

MINUTES: Sub-Committee Work Session Meeting

City of Lawrence Public Incentives Review Committee May 26, 2016 minutes

MEMBERS PRESENT: Aron Cromwell, Bradley Burnside, Linda Jalenak, and Jill Fincher

MEMBERS ABSENT: Brian Iverson

STAFF PRESENT: Diane Stoddard, Britt Crum-Cano, Danielle Buschkoetter, Brad Karr

PUBLIC PRESENT: One member of the public in attendance.

Aron Cromwell called the meeting to order at approximately 9:04 a.m.

Cromwell stated that the goal for the meeting is to look at economic development policy revisions and come up with language that is sensitive to community needs and would help reflect priorities, but not so restrictive that the project would not be built and therefore would not provide any benefit.

Brian Iverson was not able to attend, but had emailed his comments. (See attached).

NRA application fees:

Diane Stoddard clarified that most neighboring communities implement neighborhood-wide (blanket) NRAs, rather than project specific NRAs. Their application fees are lower as "but for" analysis is not required for a neighborhood wide NRA. The NRA fees suggested by Staff were suggested to reflect staff time for "but for" analysis. NRA analysis is time intensive as there is a lot of process (considered by City, County, and USD; publication timing, etc.). "But for" definitely adds to staff cost.

Cromwell mentioned that there has been some discussion on using a blanket NRA. A blanket NRA is still a possibility, if it would be acceptable to the governing body. Stoddard mentioned that the NRA policy is written to target a project-specific NRA, which is typically the way Lawrence has used NRAs. State NRA law is very broad and can accommodate either approach. Most common use of the tool is as a blanket NRA. With a blanket NRA, you don't know what will happen with each parcel within the defined NRA boundaries, so it is not feasible to do a "but for" analysis.

Cromwell mentioned that with isolated (i.e. project specific) NRAs, he felt nervous about the fees being charged and if they would be palatable to smaller projects (e.g. 1106

Rhode Island). He stated that there needs to be a balance that accommodates both larger and smaller projects.

Jill Fincher mentioned that it is unlikely that a City would ever be able to recoup staff analysis time via fees. The Philosophy of trying to recoup fees sounds good, but those fees won't have much impact on budget.

Linda Jalenak asked if the level of fees should be different. Crum-Cano mentioned that the analysis required is the same for both large and small projects. Cromwell mentioned that he was concerned that NRA fees may not correlate with meeting community goals. For example, the 1106 Rhode Island Street NRA supported community goals of revitalizing dilapidated properties and historic preservation. If NRA fees were charged to help recoup expenses, that project might not have went forward and those community goals would not have been met.

Cromwell mentioned that these hurdles may make projects more difficult to the point that only larger developers can pursue projects. They (larger developers) have the financial resources and fees are not too onerous for them, as compared to smaller developers.

Cromwell stated that the "but for" requirement doesn't make sense for IRBs. There is no liability for the City when using IRBs. The only cost to the city is a relatively small amount of sales tax on construction materials. Cromwell mentioned that he thought if a project is so tight that "but for" an exemption on sales tax materials the project would not go forward, the project is not very feasible overall as that would be a very tight margin.

It was asked about the validity of "but-for" analysis. Crum-Cano stated it is always a projection as no one knows with certainty future revenues and expenses. The City utilizes the same analysis as a developer would on the project, but in the end, all revenues and expenses will be made in the future and are therefore a projection within the analysis.

Fincher asked what "but-for" adds to IRB process? Cromwell stated that you would only provide an incentive in cases of a go/no go decision. If the IRB sales tax exemption is not provided, the project would not proceed. He mentioned he liked the idea of a project being analyzed on its own merits, not hard rules. We have a public process where officials weigh in on if a project is worth the incentives being asked, based on the merits it brings rather than meeting a "but-for" threshold.

Fincher mentioned she was concerned about adding hurdles to our ability to be competitive. She asked about the target of these hurdles. Cromwell thought that as the policy changes were written, they were targeting a HERE type project with very large resources. Jalenak was concerned this policy language would hurt smaller projects. Fincher mentioned she was leaning toward striking the "but-For" language in the IRB policy as it causes a lot of extra work for staff and provides little gain. She also thought the "but-for" provision might result in losing small-medium size projects.

Cromwell mentioned that the fee language might scare away applicants and could be misinterpreted. If he was reading the language, he would be nervous about the fees since they are not known. Stoddard mentioned staff typically has conversations with an applicant before they apply and will discuss fees and what might be required. Cromwell would like to tweak the language stating that a funding agreement might be required that would specify additional fees applicant would be responsible for. This would be a clarification, but not likely to actually change anything.

All committee members mentioned they would like to strike the "but for" requirement for IRBs.

Affordable housing, NRAs and threshold:

Cromwell stated that this goes under the category of tying the hands of staff and everyone. Using the NRA to achieve affordable housing goals can be accomplished with hand tied. Analysis has to be done and the project has to be profitable for the City as a whole or the project can't be done. There are a lot of goals and they are not cheap (LEED certified), taking rental unit out of market rate and converting to affordable housing.) If we want these to happen, they will cut into a project's returns. Realistically, with this cap, the project is not likely to happen.

Fincher asked about affordable housing goals and if there has been a study conducted. Stoddard clarified that affordable housing has recently been identified as a City Commission Goal. Fincher stated that because the issue came up so recently, she felt language was just stuck in the suggested policy changes to accommodate.

Stoddard mentioned that an affordable housing advisory board has been formed. They are seeking several different ways to fund affordable housing on multiple fronts. Using economic development incentives would be one way to fund affordable housing and help scatter it throughout the community. Having affordable housing requirements is new for developers.

Jalenak stated that she is involved with Habitat for Humanity, but feels like affordable housing is the issue of the day. She is glad attention is being given to the need, but has issues with the numbers in draft policy changes. Cromwell stated he has no issue with the need for affordable housing. Part of why it is an issue is because we are in a university community.

Cromwell stated he could almost guarantee a large project will never happen the way the affordable housing provision is written: the 35% set aside requirement, combined along with a 50% cap. He also mentioned that Downtown renovation projects with 4 units, will have to set aside at least one unit, which actually makes the requirement a 25% set aside for affordable housing. Jalenak stated that rents on market rate units will have to be increased so much higher to accommodate the lower rent units. You are exacerbating the problem. Cromwell added that affordable housing has to be done intelligently. There are lots of good goals. Adding affordable housing as a goal is appropriate and desirable, but not to the exclusion of all others. Fincher mentioned that laudable goals shouldn't be in competition with each other. They need to be flexible and allow the process to work.

Cromwell asked if we will incentivize projects “but for” affordable housing?

Brad Burnside joined the meeting at 9:51 a.m.

Cromwell asked if affordable housing has not been a major recipient of public incentives in the past. Stoddard said the primary reasons projects with residential units have been supported is they are mixed-use, downtown projects.

Jalenak stated that limiting NRAs to 50% would limit competitiveness. There will be certain people who read the policy and walk away; getting the impression we won't consider a project based on its merits. Burnside mentioned that he has observed other Cities have avoided absolutes in their policies. It sends a message. Are our policies rules or tools? Tim Cowden asked in his recent presentation why you would limit your ability to compete by stating absolutes within policies. Jalenak added that it would eliminate a lot of projects we wouldn't even get to hear about. Burnside suggested continuing to perform analysis so we can focus on the process of evaluating benefits rather than set some rule from the start that restricts what we will consider.

Cromwell stated policy language shouldn't tie hands, but be more informative on what projects are viewed more favorably. The affordable housing numbers are too high as written and projects with a small number of residential units should be exempt from the set aside requirement. Consider inserting language that projects meeting non-economic goals such as affordable housing, environmental sustainability, historical preservation, are considered even if cost-benefit threshold ratio of 1:1.25 is not met.

Jalenak added that project with 4 residential units, can't set aside 10% for affordable housing. Thirty-Five (35%) is way too high. Cromwell stated that a 35% set aside requirement will need a substantial incentive package from the City to go forward. Stoddard mentioned that Tax Credit projects (Poehner, 9 Del), would meet the 35% set aside requirement.

Cromwell mentioned that the homework for the next meeting would be to identify language to help to meet the goal of affordable housing through public incentives, without killing those projects.

Burnside mentioned this could be an opportunity to turn around restrictive language to make it more positive so it helps promote community. We want language in the policy to stay around regardless of changes in the City Commission.

The committee members discussed when to meet next to continue discussion of economic development policy issues. It was decided that Thursday, June 16, 2016 at 9:00 a.m. would work.

The meeting was adjourned at approximately 10:30 a.m.