

MINUTES
CITY OF ROELAND PARK, KANSAS
SPECIAL CALL CITY COUNCIL MEETING
ROELAND PARK
Roeland Park City Hall - 4600 W 51st Street
November 6, 2017 6:00 P.M.

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| <ul style="list-style-type: none"> ○ Joel Marquardt, Mayor ○ Becky Fast, Council Member ○ Tim Janssen, Council Member ○ Ryan Kellerman, Council Member | <ul style="list-style-type: none"> ○ Teresa Kelly, Council Member ○ Sheri McNeil, Council Member ○ Michael Poppa, Council Member ○ Michael Rhoades, Council Member ○ Erin Thompson, Council Member | <ul style="list-style-type: none"> ○ Keith Moody, City Administrator ○ Jennifer Jones-Lacy, Asst. Admin. ○ Kelley Bohon, City Clerk ○ John Morris, Police Chief ○ Jose Leon, Public Works Director |
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Admin	Finance	Safety	Public Works
Poppa	Kelly	Thompson	Kellerman
Fast	Janssen	Rhoades	McNeil

Pledge of Allegiance

Mayor Marquardt called the meeting to order and led everyone in the Pledge of Allegiance.

Roll Call

City Clerk Bohon called the roll and all Councilmembers were present.

I. ITEMS

1. Approve Agreement with Boulevard Apartments

City Administrator Moody presented an agreement drafted by Gilmore & Bell, the City’s bond counsel, that would have the owners of the Boulevard Apartments pay their property taxes in full for 2017 by the end of the year. Having these funds on hand would enable the City to complete additional improvements to the old pool site to make it appealing to potential buyers. The Governing Body has approved enough funds to do the cave stabilization and sanitary sewer improvements, but there is still a need for a retaining wall and a regional stormwater detention area for which there are not enough funds to complete. As most people pay their property taxes twice a year and they are paid in arrears, the City would not receive the Boulevard property taxes for the second half of 2017 until May of 2018. An idea was presented to contact the owners of the Boulevard Apartments to see if they would be willing to pay their taxes in full, which would provide enough funds for the City to complete one of the remaining projects. The Boulevard is the largest contributor to the TIF for that area and have made improvements to their site, and for which they have not reimbursement for from the TIF district. The agreement drafted by the City calls for the Boulevard to be reimbursed \$40,000 from those TIF funds, which can only be used for site improvements at the Boulevard, not for building improvements.

Public Comment

Tom Madigan (5316 W. 49th Terr). Mr. Madigan stated he was not sure he understands what the rush is as there is no contract or a letter of intent for development at the old cave site. He has read the published Economic Development Committee meeting minutes and finds no reference to this rush. He also stated that there are 92 pages of new information in the Council packet. He said in his opinion the Economic Development Committee should cease to be as the Mayor is the only one who speaks at those meetings, and that the entire Council should be in charge of this project as there are decisions being made not under Council direction or approval.

Mayor Marquardt addressed the reason the issue came up quickly, and the decision to pursue the agreement with the Boulevard is clearly a Council decision. The TIF is expiring in February of 2018 and the Council, not the Economic Development Committee, needs to decide if the TIF funds are to be used to improve the site to make it

easier for developers. He said the funds have to be used by February 2018, which is a short time to get things done.

CMBR Fast said they have known for 20 years this TIF was going to end. She added that a month ago Mr. Moody called the Boulevard Apartment owners to find out if they would be willing to enter such an agreement, and she asked who authorized him and the Mayor to call the Boulevard without bringing it to the Council's attention.

Mayor Marquardt said they have known for 20 years about the TIF, but obviously the current administration has not been in office that long. He stated this was an idea that was brought forward as a creative way to try to figure out how to make the most of the site. The call to the Boulevard was made to vet it preliminarily and was not a deal negotiation at all. He said there was no point in bringing something to the Council if the Boulevard was not open to it. It was not until last week that the Boulevard even responded.

CMBR Fast asked why the Council was never notified of this even happening. Mayor Marquardt responded the idea only happened within the past month.

CMBR Rhoades said there is a limited amount of money in the TIF 3. The Boulevard has never asked for reimbursement from the TIF fund to do improvements for their site for which they are eligible. If they had asked for reimbursement the Council would have been hard-pressed not to give them the funds. Even after reimbursing them \$40,000, it still puts the City \$70,000 ahead.

City Administrator Moody said they anticipated spending more in 2017 than they will likely spend. The reason they showed a transfer from the General Fund to the TIF was to cover for the shortfall. The money from the agreement would be repaid to the General Fund. They are getting more done on the site than what they initially anticipated are just trying to get a little bit more done. This will make the property more valuable and puts them in a better position where the potential buyer or developer is less likely to request more incentives to complete the site. Installing a regional detention facility benefits all of the lots.

CMBR Kellerman asked how they would enforce the Boulevard to pay their taxes by the end of the year. City Attorney Maurer stated they could be sued for breach of contract if they entered the agreement with the City and then did not follow through.

CMBR Thompson would note that a contract is more legally binding than a letter of intent and every contract hinges on someone suing the other party for breach of contract.

CMBR McNeil asked why it took so long for the Boulevard to get back with the City. Mayor Marquardt said it is a unique personality that they are working with and they are also very busy and have a lot of properties. They did not realize at first what everybody has to gain by entering this agreement. Mayor Marquardt said it is unsettling when someone does not work with you on something that would benefit all parties.

CMBR Poppa said the Council can approve the contract, but it would still need to be signed by the Boulevard. If they do not sign it, then the City will not do the work.

Mayor Marquardt said ideally it would be signed within the week and they have let the owner know for this to work for everyone, it has to be turned around very quickly. The owner said he understood that point.

CMBR Kellerman said it would have been nice to know about this earlier as opposed to when the agenda went out that they were going to have a special call Council meeting in regards to this. CMBR Kellerman said this is a backdoor deal with a \$40,000 kickback to the Boulevard in exchange for the City taking a loan from them.

CMBR Fast asked if anything would be put out for bid such as the engineer's design, the construction, or would they be exempting all bidding procedures.

City Administrator Moody anticipated using SKW, the same engineers that have done the design work for the project all along. As far as the construction work they have a contract in place with Pyramid Construction who has provided a price for the sanitary sewer work. He did get another firm to give a price for comparison. He anticipate going through the same process for the stormwater detention because of the short time period and did not believe there was enough time to go through the formal bid process.

CMBR Fast stated this really concerns her. They have seen SKW be over \$100,000 wrong in their pricing, like several times on the roof of the Community Center. She said if they put this out for bid, it could easily save over \$100,000. She has a lot of problems with exempting the City bid procedures that could potentially bring down the price.

CMBR Rhoades asked once the project has started and the funds have been allocated from the TIF, how much is going to be allocated and does it need to be completed by a certain day?

City Attorney Maurer believes that Gilmore Bell takes the position that in order to satisfy the Kansas TIF statute the City needs to complete the work. Their caution is that they need to get it under contract and get it done so that the money is paid out.

CMBR Rhoades said this is not a kickback as the Boulevard has already done work on the apartments and the monies would be a reimbursement for that. The City should want the Boulevard to continue to do work on their property and to invest in their property and increase the property value there, which generates more tax revenue to the City.

CMBR McNeil asked if the work needs to be completed by February of 2018 in order to comply with the expiration of the TIF.

Ms. Jones-Lacy said she has spoken with bond counsel and other colleagues in other communities that have TIFs to find out their methodology of expenditure. Gilmore Bell indicated that the TIF law in Kansas is actually silent on whether every dollar has to be expended prior to the deadline of February 28, 2018. She asked them whether they can encumber a contract in its entirety with the intention of spending the entire amount and they believe that would be a good middle ground. They tend to take a conservative stance if the law is silent, but said it is in the City's best interest to get it all done ahead of time and that is the best case scenario. Under the circumstances and considering the tight time frame, it is her opinion that they should be able to encumber a contract prior to February 28th with the intention of spending all the money in that same year as long as long as they are done spending it by the end of the year.

If a contract is in place, they are committing all the money before February 28, 2018. This would be a better situation than paying in advance, which is the only other alternative, and the work will not be done by February 28th.

[Inaudible; recording static]

CMBR Rhoades asked if it cannot be done in time and the City wants to move forward, then he would like to see them go through the formal bid process.

City Administrator Moody said getting most of the work done is possible, but did not believe it would all be completed by February 28th.

MOTION: CMBR THOMPSON MOVED AND CMBR RHOADES SECONDED TO APPROVE THE AGREEMENT WITH THE BOULEVARD APARTMENTS FOR FULL PAYMENT OF 2017 TAXES BY THE DUE DATE OF DECEMBER 31, 2017, IN EXCHANGE FOR REIMBURSEMENT OF \$40,000 OF SITE IMPROVEMENTS, WHICH ARE ELIGIBLE

UNDER TIF 3 REDEVELOPMENT PLAN. (MOTION CARRIED 5-3 WITH CMBRS MCNEILL, FAST AND KELLERMAN VOTING NO.

POLL THE COUNCIL

McNeil - N Fast - N Rhoades - Y Janssen - Y Kellerman - N Thompson - Y Kelly - Y Poppa – Y

2. Approve Budget for Site Improvements at the Rocks

CMBR McNeil inquired where the money would come from if the actual bid is higher or if the engineer’s estimates are off. She wanted to know if they would have to borrow money.

City Administrator Moody said the Council would have to approve how to fund the difference. They could opt not do the project and leave the money in the TIF fund, or they could identify resources from other capital reserve funds that are available.

CMBR McNeil had a question on the underground stormwater detention facility and whether the engineer’s estimate as the facility has not yet been designed. She asked if there would be an additional charge for them to design that on top of what they are asking for.

City Administrator Moody said the estimate budget includes the engineering, the design and the work.

CMBR Fast asked if they would be notified of the final process. City Administrator Moody said if they follow the formal bid process, then all formal bid procedures conclude with the Council taking action regardless of the amount and even if it’s within the budget limit.

CMBR McNeil asked if this was truly a time sensitive issue and thought maybe they could wait until they get better numbers.

Mayor Marquardt said tonight they are approving the idea to move ahead and then they will get the numbers to approve the project as they will be going to a formal bid process.

MOTION: CMBR POPPA MOVED AND CMBR THOMPSON SECONDED TO IMPROVE INCREASING THE CONTRACT FOR SITE IMPROVEMENTS AT THE OLD POOL SITE FROM \$1,150,000 TO \$1,218,000, A \$68,000 INCREASE USING ADDITIONAL RESOURCES ANTICIPATED TO BE RECEIVED IN JANUARY OF 2018 FROM THE TIF-3 FUND.

After further discussion CMBR Poppa amended his motion as follows:

MOTION: CMBR POPPA MOVED AND CMBR THOMPSON SECONDED TO APPROVE THE INCREASING THE CONTRACT FOR SITE IMPROVEMENTS AT THE OLD POOL SITE FROM \$1,150,000 TO \$1,218,000, A \$68,000 INCREASE, USING THE CITY’S BID PROCESS, PENDING A FORMAL OPINION FROM BOND COUNSEL THAT THE ENCUMBRANCE OF THE FUNDS WILL SATISFY THE STATE STATUTE REGARDING TIF FUNDS. (THE MOTION CARRIED 8-0)

POLL THE COUNCIL

FAST - Y MCNEIL - Y JANSSEN - Y RHOADES - Y KELLERMAN - Y THOMPSON - Y KELLY - Y POPPA - Y

II. ADJOURN

MOTION: CMBR KELLY MOVED AND CMBR POPPA SECONDED TO ADJOURN. (MOTION CARRIED 8-0)

Joel Marquardt, Mayor

Kelley Bohon, City Clerk