

Woodland Park Downtown Development Authority Board of Directors

**City Hall – City Council Chambers
220 W. South Avenue, Woodland Park, CO**

REGULAR MEETING MINUTES

January 5, 2016 – 7:30 AM

CALL TO ORDER AND ROLL CALL: Merry Jo Larsen, Chair, called the meeting to order at 7:30 AM.

IN ATTENDANCE - Board of Directors: Merry Jo Larsen (Chair), Noel Sawyer (Vice Chair), Al Born (Secretary/Treasurer), Tanner Coy, Jon DeVaux, Vera Egbert (left the meeting at 9:25 AM during Executive Session), Michael Faber, Dale Schnitker, Jan Wilson (left the meeting at 9:00 AM during Executive Session). **Absent:** None. **Staff:** Brian Fler, Executive Director; Carol Lindholm, DDA Staff. **Others Present:** Sally Riley, Wallie Dingwell, Neil Levy, Brooke Smith, Debbie Miller, Beth Dodd, Arden Weatherford, Renee Bunting, Tyler Lambert, Tim Dienst, Paul Benedetti.

APPROVAL OF AGENDA AND MINUTES:

MOTION: To accept the agenda as presented and to approve the minutes of the December 8, 2015 DDA Regular Meeting. Faber/Wilson. Passed 9-0.

TRAIL RIDGE APARTMENTS – AMENDMENT TO REDEVELOPMENT AND REIMBURSEMENT AGREEMENT BY AND BETWEEN THE WOODLAND PARK DOWNTOWN DEVELOPMENT AUTHORITY AND WOODLAND PARK ASSOCIATES, LLC: Fler briefly explained the amendment. The amendment moves the initial TIF payment forward one year due to construction dates. This will subsequently benefit the DDA with a \$25,000 tax payment this year that will not need to be reimbursed. The amendment also lowers the cap reimbursement from \$1.2MM to \$1.1MM.

MOTION: To approve Amendment No. 1 to Redevelopment and Reimbursement Agreement by and between the Woodland Park Downtown Development Authority and Woodland Park Associates, LLC. Faber/DeVaux. Passed 9-0.

DDA BOUNDARY EXPANSION LEGAL REQUIREMENTS: Fler noted that DDA Legal Counsel, Paul Benedetti, was in attendance. Fler reported that during the DDA retreat in November, the idea of expanding the DDA boundaries was discussed. Fler noted that the DDA has expanded the boundaries in the case of the Paradise Lodge property and the Trail Ridge Apartments property. There have been some questions as to the process and requirements for expansion. Fler noted that there is a resolution in place in regard to the effect of an expansion on the Fire and Ambulance Districts. Fler said that there was a question as to whether the entire DDA District would need to vote on an expansion. Benedetti explained that the DDA Board would have to vote on an expansion, and then it goes to City Council for approval. Benedetti explained that the property would have to be adjacent to the DDA Boundaries; the owners have to petition and present it to the DDA Board and would have to have an adequate legal description. Then the DDA Board would need to approve it, then send to City Council for approval and amendment of the Ordinance creating the DDA.

Benedetti referred to the Colorado State Statutes: CRS 31-25-822 – Inclusion of additional property (noted below):

“Subsequent to the organization of an authority, additional property may be included in the district. Proceedings for inclusion shall be initiated by petition to the board of the authority signed by the owner or owners in fee of each parcel of land adjacent to the existing district sought to be included. Any such petition shall include evidence satisfactory to the board concerning title to the property and an accurate legal description thereof. If the board approves said application, it shall then submit the same to the governing body of the municipality. If the governing body also approves said application, it shall then, at a regular or special meeting by amendment to the ordinance treating the authority, redescribe the district so as to include the additional property as described in the petition. From the effective date of said amendment such additional property shall be included within the district and shall be subject to any taxes thereafter imposed by the municipality for the use and benefit of the authority.”

DeVaux mentioned that in Aurora (Gaylord) they threw that out because people didn't get to vote on it. Benedetti thought that this was Glendale, and clarified that this was in the case of the formation of that district, and as to who the electors were, and who could exercise the votes on the formation of the original DDA. The owner was the only person who was in the district, so it was contested. DeVaux referred back to Aurora. Benedetti said that was a different issue that involved a Tabor election regarding the pledge of some money by the municipality; that was a different issue.

Sawyer had some questions. Right now the main concern in regard to expansion of the DDA district is in regard to ambulance and fire districts and the property tax. Is vacant commercial land paying three times more property tax when it's vacant? The answer is yes, and also residential pays property tax even if vacant. Sawyer asked if the property tax would change if the land is built on. Fler noted that it's based on the value of the improvement; construction brings a significant revenue stream. Sawyer asked if commercial development would bring more money to fire and ambulance. Larsen replied that this would only be if there was an agreement. Fler responded that the short answer is yes. Fler asked Benedetti for comments on this. DeVaux said that if nothing was built, nothing would change; it's all based on the improvements. Benedetti responded that you have to have taxable improvements to create the TIF. Benedetti added that it's based on the assessed valuation of the district as a whole. Some years it can go down. But to have an increment you have to have taxable new construction. Sawyer said it seemed like it would be a benefit to fire and ambulance for vacant land to be built on. Fler added that the level of service would also go up for fire and ambulance with new construction, especially if we're talking about new apartments. Benedetti said that fire and ambulance always get the base.

Fler noted that anyone who wanted to come into the DDA district [as an expansion of the district] would have to petition to the DDA Board. This would also have to be approved by City Council.

Fler then asked Benedetti to elaborate on 2015 changes to Urban Renewal Authorities (URA's). Benedetti explained that there was a bill proposed in 2015 that was signed by the Governor. Benedetti explained that the legislation is poorly written, but is being fixed. Under the new legislation, in regard to URA's, before any new TIF project, there would need to be a 90-day negotiation period with each of the taxing bodies. Also, it changed the basis for the TIF, in which TABOR would be involved. Benedetti thinks this will be addressed/fixed. This issue would not apply to DDA's since the City is involved. The problem with the current legislation is that it would affect existing URA's. If similar legislation comes to pass for DDA's, it would affect any new agreement, and as URA legislation is currently written, could affect existing agreements and therefore the TIF disbursement/allocation. Benedetti reiterated that the URA legislation is probably going to be corrected. Benedetti thinks similar legislation might be proposed in 2016 that would apply to DDA's.

Faber asked if there was not a policy/obligation that the DDA made to Fire and Ambulance a few years ago. DeVaux noted that it was an agreement with Fire and Ambulance.

Riley asked Benedetti regarding the core focus of the DDA being the “Central Business District.” Riley asked if there had been any challenges when DDA boundaries have “sprawled out.” Benedetti did not know of any cases. Benedetti referenced Steamboat Springs wanting to extend the district all the way to the ski area, which was down the highway from the Central Business District. There has to be some rational basis, and the district is defined by City Council.

Sawyer noted that it in regard to DDA expansion, it seemed like we should wait and see if we have stagnant growth.

Fleer said that the DDA would probably be faced with a developer coming to the Board with a potential scenario.

Benedetti read the definition of the Central Business District from the State Statutes: CRS 31-25-802 – Definitions (noted below):

“(3) "Central business district" means the area in a municipality which is and traditionally has been the location of the principal business, commercial, financial, service, and governmental center, zoned and used accordingly.”

Born noted that residential is absent in the definition. Benedetti responded that this does not mean you can't include some, for example mixed use projects. But it would discourage a big residential subdivision.

Fleer asked if a City could have more than one DDA district. Benedetti replied, no. Fleer asked if a Business Improvement District (BID) could fall within a DDA. Benedetti replied, yes.

WOODLAND STATION COMMITTEE: Larsen suggested that the Board set a date for the first Woodland Station committee to brainstorm how to market the property and make the property appeal to the developer. After some discussion it was decided that the committee would meet on Tuesday, January 19 at Noon in Council Chambers. Committee members will include: Larsen, Wilson, Coy, Born, DeVaux, Faber and Sawyer. This will be an open meeting.

WOODLAND STATION – WEATHERFORD AGREEMENT CONSIDERATIONS – TO BE DISCUSSED IN EXECUTIVE SESSION

GENERAL DISCUSSION BY DDA BOARD: None.

AUDIENCE PARTICIPATION ON ITEMS NOT ON THE AGENDA: Weatherford had some comments to make prior to the Executive Session. The Amerigas property was purchased and the tanks were removed. In April of 2014 it was learned of the CDOT requirement to extend Saddle Club Avenue to West Street with the development of Lot 2. Weatherford is of the understanding that this has not changed. Fleer confirmed that there had been no change. Weatherford noted that there is a Pine Street entrance on the highway with two turn lanes. Weatherford said that this was not considered in the traffic study, so there is an opportunity to go back to CDOT with a new proposal, but in order to do that we have to work together. Weatherford said that the developers had been in a holding pattern, not able to subdivide the parcel, not able to move forward with the Beer Garden, and the Farmers Market would like to move there. It might be a possible suggestion to go back to a suggestion that Sally Riley made, to develop a metes and bounds parcel so that they could at least get started and help the

Farmers Market in 2016. Weatherford said that he had attended the September, October and November DDA meetings ready to make a deal, and we just keep tabling this. Weatherford said that he was ready today to make a deal. Larsen remarked that hopefully after today the DDA will be in a better position to make a deal.

Debbie Miller announced a Lunch & Learn this week. There will be an Active Shooter Training next week. On January 20 the State Tourism Director, Kathy Ritter, will be in Woodland Park. Miller announced that Charis will have a Forum the last week of January, and this will bring about 800 people into Woodland Park. The Chamber Dinner is March 11 with a theme of Denim and Diamonds.

Zoning Code Amendment to Streamline process of Residential Units in Commercial Zones – Riley:

Sally Riley reported that the process for creating residential units in a commercial zone is in the process of being streamlined. Currently if you want to change commercial to residential one must meet 11 criteria for Planning Commission, plus an Ordinance by City Council. It is proposed to make this an administrative process which will include a notification process. This streamlined process will only apply to one or two unit proposals. Fler noted that the DDA is being made aware of this as residential pays less property tax than commercial.

Larsen announced a short break prior to Executive Session at 8:25 AM.

EXECUTIVE SESSION:

MOTION: To adjourn to Executive Session. DeVaux/Coy. Passed 9-0.

Adjourn to Executive Session: For the purpose of determining positions relative to matters involving development projects within the City of Woodland Park Downtown Development Authority District, pursuant to: The purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. 24-6-402 (4)(a), Conferences with an attorney for the purposes of receiving legal advice on specific legal questions under C.R.S. 24-6-402 (4)(b), and/or, Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. 24-6-402 (4)(e); with regard to Woodland Station Lot 2 – Weatherford Agreement Considerations.

Larsen, Chair, read the purpose of the Executive Session into the record.

Meeting adjourned to Executive Session at 8:31 AM.

RECONVENE REGULAR MEETING: Following the Executive Session, Larsen, Chair, reconvened the regular meeting at 9:34 AM.

The following persons were in attendance at the Executive Session: Merry Jo Larsen (Chair), Noel Sawyer (Vice Chair), Al Born (Secretary/Treasurer), Tanner Coy, Jon DeVaux, Vera Egbert (left the meeting at 9:25 AM during Executive Session), Michael Faber, Dale Schnitker, Jan Wilson (left the meeting at 9:00 AM during Executive Session). **Staff:** Brian Fler, Executive Director; Carol Lindholm, DDA Staff. **Others Present:** Sally Riley-City Planning Director, Paul Benedetti-DDA Legal Counsel.

Fler asked the Board for direction on how to proceed in regard to the Weatherford Agreement considerations discussed in Executive Session.

Born suggested that we first clear the deck of all past agreements; then give Weatherford a chance to re-apply with a defined plan. DeVaux suggested 30 days. Schnitker asked if 30 days would be enough time. Benedetti said Weatherford could come back with just a concept plan.

Benedetti recommended the Board give Weatherford a notice of termination. The Board can elect to talk to Weatherford and say the Board is willing to entertain an alternate proposal within the 30 days. Or, Weatherford he can propose something after 30 days.

DeVaux made a motion to direct the DDA attorney to send the letter as discussed. Fler noted that the letter would come from the DDA office as directed by the attorney.

Larsen noted that Weatherford had requested to come to the committee meeting as previously discussed. DDA meetings are open to the public.

Coy asked for clarification of the motion. Benedetti noted that the letter will be a "notice of default." Coy clarified that this would trigger a 30 day period to cure. Benedetti noted that 30 days would not be enough to cure, but enough to bring in a concept. The notice gets us out of limbo. Coy asked what is it that Weatherford can produce to keep from terminating the contract. Coy noted that Weatherford can't produce plans in 30 days. Benedetti said he could always propose something after 30 days, but after 30 days, he doesn't have any claim on Lot 2. Coy asked what our ability is to market Lot 2 and the rest of Woodland Station between now and then. Benedetti said it could be advertised now, but suggested that we wait 30 days.

The motion was clarified as follows:

MOTION: To direct the Attorney and the Executive Director to draft a "Notice of Default" to Arden Weatherford. DeVaux/Sawyer. Passed 7-0. (Egbert and Wilson were not present for this vote)

Fler noted that if Weatherford doesn't meet the points of the default letter he will then get a termination letter.

ADJOURNMENT: Larsen asked for a motion to adjourn.

MOTION: To adjourn the meeting. Born/Sawyer. Passed 7-0. (Egbert and Wilson were not present for this vote)

Meeting was adjourned at 9:51 AM.

Recorded by:

Carol J. Lindholm, DDA Staff

APPROVED THIS _____ DAY OF _____, 2016

Al Born, Secretary/Treasurer