

# FINANCE COMMITTEE MINUTES

February 25, 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 February 25, 2002 at 3:30 p.m.

## COMMITTEE PRESENT

Bill Jaffa, Chairman  
Dennis Kavanaugh  
Mike Whalen

## COUNCIL PRESENT

Keno Hawker

## OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner

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

Assistant Financial Services Director Larry Given addressed the members of the Committee and reported that in response to questions and concerns raised by the committeemembers at the January 31, 2002 meeting, the draft Policy Guidelines and Application Procedures for the Establishment of Community Facilities Districts (CFD) has been modified. Mr. Given explained that all language with reference to property taxation and general obligation bond issuance has been eliminated and that the revised guidelines adhere strictly to the issuance of assessment district bonds within a CFD, and also define the application/formation process and the financial responsibilities for any CFD to be considered by the City.

Mr. Given stated that staff has also received correspondence regarding the CFD policy from Bob McNichols, managing partner of the developers of the Longbow Business Park and Golf Club located near Falcon Field Airport, which is currently proceeding through the development master planning process. He noted that staff and Mr. McNichols have engaged in numerous conversations regarding the creation of a CFD around the proposed site.

Scott Ruby, representing Gust Rosenfeld, the City's Bond Counsel, responded to the following question posed by the committeemembers at the January 31, 2002 meeting: Would a CFD have the legal ability to levy a property tax if the City's Charter indicated that in order to have a property tax within the City, a City election would be required?

Mr. Ruby advised that although he did not find any cases specifically related to that point, it is his conclusion after reviewing the law that the City Charter does not prevent a CFD from being formed and proceeding through the statutory processes that would be required prior to levying a tax. He added that it would then continue with the process and actually levy a tax either for operation and maintenance or for general obligation bonds.

In response to a series of questions from Committeemember Whalen, Mr. Ruby clarified that the law permits the continuation of an operation and maintenance expense tax to be levied. He explained that once the tax is authorized by the voters of the CFD, as required by statute, it could thereafter be levied as long as the Board of Directors deemed it appropriate. Mr. Ruby stated that in the creation of most of the CFDs that he has participated in, the districts have selected a target tax rate, for example, \$3.00, of which \$2.70 would be applied toward supporting debt service and the remaining .30 would be earmarked for maintenance costs. He commented that over time, some districts are able to cut back on the .30 maintenance costs due to the fact they now generate sufficient revenue and no longer require those proceeds to fund the administrative operation and maintenance expenses of the district. Mr. Ruby noted that when district voters approve an initial bond authorization and the total authorization has not been expended in the initial installation of capital (such as sewer lines or street improvements) the district is then able to continue to utilize the authorization in future years.

Discussion ensued relative to CFD debt service limits on operation and maintenance taxes, the fact that the amount is limited to up to .30 for the first couple of years in the life of the district, and thereafter an election in the district would be required to increase it over .30; the fact that the number of dollars of bonds a district can issue is regulated by the statutory debt limit of the CFD (60% of the fair market value of the land in the district, together with the proposed improvements) and the tax rate limit; the fact that even though streets may be dedicated to a municipality, the ongoing maintenance of public streets within an improvement district may be the responsibility of the CFD, and the fact that to add land to a CFD would require an election by the members in the district or a waiver of the election by the voters and property owners.

Chairman Jaffa expressed concerns relative to the absence of a maintenance feature once the CFD is formed and asked what legal process would need to be followed in the future to take the maintenance into consideration.

Mr. Ruby responded that either the members of the district would approach the Council or the Council, acting in its capacity as the Board, would approach the members of the district and suggest that a tax should be levied or bonds issued. At that point, it would be necessary to hold an election within the district. He added that if a CFD policy only speaks to the levy of special assessments and the Council is willing to extend a maintenance feature to a district, it could approve it on an ad hoc basis for a particular project or amend the policy.

Chairman Jaffa discussed his recent meetings with Mr. McNichols relative to the Longbow development and the fact that the project could proceed with a special assessment levy that would not include a maintenance feature; the fact that he has concerns that the proposed CFD policy includes both residential and commercial developments, and the fact that he would be supportive of the Longbow project as an industrial project, which would presumably have a fee-simple ownership, and the fact that the City would not become liable for debt that would be incurred by the developer.

In response to a question from Chairman Jaffa regarding the possibility of moving this issue forward to the full Council with two options (the policy as currently proposed, and a policy which would apply only to the Longbow development), City Manager Mike Hutchinson stated that staff has presented the Committee with a broad and flexible policy to respond to a variety of needs from the development community. He explained that it is anticipated that other development opportunities will present themselves to the City, and that developers may seek this type of

financing for development of the General Motors (GM) property in the future. Mr. Hutchinson stated the opinion that the draft policy would provide the Council and staff with an opportunity to examine development projects on an individual basis.

Chairman Jaffa stated that although he supports proceeding with a CFD policy to be utilized in connection with industrial development, he has concerns that a policy that permits the utilization of a CFD for the development of residential projects could be construed as "a backdoor approval" of a real estate tax. He added that if the Committee recommended approval of the CFD policy to the full Council, including language pertaining to the development of residential projects, a public hearing would need to be conducted to solicit input from Mesa residents regarding this issue.

Mr. Hutchinson said that it is the prerogative of the Committee whether staff provides the Council with two policy options for consideration. He also noted that if the inclusion of residential development projects is objectionable to the members of the Committee, that language could be deleted from the draft proposal.

Committeemember Whalen voiced support for the draft policy as written. He stated the opinion that by eliminating the development of residential projects within a CFD, Mesa's ability to attract developers to the community could be potentially limited.

Committeemember Kavanaugh concurred with Committeemember Whalen's comments and said that it is imperative that Mesa possess the necessary tools to entice future economic development. He added that the CFDs are a 14-year old concept with a proven track record in several Valley communities, and that the City's economic development consultants identified the CFDs as a tool which may assist Mesa in attracting large-scale development. Committeemember Kavanaugh added that he is not looking at a CFD specifically for the Longbow project, but for future developments which may occur, such as the GM property or other large parcels in the community which could be a combination of residential, commercial and industrial development. He also noted that the Council has the ability to disapprove projects it feels are not appropriate and in the best interest of the City.

In response to a question from Chairman Jaffa, City Attorney Debbie Spinner said that she concurs with the legal opinions expressed by Mr. Ruby. She also noted that the City Charter does not preempt State law, and when a CFD is created, it becomes a legal entity separate and apart from the City Code and the City Charter.

Chairman Jaffa reiterated that although he would prefer that staff provide the Council with the two options as previously discussed, he will support recommending approval of this matter to the Council to ensure that the Longbow project moves forward. He added that at the Council level, he intends to voice support for the Longbow project and express his concerns relative to CFDs being utilized in connection with the development of residential projects.

In response to a series of questions from Mayor Hawker, Mr. Ruby explained that a CFD is governed by the City Council, but under the law, the Council is considered as sitting as a Board of Directors, a separate and distinct legal entity.

It was moved by Committeemember Whalen, seconded by Committeemember Kavanaugh, to recommend to the Council that staff's recommendations relative to the adoption of a policy to

guide the establishment of Community Facilities Districts (CFD) in the City of Mesa be approved.

Mr. Hutchinson informed the Committee that staff intends to present the proposal to the City Council for their review and consideration at their March 4, 2002 meeting.

Further discussion ensued relative to a comparison of funding mechanisms to finance construction, operation and maintenance of public infrastructure and fees for a CFD versus a conventionally developed property; the fact that although the formation of a CFD is a cumbersome legal process, the benefits to the developer include tax-exempt financing during the period of the development, the cost of building streets, sewers and water mains is spread out over time, and the fact that under a CFD, a developer is permitted to take out low-interest bonds and pay off the debt over time through the levy of special assessments or fees collected from future property owners and users within the district.

In response to a question from Mayor Hawker, Mr. Given clarified that the City benefits through the allocation of advance payments by the applicant/landowner for services rendered by City staff and outside consultants in connection with the formation and application costs. Mr. Ruby added that a CFD is an economic development tool which will allow Mesa to remain competitive with other jurisdictions that now offer this tax-exempt incentive to developers. He added that municipalities often engage in a certain degree of "horse-trading" with developers during the initial stages of negotiation.

Chairman Jaffa stated the opinion that staff's proposal provides the City with an opportunity to bring quality jobs and essential revenue into the community. He reiterated the fact that he will support the motion for the purpose of moving the item forward to the full Council, and added that he intends to voice his concerns regarding the utilization of CFDs for the development of residential projects within the City of Mesa.

Carried unanimously.

Chairman Jaffa thanked everyone for the presentation.

2. Adjournment.

Without objection, the Finance Committee Meeting adjourned at 4:15 p.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 25<sup>th</sup> day of February 2002. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK