillard suggested that the Committee further review the financial necessity for future tax increment districts to determine a standard profitability for the projects. He expressed his support for the proposed improvements and the solution to the additional access and larger arterial routes for the developments in this area.

Brewer expressed his opinion that the proposed development will contribute to the affordable housing in the community. He added that the community needs to take into consideration the future build out and infrastructure in this area and that the extension of Minnesota Street will be an improvement to the community.

Horton reviewed the motion from the April 17, 2007 Tax Increment Finance Project Review Committee meeting recommending approval of the Minnesota Street Tax Increment District.

Mayor Kooiker commented that when it was discovered that Tax Increment District 65 expired, the goal was to simply reauthorize the developer to proceed with the project. He added that the Tax Increment District Reform in 2008 has made it more complicated to proceed. Mayor Kooiker requested the Committee to take into account the developer costs that were included in the original tax increment district and that the motion for the creation of the new tax increment district include the request that a project plan be drafted for further and complete analysis of what the developers costs are for the new tax increment district and the expansion of the new boundaries. He expressed his opinion that the project plan should identify the affordable housing aspect which should then be reported to the committees and City Council as it moves through the approval process. He added that the developer made an honest mistake and consideration needs to be given to the changes that are proposed in the new tax increment district and the changes to the process requirements.

Petersen asked if the area that the developer is proposing to add for industrial uses would qualify for a separate tax increment district.

Brewer responded that it was stated earlier that the addition of the industrial property would decrease the tax increment district by \$4.4 million and would decrease the amount of time it would take to pay it off.

Shafai added that the tax increment district improvements would have to exist within the tax increment district boundary and Minnesota Street is located on the additional property so a separate district for the industrial property is not an option. Shafai advised that HUD does not approve funding for apartments unless there is criteria for affordable housing based on income requirements.

Nordstrom moved to recommend approval of the creation of a new tax increment district for East Minnesota Street identified as 13TIF002. The motion was seconded by Hillard.

Janak expressed concern about extending the tax increment district another ten years, the addition of the industrial property and the possibility of future amendments to the tax increment district for the industrial property.

Shafai commented that there should be no amendments for the proposed tax increment district and that if a large industrial business would move into the area, the tax increment district could payoff within five years instead of ten years.

In response to a comment from Nordstrom, Horton advised that the Committee needs to include in the motion the recommendation to approve the tax increment district, to request the creation of the project plan and to identify the mandatory, additional and discretionary criteria that have been met.

Roberts made a substitute motion to request the developer to bring forward a project plan and to delay action on the application for a couple of weeks to allow the Committee additional time to review the project plan. The motion was seconded by Petersen.

Brewer expressed his opinion that the applicant has followed the established procedures for tax increment districts and that action should not be delayed on proposed tax increment district. A brief discussion followed.

Roberts rescinded the substitute motion to request the developer to bring forward a project plan and to delay action on the application for a couple of weeks to allow the Committee additional time to review the project plan. Petersen concurred.

Mayor expressed his opinion that the motion could request that the developer costs versus the City costs be laid out clearly side by side in the project plan prior to the approval of the creation of the district. He added that the request for the project plan at this point in the approval process would be fair to both the applicant and all approving committees.

Horton reviewed the Ordinance created for the Tax Increment Finance Project Review Committee.

Nordstrom made an amended motion to recommend approval of the East Minnesota Street Tax Increment District in the amount of \$3,355,000.00 with blight defined as the lack of secondary access and in compliance with the following criteria:

Mandatory Criteria:

- 1. The project must be located within a proposed district in which a minimum of twenty-five percent (25%) of the area of the District is determined to be "blighted". For the purposes of TIF, a "blighted area" is defined as:
 - B. An area that substantially impairs or arrests the sound growth of the municipality, retards the provision of adequate housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, or morals, or welfare as a result of substandard, unsafe or deteriorating development; or,**
 - C. An open area which because of the need for infill development and cost effective use of existing utilities and services, obsolete platting, diversity of ownership, deterioration of structures or site improvements, or otherwise is determined to be blighted, substantially impairs or arrests the sound growth of the community****
- 2. The project must comply with the adopted Comprehensive Plan and all other appropriate plans and regulations.**

3. **The use of TIF for the project will not result in the net loss of pre-existing tax revenues to the City and other taxing jurisdictions.**

Additional Criteria:

1. **The project must demonstrate that it is not economically feasible without the use of TIF. In addition, if the project has site alternatives, the proposal must demonstrate that it would not occur in Rapid City without TIF.**
2. **The project will eliminate actual or potential hazard to the public. Hazards may include condemned or unsafe buildings, sites, or structures.**
3. **The project will not provide direct or indirect assistance to retail or service businesses competing with existing businesses in the Rapid City trade area.**

Discretionary Criteria:

2. **All TIF proceeds are used for the construction of public improvements.**
9. **The project costs are limited to those specific costs associated with a site that exceed the typical or average construction costs (i.e. excessive fill, relocation costs, additional foundation requirements associated with unusual soil conditions, extension of sewer or water mains, on-site or off-site vehicular circulation improvements, etc.)**
10. **The developer agrees to waive the five-year tax abatement.**

The amended motion carried with Brewer, Nordstrom, Janak and Hillard voting yes, and Roberts and Petersen voting no.

Discussion Items

Brewer recommended, due to comments and requests from this committee, that the Mayor and City Council review the Tax Increment District procedures as they relate to obtaining additional financial information at the time of approval for the creation of the district. Additional discussion followed.

Ordinance Amending Provisions Concerning Tax Increment Financing District Review Process – Item on the February 27, 2013 Legal and Finance Committee

Horton informed the Committee that there is an item on the February 27, 2013 Legal and Finance Committee Meeting regarding the membership for this committee and a change to the department name. She added that the membership proposed will change by decreasing the two Planning Commission members to one and increasing the one County Commissioner to two County Commissioners. Horton noted that the remaining membership will remain the same. She explained that the term limits for members is being proposed to change to one year.

Brewer expressed his opinion that the expertise that Planning Commission members have on tax increment districts needs to be taken into consideration as it relates to reducing the Planning Commission membership on this committee. He also urged City Council to reconsider the one year term limits because it takes more than a year for a member to become acclimated to the review process for tax increment districts. Janak and Hillard concurred.

Nordstrom suggested that the one year term limits be removed from the Ordinance Amendment. Additional discussion followed regarding the Planning Commission membership on the Tax Increment Finance Project Review Committee.

Janak stated that the School District supports tax increment districts because of the impact they have on the development of the community and that the representation on this committee keeps the School District informed of development in the community.

Petersen commented that the review process for tax increment districts is difficult and that it shouldn't matter if the County Commissioners have one or two members on the committee.

Roberts inquired as to what the reasoning is behind increasing County Commissioners representation from one member to two members. He expressed his opinion that the two members from the Planning Commission would be more appropriate because of their knowledge in tax increment districts.

Limbaugh explained that the recommendation was a result of meetings held with the Mayor, County Commissioners and the School District.

Roberts expressed his support for two Planning Commission members and one County Commissioner on the Tax Increment Finance Project Review Committee.

Horton informed the committee that the Tax Increment Financing application fee has been removed from the Ordinance and that the fee has been added to the "Resolution Establishing Fees To Be Charged in 2013 For Various Permits And Licenses.

Horton stated that the department name will be changed from Growth Management Department to Community Planning and Development Services.

Tax Increment Financing District Guidelines

Hillard recommended that the process be amended so that the financial viability of the tax increment district and that the application fee be increased to allow for a third party to do the financial analysis on the financial necessity of the tax increment district prior to coming before the Tax Increment District Project Review Committee. Additional discussion followed.

Brewer suggested that the item be added as a discussion item on the Planning Commission agenda and then be forwarded to this committee and/or the Legal and Finance Committee for further review.

In response to a question from Horton, Brewer suggested that a questionnaire be sent to the members of the committee to see what additional information they would like to see during the review process for tax increment districts. He added the information received on the questionnaire will help determine what changes would need to be made to the Tax Increment Financing Guidelines.

There being no further business to come before the committee, Nordstrom moved, Janek seconded and motion carried unanimously to adjourn the meeting at 8:49 a.m.