

CITY OF EXCELSIOR
Hennepin County, Minnesota

MINUTES

City Council Work Session

Monday, October 15, 2012

1. Call to Order/Roll Call

Mayor Ruehl called the meeting to order at 6:06 p.m.

Councilmembers present: Caron, Fulkerson, Miller (arrived at 6:10 p.m.),
and Mayor Ruehl

Councilmembers absent: Olson

Also Present: City Attorney Staunton, Finance Officer
Tumberg, and City Clerk Johnson

2. Agenda Approval

Fulkerson moved, Caron seconded, to approve the agenda as presented.
Motion carried 3/0.

3. Randall Pool and Spa Lease Agreement

Staunton said that the lease with Randall Pool and Spa is set to expire on November 14, 2012. Staff would recommend that the Council renew the lease agreement with Randall Pool and Spa since they have been an excellent tenant. Staff proposed to Mr. Randall that the lease agreement verbiage mostly remain the same with the exception of the rent, that the tenant be responsible for all of the property taxes attributable to the leased premises, and no increase in the rent the first year, 3% the second year, and 4% the third year.

Mr. Randall is agreeable to the terms proposed by staff with the exception of the language under 'termination right'. He would like to see the language under 'termination right' be modified to take into account the seasonal nature of his business. Under the current agreement, the lease may be terminated by either party on 60 days written notice which could be detrimental to Mr. Randall's business if the City exercises this right during the pool and spa season. The modified lease agreement proposes that the lease may be terminated by either party on 6 months written notice. Additionally, if the termination date falls between April 1 and September 30, Mr. Randall would have the ability to terminate the lease with 60 days written notice. This clause was added to give Mr. Randall the ability to move out of the building quickly if he needed to.

The Council had no issues with the proposed agreement. The Council was impressed with the job the City Manager did in negotiating the terms for the lease agreement.

4. Lodging Tax

Tumberg said that one revenue source the City has not yet explored in depth is a lodging tax. With the existing bed and breakfast and the potential of a hotel locating in Excelsior, a lodging tax could help offset some of the City's expenses related to tourism.

To implement the tax, the City would need to adopt an ordinance creating the tax (up to 3%) and the tax is created. The only stipulation of the tax is that 95% of the gross proceeds must be used to 'fund a local convention or tourism bureau for the purpose of marketing and promoting the city or town as a tourist or convention center.' If the City created a lodging tax, 95% of the gross proceeds could be remitted to the South Lake-Excelsior Chamber of Commerce and/or Excelsior Downtown Business Group (EDBG) with the money being earmarked to downtown beautification. The City then has the ability to use the remaining 5% of the gross proceeds from the lodging tax at its discretion.

If the Council is interested in creating a local lodging tax, staff will draft an ordinance for the Council to consider at a future City Council meeting.

Fulkerson said if the City establishes a lodging tax, could the City quit giving funds to the Chamber and/or EDBG for the things like the fireworks and holiday lighting and decorating.

Mayor Ruehl said if the hotel realizes 60% occupancy with a room rental of around \$120 per night, a 3% lodging tax would generate about \$45,000 per year. Is it possible to use those funds for other items besides beautification?

Caron said money could be earmarked for salaries to hire someone to run events, etc. Maybe some money could also be earmarked for widening the sidewalks.

Miller said it might also be possible to invest some of the money and have a continual funding mechanism.

Mayor Ruehl said he thinks it might be presumptuous or premature to look at a lodging tax until there is a hotel project. If the hotel gets approved then that would be the time to look at a lodging tax.

Caron said she agrees with the Mayor; the City shouldn't draft an ordinance or work on this until there is a decision on the hotel project.

The Council agreed that it wanted to wait to consider a lodging tax until a decision is made on the hotel.

5. Tax Increment Financing

Tumberg reported that at the August 6 City Council Work Session the Council discussed possible uses for Tax Increment Financing (TIF) in conjunction with the hotel for public improvements.

5. Tax Increment Financing – (Continued)

Tumberg said that the Council directed staff to meet with the City's financial consultant to get more information regarding the use of TIF and to identify any risk associated with utilizing TIF. Staff met with Doug Green and Mikaela Huot from Springsted on August 22nd to discuss these items.

Tumberg said that the Council adopted a resolution to preserve a three-year timeline in which the City could elect to establish a TIF district. If the City wishes to utilize TIF for the hotel property, the City must establish the district before any permits are issued and prior to April 19, 2013 deadline.

There are three basic financing techniques used to finance improvements within TIF districts, they are: the issuance of bonds, interfund loans, and pay-as-you-go. If the City issued bonds to pay the upfront costs, it could use the tax increment to pay back the bonds. This financing method has the most risk for the City and taxpayers. If the project does not produce enough tax increment to pay back the bonds the City would have to levy for the funds to make those payments.

The City can also advance money from other funds within the City and use the tax increment to pay back the funds. This financing method also has risk to the City because if there isn't enough tax increment received to pay back the loan, the fund may not get paid back.

The City's current TIF policy only allows for pay-as-you-go financing. With pay-as-you-go financing, the developer pays for the improvements and is reimbursed with tax increment as it becomes available. This financing method provides the least amount of risk to the City and places the risk on the developer if sufficient tax increment is not generated.

The City is prohibited from using tax increment for park and common area improvements, but there are ways of structuring the district and the developer's agreement in a way that helps fund these items. Using TIF in this manner would require the developer to partner with the City. Developer incentives for participating in TIF could include such things as deferral of sewer and water availability charges.

If the Council wishes to move forward with exploring TIF there are a number of steps that would need to be completed by the April 19, 2013 deadline. At this time, staff is looking for direction from the Council on whether or not to continue exploring the use of TIF.

Mayor Ruehl said that if the property owner is required to disclose a lot of personal and financial information and is not benefiting from the TIF, there is a good chance that the property owner will not want to partner with the City. Based on this, there are some key questions that will need to be answered before moving forward.

5. Tax Increment Financing – (Continued)

Tumberg said that the only way the City would have risk is if the developer goes bankrupt and does not finish the improvements. Mayor Ruehl said he would like to know if this has ever happened to any other city before.

Miller said that the City has a Master Park Plan and if there is a way to structure the TIF so it will work on improvements for The Commons or Port that would be fantastic. Mayor Ruehl said he agrees that this would be a good way to get money to make some improvements. Before moving forward though, he would want staff to look at every negative, expose any risks, and provide an explanation on what can be done to negate the risk.

Miller said if there is only a risk that the construction would not be completed, the risk is minimal. If the City can swing the TIF, he thinks the City should utilize TIF.

Fulkerson said it kind of makes sense, but she's not familiar enough with TIF to know if she would agree to use it.

Mayor Ruehl said that staff needs to have a discussion with the property owner to see if they are interested.

Staunton said that the "but for" test would need to be satisfied, so he doesn't see where the developer can say they don't need TIF and satisfy this test. At Concept approval, there was discussion on completing the connection between the Port and the downtown. The project would need to be fashioned appropriately.

Caron said that the Council made it clear when the City amended the PUD ordinance that it was granting a large exception. Miller said the Council also mentioned some of the improvements.

Caron said she would only be supportive of a pay-as-you-go arrangement. Based on the reactions during the course of the meetings, she senses there would be a strong negative from the property owner.

The Council directed staff to find out the precise disclosure requirements imposed on the developer based on the State Statutes and the City's TIF policy if the City pursues TIF, identify the list of improvements that might be imposed as a condition of approval, and then meet with the developer to get a sense of how much of the improvements they would be willing to fund and whether they want TIF to be part of the financing.

6. Other

None

7. Adjournment

Fulkerson moved, Caron seconded, to adjourn at 6:57 p.m. Motion carried 4/0.

Respectfully submitted,

Cheri Johnson
City Clerk