

**Minutes**

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, October 17, 2011. Mayor Peggy Dunn presided.

**Councilmembers present:** Debra Filla, Gary Bussing, Lou Rasmussen, Andrew Osman, Jim Rawlings, Julie Cain and James Azeltine

**Councilmembers absent:** Carrie Rezac

**Staff present:** Scott Lambers, City Administrator  
Richard Coleman, Comm. Dev. Director  
Dawn Long, Interim Finance Director  
Deb Harper, City Clerk  
Patty Bennett, City Attorney  
Joe Johnson, Public Works Director  
Pam Gregory, Assistant City Clerk

**Others Present:** John Petersen, Esq., Polsinelli Shughart  
Orval Papon, MD Management  
James Harpool, MD Management  
Robert Regnier, Bank of Blue Valley  
Diane Botwin, Botwin Commercial Development  
David Alpert, Botwin Community Development  
Mary McCarthy, Leawood resident

**Discuss Establishment of a Community Improvement District  
[CID] Policy for Redevelopment**

Mayor Dunn called the meeting to order at 6:10 P.M. Introductions were made by those present.

**Opening Remarks – City Administrator Scott Lambers**

This is the first opportunity to have a formal discussion to consider a Community Improvement District [CID] Policy. This meeting is intended to acquaint the Council with CID's and then discuss whether or not they want to proceed in that direction. If so, there are some policy areas they need to discuss. The City of Leawood has been extremely conservative in its economic development tools with the private sector. For the longest time, they only had Special Benefit District [SBD] financing, where they financed the construction of public City-owned facilities to benefit the developers. Recently, they expanded tools to include Transportation Development District [TDD] financing, which was intended for a combination of public or private infrastructure and was intended for extraordinary projects with extraordinary costs. While there is consistency from the SBD to the TDD, going from these to the CID and what this is supposed to finance would be a quantum leap. Financing would be for things that go well beyond the basic infrastructure they have financed in the past. The Council needs to be very aware of the difference between them.

There have been inquiries by individual Councilmembers asking to what extent the City's commercial developments would take advantage of this tool. They would need to decide what would be eligible.

**Presentation - City Attorney Patty Bennett**

The statutory requirements to form a CID are:

- A) A petition for a CID funded solely by assessments must be executed by 100% of the owners of the land within the district
- B) A petition for a CID funded in whole or in part by sales tax must be executed by 55% of the owners of the land within the CID and 55% of owners of the land representing the assessed value of land within the CID

If Pay-As-You-Go [PAYG] financing is used, CID sales tax would expire 22 years after the director of taxation receives the first tax collection. If bonds are used the tax would expire when the bonds mature.

CID projects can include any number of items. The statutes define CID projects to be:

- 1) Any project located within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend the following:
  - Buildings, structures and facilities
  - Sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses, and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements
  - Parking garages
  - Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers
  - Parks, lawns, trees and other landscape
  - Communication and information booths, bus stops and other shelters, stations, terminals, hangers, restrooms and kiosks
  - Paintings, murals, display cases, sculptures, fountains and other cultural amenities
  - Airports, railroads, light rail and other mass transit facilities
  - Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits
- 2) Within the district to operate or to contract for the provision of music, news, childcare, parking lots or garages, busses, minibuses or other modes of transportation
- 3) Within the district to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons

- 4) Within the district to provide or contract for cleaning, maintenance and other services to public or private property
- 5) Within the district to produce and promote any tourism, recreational or cultural activity or special event, including, 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
- 6) Within the district to support business activity and economic development, including, but not limited to the promotion of business activity, development and retention and the recruitment of developers and business
- 7) Within the district to provide or support training programs for employees of businesses
- 8) To contract for or conduct economic impact, planning, marketing or other studies

This list is very broad. Some cities have developed policies with limits and some are on a case-by-case basis. A CID is similar to a TDD but allows for funding a larger variety of projects. This would be an option that would make it easier on developers to finance certain improvements.

### **CID Policy Adoption Discussion**

Mr. Lambers stated if they decide to adopt a CID Policy, the Council would need to determine whether this should be an incentive for re-development, new development, or both.

Councilmember Azeltine liked the general concept of adopting a policy for older developments.

Councilmember Rawlings asked if there would be an immediate impact on upgrading some of the deteriorating developments if they established a policy. Mr. Lambers had severe reservations with regards to bonding; however, with PAYG it would be up to the individual applicant to what extent they want to move forward with improvements. If there is insufficient immediate revenue, they would have to finance it through a private financial institution and pay it back with the proceeds coming in. When an applicant comes forward with a project, they would need to ask them the timeline. Mr. Rawlings was in favor of considering a policy for older developments.

Councilmember Osman commented older developments do not attract the draw as well as new. In order to be competitive, they have to update. If they increase the price per square foot to deal with construction issues, they will price themselves completely out of the market. He felt there needed to be an incentive partnership with the City in order to attract retailers and get the tax revenue and was in favor of adopting a policy for older developments.

Councilmember Cain was in favor of considering a policy for older developments in order to help them stay competitive.

Councilmember Bussing felt it was not the City's responsibility to help a private property owner enhance the value of his property. Taxpayers should not be funding improvements on private properties. Mr. Bussing was not in favor of adopting a policy.

Councilmember Filla was in favor of considering a policy for older developments in order for them to stay current with what the City has given as tax incentives to new developments.

Ms. Filla felt this should only be intended for existing infrastructure to strengthen economic development opportunities for public benefit. They should discourage bonding, encourage PAYG, and establish a minimum amount.

Ms. Bennett confirmed for Councilmember Rasmussen if they adopt a policy the district would not have the right to condemn. He thought when setting up a policy, they needed to take into consideration how new developers are taking ownership in pad sites, not the entire development. He was concerned with a 2% sales tax increase and thought they may want to consider an increase of up to 2%; however, not let the total tax rate get above 10%. Mr. Rasmussen agreed there are areas in the City that are deteriorating and was in favor of adopting a policy with these limitations.

Mayor Dunn confirmed the majority of the Council wanted to review a CID Policy. She felt the CID sales tax should not be above 1% and that the funding list was way too broad. Some developments are not in line with the current Leawood Development Ordinance [LDO] and might be worthy of some of these sales tax dollars to bring them into compliance. She agreed this should be intended for older developments and thought they may want to consider it for developments that are at least 20 years old. She liked the idea of cost sharing, whether it is 50% or something different, and wanted to see the CID sales tax expire in less than 22 years. They should encourage only PAYG and no bonding, which would give them the assurance the payments would be there.

Councilmember Rawlings confirmed with Ms. Bennett they could restrict this broad list of projects. Mr. Lambers intended to later provide the Council a list of expenditures so they could determine which items should be included as a permitted expenditure for the policy.

### **Goals of the Policy**

Mr. Lambers received consensus that the policy should be intended for re-development only and indicated he would have staff research dates of initial construction of all commercial developments so they can determine a timeline.

### **Participation Levels of Property Owners**

Mr. Lambers anticipated these would all be sales tax funded, which requires that 55% of the property owners in the district have to agree. The City has typically not forced participation into districts. With a TDD, because they are new districts, they have been under single ownership with a few exceptions. Established areas have portions of parcels that are independently owned and may or may not want to participate. This is not about what the participation level needs to be; however, the Council needs to consider whether they would want to force a private parcel that is a high sales tax producer into a district in order to make it more viable.

### **Property Tax Payment History**

Mr. Lambers felt people requesting incentives from the City should have a timely property tax payment history.

### **Maximum Sales Tax Rate**

Mr. Lambers shared concerns with the maximum 2% sales tax rate set by the legislature and agreed they should set a 1% maximum. Mayor Dunn noted as the projects go through the planning process they will be on a case-by-case basis. They may feel a certain project doesn't warrant the full 1%.

Councilmember Filla asked if they could tie the amount of sales tax to the participation level. Mr. Lambers replied in terms of participation, he envisioned a sliding scale that rewarded the developer wanting to put in a larger project to get more money from the CID. The idea of the sales tax rate being higher is that it goes off sooner. They could evaluate this and determine whether to have 1% for 5 years or ½% for 10 years, but keep it on a case-by-case basis. Many cities have this type of flexibility in their policies.

Mayor Dunn received consensus that the maximum CID sales tax should be 1%.

#### **Allowance of the Issuance of Bonds**

Mr. Lambers didn't anticipate the projects being tremendously significant in dollar amounts to justify the issuance of bonds. While the statute allows for the issuance of bonds, the intent was for this to be a PAYG process.

#### **Private/Public Cost-Sharing**

Mr. Lambers thought this should be set at 50% and as project costs increase they could cap out at 75%-80%. This would be intended to reward the developer to put more money into the project.

#### **Criteria for Approval for a CID Request**

Mr. Lambers stated there are a lot of things he needed to fine tune on this and get out to the Council for review for another work session.

#### **Procedure for Distribution of Proceeds**

Once an applicant decides they want to do PAYG, they would submit the project for CID approval and then go through the planning process. They would then need to indicate whether they want to do payments over time or wait to do one payment once there are sufficient funds to pay for it. They would need to set a minimum timeframe for this. The intent would be to have this done as quickly as possible, if not upfront.

Councilmember Rezac joined the meeting at 7:20 P.M.

#### **Application and Administrative Fees**

Mr. Lambers confirmed some cities charge application fees and administrative fees for those that are ongoing. Some of this depends upon whether bonds are issued and the timeframe they would expect to collect the money and reimburse the developer. He intended to summarize these fees and then make a recommendation.

Mr. Lambers confirmed once he receives Council feedback regarding the permitted expenditures, he would schedule another work session for further discussion.

There being no further business, the work session was adjourned at 7:25 P.M.

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Pam Gregory, Recording Assistant City Clerk