TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting **Tuesday, September 27, 2016**

The Regular 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 1:30 p.m., Tuesday, September 27, 2016.

The committee members present or absent were as shown following:
Present: Dave Piepkorn, Bruce Grubb, Jim Buus, Mayor Tim Mahoney, Kent Costin, Jessica Ebeling, Jim Gilmour, Mark Lemer, Erik Johnson & Ben Hushka.
Absent: Chuck Hoge, Broc Lietz

Committee Chairman Dave Piepkorn called the meeting to order at 1:30 p.m.

Application for New/Expanding Industry Payment In Lieu Of Tax (PILOT) submitted by Dakota Specialty Milling.

Commissioner Dave Piepkorn asked Ben Hushka, City Assessor, to introduce the item. Mr. Hushka stated that this is another phase of the expansion of their food processing and warehousing operation. Hushka stated that they came before the committee previously explaining the nature of the phases of their expansion and the committee recommended approval of a PILOT for phase I which the City Commission approved in May.

Dakota Specialty Milling representatives John Schaff and Bryan Hendricks introduced themselves. Mr. Schaff explained what has happened with the expansion since they previously were before the committee. Mr. Schaff said they are here today requesting a PILOT on the 3rd phase in the expansion; the Cross Country Courier property which contains a 20,000 square foot warehouse. They will be rehabilitating the existing warehouse and constructing a 70,000 square foot facility, to begin construction early in 2017. Expected investment in this will be $4,000,000-$5,000,000.

Mr. Schaff stated they are also looking at locating a sister company, currently not in North Dakota, to this site. That would include an additional production facility at an estimated cost of $9,000,000-$10,000,000. Schaff also briefly described the remaining planned expansion phases. In total over the next 10 years, they expect to invest $77,000,000-$80,000,000 and double the employee base.

Mr. Hendricks stated that in addition to their bank, they are working with the Bank of ND and the ND Development Fund for financing. They have a commitment for funding through the ND Development Fund. The Bank of ND will take 50% of the remainder.

In response to Commissioner Piepkorn, Mr. Hushka stated that the project scored 98.5 on the evaluation point system and the project meets current policy.

Commissioner Piepkorn asked about the projected 4 new jobs to be created. Mr. Schaff stated that they feel they under-estimated that and that there could be up to three times that. Mayor Mahoney said that estimate should be revised before this goes to the City Commission.

Mayor Mahoney moved to approve the application for a PILOT for the Dakota Specialty Milling project based on 10 years at 100% as submitted.

Second by Jim Buus. All present voted aye and the motion was declared carried.

Application for New/Expanding Industry Payment In Lieu Of Tax (PILOT) submitted by Roosevelt Village Apartments.

Commissioner Dave Piepkorn asked Ben Hushka, City Assessor, to introduce the item. Mr. Hushka stated that this is a senior low income housing project that has a pending application with ND Housing Finance Agency for financing under the Federal Low Income Housing Tax Credit (LIHTC) program. Hushka said this project is different than the recent low income housing project before the committee by Beyond Shelter. This project does not have a non-profit interest as a partner in the project. The long standing PILOT incentive policy for LIHTC projects with for-profit entities is to arrive at the payment schedule by determining a value for the project based on 5.5 times the initial year gross income. The recommended payment is determined by applying the current tax rate to that value and subtracting the projected land tax. Hushka said that this ultimately results in taxing the project at a value based on their actual restricted rents under the LIHTC program. The result in this case is for the project to be taxed the initial year on a value of $1,600,000. The applicant projects the total project value to be about $3,500,000 based on comparable market rent projects. The payment increases 2% annually throughout the term of the PILOT.

Commissioner Piepkorn asked what percent of the units in this project will be low income. Hushka introduced Ben Ide, representing the applicant, who attended the meeting by conference call. Mr. Ide said that 100% of the units will be devoted to low income tenants.

Mr. Ide stated that their company owns about 800 units over four states, most of which are low income units. This is their first project in Fargo.

Commissioner Piepkorn said that this is a good thing that we have an outside firm creating low income housing in Fargo which is something we really need. Mayor Mahoney stated that the Commission has favored low income housing and this project is for over-55 age which is another local need.

Kent Costin asked what local research and market analysis they did to choose Fargo. Mr. Ide stated that he has worked with a local broker to choose a site. He said they have predominantly focused on the western part of the state because that has been where the State has directed most of the incentive funds. With the downturn in the oil industry, the State is spreading the incentive funds across the state and that is what brought them to Fargo. He also stated that they did a market study in Fargo and of about 400 senior low income housing units, not one was vacant. The research indicated that, today in Fargo, there is a need for 1,800 more senior housing units and that need will grow over time.

Mayor Mahoney moved to approve the application for a 15-year PILOT for the Roosevelt Village Apartment project based on the submitted PILOT payment schedule.

Second by Jessica Ebeling. All present voted aye and the motion was declared carried.

Discussion of Revision of the Tax Exempt Review Economic Incentive Policy and Guidelines

Commission Piepkorn gave a brief overview of how we have come to where we are with the draft policy at this point and that we have had input from Commissioners Grindberg, Gehrig, and Strand

Commissioner Piepkorn suggested we start at the beginning and work through the recommended changes. He said that, starting with page 1, Commissioner Grindberg recommends changing the title and asked Mr. Hushka for reasoning on how we came to the recommended change. Hushka stated that the review committee felt that since the Tax Exempt Review Committee does not deal with all City economic development incentives, this document should be represented as policy and guidelines for only the few that the committee does review.

Commissioner Grindberg addressed the committee. He began by speaking of his perspective based on his history with the State Legislature, Economic Development Corporation, and NDSU Research Park. Commissioner Grindberg stated that many of the current incentive tools were put into place by the legislature to give local communities opportunities to grow their economy.

He stated that the City should look at three main reasons why these were put into place. He said, first, they were focused on primary sector businesses. Next is the Renaissance Zone to assist in revitalizing downtown and the City of Fargo has been second to none with this program. Third is the expansion and renovation of downtown and revitalizing deteriorating properties using TIF and PILOT programs. He stressed the importance of sound policies and his ideas on that are based on those three areas. Grindberg said that policy should include approval of projects like the $100,000,000 projects similar to Block 9, which you don't get very often. Commissioner Grindberg said he proposed some tweaks to the policy to achieve those goals for sound policy.

Grindberg said one suggestion is to not consider incentives to businesses moving from another city in North Dakota outside of Cass County. Commissioner Piepkorn said he totally disagrees. He said we are in competition everyday with West Fargo and Moorhead. And, if a business in a smaller city in the state wants to move to a larger one, we want them to move to Fargo. Mayor Mahoney brought up the example of Bobcat when they wanted to move to a larger city. He said they could go to Bismarck, Fargo, or anywhere. They went to West Fargo. Mahoney asked Commissioner Grindberg if his proposed policy would prevent offering an incentive in a case like that. Grindberg said that if their desire was to move to Cass County, that we would be competing with West Fargo so, that would be ok. Jim Buus said that in his business, he often deals with companies in the state with a desire to move to Fargo. He said that sometimes companies are expanding and not just moving. Buus stated that we probably need to drill down on the language a little bit. Mr. Buus said that if a Minot company expressed a desire to move to Fargo and bring 250 jobs, he would vote for it. He said he would respectfully disagree with the language and maybe that it could be tweaked. Mayor Mahoney said that we are the largest city in the state and part of the legislative intent was also that companies don't move out of the state. Mahoney also said that we don't have tools that other cities have like giving free land. He also stated that Fargo has other things to offer that other communities in the state don't like transportation, communications, labor force, and others. Commissioner Grindberg agreed that some language changes could be looked at including the fact the some of the vetting process in these cases should be done by the EDC, working with the other cities in the state, because this is an economic development issue.

The next change Commissioner Grindberg presented focused on the requirement of primary sector designation from the Department of Commerce and that exemptions must be

fully vetted beforehand rather than after the fact. Mayor Mahoney asked if that wasn't already the policy. In response, Jim Buus said that it is but some have been granted that deviated from that policy.

Needing to excuse himself early from the meeting, Jim Buus addressed the committee on Commissioner Grindberg's suggestion to strike some of the committee's recommendations to expand incentives in the downtown area. Mr. Buus understands Mr. Grindberg's concerns, in fact, he also had concerns when some of these started coming to the table. Buus did acknowledge that Commissioner Grindberg does have language in his proposed changes for significant development in the downtown. Mr. Buus said that we need to be clear about the wording of the language in the policy because, if we strike the downtown wording, even though it says we incent significant development, elsewhere in the policy we exclude non-primary sector projects. He said that if another project like Block 9 comes in with a significant development that includes retail, we would have to say it's not primary sector. Commissioner Grindberg said that if you provide incentives for restaurants and lodging, they are not primary sector, it creates an unfair advantage to competitors and it is fundamentally not fair. He said that what his policy says is that a developer coming in with a significant, high cost development due in part to high costs in downtown, and gets a PILOT on top of the Renaissance Zone exemption, who leases to a restaurant, they get it as a pass-through to the tenant. We are not saying that the restaurant can apply and get the incentive; they get it as a tenant of that new development. He said he is ok with that. He stated that if the retailer saves on the lease rate because of that, it is a contract between the retail establishment and the owner and not the City by policy.

Commissioner Grindberg said he is putting out the last of his recommendations for discussion and he could go either way on it. That is, the recommendation to change the PILOT schedule for significant downtown development to be based on 90% exempt equivalent at the start rather than 100% in order to keep something on the tax rolls. Ben Hushka stated that the committee has done that in the past for expansions. The incentives granted have been on the incremental difference between the value pre-expansion and the value post-expansion. Hushka also stated that when an expansion included a move to a new location, the amount was granted on the difference in valuation of the two locations.

<u>SUMMARY OF COMMISSIONER GRINDBERG'S POINTS</u>

- Change the document title back to City of Fargo Economic Development Policy
- Incentives should focus on three specific areas:
    - Primary sector
    - Renaissance Zone
    - Expansion/renovation downtown with TIF & PILOT programs
- Importance of sound policy
- Not allow consideration of incentives for companies moving from other ND cities outside of Cass County
- Projects must receive primary sector designation from Dept. of Commerce prior to consideration
- Strike targeted "downtown" language from policy

- Change PILOT schedule to 90% exemption equivalent initially from 100% for substantial development downtown to preserve taxes currently being paid

In response to a question from Commissioner Grindberg, Commissioner Piepkorn stated that we will not address the Residential New Construction Exemption and the Home Builders Association today. He said we will schedule a meeting just for that.

Commissioner Tony Gehrig addressed the committee. Mr. Gehrig asked if the current document addresses penalties for projects not meeting the stated job creation goals. Mayor Mahoney stated that the issue of how many jobs that are added for a project when the applications are considered and ongoing afterward is something that should be looked at. In answer to Commissioner Gehrig's question, Mr. Hushka stated that the policy draft states that projects will be subject to periodic audits of employee counts with provisions for subsequent revisions to the incentive terms. Mark Lemer said that, in the past, staff and the committee did do annual reviews and analysis of job creation. He said if that is incorporated in the policy, there needs to be some flexibility. Mr. Lemer referred to the case of Global Electric Motor Cars that went through a downturn in their business and was losing employees at a time when we were doing annual review and analysis. He said, in a case like that, do you want to remove the incentive at a time when they are already struggling?

Commissioner Piepkorn said that one of Mr. Gehrig's points in what he submitted was separating out the downtown and that maybe the committee should rethink that and address it as an existing part of town. Commissioner Gehrig agreed that incentives for in-fill where there is existing infrastructure would make good sense.

Commissioner Gehrig asked if there is anything that could be put in regarding the "but-for" question of whether the project would still happen without the incentive. Commissioner Piepkorn said that was discussed. Jessica Ebeling asked who would be targeted to qualify the "but-for" test. Commissioner Gehrig said that anyone along the process could ask the question, be it this committee or the City Commission. Mr. Gehrig said that ultimately he would like to see this committee review the incentive applications from a technical policy standpoint and forward to the City Commission without a pass/fail recommendation. Jim Gilmour and Kent Costin stated that there is a financial "but-for" test that is done for TIF and some other incentives.

Commissioner Gehrig asked about previous language being stricken that was in the document regarding TIF. Mr. Hushka said the TIF was removed from this document because the Tax Exempt Review Committee does not review TIF. That is another committee. Jim Gilmour said that there is a separate policy for TIF.

Commissioner Gehrig said that we are providing incentives to target in-fill and detract from greenfield expansion but, are still giving new home exemptions. He stated that if we are subsidizing everything, are we incentivizing anything? He said that adds to the taxes of everyone else. He believes that there needs to be some sunset for the new home exemption. Mr. Hushka stated that he is preparing a summary of the new home exemption, back to its beginning and will distribute that when finished. He stated that in the past, the City Commission would sunset the exemption and revisit it from time to time.

<u>SUMMARY OF COMMISSIONER GEHRIG'S POINTS</u>

- Penalty for projects not meeting stated job creation goals

- Targeting downtown incentives versus in-fill and greenfield development incentives
- Having a “but-for” test of whether the incentive is needed for specific projects
- Having a sunset for the New Residence Exemption

Commissioner John Strand addressed the committee. Commissioner Strand complimented the committee on their work on reviewing and updating the policy.

Commissioner Strand referred to the previous discussion regarding the policy targeting downtown projects. He stated that with Commissioner Grindberg’s proposed revision, he could have voted for the Block 9 project. He said that, part of that issue, is in defining what is considered “significant” for a development downtown. He suggested that may need to be better defined.

Commissioner Strand stated that he also believes there needs to be an affordability component to the incentives for downtown housing. He said if PILOT is going to be used for apartments, since there is no primary sector component, there should be an affordability one. Referring to the current suggested revision for “small living units” in downtown apartment projects, Commissioner Strand said that doesn’t assure they will be affordable.

Commissioner Piepkorn commented on Commissioner Strand’s comments at the previous meeting regarding his suggestions on increasing the wage requirement for job creation. Piepkorn said that the committee did adopt Mr. Strand’s suggestions in the point evaluation system.

<u>SUMMARY OF COMMISSIONER STRAND’S POINTS</u>

- Increase wage scale table for job creation
- More defined criteria for significant downtown projects
- Requiring an affordability criteria component for downtown apartments

Commissioner Piepkorn said that we will review what was discussed today, meet with the FM Home Builders Association and FM Realtors Association on the New residence Exemption, and discuss the results at the next regularly scheduled Tax Exempt Review Committee meeting.

The meeting adjourned at 2:37 p.m., Tuesday, September 27, 2016.