

November 5, 2013

Urban Renewal Authority

A meeting of the Fort Collins Urban Renewal Authority was held on Tuesday, November 5, 2013, at 9:56 p.m., in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Boardmembers: Campana, Cunniff, Horak, Overbeck, Poppaw and Troxell.

Boardmembers Absent: Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

Agenda Review

Executive Director Atteberry stated there were no changes to the published agenda.

Citizen Participation

Eric Sutherland, 3520 Golden Currant, discussed a plan approved by the Denver City Council that will defund Denver schools by about \$30 million, in violation of the Urban Renewal Authority statutes. He stated the only legislative remedy for the chronic abuse of tax increment financing is to get rid of Urban Renewal Authorities altogether.

CONSENT AGENDA

1. Consideration and approval of the Minutes of the October 15, 2013 Urban Renewal Board Meeting.
2. Resolution No. 064 Adopting Rules of Procedure for the Conduct of Meetings of the Board of Commissioners of the Fort Collins Urban Renewal Authority.

The purpose of this item is to revise the adopted URA Board Rules of Procedure to establish a location for posting of meeting notices, and to add rules of conduct at URA Board meetings.

Boardmember Poppaw made a motion, seconded by Boardmember Troxell, to adopt and approve all items on the Consent Calendar. Yeas: Troxell, Poppaw, Horak, Campana, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

November 5, 2013

Resolution No. 065

Approving a Loan from the City of Fort Collins to the Fort Collins Urban Renewal Authority for Reimbursements for the Capstone Development Corporation Summit on College Avenue Project, Approving a Loan Agreement for that Purpose, and Appropriating Loan Proceeds for Expenditure by the Authority, Adopted

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The purpose of this item is to approve a loan agreement between the City of Fort Collins and Fort Collins Urban Renewal Authority to provide funding for the reimbursement obligation to Capstone Development Corporation for The Summit on College redevelopment project and to appropriate the proceeds from the loan to pay the reimbursement obligation.

BACKGROUND / DISCUSSION

In September 2011, the Fort Collins Urban Renewal Authority (URA) approved a Redevelopment Agreement with Capstone Development Corp. (Developer) for The Summit on College, a mixed-use student housing project in the Prospect South Tax Increment Financing (TIF) District. The Redevelopment Agreement obligated the URA to reimburse the Developer up to \$5 million in a lump sum for eligible project costs. Knowing that the URA would not have sufficient fund balance to make this payment outright, it has been anticipated that the URA would seek a loan from the City of Fort Collins, repaid using tax increment revenue generated by the project over the life of the Prospect South TIF District.

Per the Redevelopment Agreement, the \$5 million reimbursement obligation is due to the Developer upon completion of the project, subject to verification of eligible costs by URA staff. The Developer obtained a Certificate of Occupancy for the project in August 2013, and subsequently submitted their reimbursement request to the URA. Although URA staff is awaiting additional documentation from the Developer to verify several of the costs, once received, the agreement requires the URA to make the reimbursement within 45 business days. The City and URA have negotiated a Loan Agreement, which requires adoption of an Ordinance by City Council and a Resolution by the URA Board; however, this Agreement deviates from the current City interagency loan policy because several estimates made at the time of the Redevelopment Agreement have proven inaccurate, details described below.

Estimates v. Actuals

When the amount of tax increment generated by The Summit was estimated in 2011, the URA used a methodology based on project costs and assumed 1% appreciation each year, for a total of approximately \$8 million. It was anticipated that the URA would have to borrow from the City to pay the reimbursement to the Developer, and at the time, the financing charge on a \$5 million loan was estimated to be \$2.4 million.

Based on the most recent August 2013 preliminary valuation from Larimer County, the project is estimated to generate \$7 million of tax increment, creating a \$1 million revenue shortfall from the original projection. Additionally, a combination of rising interest over the past two years (adding 71 basis points) and the City's new interagency loan policy (adding 25 basis points), have increased the expected interest rate on the loan from the City from 4.0% to 4.96%, increasing interest cost from \$2.4M to \$3.78M. Table 1 summarizes the difference between the original estimates and actual numbers:

Table 1

	2011 Estimates	2013 Actuals
Total Tax Increment	\$8 million	\$7 million
Reimbursement Obligation	\$5 million	\$5 million ¹
Financing Cost to URA	\$2.4 million	\$3.78 million
Balance	\$600,000	(\$1.78 million)

¹ Subject to final verification by URA staff.

Between the decrease in tax increment revenue and increase in financing charge, the URA would be unable to afford the full debt obligation of a \$5 million loan from the City under current investment policy interest rates. Consequently, City and URA staff have negotiated a loan agreement that allows the URA to uphold its reimbursement obligation to the Developer and remain financially solvent, while making a concerted effort to uphold the City's interagency loan policy.

Proposed Loan Agreement Terms

The URA cash flow does not support a \$5 million loan from the City based on current interest rates and the current interagency loan policy. A new loan structure was developed that assigns an interest rate based on the known revenue stream and term, which turns out to be 2.68%. Since City policy would require 4.96% interest, this leaves a gap of \$1.78 million. To fill this gap, the URA commits to pledge 50% of future unencumbered revenue from the Prospect South TIF District to the City.

For example, assume the URA collects \$1 million in revenue from the Prospect South TIF District in a given year, and owes the City a \$400,000 payment (principal and interest) on the Capstone loan; 50% of the remaining \$600,000, or \$300,000, would be paid to the City to help pay down the \$1.78 million interest rate gap. This revenue share structure would continue for the life of the Prospect South TIF District, or until the \$1.78 million is paid in full, whichever happens first.

While City and URA staff support the negotiated loan terms, the variation from current policy is duly acknowledged. Several practices have been put into place since approval of the Capstone Redevelopment Agreement to prevent the need for additional policy exceptions, including:

- Tax increment estimates are based on Larimer County's estimate of valuation that the Developer provides to the URA; the estimates assume 1% appreciation over the life of the associated TIF District.
- Establishing a maximum percentage of tax increment that would be available to reimburse a project that includes a combination of both reimbursable costs to the developer and URA

November 5, 2013

financing costs.

- *Establishing a maximum tax increment contribution percentage of the total project cost.*

Reimbursement Obligation

As mentioned, the URA received appropriate documentation from Capstone for the \$5 million of eligible costs that can be reimbursed per the Redevelopment Agreement. Staff has reviewed the documentation and verified that Capstone incurred such costs and is therefore eligible to receive the full reimbursement obligation, minus the amount the URA is entitled to withhold until certain performance measures are met. The Redevelopment Agreement states the URA is entitled to withhold the following amounts based on Capstone's ability to achieve certain performance measures:

- *\$100,000 until the project submits to the U.S. Green Building Council (USGBC) for LEED Certification.*
- *An additional \$100,000 until the USGBC formally certifies the project achieved LEED Certification.*
- *\$875,000 until the commercial space of the project is fully released. The URA will pay Capstone at a rate of \$109.375/gross square foot of gross leased space as tenant leases are executed.*

Capstone has submitted the project to the USGBC and has executed a lease with Red Robin for a portion of the commercial space. Provided the City and URA Board approve the Loan Agreement, and the URA Board appropriates the loan proceeds accordingly, the URA would make its first reimbursement payment to Capstone in November 2013.

The Resolution would approve the Loan Agreement between the City and URA, and appropriate those loan proceeds to allow the URA to pay the reimbursement obligation to Capstone.

FINANCIAL / ECONOMIC IMPACTS

Adopting the Resolution would approve a \$5 million loan from the City of Fort Collins to the Fort Collins Urban Renewal Authority (URA) and allow the URA to pay its reimbursement obligation to Capstone. The URA would be charged an interest rate of 2.68% on the loan. Principal and interest payments will be made to the City from tax increment revenue generated by the Prospect South TIF District through 2037. Additionally, the URA will pay the City 50% of the annual unencumbered revenue collected from the Prospect South TIF District, up to \$1.78 million, to repay the difference between the adjusted 2.68% interest rate and the City's current policy interest rate of 4.96%.

BOARD / COMMISSION RECOMMENDATION

The URA Board Finance Committee discussed the Loan Agreement on September 16, 2013. The Committee supported the proposed terms and bringing forth this Resolution to execute the Agreement.

November 5, 2013

The City of Fort Collins approved the Loan Agreement via Ordinance on First Reading on October 15, 2013 (5-2 vote, Nays: Cunniff, Overbeck). Second Reading of the Ordinance is scheduled for November 5, 2013."

Eric Sutherland, 3520 Golden Currant, discussed the legislative intent of the URA statutes.

Jeff Jones, Capstone Development Partners, discussed the redevelopment agreement between the URA and Capstone and stated Capstone has fulfilled its obligations under that agreement. He noted the creation of a parking structure will diminish the economic returns on the project.

Boardmember Cunniff asked if the commitment to create pedestrian access to campus has been fulfilled. Mr. Jones replied the obligation is to complete that work by summer 2014 and the work is on schedule to be completed.

Boardmember Cunniff asked what part of this \$5 million was intended to fund that aspect of the project. Mr. Jones replied the \$5 million funded eligible costs ranging from infrastructure, flood mitigation and sustainability, which the URA approved for reimbursement. Megan Bolin, Economic Health Analyst, replied there is nothing specific in the redevelopment agreement speaking to public access to the CSU campus.

Boardmember Cunniff stated there was discussion the night the project was approved that the connectivity would be part of the project. Walker May, Project Development Manager for Capstone, replied that sidewalk, while it was included in the \$6.5 million of total eligible costs for reimbursement, it is not part of the \$5 million being requested for reimbursement. Capstone will incur the cost for the sidewalk once the easements are completed for the property to the north.

Boardmember Cunniff asked if there was an independent audit of the assertion the project would not have been possible without the reimbursement. Josh Birks, Economic Health Director, replied the policy at the time was to perform an independent analysis by either staff or an independent organization. The analysis was elected to be done internally and the conclusion was that there was a gap and the \$5 million in agreed upon assistance did move the projected revenue to an industry-acceptable level.

Boardmember Cunniff asked if these were the same staff members who completed the analysis of the TIF cash flows at the time. Birks replied in the affirmative.

Boardmember Troxell discussed the items which were part of the reimbursement obligation and noted part of the reimbursement will go toward the creation of necessary stormwater, sewer and floodplain improvements. He requested an explanation of the land acquisition, easements and demolition. Megan Bolin, Economic Health Analyst, replied the URA agreed to reimburse costs necessary for FEMA improvements and land allocation for public streets and public roads, undergrounding the on-site electric utilities, site lighting along the public streets, and curbs, gutters, and sidewalks in the public right-of-way on-site. Additionally, as a requirement of the redevelopment agreement, Capstone has built to LEED certification standards and some of the costs associated with that are to be reimbursed.

November 5, 2013

Boardmember Troxell noted the URA is fulfilling an obligation made to Capstone in its fulfillment of the development. Birks noted the URA would also be accepting the terms of the loan agreement with this item.

Boardmember Overbeck requested information from the Finance Committee meeting. Mike Beckstead, Chief Financial Officer, replied multiple discussions have occurred based on the estimates made two years ago which led to the policy discussion and the creation of a framework on which to guide these types of deals going forward. Those policies still need to be discussed with the Council and URA Finance Committees and will then be brought forth to Council.

Boardmember Overbeck asked if Beckstead acknowledged there were misses made in the calculations. Beckstead replied in the affirmative.

Boardmember Overbeck asked what types of scenarios will be considered other than interest rates. Beckstead replied there are two ways to miscalculate: the TIF revenue forecast or an interest rate rise. He went on to discuss an example of the possible future policy.

Boardmember Campana agreed with Mr. Sutherland that the City and URA are independent in their obligations; however, assumptions were made when the URA Board made a commitment to Capstone regarding the value of the property, interest rates, and funding from the City.

Boardmember Troxell made a motion, seconded by Boardmember Campana, to adopt Resolution No. 065.

Boardmember Cunniff stated he would not support the motion and argued the project is not well liked by students. Additionally, he stated the developer should have known a parking structure would be needed. He disagreed the loan should have been made from the City and disagreed the reimbursement should be provided as the project is not what was agreed upon.

Boardmember Troxell stated he would support the motion as this URA Board is obligated to fulfill the commitments made of previous URA Boards.

Vice-Chair Horak disagreed with Boardmember Cunniff that student residents of the project are unhappy and noted the developer is undertaking the financial responsibility of the parking structure.

The vote on the motion was as follows: Yeas: Poppaw, Horak, Campana and Troxell. Nays: Cunniff and Overbeck.

THE MOTION CARRIED.

Other Business

Boardmember Cunniff discussed a letter from the Poudre River Public Library District expressing concern the URA is appropriating their property taxes to use for URA projects. He requested the

November 5, 2013

indulgence of the Board to forward to the URA Finance Committee the option of excluding the Library District, Foothills Gateway, the Health District, and perhaps other smaller taxing entities from future TIF awards. Boardmember Overbeck and Vice-Chair Horak replied they would support that suggestion. Vice-Chair Horak noted he has discussed the issue with City Manager Atteberry.

City Manager Atteberry stated staff members have been in contact with the Library District's Executive Director and will be meeting with them in the near future. He stated discussions have been held at Leadership Planning Team regarding having deliberate conversations with each of those districts regarding the URA and tax increment financing.

Adjournment

The meeting adjourned at 10:34 p.m.



Vice Chair

ATTEST:



Secretary



