

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting, 4800 Town Center Drive, at 6:00 P.M. on Monday, September 21, 2020. Mayor Peggy Dunn presided.

Councilmembers Present: Lisa Harrison, Julie Cain, Jim Rawlings, James Azeltine, Debra Filla, Chuck Sipple and Mary Larson

Councilmembers Present via Zoom: Andrew Osman

Councilmembers Absent: none

Staff Present: Scott Lambers, City Administrator; Patty Bennett, City Attorney; Ross Kurz, Information Services Director; Mark Tepesch, IS Senior Specialist; and Stacie Stromberg, Assistant City Clerk

Staff Present via Zoom: none

Review the City's Economic Development Policies

Mayor Dunn opened the work session.

City Administrator Scott Lambers presented a review of the Transportation Development District (TDD) policy. He stated the current policy is very brief because the application is narrow on what it can support for private development. He explained the City would not issue debt under this policy but with one exception. Debt would be funded under sales tax or a special assessment property tax, but that the exception would be the burying of utility lines. He stated since the utility company requires an upfront payment, it could be eligible for debt service.

He stated under Length of Debt, Section 17 of the policy, taxing is to remain in effect for 10 years, however it can go up to 22 years. He suggested the statement "...debt may be extended up to a maximum of 22 years..." needs to be revised to clearly define debt or tax. He stated the length of the 22 years is allowed by Kansas State Statute but the City can do less, although it has never been formally incorporated into the document. Mr. Lambers suggested if the Council agreed 22 years is too long for debt, it will need to define a maximum length of time.

Councilmember Rawlings asked who makes the determination of the debt length of time. Mr. Lambers stated the City has the ultimate decision, but the policy invites the applicant to request up to 22 years.

Councilmember Harrison commented that the name of the policy to her would indicate the building of roads, parking lots or transportation. Mr. Lambers stated it is very liberal in its interpretation, which is the reason there is a statement stating anything that is eligible under the Statute a developer may make a request for. He suggested if this policy were to be revised, the City's Administrative staff would provide the Kansas State Statute to the Council to help make a decision on what can or cannot be financed with this financial tool.

Mayor Dunn stated this policy was used in the past for the parking structure at Park Place. Councilmember Harrison asked what other projects has this been used for recently. Mr. Lambers stated undergrounding power lines and the parking lot retaining wall at Town Center Crossing. Mr. Lambers stated it was the intention of the Council to have the cost incurred being "extraordinary", although it is not listed in the policy, he suggested it should be included since it was not a basic, surface parking garage.

Councilmember Sipple asked how the Council determines what is a reasonable amount of cost in a TDD on an applicant's request. Mr. Lambers stated it is typically paid for by sales tax, so the City uses a sales tax calculation as to what type of revenue will be generated, and based on that it is determined what kind of debt it can service.

Councilmember Azeltine stated the reason the Council originally decided on a 22-year maximum is because the bonds are the responsibility of the developer, and not the City. Mr. Lambers stated the City's name is on the bonds. He also pointed out the developer must provide a revenue stream to show they can reasonably make the debt service payment.

Mayor Dunn stated it has been discussed before to place a ceiling on a maximum sales tax. She felt 1% should be the maximum and has served the City well.

Councilmember Azeltine stated he appreciates the review of the policies the City already has in place, but he reiterated that he wants to pursue other instruments that the City does not currently have, such as Industrial Revenue Bonds (IRBs) and tax abatements.

Mayor Dunn stated IRBs were reviewed at an earlier work session, but not tax abatements.

Mr. Lambers stated tax abatements are the only generally used economic development policy that the City does not currently have. He stated his goal is to finish the review of the current policies, ask the Council to identify which ones are most important or, if the tax abatement is one that the Council would like to review next, then he would present that for discussion. Councilmember Azeltine stated the City's current IRB ordinance was codified in 1982, so he would like Mr. Lambers and City Attorney Patty Bennett to update the wording.

Councilmember Filla asked which entities do not receive taxes from an IRB with a tax exemption. Mr. Lambers stated all the jurisdictions. He stated the City has the sole authority to abate all the property taxes to the state, county, and school districts. Mayor Dunn clarified that on an IRB the sales tax on construction equipment is for all the same jurisdictions. Mr. Lambers stated the school districts are entitled to a statutory obligation where they can participate in the tax amounts being given out, but to date have not participated.

Councilmember Filla commented that there is only so much tax burden that can be asked of citizens. Mr. Lambers agreed that many jurisdictions have approached or passed the 10% sales tax threshold in the special districts, yet Leawood is just below it.

Councilmember Sipple asked what is the collateral behind the bond on a TDD. Mr. Lambers stated there is no collateral and that the bond holder takes total risk because they rely on the sales tax being generated, collected and paid back. He stated for TDDs, most are pay-as-you-go sales tax and the developer is responsible to make up any differences.

Councilmember Harrison asked to clarify that if the sales tax pays back the TDD, yet there is no sales tax in the development, does the City not get any of it back. Mr. Lambers explained that the developer does not get it back because the City reimburses the developer's expenses. Mayor Dunn added that the developer's completed projects must be validated before any money is given back. Mr. Lambers further explained that the money is paid upfront by the developer then they are paid back through the sales tax revenue stream. Councilmember Harrison asked if the IRBs are different than CIDs (Community Improvement District) and TDDs. Mr. Lambers stated IRBs are private arrangements between a developer and their financial institution.

Councilmember Osman suggested that the Council compartmentalize each finance policy, to distinguish if there is taxation, and what that amount would be, as in an IRB. Mr. Lambers stated if the Council wished to provide a sales tax exemption, solely for development as a financial tool, it would be different than issuing an IRB and tax abatements over a certain number of years. He also stated that sales tax can be generated by other means, such as on utilities.

Councilmember Filla pointed out that developing agricultural areas within the City seems to be more desirable than redeveloping existing infrastructure. She expressed her concern that financing vehicles offered by the City make it more competitive to do this. Mr. Lambers stated that cities who have large, urban areas in decline, it makes much more sense to offer incentives to developers. Mayor Dunn replied that Leawood would never be an opportunity zone and is very fortunate and affluent to have development occur without giving tax benefits away.

Councilmember Rawlings asked when the City would start collecting property taxes after a new construction project is finished with a tax abatement. Mr. Lambers stated it would be the following year.

Mr. Lambers concluded his review of this policy. He stated that the City's CID policy, being the most recent, might not need a detailed review unless recommended by the Council. Mayor Dunn stated there have only been 2 CIDs issued in the City of Leawood, both of which were capped monetarily at approximately 25%. She pointed out that the cap is not stated in the policy but feels that would be valuable to make it clear to developers. Mr. Lambers stated the Council could review and revise the CID policy at the same time. Councilmember Azeltine asked if a cap is included in a development agreement. Mr. Lambers stated a development agreement sets out the amounts of money the developer requests to be reimbursed to them.

Councilmember Sipple asked if the City of Leawood's language in the CID policy is more or less generous or if it was dictated more by the State. Mr. Lambers stated the State statute is intended to be for urban redevelopment, and the City of Leawood's language is geared toward infrastructure.

Councilmember Filla summarized that there are some minor updates needed to the policies as recommended by Mr. Lambers, but feels that the tax abatement opportunities need to be explored. Mr. Lambers stated if the Council is interested in learning more about a tax abatement through an IRB, he can provide information and include it on the next work session. He stated he would also include on the agenda the section to amend the IRB policy to request only sales tax redemptions and the cap on the CID policy.

Councilmember Azeltine commented he would like to have several financial policy options available for developers, whether or not the Council chooses to use them.

Councilmember Cain stated it is impossible to know what will happen with commercial, retail and industry during the time of the pandemic and is feeling grateful for the Council being cautious and conservative with incentives.

Mayor Dunn cautioned the Council to be prepared for developers to request special incentives once they are offered.

There was a brief discussion regarding scheduling future work sessions, topics and priorities.

The meeting adjourned at 7:19 p.m.

/s/ Stacie Stromberg
Assistant City Clerk