



Denver City Council

**SPECIAL JOINT MEETING:
Public Works, Economic Development, & Finance Committees
Summary**

Wednesday, January 25, 2006, 3 p.m.

Council Conference Room

Economic Development Committee Members Present: Hancock, Chair; Brown, Faatz, Garcia, Linkhart

Economic Development Committee Member Absent: Wedgeworth

Finance Committee Members Present: Boigon, Chair; Faatz, Vice-Chair; Brown, Garcia, Lehmann, MacKenzie

Finance Committee Members Absent: Wedgeworth

Public Works Committee Members Present: Brown, Chair; Hancock, Johnson, Robb

Public Works Committee Members Absent: Montero

Other Council Present: Rodriguez

1) Cherokee Redevelopment:

Committee Discussion

John Huggins, Office of Economic Development (OED), indicated there were a few changes to the original development agreements as follows:

- Additional public notification was expanded for Council and neighborhood organizations related to the Affordable Housing Plan (30 day notification); environmental reporting; and signature project changes;
- Improvements were added for the south pedestrian bridge (special review process);
- Clarification that the Auditor's Office would conduct enforcement responsibilities for the development which includes cost allocations, and language requiring contractors to comply with Davis Bacon regulations;
- Further clarifies receipt of \$500,000 (percentage of gross land sales) related to the City's participating interest (Three-party Agreement); and
- Notice provisions in the Service Plan agreements would be added to include information to first-time buyers on mill levies (these documents will be distributed to Councilmembers after the bills have been filed).

Karen Aviles, City Attorney's Office, said the Urban Renewal and Cooperation Agreements have not changed. The Intergovernmental Agreement (IGA) has not changed but a draft exhibit in the agreement was added. She explained that this information is attached to the Service Plan Agreements and does not typically go to Council for review and approval. The plan is to substitute the exhibit by Monday, January 30 before noon. Ms. Aviles indicated that all three Districts Service Plans are identical except for mapped boundaries. Councilmember MacKenzie requested all the information regarding any changes. Mr. Huggins offered to all Councilmembers black-lined copies of all the documents.

Councilmember MacKenzie expressed concern about not getting all finalized documents in a timely manner and felt that as Council District Representative for this project more attention should have been paid to neighborhood concerns and her requests. She also cautioned that it was not appropriate for Councilmembers to have their decision made until the public has a chance to speak at the scheduled hearings.

Councilmember Johnson asked the status on health and apprenticeship programs. Mr. Huggins noted that Prevailing and Living Wage language remains in the agreements. Ferd Belz, Cherokee Redevelopment, indicated that best value contracting would be utilized. This has not been committed to contract, but they (developer) have agreed to it. Ms. Aviles said best value contracting could be drafted into the District's plans. Mr. Huggins added that it wasn't appropriate for the City to outline the developers terms for contracting. Mr. Belz said prevailing wages would be effective February 15, because the Special Metropolitan Districts would not be legal until June.

Councilmember Faatz said she believes that the changes made to the tax increment financing (TIF) and mill levy plans are working towards her position of growth paying its own way and asked how inflation factors (percentage applied annually) was arrived at. Mr. Huggins noted that excess TIF revenue would vary from year to year (see attachment). The \$1.83 million for City services out of excess TIF includes the cost of inflation. David Hart, Department of Revenue, stated the 2% inflation factor applied to the fiscal analysis model was arrived at in the context of the negotiations. He noted that the CPI index and the Engineering News Record were used to determine future costs. The Engineering News Record provides information and technical advice about the construction industry and was the source document used for forecasting the future costs. There were different points of view on what the inflation factor should be and the City staff, after its review and analysis, felt comfortable with that percentage.

Councilmember Garcia questioned how the notification process would work regarding significant changes to the Affordable Housing Plan (AHP). Jacky Morales-Ferrand, OED, explained that "substantial changes" mean: 1) a reduction in the number of either rental or for-sale Moderately Priced Dwelling Units (MPDUs); 2) a change in the number of rental MPDUs required to be rented to tenants qualified at 50% of Average Median Income (AMI) or qualified at 30% of AMI; or 3) a change in the income eligibility (i.e. percentages of AMI) required for purchasers of the for sale MPDUs under the AHP (this information would be attached to the Framework Agreement). She indicated that any change submitted as described would follow the current AHP and that the Division of Housing & Neighborhoods (DHND) would not grant or deny approval of any "substantive change" until 30 days notice to various parties. Generally, it would be the market that would impact change if the market could not sustain the AMI.

Councilmember Linkhart asked how the notification for changes to signature projects would be handled. Ms. Aviles explained that the Intergovernmental Agreement (IGA) defines the terms of the signature projects. Signature projects are defined as eligible improvements and as outlined in the IGA, cannot deviate from the scope or functionality of the signature project until District 1 receives written approval from the Managers of Revenue, Public Works, Parks & Recreation, and Community Planning & Development. Additionally, it also requires the District to inform Denver Urban Renewal Authority (DURA). The IGA and its Exhibits are attachments to the Metro District Service Plans and does not require Council

approval or Council reviews except for the specific Service Plans. Ms. Aviles noted that parallel notification provisions are included for registered neighborhood organizations, etc. Mr. Huggins indicated that the project elements (structural drawings) have not been fully defined and would be conducted in multi-phases. Trust and reliance are factors considered and that what was agreed to; would come to fruition. Councilmember MacKenzie said she would prefer that project plans for the transit plaza and the connectivity to the west was included in the plans. She also stated that she wants a public process for signature project changes. Mr. Huggins explained that the Framework Agreement/Signature Project process was modeled after the Stapleton Redevelopment Project and that model did not contain a public process for project scope changes. Mr. Belz indicated that all signature projects would be utilized in all marketing strategies so that the public would have acknowledgement of plans. Councilman Hancock noted that for the Stapleton Redevelopment project, a group was formed known as CAB. CAB served as a conduit between the project and communities to discuss changes and unforeseen problems. This process saved time and money for all, stated the Councilman. He suggested that this type of strategy could be used for Cherokee.

Councilmember Robb asked how the parks component would be handled if there were changes in that planning. Ms. Aviles pointed out that Cherokee maintains a General Development Plan (GDP) which has identified those components. A lot of detail is found in the design guidelines and Cherokee has to comply with those standards.

Councilmember MacKenzie questioned how the First Source Hiring Program would be handled and how they would assure that individuals in close proximity to the site would be hired. She voiced concern about the out-dated language in reference to City agency names in the DURA contract and asked if that would impact compliance to the program. Tracy Huggins, DURA, said although the contract refers to an old name for the agency of Economic Development, the spirit and policy for the program remains. First Source Program is designed to provide preferential hiring and training for low-income Denver residents and would require the developer to participate in the program as a condition to receiving tax increment financing. Since DURA does not have the capacity to administer the entire program they work with the City's Office of Workforce Development, specifically Ann White, to accomplish the goals. Ms. White coordinates and notifies individuals that meet the program criteria. Ms. Aviles indicated the First Source agreement compels the developer to comply with DURA's policies, gives the Office of Workforce Development the authority to run the program which includes the City targeting zip codes to recruit the individuals that would qualify. Councilmember MacKenzie requested that all agreements that Council would be voting on should be corrected before the scheduled hearing. Ms. Huggins explained that in order to change the City agency name on the DURA documents the change would need to be pointed out to the DURA Board and have a vote to change it, and it is not the intention of DURA to change the name before the February 6 Monday hearing.

Councilmember MacKenzie noted various differences in the Metro Districts agreement and asked why the plan excludes Parcels 2 and 6. Ms. Aviles indicated the Districts are the same (all regulatory powers) the only difference is the boundaries. Pete Baertlein, Public Works, said Parcel 2 wasn't included because it didn't require infrastructure and Parcel 6 is owned by the Regional Transportation District (RTD). The Councilwoman inquired how the bonding capacity for the Districts would be handled. Eric Hiraga, Revenue, said the

information regarding the debt, taxes, and bonding is found in Exhibit J of the District 1 Service Plan. Exhibit J is the ballot question that outlines the total debt authorization. A multiplier of 3 was used to arrive at total debt authorization of \$378 million to assure that costs would be covered due to inflation impacts. The Service Plans for all three Districts restricts draws on capacity (\$378), explained Ms. Aviles. Any overdraw from one District impacts the other two Districts. The other two Districts would loose capacity because all three Districts share the same pool of capacity. Mr. Hart added that the ability to modify changes are included but is written so as not to jeopardize bond holders. He assured Council that DURA bonds would not come back to the City for payment; the debt is not the City's.

Councilmember MacKenzie asked who would staff the Metro Districts. Ms. Aviles explained that maintenance and operations of the facilities is owned by the City and Districts, but the language does not define the terms of whom that is, but applies the terms of the City's Living Wage Ordinance. In those terms, living wage has not been applied to Districts before, including Stapleton. Mr. Belz stated the market analysis showed average wages, but there are no assurances for permanent and high paying positions. Mr. Huggins reminded the Committee that jobs will vary and that TIF language includes compliance to the Living Wage Ordinance. He indicated that the reliance on jobs for this project tends to be in retail and retail typically pays lower wages. Right now, retail is estimated at 40% and the remainder would be office-related positions. Living Wage compliance has never been added to TIF before, stated Mr. Belz.

Councilmember Johnson asked how much time City staff has spent on this project and what the impact has been. Mr. Huggins reported that an estimated 1,500 hours of City staff time has been spent on this project through December 2005 and since then an estimated 1,000 hours. Additionally the City received \$55,000 for District fees processing, and \$4.5 million is projected to be collected over time for permits (these costs were not included in the fiscal analysis so as not to double count the costs).

Councilmember MacKenzie asked what it meant to notice environmental issues. The language refers to public notification related to environmental clean up, said Mr. Huggins. The City and Districts would not send the information, just make it available. The Councilwoman indicated that she received information that between insurance and other arrangements by Cherokee that the cost of the land to Cherokee was zero. Mr. Belz assured Councilmembers that they incurred costs for the land. Mr. Huggins indicated that the "but for" analysis and the eligible costs were covered in the Executive Session and confirms Cherokee's costs.

Councilmember Garcia indicated the Coalition for Responsible Contracting indicated there is support from Cherokee for best value contracting and asked for confirmation. Mr. Belz indicated he met with the organization earlier today and that the language would be in a letter of intent and he would provide a response to Council after checking with his management.

Councilmember Brown reiterated that four bills would be filed on this matter and that a public hearing is scheduled on all bills. He noted for the record and for public information that decisions on this project were not considered quasi-judicial and therefore, Councilmembers have authority and right to discuss and make decisions on the information before they voted as a legislative body. The following bills will be filed on Thursday, January 26: 1) Metro District Service Plans, 2) Amendment to the DURA plan, 3) Cooperation Agreement between DURA and the City, and 4) Framework Agreement.

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City Council Staff