

FINANCE COMMITTEE MINUTES

January 31, 2002

The Finance Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on January 31, 2002 at 9:36 a.m.

COMMITTEE PRESENT

Bill Jaffa, Chairman
Dennis Kavanaugh
Mike Whalen

COUNCIL PRESENT

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones

1. Discuss and consider the adoption of a policy to guide the establishment of Community Facility Districts (CFD) in the City of Mesa.

Economic Development Director Dick Mulligan addressed the members of the Committee and stated that staff has prepared a set of draft policy guidelines relative to proceeding with the establishment of a Community Facility District (CFD) in the City of Mesa for the member's review and consideration. Mr. Mulligan said that the goal is to develop a set of uniform criteria to be followed when requests are received from developers that pertain to CFD's and utilizing this particular financing technique. He noted that last October Dave Wilcox from Economics Research Associates presented a fiscal analysis on the various General Plan alternatives. He added that Mr. Wilcox noted at that time that although Mesa enjoys a deserved reputation of being a low-cost to do business type of community, the City is challenged to create funding techniques that will finance the expected huge growth and changes facing the City. He added that Mr. Wilcox also pointed out that the City has very limited resources available for funding economic development private/public partnerships which may be needed to secure the type of job opportunities and qualities associated with the types of investments the City would like to attract.

Mr. Mulligan advised that a perfect example of such a case is the Long Bow Business Park and Golf Club located near Falcon Field Airport, which is currently proceeding through the development master planning process. He noted that the Planning and Zoning Board has unanimously approved the proposal, which will be presented to the City Council for their review and consideration on March 4, 2002. Mr. Mulligan explained that one of the concepts that has been discussed in connection with this case is the ability to utilize a CFD to ensure the project's success. He added the opinion that additional cases will be presented in the future and stated that developers may seek this type of financing for development of the General Motors' property in the future.

Mr. Mulligan informed the members of the Committee that at the current time the City of Mesa does not have a policy in place regarding this issue and added that although the proposed guidelines will provide set criteria to be followed if approved, the guidelines do not commit the City of Mesa to any specific

course of action. He emphasized that the City Council will retain all decision-making authority and that the Council alone has the discretion to decide how to proceed on the various cases presented to them.

Assistant Finance Director Larry Given addressed the Committee and referred to a copy of the proposed CFD policy that was prepared by Scott Ruby of Gust-Rosenfeld, the City's Bond Counsel. He noted that the developer of the Long Bow property has submitted a request for the formation of a CFD and explained that once a CFD is formed, assessment bonds may be issued and, once the development reaches a specific stage, those bonds can be refinanced into general obligation bonds. He added that he supports the concept of issuing assessment bonds, which are done on either a frontage foot or per-acre basis of assessment to pay for the improvements, and explained that then the assessments are paid off as the property is sold off to developers. He stated the opinion that this process would serve as a tool for financing development rather than as a long-term financing tool for property taxes.

Discussion ensued relative to the issuance of the bonds, the fact that the bonds would be sold on the basis that they would be secured by assessments paid annually or semi-annually by the property owners who are being assessed; the importance of developing a clear-cut process that can be used to determine whether CFD financing should occur; complexities associated with the CFD process and the fact that the process would allow development to occur before the bonds are fully paid off.

Chairman Jaffa said that he has concerns regarding the length of time that the bonds could remain outstanding and discussed difficulties associated with identifying sufficient revenue streams to repay the monies and bonding.

Scott Ruby, representing Gust-Rosenfeld, stated that he has been involved with this type of financing since 1989 and said that each particular case carries with it its own distinct set of restrictions, rules, structure, terms interest rates and form of security. He provided background information relative to this issue and said that in 1989, the City of Goodyear adopted laws to ensure that development "paid for itself." He explained that developers were able to come forward and receive the benefits of tax exempt financing for public infrastructure and the developers then paid for the cost of that tax exempt financing within defined boundaries. The areas that benefited from the improvements paid for the public infrastructure. He emphasized that the area that is benefited pays for the development, and said that this carries with it a general sense of fairness with respect to the rest of the residents in the City or Town. He explained that the first step in establishing such districts is to define the area that is to be included in the CFD and said that this is typically the area of the land controlled by the developer. Mr. Ruby commented that a district may be formed in less than 60 days if the developer is willing to sign waiver agreements. He added that the district is governed by the City Council, but not sitting as the City Council. Once the district is formed, it becomes distinct legal entity with its own statutory authority and powers and is governed by a Board of Directors. He expressed the opinion that the City Council should always be appointed to the Board of Directors.

Mr. Ruby informed the members of the Committee that CFD's can only be formed in cities with the exception of schools and counties and once formed, they have the opportunity to finance public infrastructure by one of three methods, assessment bonds, general obligation bonds or revenue bonds. He reiterated that the assessment bonds would only be paid by the area benefited by the particular improvement financed by the assessment bonds and added that the general obligation bonds would be paid again by the taxpayers living in the CFD.

In response to a question from Committeemember Kavanaugh, Mr. Ruby stated that a distinction needs to be drawn between a general obligation bond and an assessment bond. He explained that an assessment bond does not involve a tax and added that the courts have clearly stated that an assessment is allocated based on benefit and is not associated with assessed value or anything remotely similar. Therefore, the assessments are not subject to all of the rules and restrictions that typically accompany the levying of a property tax. Mr. Ruby advised that CFD statutes provide that there shall be an election within the district of the property owners and qualified electors and noted that should Mesa decide to proceed in this manner, the City Charter would have to be reviewed to determine how this in fact would "interplay" with the CFD's.

Mr. Ruby also informed the members of the Committee that a number of cities have used CFD's to circumvent Title 9 elections and explained that Title 9 of the statute requires that before a City engages in a utility operation, a City-wide election must be held. He indicated that the firm of Gust-Rosenfeld has not defined this action as appropriate but noted that a number of Council's have said it's okay and have proceeded in this manner. He noted that code provisions apply to the City and a CFD is a distinct legal entity. He indicated that more research needs to be done in this area before he could totally address this issue in an accurate and informed manner.

Chairman Jaffa said that before this item can be presented to the full Council, the Finance Committee needs to receive more information as to all the implications involved in the CFD process.

Discussion ensued relative to bonding processes, Chairman Jaffa's concerns regarding postponing the Long Bow Golf Course project, and the fact the impact fees cannot be levied for operations and maintenance and can only be levied for capital purposes.

In response to a question from Committeemember Kavanaugh, Mr. Ruby discussed the importance of drawing a distinction between a general obligation bond and an assessment bond. He noted that an assessment bond does not involve tax and explained that the courts have clearly stated that an assessment is allocated based on benefit and not associated with assessed value or anything similar. He added that since an assessment is not a tax, it doesn't fall under all the rules and restrictions that normally accompany the levying of a property tax.

Additional discussion ensued relative to the Long Bow Golf Course project, the importance of having a policy in place that explains to developers exactly what the City's expectations are, issues to be clarified including the property tax questions, and the fact that staff will perform additional work on this matter and bring the issue back to the Finance Committee for additional discussion and consideration.

Councilmember Whalen asked Mr. Mulligan what he thought the economic benefit would be to the City to have a policy in place versus handling these issues on a case by case basis. Mr. Mulligan stated the opinion that an in-place policy would be a fairer way to handle such cases. He noted that the proposal calls for a considerable amount of "homework" to be performed by both sides and added that the City Council always has the final word in such instances. He also stated the opinion that having a policy in place improves the City's community image and sends a message to the development community that all plans will be considered in a highly professional manner.

Discussion ensued relative to the fact that City Attorney Debbie Spinner will research a number of issues brought up at the meeting and prepare responses for discussion at the next Finance Committee meeting.

2. Adjournment.

Without objection, the Finance Committee Meeting adjourned at 10:37 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Finance Committee meeting of the City of Mesa, Arizona, held on the 31st day of January 2002. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK