

**MINNETONKA ECONOMIC DEVELOPMENT AUTHORITY  
MEETING MINUTES**

**September 29, 2008  
5:15 p.m.**

**Mezzanine Conference Room  
Minnetonka City Hall, Upper Level**

**1. CALL TO ORDER**

EDA President Peter St. Peter called the meeting to order at 5:16 p.m.

**2. ROLL CALL**

EDA commissioners present: Peter St. Peter, Dan Duffy, Ellen Weishar Cousins, Bill Yaeger, Brad Wiersum

EDA commissioners absent: Bunny Robinson, Tony Wagner

Staff Present: Julie Wischnack, Stephanie Scott-Sims, Merrill King

Others Present: Bob Ellingson, James Hiller, Tom Wartman, Steve Bubul, Mark Ruff, Dale Riley, Anne Malm Hossfeld, Grace Sheely, Laurie Blake

**BUSINESS ITEMS**

**3. ISSUANCE OF NOTES FOR GLENHAVEN TIF DISTRICT**

Wischnack presented the item stating that in 2006, the city of Minnetonka entered into a redevelopment agreement with Glen Lake Redevelopment, LLC, and that agreement was subsequently amended in 2007. The development agreement provided for the issuance of TIF notes, and the developer has now requested that such notes be issued. The TIF notes will be paid as determined by the repayment schedule and will be used by the developer to secure private financing to reimburse expenses already incurred for the project.

There are several agreements pertaining to the Glen Lake redevelopment project and requirements for each component:

*Contract for Private Redevelopment (Dated May 15, 2007)*

Phase I (Site B)—The Exchange

To begin 120 days after land assembly if condemnation is required, or June 30, 2007 (whichever is later) and completed within 18 months.

- Building permit issued May 18, 2007.
- Construction to be completed by November 18, 2008.
  - Construction completed May 2008.

#### Phase II (Site C)—Kinsel Point

To begin 120 days after land assembly if condemnation is required, or December 31, 2007 (whichever is later) and completed within 18 months.

- No permit has been issued.
- If begin December 31, 2007, then must be complete by June 30, 2009.
- City Council granted an extension on December 17, 2007 that the site plan is approved until December 31, 2008.

#### Phase III (Site A)

To begin 120 days after land assembly if condemnation of leasehold interests is required or not later than one year after completion of Phase II (whichever is later). To be completed within 18 months if there is one building or 24 months if there are two buildings. Demolition is to be completed prior to December 31, 2008. If minimum improvements are not scheduled to begin within 60 days after demolition, then interim landscaping must be completed by December 31, 2008.

- No permit has been issued.
- Demolition must be completed by December 31, 2008.
  - Demolition was completed by June 30, 2008.
  - Interim landscaping must be completed by December 31, 2008.
- If the redeveloper does not begin the minimum improvements on Phase III by December 31, 2008 the city has the option to purchase the property. If the city decides to purchase the property its option expires on December 31, 2011.

#### *Gold Nugget (Agreement signed May 15, 2007)*

This agreement was put into place when the Gold Nugget restaurant was planned to be located north of the grocery store. Per the agreement, construction is to be completed 180 days after demolition deadline. On April 7, 2008, the city council approved a new plan in which the Dragon Jade will be located north of the grocery store, and the Gold Nugget will be located in the one remaining commercial tenant space at The Exchange.

- Parking approvals were granted, but no permits have been issued to finish the Gold Nugget's tenant space at The Exchange.
- Construction work is nearing completion for the Dragon Jade.

The existing redevelopment agreement sets forth the city's security in the event of a default by the developer. The two remaining initial items involve opening the Gold Nugget and landscaping the demolition site north of the grocery store. Both of these items are required to be completed prior to the end of the year. The developer has requested that he not be required to install the landscaping north of the grocery store because he anticipates development on the site in the near future. Staff is willing to accept a temporary installation for erosion control if the longer-term landscaping is installed no later than June 30, 2009 if no development proceeds.

Because of this request and because the developer is requesting that the TIF note be issued prior to completion of these two items, staff believes it advisable to execute a side agreement. The side agreement would incorporate the landscaping compromise and require additional security prior to issuance of the note. This supplemental agreement, which would be in addition to the various requirements of the existing redevelopment agreement, would allow the city to assess an additional penalty if the Gold Nugget restaurant is not open and the two-phase landscaping on the Phase III site is not completed by December 31, 2008 and June 30, 2009. The penalty would be a reduction in the allowed developer's profit of approximately \$1500 per day. Staff believes this additional performance surety will provide timely completion of the restaurant and landscaping.

Wischnack stated that the interim landscaping on Site A would be installed if the proposed St. Therese project is to go forward. The landscaping would not be permanent due to this pending project on the site. All changes would require renegotiation of the contract.

Wischnack reiterated that the city is not issuing revenue bonds for the project. The developer is pursuing private financing secured by the tax increment note. In addition, the city negotiated a penalty of \$1,500/day from the developer's profit if the contract obligations are not met.

Duffy asked what would happen if Phase II does not happen for some time and Phase III starts. Ruff stated that it depends on how quickly St. Therese comes to the table regarding the financing and when we have to come back. Ruff stated that they have not reached preliminary projections on how much St. Therese would generate.

Wiersum asked for clarification on the note, including what is the risk and whether the banks would give a loan to the developer if the TIF note has no liquidity. Wiersum questioned whether this is a good time to vote on this due to the state of the market. Bubul stated that the TIF note looks like a bond with P&I but it is still a pay as you go note with increment from Phases I and II. The developer is taking the note to use as collateral for financing – whether the bank funds him is between him and the bank. Ruff stated that

they have seen the letter of commitment from the bank and that whether the bank goes forward based on current events is something he is not sure of.

Wiersum asked whether the taxes are billed or are the taxes paid. Bubul stated that the taxes are paid.

Yaeger asked for explanation on what would cause a penalty to be incurred and what is the timing on that. Wischnack stated that a penalty would be incurred under 3 conditions: (1) if the Gold Nugget does not open by December 30, 2008, (2) if the interim landscaping is not installed by June 30, 2009 and, (3) if the temporary landscaping is not installed by December 31, 2008. A failure to meet the Gold Nugget conditions can result in a default. The penalty would be no higher than \$1,500 per day.

Wiersum asked what the interim landscaping would look like. Wischnack stated that there are a lot of things going on and some issues are being addressed now and that the guidelines for the interim landscaping are spelled out in a letter addressed to the developer on September 26, 2008 which includes a resolution to various issues.

Wartman stated that a contractor that won the bid needed a staging area. St. Peter stated that they may want to put up a temporary fence. Wischnack stated that Aaron Schwartz is taking care of all of that.

Wiersum asked for an update on the status of the Gold Nugget since we are coming up on the deadline and no work has been done. Wartman stated that they are working on the design and will be presenting plans to the city next week. Wiersum asked whether Axels is still a partner. Wartman replied no. Wartman stated he has been talking to multiple people to make sure what is done is best for the area. St. Peter expressed concern about adopting an agreement when penalty fees may begin right away because the developer has a lot of things to do within a 90-day period.

Yaeger asked what would happen if the Gold Nugget opens then closes. Weishar Cousins stated that she did not want to adopt the agreement and set the developer up to fail. Bubul stated that there is a built in default provision with a 30-day curing period.

Wiersum stated that he wants to see this happen and would like to see a 30-day grace period, however, he knows that the city is not in the position to negotiate that. Instead, the city could just modify the existing agreement to get this project done and be successful.

Wartman stated that he intends to bring the plans to the city next week and will be applying for a liquor license.

Duffy moved, Yaeger seconded a motion to approve the TIF based on staff recommendations. All voted yes. Motion passed.

#### **4. OTHER BUSINESS**

Wischnack noted that the City-Wide Open House will be Tuesday, October 7 from 5-8 p.m. and that the next regular EDA meeting will be on Tuesday, October 14, 2008. Discussion occurred about changing the date of the next regular meeting in October.

#### **5. ADJOURN**

Weirsum moved, Duffy seconded a motion to adjourn the meeting. All voted yes. Motion passed. The meeting adjourned at 5:54 p.m.