

City of Scottsbluff, Nebraska

Monday, August 17, 2015

Regular Meeting

Item Reports1

Council to receive additional information regarding the establishment of a Community Redevelopment Authority and give direction to staff.

Staff Contact: Nathan Johnson, Assistant City Manager

MEMORANDUM

To: Annie Folck and Nathan Johnson
From: Rick Ediger and Kent Hadenfeldt
Date: March 23, 2015
Subject: Community Redevelopment Authority

§18-2101.01 of the Community Development Law provides that cities have the "power and authority to create a community development agency by ordinance, which agency may consist of the governing body of the city . . . or a new or existing municipal division or department, or combination thereof." To date, the City Council has acted as the City's community development agency. Existing City Ordinances dealing with Community Development are found in §6-2-165 (establishment of the Community Development Division in the Department of Development Services) and §6-2-166 (office of Community Development Administrator to direct the Community Development Division - appointed by the City Manager).

The authority to form a separate Community Redevelopment Authority ("CRA") is governed by §18-2102.01 of the Community Development Law. If the City Council decides to create a separate CRA, it must pass an ordinance to do so. The Mayor then, with the approval of the City Council, appoints five or seven members who shall constitute the CRA. If, for example, the Council determines that a five member CRA is appropriate, the terms of the five members would be staggered at the time of their initial appointment so that one member serves for one year, one member serves for two years, one member serves for three years, one member serves for four years, and one member serves for five years, with each member's term designated by the Mayor. As the terms of the members of the CRA expire, the City Manager appoints or reappoints members to five year terms with the approval of the City Council.

A CRA constitutes a separate public body and has the power to prepare or cause to be prepared and recommend redevelopment plans to the City Council and to undertake and carry out redevelopment projects. The CRA can also make expenditures necessary to carry out the purposes of the Community Development Law to include expenditures from funds obtained from the Federal Government. The powers of the CRA are set forth in §18-2107. Included in those powers is the authority to levy a separate tax in an amount not to exceed 2.6 cents of each \$100 valuation in the City. One question to resolve is how a CRA levy impacts the \$175,000 property tax levy limit mandated by the City Sales Tax ballot language. Since that

limit applies only to the General Fund, it would not apply to a CRA levy since the CRA would have its own separate fund.

Even if a CRA is created and has its own levy and right to spend City funds, there are two controls that are in the hands of the Council: (1) the CRA levy does not exist unless approved by the City Council during the budget process, and (2), if a TIF project would require a redevelopment plan (or an amendment to an existing plan), it would ultimately require Council approval.

Some of the potential advantages of a separate CRA are: (1) opportunities for specialization and concentration on economic development as opposed to putting this in the hands of the Council which already has plenty of responsibility; (2) more public involvement in the process allowing for a broader base of support; (3) the variety of programs available (for an example, facade improvement program, purchase of property, demolition of delapidated properties, etc.; and (4) the potential to remove politics from the decision-making and taking some pressure off elected officials. The City Council would continue to set policy through the redevelopment plan, adoption or amendment process. As indicated above, any project which expands the scope of the plan would require City Council approval.

Possible disadvantages of a separate CRA are: (1) Council loses a certain amount of control and may not have as much input as is the case where the Council is actually directing the project; (2) plan amendments can be more difficult to approve as the approval of two bodies is required; and (3) the need for willing volunteers to serve on the CRA. Number (3) is always a concern given the number of volunteers already required to fill the City's boards and commissions. One option to consider is the utilization of the members of the Economic Development Application Review Commission as members of the CRA.

Based upon applicable state statutes and the City's economic development plan, it does not appear the City Council could assign the duties of the CRA directly to the Economic Development Application Review Commission ("ARC"). There needs to be two separate bodies due to the fact that one (the CRA) is enabled by specific Nebraska statutes and the other (ARC) has its existence due to the City's economic development plan. There does not appear to be anything, however, that would prevent the same persons from serving on both the ARC and the CRA. A CRA has significantly more authority than the ARC. Nevertheless, the members of the two groups should be able to distinguish between their authority as CRA members and ARC members, conduct separate proceedings for each role, and perform two functions which are related by their economic development potential, but separated by their respective powers and duties.

According to §18-2101.01 of the Community Development Law, a CRA constitutes a public body, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law, to include the power (each item is summarized below):

(1) To enter into contracts and to have bylaws, rules, and regulations not inconsistent with the Community Development Law;

(2) To prepare or cause to be prepared and recommend redevelopment plans to the City Council and to carry out redevelopment projects;

(3) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project;

(4) To purchase, lease, obtain options, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real or personal property, necessary or incidental to a redevelopment project; to hold, improve, clear, or prepare for redevelopment any such property; to sell, lease for a term not exceeding ninety-nine years, exchange, transfer, assign, subdivide, retain for its own use, to mortgage or encumber or dispose of its property; to enter into contracts with redevelopers of property; to borrow money, issue bonds, and provide security for loans or bonds; to establish a revolving loan fund; to insure or provide for the insurance of any property or the operation of the authority; to enter into any contracts necessary to effectuate the purposes of the Community Development Law; and to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan;

(5) To invest any funds; and to redeem bonds;

(6) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, from the state, county, municipality, or other public body, or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or bequests, for purposes of the Community Development Law,;

(7) To conduct examinations and investigations; and to make available to appropriate agencies or public officials, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, demolishing unsafe or insanitary structures, or eliminating conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals, or welfare;

- (8) To make or have made surveys, appraisals, studies, and plans necessary to the carrying out of the purposes of the Community Development Law and to contract or;
- (9) To prepare plans and provide reasonable assistance for the relocation of families, businesses, and others displaced from a redevelopment project area to permit the carrying out of a redevelopment project;
- (10) To make expenditures as may be necessary to carry out the purposes of the Community Development Law; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;
- (11) To certify to the City Council the amount of tax to be levied for each fiscal year for community redevelopment purposes (not to exceed 2.6 cents of each \$100 valuation). The proceeds for the levy shall be used to assist in the defraying of any expenses of redevelopment plans and projects, including the payment of principal and interest on any bonds issued to pay the costs of any such plans and projects;
- (12) To exercise all or any part or combination of the powers granted to the CRA;
- (13) To plan and carry out neighborhood development programs consisting of redevelopment project activities in one or more community redevelopment areas;
- (14) To agree with the governing body of the city for the imposition of an occupation tax for an enhanced employment area; and
- (15) To demolish any structure determined by the City Council to be unsafe or unfit for human occupancy in accordance with §18-1722.01 of the Community Development Law.

If it is determined by the City Council to proceed with a CRA, the next step would be to draft an Ordinance creating the CRA. We have obtained several examples from communities that currently have CRA's. We would also recommend contacting one or two First Class Cities that currently have a CRA in order to explore the practical application of the use of a CRA in those cities.