

	City of Lee's Summit Law Department Memorandum	
	To:	Legislative & Intergovernmental Relations Committee; Community & Economic Development Committee
	From:	David Bushek, Chief Counsel of Economic Development & Planning
	Date:	September 6, 2019
	Re:	Proposed CID Act Amendment to allow CIDs to fund improvements outside CID boundaries

Issue: The Missouri Community Improvement District Act (CID Act) contains the restriction that all public improvements funded by a CID must be physically located within the geographic boundaries of the CID. This has caused numerous problems for CIDs throughout the state for the following reasons:

1. It creates problems with achieving a validly signed CID petition.

- Many CID-funded public improvements are streets and associated improvements (utilities, stormwater features, curbs and gutters) that are located at the perimeter of a project that uses a CID. As a result, the boundaries of the CID must be expanded beyond the project boundaries and across the street to geographically include the improvements within the CID area.
- This shape of the CID brings property owners into the CID area that are not connected with the project, because persons who own property adjacent to a street actually own fee title to the land under the street to the centerline of the street.
- A valid CID petition must be signed by more than 50% per capita (headcount) and more than 50% measured by assessed value of all properties within the proposed CID area. The unintended consequence of adding adjacent streets is that it also adds property owners to the CID area. This artificially makes it more difficult to achieve the 50% per capita (headcount) requirement to file a valid CID petition.
- This has caused developers to take extraordinary and artificial steps in order to meet the 50% per capita (headcount) signing requirement. For example, in a CID that would have only one property owner, adding an adjacent street might bring in two additional property owners who are located across the street. To meet the 50% per capital signing requirement, developer creates two new small parcels within the project which are owned by entities that are controlled by developer, in order to have a majority of the

property owners by headcount (3 of 5) sign the CID petition so it can be filed with the City.

2. It can create jurisdictional problems which require extraordinary measures to solve.

- Restricting CID public improvements to include only improvements within the geographic boundaries of the CID can cause unintended jurisdictional issues in certain situations.
- The Paragon Star project includes a CID and a transportation development district (TDD). The boundaries of the CID are limited to the property located in the City of Lee's Summit. Certain streets and parking lots being constructed for the Paragon Star project will be located in Kansas City. It was the City's original intention to have the CID own and maintain all of the streets and parking lots for the project. However, since certain streets and parking lots are outside Lee's Summit and therefore outside the CID boundaries, we had to take special measures to have the TDD own and pay for maintenance of the streets and parking lots that are in Kansas City. This split in the maintenance responsibilities between the CID and TDD also requires special contract provisions to coordinate for maintenance work. All of these special measures would not be needed if the CID could fund improvements that are outside its boundaries but which benefit the CID area.

Solution: Amend the CID Act so that a CID can fund public improvements which are outside the CID boundaries but which provide a direct and substantial benefit to the properties within the CID area. The proposed CID Act amendments to implement this solution are attached.

- This is a reasonable approach and still ensures that CID revenues are expended on public improvements that benefit the properties in the CID area.
- This approach is already legally allowed in TDDs, in tax increment financing plans, in neighborhood improvement districts, in special benefit districts, and in other types of public funding mechanisms in Missouri. The proposed amendments would bring CIDs in line with all other types of public funding tools in the state.

Request: Authorize City staff to work with the City's lobbyist to seek an amendment to the CID Act during the 2020 Missouri legislative session to achieve the attached amendments.

Proposed CID Act Amendment

Proposed revisions are shown by underline and ~~strikethrough~~

Powers of district--reimbursement of municipality--limitations.

67.1461. 1. Each district shall have all the powers, except to the extent any such power has been limited by the petition approved by the governing body of the municipality to establish the district, necessary to carry out and effectuate the purposes and provisions of sections 67.1401 to 67.1571 including, but not limited to, the following:

- (1) To adopt, amend, and repeal bylaws, not inconsistent with sections 67.1401 to 67.1571, necessary or convenient to carry out the provisions of sections 67.1401 to 67.1571;
- (2) To sue and be sued;
- (3) To make and enter into contracts and other instruments, with public and private entities, necessary or convenient to exercise its powers and carry out its duties pursuant to sections 67.1401 to 67.1571;
- (4) To accept grants, guarantees and donations of property, labor, services, or other things of value from any public or private source;
- (5) To employ or contract for such managerial, engineering, legal, technical, clerical, accounting, or other assistance as it deems advisable;
- (6) To acquire by purchase, lease, gift, grant, bequest, devise, or otherwise, any real property ~~within its boundaries~~, personal property, or any interest in such property; necessary or convenient to exercise its powers and carry out its duties pursuant to sections 67.1401 to 67.1571;
- (7) To sell, lease, exchange, transfer, assign, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest in such property;
- (8) To levy and collect special assessments and taxes as provided in sections 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from taxation pursuant to subdivision (5) of section 137.100. Those exempt pursuant to subdivision (5) of section 137.100 may voluntarily participate in the provisions of sections 67.1401 to 67.1571;
- (9) If the district is a political subdivision, to levy real property taxes and business license taxes in the county seat of a county of the first classification containing a population of at least two hundred thousand, as provided in sections 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from taxation pursuant to subdivisions (2) and (5) of section 137.100. Those exempt pursuant to subdivisions (2) and (5) of section 137.100 may voluntarily participate in the provisions of sections 67.1401 to 67.1571;
- (10) If the district is a political subdivision, to levy sales taxes pursuant to sections 67.1401 to 67.1571;
- (11) To fix, charge, and collect fees, rents, and other charges for use of any of the following:

- (a) The district's real property, except for public rights-of-way for utilities;
- (b) The district's personal property, except in a city not within a county; or
- (c) Any of the district's interests in such real or personal property, except for public rights-of-way for utilities;

(12) To borrow money from any public or private source and issue obligations and provide security for the repayment of the same as provided in sections 67.1401 to 67.1571;

(13) To loan money as provided in sections 67.1401 to 67.1571;

(14) To make expenditures, create reserve funds, and use its revenues as necessary to carry out its powers or duties and the provisions and purposes of sections 67.1401 to 67.1571;

(15) To enter into one or more agreements with the municipality for the purpose of abating any public nuisance within the boundaries of the district including, but not limited to, the stabilization, repair or maintenance or demolition and removal of buildings or structures, provided that the municipality has declared the existence of a public nuisance;

(16) ~~Within its boundaries, to~~To provide assistance to or to construct, reconstruct, install, repair, maintain, and equip any of the following public improvements which provide a direct and substantial benefit to the district:

(a) Pedestrian or shopping malls and plazas;

(b) Parks, lawns, trees, and any other landscape;

(c) Convention centers, arenas, aquariums, aviaries, and meeting facilities;

(d) Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer systems, and other site improvements;

(e) Parking lots, garages, or other facilities;

(f) Lakes, dams, and waterways;

(g) Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls, and barriers;

(h) Telephone and information booths, bus stop and other shelters, rest rooms, and kiosks;

(i) Paintings, murals, display cases, sculptures, and fountains;

(j) Music, news, and child-care facilities; and

(k) Any other useful, necessary, or desired improvement;

(17) To dedicate to the municipality, with the municipality's consent, streets, sidewalks, parks, and other real property and improvements ~~located within its boundaries~~ for public use;

(18) Within its boundaries and with the municipality's consent, to prohibit or restrict vehicular and pedestrian traffic and vendors on streets, alleys, malls, bridges, ramps, sidewalks, and tunnels and to provide the means for access by emergency vehicles to or in such areas;

(19) Within its boundaries, to operate or to contract for the provision of music, news, child-care, or parking facilities, and buses, minibuses, or other modes of transportation;

(20) Within its boundaries, to lease space for sidewalk cafe tables and chairs;

(21) Within its boundaries, to provide or contract for the provision of security personnel, equipment, or facilities for the protection of property and persons;

(22) Within its boundaries, to provide or contract for cleaning, maintenance, and other services to public and private property;

(23) To produce and promote any tourism, recreational or cultural activity or special event in the district by, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events, and furnishing music in any public place;

(24) To support business activity and economic development in the district including, but not limited to, the promotion of business activity, development and retention, and the recruitment of developers and businesses;

(25) To provide or support training programs for employees of businesses within the district;

(26) To provide refuse collection and disposal services within the district;

(27) To contract for or conduct economic, planning, marketing or other studies;

(28) To repair, restore, or maintain any abandoned cemetery on public or private land within the district; and

(29) To carry out any other powers set forth in sections 67.1401 to 67.1571.

2. Each district which is located in a blighted area or which includes a blighted area shall have the following additional powers:

(1) Within its blighted area, to contract with any private property owner to demolish and remove, renovate, reconstruct, or rehabilitate any building or structure owned by such private property owner; and

(2) To expend its revenues or loan its revenues pursuant to a contract entered into pursuant to this subsection, provided that the governing body of the municipality has determined that the action to be taken pursuant to such contract is reasonably anticipated to remediate the blighting conditions and will serve a public purpose.

3. Each district shall annually reimburse the municipality for the reasonable and actual expenses incurred by the municipality to establish such district and review annual budgets and reports of such district required to be submitted to the municipality; provided that, such annual reimbursement shall not exceed one and one-half percent of the revenues collected by the district in such year.

4. Nothing in sections 67.1401 to 67.1571 shall be construed to delegate to any district any sovereign right of municipalities to promote order, safety, health, morals, and general welfare of the public, except those such police powers, if any, expressly delegated pursuant to sections 67.1401 to 67.1571.

5. The governing body of the municipality establishing the district shall not decrease the level of publicly funded services in the district existing prior to the creation of the district or transfer the financial burden of providing the services to the district unless the services at the same time are decreased throughout the municipality, nor shall the governing body discriminate in the provision of the publicly funded services between areas included in such district and areas not so included.

(L. 1998 H.B. 1636 § 7, A.L. 1999 S.B. 20, A.L. 2000 H.B. 1238, A.L. 2003 H.B. 472, A.L. 2004 S.B. 1155)