TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting **Tuesday, March 27, 2018**

The March 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, March 27, 2018.

The committee members present or absent are:
Present: Dave Piepkorn, Mayor Tim Mahoney, Bruce Grubb, Chuck Hoge, Jim Buus, Jessica Ebeling, Kent Costin, Jim Gilmour, Ben Hushka, Erik Johnson, Robert Wilson, Mark Vaux
Absent: Mark Lemer, Jackie Gapp
Others Present: Chad Peterson representing Cass County Commission

Commissioner Piepkorn called the meeting to order at 1:00 p.m.

A motion was made by Bruce Grubb, seconded by Jim Buus, to approve the minutes from the February meeting held on February 27, 2018. Motion carried.

Conference Call with PFM on Due Diligence Financial Analysis For Large Project Incentives

Kent Costin introduced Matt Schnakenberg and Charles Upcraft from PFM who joined the meeting by conference call. Mr. Costin referred to two reports included in the agenda packet for previous projects that were analyzed by PFM. They are the Union Storage and Woodrow Wilson projects.

Matt Schnakenberg introduced himself. He has been with PFM since 2005. Matt said that they do a lot of economic development and TIF work across the country. Mr. Schnakenberg outlined their process. He said they receive and read through the proposal and then contact the developer to ask questions about their assumptions and expectations for financing terms and returns. Matt said he then develops his own cash flow model using the developers assumptions as well as some of his own if he feels there are market assumptions that are more appropriate. He said he does comparisons with and without assistance. Matt said the two major things he looks at are debt service coverage and internal rate of return. Typically , he looks out 10-15 years. Mr. Schnakenberg said they also look at rents, expenses, vacancy, financing, etc. for the local market area under analysis. He will run a sensitivity analyses. He said they look at a 10%-15% return being appropriate with assistance. Matt said that they also look at how much costs would have to be reduced or how much higher rents would have to be to get that rate of return. They also look at a combination of reduced costs and higher rents to reach the expected IRR. He said at the end they give a summary conclusion of whether the project could happen, but-for the incentive.

In answer to a question from Kent Costin, Matt said that when they analyze the market conditions, they look at the Fargo market for Fargo projects.

Commissioner Piepkorn asked how they evaluate whether the developer is paying an appropriate amount to acquire the property. Jim Gilmour stated that one of the policies (to receive the incentive for the land write-down portion) is that they not allow the developer more than 150% of the assessment value.

Kent Costin stated that if the Commission desires to incorporate low income housing in the target for incentives, that will drive the amount of the incentive requests up because they will be below market rents.

Jessica Ebeling asked Mr. Schnakenberg if there is anything we can do different in the process that he has seen others across the country do that we could take advantage of. Matt responded that some have done a “look- back” test. He said that a few years down the road, you can look at how they are actually performing as opposed to the projections up front in the proforma. He stated that you can analyze the performance and returns to evaluate if the incentive is still necessary. Mr. Hushka asked if any he has seen that have done the “look-back” test, have done a claw back of the incentive. Matt stated that he has not seen a claw back because every one they looked at still needed then incentive. Mr. Costin said that if we were to have the “look-back” on projects there would be additional costs. He said that the average “but-for” analysis runs between $2,000-$3,000. He said that we do have an application fee of $5,000. He said there are times where they ask the developer for additional data that requires another run at the analysis. Mr. Costin said that, with the “look-back” analysis, you are looking at more of an auditing function than a proforma review. So, he anticipates the cost could be higher.

Presentation by Jim Gilmour of Proposed Changes To TIF Policy

Jim Gilmour distributed copies of the current Tax Increment Financing (TIF) policy and a draft policy with suggested changes. Mr. Gilmour stated that many of the changes in the draft were at the suggestion of PFM.

Mr. Gilmour stated that he clarified, in Policies #1 & #2 the definitions of what is blighted and what is underdeveloped.

Bruce Grubb asked how, driving around town, does one know if a property is blighted. Mr. Gilmour said that state law has a very broad definition.

Kent Costin asked about the TIF exemption referred to in Policy #3. Mr. Gilmour & Mr. Hushka explained that is an exemption, similar to a PILOT, where the developer is reimbursed for the eligible TIF costs through lower taxes afforded by the exemption.

Commissioner Piepkorn stated that we should review these policy changes today and bring it back at a future meeting to act on and then forward to the City Commission. Mr. Gilmour said that he still needs to finish the evaluation portion and will have that for the next meeting.

Mr. Gilmour stated that Policy #3 defines that 15 years is the maximum term of the TIF note, however, Policy #4 allows extension to up to 25 years if the project is used by the City for infrastructure, public parking, or community development.

Mr. Gilmour said that there were minor edits to Policy #5 dealing with relocation. Policy #6 had a requirement that land acquisition can’t be more than 50%. He said that he took that out because, if it meets the “but-for” test, that shouldn’t be an issue.

Mr. Gilmour said that the change to Policy #8 reduces the maximum amount of TIF assistance from 15% to 10%. He stated Policy #9 more addresses the private/public partnerships and there were minor edits to Policies #10 & #11.

Mr. Gilmour said that in policies #12 & #13, PFM recommended setting the application fees by schedule based on the size of the project and not really needing to have the application form in the policy documents. Policy #14 had minor edits and Policy #15 sets the interest rates by schedule.

Gilmour said that Policy #16 is new and requires the developer to be in good standing, meaning current on taxes and utility fees and having no history of code violations. Jim Buus suggested that the entity should also be in good standing with the Secretary of State.

Mr. Gilmour stated that Kent Costin had a suggestion to have a look-back after so many years in the policy. Mr. Costin said that we should also require cooperation by the developer in the look-back audits or, without cooperation, there should be consequences.

Mr. Gilmour outlined how the application and review process would work. He said the steps would be:

1. Submittal of application request by letter
2. City Commission would direct staff to proceed with development plan, etc.
3. Application would be submitted with appropriate fees and financial review would be done
4. Finance Department & Finance Committee review financial review and recommend a specific level of assistance
5. Review by the Tax Exempt Review Committee (coordinate with Renaissance Zone Authority if also a Renaissance Zone exemption is included)

County Commissioner and Renaissance Zone Authority member Chad Peterson said that he would prefer a joint meeting with the Tax Exempt Review and Renaissance Zone Authority.

Mr. Gilmour gave the basic process for when the City initiates a project, like parking ramps or along the riverfront. The Roberts Commons parking ramp would be an example. Those would be initiated by a City Commissioner, Planning Commission, City Administrator, or Planning Department. That process would include:

1. City staff would prepare the plan
2. Public notifications would go out
3. Public hearings held
4. City approval

Mr. Gilmour said the remaining thing he has left to work on is the evaluation criteria. He said that he sees it as being in three different categories; housing, industrial/commercial, and downtown mixed use. He feels that rather than using a point system, there should be a system where they would need to meet a certain number of stated goals.

Kent Costin said that they did reach out to several national firms for a review of our policies for input.

Continued Discussion on the Review of the Apartment Incentive Policy

As far as apartment incentive policies, Mr. Gilmour said that he has had some thoughts on this. He said that right now there are two basic policies for apartments; low income housing and downtown.

Some possible changes Mr. Gilmour thought we could consider is to go to a standard of 5 years for downtown projects, rather than 10 years. He said if some were willing to go through the financial “but-for” review, we could go beyond the five years to up to 15 years. Depending on the review, some might need more years than others so they could be on a case by case basis depending on need determined by the financial review.

Regarding the low income projects, there are the 4% and 9% low income housing credits. We have seen some of the 9% credit projects but, no one seems to do the 4% because it is hard to make the project feasible. He said developer asked if the City would consider freezing the taxes for 15 years so they can get the 4% credits to make the project potentially feasible. Mr. Gilmour said that he thought that is something we could discuss. Mr. Gilmour said that he will prepare something for the next meeting.

Commissioner Piepkorn said that we need to consider something to get these low income projects developed. He said that we can continue that discussion at the next meeting.

The meeting adjourned at 1:40p.m., Tuesday, March 27, 2018.