CITY OF OREGON CITY
URBAN RENEWAL BUDGET COMMITTEE MEETING
MINUTES

Virtual Meeting

Monday, May 17, 2021 at 6:00 PM

CONVENE URBAN RENEWAL BUDGET COMMITTEE MEETING

Chair Frank O'Donnell called the meeting to order at 6:02 PM.

ROLL CALL

PRESENT: 10 - Adam Marl, Frank O'Donnell, Shawn Cross, Denyse McGriff, Doug Neeley, Rachel Lyles Smith, Rocky Smith, Jr., Emma Lugo, Timothy Christopher, and Kyle Arnhart

STAFFERS: 7 - City Manager Tony Konkol, City Attorney Bill Kabeiseman, Finance Director Matt Zook, City Recorder Kattie Riggs, Economic Development Manager James Graham, Deputy Finance Director Ryan Bredehoeft, and Business Analyst Erin Wilkie

ELECTIONS

1. Elect Chairperson per ORS 294.905 (7)

Motion made by Committee Member Neeley, seconded by Committee Member Smith, to elect Denyse McGriff as the Chairperson. Motion passed with the following vote:

Yea: 10 - Committee Members Cross, Lugo, Lyles Smith, Christopher, Marl, Neeley, O'Donnell, Arnhart, Smith, and McGriff.

2. Elect Vice Chairperson

Motion made by Committee Member Arnhart, seconded by Committee Member Lugo, to elect Rocky Smith as Vice Chairperson. Motion passed with the following vote:

Yea: 9 - Committee Members Cross, Lugo, Lyles Smith, Christopher, Marl, Neeley, O'Donnell, Arnhart, and McGriff.

Abstain: 1 - Committee Member Smith

3. Elect Secretary per ORS 294.905 (7)

Motion made by Committee Member Lyles Smith, seconded by Committee Member Smith, to elect Emma Lugo as the Secretary. Motion passed with the following vote:

Yea: 10 - Committee Members Cross, Lugo, Lyles Smith, Christopher, Marl, Neeley, O'Donnell, Arnhart, Smith, and McGriff.

APPROVAL OF THE MINUTES

4. Minutes of the May 13, 2019 Urban Renewal Budget Committee Meeting

Motion made by Committee Member Christopher, seconded by Committee Member Smith to approve the May 13, 2019 Urban Renewal Budget Committee Meeting Minutes as presented. The motion carried by the following vote:

Yea: 9 - Committee Members O'Donnell, Cross, McGriff, Smith, Marl, Lugo, Christopher, Arnhart, and Lyles Smith.

Abstain: 1 – Committee Member Neeley

PUBLIC COMMENTS

Jesse Buss, resident of Oregon City and lawyer representing John F. Williams, had sent a letter to the committee members that morning. His client has pending litigation against the City and feels the adoption of the proposed budget is illegal under Chapter XII, Section 59 of the Oregon City Municipal Charter. Mr. Buss identified that committee members could be held personally liable for authorizing the use of TIF (Tax Increment Financing) funds in an inappropriate way.

Mr. Buss also identified that the Urban Renewal Commission does not have any indebtedness to repay and the funds proposed to be generated by the TIF would be in violation of the Oregon Constitution. Mr. Buss indicated that funds generated by the Urban Renewal Districts may only be legally used for repaying indebtedness.

The committee members discussed the letter sent by Mr. Buss and its contents. Committee Member Lyles Smith expressed concerns with discussing the contents of pending litigation in public and requested input from the City Attorney.

Bill Kabeiseman, City Attorney, discussed that it is an ethical obligation to not contact represented parties in the context of the active litigation with the City, though the rules are somewhat different for public bodies, but certain steps should be taken that were not completed. Mr. Kabeiseman also discussed that the trial court's order determined that Chapter XII, Section 59 E of the City Charter was preempted by state law and that judgment has not been stayed. The only way the budget decision would involve the litigation is if the pending appeal is successful, which he felt was unlikely. Mr. Kabeiseman noted that it would be extremely unlikely that committee members could be held personally liable for adopting a budget in compliance with the trial court's order, and that could only happen if the appeal is successful.

Committee Member Lugo requested that Mr. Buss be provided more time to justify the claim that committee members could be found personally liable, since she felt as though it was a threat to the members of the committee. Since some of the members had not read the letter, the committee discussed providing Mr. Buss more time to summarize the arguments in the letter and respond.

Motion made by Committee Member O'Donnell, seconded by Committee Member Neeley, to allow Jesse Buss more time to summarize his letter sent to the Committee early in the day (May 17, 2021). The motion failed with the following vote:

Yea: 6 - Committee Members Lugo, Christopher, Marl, O'Donnell, Smith, and McGriff.

Nay: 4 - Committee Members Cross, Lyles Smith, Neeley, and Arnhart.

There was discussion regarding the requirement of the majority of the total membership to pass procedural motions under the Oregon Budget Law and the number required to pass motions. Mr. Zook identified that the committee is 14 members, so an affirmative vote of 8 members is required to pass an action by the Budget Committee under the Oregon Budget Law. Committee Member Neeley asked to change his vote from NAY to AYE. His vote change was accepted.

Commissioner Smith suggested taking a brief break to allow the committee members to read and consider the letter. The Committee took a break from 6:30 - 6:35 PM.

There was brief discussion of the number of members due to the recent resignation. The Committee provided Mr. Buss the opportunity to provide more context and information.

Mr. Buss continued to speak. Mr. Buss clarified that his client did not intend to pursue personal liability against committee members, but a third party could make such a claim. Mr. Buss discussed that the gathering of urban renewal revenue and saving it, rather than paying down debt, would be potentially illegal. The suggestion is to take a break from collecting TIF for the next year or two.

Mr. Kabeiseman discussed that the Oregon Constitution does not require that the funds be immediately spent on repaying debt and saving the funds generated by the TIF to pay indebtedness incurred in the future would not be illegal. The committee members discussed the effect of the adoption of Chapter XII, Section 59 of the City Charter and the background information.

Mr. Neeley asked Mr. Kabeiseman if the Urban Renewal Commission would need to retroactively repay any expenditures made prior to the decision of the Oregon Court of Appeals. Mr. Kabeiseman discussed that the Urban Renewal Commission might have to recapture the fund expended, but it would depend on the specific holding and remedy if the appeal is successful. Mr. Kabeiseman noted that few expenditures are proposed, so the potential repayment would be the minimal administration costs proposed in the budget summary. The appellate court may not require repayment of these costs since they are now legally authorized under the trial court judgment, but the outcome depends on the specific details of the judgment provided by the Oregon Court of Appeals.

BUDGET MESSAGE

5. Budget Message from the Budget Officer

Tony Konkol, City Manager, presented the Budget Message stating that the Budget is balanced and had been prepared in accordance with Oregon Budget Law. For the period July 1, 2021 through June 30, 2023, the total budget is $9,701,811. He discussed how the Urban Renewal Agency was a separate legal entity from the City of Oregon City as established under Oregon State law ORS Chapter 457.035(1).

Mr. Konkol continued to explain about Measure 3-514 passed by Oregon City voters on November 8, 2016, which was intended to limit the use of urban renewal, but that the Clackamas County Circuit Court determined that the measure was preempted by Oregon Revised Statutes (ORS) Chapter 457. The City is currently awaiting a decision from the Oregon Court of Appeals. As of December 1, 2020, the Urban Renewal Agency had retired all its outstanding bonded indebtedness. The budget does not include funding for any new urban renewal projects.

Mr. Konkol explained the budget highlights which included a revenue increase of $482,500 or 8%, tax increment increases budgeted at 4.5 % for each year, and other revenue sources from property rentals and investment income. Projected spending for the biennium totaled $792,000 and was comprised of minimum operating and legal costs. A reserve for future expenditure of $8.9 million is proposed for appropriation to projects pending the Urban Renewal Commission's review. Mr. Konkol finished-up by explaining that the Downtown/North End Urban Renewal Plan included an established debt limit of $130.1 million as a maximum of urban renewal investment - maximum indebtedness.

GENERAL BUSINESS

6. Budget Review and Discussion

Mr. Konkol reviewed the proposed biennial budget line by line with the Committee to answer any questions. The committee members discussed some details of the budget summary.

Mr. O'Donnell asked if the question of reducing the levy would be addressed at the meeting and include discussion of the report prepared by Leland Consulting Group.

The committee members discussed adopting the budget as-is without amendments. There was also discussion about waiting to adopt the budget after some of the issues are resolved related to the pending litigation, outcome of the discussion of the continued existence of the Urban Renewal Commission, the discussion of the Leland Consulting Group analysis, and the public's opinion of urban renewal.

Chair McGriff asked what the legal requirements were for adopting the Urban Renewal Agency's budget. Mr. Zook identified that a budget must be adopted by June 30, 2021.

Chair McGriff provided options for the Committee to consider, including approving the budget as presented, continue the decision on the budget until the next contingent meeting on May 20, 2021, or reschedule the decision until a later date before June 30, 2021 but after the Urban Renewal Commission can provide more insight about the future of the Urban Renewal District.

7. Approve the 2021-2023 Urban Renewal Biennial Budget of $9,701,811 to be Forwarded to the Urban Renewal Commission for Adoption and Establish that the Maximum Amount of Tax from the Division of Taxes Shall be Levied for the Fiscal Years Ending 2022 and 2023

Motion made by Committee Member Neeley, seconded by Committee Member Cross, to approve the 2021-2023 Urban Renewal Biennial Budget of $9,701,811 to be forwarded to the Urban Renewal Commission for adoption and establish that the maximum amount of tax from the Division of Taxes shall be levied for the Fiscal Years Ending 2022 and 2023. The motion failed by the following vote:

Yea: 6 - Committee Members Cross, Lugo, Lyles Smith, Neeley, Arnhart, and McGriff

Nay: 4 - Committee Members Christopher, Marl, Smith, and O'Donnell

There was brief discussion of scheduling and further meeting dates.

Motion made by Committee Member Neeley, seconded by Committee Member Lyles Smith, to hold the May 20, 2021 meeting and an additional meeting after May 20, 2021, but prior to June 30, 2021 at a time to be scheduled when the Committee Members are available. The motion passed by the following vote:

Yea: 9 - Committee Members Cross, Lugo, Lyles Smith, Christopher, Marl, Neeley, O'Donnell, Arnhart, and McGriff

Nay: 1 – Committee Member Smith

The committee members discussed the remaining options to proceed and the rationale for their votes. Committee members discussed that they would like to see a proposed use of the funding before approving the TIF.

Mr. Konkol expressed concerns that an adopted plan for urban renewal cannot be feasibly developed prior to June 30, 2021, so it is unlikely that staff could provide a detailed summary of proposed uses of the funding under the current timeline.

ADJOURNMENT

Chair McGriff adjourned the meeting at 7:46 PM.

Respectfully submitted,

Kattie Riggs

Kattie Riggs, City Recorder