

CITY COUNCIL STUDY SESSION MINUTES

March 21, 2017

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 21st day of March, 2017, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Allison, Castleberry, Chappel, Clark, Heiple, Hickman, Karjala, Mayor Miller

ABSENT: Councilmember Holman

Item 1, being:

PRESENTATION BY THE CENTER FOR ECONOMIC DEVELOPMENT LAW REGARDING THE CREATION OF TAX INCREMENT FINANCE DISTRICTS.

Mr. Jeff Bryant, City Attorney, introduced Ms. Emily Pomeroy, Attorney with the Center for Economic Development Law. He said Ms. Pomeroy worked with the City on the creation of the Campus Corner and University North Park (UNP) Tax Increment Finance Districts (TIFs). He said there are some new Councilmembers that were not involved in the TIFs and Staff asked Ms. Pomeroy to explain TIF financing.

Ms. Pomeroy said the two TIFs mentioned by Mr. Bryant provide great examples of the tools the statute provides. The goal of a TIF is to give communities a tool to help promote development and provide financing. She said the Local Development Act (the Act) of the Oklahoma Constitution allows a city, town, or county to implement a TIF in an area that is unproductive, undeveloped, underdeveloped, or blighted. TIFs can be used in areas where investment, development, and economic growth are difficult, but possible if the Act is used and TIFs do not impose new taxes.

A TIF allows a city to direct the apportionment of an increment of certain local taxes and fees to finance public project costs in order to stimulate development in an area. The increment is the portion of the ad valorem taxes produced by the increased value of the property in the increment district as measured from the date the TIF is passed and/or the portion of sales taxes collected each year that are generated by the project.

Ms. Pomeroy highlighted where TIFs can be used as follows:

- **Enterprise Area** – any area within a designated state or federal enterprise zone
- **Historic Preservation Area** – an area listed in the National Register and subject to historic preservation zoning
- **Reinvestment Area** – an area requiring public improvements to reverse economic stagnation or decline; to serve as a catalyst for retaining or expanding employment; to attract major investment to the area; and preserve or enhance the tax base; an area in which 50% or more of the structures are more than 35 years old; an area that is detrimental to public health and safety; and a blighted area under the Urban Renewal Act.

An Increment District and Project Area are separately defined terms under the Act and a Project Area can be larger than an Increment District. The Increment District is the area where the revenues are generated while the Project Area is the area in which those revenues can be spent where public improvements are needed.

Councilmember Castleberry asked if there are parameters on how big the Increment District can be and Ms. Pomeroy yes, the Increment District has to be less than 25% of the total area of the City. She said the Increment District must be smaller than or the same size as the project area.

Item 1, continued:

Ms. Pomeroy said the document that establishes the Increment District is called the Project Plan that is adopted by ordinance. She said required elements of the Project Plan include:

- Boundaries of increment district and project area and sketch
- General description of public improvements, private investment, and estimated public revenues to accrue
- List of project costs
- General description of method of financing, sources, and timeframe
- Maps showing existing uses and conditions and proposed improvements
- Proposed changes in zoning
- Proposed changes in master plan and city ordinances if required
- Name of person in charge of implementation
- Authorization of any public entity to carry out any part of the project plan

Mayor Miller said that sounds like a huge amount of work particularly for an area such as Center City. She asked if the City of Norman used a consultant to put that information together when the UNPTIF was created or if the Legal Department did all that work. Mr. Bryant said it was a combined effort of several groups including Dr. Lex Holmes who helped with the analysis and projections, the Center for Economic Development Law who primarily provided all of the legal work, citizen project groups reviewed everything prior to Council review, etc. Ms. Pomeroy said the amount of work on the Project Plan is significant particularly if the City is doing a property tax TIF because the City has to work with other taxing jurisdictions, such as the schools and County. Some TIFs are very project specific meaning there is one developer willing to invest money and the City has an agreement with that developer in order to get everything in the Project Plan completed. All of that is front end leg work in making sure projections and the Project Plan makes sense.

Councilmember Castleberry said there have been several amendments to the UNPTIF and asked Ms. Pomeroy to explain the contractual nature of a TIF. What happens if the work promised is not done during the life of the TIF? Is the City contractually obligated to do those project items? Ms. Pomeroy said there are a couple of different ways to go into contractual obligations that might be associated with the TIF. The Project Plan and ordinance adoption does not have contractual obligations tied to it. She said there have often been contracts known as "Conditional Redevelopment Agreements" in which the City and developer come to an agreement on the components of the TIF before it is adopted. Contractually the City would consider a Project Plan that would include costs of infrastructure and adoption of an Increment District, but the City is not obligated to adopt the Project Plan. In return, the developer agrees to submit all designs for review and build whatever he promises to build. She does not know the consequences if the Project Plan is adopted and the City did not meet its obligations for the improvements because she has never known that to happen. She does know that in terms of the funding mechanism, the City is not obligated to spend money that is not collected in the Increment District. Mr. Bryant said once the City has gone through the statutory process there is an expectation from the ad valorem taxing jurisdictions for the Project Plan components to be completed. If there is enough money coming through the increment to fund the components of the Project Plan it would be difficult for the City or developer to say they did not want to complete the components without going through the statutory process again for input from the ad valorem taxing jurisdictions to agree not to complete those components.

Councilmember Chappel said it is a more likely scenario that the money did not come in and would delay components of the Project Plan so instead of a component being done in five years, it is delayed to six years and that could cause problems. Ms. Pomeroy said that is why it often makes the best sense to authorize a 25 year TIF because no one knows when a recession might hit and slow development will go so 25 years gives cities a cushion to generate that revenue.

Item 1, continued:

Ms. Pomeroy said the statute has good policy ideas to keep in mind when considering an Increment District using a TIF where investment, development, and economic growth are difficult, but possible where the tools of the Act are used; not using the TIF to supplement normal functions and services; using the TIF in conjunction with existing programs and locally implemented economic development efforts; and developing and applying clear standards, criteria, and limits that are applicable to all similar property and areas.

Ms. Pomeroy said there are ways to amend or terminate a TIF that does not require going back through the statutory review process; however, a minor amendment is narrowly defined in the statute so any real amendment to the Project Plan, such as increasing project costs, would require going back to square one. She said minor amendments do not change the character or purpose of the plan and do not add more than 5% to the area or the public costs of the plan to be financed by tax increments. She said major amendments are adopted by the same process as a new Project Plan. Increment Districts terminate at the end of the period provided in the Project Plan or the period required for payment of project costs, whichever is less, not to exceed 25 years. Once the TIF expires, all new development benefits flow back into the taxing jurisdictions.

Ms. Pomeroy said the approval process, as defined by statute, is also significant. She said the City initiates the process by establishing a Review Committee that consists of one City representative; one Planning Commission representative; one representative designated by each taxing jurisdiction within the proposed TIF whose ad valorem taxes might be impacted; and three representatives of the public (at-large) selected by other Review Committee members with at least one of whom is a representative of the business community.

The Review Committee is charged with finding the eligibility of the proposed project area and Increment District, finding financial impacts of proposed Increment District on taxing jurisdictions and business activities, and making recommendations to the City regarding approval of the proposed Project Plan.

Ms. Pomeroy highlighted consideration and approval steps as follows:

- Planning Commission
 - Conformance with Comprehensive Master Plan
 - Recommendation – City approve Project Plan
- City provides notice and holds public hearings before adoption of ordinance
 - First public hearing – provide information and answer questions
 - Second public hearing – provide opportunity for those interested to express views prior to adoption
- City considers ordinance approving the Project Plan and establishing the Increment District

Councilmember Hickman asked how long it usually takes from beginning of the process to Council review of the Project Plan, taking into consideration the Center City Vision, and Mr. Bryant said Staff will be presenting information to Council next week regarding financing and infrastructure for Center City so this question could be better answered then. Ms. Pomeroy said the Center City Form Based Code (CCFBC) provides a lot of information that oftentimes communities do not have at the beginning of the process so a lot of the initial leg work has been done in this case. She said Johnson and Associates is preparing a detailed analysis of infrastructure needs that will be helpful with project cost information. Considering Center City would require an ad valorem TIF there will be a need to meet with all the relevant taxing jurisdictions so it is hard to estimate how long that process can be.

Ms. Pomeroy said Norman established a TIF for Campus Corner in 2001, with estimated project costs of \$1,250,000 for public improvements that included utilities; security systems; landscaping; signage; traffic controls; streets; and sidewalks. The TIF was comprised of sales tax and ad valorem tax and did not require the full period for which it was authorized and was terminated in 2008.

Item 1, continued:

Ms. Pomeroy said the second TIF established by the City was the UNPTIF with a Project Plan that included a Conference Center/Cultural Facilities; traffic and roadway improvements; economic development (quality jobs); Lifestyle Center/Retail Development; Legacy Park; and Rock Creek Road Overpass. The project costs were an estimated \$54,725,000 using ad valorem tax and sales tax. She said projects entailed debt financing and pay-as-you-go and was implemented through a series of development agreements. The expiration date of the UNPTIF is 2031 or completion of payment of project cost, whichever comes first.

Ms. Pomeroy highlighted potential future TIF Districts as follows:

- Center City Visioning Form Based Code District
 - Presentation on March 28 regarding challenges, ideas, and recommendations
 - Potential project costs for waterlines; sewer lines; streetscapes; alleys; parking; Campus Corner; and others.
- Urban Land Institute Study Area – Griffin Land South of Robinson
 - Discussed with Council in prior meetings
 - Discussing with Oklahoma Department of Mental Health and Substance Abuse Services Long term redevelopment process 20 to 25 years
 - Potential project costs that include public infrastructure; utilities; roadways; site remediation; and others

Councilmember Chappel said there are projects and initiatives that are a good fit for a TIF and asked Ms. Pomeroy if Campus Corner and UNPTIF were good fits. Ms. Pomeroy said yes, Campus Corner has benefited so much from the TIF and UNP is interesting because of the amount of land available and the partnership with the University of Oklahoma (OU). Mr. Bryant said another good fit is the Urban Land Institute Study for redevelopment of Griffin property, which will be an entirely different project than the other TIFs. He said that project will need a lot of infrastructure improvements to be viable.

Councilmember Hickman said Center City properties have several owners so how would that work, would the City have an agreement with each property owner? Ms. Pomeroy said there are project specific TIFs and area wide TIFs and Center City would be an area wide TIF. The City would not make an agreement with each individual property owner the City would enter into a financing agreement with a developer wanting to receive TIF assistance and there would be requirements for them to provide certain components of the project. She said the City can provide assistance in development financing directly to a developer, which obligates the developer to build or update infrastructure in order to make that development happen. She said assistance with development financing is a statutory term that is an authorized project cost under the Act so that is one way many communities provide assistance.

Councilmember Clark asked how many TIFs the City can have at a time that does not adversely affect the community partners involved, is there a limit to that number? Ms. Pomeroy said Oklahoma City has ten TIFs, but it really depends on the community as some school districts and counties may be able to sacrifice that ad valorem tax, while others cannot. She thinks Norman is well positioned because of the success of the UNP and Campus Corner TIFs.

Councilmember Hickman said some people have expressed concern about how an infrastructure TIF could be considered the taking of property rights or impacting land use rights. Ms. Pomeroy said she has heard that argument, but the City has the right to adopt a CCFBC, which would be considered a new zoning. There is really not a way the TIF financing tool could be misconstrued to be impinging on property rights because property taxes will not increase and no new taxes are being imposed.

Item 1, continued:

Items submitted for the record

1. PowerPoint presentation entitled, "Tax Increment Financing: A Valuable Tool for Economic Development," presented by the Center for Economic Development Law, City Council Study Session, dated March 21, 2017

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Item 2, being:

UPDATE ON THE UNIVERSITY NORTH PARK TAX INCREMENT FINANCE DISTRICT.

Mr. Bryant said Project Plan components for the UNPTIF include a Conference Center/Cultural Facility; traffic and roadway improvements; economic development/quality jobs; Lifestyle Center; and Legacy Park. The original plan was for the City to contribute \$15 million for the Conference Center; however as the project progressed Mr. John Q. Hammonds, Embassy Suites, decided he did not need that money for the hotel's Conference Center and asked the City to redirect that money to the Rock Creek Overpass Project. The UNPTIF Oversight Committee reviewed that request and \$7,750,000 was redirected to the Rock Creek Overpass Project and \$7,250,000 was set aside for a Cultural Facility. In 2012, Development Agreement No. 5 reallocated the unused portion of the Rock Creek Road Overpass Project to Legacy Park development.

Mr. Bryant said traffic and roadway improvements include Robinson Avenue/24th Avenue - \$750,000; Robinson Avenue/I-35 east of Robinson - \$319,713; Tecumseh Road/Flood Avenue/24th Avenue - \$265,525; Mt. Williams/24th Avenue Intersection - \$365,095; Frontage Road to Conference Center Drive - \$659,305; Conference Drive/24th Avenue Intersection - \$525,797; Legacy Park/24th Avenue Intersection - \$1,747,041; Robinson Street/East Interstate Drive - \$678,075; Design of Robinson Street/West Interstate Drive/Crossroads Boulevard - \$678,075; and Frontage Road extension/24th Avenue Intersection/Corporate Center Drive - \$8,754,253; Tecumseh Road/Flood Avenue/24th Avenue Intersections - \$846,712; Tecumseh Road/East I-35 - \$946,723; and Tecumseh Road/West I-35 - \$650,000.

Mr. Bryant said Robinson Street/I-35 costs are estimated to be \$5.1 million with \$4 million expected to be provided through the Association of Central Oklahoma Governments (ACOG) leaving a supplemental balance from the UNPTIF Fund of approximately \$1.1 million.

Garver reviewed three interchange options for Rock Creek Road that included a Single Point Urban Interchange (SPUI) - \$27 million, Partial Cloverleaf (Parclo) - \$17.6 million, and Freeway/Frontage Concept - \$9.5 million. Mr. Bryant said options are being explored to extend the frontage road to Tecumseh Road that includes collaborative discussions with local banks, Norman Economic Development Coalition (NEDC), University North Park (UNP) representatives, and Southwest Wire. He said NEDC is exploring relocation and expansion possibilities for Southwest Wire; preliminary cost estimates for road improvements in the amount of \$3 to \$5 million; and funding strategies.

There is collaboration between the City of Norman, City of Moore, and the Oklahoma Department of Transportation (ODOT) to perform a one-of-a-kind study of I-35 beginning at Robinson Street in Norman to 4th Street in Moore is progressing with the goal of analyzing what is going to happen over the next 25 years on I-35. Mr. Bryant said this is a nice compliment to the Garver Traffic Impact Analysis (TIA). Councilmember Allison asked when the study would be completed and Mr. Shawn O'Leary, Director of Public Works, said ODOT is managing the study and their kick-off public meeting for the study is expected to be held in early April. He said it will take approximately one year to complete the study.

Item 2, continued:

Mr. Bryant said the economic development designation of an Enterprise Zone in the UNP made it eligible for a TIF. He said \$8.2 million allocated under the Project Plan for economic development and 60 acres was purchased by NEDC at a reduced cost of \$1.25 per square foot. An additional 40 acres was pledged that could be acquired at market value. To execute that portion of the Project Plan, the Business Park and Advanced Manufacturing Centre were designed. He said IMMY was the first company to open in 2016, and there are five pad sites remaining. The City assisted with that process and after the land was purchased and infrastructure constructed, there was a consortium of 11 banks that participated in the loan that included a component for an Economic Development (ED) Grant in the amount of \$2.5 million. He said ED TIF revenues in the amount of \$5.6 million have been collected between October 2006 and March 2016, and \$1.4 million was initially deposited as a credit enhancement for NEDC to purchase the acreages. He said Council later passed a resolution to allow the deposit money to be used for other things such as to carry debt service on the infrastructure loan. NEDC is involved in ongoing discussions with potential employers on the remaining industrial lots.

Mr. Bryant said an infrastructure loan payment is due in June 2017, in the amount of \$2.5 million and Council will consider an appropriation in April for that payment. The City has also committed ED funds to help with the production of quality jobs and IMMY pledged to create 50 jobs over the next ten years at a salary level with benefits that fell within ED parameters. He said IMMY's employment figures are being tracked annually and payments are calculated based on those figures.

Mr. Bryant said \$8.2 million was originally allocated to Legacy Park and approximately \$1.98 million in remaining funds from the Rock Creek Overpass Project was reallocated to Legacy Park to fund improvements for the Legacy Park/24th Avenue Intersection Project as well as further construction of Legacy Park.

Development Agreement No. Three provided \$900,000 for development assistance that was used to incentivize the creation of the Business Improvement District (BID) and property owners within the BID contribute up to \$2 million annually for maintenance and improvement costs within the UNPTIF. There are also allocation components for landscaping and public art. Mr. Bryant said the City wants to enhance collection efforts by having the ability to file liens on properties not paying assessments, which comes before Council in April of each year. The FYE 2018 assessments totaled \$75,000 with the City's portion being \$125,000 for a total of \$200,000 annually.

Mr. Bryant said an Advisory Board was created for the BID to assist in administering all aspects of the BID. Representatives consist of two members from the hospitality industry; two members from the retail industry; one member appointed by UNP, L.L.C.; and four members nominated by the Mayor and confirmed by Council. He said the Advisory Board has approved contracts for the annual restroom facilities maintenance; holiday lighting; seasonal plantings; and park enhancements. They have also recommended entrance funding concepts as well as reviewed usage and utilization policies for Legacy Park. The next meeting will be held March 31, 2017, to discuss entrance design. He said Council did not like the original entrance designs and directed the Advisory Board to review other designs that incorporated elements of Legacy Park as well as Robinson Street and Tecumseh Road entrances to commonly tie the entrances to the development. Currently the Tecumseh Road entrance is on hold due to discussion regarding potential connection of Frontage Road to Tecumseh Road which could affect the location of the entrance to the development.

Mr. Bryant highlighted retail development on the west side of the UNPTIF, known as the "Phase I – Power Center" that includes Target; Chuckie Cheese; Metro Shoes; Kohls; Home Goods; Academy; Pei Wei; Panda Express; Office Depot; Redrock Grill; Tuckers Onion Burgers; Torchy's Tacos; Chili's; Dollar Tree; McAlister's; Dress Barn; Designer Shoe Warehouse; Petco; and Cheddars.

Item 2, continued:

Mr. Bryant said before moving forward with additional development north of Rock Creek Road, Staff and UNP, L.L.C., agreed to a Master Planning for the area. UNP, L.L.C., engaged the services of RTKL, a Dallas firm involved in the original Master Planning effort to provide an update after completing additional market analysis. RTKL also agreed to include a similar market based Master Planning effort for the area known as the Lifestyle Center. In the past, Council and the developer have struggled with whether the original Lifestyle Center concept is economically viable with the need for potential modification of the concept formally recognized in Development Agreement No. Five. Staff anticipates gaining additional information concerning the viability of these concepts not only for the Lifestyle Center area, but also for the remaining undeveloped land north of Rock Creek Road. He said there has been a lot of discussion on whether or not demographics of Norman would support some of the retail outlets that had been considered when the TIF was originally created. RTKL should have a report for Council in April 2017. He said significant discussions with RTKL include an alternative entertainment district location; extension of frontage road to Tecumseh Road; possible additional upscale hotel; alternative Exhibit Hall/Cultural Facility location; possible Planned Unit Development (PUD) amendments; and possible Project Plan amendments.

Mr. Bryant said \$8.75 million has been allocated for a Cultural Facility/Exhibit Hall and the developer has agreed to donate an additional two acres of land for that purpose. The developer has also agreed to sell any additional land needed at a reduced price of \$5 per square foot and sell land for an entertainment venue at a cost of \$5.50 per square foot.

Mr. Bryant said \$64,214,457 in sales tax was generated in the UNPTIF from October 2006 through December 2016, with a transfer adjustment in the amount of \$10,838,464 for businesses moving into the UNPTIF from other locations in Norman for a balance of \$53,375,993. He said 60% of that revenue goes toward the Project Plan components and 40% is transferred into the General Fund. He said Ad Valorem revenues for the UNPTIF totaled \$7,175,263. As a comparison, Lex Holmes Project Plan tax revenue projections when the UNPTIF was being considered was \$84,895,721 with an actual current revenue of \$78,294,130, a difference of \$6,601,591.

Items submitted for the record

1. PowerPoint presentation entitled, "University North Park: TIF District No. 2 - Update," Norman City Council Study Session dated March 21, 2017

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The meeting adjourned at 7:00 p.m.

ATTEST:

City Clerk

Mayor