FARGO TAX EXEMPT REVIEW COMMITTEE
Tuesday, July 24, 2018 – 1:00 p.m.
City Commission Room
AGENDA

1. **Approve Tax Exempt Review Committee meeting minutes of 6/26/2018 meeting**

    a) May 22, 2018 minutes [Page 1]

2. **PILOT Application by Enclave Development for downtown apartment**

    a) Application for New or Expanding Business Payment In Lieu of Tax (PILOT) [Page 5]

    b) Projected PILOT Payment Schedule [Page 11]

3. **Update on recommended revisions to TIF policy (Jim Gilmour)**

TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting **Tuesday, June 26, 2018**

The June meeting of the Tax Exempt Review Committee of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 1:00 p.m., Tuesday, June 26, 2018. The committee members present or absent are:
Present: Dave Piepkorn, Mayor Tim Mahoney, Bruce Grubb, Kent Costin, Jim Gilmour, Ben Hushka, Robert Wilson, Erik Johnson, Chuck Hoge, Jackie Gapp, Mark Lemer, Jim Buus
Absent: Jessica Ebeling
Others Present: Mark Vaux representing FMEDC
Commissioner Piepkorn called the meeting to order at 1:00 p.m.

A motion was made by Jum Buus, seconded by Chuck Hoge, to approve the minutes from the May meeting held on May 22, 2018. Motion carried.

Presentation by Jim Gilmour of Proposed Changes To TIF Policy

Jim Gilmour went through a summary of the proposed changes to the TIF policy. Gilmour said that policies #1 & #2 define the differences between projects where there is slum and blight and those where there is new development. He said the policy #6 change removed the cap of 50% of costs for land acquisition and policy #8 reduces TIF assistance from 15% to 10% because of the lower mill levies. Gilmour said that the financial consultant recommended, for policies #12 & #15, fees and interest rates be set by schedule. He also said the consultant suggested a lower fee than the current $5,000 be set for smaller projects. Gilmour said that policy #16 is new and requires the developer to be in good standing on taxes and code compliance. He said that policy #17 calls for the City to do a follow-up review of the financials after 3 to 5 years. Mr. Gilmour said that policy #18 allows for some assistance for new housing replacement when there is development of higher density housing where lower density existed.

Commissioner Piepkorn asked about the options and availability for public comment. Mr. Gilmour said that these changes were posted online and the next step would be to meet with the County and school districts. Mr. Gilmour stated that he would encourage interested parties to submit written public comment. He said that the evaluation criteria has been added since the last meeting. The new criteria recommendations are in the format of listed objectives and a project needing to meet a certain number to be eligible.

Kent Costin asked about policy #6 for land write-down where the 50% for total assistance was eliminated. He said that was there to limit excessive payment for developer land write-downs. Mr. Gilmour said that he has kept two important criteria to prevent paying excessive amounts for land. He said that land acquisition assistance would be no more than 150% of the Assessor's value and the other is the difference between what the developer paid for the property less the Assessor's land value (not including buildings).

Commissioner Piepkorn stated that the next important step should be to meet with the County and schools. Mayor Mahoney said that those meetings should show graphs and charts showing the impact on taxes with these incentives. Mr. Gilmour said that, for the next steps, he

will put this item on the Renaissance Zone Authority agenda, then contact the County and school districts to get on their agendas as well as solicit public comment. Mark Lemer suggested trying to have a joint meeting with the County and schools. Rob Wilson concurred that the County would favor a joint meeting.

Mark Lemer asked if there was a 15 year TIF and has whatever entities are a part of that, and there are amendments to the TIF, if the County and schools still have a say. Jim Gilmour said that state law says that when there are tax incentives under certain circumstances the County and schools must be a part of the discussion. He said that he assumes if the amendments affect the incentive, that they would also have to be included. He also said that any time amendments are made to TIF agreements, they are required to give notice to the County and affected school district.

Continued Discussion on the Review of the Apartment Incentive Policy

Jim Gilmour addressed the apartment incentive policy change recommendations. Within the downtown area, the current policy is 100% for five years and 75% for five years with no financial review. The new policy recommendation would be 100% for five years. He said it could go up to 15 years but that would require a financial "but-for" test with the amount exempt capped at a max of 90%. Gilmour said there could be language added that it could be scaled down on a graduated scale. He said that, for lower income housing, the maximum could be up to 20 years and a maximum of 100% exempt based on the financial review. Mr. Gilmour spoke about the federal Low Income Housing Tax Credit projects. He said that many of these, depending on the credits used, could probably afford no tax liability during the affordability term.

Mr. Gilmour spoke of the policy in the University Mixed Use Zone where, subject to financial review, would provide 100% exemption for five years and 50% for five years. He is not recommending a change to that policy

Public Comments Received

Larry Nygard representing Roers Development addressed the committee. Mr. Nygard said that they will likely also submit some of their comments in writing.

Mr. Nygard said that he wasn't clear about he change in the land write-down policy. He said that he wasn't clear if it refers to the aggregate or the individual properties where there is an assemblage of a number of properties. He said here may need to be some clarification on that.

Mr. Nygard addressed the 10% cap in policy #8. He said that he was wondering if the expenses addressed in policy #12 are included in the 10% cap in policy #8. Mr. Nygard stated that they have experienced some major expense for public infrastructure, like a lift station. He suggested that those things that are by request of the City should not be included in the 10% cap.

Mike Allmendinger, representing Kilbourne Group, addressed the committee.

Mike said that he echoes some of the comments that Mr. Nygard made. He said that the 150% of land policy could be looked at by seeing what land is being assessed at on surface parking lots and other land compared to what it is selling for.

Mike said that he also has a concern about the 10% of hard capital cost in policy #8. He said that rather having the hard rule of 10%, to use the "but-for" test to determine the limit.

Mike also questioned how the post-project review, according to policy #17, would be done. He said that we would like to know exactly what we would be signing up for beforehand.

Mr. Allmendinger also expressed concerns about the design standards for projects using TIF. He said that the Renaissance Zone has pretty good design requirements.

Jim Roers, representing Roers Development, addressed the committee.

Mr. Roers said that he also agrees with the comments made previously about the 10% cap. He says that he feels the "but-for" test is very thorough and effective. He said that rather than going down to 10% from 15%, you should go up to 20% giving latitude to deal with some of the extraordinary expenses. He said on the 19th Avenue project, they paid for a $350,000 lift station. Mr. Roers said that these projects pay back a big dividend to the community. He said the taxes on that project were less than $25,000 a year before he assembled them and today they are about $250,000 and that TIF will expire this year.

Mr. Roers said that another thing that should be addressed . He said that some of the projects they are doing in blighted areas include assembling some pretty rundown properties that need to be boarded up until the assemblage can be completed enough to develop. He said they would like to temporarily maintain the blighted status until they can develop the sites. Mr. Gilmour said that they can write some of that into the renewal plans.

Austin Morris, representing Enclave Development, addressed the committee.

Mr. Morris said he has concerns about the post-project financial review after year five. He said there is no criteria defined of what a fair financial return is. He suggested that if there is some sort of bracketed financial model that they could look at and be able to forecast, that would help.

Mr. Morris also expressed concern about the policy being in place for only two years. He said two years is not enough time on some projects to be able to assemble and work on them.

He also stated that, regarding affordable housing, he feels there are opportunities downtown to provide mixed affordability projects. He said that some design standards may have to be changed to be able to develop them.

Final Discussion

Jim Gilmour said that the language in policy #17 for the post project review is pretty new and vague.

Kent Costin said that we look at assumptions of certain reasonable rates. He said it would be good if we can look back and verify if the assumptions were accurate or if they have changed. He said we probably need more language in there.

Mayor Mahoney said that we need to take our time and consider what reasonable returns should be. We need to work with the developers and find out from them what their concerns are.

Mark Lemer asked about policy #16 regarding good standing. He asked if the part about no code violations is reasonable. Does that mean that they have never have had a code violation. Jim Buus suggested that it could read no current code violations. Jim Gimour said that he can look at that language. Kent Costin said that the policy should also include any open accounts with the City.

The meeting adjourned at 1:50p.m., Tuesday, June 26, 2018.

ITEM 2a.

RECEIVED

JUL 13 2018

FARGO ASSESSOR
BY EMAIL FROM
JIM GILMOUR

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator of new or expanding business Enclave Development LLC
2. Address of project 312 11th St N plus adjoining parcels owned by Enclave Companies LLC See Attachment B
   City Fargo County Cass
3. Mailing address of project operator 1 2nd St N Suite 102
   City Fargo State ND Zip 58102
4. Type of ownership of project
   - ☐ Partnership
   - ☐ Corporation
   - ☐ Subchapter S corporation
   - ☐ Cooperative
   - ☐ Individual proprietorship
   - ☒ Limited liability company
5. Federal Identification No. or Social Security No. 38-3860391
6. North Dakota Sales and Use Tax Permit No. NA
7. If a corporation, specify the state and date of incorporation
8. Name and title of individual to contact Austin J Morris
   Mailing address 1 2nd St N Suite 102
   City, State, Zip Fargo ND 58102 Phone No. 701-361-4840

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.
   - ☐ **Property Tax Exemption**
     - _____ Number of years
     - _____ Percent of exemption
   - ☒ **Payments In Lieu of Taxes**
     - 2019 Beginning year 2029 Ending year
     - _____ Amount of annual payments (attach schedule if payments will vary)
10. Which of the following would better describe the project for which this application is being made:
    - ☒ New business project
    - ☐ Expansion of a existing business project

24734
(Rev. 2/14)

Description of Project Property

11. Legal description of project real property

See Attachement B

12. Will the project property be owned or leased by the project operator? ☒ Owned ☐ Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?
☐ Yes ☐ No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? ☒ New construction ☐ Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application 09/01/2018

b. Description of project to be constructed including size, type and quality of construction
60-75 unit apartment community with enclosed, secure parking, and various amenities for future residents

c. Projected number of construction employees during the project construction 100+

14. Approximate date of commencement of this project's operations 09/01/18

15. Estimated market value of the property used for this project:

a. Land ..... $ 196,000

b. Existing buildings and structures for which an exemption is claimed ..... $ 0

c. Newly constructed buildings and structures when completed ..... $ 8,750,000

d. Total ..... $ 8,946,000

e. Machinery and equipment ..... $ 0,

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) .....

b. Eligible existing buildings and structures ..... $ 0,

c. Newly constructed buildings and structures when completed ..... $ 437,500

d. Total taxable valuation of property eligible for exemption (Add lines b and c) ..... $ 437,500

e. Enter the consolidated mill rate for the appropriate taxing district 285.49

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... $ 124,902.00

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: ☐ Ag processing ☐ Manufacturing ☐ Retailing ☐ Wholesaling ☐ Warehousing ☒ Services new housing

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

Develop and manage/lease 60-75 units of housing and amenity space on the fringe of Fargo's downtown.

19. Indicate the type of machinery and equipment that will be installed

NA

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

Year *(12 mo. periods)*	New/Expansion Project only Year 1	New/Expansion Project only Year 2	New/Expansion Project only Year 3	New/Expansion Project only Year 4	New/Expansion Project only Year 5
Annual revenue	See Attached Pro Forma				
Annual expense					
Net income					

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions		New Positions Under $13.00	New Positions $13.01-$15.00	New Positions $15.01-$20.00	New Positions $20.01-$28.00	New Positions $28.01-$35.00	New Positions Over $35.00
0				1			

Year		(Before project)	Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1)	0	1	1	1	1	1
	(2)						
Estimated payroll	(1)	0	30,000	30,000	30,000	30,000	30,000
	(2)						

(1) - full time
(2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☒ No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?

☒ Yes ☐ No

24. Has the project operator or any officers of the project received any prior property tax incentives? ☒ Yes ☐ No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary). 300 Lime at 303 11th St N, Fargo ND 58102---Multifamily housing

Business Competition

25. Is any similar business being conducted by other operators in the municipality? ☒ Yes ☐ No

If YES, give name and location of competing business or businesses

Owners, operators, managers of apartment and townhouse rentals in FM area

Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? ☐ Yes ☒ No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? ☐ Yes ☒ No

If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):

☐ To present additional facts or circumstances which were not presented at the time of the original application

☐ To request continuation of the present property tax incentives because the project has:

- ☐ moved to a new location
- ☐ had a change in project operation or additional capital investment of more than twenty percent
- ☐ had a change in project operators

☐ To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Austin J Morris, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Signature	Managing Member Title	Date

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 40-57.1-03, 40-57.1-07, and 57-01-15, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

☐ **Property Tax Exemption**

_____ Number of years

_____ Percent of exemption

☐ **Payments in lieu of taxes**

_____ Beginning year _____ Ending year

_____ Amount of annual payments (Attach schedule if payments will vary)

_____
Auditor

Application for Property Tax Incentives- Schedule B

2. Address of project:
   302 11th Street North
   306 11th Street North
   312 11th Street North
   316 11th Street North
   1109 3rd Ave. North

11. Legal Description of property
   302 11th St N- Lot 12 Block 36 Roberts 2nd Add S40' of E90' Lot 12 Block 36
   306 11th St N- Lot 11 Block 36 Roberts 2nd Add E 90' Lot 11 Blk 36 and 10'of E 90' Lot 12
   312 11th St N- Lot 10 Block 36 Roberts 2nd Add
   316 11th St N- Lot 9 Block 36 Roberts 2nd Add
   1109 3rd Ave- Lot 11 Block 36 Roberts 2nd Add W 50' lots 11 & 12 Blk 36

Enclave

Enclave	
Parcel Number	
Address	312 11 St N
Date Application Received	7/13/2018
1st Publication Date	
2nd Publication Date	
TRC Meeting Date	7/24/2018
Commission Hearing Date	
Notice Delivery To School/County	7/17/2018
School/County 30-Day Response	7/17/2018
Exemption Type	PILOT
Estimated Improvements Value	$8,750,000
Anticipated Tax Growth	0.0%
Current Mill Levy	285.49
Number of Years Granted	10
Discount Rate (for Present Value)	4.50%
Total Gross Estimated Benefit	$1,092,891
Present Value of Benefit	$878,300

	% Bd Ex	PILOT Pymt	Full Bldg Tax	Benefit	PV of Benefit	PILOT & Tax
2020	100%	$0	$124,902	$124,902	$119,500	$1,313
2021	100%	$0	$124,902	$124,902	$114,400	$1,313
2022	100%	$0	$124,902	$124,902	$109,500	$1,313
2023	100%	$0	$124,902	$124,902	$104,700	$1,313
2024	100%	$0	$124,902	$124,902	$100,200	$1,313
2025	75%	$31,225	$124,902	$93,676	$71,900	$32,539
2026	75%	$31,225	$124,902	$93,676	$68,800	$32,539
2027	75%	$31,225	$124,902	$93,676	$65,900	$32,539
2028	75%	$31,225	$124,902	$93,676	$63,000	$32,539
2029	75%	$31,225	$124,902	$93,676	$60,300	$32,539
2030	0%	$124,902	$124,902	$0	$0	$126,215
2031	0%	$124,902	$124,902	$0	$0	$126,215
2032	0%	$124,902	$124,902	$0	$0	$126,215
2033	0%	$124,902	$124,902	$0	$0	$126,215
2034	0%	$124,902	$124,902	$0	$0	$126,215
2035	0%	$124,902	$124,902	$0	$0	$126,215
2036	0%	$124,902	$124,902	$0	$0	$126,215
2037	0%	$124,902	$124,902	$0	$0	$126,215
2038	0%	$124,902	$124,902	$0	$0	$126,215
2039	0%	$124,902	$124,902	$0	$0	$126,215
TOTALS		$1,405,146	$2,498,038	$1,092,891	$878,200	$1,431,411
Annual Land Tax		$1,313	($92,000 Land Value - 15,250SF @ 6.00/SF)			

PILOT payments and projected tax if all taxing entities participate in the incentive.