

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

January 15, 2020

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, January 15, 2020, at 12:31 p.m.

A quorum was determined with the following members answering the roll call: Becky Drury, Darla Drew, Lance Lehmann, Chad Lewis and Ritchie Nordstrom. Absent: None

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Agenda.)

ADOPTION OF AGENDA

Motion was made by Drew, second by Nordstrom and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Lewis, second by Lehmann and carried to approve Items 1-11 as they appear on the Consent Items with the exception of Item Nos. 6, 10, and 11.

CONSENT ITEMS -- Items 1 – 11

Public Comment opened – Items 1 – 11

Public Comment closed

Remove Items from the “Consent Items” and Vote on Remaining Consent Items

- 1) Approve Minutes for December 30, 2019

FIRE DEPARTMENT

- 2) LF011520-01 – Approve Rental Contract for Storage Building for Rapid City Fire Department

FINANCE DEPARTMENT

- 3) Acknowledge the Following Volunteers for Worker’s Compensation Purposes: None
- 4) LF011520-02 – Approve Resolution No. 2020-001 Establishing 2020 Encumbrances
- 5) LF011520-03 – Authorize Mayor and Finance Officer to Sign Life Safety Loan Agreement JB Properties, LLC, and the City of Rapid City
- 6) LF011520-04 – Drew asked Director of Community Development Ken Young if the assessment is for the City’s cleanup costs and to walk through the process. Young explained that when a nuisance is identified by code enforcement officers, a citation is issued, the property owner is given ten days to take care of it, when that doesn’t occur, then a contractor is contacted to take care of that cleanup, (whether it be yard cleanup, weeds, or snow removal) and the cost of that cleanup plus an administrative fee is then charged to the property owner. Drew would like to see this item revisited at some point because she has heard that ten days is simply not enough time for owners to respond. Nordstrom said he thought that at some point a resolution or an ordinance was passed in which administrative fees escalate if a property owner does not comply within one year, or after three times, and asked for clarification. Sumption said she doesn’t recall anything ever being

LEGAL AND FINANCE COMMITTEE

January 15, 2020

passed. Her office receives what should be billed out, including the administrative fees, from Code Enforcement and doesn't believe anything more than the \$42.00 is charged for the administrative fee. Nordstrom feels that in the past, the City has turned into becoming property managers for some of these properties by doing the cleanup on a regular basis and abating the nuisance on it, and now these same properties are seen on repetitive nuisances. He is curious if the City can do anything regarding these frequent fliers and look at an escalated fee schedule for the administrative fees. He will do some further research and have more conversation at a later time. Lewis moved to Approve Resolution No. 2019-101 a Resolution Levying Assessment for Abatement of Nuisances. Second by Drew. Motion carried.

- 7) LF011520-07 – Approve Request for Property Tax Abatements as follows: Eric Eckholm, 2019, \$37.90; Dennis Hanson, 2019, \$442.06; Scott Young, 2019, \$77.80; Dorothy Adams Frasier, 2019, \$601.90; City of Rapid City, 2019, \$570.96; City of Rapid City, 2019, \$906.82; Dean Sankovich, 2019, \$699.50; Jasper Green Jr., 2019, \$410.26; Diocese of Rapid City, 2019, \$43,004.56; City of Rapid City, 2019, \$45.66; City of Rapid City, 2019, \$21,428.00; City of Rapid City, 2019, \$18,381.14; Adams Frasier Revocable Trust, 2019, \$535.62 [Combined Total for all Rapid City: \$87,142.18]
- 8) LF011520-08 – Approve Resolution No. 2020-002 a Resolution Declaring Miscellaneous Personal Property Surplus to be Surplused
- 9) LF011520-09 – Acknowledge November 2019 Sales Tax Report
- 10) LF011520-10 – Nordstrom acknowledged the phenomenal job that has been done by the staff in turning this program around and is in complete support of the program. Sumption said this particular grant is year two of a three year proposal, the amount is approximately \$50,000 with the total budget being around \$70,000, so the rest comes in in-kind expenses or through donations and other foundational grants that Ann Hines and Dave Yugas have applied for. She added that the City has not heard back on the grant application for the Northern Hills but should hear something in the next month or two. Lehmann moved to authorize the RSVP+ Program to Apply and Accept Year Two of their Corporation for National & Community Service (CNCS) Grant. Second by Lewis. Motion carried.

COMMUNITY DEVELOPMENT

- 11) LF011520-05 – Nordstrom asked the Manager of the CDBG Program Michelle Schuelke to give a summary of how this grant process works. Schuelke explained that once a year there is an application cycle with applications due October 1 of every year which is for the upcoming fiscal year that begins April 1 and runs through March 31st. The Investment Committee screens the applications along with allocating and giving recommendations to the City Council for the proposals that meet the community needs as well as the national objectives of the program. Nordstrom moved to Approve Final Recommendations for the FY2020 Community Development Block Grant Entitlement Funds and Neighborhood Lift Lot Allocations. Second by Drew. Motion carried.

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 12 – 13

Public Comment opened – Items 12 – 13

Doyle Estes spoke on item number 13 to discuss their interest in working with the City to use the tax increment district process to extend Homestead Street so it will connect Timmons Boulevard to Degeest. Last year he was contacted by Ritchie Nordstrom and Bill Evans with regards to what might be done to get that road built. Estes came back with the idea that if the City would be interested in working with them to use the tax increment district to build the road, they would be

January 15, 2020

willing to cooperate. They are currently involved and have property they recently sold out there with developments that he believes will add an excess of 14 million dollars to the tax base; so if that property is included that is being developed by them or by the people he sold property to, that tax increment district would pay itself off in less than ten years. If there is no interest by the City and working with them on that tax increment district he doesn't think the road will be built. The cost to build the road is in the neighborhood of one million dollars and they are not in a situation that it is beneficial to them to spend a million dollars to build it. His concern today is to tell the committee that they are willing to work with the City to use the tax increment district process under today's rules. He has not examined what the City is going to do if the rules are changed but his offer to the City to use the tax increment district for them to finance the district, to finance the cost at construction is based on the current rules and if the rules are changed, that offer is off the board and they would have to look to see what the impact is under the new rules. He just wants to make sure that is put on the table, if the City changes the rules, their offer is withdrawn.

Kent Haag spoke on item number 13 with concerns on the proposed TIF guideline changes. He said there are some fundamental changes that limit the City Councils authority or ability or discretion as to what they can do and how they can utilize one of the key significant economic development tools, a TID, and believes by limiting yourself in the scope of how that can be done, is a tremendous mistake. Haag stated that John Way from Bank West would not be interested in backing this TIF under these new provisions. He expressed that he is here purely offering input to keep the City Council from making a mistake in adopting these guidelines in a subsequent ordinance. He commented that one of the things that has been stated many times is that it is "just guidelines", but he pointed out that going through the proposed guidelines, you will see some language that it is mandatory, there are "musts" and "shalls" and those types of things. There are rating systems as to giving priority and that is fine except to the extent that it may hinder what a program would be eligible for under state law and because of the City's own guidelines could therefore be tossed out. One very well-meaning but a completely wrong headed way to go he feels, is the requirement that if there is any residential development inside a TIF district, that 30% must be affordable and 5% of that must be under a certain level of the poverty level. He explained some residential developments or subdivisions that may seek a TIF and it be vital to have a TIF, would NOT have this requirement in that business model. A couple of examples he gave were The Meadows up on Highway 16 to have to somehow incorporate affordable housing in the district, again in and of itself that is fine, but it certainly can be one of those non-starters and many, if not most, subdivisions like Red Rocks, that produces millions of dollars in tax revenues, would not have qualified to get water up there. Haag is requesting this TIF to be tabled or continued until a comprehensive plan can be made. What they are offering and trying to put together is a group of stakeholders (a developer, a banker, an economic development such as Elevate, and other interested parties) to come up with a comprehensive plan for these guidelines. If there are new guidelines that are absolutely needed then he would like to see it done correctly and not inadvertently do it from the most restrictive means, which is what this current plan does.

Public Comment closed

COMMUNITY DEVELOPMENT

- 12) 19OA002 – Long Range Planning Manager Patsy Horton and Director of Community Development Ken Young provided a presentation regarding the revised policy and the benefits of this ordinance. Young began with a comment of introduction emphasizing that they have been working diligently over the last two and a half years on needed amendments to the tax increment financing policy; they have been in contact with many developers and bankers over this time frame and have exhausted the City's abilities to further bring forward a better proposal. Young stated that as far as Mr. Estes's proposed TIF for his project is concerned, if anything, the new policies are going to make it a better opportunity and easier. He stressed that the policy being brought forward is not a restrictive policy it is just a more defined policy. Young listed some of the items being brought

January 15, 2020

forward, such as: better criteria for the review of TIF applications, new procedures and opportunities for improving the certification process of the costs. He added that although they are open and willing to look at further proposals that may come forward, he believes that what the City has proposed and are going to present to the Committee today is a much better policy than what the City has had previously or that is currently in place. He expressed that there are many needs and benefits that will come out of this new proposal, saving time and money for both the applicants and the City in these processes. He told the committee that going forward there will be many opportunities that will increase the ability to use tax increment financing throughout the community without area restrictions. Over the last couple of years, it has been determined that there needs to be a greater focus on promoting and assisting economic development, on affordable housing, transit oriented development, and greater guidance for applicants in submitting their applications all the way through the certification processes. Horton began the presentation with informing the Committee that they have met with the cities of Aberdeen and Sioux Falls will find that many of their recommendations are included in this new policy. There were also over ten public meetings and outreach opportunities, and all of those comments are included in a frequently asked questions on the website. Horton touched on the revision highlights that included a TIF Chart description, updated verbiage throughout, defined baseline application requirements, and added evaluation criteria. She detailed the many targeted uses of new economic development, affordable and workforce housing, development and redevelopment of infill and blighted areas, (with enhanced definitions, requirements, percentages). She reviewed some changes to project management, walked through the guiding principles, the revised eligible costs, the base requirements, the evaluation criteria, the processes for TIF's, the certification process, and shared a chart regarding the housing number breakdown for different income levels with pulled census data. She shared some examples she put together which included a 40 acre property and identified how many single family homes would have to have affordability and then also showed an apartment complex and how many units would have to have affordability. She also pulled up the HUD numbers showing the 2020 fair market rent. Horton will attach this presentation to the agenda for reference. Young also informed the committee that the City has also recently met with John Way from Bank West and he expressed to the City that his previous concerns with the proposal that is now revised since that time, have been addressed. Young feels that although this might not be a perfect policy, it is much better than the current one and it would be a great step to move forward realizing of course, if additional revisions need to occur, they can be addressed and brought forward. He strongly urges the Council to consider approving this policy. Lewis voiced his concerns and will not be in support of this item as he is not sure why we are fixing something that he is not sure what all is broken. He understands there are some things that might need fine-tuned and there may be a need to increase the fees, but he is not sure what metric is used to measure the success of a TIF. He believes the valuations have gone up drastically because of TIF's and there have been projects that never would have gone forward had the TIF's not been there. He gave several examples. He has noticed other cities are now jumping on board allowing TIFs and trying to use TIF's to develop and if Rapid City limits the usage of TIFs, it will limit our own growth because people will, and are building, in areas outside of the City. Nordstrom asked Patsy Horton a few questions for clarification with regard to the appeal process of the TRC, to define transit development a bit more and to explain a bit more overlapping TIF districts. Horton explained that when a district is created, state law is very clear that the Planning Commission has to make a recommendation to create the district, if the Planning Commission does not approve it, there is no appeal process. She said the City is encouraging higher densities where there are existing transit stops so that people do not have to rely on a vehicle to get to work, food, medical services, etc. (a transit stop meaning a stop which is less than three quarters of a mile from their home or work). Horton said the City is encouraging no more than two overlapping districts because the first district has to generate increment and generate the way to pay off those project costs first. As soon as the second one comes in, they are second in line after the first one is paid off so by limiting it to two, the second one actually pays off. She added that when this was first put in the policy, there was not an allowable way to add anything to the project plan without re-determining the base valuation, once the base valuation is re-determined, generally

LEGAL AND FINANCE COMMITTEE

January 15, 2020

most of that increment disappears and you have to start all over. Nordstrom asked Mr. Estes to state his concerns with Homestead with the proposed changes. Mr. Estes said he really hasn't examined what the City is proposing to change, his point is that he knows what the current rules are now and is willing to play the current rules. He stated he and his wife had to borrow a million dollars to build the road and made the offer based on the current rules but if they change, then their offer goes away and they would have to see if they can work with what the City is trying to do. Lewis moved to send the Introduction and First Reading of Ordinance No. 6310, an Ordinance to Update the Tax Increment Financing District Review Processing by Amending Chapter 3.26 of the Rapid City Municipal Code to City Council without recommendation. Second by Lehmann. Motion carried.

- 13) LF011520-06 – Lewis moved to send Resolution No. 2019-015 a Resolution Adopting the Rapid City Tax Increment Financing Policy to City Council without recommendation. Second by Lehmann. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Nordstrom second by Drew and carried to adjourn the meeting at 1:27 p.m.