



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

CITY COUNCIL WORKSHOP

City Hall - Council Chambers

May 5, 2014

5:00 p.m.

***** Please note: There will be no public comment taken at the workshop. *****

CALL TO ORDER

BUSINESS

- Review findings from University of Minnesota economic development study
- Discuss potential short and long-term economic development projects for 2014
- Review draft business subsidy policy in accordance with Minnesota Investment Fund Loan requirements

ADJOURN



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Date: April 29, 2014

To: Mayor and City Council

From: Logan Martin, City Administrator

Re: Discuss Economic Development Opportunities

BACKGROUND

The purpose of this memo is to prepare the Council to engage in a discussion regarding future economic development opportunities for the City. There are a number of strategic opportunities that can be considered, and staff desires direction on which initiatives should be pursued in the short and long term.

Short Term Opportunities

A number of easily accessible, yet impactful projects can be implemented in the short term. The options discussed below address a few priorities, including beautification of the downtown, business promotional support, and fostering stronger relationships with the business community.

- Business Visit Program
 - Informal visits with business owners that provide an opportunity for Staff, Council representative, and business owner to network, discuss any City needs or concerns, and thank them for their business in Bayport.
- Downtown Beautification
 - Installation of hanging baskets along Hwy 95 and 5th Ave
 - Installation of Retail district signage
- Perro Park Phase II Project
 - Significant reinvestment within main corridor improves aesthetics and vitality of downtown area

Long Term Opportunities

More complex economic development options exist as well, and should be considered and pursued in order to avoid missing opportunities.

- Creation of Economic Development loan / grant funds
 - Provides an available resource for business owners to reinvest in aging property or consider starting a new business in a pre-existing facility
 - Could be utilized for façade improvements, capital purchases / start-up costs, building remodels, etc.
 - Funding source would be pre-existing TIF funds
- Acquisition of 169 – 143 3rd St property
 - Elimination of a blighted building along main corridor directly enhances overall community aesthetic.
 - Provides opportunity for redevelopment of prime piece of property
 - Significant due diligence work required before acquisition should be considered (financial analysis, environmental research, market-research regarding future use of property, etc.)

Initial Review of a Business Subsidy Policy

In connection with the Minnesota Department of Employment and Economic Development (DEED) grant award to Andersen Corporation, the City is required to adopt a Business Subsidy Policy (attached). This document establishes basic parameters for future business subsidies provided by the City, however it does not restrict our ability to create future programs, including revolving loan funds. Staff will provide an overview of this policy at the workshop, with formal adoption in June as required by the State of Minnesota.

QUESTIONS:

1. What priorities should staff pursue in the short term?
2. What priorities should staff pursue in the long term?
3. What comments or questions do you have about the Business Subsidy Policy?

ATTACHMENTS

Draft Business Subsidy Policy



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Business Subsidy Policy
Public Hearing: June 2, 2014
Effective Date: June 2, 2014

Purpose

The purpose of this Business Subsidy Policy (the “Policy”) is to provide guidance for the City of Bayport, Minnesota (the “City”) in its provision of assistance for commercial and housing development and redevelopment projects. As a matter of adopted policy, the City will consider using public assistance to aid private development only in those circumstances in which the proposed private project shows a demonstrated financing gap, meets the City’s formal or informal development goals, and is consistent with the City’s Comprehensive Plan.

This Policy shall be used as a guide in processing and reviewing applications requesting public assistance. The City shall have the option of amending or waiving sections of this Policy when determined to be necessary or appropriate.

Statutory Limitations

All forms of business assistance provided by the City must comply with applicable state law and regulations, including Minnesota Statutes, Sections 116J.993 through 116J.995, as amended (the “Act”). Section 116J.993, Subdivision 3 of the Act defines a “business subsidy” as a “state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.” Exhibit A lists the current forms of financial assistance that the Act does not consider subsidies, as of the effective date of this Policy.

A business subsidy may not be granted until the municipal grantor has adopted criteria after a public hearing for awarding business subsidies. A grantor may deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development (DEED). A copy of the criteria must be submitted by the City to DEED along with its first annual report following the enactment of this Policy or with the first annual report after it has adopted criteria, whichever is earlier. Notwithstanding Section 116J.993, Subdivision 3, clauses (1) and (21) of the Act, “business subsidies” as defined under Section 116J.993 includes the following forms of

assistance: (i) a business subsidy of \$25,000 or more, and (ii) business loans and guarantees of \$75,000 or more.

Goals

The City's primary development priority is to encourage high-value commercial development, including but not limited to manufacturing, warehousing, distribution, office and retail uses, of both existing and new business entities. Single-family residential and multi-family housing proposals may be considered for assistance on a case-by-case basis. In all instances, the terms and conditions of any business assistance are to be decided at the discretion of the City Council.

Public Assistance Tools

The following is not an exhaustive list, and it does not prevent the City from using a public assistance tool not listed to aid a particular project, or amending this Policy to include subsequent public assistance tools.

Tax Increment Financing

Tax increment revenues may be spent only for specified purposes permitted in the underlying development statutes. Relevant state law in this area is codified at Minnesota Statutes, Sections 469.174 through 469.1799, as amended (the "TIF Act"). In addition, the TIF Act specifies the qualifying conditions and/or development purposes for several types of TIF districts, and the required process for establishing and reporting on a TIF district.

The City is statutorily required to find that the increased market value of the site that could reasonably be expected to occur without the use of TIF would be less than the increase in the market value of the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the TIF Plan according to Section 469.175, Subdivision 3(d) of the TIF Act. This market value-based "but for" analysis is required only for non-housing TIF projects. To allow for this evaluation, the developer must provide a complete development budget and operating pro forma, and an accompanying statement explaining the need for TIF assistance.

Tax Abatement

Tax abatement may be spent only for specified purposes permitted in the underlying development statutes. Relevant state law in this area is codified at Minnesota Statutes, Sections 469.1812 through 469.1815, as amended (the "Abatement Act").

City Fees

The City may consider deferring the assessment of various City fees for purposes permitted in the underlying development statutes and the City Code. Whether a particular fee is eligible to be deferred or assessed over time may depend on the City's ability to support the deferment.

Revolving Loan Fund

The City may make a loan to a business, a for-profit or non-profit organization, or an individual for any purpose that the City is otherwise authorized to carry out under various state statutes related to redevelopment, housing, economic development, or any special law.

Grant Agreements and Forgivable Loans

The City may assist with applications to various State of Minnesota agencies for grants and forgivable loans, such as the Minnesota Department of Employment and Economic Development's Minnesota Investment Fund (MIF) Grant program, and the City is authorized to work with eligible businesses to qualify for such assistance. The City is additionally authorized to serve as the "conduit lender" for such grants and forgivable loans, as may be required by state law and agency guidelines.

Financing Terms

The City will consider "pay as you go" financing arrangements with developers. With pay as you go financing, the developer pays for various project costs initially, and the City promises to reimburse the developer from tax increment revenues, tax abatements, or other identified economic development and redevelopment tools over time as the development is completed and an increased market value is generated. This arrangement may be structured as a revenue note or bond issued to the developer, with an interest component to compensate the developer for costs of financing the improvements up front.

Interfund loans and/or bonds secured by tax increment revenues or tax abatements may be used when there is an extraordinary capital requirement that cannot be met through conventional private debt and/or equity, and to benefit a project of high priority and interest to the City. The bonds may be general obligation bonds backed by the full faith and credit of the City, but this Policy indicates a preference for "pay as you go" developer financing.

Duration of Assistance

The City retains the ability to provide a shorter term for the tax increment or tax abatement assistance than the TIF Act and the Abatement Act, respectively, authorize.

Business Subsidy Approval Criteria

All new projects with a public assistance component must be approved by the City and must meet the following mandatory minimum approval criteria. It should not be presumed that the business assistance request of a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights accruing to any potential developer.

- The assistance shall be provided within applicable state law restrictions, State Auditor interpretation, debt limits, and other appropriate financial requirements and policies.

- The project should meet one or more of the goals referenced in the City's Comprehensive Plan.
- The project must be in accord with the City's zoning ordinances, or required changes to the zoning ordinances must be under active consideration by the Planning Commission or the City Council at the time of action on the project.
- Prior to approval of business assistance, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent underwriting.
- Any developer requesting business assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.
- The developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate repayment of the business assistance (if required).
- The level of business assistance funding should be reduced to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project financing, prior to using additional business assistance funding.

Business Assistance Project Evaluation Criteria

If a business meets the criteria in this Policy and is eligible for public assistance, the following criteria will be used to determine the amount of assistance and type of assistance that may be provided. All projects will be evaluated by the Bayport City Council (and if necessary, any standing or created sub-committees) on the following criteria for comparison with other proposed business assistance projects reviewed by the City, and for comparison with other subsidy standards where appropriate. The City understand that changes in local markets, costs of construction, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time. In applying the criteria to a specific project, the following will apply:

- The City may consider the requirements and benefits of any other business subsidy received, or to be received, by a developer from a grantor other than the City.
- If the business subsidy is a guaranty, the amount of the business subsidy may be valued at the principal amount plus interest of the guarantee payment obligation.
- If the business subsidy is received over time, the City may initially value the subsidy as it determines is fair and reasonable under the circumstances.

- As used herein, “Benefit Date” means the date the business subsidy is received. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the Benefit Date occurs when the recipient puts the equipment into service. If the business subsidy is for improvements to property, then the Benefit Date refers to the earliest date of either when the improvements are finished for the entire project or when a business occupies the property.
- All business assistance projects will need to meet a “reasonable rate of return.” Assistance will not be used unless the need for the City’s economic participation is sufficient that, without that assistance the project could not proceed in the manner as proposed. The “reasonable rate of return” will be based on market standards at the time of the application for assistance.
- Business assistance funding would not be provided to those projects that fail to meet good public policy criteria as determined by the City Council, including: poor project quality; projects not in accord with the City’s Comprehensive Plan, zoning, redevelopment plans, and general City policies; projects that provide no significant improvement to surrounding land uses, the neighborhood, or the City, projects that do not meet financial feasibility criteria established by the City; and projects that do not provide the highest and best desired use for the property.
- All projects receiving business assistance under the criteria listed in Section 116J.994, Subdivision 2 of the Act must meet, at a minimum, the job and wage goals described below. Section 116J.994, Subdivision 2 of the Act allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual business subsidy report to the Minnesota Department of Employment and Economic Development.
- Projects receiving business assistance from the City must create or maintain a minimum of _____ full-time job(s) paying an average wage of 150% of the then current federal minimum wage, including benefits.
- The amount of assistance available to a project will be limited by the amount of proceeds that TIF, tax abatement, or other financing tools may support.
- Job creation or retention is not required for business subsidies as long as the grantor identifies an alternate public purpose in addition to tax base increase. If, after City Council consideration of the alternate public purpose(s), the creation or retention of jobs is determined not to be a goal (after a public hearing required by Section 116J.994, Subdivision 4 of the Act), the wage and job goals may be set at zero.
- In lieu of job creation or retention, other measurable, specific, and tangible goals shall be established. Examples of tangible goals may include tax base diversification, property redevelopment, enhanced economic diversity, community stabilization, investment in the community and other goals identified in City policies and the City’s Comprehensive Plan.

- Business assistance will normally be used for projects that address the following land use issues: (i) high-value development consistent with the City's Comprehensive Plan; (ii) location on property which needs but is not likely to be developed or redeveloped because of blight or other adverse conditions of the property, and (iii) the inclusion of design or amenity features not otherwise required by law.
- Business assistance will be evaluated on the project's impact on existing and future public investment: (i) whether and to what extent the project will utilize existent public infrastructure capacity and the extent it requires additional publicly funded infrastructure improvements; and (ii) arrangements for the City to receive a direct monetary return on its investment in the project.
- Business assistance will normally be used for projects that demonstrate to the satisfaction of the City adequate financing for the project is available and that the project will be completed in a timely fashion.
- Business assistance from the City must satisfy all requirements of the Act, and all other applicable laws and regulations.

Look-Back Provision

The City reserves the ability to include a "Look-Back Provision" in a development agreement for a publicly assisted project. Under a Look-Back Provision, the City has the ability to review the developer's pro forma and grant assistance based on the estimates for the project. After completion of the project, the City has the ability to compare the actual project costs and performance with the estimates and adjust the assistance provided so a "reasonable rate of return" is achieved. This adjustment will be made only in circumstances when the business subsidy can be reduced to achieve a "reasonable rate of return." The adjustment will not be made to increase the amount of the business subsidy.

At the time a development agreement is being negotiated, the City will consider if and how any assistance above the "reasonable rate of return" may be shared.

Some criteria, by their very nature, must remain subjective. However, wherever possible "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this Policy, but rather that the City is in a position to proceed with evaluations of, and comparisons between, various business assistance proposals, using uniform standards whenever possible.

EXHIBIT A

BUSINESS SUBSIDY EXCEPTIONS

- A business subsidy of less than \$150,000.
- Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria.
- Public improvements to buildings or land owned by the State of Minnesota or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
- Redevelopment property polluted by contaminants as defined in Minnesota Statutes, Section 116J.552, Subdivision 3.
- Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost.
- Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services.
- Assistance for housing.
- Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under Section 469.174, Subdivision 23 of the TIF Act.
- Assistance for energy conservation.
- Tax reductions resulting from conformity with federal tax law.
- Workers' compensation and unemployment insurance.
- Benefits derived from regulation.
- Indirect benefits derived from assistance to educational institutions.
- Funds from bonds allocated under Minnesota Statutes, Chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999.
- Assistance for a collaboration between a Minnesota higher education institution and a business.

- Assistance for a tax increment financing soils condition district as defined under Section 469.174, Subdivision 19 of the TIF Act.
- Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value.
- General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- Federal assistance until the assistance has been repaid to, and reinvested by, the State of Minnesota or local government agency.
- Funds from dock and wharf bonds issued by a seaway port authority.
- Business loans and loan guarantees of \$150,000 or less.
- Federal loan funds provided through the United States Department of Commerce, Economic Development Administration.
- Property tax abatements granted under Section 469.1813 of the Abatement Act to property that is subject to valuation under Minnesota Rules, chapter 8100.