

City of Scottsbluff, Nebraska
Monday, October 24, 2016
Regular Meeting

Item 1

Approve Minutes of the June 2, 2016 Meeting.

Staff Contact: Chris Burbach, Deputy City Clerk

City of Scottsbluff
Community Redevelopment Authority
June 2, 2016

A meeting of the Community Redevelopment Authority (CRA) Committee was held on June 2, 2016 at 5:00 p.m. at City Hall, 2525 Circle Drive, Scottsbluff, NE.

The meeting was convened at 5:00 p.m. Roll call was taken. The following committee members were present: Bill Trumbull, Kelley Beatty, Joanne Phillips, Seth Covalt and Bill Knapper. In attendance on behalf of the City were City Manager Nathan Johnson, Deputy City Attorney, Rick Ediger, Deputy City Attorney John Selzer and City Clerk, Cindy Dickinson.

Chairman Trumbull called the meeting to order and informed those in attendance that a copy of the Nebraska Open Meetings Act is available for the public's review. There were no changes in the agenda, nor were there any citizens with business not scheduled on the agenda.

Moved by Committee Member Phillips, seconded by Committee Member Knapper, "to approve the minutes of the April 25, 2016 Meeting, "YEAS", Covalt, Knapper, Beatty, Phillips and Trumbull; "NAYS" none.

Deputy City Attorney Selzer, presented the Five 22 Developing Housing Redevelopment, explained the obligation of the CRA, which includes a determination as to whether the redevelopment plan conforms with the Comprehensive Plan. The Planning Commission reviewed and agreed that the development located in the Southwest part of Scottsbluff, complies with the following principles of development: supports the work force, encourages in-fill development, and continues a neighborhood style of housing with streets and sidewalks.

The CRA conducted a cost benefit analysis showing that the development will produce an estimated \$709,826.00 in TIF revenue, which will support a bond in the amount of approximately \$500,410.00. The principal and interest of the bond will go to the redeveloper. This will leverage about \$3.7 million of private funds.

The current value of all 21 lots in the development is \$68,310.00. This produces about \$1500.00 total in tax revenue. The redevelopers estimate that with the construction of the homes, the value of each lot will be \$120,000.00 per lot, increasing the tax revenue by approximately \$49,000.00 annually. This tax on the incremental increase would then go to the redevelopers to support the bond. After 15 years, it would return to the taxing jurisdictions.

This project benefits public infrastructure needs because of the completion of Avenue G between West Overland and West 11th Street. Although there is no employment within the project area, but this plan will create affordable housing which will have a positive impact on employment in the City and surrounding areas.

The other issue to evaluate is if the project meets the "but for" test, meaning but for the tax increment financing the project would not be feasible. The redevelopers have demonstrated that this financing is necessary to make the project work, considering the cost of the infrastructure, street and housing. If the CRA approves this plan, it will then go to the City Council for their consideration.

Mr. John Adams, redeveloper of the project, asked questions about the timing of the funding and payment process of the initial expenses. Mr. Selzer explained the process of creating the bond which is supported by the tax revenues. The developer can either hold the bond or sell it, or use it as collateral for the loan at the bank. Mr. Selzer explained that timing is crucial with these TIF projects to get the greatest value as possible.

Moved by Beatty, seconded by Phillips, "to approve the Five 22 Developing LLC Housing Redevelopment Plan and Resolution for the property located at lots 1-10, and lots 13-23, Rosenberger Addition located on Ave. G between West Overland and 11th Street," "YEAS", Covalt, Knapper, Beatty, Phillips and Trumbull; "NAYS" none.

RESOLUTION NO. CRA 16-06-01

BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Recitals:

a. Pursuant to the Community Development Law, NEB. REV. STAT. § 18-2101 *et seq.*, a redevelopment plan titled *Five 22 Developing, LLC Housing Redevelopment Plan* (the "Redevelopment Plan") has been submitted to the Scottsbluff Community Redevelopment Authority ("CRA"). The Redevelopment Plan proposes to redevelop an area of the City which the City Council has declared to be blighted and substandard and in need of redevelopment. The Redevelopment Plan includes the use of tax increment financing.

b. The Redevelopment Plan has been reviewed by the Planning Commission, which found that the Redevelopment Plan conforms to the 2016 Scottsbluff Comprehensive Plan (the "Comprehensive Plan"). The Planning Commission recommended approval of the Redevelopment Plan to the CRA and City Council.

c. The CRA has reviewed and conducted a cost-benefit analysis of the Redevelopment Plan and makes the findings and recommendations as set forth in this Resolution.

Resolved:

1. The proposed land uses and building requirements in the Redevelopment Plan are designed with the general purposes of accomplishing, in conformance with the Comprehensive Plan, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the provision of adequate transportation, water, sewerage, and other public utilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of conditions of blight.

2. The CRA has conducted a cost benefit analysis for the project in accordance with the Community Redevelopment Law, and finds that the project as proposed in the Redevelopment Plan would not be economically feasible or occur in the project area without tax increment financing and the costs and benefits of the project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, are in the long term best interests of the community.

3. The CRA states: (a) the Redeveloper will acquire the project area by private sale at the estimated cost of \$105,000.00; (b) the estimated cost of preparing the project area for redevelopment is \$25,200.00; (c) the Redevelopment Plan does not propose that either the CRA or City will acquire the project area and neither the CRA nor City will receive proceeds or revenue from disposal of the project area to the Redeveloper; (d) the proposed methods of financing of the project are (i) tax increment financing for other eligible costs in the estimated amount of \$500,410.00 and (ii) private investment and borrowing for the remainder of the project costs; and (e) no families or businesses will be displaced as a result of the project.

4. The CRA recommends approval of the Redevelopment Plan, which shall be subject to the CRA entering into an agreed upon redevelopment contract with the redeveloper, to the City Council.

5. This Resolution along with the recommendation of the Planning Commission shall be forwarded to the City Council for its consideration when reviewing the Redevelopment Plan.

6. All prior resolutions of the CRA in conflict with the terms and provisions of this Resolution are repealed to the extent of such conflicts.

7. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED on June 2, 2016.

COMMUNITY REDEVELOPMENT
AUTHORITY OF THE CITY OF
SCOTTSBLUFF

ATTEST:

_____ Chair

_____ Recording Secretary

CRA Chairman Trumbull declared a conflict of interest regarding the Owen Oral Surgery Items and announced that he will step aside as Chairman and Vice Chair Phillips will assume the duties of Chairman. Mr. Trumbull will abstain from voting or discussing these items. The City Attorney's office also has a conflict of interest which resulted in the review of the documents being considered by independent counsel, on behalf of the City.

Mr. Selzer, representing Owen Development, LLC, explained that proposed revised redevelopment plan is an example of a non-substantial modification. Following additional review by outside attorney Jim Ellison, and approval by City Council, there were a few minor modification recommendations which are reflected in the revised plan. The site development costs were itemized, and, parking lot paving, signage and other miscellaneous site improvements will not be paid for with TIF funds. The street paving in front of the business will be included in the TIF funding. Staff agreed that it is prudent to ratify the plan with these modifications.

Moved by Knapper, seconded by Beatty, "to approve the Owen Oral Surgery Redevelopment Plan, as modified, which was approved by the City Council," "YEAS", Covalt, Knapper, Beatty, Phillips and; "NAYS" none; "ABSTAIN", Trumbull.

RESOLUTION NO. CRA 16-06-02

BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Recitals:

a. Pursuant to the Community Development Law, NEB. REV. STAT. § 18-2101 *et seq.*, a redevelopment plan titled *Owen Oral Surgery Center Redevelopment Plan*, prepared by Owen Development, L.L.C. (the "Redevelopment Plan") has been submitted to the Scottsbluff Community Redevelopment Authority ("CRA").

b. The Redevelopment Plan, was modified by the direction and authority of the CRA on or about April 28, 2016 and the Redevelopment Plan, as modified, was approved by the City Council on May 2, 2016.

c. The modification does not substantially change the scope of the Redevelopment Plan.

Resolved:

1. The CRA ratifies the modification of the Redevelopment Plan as approved by the City Council.

2. All prior resolutions of the CRA in conflict with the terms and provisions of this Resolution are repealed to the extent of such conflicts.

3. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED on June 2, 2016.

COMMUNITY REDEVELOPMENT AUTHORITY
OF THE CITY OF SCOTTSDLUFF

ATTEST:

Vice Chair

Recording Secretary

Mr. Selzer presented the contract and Bond for the Owen Oral Surgery Project. Attorney Ellison's review suggested a few minor changes which were included in the contract. It basically sets forth that the redeveloper is obligated to implement the plan and the city will use the tax revenues to pay off the bond. City Manager Johnson explained that in the contract there is a blank on page six for the administrative fee. The City is currently looking at this amount from a staff level. The fee will probably now be more than \$4,000.000, however, we are looking at a set percentage rate. It's important to cover attorney and city staff fees. Mr. Ediger added that this is important to discuss for future projects also, so that the city is not out-of-pocket for all administrative costs. Approval of the contract should include a provision for the administrative fee.

Moved by Beatty, seconded by Knapper, "to approve the Resolution adopting, approving, and authorizing the Vice Chairperson to execute the Redevelopment Contract and TIF Bond for the Owen Oral Surgery Redevelopment Plan, and provide for city staff to negotiate the administrative fee," "YEAS", Covalt, Knapper, Beatty, Phillips and; "NAYS" none; "ABSTAIN", Trumbull.

RESOLUTION NO. CRA 16-06-03

BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF SCOTTSDLUFF, NEBRASKA:

Recitals:

a. Pursuant to the Community Development Law, NEB. REV. STAT. § 18-2101 *et seq.* (the “Act”), a redevelopment plan titled *Owen Oral Surgery Center Redevelopment Plan*, prepared by Owen Development, L.L.C. (the “Redevelopment Plan”) has been submitted to the Scottsbluff Community Redevelopment Authority (the “Authority”). The Redevelopment Plan proposes to redevelop an area of the City which the City Council has declared to be blighted and substandard and in need of redevelopment. The Redevelopment Plan includes the use of tax increment financing.

b. The Redevelopment Plan has been reviewed by the Planning Commission, which found that the Redevelopment Plan conforms to the 2016 Scottsbluff Comprehensive Plan. The Planning Commission recommended approval of the Redevelopment Plan to the Authority and City Council.

c. The Authority and City of Scottsbluff City Council have approved and adopted the Redevelopment Plan.

d. The Authority and Owen Development, LLC (the “Redeveloper”) desire to enter into a Redevelopment Contract (the “Contract”) under which the Authority will provide a grant and tax increment financing to the Redeveloper to assist with the implementation of the Redevelopment Plan. Capitalized terms not otherwise defined in this Resolution shall have the same meaning as provided for in the Contract.

Resolved:

1. The Contract between the Authority and Redeveloper as presented is approved. The Vice Chair of the Authority is authorized to sign the Contract on behalf of the Authority. This Resolution shall be construed consistently with the Contract.

2. A tax increment revenue bond in the aggregate principal amount of \$204,000.00 is ordered issued in accordance with NEB. REV. STAT. § 18-2125 by the Authority and shall be designated as “Tax Increment Revenue Bond (Owen Development)” (the “Bond”).

3. Pursuant to the provisions of NEB. REV. STAT. § 18-2147 and the terms of the Contract the effective date is hereby confirmed as January 1, 2017, after which ad valorem taxes on real property located within the Site (as defined in the Contract) may be apportioned pursuant to said section 18-2147. Said taxes shall be divided as follows:

a. That portion of the ad valorem tax on the Site which is produced by levy at the rate fixed each year by or for each public body upon the "redevelopment project valuation" (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as all other taxes collected by or for the bodies; and

b. That portion of the ad valorem tax on real property on the Site in excess of such amount (the “TIF Revenues”), if any, shall be allocated to, is pledged to, and, when collected, paid into a special fund of the Authority (the “Bond Fund” as defined in the Contract) to pay the principal of, the interest on, and any premium due in connection with the Bond. When such Bond, including interest and premium due have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property related to the project shall be paid into the funds of the respective public bodies.

4. So long as any principal of the Bond remains outstanding the Authority shall not issue any additional bonds payable from the TIF Revenues from the Site without the written consent of the registered

owner (including any pledgee) of the Bond as then outstanding. The Authority further reserves the right to provide for payment of principal on the Bond from the proceeds of a refunding bond or refunding bonds to the extent allowed by law.

5. Pursuant to the terms of the Contract, the City Treasurer as Agent of the Authority is hereby authorized and directed to give notice to the County Assessor and Treasurer of the provision of the Contract for dividing ad valorem taxes in accordance with the requirements of NEB. REV. STAT. § 18-2147(3), listing 2016 as the “base year.”

6. The Bond is a special, limited obligation of the Authority and is not secured by any obligation or pledge of any monies received or to be received from taxation, other than tax increment revenues as set forth in the Contract and as described in NEB. REV. STAT. § 18-2147. The Bond shall not in any event be a debt of the Authority (except to the extent of the tax increment revenues pledged under the Contract), the City, the State, nor any of its political subdivisions, and neither the Authority (except to the extent of the tax increment revenues pledged under the Contract), the City, the State nor any of its political subdivisions is liable in respect thereof. In no event shall the Bond be payable out of any funds or properties other than those of the Authority acquired pursuant to the Contract. The Bond does not constitute a debt within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the Authority and does not impose any general liability upon the Authority. No member or official of the Authority nor any person executing the Bond shall be liable personally on the Bond by reason of its issuance.

Nothing in this Resolution shall preclude the payment of the Bond from (a) the proceeds of future bonds issued pursuant to law or (b) any other legally available funds. Nothing in this Resolution shall prevent the City or the Authority from making advances of its own funds howsoever derived to any of the uses and purposes mentioned in this Resolution and the Contract.

7. The Bond shall be in substantially the form of the attached Exhibit A and shall be subject to the terms and conditions as set forth in the Contract and this Resolution (including those in Exhibit A).

- a. The Bond shall be issued as a single Bond and in fully registered form.
- b. The Bond shall have an appropriate series designation as determined by the Treasurer of the City (the “Agent”), shall be dated the date the Bond is initially issued and delivered, which shall be the date of the first deposit of proceeds of that series in the Project Fund (defined in the Contract) (“Date of Original Issue”), shall mature, subject to right of prior redemption, not later than December 31, 2031, and shall bear interest in the amount determined by the Agent and Redeveloper, not to exceed 7%. The Agent is hereby authorized to, from time to time, specify, set, designate, determine, establish and appoint, as the case may be, and in each case in accordance with and subject to the provisions of this Resolution: (i) the Date of Original Issue, (ii) the principal amount of the Bond as set forth above, (iii) the maturity date of the Bond, which shall be not later than December 31, 2031, (iv) the initial principal payment date and (v) any other term of the Bond not otherwise specifically fixed by the provisions of this Resolution.
- c. The Bond shall be executed by the Vice Chair and Secretary of the Authority and the original, official seal of the City shall be impressed or printed thereon. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if s/he had remained in office until such delivery.
- d. Upon execution of the Bond and compliance with all other provisions of this Resolution and the Contract, the Bond shall be registered by the Agent in the name of the owner or its designee as

the initial registered owner and shall be delivered in consideration of payment of the principal amount thereof to the City's Treasurer in current bankable funds. The Redeveloper may request notation of a pledge interest in the Bond on the records of the Agent. From such purchase price, the Authority is to make a grant to the Redeveloper in accordance with the terms of the Contract.

- e. The Bond shall be issued to such owner as shall be mutually agreed between the Redeveloper and the Authority for a price equal to 100% of the principal amount thereof. The initial purchaser (and any pledgee) shall be required to deliver an investment representation letter to the Agent. Such letter shall be satisfactory in form to the officers of the Authority, or any one or more of them, as advised by the Authority's attorney. No Bond shall be delivered to any owner unless the City and the Authority shall have received from the owner thereof such documents as may be required by the Authority to demonstrate compliance with all applicable laws. The Authority may impose such restrictions on the transfer of any Bond as may be required to ensure compliance with all requirements relating to any such transfer.
- f. The Bond shall be issued in installments to the purchaser thereof, as the person(s) identified as the owner(s) of the Bond from time to time, as indicated on the books of registry maintained by the Registrar. The records maintained by the Registrar as to principal amount advanced and principal amounts paid on the Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes. The Registrar shall have only such duties and obligations as are expressly stated in this Resolution and no other duties or obligations shall be required of the Registrar.
- g. The Agent shall keep and maintain for the Authority books for the registration and transfer of the Bond at City Hall in Scottsbluff, Nebraska. The name and registered address of the registered owner of the Bond (including notation of any pledgee as may be requested by the Redeveloper) shall at all times be recorded in such books. The transfer of the Bond may be registered only upon the books kept for the registration and registration of transfer of the Bond upon surrender thereof to the Registrar, together with an assignment duly executed by the owner or its attorney or legal representative in such form as shall be satisfactory to the Registrar. Prior to any transfer and assignment, the owner will obtain and provide to the Authority an investor's letter in form and substance satisfactory to the Authority evidencing compliance with the provisions of all federal and state securities laws, and will deposit with the Authority an amount to cover all reasonable costs incurred by the Authority, including legal fees, of accomplishing such transfer. A transfer of any Bond may be prohibited by the Authority if a default then exists under the Contract. Upon any such registration of transfer the Authority may execute and deliver in exchange for such Bond a new Bond registered in the name of the transferee, in a principal amount equal to the principal amount of the Bond surrendered or exchanged, of the same series and maturity and bearing interest at the same rate. In all cases in which any Bond shall be exchanged or a transfer of a Bond shall be registered hereunder, the Authority shall at the earliest practicable time execute and deliver a Bond in accordance with the provisions of this Resolution. The Bond surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. Neither the Authority nor the Registrar shall make a charge for the first such exchange or registration of transfer of any Bond by any owner. The Authority or the Registrar, or both, may make a charge for shipping, printing and out-of-pocket costs for every subsequent exchange or registration of transfer of such Bond sufficient to reimburse it or them for any and all costs required to be paid with respect to such exchange or registration of transfer. The Authority and the Agent shall not be required to transfer the Bond during any period from any Record Date until its immediately following payment date or to transfer the Bond when called for redemption, in whole or in part, for a period of 15 days next preceding any date fixed for redemption or partial redemption.

- h. The principal and interest due on the initial payment date and each subsequent payment date prior to maturity shall be payable to the registered owner of record as of the fifteenth day of the calendar month immediately preceding the calendar month in which such payment date occurs (the "Record Date"). If the date for payment shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Scottsbluff, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day, and payment on such day shall have the same force and effect as if made on the nominal date of payment. Payments on the Bond, except for payments due on final maturity date, or other final payment, shall be made by the Authority by mailing or delivering a check or draft in the amount then available for payment on the Bond to the registered owner of the Bond, as of the Record Date for such payment date, to such owner's registered addresses as shown on the books of registration as required to be maintained hereunder. Payments of principal and interest due at final maturity or other final payment shall be made by the Authority to the registered owner upon presentation and surrender of the Bond to the Authority at the offices at City Hall in the City of Scottsbluff, Nebraska. The Authority and the Agent may treat the registered owner of the Bond as the absolute owner of the Bond for the purpose of making payments thereon and for all other purposes and neither the Authority nor the Agent shall be affected by any notice or knowledge to the contrary, whether the Bond or any installment due thereon shall be overdue or not. All payments on account of principal and interest made to the registered owner of the Bond in accordance with the terms of the Contract and this Resolution shall be valid and effectual and shall be a discharge of the Authority and the Agent, in respect of the liability upon the Bond to the extent of the sum or sums so paid.
- i. At any time, the Authority shall have the option of prepaying in whole or in part principal of the Bond. Notice of any optional redemption for the Bond shall be given at the direction of the Authority by the Agent by mail not less than 15 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of the Bond at said owner's registered address. Notice of call for redemption may be waived in writing by any registered owner. In the event of prepayment in whole the Bond shall be cancelled. The determination of the amount and timing of any optional redemption of the Bond shall be in the absolute discretion of the Authority. The records of the Authority shall govern as to any determination of the principal amount of the Bond outstanding at any time and the registered owner shall have the right to request information in writing from the Authority at any time as to the principal amount outstanding upon the Bond.

8. The Vice Chair and Agent are hereby authorized to take any and all actions, and to execute any and all documents deemed by them necessary to effect the transactions contemplated in the Contract and authorized by this Resolution.

9. All prior resolutions of the Authority in conflict with the terms and provisions of this Resolution are repealed to the extent of such conflicts.

10. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED on June 2, 2016

COMMUNITY REDEVELOPMENT
AUTHORITY OF THE CITY OF
SCOTTSBLUFF

Vice Chair

ATTEST:

Recording Secretary

Chairman Trumbull asked about projects in general, if, for some reason a project were not able to move forward. Deputy City Attorney Ediger explained that the plan will remain in place if another developer would want to take it over.

Moved by Knapper, seconded by Phillips, "to adjourn the meeting at 5:45 p.m.," "YEAS", Covalt, Knapper, Beatty, Phillips and Trumbull; "NAYS" none.

Nathan Johnson, Secretary

Recording Secretary