

CITY CLERK MEMORANDUM

13-56

DATE: November 8, 2013

TO: Honorable Mayor and Members of City Council

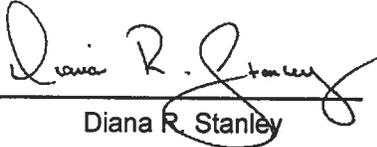
FROM: Diana R. Stanley, City Clerk

SUBJECT: SUBSTITUTE RESOLUTION FOR ECONOMIC IMPACT PLAN

Following the publication of the November 11, 2013 City Council agenda packet, city staff learned that Mr. James Murphy, Attorney for Bradley Arant Boult Cummings, who is representing Crossland for the Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area, made revisions to the resolution that was included in the agenda packet published on November 4, 2013.

Attached is an explanation provided by Mr. Murphy outlining, in detail, the changes that have occurred to the resolution, as well as a strikethrough version that allows City Council to track the changes.

In light of these revisions, city staff has prepared a *substitute* resolution to be considered at the November 11, 2013 City Council meeting which is attached.


Diana R. Stanley

cc: Mark S. Watson, City Manager
Kenneth R. Krushenski, City Attorney

Attachments:

Memorandum from James Murphy, Bradley Arant Boult Cummings
Strikethrough of Resolution Showing Changes
Substitute Resolution



RECEIVED

James L. Murphy III
Partner
Direct: (615) 252-2303
Fax: (615) 252-6303
jmurphy@babc.com

2013 NOV -7 PM 3: 53

MEMORANDUM

OFFICE OF THE CITY CLERK

TO Ken Krushenski, City Attorney

FROM James L. Murphy III *JLM*

DATE November 7, 2013

SUBJECT Revised Resolution Approving Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area

You have requested that I provide you with a memorandum explaining the revised Resolution Approving Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area. Clean and black-lined versions of the revised resolution are attached.

Revisions to Caption

I did not include the language "TAX INCREMENT FINANCING (TIF)" in the caption of the resolution because that language was not a part of the title of the Economic Impact Plan.

Revisions to Recitals

The statute authorizing the use of tax increment financing by the IDB requires that an economic impact plan include either an industrial park or a project as Tennessee Code Annotated § 7-53-101. The proceeds of tax increment financing can be used to fund expenses for the development of a "project" subject to limitations adopted in 2012 which require that State approval before the proceeds of tax increment financing can be used to fund improvements on private land.. This proposed Mall redevelopment project includes a hotel. Under the definition of a "project" found in Tennessee Code Annotated § 7-53-101(13)(B)(i), a hotel can be a "project" if the hotel is located in an within an area that could provide substantial sources of tax revenues or economic activity to the municipality. Therefore I added a recital stating that the Plan Area is an area that could provide substantial sources of tax revenues or economic activity to the City to eliminate any question of whether the hotel would be a "project" as defined in Tennessee Code Annotated § 7-53-101(13)(B)(i).

I revised the description of the Project to provide more information on the retail and office buildings, and to exclude the residential development from the definition of the Project. The residential portion of the development will not fit the definition of a "project" so I did not include it within the defined term "Project" as that portion of the development will not be funded with the proceeds of tax increment financing.

In the fourth recital, I added language to clarify that the \$13,000,000 is exclusive of interest paid on any tax increment financing issued or refinanced by the IDB.

In the fifth recital, I added language reciting that the IDB gave notice and conducted a public hearing on the Economic Impact Plan as required by Tennessee Code Annotated § 7-53-312.

I added a new recital stating that a summary of the public hearing is being provided to the members of the City Council.

I revised the language on the use of the proceeds of tax increment financing to provide more detail on the proposed uses and to describe the need for State approval for a portion of the proposed eligible expenses.

Body of the Resolution

did not include the language “Tax Increment Financing (TIF)” because that language was not a part of the title of the Economic Impact Plan

I added language stating that the Plan Area is an area that could provide substantial sources of tax revenues or economic activity to the City to address the hotel being within the definition of a project found at Tennessee Code Annotated § 7-53-101(13)(B)(i).

RESOLUTION

A RESOLUTION TO APPROVE THE ~~TAX INCREMENT FINANCING (TIF)~~ ECONOMIC IMPACT PLAN FOR THE REDEVELOPMENT OF THE OAK RIDGE MALL ECONOMIC DEVELOPMENT AREA

WHEREAS, The Industrial Development Board of the City of Oak Ridge, Tennessee (the "IDB") has prepared ~~an~~the Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area (the "Economic Impact Plan") regarding the ~~redevelopment~~development of the Oak Ridge Mall area (the "Plan Area"); and

WHEREAS, ~~the development of~~ the Plan Area ~~includes retail, office, hotel, and residential facilities and related improvements (the "Project")~~is an area that could provide substantial sources of tax revenues or economic activity to the City of Oak Ridge; and

WHEREAS, the redevelopment of the Plan Area would include the demolition of the existing mall and the construction of a retail-driven, multi-use project which is anticipated to contain, as the development is completed over time, approximately 400,000 square feet of retail space in multiple buildings, approximately 60,000 to 100,000 square feet of office space and a hotel (the "Project") plus the construction of up to 50 multi-family residential units; and

WHEREAS, the Economic Impact Plan would permit certain tax increment financing ("Tax Increment Financing") to be provided through the issuance of the IDB's bonds, notes, and other obligations in the total amount not to exceed ~~\$13,000,000.00~~13,000,000, exclusive of interest paid on any tax increment financing issued or refinanced by the IDB, pursuant to Chapter 53, Title 7 of the Tennessee Code Annotated; and

WHEREAS, after giving the notice of a public hearing to be held on October 24, 2013, and after conducting the public hearing as required by Tennessee Code Annotated § 7-53-312, the IDB has voted to recommended the adoption of the Economic Impact Plan at a meeting on October 24, 2013; and

~~WHEREAS, the proceeds of the Tax Increment Financing would be used to pay the costs of eligible improvements (the "TIF Eligible Costs") relating to the development of the Project; and~~

WHEREAS, a summary of the comments received at the public hearing has been prepared by the IDB and provided to the members of the City Council; and

WHEREAS, the proceeds of the Tax Increment Financing would be used to pay a portion of the cost for any one or more of the following: (i) the cost of constructing the Public Infrastructure for the Project (the "Public Infrastructure Costs"), (ii) the costs for demolition of existing buildings and other improvements (the "Demolition Costs"), (iii) the costs of site preparation for the Project (the "Site Preparation Costs"), (iv) the cost of construction of the buildings for the retail space, offices and the hotel for the Project (the "Building Costs"), (v) the costs for the relocation of all utilities and installation of new utilities (the "Utilities Cost"), (vi) the transaction costs, engineering costs, closing costs and legal costs incurred by the IDB and the

developer in connection with the adoption and implementation of the Economic Impact Plan and the financing contemplated thereunder (the Transaction Cost”), and (vii) such other cost as permitted by Tennessee Code Annotated § 7-53-312 (the “Other Costs”). “Public Infrastructure” shall have the meaning ascribed to such term in Tennessee Code Annotated § 9-23-102(15). and includes the roads, streets, traffic signals, sidewalks or other improvements that are available for public use, utility improvements and storm water and drainage improvements, whether or not located on public property or a publically dedicated easement. The use of the proceeds of the Tax Increment Financing for the Demolition Costs, the Site Preparation Costs, the Building Costs, the Utilities Costs and the Other Costs are subject to the Commissioner of the Department of Economic and Community Development and the Comptroller of the Treasury making a written determination that the use of tax increment revenues for such purposes is in the best interest of the State of Tennessee (the “State Approvals”). The Public Infrastructure Costs, the Transaction Costs, and subject to the State Approvals, the Demolition Costs, the Site Preparation Costs, the Building Costs, the Utilities Costs and the Other Costs, shall be hereinafter referred to as the “TIF Eligible Costs”); and

WHEREAS, the incremental property tax revenues (the “TIF Revenues”) that result from the development of the Plan Area under the Economic Impact Plan will be allocated to the ~~IDB~~ IDB to be used to pay debt service of the Tax Increment Financing; and

WHEREAS, in accordance with the Economic Impact Plan, the IDB ~~would issue the Tax Increment Financing to a lender or lenders to~~ will finance the TIF Eligible Costs with a lender or lenders and would pledge the TIF Revenues to such lender or lenders to apply to the debt service on the Tax Increment Financing; and

WHEREAS, the Tax Increment Financing shall not represent or constitute a debt or pledge of the faith and credit or the taxing power of the IDB, the City of Oak Ridge, or Anderson County, Tennessee; and

WHEREAS, the Board of Directors of the IDB has approved and submitted the Economic Impact Plan to the City Council of the City of Oak Ridge, Tennessee, for approval in accordance with Tennessee Code Annotated § 7-53-312.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the attached ~~Tax Increment Financing (TIF)~~ Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area ~~being~~ which proposed the redevelopment of an area that could provide substantial sources of tax revenues or economic activity to the City of Oak Ridge in a manner that is in the interests of the citizens of the City of Oak Ridge, Tennessee, is hereby approved by the City Council and the officers of the City are authorized to take all appropriate action to carry out the terms of the Economic Impact Plan.

This the __ day of November 2013.

APPROVED AS TO FORM AND LEGALITY

Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk

SUBSTITUTE

NUMBER _____

RESOLUTION

A RESOLUTION TO APPROVE THE ECONOMIC IMPACT PLAN FOR THE REDEVELOPMENT OF THE OAK RIDGE MALL ECONOMIC DEVELOPMENT AREA.

WHEREAS, the Industrial Development Board of the City of Oak Ridge, Tennessee (the "IDB") has prepared the Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area (the "Economic Impact Plan") regarding the development of the Oak Ridge Mall area (the "Plan Area"); and

WHEREAS, the Plan Area is an area that could provide substantial sources of tax revenues or economic activity to the City of Oak Ridge; and

WHEREAS, the redevelopment of the Plan Area would include the demolition of the existing mall and the construction of a retail-driven, multi-use project which is anticipated to contain, as the development is completed over time, approximately 400,000 square feet of retail space in multiple buildings, approximately 60,000 to 100,000 square feet of office space and a hotel (the "Project") plus the construction of up to 50 multi-family residential units; and

WHEREAS, the Economic Impact Plan would permit certain tax increment financing ("Tax Increment Financing") to be provided through the issuance of the IDB's bonds, notes and other obligations in the total amount not to exceed \$13,000,000, exclusive of interest paid on any tax increment financing issued or refinanced by the IDB, pursuant to Chapter 53, Title 7 of the Tennessee Code Annotated; and

WHEREAS, after giving the notice of a public hearing to be held on October 24, 2013, and after conducting the public hearing as required by Tennessee Code Annotated § 7-53-312, the IDB voted to recommend the adoption of the Economic Impact Plan at a meeting on October 24, 2013; and

WHEREAS, a summary of the comments received at the public hearing have been prepared by the IDB and provided to the members of the City Council; and

WHEREAS, the proceeds of the Tax Increment Financing would be used to pay a portion of the cost for any one or more of the following: (i) the cost of constructing the Public Infrastructure for the Project (the "Public Infrastructure Costs"), (ii) the costs for demolition of existing buildings and other improvements (the "Demolition Costs"), (iii) the costs of site preparation for the Project (the "Site Preparation Costs"), (iv) the cost of construction of the buildings for the retail space, offices and the hotel for the Project (the "Building Costs"), (v) the costs for the relocation of all utilities and installation of new utilities (the "Utilities Cost"), (vi) the transaction costs, engineering costs, closing costs and legal costs incurred by the IDB and the developer in connection with the adoption and implementation of the Economic Impact Plan and the financing contemplated thereunder (the "Transaction Cost"), and (vii) such other cost as permitted by Tennessee Code Annotated § 7-53-312 (the "Other Costs"). "Public Infrastructure" shall have the meaning ascribed to such term in Tennessee Code Annotated § 9-23-102(15) and includes the roads, streets, traffic signals, sidewalks or other improvements that are available for public use, utility improvements and storm water and drainage improvements, whether or not located on public property or a publically dedicated easement. The use of the proceeds of the Tax Increment Financing for the Demolition Costs, the Site Preparation Costs, the Building Costs, the Utilities Costs and the Other Costs are subject to the Commissioner of the Department of Economic and Community Development and the Comptroller of the Treasury making a written determination that the use of tax increment revenues for such purposes is in the best interest of the State of Tennessee (the "State Approvals"). The Public Infrastructure Costs, the Transaction Costs, and subject to the State Approvals, the Demolition Costs, the Site Preparation Costs, the Building Costs, the Utilities Costs and the Other Costs, shall be hereinafter referred to as the "TIF Eligible Costs"); and

SUBSTITUTE

WHEREAS, the incremental property tax revenues (the "TIF Revenues") that result from the development of the Plan Area under the Economic Impact Plan will be allocated to the IDB to be used to pay debt service of the Tax Increment Financing; and

WHEREAS, in accordance with the Economic Impact Plan, the IDB will finance the TIF Eligible Costs with a lender or lenders and would pledge the TIF Revenues to such lender or lenders to apply to the debt service on the Tax Increment Financing; and

WHEREAS, the Tax Increment Financing shall not represent or constitute a debt or pledge of the faith and credit or the taxing power of the IDB, the City of Oak Ridge, or Anderson County, Tennessee; and

WHEREAS, the Board of Directors of the IDB has approved and submitted the Economic Impact Plan to the City Council of the City of Oak Ridge, Tennessee for approval in accordance with Tennessee Code Annotated § 7-53-312.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the attached Economic Impact Plan for the Redevelopment of the Oak Ridge Mall Economic Development Area which proposed the redevelopment of an area that could provide substantial sources of tax revenues or economic activity to the City of Oak Ridge in a manner that is in the interests of the citizens of the City of Oak Ridge, Tennessee, is hereby approved by the City Council and the officers of the City are authorized to take all appropriate action to carry out the terms of the Economic Impact Plan.

This the 11th day of November 2013.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk