

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: October 17, 2016
Item No.: 12.a

Department Approval

City Manager Approval



Item Description: Review and Consider Adopting a City of Roseville and Economic Development Authority Public Financing and Business Subsidy Policy

BACKGROUND

On September 26 the City Council voted unanimously to approve a Public Financing and Business Subsidy Policy with several minor amendments. The Economic Development Authority (EDA) Attorney Martha Ingram has provided us with the statutory process for approving business subsidy policies for both the City of Roseville and Economic Development Authority bodies. Attorney Ingram indicated that a public hearing must be held with *both* entities prior to adoption.

The City of Roseville has noticed public hearings for both the EDA and City of Roseville. Both bodies will consider public comment concerning the policy, and consider adoption of the policy with the amendments discussed on September 26. A copy of the draft policy with amendments is included as Attachment A.

Background Previously Supplied

August 29 the City Council, meeting as the Economic Development Authority (EDA), received a presentation on public financing policy criteria from public finance/economic development consultants Stacie Kvilvang and Jason Aarsvold of Ehlers, Inc. The meeting allowed the consultants to drill down on the remaining portion of the policy that articulated local criteria. The objective of the discussion was to identify consensus on wage floor, job goals, and any other specificities that may impact project consideration.

Community Development Staff is currently working with Ehlers, Inc. to put together a public assistance application that targets the criteria identified in the policy.

POLICY OBJECTIVE

The Economic Development Authority identified Policy Development as a priority for 2016.

BUDGET IMPLICATIONS

No budget implications at this time.

STAFF RECOMMENDATION

Staff recommends that the City Council receive public input and consider adopting a Resolution

33 establishing a City of Roseville and Economic Development Authority Public Financing and Business
34 Subsidy Policy.

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36 **REQUESTED COUNCIL ACTION**

37 Motion to adopt a Resolution Establishing a City of Roseville and Economic Development Authority
38 Public Financing and Business Subsidy Policy.

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Prepared by: Kari Collins, Community Development Director
Attachment A: Draft Public Financing Policy/Business Subsidy Policy
Attachment B: September 26 City Council Meeting Minutes
Attachment C: Draft Resolution



**City of Roseville and
Roseville Economic Development Authority
DRAFT - Public Financing Criteria and Business Subsidy Policy
September 2016**

INTRODUCTION:

This Policy is adopted for purposes of the business subsidies act, which is Minnesota Statutes, Sections 116J.993 through 116J.995 (the “Statutes”). Terms used in this Policy are intended to have the same meanings as used in Statutes. Subdivision 3 of the Statutes specifies forms of financial assistance that are not considered a business subsidy. This list contains exceptions for several activities, including redevelopment, pollution clean-up, and housing, among others. By providing a business subsidy, the city commits to holding a public hearing, as applicable, and reporting annually to the Department of Employment and Economic Development on job and wage goal progress.

1. PURPOSE AND AUTHORITY

- A. The purpose of this document is to establish criteria for the City of Roseville and the Roseville Economic Development Authority (“EDA”) for granting of business subsidies and public financing for private development within the City. As used in this Policy, the term “City” shall be understood to include the EDA. These criteria shall be used as a guide in processing and reviewing applications requesting business subsidies and/or City public financing.
- B. The City's ability to grant business subsidies is governed by the limitations established in the Statutes. The City may choose to apply its Business Subsidy Criteria to other development activities not covered under this statute. City public financing may or may not be considered a business subsidy as defined by the Statutes.
- C. Unless specifically excluded by the Statutes, business subsidies include grants by state or local government agencies, contributions of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient of the subsidy, any reduction or deferral of any tax or any fee, tax increment financing (TIF), abatement of property taxes, loans made from City funds, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

- D. These criteria are to be used in conjunction with other relevant policies of the City. Compliance with the Business Subsidy Criteria and City Public Financing Guidelines shall not automatically mean compliance with such separate policies.
- E. The City may deviate from the job and wage goals criteria outlined in Section 5 D and E below by documenting in writing the reason(s) for the deviation. The documentation shall be submitted to the Department of Employment and Economic Development with the next annual report.
- F. The City may amend this document at any time. Amendments to these criteria are subject to public hearing requirements contained in the Statutes.

2. CITY'S OBJECTIVE FOR THE USE OF PUBLIC FINANCING

- A. As a matter of adopted policy, the City may consider using public financing which may include tax increment financing (TIF), tax abatement, bonds, and other forms of public financing as appropriate, to assist private development projects. Such assistance must comply with all applicable statutory requirements and accomplish one or more of the following objectives:
 - 1. Remove blight and/or encourage redevelopment in designated redevelopment/development area(s) per the goals and visions established by the City Council and EDA.
 - 2. Expand and diversify the local economy and tax base.
 - 3. Encourage additional unsubsidized private development in the area, either directly or through secondary "spin-off" development.
 - 4. Offset increased costs for redevelopment over and above the costs that a developer would incur in normal urban and suburban development (determined as part of the But-For analysis).
 - 5. Facilitate the development process and promote development on sites that could not be developed without this assistance.
 - 6. Retain local jobs and/or increase the number and diversity of quality jobs
 - 7. Meet other uses of public policy, as adopted by the City Council from time to time, including but not limited to promotion of quality urban design, quality architectural design, energy conservation, sustainable building practices, and decreasing the capital and operating costs of local government.

3. PUBLIC FINANCING PRINCIPLES

- A. The guidelines and principles set forth in this document pertain to all applications for City public financing regardless of whether they are considered a Business Subsidy as defined by the Statutes. The following general assumptions of development/redevelopment shall serve as a guide for City public financing:

1. All viable requests for City public financing assistance shall be reviewed by staff, and, if staff so designates, a third party financial advisor who will inform the City of its findings and recommendations. This process, known as the “But For” analysis is intended to establish the project would not be feasible but for the City assistance.
2. The City shall establish mechanisms within the development agreement to ensure that adequate checks and balances are incorporated in the distribution of financial assistance where feasible and appropriate, including but not limited to:
 - a. Third party “but for” analysis
 - b. Establishment of “look back provisions”
 - c. Establishment of minimum assessment agreements
3. TIF and abatement will be provided on a pay-as-you-go-basis. Any request for upfront assistance will be evaluated on its own merits and may require security to cover any risks assumed by the City.
4. The City will set up TIF districts in accordance with the maximum number of statutory years allowable. However, this does not mean that the developer will be granted assistance for the full term of the district.
5. The City will elect the fiscal disparities contribution to come from inside applicable TIF district(s) to eliminate any impact to the existing tax payers of the community.
6. Public financing will not be used to support speculative commercial, office or housing projects. In general the developer should be able to provide market data, tenant letters of commitment or finance statements which support the market potential/demand for the proposed project.
7. Public financing will generally not be used to support retail development. The City may consider projects that include a retail component provided they meet a Desired Qualification as identified in Section 4.2.C(8) of this policy.
8. Public financing will not be used in projects that would give a significant competitive financial advantage over similar projects in the area due to the use of public subsidies. Developers should provide information to support that assistance will not create such a competitive advantage. Priority consideration will be given to projects that fill an unmet market need.
9. Public financing will not be used in a project that involves a land and/or property acquisition price in excess of fair market value.
10. The developer will pay all applicable application fees and pay for the City and EDA’s fiscal and legal advisor time as stated in the City’s Public Assistance Application.

11. The City will not consider waiving fees including, but not limited to, building permit fees, park dedication fees, SAC charges, and planning and zoning application fees. The City may consider using SAC credits, to the extent they are available, to off-set a project's SAC expenses.
12. The developer shall proactively attempt to minimize the amount of public assistance needed through the pursuit of grants, innovative solutions in structuring the deal, and other funding mechanisms.
13. All developments are subject to execution and recording of a Minimum Assessment Agreement.

4. PROJECTS WHICH MAY QUALIFY FOR PUBLIC FINANCING ASSISTANCE

- A. All new applications for assistance considered by the City must meet each of the following minimum qualifications. However, it should **not** be presumed that a project meeting these qualifications will automatically be approved for assistance. Meeting the qualifications does not imply or create contractual rights on the part of any potential developer to have its project approved for assistance.

4.1 MINIMUM QUALIFICATIONS/REQUIREMENTS:

- A. In addition to meeting the applicable requirements of State law, the project shall meet one or more of the public financing objectives outlined in Section 2.
- B. The developer must demonstrate to the satisfaction of the City that the project is not financially feasible "but for" the use of tax increment or other public financing.
- C. The project must be consistent with the City's Comprehensive Plan and Zoning Ordinances, Design Guidelines or any other applicable land use documents.
- D. Prior to approval of a financing plan, the developer shall provide any requested market and financial feasibility studies, appraisals, soil boring, private lender commitment, and/or other information the City or its financial consultants may require in order to proceed with an independent evaluation of the proposal.
- E. The developer must provide adequate financial guarantees to ensure the repayment of any public financing and completion of the project. These may include, but are not limited to, assessment agreements, letters of credit, personal deficiency guarantees, guaranteed maximum cost contract, etc.
- F. Any developer requesting assistance must be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed. Public financing will not be used when the developer's credentials, in the sole judgment of the City, are inadequate due to past history relating to completion of projects, general reputation, and/or bankruptcy, or other problems or issues considered relevant to the City.

- G. The developer, or its contractual assigns, shall retain ownership of any portion of the project long enough to complete it, to stabilize its occupancy, to establish project management and/or needed mechanisms to ensure successful operation.

4.2 DESIRED QUALIFICATIONS:

- A. Projects providing a high ratio of private investment to City public investment will receive priority consideration. Private investment includes developer cash, government and bank loans, conduit bonds, tax credit equity, and land if already owned by the developer.
- B. Proposals that significantly increase the amount of property taxes paid after redevelopment will receive priority consideration.
- C. Proposals that encourage the following will receive priority consideration:
 - 1. Implements the City’s vision and values for a City-identified redevelopment area
 - 2. Provides significant improvement to surrounding land uses, the neighborhood, and/or the City
 - 3. Attracts or retains a significant employer within the City
 - 4. Promotes multi-family housing investment that meets the following City goals:
 - a. Extensive rehabilitation of existing multi-family housing stock
 - b. Demonstration of need for the type of multi-family housing proposed through a market study or other reliable market data.
 - c. Multi-family workforce housing proposals that include amenities similar to those found in market rate housing
 - d. Workforce housing proposals that consider innovative and alternative forms of development and do not include high-rise buildings
 - 5. Provides significant rehabilitation or expansion and/or replacement of existing office or commercial facility
 - 6. Provides opportunities for corporate campus or medical office development
 - 7. Provides opportunity for hi-tech, med-tech, R & D facilities/office or major manufacturer
 - 8. Provides opportunities for small businesses (under 50 employees) that are non, start-up companies
 - 9. Provides opportunities for small businesses that may enhance the quality of life within neighborhoods
 - 10. Redevelops a blighted, contaminated and/or challenged site

11. Adds needed road, access and multi-modal improvements
12. Addition of specific project enhancements including, but not limited to, architectural upgrades, pedestrian and transit connections, green building practices and enhanced site planning features.

5. BUSINESS SUBSIDY PUBLIC PURPOSE, JOBS AND WAGE REQUIREMENT

- A. All business subsidies must meet a public purpose with measurable benefit to the City as a whole.
- B. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable. The City shall document the information used to determine the nature of the job loss.
- C. The creation of tax base shall not be the sole public purpose of a subsidy.
- D. Unless the creation of jobs is removed from a particular project pursuant to the requirements of the Statutes, the creation of jobs is a public purpose for granting a subsidy. Creation of at least **3** Full Time, or Full Time Equivalent (FTE) jobs is a minimum requirement for consideration of assistance. For purposes of this Policy, FTE's must be permanent positions with set hours, and be eligible for benefits.
- E. The wage floor for wages to be paid for the jobs created shall be not less than 300% of the State of MN Minimum Wage. The City will seek to create jobs with higher wages as appropriate for the overall public purpose of the subsidy. Wage goals may also be set to enhance existing jobs through increased wages, which increase must result in wages higher than the minimum under this Section.
- F. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

6. SUBSIDY AGREEMENT

- A. In granting a business subsidy, the City shall enter into a subsidy agreement with the recipient that provides the following information: wage and job goals (if applicable), commitments to provide necessary reporting data, and recourse for failure to meet goals required by the Statutes.
- B. The subsidy agreement may be incorporated into a broader development agreement for a project.
- C. The subsidy agreement will commit the recipient to providing the reporting information required by the Statutes.

7. **PUBLIC FINANCING PROJECT EVALUATION PROCESS**

- A. The following methods of analysis for all public financing proposals will be used:
1. Consideration of project meeting minimum qualifications
 2. Consideration of project meeting desired qualifications
 3. Project meets “but-for” analysis and/or statutory qualifications
 4. Project is deemed consistent with City’s Goals and Objectives

Please note that the evaluation methodology is intended to provide a balanced review. Each area will be evaluated individually and collectively and in no case should one area outweigh another in terms of importance to determining the level of assistance.

DRAFT

**Regular City Council Meeting
Monday, September 26, 2016
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include a home for the Historical Society, and expressed his intrigue with the idea of multi-seasonal use of the building (e.g. cross country skiing) and clubhouse amenities for those activities as well as winter month rentals of the facility. However, Mayor Roe noted the importance of getting the design process underway to clarify those questions, prompting other questions with that cost and what amenities may be possible.

Roll Call

Ayes: Laliberte, Etten and Roe.

Nays: None.

Abstentions: McGehee.

Motion carried.

12. Public Hearings and Action Consideration

13. Budget Items

14. Business Items (Action Items)

15. Business Items – Presentations/Discussions

a. Review and Consider Adopting a City of Roseville and Economic Development Authority Public Financing Policy/Business Subsidy Policy

Mayor Roe recognized and on behalf of the City Council and community congratulated Ms. Kari Collins, recently promoted from Interim Community Development Director to the City of Roseville’s new Community Development Director.

Ms. Collins thanked Mayor Roe and reintroduced Jason Aarsvold from Ehlers, Inc. to present a draft Public Financing Policy/Business Subsidy Policy (Attachment B).

Mr. Aarsvold presentation included an overview of the policy, incorporating changes since the original draft and input from previous City Council discussions. Of those revisions, Mr. Aarsvold noted the following:

- Rearranged sections and title to place in order of importance/relevance for those referencing policy
- Incorporated specific recommendation from cc on 8/29/16
- Interpreted cc feedback to inform general provisions of policy as well as to complete “desired qualifications”
- Incorporated recommendations from REDA attorney

Councilmember Etten suggested revised language to Section 2.A (page 2) of the draft policy; and without objection, consensus was to remove the subordinate clause and not separate out “when such assistance complies...” beyond statutory requirements.

Councilmember Etten noted the similarities of Items 2.A.4 and 5 (page 2) but asked if they were different enough to list separate due to the “but for” analysis).

Mr. Aarsvold opined that they were similar, but he thought distinct enough to include both. Mr. Aarsvold stated #4 addressed extraordinary redevelopment costs, while #5 provided varying dynamics possibly due to a market dynamic versus extraordinary costs.

Mr. Aarsvold clarified that both items may rise to the “but for” test, particular for tax increment financing, while a project under Item #4 may have contaminated land and in order to get back on par with a Greenfield site, costs would be incurred; while in Item #5, only a market dynamic may hinder redevelopment on a clean site.

In Item 4.A (page 4), Councilmember Etten questioned the intent of a project meeting “any of” the qualifications or meeting all. Councilmember Etten clarified that just because a project met the qualifications didn’t automatically mean they would get money from the city. By consensus, it was determined to strike” any of” from the second sentence in 4.A.

Councilmember Etten sought clarification of language in Section 4.2.C.5 (page 5) related to rehabilitation of tear downs.

From his perspective, Mayor Roe identified expansion equaling growth, while rehabilitation equaled an existing substandard building.

Mr. Aarsvold offered to further clarify language, but advised that his assumption, from past conversations, was that the intent was for a project needing rehabilitation, redevelopment or expansion. Mr. Aarsvold stated he had tried to stay away from language such as “substandard, “due to statutory definitions with that term for tax increment finding. Mr. Aarsvold opined his intent was to leave the language open enough while still meeting the city’s desired goals.

Councilmember McGhee asked Ms. Collins if, from her staff perspective, this provided a sufficient working tool for staff while not hindering their initial review of projects.

Ms. Collins responded that this framework would prove significantly helpful when staff fielded calls as to whether or not the city would support a particular use. Ms. Collins reported that staff received a significant number of calls from entities seeking public assistance before they even had a specific use or project in mind. With this framework in place, Ms. Collins advised that it would provide staff the ability to give a definitive “no” response where applicable; while struc-

ured to provide city staff with sufficient leverage to identify those eligible projects that could be encouraged to make application to the city.

Ms. Collins reported that staff was currently working with Ehlers to develop an application using the City Council's stated criteria as outlined in this policy.

Councilmember Laliberte thanked Ms. Collins and the Ehlers staff for the draft policy that well-reflected discussions and City Council intent.

McGehee moved, Etten seconded, adoption of a City of Roseville and Economic Development Authority Public Financing Policy/business Subsidy Policy; *amended with minor technical revisions as per tonight's discussion.*

Roll Call

Ayes: McGehee, Laliberte, Etten and Roe.

Nays: None.

16. City Manager Future Agenda Review

Acting City Manager Miller provided a preview of upcoming agenda items.

17. Councilmember-Initiated Items for Future Meetings

18. Adjourn Meeting

Laliberte moved, Etten seconded, adjournment of the meeting at approximately 8:46 p.m.

Roll Call

Ayes: Laliberte, Etten, McGehee and Roe.

Nays: None.

Daniel J. Roe, Mayor

ATTEST:

Christopher K. Miller, Acting City Manager

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3. City staff are authorized to transmit a copy of the Policy to the Minnesota Department of Employment and Economic Development in accordance with the Business Subsidy Act.

The motion for the adoption of the foregoing resolution was duly seconded by Member

, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

WHEREUPON said resolution was declared duly passed and adopted.

