MINUTES

Economic Development Committee Meeting

Date | time Tuesday, February 7, 2023, at 5:15 P.M. | *Meeting called to order by* Watson at 5:15 P.M.

In Attendance

Members Present: Sarah Watson, Chad Henke, Tom Kilian, Carol Lukens, Lisa Rasmussen

Others Present: Randy Fifrick, Shannon Graff, Tammy Stratz, Mayor Rosenberg, Atty. Anne Jacobson, Rick Rubow, Atty. Matt Rowe

In accordance with Chapter 19, Wisc. Statutes, notice of this meeting was posted and sent to the Daily Herald in the proper manner.

Agenda Item 1 – Approval of Minutes from 12/6/22

Kilian motioned to approve minutes from 12/6/22, seconded by Henke. **Approved Unanimously 5-0.**

Agenda Item 2 – Update on Wausau World Market (Stratz)

Stratz explained to the committee that the sheriffs sale took place for Wausau World Market, but the outcome of the sale did not produce the desired result because 4 Star Market, the owners on the unrecorded Land Contract with Wausau World Market, could not outbid an outside bidder, therefore the City of Wausau, nor MCDEVCO will not have their outstanding loans satisfied. She noted that despite the bad news, there have been positive outcomes from the project . She explained the city received over $40,000 in loan payments and the assessed value of the property increased by over $400,000 subsequently increasing property taxes by $11,000. She stated the increased tax revenue plus the loan payments over the past 6 years has made the city whole on the $100,000 investment.

Agenda Item 3 – Update on First Amendment to Plaza Multi-family Phase 1 Development Agreement at 201 N 17th Avenue AKA 1520 Elm Street (Brodek)

Brodek explained staff received notice the developer would not be able to meet the 12/31/22 completion deadline so they've been working on an amendment to amend the completion deadline. She noted they have been working to obtain the required documentation needed to satisfy the rest of the development agreement. Brodek stated she is hopeful the amendment will be brought to the March Economic Development meeting.

Rasmussen clarified the referenced project is the one behind the former Plaza Hotel, which is substantially up, and asked if they are completing interior work. Brodek responded that she believed so but wasn't 100% sure as she has not seen the latest from inspections and what has been permitted.

Agenda Item 4 – Update/Overview on Riverlife Housing Developments (Brodek)

Brodek explained staff want to make sure the public is informed about what is transpiring at the Riverfront and noted there have been a lot of questions and seems to be some confusion as to what project is going on where. She explained staff is currently working with Swiderski on a development agreement to construct 200 market rate apartments, 800-2200 square feet of retail space in both buildings with a bridge that connects them, and a parking ramp. The development will be located to the South of W.O.W. which is where T-Wall was to develop until their agreement was terminated in March 2022.

Brodek noted the other project that has caused some confusion is the condos that were to go to the south of the daylighted creek and the current Riverlife Apartments. Brodek reminded the committee and public that there was an agreement with a developer, and they were on the third amendment and missed several deadlines. At the November 2022 the committee rejected the option for a fourth amendment and therefore the project is no longer in the pipeline. Brodek stated they don't have any immediate plans to RFP that parcel but explained staff is willing to entertain ideas or proposals anyone has and discuss with the committee as to whether it's something to move forward with it or if there's enough interest to open it up for another RFP. Brodek said but with the 200 units in the pipeline with Swiderski and 154 at the mall site and 250 affordable housing developments that are awaiting word on tax credit applications, staff wanted to hold off on an RFP until we see how things look with the aforementioned developments.

Agenda Item 5 – Discussion and possible action on Amendment to Standard Deed Restrictions to waive 12-month construction restriction with Wausau Coated Enterprises at 110 S. 84th Avenue (Atty. Jacobson)

Atty. Jacobson explained the city transferred the property on December 14, 2022, and that Stephen Lapowski (client's attorney) was concerned on behalf of his client regarding the Deed Restriction labeled 1A that says the city has the right to repurchase the property at the sales price if the grantee fails to start construction within one year of the date of conveyance and asked if there was any way to remove the restriction.

Rasmussen motioned to amend the standard deed restriction to remove the 12-month requirement as recommended by the City Attorney. Seconded by Henke.

Kilian asked what the rationale was for that part of the agreement.

Fifrick explained they plan to use it for parking in the future due to location and future expansion and noted staff should have reviewed the standard deed restrictions during the process and change that restriction to something relevant to their plan. Fifrick explained when selling land in the Business Campus, it's typical to expect someone to build something that's going to have assessed value but said there was no value in this parcel.

Henke clarified they did not think they could begin construction of the parking lot before 12/14/23. Fifrick replied that they would not. Atty. Jacobson recommended to approve the motion.

Approved Unanimously 5-0.

Agenda Item 6 – Discussion and possible action to direct staff to prepare amendment to the Memorandum of Right of First Refusal between City of Wausau and Jim N.E. Cricket, LLC, eliminating restriction of the payment in lieu of real estate taxes, for benefit of current owner, MOCA, Inc. at 309 McClellan Street (Rick Rubow, Atty. Jacobson, David Hummer)

Brodek noted E.D. committee requested this item be brought back to January's meeting, however a meeting was not held. She noted council made a motion on 11/15/22 that failed and a resolution back to E.D. failed but the minutes reflected wanting to see it further discussed in the E.D. committee to recommend the waiver of a PILOT payment. Brodek explained Jim N.E. Cricket is a for profit LLC who then transferred or sold the property to MOCA, Inc which is a non-profit organization with the deeds signed on 12/30/22 and recorded on 1/3/23. She further explained the memorandum of right of first refusal was dated 8/31/17 and memorializes a deed restriction that the property owner must make a payment in lieu of taxes for 20 years (through 8/31/37) regardless of the property owner exemption status. Brodek explained the committee is not discussing the exemption status or the process of exemption but rather whether the to keep or remove the deed restriction as it relates to the current owner or amend the deed restriction to a PILOT payment or lesser/flat payment amount.

Rasmussen noted she thought it was fairly clear how the museum operates and what point he was at with trying to transfer the museum to his non-profit entity. She noted he operated within the confines of the project with some assumptions, right or wrong, but also thinks the use of the building matters. Rasmussen explained the interior the building was in disrepair and Hummer borrowed the money to finish the interior work and has turned it into a usable and operable building. She explained he knows becoming tax-exempt is subject to state law and the opinion of the City Assessor but that the requirement of a PILOT payment nullifies the reason to make the building tax-exempt. Rasmussen noted other facilities in the community who have community value, art appreciation and tourism components but don't have the caveats that require a PILOT payment. She stated the committees decision is to decide whether to remove the PILOT payment for the current owner or any future owner and that the committee should make that decision on a case-by-case basis if ownership would ever transfer. She also noted that Hummer discussed rehabbing the upstairs and make it an event space which would then be taxable which he's agreeable to and noted if a PILOT payment is in place, the event space will not be able to be taxed.

Rasmussen motioned to eliminate the PILOT payment in favor of Jim N.E. Cricket, seconded by Lukens. Discussion continued before vote.

Kilian requested City Assessor Rick Rubow to confirm that whether or not the property becomes tax exempt or not is something entirely different than the discussion of a PILOT payment of which the committee is discussing.

Rubow confirmed they are separate actions requiring separate processes. He stated property tax exemption in Wisconsin falls under Chapter 70 of Wisconsin statutes and if the property owner meets the requirements within the statutes then the PILOT payment would come into play which is determined between the municipality and the property owner. He said some exempt organizations have a PILOT payment and others do not.

Kilian commented some members of the current committee may have voted in support of the agreement proposed in 2017 which was agreed upon by the entity involved, was presented before multiple bodies, and approved. He said his understanding is government assistance was received, therefore the door to government requirements and agreements is opened and requiring a PILOT is consistent with other agreements where there is public involvement. He stated he would not support waiving a PILOT.

Watson asked if a PILOT is between the City and the entity and that the other taxing entities wouldn't get any payout. Rubow confirmed there are several ways a PILOT can be arranged when there are agreements with the city and said some of them are determined by the assessed value and apply the municipal tax rate while others use the full tax rate of the municipality.

Rasmussen explained a PILOT is take place of lost taxes. She stated there are often caveats such as a PILOT in agreements as a way to ensure project completion. The only part the committee has control over is whether or not to impose a PILOT because it's a contract that's agreed to by the parties and they have the ability to amend the contract to remove that obligation and if part of the building becomes for profit, the owner and assessor will figure it out then. She offered options of waiving a PILOT as she initially motioned, reduce the payment to another arbitrary amount or wait until the next meeting when David Hummer can be present and said a final decision does not need to be made tonight. Rasmussen stated now that Mocha has transferred to a non-profit status a PILOT is coming regardless so a decision needs to be made. Rasmussen did withdraw her motion.

Lukens agreed to withdraw her motion as well.

Atty Jacobson explained being tax-exempt does not exclude an entity from paying taxes. She said an exempt entity like a 501c3 can pay taxes and other exempt entities who don't. She explained this scenario is not to determine if the property owner is exempt rather it would be to determine if the use of the property is eligible for tax exemption which is a separate process from getting tax exempt status or transfer of property to a 501c3. She noted if part of the building becomes taxable, they would pay taxes and those could not be waived but if other portions of the building are determined exempt, that's when a PILOT would kick in.

Watson asked if a PILOT could be removed at a later date if something else changed; it could be removed and help with this current year's taxes. Atty. Jacobson replied, yes.

Rasmussen said this item could be held until the outcome of his exemption status and he is in attendance to discuss the financial aspect of the organization.

Atty Jacobson agreed with Alder Rasmussen that if the committee agrees to waive a PILOT in whole or in part that it's done for the current owner and for as long as the property is being used for a particular use and remains used for that particular usage. She recommended if it's decided to amend the memorandum to eliminate the PILOT that it is specific to the current owner and only for the period of time he is the owner.

Kilian asked if when the agreement was initially agreed upon it indicated there would be some form of payment and no one was under duress or use invisible ink. Atty. Jacobson replied that it is typical with a construction agreement to impost a PILOT due to city assistance. Stratz responded further that Mr. and Mrs. Hummer came to her office to review the documents and the memorandum was discussed. It was explained to them they would be paying taxes for the next 20 years to ensure a return on the city's investment. She noted Mr. Hummer asked about becoming a non-profit exempt from real estate taxes and that she advised him per the agreement he would then be required to make a PILOT payment. Stratz said he did understand the agreement as it was presented and that even when he came back years later questioning a non-exempt status, that he admitted remembering why the agreement was written as it was.

Kilian asked if it could be quantified how much the city would forego if the PILOT were to be waived. He requested the minutes from each body it went to and passed at in any forthcoming meeting to see that the party consented to the agreement, and which body members voted for it. He said this does not feel like economic development, rather economic implosion and questioned why the City continues to have agreements from this committee if members are going to waive or not defend them. Kilian said when a citizen's grass is too long they get a fine in the mail and have to pay it and can't come to the city to ask them to waive it and a PILOT is 10's of thousands more substantial than fines. Kilian requested committee members to be objective to not take irregular steps in waiving valid agreements that were consented to and Wausau should stand behind a deal and expect other parties to as well.

Atty Jacobson replied it's difficult to speculate what the city would forego because the use and improvement of the property could change with time.

Agenda Item 7 – Update on dates for April (4/6), July (7/5), and November (11/8) Economic Development Committee meetings for 2023 (Graff, Brodek)

Brodek advised the committee that the dates of three meetings were changed for 2023. April was changed to 4/6/23 due to elections, July was changed to 7/5/23 due to Independence Day and November was changed to 11/8/23 due to elections.

Agenda Item 8 – Adjournment

Henke motioned to adjourn, seconded by Kilian. **Approved Unanimously 5-0**

Meeting adjourned at 6:13 p.m.