

CITY OF LEE’S SUMMIT, MISSOURI
MINUTES OF THE MEETING OF THE
TAX INCREMENT FINANCING COMMISSION

November 19, 2018

The meeting of the Tax Increment Financing Commission of the City of Lee’s Summit, Missouri (the “**TIF Commission**”) was held on November 19, 2018, commencing at approximately 6:00 p.m., in the City Council Chambers at Lee’s Summit City Hall, 220 SE Green Street, Lee’s Summit, Jackson County, Missouri, pursuant to notice duly given.

TIF Commission attendance was as follows:

Marty Brooks	Present
Lenny Cachio	Present
Eric Doane	Present
James Freeman	Present
Tim Shroul	Absent
Allison Walker	Present
Dennis Smith	Present
Bob White	Present
Joe Hudson	Present
Randy Rhoads	Present
Jim Staley	Present

Also present at the meeting were David Bushek (Chief Counsel of Econ. Dev. & Planning), Mark Dunning (Assist. City Manager), Bette Wordelman (Finance Director), Ryan Elam (Director of Development Services) and Julie Pryor (Executive Assistant).

Chairman Freeman called the meeting to order. Attendance of the members was verified. A simple majority of the TIF Commission was present, a quorum was recognized and the meeting was commenced.

Election of Officers

Chairman Freeman called for an election of officers.

- Randy Rhoads made a motion to nominate James Freeman as Chair, seconded by Joe Hudson. A vote was held and James Freeman was unanimously elected as Chair.
- Eric Doane made a motion to nominate Randy Rhoads as Vice Chair, seconded by Joe Hudson. A vote was held and Randy Rhoads was unanimously elected as Vice Chair.
- Randy Rhoads made a motion to nominate Lenny Cacchio as Secretary, seconded by James Freeman. A vote was held and Lenny Cacchio was unanimously elected as Secretary.

Public Hearing to Consider Proposed Streets of West Pryor Tax Increment Financing Plan

Chairman Freeman opened the public hearing and the witnesses were sworn in.

The applicant, Jeff Haney, with the Haney Company, presented an overview of the TIF Project with a power point presentation.

He explained the proposed project is comprised of 70 acres on the west side of Pryor Road, south of I-470 Highway and a portion of the property is undermined.

Highlights of the \$180 Million project include:

- 60,000 SF McKeever's Market grocery store
- Approx. 65,000 SF retail/restaurant space
- Approx. 250 premium active living units, basement level with parking underneath (Pearl Development)
- Approx. 165 age restricted active living units
- Nationally branded hotel providing up to approx. 165 rooms

The applicant is seeking several incentives to help finance the project including TIF (residential area excluded), Hotel sales tax rebate, 1% CID, half cent TDD sales tax (excludes grocery store), and Chapter 100 sales tax abatement on all materials purchased and used on site. There will also be a 10-year fixed property tax on the multi-family units.

Mr. Haney stated without incentives the return on investment is 3.54%. However, with the incentives the rate of return is 9.53%.

The project will also provide new annual sales tax of \$1.2 million for all taxing districts and \$650,000 new sales tax for the City of Lee's Summit.

Mr. David Bushek, Chief Counsel of Economic Development and Planning, provided a staff summary of the proposed project and entered into evidence Exhibits 1-15.

Mr. Bushek reviewed all the incentives proposed for the project and reminded the commission the only portion they will be voting on is the TIF Plan, which is 11% of the total project costs.

Incentive structure

- a. TIF Plan (Up to 23 years, 11% total project costs, \$19,655,272 reimbursed to the developer)
 - i. PILOTs -100 % property tax increment
 - ii. EATs – 50% sales tax increment
- b. Hotel Sales Tax Rebate: City 1.0% General (23 years, 0.3% total project costs)
 - i. Not eligible for TIF collection
 - ii. \$504,000 reimbursement to the developer
- c. CID – 1.0% sales tax, (30 years, 4.5% of total project costs)
 - i. Applies to all the retail in the project
 - ii. Provides \$8 million reimbursement to developer
- d. TDD – 0.5% sales tax (30 years, 1.0% of total project costs)
 - i. Applies to everything except the grocery store
 - ii. \$1.78 million reimbursement to developer
- e. Chapter 100: Tax abatement tool (City takes title of property during construction.)

- i. Sales Tax exemption on construction materials (2 years)
 - 1. \$6.05 million reimbursement to developer
- ii. Fixed PILOTs (10 years on apartment properties)
 - 1. 3.4% reimbursement to developer

Mr. Bushek provided a map of the development which outlined each project in the plan, as well as the incentive being proposed for each specific area. He also detailed the funding for the project with the following chart:

Sources of Funds		
<u>Private Funding Sources</u>		
Funding from Tenants/Users	\$80,749,765	45.2%
Developer Capital (Private Loans and Equity)	\$61,811,714	34.6%
Subtotal	\$142,561,479	79.8%
<u>Project Cost Reductions from Public Incentives</u>		
Chapter 100 Sales Tax Exemption to Tenants/Users	\$3,298,870	1.8%
Chapter 100 Sales Tax Exemption to Developer	\$2,749,196	1.5%
Subtotal	\$6,048,066	3.4%
<u>Public Reimbursement Sources</u>		
TIF Reimbursement	\$19,655,272	11.0%
CID Reimbursement (TIF & Non-Captured)	\$8,010,893	4.5%
TDD Reimbursement (TIF & Non-Captured)	\$1,779,604	1.0%
City Sales Tax Rebate from Hotel	\$504,231	0.3%
Subtotal	\$29,950,000	16.8%
Total	\$178,559,545	100.0%

Ownership Structure

Mr. Bushek reviewed the ownership structure by stating the property currently has multiple owners. If the plan is approved, the developer will purchase all the property making it unified under one owner.

He added this project is unique in that the developer is asking to use both TIF and Chapter 100 incentives. During construction, the ownership of the retail and apartment area would be transferred to the City of Lee's Summit to utilize the Chapter 100 (sales tax abatement) on construction materials. Once the retail construction is completed (approximately two years), the ownership would be transferred back to the developer and the property would be removed from Chapter 100 and added back to the tax rolls and the TIF would be implemented.

The city would continue to own the apartments for 10 years, to provide a schedule of PILOTs equaling the projected tax revenues if Chapter 100's were not used. This in effect holds the taxing districts harmless, meaning property taxing districts would receive all the taxes they would have received if this funding structure had not been used.

After all retail construction is completed, either the developer or the end users would own the property, and the city would own the apartment area.

TIF Plan

Mr. Bushek reviewed the overall budget for the project as follows:

<u>Development Cost</u>	<u>Amount</u>	<u>% of Total Project</u>
Land Acquisition	\$ 9,640,147	5.4%
Site Development Costs	\$ 36,550,258	20.5%
Building Construction	\$114,211,435	64.0%
Professional Services	\$ 5,213,100	2.9%
Other Soft Cost and Contingency	<u>\$ 12,944,100</u>	<u>7.2%</u>
	\$178,559,545	100.0%

He explained the criteria used in the blight study and pointed out one uncommon criteria states the property has obsolete plotting.

He pointed out the key points in the But For Test and Financial Feasibility Summary prepared by Piper Jaffray which concluded the following:

- Construction costs are reasonable
- Revenue assumptions are reasonable
- Maximum bonding capacity = \$21.25 million
- Grocery sales \$509/sqft/year reasonable, \$511 national average
- May pay-off in less than 23 years if projections are accurate
- Rate of Return without incentives = 3.07%
- Rate of Return with incentives = 10.01%
- Acceptable Range = 5.77% to 10.62%
- Higher Risk Factors
 - Extraordinary site costs, large amount of site prep, power line relocation
 - Revenue from sales of prepared pad sites rather than operating businesses

Mr. Bushek then compared the City's Economic Development Policy to the TIF Plan.

- Preference: less than 25% TIF reimbursement
 - Developer request is 11% TIF reimbursement
- Total incentive request is 20.2% of total project costs
- Total Project Costs is key variable
- TIF contract will have two control mechanisms
 - Rate of Return limitation
 - Development Cost Savings provision (meaning if the developers costs come in lower than predicted, there will be balance so the ratio of public/private costs will stay the same.

He concluded his presentation by again reminding the TIF Commissioners their focus is only on the TIF portion of the plan which is 11% (or \$19,655,272) of the total 20% package reimbursement the developer is requesting for the project.

Chairperson Freeman asked the Commissioners if they had any questions for staff.

Commissioner Walker stated she was not comfortable with the Chapter 100 request but wanted to confirm the TIF Commissioners are only voting on the TIF portion of the request.

Mr. Bushek reiterated the TIF Commissioners responsibility is to make a recommendation to the City Council on the TIF Plan only and not the other incentives. He shared the other funding sources with the Commission because it's important to understand how all the incentives fit together in the development plan. The City Council will make the final decisions on the all the funding sources.

Commissioner Cacchio asked for clarification about ad valorem and PILOT taxes on the apartment buildings and what happens to those funds after they are collected.

Mr. Bushek responded the city would retain ownership for 10 years on the apartments and the developer will make PILOT payments, which are intended to equal what the taxes would have been if the fee structure had not been used. Then those PILOTS are distributed *pro rata* to each of the taxing districts and they will receive their normal share according to their tax levies.

Commissioner Cacchio wanted to confirm there would be no revenue losses to the school district or other taxing districts with the apartments.

Mr. Bushek responded that is correct as the TIF Plan does not apply to the apartments.

Commissioner Cacchio asked if this was the same for the retail projects.

Mr. Bushek replied in the retail area 100% of the increased property tax increment would be used as TIF revenue to reimburse the developer. Therefore, the level of taxes generated by the retail area today, are essentially the dollars the property taxing districts will receive for the entire life of the TIF Plan. Also, 100% of the property tax increment generated by enhancing the value of the retail components of the project will be used to reimburse the developer.

Commissioner Rhoads asked about the undermined areas in the project and where it is located.

Mr. Bushek stated most of the undermined area is on the west side of the property, away from the retail area. The developer will need to obtain a Certificate of True Safety prior to starting any construction on any of the undermined areas.

Mr. Haney stated that Matt Pennington has spent a great deal of time determining where the undermined area is located by boring the site. The Certificate of True Safety will take time to get and as part of the development process they will study it further. He confirmed it is on the west side of the property and currently they are unable to access the area as it is covered by dirt which they will need to move.

Chairman Freeman asked if the actual application of the TIF includes the undermined area.

Mr. Bushek responded the boundary of the TIF Redevelopment Area does include the undermined area which is where the single family will be developed as opposed to the shopping center.

Chairman Freeman asked if Exhibit 3 is sufficient to provide a legal basis of evidence for the blight.

Mr. Bushek responded yes.

Commissioner Hudson asked for clarification the residential area will be built over the undermined area.

Mr. Bushek replied yes, it will. He added the single family housing is technically part of the TIF redevelopment area but the residential area is not part of the TIF collection.

Mr. Matt Pennington, President of Drake Development, stated the Certificate of True Safety allows for structures to be built on top of the undermined areas. Currently, there is no portal to enter the mines. Once they can enter the mines they will determine if they need to do any maintenance to the columns. If so, they will set up a maintenance plan, get the Certificate of True safety, and come back to the city to request approval for the new residences.

In answer to questions about the issuance of the Certificate of True Safety, Mr. Pennington responded an engineer of their choice issues the certificate.

Mr. Hudson inquired about the cannibalization of grocery stores close to the proposed development.

Mr. Pennington replied they conducted a study with McKeever's showing projections which were in line with the national average as indicated earlier. The cannibalization depends on future growth and what is missing in this area.

Mr. John Hanson, with IRR, and financial advisor to the developer, stated their analysis on the project and today's market shows a \$50 million gap in supply and demand. Meaning there is more demand than supply in this trade area. The five year trend projects an increase to almost \$90 million. While some consumers may shop at another grocer they may decide to shop at McKeever's. From the overall market stand point, the current gap can be partially filled with a new grocer now, and with increased demand in the next five years, the net cannibalization will not be an impact on the trade area.

Mr. Hudson asked about the trade area and where the current \$50 million cap is shopping.

Mr. Hanson explained how they obtain their analysis based on demographics, households, census data, and supply within a certain area.

Mr. Cacchio asked about sales tax cannibalization with the TIF areas and how it affects the city budget and if they considered the impact of the new grocery store in the View High project.

Mr. Hanson stated the gap analysis indicates there is a \$50 million gap in the trade area today. Meaning the city is losing sales tax dollars on \$50 million. While the developer is asking to redirect 50% of that sales tax to reimburse project costs, they are also reducing sales tax leakage in that area. The analysis takes into consideration the supply that exists today.

Mr. Hanson further explained grocery store projects approved but not yet built have not been taken into consideration for the gap numbers. While the total gap for this area in the next five years is \$90 million, the projection for this grocer is a little over \$30 million, which provides an opportunity for three grocers of the same size to be built and have a break even on the supply and demand.

Commissioner Brooks asked how many people would be living in the apartments.

Mr. Hanson replied there will be 415 units, comprised of 165 age-restricted units and 250 non age-restricted units. About 75% of the non-age restricted units will be one bedroom units.

Commissioner Rhoads asked for more information about the McKeever's grocery store.

Mr. Pennington stated McKeever's has about 11 local grocery stores. Some are Price Chopper stores and they've created a new model called McKeever's Fresh Market. He added McKeever's has a lot of history and experience.

Mr. Bushek provided additional information on the cannibalization question and stated there are two components to this issue. One component is the effect on sales tax revenues and the other is the effect on the market (i.e. other businesses). The city can't control the effect on the other businesses, but there is a potential way to review the effect on tax revenues.

He displayed two example graphs (entered into the record as Exhibits 16 and 17) comparing sales tax earned from an existing store and a new store. The graphs show the rate of cannibalization based on store sales generated between the existing and new store.

The first graph shows sales from one existing store at \$25,000,000 and sales from a new store at \$32,000,000 with the cannibalization tipping point between 60% - 70%. Meaning at a 60% cannibalization rate the city would still have a net gain, although it would not be favorable for the existing store. When the cannibalization rate goes from 60% to 70%, in this example, the city starts losing sales tax revenue.

The second graph shows sales from two existing stores at \$50,000,000 and sales from a new store at \$32,000,000 with the cannibalization tipping point between 30% - 40%.

Mr. Bushek explained this is only an example of to analyze this information and not based on actual sales in the area.

Commissioner Hudson inquired about the effect of cannibalization and the message it sends to other businesses.

Mr. Bushek stated the City Council would need to analyze the project from a city sales tax perspective and the market effect on how it impacts surrounding businesses.

Commissioner Cacchio asked about the structure of the financing and how the City would be involved.

Mr. Bushek stated the developer is requesting bonds be issued. The issuer could be the city or another entity selected by the city, such as the Industrial Development Authority (IDA). If issuing city bonds, they would only be revenue bonds, meaning the bonds would be repaid only from the project revenues. The city's general obligation would not be used to back the bond and the city would not be responsible to repay the bonds if there is a revenue shortfall.

According to Mr. Bushek, the city's financial advisor estimates that a little over \$21 million of the total reimbursable costs could be funded by the bonds. The developer would have to carry the remainder and on a pay-as-you-go basis. Meaning in the financing structure, the developer would be reimbursed

by the bond proceeds up front and additional revenues would have to come in over time in the flow of funds created from the financing structure to reimburse them. The developer, or their bank, would have to carry the remainder in their loan structure.

Chairperson Freeman asked if this is a prevailing wage project.

Mr. Bushek replied when TIF is being used prevailing wage would apply for the public components of the project but not for the private components. The Chapter 100 structure does not affect prevailing wage on the city's ownership of property.

Hearing no additional questions, Chairman Freeman closed the public hearing.

Commissioner Cacchio expressed his concerns that many of the new development projects in the city look the same, with the same mix (oversaturation), the growing trend of internet sales in the retail market, and the retail pay scale. He wondered if the taxpayers are at risk if the project doesn't work. Is this the type of development needed in Lee's Summit?

Commissioner Hudson voiced his concerns regarding the lack of prevailing wage and no commitment from the construction workforce.

Chairperson Freeman echoed the concerns regarding economic feasibility and the rate of return.

Commissioner Rhoads reflected on the number of restaurants currently in the area and the number proposed in the project and wondered if the market is oversaturated.

Commissioner Doane stated he had concerns about the cannibalization but also wanted to thank the applicant for bringing the project to Lee's Summit and to this particular location in the city.

Commissioner White shared his appreciation on behalf of the school district that the developer did not include the residential area in the TIF Plan.

Commissioner Walker asked if the city is liable as a property owner under the Chapter 100's.

Chairperson Freeman shared Commissioner Walker's concern, although it's not a factor for the TIF Commission to consider and the City Council would need to discern.

Mr. Bushek stated for the Chapter 100 structure the city owns the property but there will be a lease with the end user on the apartments and through the lease structure the city holds no liability. The apartment operator would be liable. Also, during construction the developer would have to carry insurance and also carry the liability. More detail on the Chapter 100 will be presented to the City Council.

Commissioner Walker inquired about the other anchors for the project besides McKeever's.

Chairperson Freeman reopened the public hearing for additional testimony from the applicant.

Mr. Pennington replied one of the anchors is Pearl Development out of Indianapolis, who builds high end residential. Another anchor would be the hotel along I-470 Highway.

Chairperson Freeman closed the public hearing.

Commissioner Hudson asked what protections are in place if the developer is unable to complete the development.

Mr. Bushek responded the Chapter 100 structure would be reversed and the original property owner would take ownership. There would be no risk to the city. The intention of the lease structure is for the developer to bear all the risk as they normally would as if the city ownership were not in play. The city ownership is simply a means to facilitate financing but not take on any additional liabilities. The specifics on the transfer of ownership as it pertains to end users still need to be determined. The same protection applies regardless of who the ownership is for each of the lots. If the developer declares bankruptcy the process is the same as what would happen in the market place if this structure were not being used. Again, the City would not bear any liability.

Recommendation and Consideration of Resolution for Streets of West Pryor TIF Plan

Chair Freeman asked if there was a motion. Member Doane made a motion for the adoption of the Resolution of the Tax Increment Financing Commission of Lee's Summit, Missouri, recommending that the City Council approve the Streets of West Pryor Tax Increment Financing Plan and the findings on page two and three, seconded by Member Rhoads. A vote was held and the Resolution was approved with two nay votes (Member Cacchio and Member Hudson).

Update on Anticipated TIF Commission Agenda Items in 2019

Mr. Bushek explained there may be two pending TIF applications in the coming months which would require a meeting of the TIF Commission in late February 2019; one application relates to a downtown project and the other an amendment to the Longview TIF Plan.

There being no further business the TIF Commission meeting was adjourned at approximately 7:18 p.m.

Respectfully submitted,

Lenny Cacchio, Secretary