

City of Lawrence
Public Incentives Review Committee
May 17, 2016 minutes

MEMBERS PRESENT: Mayor Mike Amyx, Vice Mayor Leslie Soden, Linda Jalenak, Aron Cromwell, Bradley Burnside, Brian Iverson, and Jill Fincher

MEMBERS ABSENT: County Commissioner Mike Gaughan

STAFF PRESENT: Tom Markus, Diane Stoddard, Britt Crum-Cano

PUBLIC PRESENT: Approximately five to seven people from the public and media were present.

Mayor Amyx called the meeting to order at approximately 9:30 am.

The minutes were reviewed. Ms. Jalenak made a motion to approve the minutes from the December 8, 2015 meeting; Mr. Cromwell seconded the motion. The motion was unanimously approved.

Britt Crum-Cano presented the 2015 Annual Report for Economic Development Support and Compliance. She mentioned that over time, the report continues to evolve and grow and cover additional information. All of the property tax abatement recipients were meeting and outperforming projections for 2015. The companies also generate property taxes that are not abated.

Mr. Iverson asked about claw-backs. Crum-Cano responded that the claw-backs are set forth in the agreements in some detail and tracked in the annual compliance. Ms. Stoddard also responded that there was one instance she was aware of when a company did not meet projections during the recession as a result of the national economy. In that case, the Commission made the determination to continue the abatement in light of national economic events. That company has gone on to exceed all projections.

The Mayor requested a motion to recommend the economic development report to the City Commission. Vice Mayor Soden made a motion accordingly, seconded by Mr. Iverson. The motion to recommend the report to the Commission passed unanimously.

The next item discussed was the proposed changes to economic development policies. Crum-Cano provided an overall summary of the proposed changes.

Vice Mayor Soden asked whether a 10% set aside for affordable housing was enough. Mr. Markus replied that for projects having more than 49 units, the percentage jumps to 35%. So, he thought that the 10% number for smaller projects was appropriate at first.

The Vice Mayor also asked about 1 bedroom apartment development and favored affordable housing development for families. Mr. Markus replied that a lot of the market has shifted in favor of one bedroom units and he thought that as the city gets into affordable housing more in depth that there needed to be a definition of the number of bedrooms to be targeted. He did point out that one bedroom units can also be favorable to seniors, etc. Vice Mayor Soden said that she believed that there wasn't enough affordable family housing.

Mayor Amyx asked about the 50% baseline in the NRA policy. Crum-Cano mentioned that this came out of a study session where this was discussed and staff was directed to only negotiate at the 10 year, 50% level. The Mayor thought that by specifying that cap, it appeared that the deal had already been negotiated. He thought that it could be something for the Commission to discuss further. Mr. Cromwell added that he was concerned that the cap would tie hands unnecessarily, even if there was a good project to review. While a realistic expectation for developers is important, he said that it could be a disservice to not enable staff to evaluate projects further. Mr. Markus added that the cap was an interpretation of the City Commission's former direction. Mr. Markus also mentioned that requiring affordable housing components would help fulfill social justice goals, but will also likely increase a project's finance gap, making the cap more limiting for the project. He pointed out that the discussion of the cap had taken place prior to the discussion of requiring an affordable housing component. He thought that this could be approached several ways—either evaluate everything at the cap or set the cap as an aspirational goal.

Vice Mayor Soden commented that she liked the variable checklist on the property tax abatement policy that enabled a project to gain more than 50% based on additional criteria.

Mr. Markus added that sustainability might also be a goal to include in the policy. Mr. Cromwell pointed out that we have a number of economic development goals and to the extent that a project may meet all other economic development goals, except the affordable housing goal, it would not meet the policy. He had concerns about this. He also had concerns about the lack of study regarding the type of affordable units needed. He believes that affordable housing on a residential project should add to the project's positive elements, but was concerned with disqualification in case affordable housing was not achieved. He believed that in the past, the Commission was able to evaluate all of the elements of a proposed project. He wanted affordable housing to be incentivized, but not mandatory.

Mr. Markus stated that instead of an affordable housing component, the developer could also provide a payment to the city's trust fund as an alternative. He said that the issue of a housing study came up at the budget listening session and many believed it has been adequately studied. He believed that a number of units could be built over many years and still not meet the need. He believed a policy like this enabled disbursement of affordable housing in various areas of the community and was only one approach to this issue. Mr. Cromwell noted that he favored affordable housing being incentivized, but was concerned that it would be the only issue at the expense of other ones. Vice Mayor Soden added that affordable housing was a crisis across the nation at this time. Ms.

Fincher also stated that sustainability was a crisis and was concerned with competing lofty goals. Mr. Markus stated that he didn't think that either the sustainability criteria or affordable housing was mutually exclusive—both could be included in the economic development policies and the government making that statement was powerful. He pointed out that when these features are added to a project, they do increase the gap for the need for incentives as well. Mr. Cromwell just believed that including this created a greater divide.

Mr. Iverson asked about the parameters of an affordable housing definition. There is an affordable housing definition in the IRB policy. Ms. Stoddard noted that there were other discussions regarding the definition of affordable housing and that there should be alignment of this definition in the event a universal definition is adopted.

Mr. Burnside asked about the but-for provision in the IRB policy. He asked about what brought up the need for this analysis. Ms. Stoddard stated that at one of the study sessions, it was brought up that there is no analysis completed for stand-alone sales tax IRB requests. At that study session, there was concern expressed that but-for analysis was not performed for stand-alone IRB requests. Mr. Burnside asked whether this analysis was done for stand-alone IRB requests in neighboring communities. Staff responded that it was not typically done.

Mr. Cromwell stated that he was concerned with disqualification of smaller applicants who may not want to pay for but-for analysis work. He believes that there should be a floor for triggering the but-for analysis. He said that if we wanted the analysis, we need to be cognizant of the fees on the applicant's end. He didn't want to see our policies restricted to the companies who could afford the best lawyers. Mr. Iverson believed that including the but-for analysis was a concern. He asked about the origination fee. Crum-Cano stated that the fee was up to a policy decision.

Ms. Fincher asked about looking at neighboring communities and if they were the ones that we were competing against. Crum-Cano stated that we look at neighboring community because they have similar programs and laws regarding programs and it was a more apples to apples comparison. Ms. Stoddard also added that the competition depends upon the individual projects and whether they are looking nationwide or more regionally. She asked about whether these provisions affected competition. Ms. Stoddard noted the presentation from Mr. Cowden and the Deputy Secretary of Commerce where they encouraged being as broad as possible in order to have maximum flexibility.

Jalenak stated that her concern was the affordable housing threshold and that it was not flexible. She said that she is a proponent of affordable housing, but was concerned that this could have the effect of not building anything. Ms. Fincher agreed.

Mayor Amyx asked if the committee was ready to recommend changes to the City Commission. Mr. Cromwell said that more time would be required to craft language for a recommendation. Mayor Amyx said it was a good idea for the group to be comfortable with the information before making recommendations. It was decided that non-elected representatives on the Public Incentive Review Committee should meet and

make recommendations on specific policy changes. Mayor Amyx and Vice Mayor Soden requested that the group provide its recommendation back by August 1. Mayor Amyx requested Mr. Cromwell chair this committee.

Vice Mayor Soden made a motion to have a committee provide its recommendations by August 1, with the meetings being open public meetings without the elected officials on PIRC. Ms. Fincher seconded the motion. The motion was approved unanimously.

The meeting was adjourned at approximately 10:45 am.