



**CITY OF DERBY
MEETING OF THE PLANNING COMMISSION
REGULAR MEETING
June 2, 2016
6:30 P.M.**

1. CALL MEETING TO ORDER

2. ROLL CALL

Commissioners Present

Mitch Adams
Pat Baer
Larry Gould
Paula Langworthy
Dennis Poteete
Gary Renberger
Jessica Rhein
Edward Sheldon
Mark Tillison

3. CONSIDERATION OF MINUTES

3.A. Regular meeting minutes of May 5, 2016

Recommend a Motion to:

- Approve the regular meeting minutes of May 5, 2016, as presented.

Moved by Pat Baer, seconded by Edward Sheldon to approve the regular meeting minutes of May 5, 2016, as presented.

Vote: 8 - 0

Other: Paula Langworthy (ABSTAIN)
Van Willis (ABSENT)

4. PUBLIC FORUM

5. NEW BUSINESS

5.A. Review STAR Bond Project Plan for Consistency with City's Comprehensive Plan

General Location:

- West and south sides of the intersection of Patriot Ave. and Rock Rd.

Background Information:

- Sales Tax Revenue (STAR) Bonds allow Kansas municipalities to issue bonds to finance development of major commercial, entertainment and tourism areas and use the state sales tax revenue generated by the businesses in the development to pay off the bonds.
- The process by which a municipality establishes and implements STAR Bond financing must follow procedures and guidelines set forth in state law. Both the City Council and the Secretary of the Kansas Department of Commerce must approve the project.
- In September 2015, the City Council initiated the process by establishing the Derby STAR Bond Project District. The district includes approximately 233 acres of land generally located on the west and south sides of the intersection of Patriot Ave. and Rock Rd.
- The developer (Derby Destination Developers, LLC) has created the required STAR Bond Project Plan for the STAR Bond District (Project Plan attached).
- Pursuant to state law, the Planning Commission is tasked with reviewing the Project Plan to determine if the plan is consistent with the City's Comprehensive Plan.

Staff Comments:

- In addition to other relevant factors, the Planning Commission may consider the below components of the Comprehensive Plan to determine if the proposed STAR Bond Project Plan is consistent with the Comprehensive Plan:
 - The Comprehensive Plan contains goals and policies which help guide development decisions for the community. Goals and policies relevant to the proposed STAR Bond Project Plan include:
 - *Enhance the opportunities for cultural and educational experiences for Derby Residents.*
 - *Provide support for new businesses and expansion/retention of existing businesses.*

- *Direct commercial and industrial development to areas where existing public services are available or can be easily provided.*
- The Comprehensive Plan includes a Future Land Use Map. The area included in the STAR Bond District is identified as "General Commercial," "Mixed Use," and "Mixed Use-Residential."
 - The General Commercial designation is intended to include a broad variety of office, retail and general business service uses. Such uses are typically large scale developments.
 - Mixed Use and Mixed Use Residential designations are generally intended to include businesses and services that support neighborhood residences, and are intermingled with a mix of medium to high density residential uses.
 - Land covered by the proposed STAR Bond Project Plan has been zoned and platted in accordance with the Comprehensive Plan. Land uses proposed in the STAR Bond Project Plan (dinosaur park, medical complex, hotel, restaurant, daycare and retail stores) are consistent with existing zoning, and thus consistent with the Comprehensive Plan.
- The Comprehensive Plan includes design guidelines for the Rock Road corridor. Land uses proposed for the STAR Bond Project Plan are compatible with guidelines recommended for the Rock Road corridor.

Recommend a Motion to:

- Adopt a resolution finding that the proposed STAR Bond Project Plan is consistent with the City's Comprehensive Plan.

Cody Bird, City Planner presented the staff report. Bird stated that if the Planning Commission determined that the proposed STAR Bond Project Plan was in conformance with the City's Comprehensive Plan, then the Commission's action would be to adopt a resolution. A draft resolution was provided in the agenda packet. Bird introduced Kathy Sexton, City Manager and Joe Norton, Gilmore and Bell P.C., the City's bond counsel who were available to respond to questions.

Commissioner Poteete asked if questions about the STAR Bonds were appropriate. **Kathy Sexton, City Manager** suggested that she could answer questions after the meeting that are not relevant to the vote and recommended the Planning Commission ask questions that are in line with the Comprehensive Plan, such as land use, zoning or other Comprehensive Plan factors that are presented in the staff report. Sexton also introduced Marc Abbott, attorney representing the developer, Derby Destination Development, LLC.

Poteete asked what the interest rate and term for the bonds will be.

Sexton answered 20 years maximum is the state law that the bonds can be issued and the rate will depend on the market when the bonds are sold.

Poteete asked if there will be minimum payments made to the bonds.

Sexton reiterated that questions should focus on the Comprehensive Plan and asked to hold those types of questions until after the vote on the matter of the Comprehensive Plan.

Poteete commented that the STAR Bond financial act appeared to be intended for new projects. He noted that the project district includes a lot of existing businesses that are already contributing to City financing and half of the sales tax in this district will go to payments and interest on bonds.

Commissioner Adams reminded the Commission that the Comprehensive Plan discussion did not cover the financial aspects, which are actually the role of the City Council. Once the Planning Commission makes a determination on whether or not the STAR Bond Project Plan is in conformance with the Comprehensive Plan, then the City Council can consider the financial aspects.

Poteete stated that in these times of tight fiscal budgetary constraints, the Comprehensive Plan states that the City must have a sustainable tax base to provide quality services to their citizens and an economy where extra-curricular activities go to provide revenue needed. He stated that this creates a tax burden on our citizens and said it is very important that we carefully consider the impact of the STAR Bonds.

Poteete emphasized that the Comprehensive Plan states that the tax base must be sustained.

Sexton stated that the language in the Comprehensive Plan refers to creating a sustainable tax base. She explained that the tax base is mostly a property tax base and everything built under this program, if approved, would be taxable. There is nothing in the plan that is non-profit, governmental or schools that would take anything off the property tax roll. It is not a situation where we are abating or waiving property taxes; just the sales tax, which is a lesser tax base. For the term of the bonds, the incremental increase in sales tax revenue would go to pay off the bonds. That is a near-term payment of new tax revenue that would create a higher sales tax base.

Poteete asked if it would be an additional tax or a portion of the existing taxes.

Sexton explained that once the district was determined, there's a date that sets the threshold and the sales tax revenue received prior to that date continues to go to the city, county, and state. After the threshold date, the incremental increase in sales tax revenue is used to pay the bonds. It is not taking money out of anyone's pocket, it is taking future revenue and dedicating it to pay the bonds. Once the bonds are paid, the city, county and state receive more of the sales tax base revenue. **Sexton** summed up that it is a sustainable way to build the City's tax base.

Poteete questioned whether property tax abatements were included in the plan.

Sexton replied that the property tax base is not affected. She added that the City has

policies on tax incentives for new developments and it was made clear to the developers and businesses impacted by the STAR Bond subsidy tax program that they would not be eligible for other City tax abatements or financial incentives. Derby does not have a CID [community improvement district] or TID [transportation improvement district]. We have sales tax, property tax and transient guest tax.

Poteete asked if the sales tax the City receives will be the same and asked what portion will go to the State.

Sexton said this project has no financial impact on the City's half-cent sales tax that has been dedicated to the library, fire department and parks. The half-cent sales tax was approved by the voters and is not impacted by the proposed STAR Bond Project. The State receives the 6.5 percent sales tax and the County will receive the current 1.0 percent sales tax, plus the new incremental sales tax increase.

Poteete thanked Sexton for the tax clarification. He stated that he did not want Derby to provide a district where the City is receiving funds to fund our government for this district and then all of a sudden it goes away and we are taking a risk on investments in this district when we already have developments contributing to our City.

Sexton added that the increase in the property tax base begins as soon as they build and open businesses. Even though the sales tax is dedicated to paying off the bonds, the City receives the property taxes of new development.

Bird said it appeared that after the discussion and an explanation of how the STAR bonds work, the proposed STAR Bond Project Plan was actually a method which would support the language Mr. Poteete quoted from the Comprehensive Plan.

Poteete agreed. He referred to the goal in the Comprehensive Plan to maintain a sustainable tax base.

Commissioner Baer asked how the STAR Bond District area was determined and why the El Paso Crossing Addition was not considered to be included in the district.

Sexton answered that these are private developers and they discuss and make business decisions. City staff is not privy to all of those conversations. There were discussions by the Derby Destination developers with property owners and they made the determination for the district area.

Moved by Larry Gould, seconded by Pat Baer to adopt a resolution finding that the proposed STAR Bond Project Plan is consistent with the City's Comprehensive Plan.

Vote: 9 - 0

Other: Van Willis (ABSENT)

Commissioner Adams opened the floor to Commissioners to ask any additional

questions.

Commissioner Langworthy asked if the STAR Bond Project Plan Exhibit A depicted a house or the water tower near the north boundary.

City Manager, Kathy Sexton answered it is the water tower.

Commissioner Rhein asked the ramifications of a possible decrease rather than increase in the incremental sales tax revenue.

Joe Norton, Gilmore and Bell, P.C. explained that these kinds of bonds are sold to sophisticated investors and the development team will make a recommendation to the City Council for a bond purchaser. We have a financial institution that evaluates those merits and reviews the feasibility study to buy the bonds. If the revenues do not turn out to be sufficient then they don't get their money or interest back.

Sexton asked if tax revenues decreased, would the purchaser of the bonds bare the risk?

Norton answered correct.

Rhein asked whether the City would be held accountable for the bonds if in 10 years the economy goes south and the sales tax dropped down below the base level.

Norton said these are not general obligation bonds, and the City cannot use any general funds or revenues to pay off the bonds. He indicated that the State requires in these transactions that there be an accelerated redemption option. He explained that we have the dedicated revenue stream with a required annual payment and as extra revenue comes in above and beyond the projected amount, they will be utilized at least twice a year to redeem bonds early. Since Derby's economy has remained pretty steady, there is also a good chance the bonds will be retired earlier than normal.

Commissioner Renberger asked if STAR Bonds are available to existing business to purchase additional land or lots in this area.

Sexton replied that anybody can propose a STAR Bond district anywhere in the State and is not restricted to out of town developers.

Commissioner Langworthy asked if Renberger's question referred to whether the funds received from the STAR Bonds could be used by existing tenants for infrastructure improvements, if needed.

Norton said the STAR Bond Project Plan outlines what the STAR Bond proceeds will be used for, such as land acquisition and infrastructure, and said this area has been designated for land north of Patriot Avenue. Other STAR Bonds could be proposed in the future, but this plan does not contemplate that possibility.

6. ANNOUNCEMENTS

Commissioner Adams announced that the next Planning Commission meeting will be June 16, 2016.

Cody Bird, City Planner announced that items scheduled for the June 16, 2016

meeting include a public hearing for a zone change request and a preliminary plat. **Commissioner Langworthy** and **Commissioner Renberger** announced they would be absent from the June 16, 2016 meeting.

7. ADJOURNMENT

Moved by Dennis Poteete, seconded by Paula Langworthy to adjourn the meeting at 7:02 p.m.

Vote: 9 - 0

Other: Van Willis (ABSENT)

Marcia Hartman
Recording Secretary

Mitchell J. Adams
Chairperson