

Woodland Park Downtown Development Authority Board of Directors

**Shining Mountain Golf Course
100 Shining Mountain Lane, Woodland Park, CO 80863**

SPECIAL MEETING MINUTES

August 24, 2016 - 10:30 AM

CALL TO ORDER AND ROLL CALL: Merry Jo Larsen, Chair, called the meeting to order at 10:40 AM.

IN ATTENDANCE - Board of Directors: Merry Jo Larsen (Chair), Noel Sawyer (Vice Chair/City Council Rep), Al Born (Secretary), Tanner Coy (Treasurer), Jerry Good, Elijah Murphy, Jan Wilson (arrived late). **Staff:** None present. **Others Present:** Paul Benedetti (DDA legal counsel), Conrad Freeman (Vectra Bank), David Buttery, Neil Levy, David Neville (arrived late), Pat Hill, Rick Langenberg, Marty McKenna, Val Carr, Suzanne Leclercq, Arden Weatherford, Paul Saunier, other members of the community.

ADDITIONS, DELETIONS, OR CORRECTIONS TO THE AGENDA: None.

MOTION: To approve the agenda. Good/Coy. Passed 6-0.

FINANCE DISCUSSION: Chair Larsen opens by stating the importance of transparency. Coy welcomes Benedetti and Freeman. David Buttery is invited to sit at the board table and he declines. Coy then presents an updated financial spreadsheet including future projections through 2031. The report includes Trail Ridge revenue and expense amounts, does not include Eagle Fire Lodge revenue or expense amounts. Sawyer asks about the increased City loan payments in the new report. Coy describes the payment plan, payments to the City total \$1,000,000 with annual payments beginning in 2017 and ending in 2025. As financial data continues to be added to the spreadsheet, budgeted payments to the City may continue to fluctuate. Freeman presents a financial report to the board and Buttery. He provides a brief recap of Woodland Park DDA history, mentioning several types of agreements the DDA has in place. He briefly describes the DDA's current financial state. The DDA area has a base valuation and revenues are collected from mill levy revenue exceeding the base. Revenue can increase or decrease, usually increase. Two PILOTs (payment in lieu of taxes) and the Dinosaur Museum TIF agreement are missing from his report. Eagle Fire Lodge contract is referenced as an example of how TIF agreements can work. All agreements have maximum reimbursement amounts related to public improvements of the project. The current DDA debt structure in place is a 2012 series of bonds. Today in the DDA's increment is five or six million dollars, a success story. All reimbursement agreements are subordinate to bond payments. A comparison of current and potential debt service with one million dollars of bond debt added is presented. Freeman suggests the TIF expires in 2028. Benedetti explains the TIF can be extended for two additional 20 year terms, and for 50 years total. The base rises the first time to the current increment value. The base adjusts every year. Taxing bodies get a pretty good benefit with even TIF in place. Freeman says debt should be paid by 2027. An agreement with UPRHD being considered could reduce DDA revenue and a comparison of potential DDA revenues is presented. Refinancing DDA debt will add approximately \$120,000 per year in debt obligation to the DDA. The key thing is to make sure we're managing toward enough surplus revenue to manage the other obligations the DDA has undertaken. From Freeman's (Vectra's) point of view, it would not be difficult for Vectra to restructure the debt, there is plenty of revenue available. Benedetti questions DDA administrative costs and suggests a deal with the City will

help determine those costs. A word of caution from Benedetti: the property tax administrators are in the process of rewriting the TIF calculation rules, and every time they do that less money goes into TIF and more goes into the base. Keep in mind that TIF revenue might be overstated slightly and DDA should work that into its calculations and budget conservatively. Sawyer says based on the numbers presented, if DDA did nothing more, it can pay the additional debt. Freeman explains the bank is in the first position and there is enough revenue to lend against, the question is whether or not the DDA will have enough revenue after bond debt service to pay its other obligations. Coy reiterates for the reporters in the room Freeman's comment that the DDA is a success story. He clarifies that the City issues bonds on behalf of the DDA and requests clarification on what must happen between City and DDA to proceed. Benedetti explains the DDA is responsible for the debt and works through the City. The City is an accommodation issuer, their role is pretty passive, they must sign some documents, and there must be debt authorization and supporting ordinance. Buttery says it is not an onerous process for the DDA, City participation is a non-issue. It does take time and paperwork. The City has used Kutak Rock in the past. Born asks about closing costs on the one million dollar loan. Freeman estimates 25 to 30 thousand dollars, which can be rolled into the loan. DDA has a fair amount of capacity for borrowing. Murphy asks about the balloon payment at the end of the loan. Freeman says it is front-end loaded with a balloon at the end. Murphy asks about an early payment penalty. Freeman says there would likely be a penalty and he usually puts in for three to four years. Benedetti suggests if the DDA is considering proceeding with the new debt, it should be done in the next few months because interest rates might rise. Freeman says getting the deal done before interest rate increase or other changes in regulation might help add certainty relative to regulations that are in the process of being changed. Chair Larsen asked the Mayor and Council if they had any comments. They did not. Buttery recommended the DDA needs to figure out its next steps for moving forward. A timeline for deciding how to move forward was discussed. Benedetti confirms an ordinance is needed every time DDA issues bonds. DDA is subject to TABOR. If DDA decides to do it, start at the end and work backwards. Buttery asks if an election is needed. Benedetti says no, unless you need additional debt authorization. As long as you're within your debt authorization, the City Council makes the decision. Chair Larsen suggests the topic be discussed at the September 6th regular meeting of the DDA. Coy is out of town at that time. September 13th is suggested for the regular meeting. Murphy and Good prefer the 13th. The regular meeting is rescheduled for September 13th. Freeman will try to have a terms sheet provided by then.

INTERGOVERNMENTAL AGREEMENT FOR CITY SERVICES (IGA): Coy refers to future budgets (2017 on) and says a significant part of what makes the numbers work is the fact that there are no salary, pension, benefit or payroll tax items because the board is now a working board and saving money as a result. Adding administrative costs eats into the bottom line and the DDA needs to find the right balance to avoid jeopardy without undermining financial strength so it can continue the financial success story. Working with the City going forward is important for determining what the administrative and operational costs will be. Examples of components in an IGA include insurance, printing and document reproduction. In the past the City has provided these things but it is not clear if or how the DDA has paid its share of the expenses, and that needs to be worked out. Sawyer asks about the telephone expense. Coy says we've paid for telephone expenses in the past but isn't sure if DDA will pay for telephone expense in the future. At this time, telephone expense is still shown in future budgets. Very little is changed in the future budgets from the 2016 approved budget. Some of the changes include salary expenses, revenues, and County Assessor fees, but expenses like IT and office supplies are identical. Chair Larsen says usually the attorneys draw up the IGA and she asks if the board is

prepared to make a list of items for the IGA to help avoid unnecessary legal costs. Benedetti agrees it is easier if the DDA and City can work out the IGA terms directly. The problem DDA has is it is a volunteer board and suggests administrative duties should not be underestimated. He recommends talking with the City to come to a reasonable deal so the DDA can be provided staff to help with minutes and administrative duties. Born says the DDA needs services outside the realm of the working board. He suggests the board appoint Coy/Born to work with City staff to explore the IGA and report to the board. Murphy asks if the Executive Director position must be paid. Benedetti says no. Murphy suggests a cost comparison of the DDA operating its own office vs. working with the City through an IGA. Good says DDA seems to have lost an agreement with the City when it lost the Executive Director and asks if the City is mad at the DDA. Buttery references a small paragraph in a refinance agreement between DDA and City as an existing IGA, it is a simple agreement which may be better than a more specific agreement, that the City will continue to provide staff support, that the City's Finance Director is DDA's Finance Director, the City's human resources person is the DDA's human resources person, and that the City is not mad at the DDA. Sawyer suggests an IGA might be helpful. Coy references future budgets again. If DDA adds new debt service of \$98,000, DDA's bottom line is \$31,000, just over half of previous payroll expenses in 2015, leaving no money for beautification, pedestrian safety, parking, creating a destination downtown, nothing to empower the DDA to be effective in working towards its foundation plan. He hopes to realize a more effective DDA in the future than in the past. The effectiveness of the DDA can be improved and the IGA can be an instrument to help. Chair Larsen directs Born/Coy to begin the negotiations with the City and report back to the board. Buttery's expectation is the DDA will bring something to the City for review.

GENERAL DISCUSSION: Murphy says we all have to work together. DDA is an extension of the City and we all need to work as a team. It will take more effort to create more results. More effort will allow us to benefit more. Marty McKenna thinks it's in the taxpayer's best interest not to pay interest on the debt, so DDA should make payments to the City instead of issue bonds. She talks about posting DDA meeting notices at public facilities and a recent request by her to post notice at the UPCC was denied. Debbie Miller did not allow McKenna to post the agenda at the UPCC. Buttery says it is not the Chamber's responsibility to post the agenda and requests need to go through Debbie Shane.

ADJOURN FOR LUNCH: 11:45 AM – 1:13 PM.

RECONVENE REGULAR MEETING: 1:13 pm

TIF NEGOTIATIONS:

Country Lodge Expansion: Coy references past TIF metrics approved by DDA that were provided to Rabaut and have now expired, and Rabaut has asked for an extension. The TIF metrics are 75% reimbursement for years 1-5, 50% years 6-10, 25% years 11-15. Murphy asks if the metrics had been approved. Coy recounts the negotiation from two years ago that resulted in the board approved metrics. A financial report recently provided by Rabaut shows a variety of construction value scenarios. Coy says Rabaut has budgeted \$75,000 for expenditures to explore the new hotel potential. The new hotel will be a Microtel. Good recounts some of the discussion with Rabaut, including Rabaut's stated desire to increase his investment in Woodland Park instead of other places, two other sites (Evergreen and Castle Rock) have

better markets for Rabaut to invest, Rabaut's pro forma is very tight and projects a loss in the first year at least. Good's opinion is Rabaut is a solid individual, president of Kiwanis International, bought and invested in the Country Lodge, contributed much to fundraisers and is a huge asset to the community, is not asking for anything extraordinary and is a perfect candidate for this type of TIF agreement. Good wants the board to perform well on this agreement. Coy reports Rabaut is anticipating \$5,000,000 to \$5,575,000 in construction costs for the new hotel with total taxes calculated as \$130,500 but Coy's calculation of the property tax is \$10,000 less. The spreadsheet from Rabaut is a revised version of what was provided two years ago. Rabaut is working with SBA who wants to see 1.3 times the profits that would be needed to service debt, which means years 1-5 would need to net \$450,000 but Rabaut's pro forma projects \$140,000 without any TIF, which is a \$310,000 deficiency. Rabaut believes he will receive a \$200,000 incentive from Microtel, which helps with the deficiency. Rabaut is asking for \$97,000 per year for the first 5 years of a TIF agreement. Rabaut is unwilling to proceed if the DDA is unwilling to commit to the TIF metrics. Good says Rabaut needs a commitment from DDA to take to SBA. If Bill Page begins construction on a hotel in Gold Hill South, Rabaut will not likely proceed with Microtel. Wilson asks if we're setting a precedent with this request. Born says no, we are not setting a precedent, only a frequent pattern. Coy asks DDA legal counsel about the due process for approving metrics, concern being the DDA has nothing from Rabaut guaranteeing any part of the development. Benedetti responds that the DDA has flexibility with TIF reimbursements and isn't overly concerned with public improvements. He says usually you tie the reimbursement to something like infrastructure costs or public improvements, but this deal is just a straight reimbursement. This is not like Lot 2 since DDA is not conveying any land. The City design guidelines should be followed and the development plans should be reviewed and approved. Usually an agreement has contingencies. Benedetti outlines basic parameters common in a TIF agreement. He says the DDA can agree to TIF metrics, contingent on future parameters. This is not uncommon. Rabaut will have to agree to a basic concept of what he will have to build so the DDA can agree to what it is willing to do. Coy is concerned that DDA cannot agree to metrics without any real development plan. Benedetti agrees, DDA cannot commit to reimbursement without a development plan. The metrics can be agreed to, contingent on a standard, signed agreement with the DDA. Chair calls for a motion. Good does not want the project to stop because DDA is being picky. Murphy wants to know if the entire hotel will be a Microtel. Born wants to make sure a cap is part of the future agreement. Benedetti will draft a letter for Rabaut, with appropriate contingencies, approving TIF metrics. Born questions how to calculate a cap for this project. Benedetti says language can state that the agreement will be subject to a reasonable cap that will be determined. The cap can be based on a variety of things. Saunier says it is appropriate for the DDA to approach the agreement as any investor would. Coy suggests DDA might use TIF reimbursement as a way to negotiate higher architectural standards in projects. Microtel and City of Woodland Park architectural requirements will be applied. The DDA can request additional design components but should do so up front so that Rabaut knows what he is getting into.

MOTION: Approve TIF metrics, subject to negotiation of a standard reimbursement agreement acceptable to the DDA board. Born/Wilson. Passed 7-0.

Preliminary TIF Agreement Proposal: Coy explained a businessman approached him with information about a potential project within the district. The project would include purchase and redevelopment of a blighted property for commercial use. The developer has extensive experience with the proposed use. The currently negotiated purchase price seems very high for the property given its dilapidated condition. Some public improvements would be installed

though very little sales tax will result and only one new job will be created by the new use. The developer is seeking consideration of an 80%, 10 year TIF reimbursement agreement. Chair Larsen, Wilson and Good think 80% is high. Coy reminds the board of several 75% TIF reimbursement agreements that did not involve blighted property. Good doesn't think the DDA should approve every proposal that is submitted. Born says the DDA can adjust a cap in the reimbursement as well as the percentage of reimbursement. Coy describes the rundown condition of the property and comments that the purchase price is high, the redevelopment costs will be high because of the demolition, and this type of redevelopment should be high on the DDA list as a target. Benedetti thinks this type of project is one of the main purposes of TIF and of the DDA in making the downtown better, and suggests the DDA can tie agreement details to demolition costs or public improvements. Chair Larsen asks for a motion to direct Coy to discuss the project further with the developer.

MOTION: Direct Coy to approach the developer and ask him to come forward for further discussion with the board. Born/Murphy. Passed 7-0.

WOODLAND STATION EXCAVATION: Born says participants in this are Steve Randolph, Al Born, who've come up with a plan and submitted it to Sally Riley, David Buttery, City Engineer and Keith Wilcox who are all comfortable with the plan. Steve Randolph is the decision maker and is willing to put the plan into process immediately. Born reads comments into the record: "Removal of the imported topsoil has caused some people to be very distressed. Some inappropriate actions, comments have increased the intensity of discourse around the topsoil removal activity. The goal now going forward is to diffuse the tensions, work within the realities of the situation as it is now. Get the impacted land graded, sculpted, and reseeded very promptly. The controlling document in this process is the simplified grading permit application dated June 5th, 2014 and approved August 18th, 2014 by the City of Woodland Park. Woodland Park is the controlling governmental agency in this process. The grading permit application mentions temporary topsoil storage at least four times. The non-construction temporary landscaping only addendum to the 2014 grading permit reflects on the topsoil originating within Teller County for temporary storage atop existing soil with a variety of specific requirements. The 2014 application does show cross-section drawings of the deposited topsoil with vertical dimensions. My position on this is that the 2014 simplified grading permit application does establish temporary storage of topsoil at the specified site and continued ownership of the topsoil by the applicant. On July 5th, 2016 the City of Woodland Park issued a Zoning Development Permit also known as a ZDP pursuant to a multi-use application submitted by Steve Randolph signed as owner. The ZDP calls for retrieval of up to 7500 square feet of surface area of the topsoil from Site #1 as referenced in the 2014 simplified grading permit application and its approval. The 2016 ZDP indicates that the permit shall be valid for a period of one year. The owner's interpretation is that they have up to one year to retrieve the topsoil, grade and reseed the listed site. The proposal is the applicant and owner of the topsoil recognizes this event has caused a great deal of stress. To ameliorate the situation they are willing to advance the projected timeline and relocate the remaining topsoil from site #1 to the Amerigas site, grade and reseed site #1. It is estimated that six to eight machine hours are needed to remove the remaining approximately 200 cubic yards of topsoil and six to eight machine hours to grade and reseed the site #1. The relocated topsoil will not encompass a surface area greater than 1500 square feet, thus a permit will not be required. This project to be accomplished as soon as possible as governed by the contractor's existing work projects, availability of equipment and weather. Site #2: the ownership of the topsoil as described and identified as Site #2 is the same as site #1. That topsoil is projected to be utilized during 2017. A

new ZDP to remove that topsoil cannot be applied for until all the terms of the 2016 ZDP has been met. Requirements such as proper slope grading and about a 70% germination of grass seed in the reseeded area. The projected removal and use of the topsoil on site 2 is scheduled for 2017. So that's what I bring to you as a report based upon the negotiations that we have put together we can bring and put this thing together. Once we're done maybe with more discussion I've got a primary motion to take care of this and then a follow on secondary motion. That's all I have right now madam Chairman."

Good asks how much soil belongs to Weatherford. Born begins to reply. Neville points out that if DDA is seeking legal advice on this item, discussion should be held in executive session.:

MOTION: To enter Executive Session. Murphy/Wilson. Passed 7-0.

Enter Executive Session: For the purpose of seeking legal advice relative to Lot 2.

Executive Session called to order at 2:34 PM. In Attendance: Merry Jo Larsen, Al Born, Elijah Murphy, Tanner Coy, Jerry Good, Jan Wilson, Paul Benedetti, David Neville.

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

RECONVENE REGULAR MEETING: Following the Executive Session, Larsen reconvened the regular meeting.

GENERAL DISCUSSION: Neville references language from a May 2009 First Amended and Restated Agreement regarding the City loan to the DDA. He reads a paragraph about personnel: The City will continue to lend its personnel to the Authority to assist with the Downtown Development District projects including as needed The Project (meaning Woodland Station) and the Authority shall repay subject to terms agreeable to the parties the City for such loaned personnel if and when required by applicable by law. Neville's understanding is that City staff is suggesting whatever is in this agreement is sufficient moving forward, which runs counter to the discussion Coy has had with City Council asking for more descriptive provisions and more definite terms. The language says the City will lend staff and the DDA will repay the City as needed. The City is not providing staff at this time. Neville thinks there's much to add and the DDA is asking for more support than what is currently described in the language. Neville was unaware of this agreement and thinks everyone should be made aware of it. Born would like to be in the negotiation with David Buttery.

Born asks what things the DDA wants to accomplish prior to an event. Coy and Wilson think the letter should be sent first. It will help the Council understand what's happened and why an IGA needs to come forward. Benedetti asks the board if they feel inclined to proceed with the bond issue which seems to be something some of the City people want to happen. Board members discuss City Council comments about City finances, the pool, and the need for cash. Murphy asks about the possibility of finding grants. He would like to see the debt restructured in more favorable terms. Coy states the DDA owes the City of Woodland Park another \$2.75mm for Woodland Station, with payments starting in 2025. Payments are 10% of available TIF revenues with the balance due in 2033. Benedetti recalls the agreement imposed on the DDA is pretty onerous. Coy says he's been told by Buttery and others that the \$2.75mm debt was intended to be negotiated away and not intended to be paid. Maybe now is the time to address the Disposition and Development agreement. The viability of that agreement is questioned.

Benedetti says the hardware store satisfied the development requirements in that agreement and all the heat went out of the relationship between the DDA and the City Council. That really helped.

Born would like more direction on how to deal with Steve. The board would like a direct appearance of Steve before the board of directors to negotiate the terms of removing the soil. Coy requests that at that time Steve provide all evidence of how much dirt was delivered, and any other claims to be made.

MOTION: To adjourn meeting. Wilson/Murphy. Passed 8-0.

Meeting was adjourned.

Recorded by: Tanner Coy
Tanner Coy

APPROVED THIS 4 DAY OF October, 2016

Al Born
Al Born, Secretary