



City of Tigard
Center Development Agency
Meeting Minutes – April 3, 2012

1. CITY CENTER DEVELOPMENT AGENCY BOARD MEETING

A. Call to Order- City Center Development Agency

Chair Dirksen called the meeting to order at 6:37 p.m.

B. Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Chair Dirksen	✓	
Director Buehner	✓	
Director Henderson	✓	
Director Wilson	✓	
Director Woodard	✓	

CCAC present: Commissioners Murphy, Pao and Shearer. Also present: Planning Commissioner Shavey

Staff Present: Assistant City Manager Newton, Community Development Director Bunch, Redevelopment Project Manager Farrelly, City Attorney Ramis and City Recorder Wheatley

C. Call to City Center Development Agency and Staff for Non-Agenda Items: None

2. NON AGENDA ITEMS: None

3. APPROVE MINUTES FOR:

A. March 6, 2012

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – APRIL 3, 2012

Motion by Director Buehner, seconded by Director Wilson, to approve the March 6, 2012, City Center Development Agency meeting minutes.

Director Henderson advised he did not attend this meeting and requested a copy of the supplemental packet materials referred to in the minutes. Staff will provide this information for Director Henderson.

The motion was approved; Director Henderson abstained from voting.

Chair Dirksen	Yes
Director Buehner	Yes
Director Henderson	Abstained
Director Wilson	Yes
Director Woodard	Yes

4. ETHICS AND EXECUTIVE SESSION RULES RECAP FROM CITY ATTORNEY

City Attorney Ramis distributed handouts and reviewed rules governing executive session meetings (public meeting law) and conflict of interest laws.

Highlights of the recap by City Attorney Ramis:

Procedural necessities for executive sessions.

- State law mandates that governing body decision making be done in public (transparency). Exceptions to these mandates, recognized by the legislature, are allowed in executive sessions, which are meetings where there is not a requirement to do the city's business in a public setting. The press is invited to executive sessions and the governing body can invite individuals to attend. The press is allowed to report on discussions in executive sessions if the governing body has exceeded or broken the authority of the rules regarding such sessions.
- Information obtained in an executive session cannot be disclosed; however, there is no sanction in the statute if disclosure is made. Disclosure undermines the purpose of the executive session so it is vitally important that everyone plays by the groundrules. City Attorney Ramis cautioned against casual sharing of information with friends or others. While what is said in an executive session is protected, if it is repeated outside of the executive session it is not protected. Do not answer questions from the press or others about what was discussed in executive session, because if you do, what you say can be disclosed. Do not email (disclose) information regarding topics discussed in executive session because these emails are not protected.
- Executive session information is kept confidential for as long as the purpose for the confidentiality exists.

- There is no requirement that the meeting be tape recorded. There is a choice to tape record or keep written minutes. City Attorney Ramis said he prefers and recommends keeping written minutes.
- Under the statute, any group that qualifies as a “governing body” can call an executive session.
- In response to a question from Director Buehner, City Attorney Ramis advised he recommends reading the citation for executive sessions. Although not required by the statute, such reading assures the most complete record possible should someone dispute whether it was a properly called executive session. City Attorney Ramis said he likes to have the press acknowledge that it is a proper executive session.
- In response to a question from Director Wilson, materials prepared for executive session should be given to staff so they can provide them to the governing body members with a confidential cover memorandum. This would make it clear that the materials were prepared for executive session and are protected.
- Often it is a case-by-case call as to when a topic is no longer protected from disclosure because the purpose for the executive session no longer exists.
- Typically the agency will conduct an executive session under the provision that allows a closed session for deliberations with persons designated by the governing body to negotiate real property transactions.
- City Attorney Ramis reviewed other examples for potential executive session topics:
 - Consider records exempt from public inspection.
 - Consult with legal counsel regarding rights and duties with regard to litigation likely to be filed.
 - Conduct negotiation over proposed acquisition or liquidation of public assets.

Potential for conflict of interest (i.e., real estate transactions).

- The general rule is that public officials are prohibited from using or attempting to use their positions to gain a financial benefit or avoid a financial cost for themselves, a relative (defined in the statute) or their businesses if the opportunity is available only because of the position held by the official. There is exclusion for a benefit to a not-for-profit organization if the public official’s sole participation is as a board member (no remuneration).
- The definition of public official does not mean just “elected officials.” A public official is anyone who is a member of a body who has been appointed to advise elected officials (irrespective of whether compensated).
- The rule applies to financial benefits as well as financial detriments.
- Some conflicts are actual; some are potential. The requirement is that if it is an actual conflict, the official should not participate in the consideration/discussion of the matter. If it is a potential conflict – something that could possibly become a conflict in the future – the responsibility would be to disclose the potential conflict for the record. The public official could participate in a potential conflict in the consideration/discussion of the

matter. If uncertain, City Attorney Ramis advised the public official should contact the Ethics Commission for an informal opinion.

- There is a defense to claims of conflicts of interest that while you would receive a benefit from an action, it would be no different from anyone else who is similarly situated. It is best to act conservatively in these types of situations and seek advice of legal counsel or the Ethics Commission staff.
- Community Development Director Bunch commented that one of the reasons there has been a migration away from using Planning Commissions towards the use of a Hearings Officer in land use cases, is to tighten the criteria (clearly objective). The Hearings Officer (attorney) writes the findings and areas of discretion are confined to what is allowed by the comprehensive plan or development code.
- Commissioner Pao noted that part of the requirements for makeup of the City Center Advisory Commission is to have two members who are business or property owners in the downtown. City Attorney Ramis said this represents a built-in risk of a conflict of interest. He reiterated that if there is a concern to seek advice of legal counsel or the Ethics Commission staff.
- City Attorney Ramis said in Oregon there is no “appearance of impropriety rule” in the ethics area; Washington State does have this “rule.”
- Mayor Dirksen referred to a question asked by Councilor Henderson and asked City Attorney Ramis for clarification regarding the circumstance where a conflict of interest was found to exist, what did that do to the original decision. City Attorney Ramis said it would depend on how the votes were cast; would there still be a majority supporting the original decision if the vote that was “in conflict” did not count.
- The commission does not consider why an individual filed a complaint (intent); once a complaint is filed, the commission has jurisdiction to review.

5. OVERVIEW OF CITY CENTER DEVELOPMENT AGENCY FUNDING

Assistant Finance and Information Services Director Smith-Wagar presented the staff report.

- There has been discussion about private borrowing by the City Center Development Agency; i.e., a line of credit from a bank.
- Up to now when the City Center Development Agency desired to fund projects, most often funds were transferred from the city’s general fund. Last year there was a transfer from the city’s street fund to help pay for some of the Burnham Street project.
- Under the contract that the City Center Development Agency has signed with the city, the loan is interest only for the first ten years with principal payments required after that.
- The City Center Development Agency has received enough money through the tax increment to pay back the general fund some of the money it borrowed. At this time, the CCDA owes the general fund \$225,000 and the gas tax fund \$200,000.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – APRIL 3, 2012

- If we go out for private financing, the general fund and street fund loans would become subordinate.
- The CCDA will need to determine over the next several years, how much money it will authorize to borrow.

Council President Buehner asked about the limitation that could be imposed on the CCDA if it borrowed money from the private sector. Assistant Finance and Information Services Director Smith-Wagar said this is difficult to answer because of the multiple types of financing available and the answer is dependent upon the type of financing selected. For example, full faith and credit of the city's general fund could be pledged. This would reduce the interest rate; however, it would also mean that if the tax increment was insufficient to pay the external debt, the general fund would be required to make up the difference. Other options have more to do with the size and length of the borrowing. An urban renewal agency can borrow for 20 years. The life of the agency is 20 years, but in the 19th year of an urban renewal agency, a 20-year bond could be borrowed and the agency life would be extended for the purpose of repaying the bond.

Assistant Finance and Information Services Director Smith-Wagar said the financial adviser said to get the best rate, there would be a determination of the current amount of the tax increment and the value would be 80 percent of the available tax increment.

Chair Dirksen pointed out there is a limit to total indebtedness. The CCDA would be unable to borrow more than \$22 million on the increment (at any point in time). City Attorney Ramis confirmed for Director Buehner that the amount of indebtedness cannot be increased unless the city received voter approval. Mayor Dirksen added that the length of the duration of the agency would not require a vote.

Director Wilson advised that the Board would rely upon finance staff regarding the borrowing of funds in a prudent manner.

Director Buehner asked about the status of lining up banking institutions for the CCDA to borrow from. Redevelopment Project Manager Farrelly said staff has created a short list of potential lenders and, if the occasion arose where we needed to move on a property, the turnaround time would be 2-1/2 to 3 months. Redevelopment Project Manager Farrelly said there have been some discussions regarding lines of credit. Community Development Director Bunch said that after talking to the banks and other financial institutions, the agency would have no problems obtaining financing quickly since we are a financially solid community.

Discussion followed regarding the variety of sources of funding and how they work; i.e., lines of credit, bonds, backing of the full faith and credit of the city, funds set aside from the tax increment, grants, etc.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – APRIL 3, 2012

In response to a question from City Center Advisory Commissioner Shearer, Assistant Finance and Information Services Director Smith-Wagar said the city brings in \$12-13 million in property taxes and \$330,000 of that is earmarked for the City Center Development Agency.

In response to a question from City Center Advisory Commissioner Shearer, Assistant Finance and Information Services Director Smith-Wagar advised the city has a contingency fund (funds not committed); however, the fund is small. Redevelopment Project Manager Farrelly said there are unspent tax increment financing funds of about \$500,000.

Community Development Director Bunch outlined an approach to using the tax increment and holding more discussion to fine tune criteria. Chair Dirksen agreed that a listing of the types of funding instruments would be helpful to have available.

Director Woodard commented that it would be interesting to hear about how other communities utilized the financing tools and examine the efficiencies and return on investments experienced. Community Development Director Bunch suggested that staff return to the agency with a “toolbox” of what is available to use as a tool, including tax increment financing. Policy-choice options would also be offered for the agency’s consideration. While the urban renewal district in terms of funding availability is modest, Community Development Director Bunch said it is a real start and he is enthused by the reaction of the business owners and the public over what has happened to date. Director Buehner advised that Oregon does not have a sales tax, so cities do not have the same number of tools available as cities in most other states.

In response to a question from Director Wilson, Assistant Finance and Information Services Director Smith-Wagar advised the debt can be structured in many ways. For example, a piece of property could be offered and accepted as security.

6. FACADE IMPROVEMENT PROGRAM UPDATE

Redevelopment Project Manager Farrelly introduced this item. This program began in 2009. David Hyman of DECA Architecture was present; this firm supplies design assistance to businesses and properties with regard to façade improvement planning.

The program is divided into two areas:

- A. Design assistance – available for any business or property owner for up to 40 hours of architecture time (consultation, drawings, feedback, fine tuning and estimating costs).

- B. Project funding – up to 50 percent of \$25,000 (matching program).

Façade improvement grants are viewed by a joint committee of two members of the CCDA and two members of the CCAC.

The goals of the program are:

- A. Economic development to help small businesses improve the look of the business with the hope that this will increase their business and the vitality of the business district as a whole.
- B. Urban design project to improve the way the downtown looks and to encourage better store fronts to induce people to walk, enjoy the architecture and window shop.

Redevelopment Project Manager Farrelly, in response to a question by Chair Dirksen, advised that the façade improvements could increase the value of property under certain conditions.

Redevelopment Project Manager Farrelly shared a slide presentation showing before and after photographs of properties that have benefited from this program.

Mr. Hyman commented on the façade improvement program, which has the potential to have a huge impact on Main Street. For the most part, property owners are enthusiastic about the program. He said his firm has worked with the Portland Development Commission for the last seven years on their storefront improvement program. They also work with TriMet on their block-by-block program to upgrade storefronts in downtown Portland along the Transit Mall. Through their experiences, his firm has gained a sense of what works and what does not. Tigard is doing a terrific job with its program with many property owners making the commitment to do as much as they can afford to improve their buildings.

Community Development Director Bunch commented on the energy and enthusiasm about this program along a relatively small Main Street. Mr. Hyman agreed with Mr. Bunch about the enthusiasm, which he attributed to the fact that many of the property owners are business people who work at this location as well and see the direct result of the improvements.

Director Wilson asked Mr. Hyman if the \$25,000 limit on the façade improvement is too low. Mr. Hyman said the PDC offers a match of up to \$20,000 (50 percent grant). In some areas PDC will grant 75 percent of the cost of the improvements with additional funding available if the improvements involve signage and lighting. The key is to retain flexibility to adjust the program should a property owner need additional incentive. Mr. Hyman said \$25,000 is a good baseline as long as there is flexibility to offer more funding if it means the difference whether a project will go forward. Redevelopment Project Manager Farrelly said the research at the beginning of the project indicated that the \$25,000 match is at the higher end of what other cities are offering.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – APRIL 3, 2012

CCAC Commissioner Shearer asked if PDC assists in landscaping improvements; i.e., planter boxes, hardscape or exterior construction. Mr. Hyman said he does not believe the PDC funds landscape improvements other than built-in planters; affixed upgrades are usually eligible for funding. Outdoor furniture is not funded in the PDC program.

Director Henderson asked how clients decide on the style for the façade improvements; i.e., contemporary or traditional. Mr. Hyman said it varies across the board; some clients have strong ideas about what they want – some modern, high-tech while others are constrained because they are in design-controlled (historical) districts. Sometimes historic restoration is more expensive.

Director Wilson spoke to past discussions about attracting certain types of tenants. He asked if other agencies tied improvements to specific types of tenants. Mr. Hyman said that PDC funds are waning and recently started a program for certain urban renewal areas called clusters. These clusters are for specific types of business; i.e., clean tech (high tech), advance manufacturing, athletic businesses/apparel – excluding restaurants. Screening includes attempting to determine how serious the applicants seem to be based on their goals and business experience. In response to a comment from Assistant City Manager Newton, Mr. Hyman says that PDC targets certain types of businesses that are offered low-interest loans; that is, those that have a high likelihood of bringing in more employment opportunities. Another program has funding for interior improvements, which is not part of their storefront program and is known as the Development Opportunity Services. Redevelopment Project Manager Farrelly advised we have done a number of development opportunity services in Tigard and provide design professionals to work with property owners.

Mr. Hyman said that it might be a good idea for the façade improvement program to fund landscape projects. The problem is this is not a permanent improvement to add to the tax increment; however, landscaping can have a large impact relative to the amount of investment.

In response to a question from Chair Dirksen, Redevelopment Project Manager Farrelly confirmed that the façade improvement program is limited to Main Street businesses but there have been discussions about expanding the program. The thought now is to concentrate the resources in a smaller space.

Redevelopment Project Manager Farrelly said 15 businesses have looked at the façade improvement program out of the 50-60 businesses located on Main Street. Interest in the program has increased recently.

Mr. Hyman commented that it sometimes takes a couple of years for a business owner to accumulate the resources needed to complete a façade improvement.

7. REVISED TARGETED RETAIL AND RESTAURANT INCENTIVE PROGRAM UPDATE

Redevelopment Project Manager Farrelly reviewed the staff report outlining the revised targeted retail and restaurant incentive program.

The program would function in a manner so the eligible improvements would be those that had been proposed previously for improvements of all types: plumbing, mechanical, fire/life/safety, ADA, restaurant exhaust hoods, etc. The recommendation is to fund permanent improvements that would stay in place if the tenant changes. Grants would be made to the property owner.

Redevelopment Project Manager Farrelly said funding could be a 50 percent or less match. To be determined is whether to fund a flat amount per property or calculate it on the total square feet.

Redevelopment Project Manager Farrelly said \$75,000 has been requested for this program in the upcoming fiscal year.

Funds could be publicized noting the urban renewal agency has up to \$75,000 available for this program. Redevelopment Project Manager Farrelly said he would like the agency to retain discretion about whether to fund any projects.

The City Center Development Agency could decide what kind of business to target in a given year and communicate to commercial brokers about the availability of the program. Specific businesses looking for new locations would be targeted. Redevelopment Project Manager Farrelly said it would probably be best to solicit interest from existing, successful businesses rather than startups due to the significant investment on the part of the agency. He said the agency would try to avoid “poaching” the business away from their existing lease. The most ideal situation would be if a business wanted to open up in a new location.

Redevelopment Project Manager Farrelly suggested a three-month time period or longer for receipt of proposals.

Proposals would be evaluated either by the City Center Development Agency or the Façade Improvement Joint Committee, which could have an expanded role to do this. Evaluations should be based on objective and discretionary criteria:

- Soundness of the business plan.
- Record of success.
- Access to capital.
- Use of the funds.
- Ability to attract new customers.

Redevelopment Project Manager Farrelly asked agency members for feedback on how they would like to see the program work. Do members like the revised RFP-style program or is there a preference for the original program? Also, what will be the role of the CCDA for this program?

Director Henderson said he did not like the square footage approach for determining funding rather, he would like to be able to identify the return on investment. He referred to a recent educational session he attended while at the National League of Cities conference. Restaurants comprise the fastest growing business area now and it is a real jobs program. He expressed support for the revised program and favored a joint effort among CCDA and CCAC members to administer the program.

Chair Dirksen said he would look to advice from commercial brokers. He said he was looking for a program similar to what Director Wilson had suggested previously, which would be to identify a specific target property. The location and structure would help identify the type of business.

Director Wilson commented that the City Council goals included the direction to look at specific geographic areas; however, if the agency awards a large amount of money, there might be issues. He said the agency could still make its decision if it receives multiple proposals with the location and type of business be parts of the criterion. He noted developers spend a lot of time lining up their tenants, with special attention paid to anchor tenants. The first businesses will be the anchor tenants. The \$75,000 amount will be barely enough and would like to see the amount increased to at least \$100,000. He noted additional time might be needed and suggested including an option to extend the time period for soliciting businesses to heavily advertise and recruit. He would prefer that the requests for proposals more specific than just for restaurants; i.e., express interest in something now not found in the downtown such as a coffee shop. He spoke to finding a business that would generate foot traffic at specific time periods of the day to complement those businesses already in the downtown. Chair Dirksen said the market will dictate what type of use should occur first and the program should be flexible to accommodate.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – APRIL 3, 2012

CCAC Commissioner Murphy suggested the first step should be to identify the values associated with a certain type of business. Certain values might be characteristic of a restaurant-type business; however, this might not be the only type of business that could serve those values.

Planning Commissioner Shavey said the criteria should be tied to the greater number of people a business type would bring to the downtown. He said the consultant has provided guidelines to follow.

Director Buehner commented on her concerns about making this a total grant program and said she would be more comfortable that a business would be more committed to the community if it was set up as a part-grant and part-loan program. This would help feed additional funding opportunities. She said she could not support the incentive program unless there was at least a partial payback. Chair Dirksen said there might be room for a compromise, which would be to offer up to \$75,000 with a low-interest loan offered to provide additional funding assistance.

Director Henderson pointed out how expensive restaurants are to start up. An incentive program would help bring this kind of tenant into the downtown.

Redevelopment Project Manager Farrelly said many details still need to be worked out. He suggested a joint committee (CCDA/CCAC) would be the best place to start with resolving details and return to the CCDA for final approval. He reported staff researched the effectiveness of loans and there was not a lot interest; however, it might work in Tigard, depending on the terms of the loan (low interest and a reasonable term). He pointed out the additional resources to administer a loan program.

Chair Dirksen said he was hearing general consensus in support of the revised program from the CCDA and CCAC members present.

Director Woodard asked Redevelopment Project Manager Farrelly if he has heard any concerns about businesses wanting to wait until the Main Street Green Street project is completed before they locate or expand in the downtown. He supported incentives being offered to the greatest extent possible to decrease business owners' concerns about moving forward in this upcoming year. Redevelopment Project Manager Farrelly said there is concern about the construction project and pointed out the efforts by the city to work with the business community to try to limit those impacts. He has given thought as to whether a new business might want to locate downtown knowing the construction is coming this summer – this could be challenge or it could be the time for property owners to do their tenant improvements, so they could be open for business when the street project is done.

