



LEE'S SUMMIT MISSOURI

License Tax Review Committee

Action Letter

Via Zoom

Thursday, December 3, 2020

11:30 p.m.

Attendees:

Members: Chairman DeMoro, Glen Jones, Karl Blumenhorst, Cynda Rader, Bob Hartnett

Staff Support: George Binger, Mike Weisenborn, Bette Wordelman, Michael Park, Christal Weber, Lisa Azimi, Victoria Nelson, Jennifer Thompson

Call to Order:

Chairman DeMoro called the meeting to order at 11:33 a.m.

Roll Call:

Approval of Agenda: A motion was made by Bob Hartnett, seconded by Glen Jones, to approve the agenda. The motion carried unanimously with a 5-0 vote.

Approval of Action Letter: A motion was made by Ms. Rader, seconded by Mr. Jones, to approve the action letter dated January 27, 2020. The motion carried unanimously with a vote of 5-0.

There were no Public Comments.

Summary of Presentation:

Mr. George Binger, City Engineer, gave a PowerPoint presentation to detail the license tax background and current status as required by Ordinance. He led the discussion and said staff will show a forecast, request guidance, and discuss ways to handle projected negative fund balances in 3 to 5 years.

Last year the Committee recommended to change fees, with Council electing to wait until there was a better idea of what is going on this year. January through March of this year there were significant concerns about revenues due to economic uncertainty caused by COVID-19 responses. However, on the construction side, both Development and Capital Public Infrastructure construction have had a busy year.

The License Tax was established in 1998 by ordinance and has been amended four times for adjustments in rates. It is a tax paid for by Development activity based on building permits and the amount of traffic generated. Mr. Binger explained the tax and the purpose behind it. The license tax



administrator is the Director of Finance or a representative. The implementation team includes the City Traffic Engineer and the Development Services Department. It is required to report the revenues, permits, status on projects and any other recommendations. The Committee is to review the report then forward comments to Council.

Mr. Binger discussed the current tax rates. The taxes are based on traffic generated by new development. The current rates are relatively low compared to the KC Metro area.

Mr. Hartnett asked about the trip generation manual. Mr. Park responded that there is a prescriptive method of calculating the license tax and the ordinance refers to the ITE trip generation manual. There has not been a new publication of that manual in the last two years. Mr. Binger stated that last year administrative cleanups were made in order to make sure the City is using the most current version of the trip generation manual.

Mr. Binger then stated that when forecasting each year, the planners are conservative. This is based on the available inventory of land and does not include the Property Reserve, Inc. (PRI) property. The planners are holding off on changing the forecast until after the Comprehensive Plan updates. The PRI group announced they would release some of their property for development, with those changes expected within the next year or two. However, PRI has not had any meetings or planning activities since early 2020, so that process may be on hold. The current projections do not factor in the comprehensive planning that is underway.

The retail, office, and industrial permits graph showed 2020 was a busy year. Mr. Binger then presented the license tax annual net revenue estimates. For 2021, the annual net revenue shows as negative because the City is starting to program money into the CIP for the US 50 and M-291 north interchange project, as per direction from the Committee last year. It shows negative revenues for the next few years because of expenditures from this fund. The on-going annual revenues will bring the fund balance back up over time. The graph showed a negative balance in 2025 with no change in fees, but is projected to be positive again in 2027-2028.

Mr. Binger shared the status of two projects currently underway: SE Browning Street and NW Main. Both projects are in Right of Way acquisition with construction in 2021. He then gave a list of completed projects using revenue from this fund. What was not shown on the slide was the US 50 and M-291 north interchange project that is programmed in the CIP plan for FY21.

COVID impacted state revenues with the state withdrawing their cost share program to balance the state budget, putting the project on hold. The license tax fund will serve as a local match to leverage money to get the grants through the state cost share program, with Law working on arrangements for other ways to generate revenue for the interchange.

Staff Discussion for 2020-2021

Looking for input from the Committee as the iGNITE comprehensive master plan is underway. Guidance from the Committee has been to use the license tax funds to remove impediments for



development. Funded projects should not be specifically suited for one site but multiple projects. Projects should fit the City's thoroughfare master plan (TFMP), as well. The TFMP is folded into the comprehensive plan to get guidance.

Mr. Binger listed bullet points for guidance from the Committee. Projects eligible for license tax funding should: support economic activity among several sites, cash flow projects, be projects identified in the TFMP, and the projects should help re-generate additional revenues for the City.

It should be noted that Council elected not to increase fees due to COVID concerns. By programming the SE Browning, NW Main Street, and US 50 & M-291 north interchange project into the CIP, the license tax fund is projected to have negative fund balance for FY24-26. That is not uncommon. The license tax showed a negative fund balance for several years before 2013. There are several ways to reimburse or augment the license tax fund.

Chairman DeMoro opened up the meeting for questions. Ms. Rader asked about the negative projection for 2024-2026. Mr. Binger explained the projections graph is a combination of spending money on projects and a change in the permit activity. Revenue is still coming in but spending for the SE Browning and NW Main projects will exceed revenue for this year. The net from the current balance of \$7.2M minus \$4M of expenses plus \$500,000 in revenue will produce a net negative revenue of minus \$3.5M, but the fund balance is still a positive balance of \$3.7M on June 30, 2021, because of the large fund balance as of 2020.

Mr. Jones asked when staff thought the permits are going to drop off and how reliable the figure is for next year. Victoria Nelson, City Planner, said they try to stay conservative and have more than projecting. It's hard to project out to how much there will be especially with PRI becoming available. Mr. Park, City Traffic Engineer, reiterated the importance of conservative so that the City does not over program and underfund a project, and that it is unlikely to go negative if it follows past trends. We will see actuals outperform these projections.

Mr. Blumenhorst asked if the numbers going negative also include funding and development on the US 50 & M-291 north interchange project. Mr. Park stated that the City has committed \$6M from this fund, which is about one-third to one-fourth of the total project cost. City Council approved a TIF and will hopefully hear back favorably from the State cost share by year end. Best case scenario is to begin construction in the 2023-2024 time period, if that comes together within the next 6-9 months.

Mr. Blumenhorst asked if staff feels confident the State will assist with that later this year given the funding issues. Mr. Park replied that \$8M of the Governor's cost share, which was rescinded by the State, had been allocated for another project (Colbern Road). The additional money on the other project would have allowed the City to use some of the CIP Sales tax from that other project for the US 50 & M-291 north interchange project. The City is still seeking State cost share funds in the next round of applications.

Mr. Blumenhorst asked if the City's portion was based on current funds that are available now. Mr.



Park replied that the \$8M will come from State, local, or wherever. The City has been waiting for this TIF to develop it. The highway patrol facility is an \$8M relocation. The Mayor and City Council are continuing to work with them so the City does not pay for the highway patrol relocation. The interchange cannot be rebuilt without relocating the highway patrol. Mr. Binger stated that in the CIP, if the license tax funds are spread out over more time, the fund balance can remain positive. Also, these numbers may start moving to the right (later years) and stretching it out to avoid a negative balance. As the project develops this can be revisited to see about looking to spread over time or using inter-fund loans, as was done before 2013, with this fund.

Concerning the negative balance, Mr. Park said that permit activity could bring this back up to positive. The TIF is developed to pay for non-interchange improvements before the relocation of the Highway Patrol. Mr. Binger said that with money towards the project, cost share shows we have a local match and improves the chances of getting those State cost share funds.

Mr. Jones asked about the TIF and who it is paid by. Mr. Park explained it is paid for by the Excise tax, CIP Sales Tax, Grants, Water and other sources. The project will rebuild the interchange at US 50 & M291 North and consist of relocating several areas: highway patrol and relinquishment of excess ROWs; outer roads being re-located and ROW transferred from state to city; the QuikTrip site; and areas on the east side. The City will market that property to a master developer to recover the sale of property since we would assume the highway patrol for dedication to get the project developed. The TIF is there to fund the \$8M dollar highway patrol relocation.

Mr. Blumenhorst asked what's driving the need for the US 50 & M-291 north interchange project. Mr. Park said that Mr. Arbo, City Manager, said we have an opportunity to make the improvements. Those bridges are within the next 7-10 years of replacement. The City is trying to help fund enhancements and improvements to mitigate the congestion there. He then shared the mapping for the US 50 & M-291 north interchange and listed the different project areas subject to the City's sale of property and a developer pursuing that development. Mr. Jones asked if the City would have control of property around the interchange. Mr. Park stated as part of the cost share agreement, they would convey all of that state property to the City as well as excess rights of way to the City, then the City would be able to resell to help pay for the relocation. The Committee agreed the bottom line is the need to focus on the US 50 & M-291 north interchange project. As part of the budgeting considerations, City staff needs to address the potential for a negative fund balance.

Mr. Park said it is the Committee's decision to recommend how to use the license tax funds, and the City Council is relying on these funds to see through the potential of the US 50 & M-291 north interchange job all of the way. If the City encounters another road block, whether from the State or office admin and Highway patrol issues, the City will adjust. The City will know the status of the State cost share by the end of this year. If denied, then staff will have to have another conversation with City Council. Mr. Binger suggested to continue to show the funding in the CIP and if the concern is about the fund balance then staff can reprogram money into the CIP by spreading it out over four years. By showing that \$6M amount from that fund and \$3M from others, that helps the cost share application by increasing the chances of getting outside funds for the project.



Mr. Binger stated that from staff perspective there is very clear guidance from the Committee regarding this. Staff will leave funds there as a place holder. If it works then the City will move forward as planned. If the project funding does not work out, then staff will come back to the committee and revisit the issue.

Mr. Blumenhorst asked how the City will manage the balance going negative. Mr. Binger stated his understanding of the guidance is to manage the CIP in such a way that there is not a negative balance. Taking that \$6M from the interchange project, spread that out over time, and then revisit projections going into next year. When projects wrap up, any unspent money will go back into the balance. Managing the fund that way is enough guidance for staff at this point. With the CIP plan, that's programmed money that shows a commitment.

It was asked that with COVID and the economy, if staff sees any other concerns that could impact decisions. Councilmember DeMoro mentioned that sales tax revenue or revenue in general has been favorable through the last few months when many expected sales tax to fall. Bette Wordelman, Finance Director, then reported that they received sales tax numbers and they are up. Compared to the previous December it was up 8.2%. Regarding use tax, December is the first month to potentially receive those funds. The implementation is slow since it is collected from businesses out of state which are shipping items to Lee's Summit residents. She projected in 2-3 months it will start taking hold and the City will see results then. Based on the state's numbers, the city expects to receive around \$850K per year once the use tax fully takes hold.

Committee Guidance:

The committee made no formal motions. The general guidance, based on a unanimous consensus, was as follows: City staff should manage the CIP so the license tax fund doesn't go negative. City staff will update the committee next year to revisit this project and funding when there is a better picture.

If there are major changes on the US 50 & M-291 north interchange project, City Staff should notify the committee and re-convene mid-year.

Mr. Binger stated that when a decision is reached on US 50 & M-291 north interchange project then staff will report back. The Committee agreed to make no changes and continue as it is right now, contingent on the decision by the state. Then the Committee can revisit again after the decision and decide if they want to change the excise amount and will have a clearer picture. Councilmember DeMoro recommended that in 6 months staff send out an update.

Roundtable:

Mr. Michael Park, City Traffic Engineer, made note that they have seen an increase in types of uses that might be related to COVID, such as drive thru restaurants and coffee shops. This month the City received their first official appeal to the license tax. It was on the basis of land use, which is the type of trip generator. They were trying to argue that Starbucks is not a coffee shop. Staff is not in support of their appeal and it will be denied. Normally if there's an objection they try to work through staff before filing an official appeal.



Next Meeting:

Next meeting TBD. Approximately 6 months (Late May, June, or July).

Adjourn:

Chairman DeMoro adjourned the meeting at 12:54 p.m.

