

# **City of Scottsbluff, Nebraska**

**Monday, August 4, 2014**

**Regular Meeting**

## **Item Reports3**

**Council discussion and instructions to staff regarding the reauthorization of the local option sales tax and economic development portion of the tax.**

**Staff Contact: Rick Kuckkahn, City Manager**

**City of Scottsbluff**  
**Joint Meeting of Economic Development Application Review Committee**  
**and Citizens Advisory Committee**  
**July 28, 2014**

A joint meeting of the Economic Development Application Review Committee (“ARC”) and Economic Development Citizens Advisory Committee (“CAC”) was held on July 28, 2014, at 8:00 a.m. at City Hall, 2525 Circle Drive, Scottsbluff, NE.

The meeting was called to order at 8:00 a.m. in the City Council Chamber. Roll call was taken. Present were ARC Members, Jim Trumbull, Dennis Hadden, and Lee Glenn. Present were CAC Members, Mark Harris, Diane Vandenberg and Marci Meyer. Also in attendance were Program Administrator, Rick Kuckkahn, Deputy City Manager, Nathan Johnson, and Deputy City Attorney, Rick Ediger.

Jim Trumbull, Chairman of the ARC, called the meeting to order and stated that a copy of the Nebraska Open Meetings Act is located on the South wall of the Council Chambers. There was no change to the agenda nor any citizens with business not scheduled on the agenda.

The first Agenda item was discussion concerning recommendations to the City Council regarding the reauthorization of the local option sales tax and economic development portion of the tax. Six questions were posed to the Committees, as follows:

1. Should the current allocations of  $\frac{1}{4}$  of 1% of the City sales tax to the Economic Development Fund continue? The consensus of the Committee Members present was that it should.
2. Should the \$175,000 limit on property tax levy for general fund purposes continue? The consensus of the Committee Members present was that it should.
3. Should additional sources of revenue to include grants or from state or federal funds, or from donations be permitted? The consensus of the Committee Members present was that this change should be made.
4. Should additional types of qualifying businesses be added to the Economic Development Plan be considered, as authorized by statute? These include film production, constructing and rehabilitating housing, and retail business. After considerable discussion, the consensus of the Committee Members present was that no change should be made.

5. Should eligible activities be added to the Economic Development Plan as authorized by Nebraska law? Additional activities that could be included would be relocation incentives for new residents, grants and loans for the construction or rehabilitation of housing for persons of low or moderate income, grants under certain circumstances for natural gas pipeline facilities. Following discussion, it was a consensus of the Committee Members present that none of the additional activities should be included.

6. Whether an expiration date should be included: It was the consensus of the Committee Members present that the renewal should include a 10-year sunset provision, as was the case with the prior issue.

Based on the discussion, each Committee then voted on making a recommendation to the City Council. On behalf of the ARC, it was moved by Glenn and seconded by Hadden that the responses indicate by consensus above be the recommendation of the ARC to the City Council. Voting yes: Trumbull, Hadden and Glenn. Voting no: None. With CAC Chairman Harris presiding over this portion of the meeting, it was moved by Vandenberg and seconded by Meyer that the responses indicated by consensus above be the recommendation of the CAC to the City Council. Voting yes: Harris, Vandenberg and Meyer. Voting no: None.

A brief discussion was had concerning the use of Economic Development funds in order to pay for experts to conduct an orientation on Tax Increment Financing in Scottsbluff. The Program Administrator suggested that any action be withheld until after the report of the Economic Development Consultants is made. No action was taken on this item.

The meeting was adjourned at 9:05 a.m.

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Rick Kuckkahn, Program Administrator

**City of Scottsbluff**  
**Sales Tax Extension / Economic Development Plan Renewal**  
**Recommendations of: Application Review Committee**  
**Citizens Advisory Review Committee**  
**July 28, 2014**

**1. Action Required:**

The current City Sales Tax and funding for the City's Economic Development (LB840) Program sunsets on September 30, 2015. A vote of the citizens is required in order to extend and renew either or both of these programs. In order for this matter to be considered at the November general election, the City Council must submit the ballot language to the County Clerk by September 1, 2014. This would mean a public hearing and action at the August 18 Council meeting unless a decision is made to hold a special meeting.

**2. Funding:**

a. The City currently allocates  $\frac{1}{4}$  of 1% of its Sales Tax receipts to its Economic Development Fund. Another way of stating this is that  $\frac{1}{6}$  of the City's 1.5% Sales Tax is available for Economic Development. A review of the City audits for the last 4 fiscal years indicates that the following amounts from sales tax have been allocated to Economic Development:

September 30, 2013:	\$962,192
September 30, 2012:	\$985,354
September 30, 2011:	\$927,073
September 30, 2010:	\$923,847

As of September 30, 2013, the balance in the Economic Development Fund was \$5,355,959.

***City Council Issue No. 1: whether the current allocation of sales tax to the Economic Development Fund should continue.***

***Committees' Recommendation: Yes***

b. One of the limitations imposed by the 2005 Sales Tax ballot language was that the property tax levied by the City for General Fund Purposes shall not exceed \$175,000.

***City Council Issue No. 2: Should this limitation continue?***

***Committees' Recommendation: Yes***

c. In 2011, the statutes were amended to include revenue from any other general tax levied by the City or generated from municipal owned utilities, or from grants, or from state or federal funds, or from donations. If from municipal owned utilities, the revenue must be used for utility-related purposes of the Program, including load management, energy, load growth, line extensions, land purchases, or site development.

***City Council Issue No. 3: Should funding continue to be limited to sales tax only, or consideration be given to allow for funding from grants, state or federal funds, or donations?***

***Committees' Recommendation: Add funding from grants, state or federal funds, but not from utilities.***

### **3. Economic Development Plan:**

We have prepared a draft of an Amended and Renewed Plan – effective October 1, 2015. There are several issues that need to be addressed in order to finalize our draft:

**a. Qualifying Businesses:** In order to for a business to receive direct funding under the Economic Development Program, it must fit within certain categories, as provided for in the Nebraska Statutes. The City's current plan allows for a business to be eligible if its principal source of income is from any of the following trades:

- (1) Manufacturing articles of commerce.
- (2) Conducting research and development.
- (3) Processing, storing, transporting, or selling goods or commodities sold or traded in interstate commerce.
- (4) Selling services in interstate commerce.
- (5) Headquarters facilities related to Qualifying Businesses as listed in this paragraph.
- (6) Telecommunications activities.
- (7) Tourism-related activities.
- (8) Any other activities deemed sufficient to establish eligibility for a Qualifying Business through future amendments to the Act, and incorporated into this Plan and the Program by ordinance of the City Council after amendment to the Act.

The following additional trades are eligible under the statutes, if the City desires to include them in its Plan:

- (9) *Producing films, including feature, independent, and documentary films, commercials, and television programs.*
- (10) *Constructing and rehabilitating housing.*
- (11) *Retail (Note: no more than 40% of the Program revenue in any twelve-month period and no more than 20% of the Program revenue during any five-year period, can be used for retail).*

Films were added to the statute since 2005. Housing has been in the statutes from the beginning, but the City has deliberately not included housing – due to complexities and restrictions set out in the statutes (see next section). Retail has always been available if the city’s population was less than 10,000. However, that limitation was removed in since 2005. A decision needs to be made at this time as to whether to include retail – since we can no longer rely on the language of (8) above to add it later. Unless the Council is ready to make a commitment to retain at this time, staff recommends that if retail is included, that it be qualified with a statement such as “prior to the inclusion of retail activities in the Plan, the City Council shall establish guidelines and conditions for grants for retail activities”. A provision could also be added to provide for a super-majority being required for Council action.

***City Council Issue No. 4: Whether any of the additional 3 items should be added to the Plan and specifically, how to handle retail?***

***Committees’ Recommendation:*** Leave the Plan “as is”. Do not add any of the additional types of businesses.

b. **Eligible Activities:** Funds shall be expended primarily for the purpose of providing direct or indirect assistance for Qualifying Businesses. Activities eligible under the City’s current plan are as follows:

- (1) Direct loans or grants to Qualifying Businesses for fixed assets or working capital, or both.
- (2) Loan guaranties for Qualifying Businesses.
- (3) Grants for public works improvements essential to the location or expansion of, or the provision of new services by, a Qualifying Business.
- (4) Grants or loans for job training.
- (5) The purchase or real estate, options for real estate purchases, and the renewal or extension of such options. If and when real estate is to be purchased or optioned by the City under the Program, the real estate will be indentified based upon the need of a particular Qualifying Business or based upon potential needs of Qualifying Businesses not yet identified. All such real estate should be properly zoned with no excessive easements, covenants, or other encumbrances. Any proceeds received by the City from the future sale of such real estate shall be returned to the City’s Economic Development Fund for reuse under the Program.
- (6) Issuing bonds as provided for in the Act.
- (7) Paying salaries and support of City staff to implement the Program, or paying expenses of contracting the administration of the Program to an outside entity.

- (8) Providing technical assistance to Qualifying Businesses, such as marketing assistance, management counseling, preparing financial packages, engineering assistance, etc.
- (9) Expenses for locating a Qualifying Business to the local area.
- (10) Equity investment in a Qualifying Business.

The following additional activities are eligible under the statutes, if the City desires to include them in its Plan:

(11) ***Relocation incentives for new residents.***

(12) ***Grants and loans for the construction of rehabilitation for sale or lease of housing for person of low or moderate income.*** The Plan must specify the income levels that qualify persons for participation in the housing program and the criteria for adjustments to be made to the income of persons to determine qualification for participation. Criteria may be: the amount of income available for housing needs; the size of the family to reside in the housing; the cost and conditions of housing available in the City; whether any person residing in the housing is elderly, infirm, or disabled; the ability of the applicant to successfully compete in the private housing market and to pay the amounts the private market requires for safe, sanitary, and uncrowded housing; and such other criteria the City may determine to be particularly relevant to conditions faced by persons seeking housing. Standards may also be based upon federal government guidelines or standards for qualifying for federal housing assistance programs, as modified by local and regional conditions and income levels.

(13) ***Grants, loans, or funds for rural infrastructure development, which means planning, financing, developing, acquiring, constructing, owning, operating, and maintaining a natural gas pipeline facility or entering into agreements with an interstate pipeline for existing, new, or expanded capacity on the interstate pipeline's system for the transportation of natural gas to areas where demands for natural gas are currently not being met by the current pipeline capacity.***

The last item is likely not an issue. We included the entire text of the statute concerning housing so that the additional issues to be addressed if this is added are clear.

***City Council Issue No. 5: Whether any of the additional 3 activities should be added to the Plan.***

***Committees' Recommendation:*** Leave the Plan "as is". Do not add any of the additional activities.

**4. Duration of Sales Tax & Economic Development Plan:** The current sales tax and ED plan included a 10-year sunset provision. There is no statutory restriction on the duration of the sales tax or the ED plan. Past City Councils have determined that the citizens should have an opportunity to consider these issues periodically.

***City Council Issue No. 6:*** *Whether an expiration date should be included, and if so, what should the time period be?*

***Committees' Recommendation:*** Include the 10-year sunset provision.