

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, March 5, 2012. Mayor Peggy Dunn presided.

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

Councilmembers absent: None

Staff present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Joe Johnson, Public Works Director
Patty Bennett, City Attorney
Deb Harper, City Clerk
Pam Gregory, Assistant City Clerk

Others Present: Charles Miller, Esq., Lewis Rice & Fingersh, RED Development Counsel
Bart Lowen, RED Development

Discuss expansion of Transportation Development District [TDD] for One Nineteen Development [Project # 80456]

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 meeting was originally scheduled to discuss the expansion of the TDD request for the One Nineteen Development and also to review the financial data for the second issuance of bonds for the project; however, this financial data is not yet in. A subsequent meeting is scheduled in May when the receipts are in, per the City's requirements. The focus this evening is on their request for additional parking on the south side of the project. Mr. Lambers supported this request because parking is clearly an issue.

Councilmember Rasmussen was concerned because an amendment to the Debt Policy was on the regular Council meeting agenda this evening with revised language stating TDD financing was limited to new development. Mr. Lambers clarified they are operating under the terms of their existing development agreement to provide for a second issuance of bonds. There is nothing in the existing or proposed Debt Policy to preclude someone from requesting an amendment if they have authorized subsequent TDD financing to be issued.

Bart Lowen, RED Development, confirmed the second issuance of bonds should be in the amount of \$1.8 Million. The first bond issuance was for \$3 Million; totaling \$4.8 Million.

Mr. Lambers felt it was reasonable to expect that these projects would likely not have enough money up front to generate revenue for the entire bond issue. Multiple bond issues could occur for other projects assuming the revenue streams are there to support it.

Mayor Dunn stated their request for \$309,000 for the additional parking was a new request that was not contemplated when the center was developed and is not included in the \$4.8 Million. Tonight's discussion includes a potential amendment to their existing development agreement.

Presentation – Bart Lowen, RED Development

One-Nineteen is doing phenomenal in sales and traffic activity. Approximately 75 employees are currently being shuttled off-site to a service area behind Camelot Court to solve the parking issue. The proposed parking has been approved through the City's planning process. The center is currently 93% leased with 4 tenants under construction to be open this summer. There are 2 spaces remaining for lease. The additional tenants are complimentary to the current uses. They do not have the budget for the additional parking without the TDD reimbursement program. He requested consensus from the Council to move forward in order to certify the costs for reimbursement. There is no solution to parking on-site; however, things should plateau. There will still be peak holiday events that will be an issue; however, during those peak times they will reinstate their valet program.

Mr. Miller stated an alternative parking structure or pedestrian bridge over 119th Street would be cost prohibitive. They studied several sites and determined the safest; most cost efficient way to handle this was to solve the problem on-site.

Councilmember Osman asked why the parking was never established during initial construction. Mr. Lowen replied the City's ordinance limits shopping center parking to a ratio of 4.5 per 1,000 feet. At the time, they had to go through the Board of Zoning Appeals [BZA] process to approve some variances, which included setbacks and didn't foresee a parking situation.

Mr. Lambers confirmed they had met the City's parking standards when this application was originally submitted. He suggested they increase the City's parking requirements for new developments by at least 50% for restaurants when they consider the 135th Street Corridor. Mr. Lowen concurred.

Mr. Bussing felt inadequate parking would drive revenue away and suggested they consider a long-term permanent solution to benefit everyone.

Mr. Lowen confirmed out of the authorized \$4.95 Million to be reimbursed by the TDD, they have expended \$4.125 Million. Mr. Miller clarified \$711,000 remains to be funded by the bonds; however, this has all been spent. The \$4.95 Million will need to be increased by \$309,000 plus any related costs for issuance.

Mr. Lambers clarified the existing development agreement is based upon the Debt Policy that is currently in effect; not what is being proposed. Once the second bond is closed-out, the development agreement has been fulfilled by both parties. If they return with a subsequent request after the policy is approved, staff would deny it due to the new development project limitation.

Mr. Miller confirmed the 22-year term started with the first bond issuance; they were not requesting an extension.

Mr. Lambers stated with consensus this evening, the Council will consider the bonding request at the May meeting. The bond document will show the dollar amount being increased and will require documentation they are meeting the revenue to support it. Assuming everything is in order for the second issuance to move forward, this private issue would occur over the summer. They already have a buyer arranged to purchase the bonds.

Mayor Dunn asked if Camelot Court, which has been developed for several years, would be eligible for TDD financing if they requested new structured parking. City Attorney Patty Bennett replied existing developments would fall under Community Improvement Districts [CID]; new developments under TDD's. Under the amended policy, TDD's would first need to be for new development, then for individual projects within the development. Mr. Lambers recalled their previous conversation to move forward with the amended TDD Policy. If they decide to adopt a CID Policy, they can re-visit the TDD language. There is no difference between the two as it relates to structured parking because they are both eligible under State law. If desired, they can pull the TDD amendment off the agenda until the CID Policy discussion in May.

Mr. Lowen estimated they would pay-off the existing and requested TDD bonds within 10 years.

Mr. Lambers felt defining a "new project" as 1 to 2 years after the first Certificate of Occupancy to provide a margin of error would not be unreasonable. The reason they revised the language to read "new development" was on the premise of the assumption they would adopt a CID Policy. Mayor Dunn confirmed with Mr. Miller that a TDD requires 100% of ownership in the development to be in agreement, whereas a CID requires 55%. They are more likely to have 100% when a development is new. A CID is much broader than a TDD.

Mr. Lowen confirmed the proposed parking was intended for employees with no public access to the facilities. He was confident the \$309,000 was a competitive amount.

Mayor Dunn received unanimous consensus to move forward with their request for additional parking.

Councilmember Azeltine intended to continue the TDD amendment on the agenda until the CID discussion is resolved.

There being no further business, the work session was adjourned at 7:10 P.M.

Pam Gregory, Recording Assistant City Clerk