

**ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, March 4, 2024**

The meeting of the Economic Development and Finance Standing Committee was held on Monday, March 4, 2024, at 5:00 p.m. The following members were present: Commissioner Burroughs, Chairman; Commissioners Townsend, Stites, Burns, Lopez, and BPU Board Member Wakes. The following officials were also in attendance: Jeff Conway, Assistant Counsel; and Monica Sparks, Deputy UG Clerk.

Chairman Burroughs said before I call the meeting to order, I want to announce that some committee members, staff, and the public are attending remotely via Zoom as well as on-site. All participants joining by phone should mute their phones when not speaking to avoid background noise. When speaking, please speak directly into the microphone to ensure everyone listening is able to hear your comments and to ensure a clear record is made. During the meeting, please make sure that you announce yourself by name and title every time you speak so the public that is observing knows who is speaking. This is critical given the number of remote participants and is the current guidelines from the Kansas Attorney General.

The public is allowed to participate by Zoom or submit comments by email prior to the meeting. Those comments will be included in the record of this meeting. The public may also indicate their intent to provide remote public comments by contacting the Clerk's Office by 5:00 p.m. the Thursday before the meeting. The public also will have an opportunity to provide brief comments either by telephone or via Zoom from the 5th Floor Conference Room of the Municipal Office building.

Chairman Burroughs called the meeting to order. Roll call was taken, and all members were present as shown above.

Chairman Burroughs asked if there were any revisions to tonight's agenda.

Monica Sparks, Deputy UG Clerk, said yes Mr. Chair, under the committee agenda we've added a new item number two, extension of deadlines for the American Royal project.

March 4, 2024

Approval of standing committee minutes from January 9th, 2023. **On motion of Commissioner Townsend, seconded by Commissioner Lopez. The minutes were approved.** Roll call was taken and there were six “Ayes,” Wakes, Lopez, Burns, Stites, Townsend, Burroughs.

COMMITTEE AGENDA

Item No. 1 – 212976...RESOLUTION: APPROVING A FIFTH AMENDMENT TO THE LEGENDS WEST LAWN DEVELOPMENT

Synopsis: Approval of a resolution extending the completion date of the paving and striping improvements required at Legends West Lawn to November 30, 2024, before a \$500,000 liquidated damages provision applies, submitted by Jeff Conway, Senior Attorney.

Chairman Burroughs said I’ll recognize Jeff Conway from our Legal Department for comments and if there’s any questions from the Commission, we’ll refer to Todd LaSala.

Jeff Conway, Assistant Counsel, said you’ve laid out the sequence perfectly. I’m going to turn it over to Todd for a brief overview. **Todd LaSala, Stinson Leonard Street Law Firm**, said I represent you on a number of Economic Development matters including this one. This is an amendment to extend the date for the West Lawn project, the western part of Village West. There was an obligation to pave a certain lot that is gravel out there and there was some money that was attached to that in the bonds. That money had to either be released back to the bondholders or paid to the developer. We agreed to pay it to the developer provided that they would agree to complete this paving obligation by a certain date and because we had to let that money go, we put liquidated damages attached to that date so if they didn’t pave, they had to pay. However, the developer and—they’re here tonight, you can hear from them, has plans to do something with that lot and they don’t want to just pave it and then tear it up again. So, we have done this a couple of times before, but they are asking for another one-year extension while they work out the development project they’d like to do instead of paying us the \$500,000 that is attached to that completion. And just to be clear that date did pass. That date was November 30th of last year, so we’re past that now and asking for that extension retroactively, but that’s where we are. I know the developer’s team is here and I think they would like to speak to where they are with that project and why they are asking you for this extension.

March 4, 2024

Commissioner Townsend said it's not quite as simple as I thought, or it maybe it is simple. It's not what I thought it was when I read it, so retroactively so that liquidated damages will not accrue. **Mr. LaSala** said that's correct. **Commissioner Townsend** said they're asking for the extension, but I'm a bit lost when you say that there's not going to be the paving in lieu of some other project, that's what I want to hear about. **Mr. LaSala** said that's right, they really are obligated to do one of two things. Pave that lot or pay us \$500,000 of liquidated damages and that was supposed to have occurred by November 30th of last year. It hasn't happened. The reason they'll tell you it hasn't happened is they have plans to develop that lot. They don't want to pave that lot because they think they're going to do a project there. If they pay to pave it and then ultimately the project happens, they're just going to tear that up and it will have been wasted money, wasted asphalt. They'd really rather not, so you're going to hear them ask for that extension because they're going to tell you, I think, where that project is and when they think it can occur, but they're asking for an extension so they don't have to pay us \$500,000 or pave that lot.

Commissioner Townsend said is that project, other than the paving, already contemplated in our previous contract with them? **Mr. LaSala** said no. **Commissioner Townsend** said so would that require a new contract, new development agreement, or addendum? **Mr. LaSala** said no, in fact if we came forward with a project that the Commission otherwise approves, it's contemplated that—let me use the exact language. I have a hard time doing that. Here it is. If the UG Commission approves a redevelopment plan for an alternative use of that parcel on or before if we move this to November 30th, 2024, if they do that—so it's really your approval of a different plan, a different use for that lot other than parking. **Commissioner Townsend** said and we would hear that tonight. **Mr. LaSala** said you're going to hear about what the contemplated project—I believe you're going to hear what they hope to do with that lot tonight. **Commissioner Townsend** said I'll reserve further questions for that time.

Chairman Burroughs said any other questions or comments? There wasn't a development contemplated on that lot until negotiations entered into the \$500,000 on the end of the contract coming due. If I remember correctly, it's been over a year and we extended it once while the negotiations were going on for development on that piece of property and we agreed, just what you said Todd, that we didn't want to see the \$500,000 or whatever it would cost to pave that lot, only to have the lot transfer to the developer and have that all tore back up. **Mr. Lasala said**

correct. **Chairman Burroughs** said so that's why we extended it the last time because they're still in negotiations with what that development is going to be is my understanding. **Mr. LaSala** said that's correct and I believe they'll tell you, but I believe it's the same project they've been trying to work the entire time. It's not some new project, the other one fell away, it's not, I think it's the same project that we've been contemplating the whole time. **Chairman Burroughs** said, Mr. Conway, the fact that the contract expired the end of November, what process do we have in place now to grant a fifth extension?

Mr. Conway said there really is no process in place. We had the opportunity to impose the liquidated damages at that time. The fact that we've let that lapse a little bit I think was a indifference to the possibility of more discussions going on on that project so we weren't in a big hurry to impose it because we knew there was ongoing discussions. **Mr. LaSala** said and we knew you had extended before we do—we wouldn't have seen fit to just go demand that money and ask because frankly we had been here once before and the committee and the Commission had voted to extend this date, so when they came to us after the fact in January, I think it was January they originally requested this extension and we went back and forth a little bit about the document. But Commissioner that's why we didn't immediately go to them and demand \$500,000, it was really indifference to this process and this committee and the Commission. **Chairman Burroughs** said I just want to be clear, we're not extending the project; we're extending the agreement on the price of the ground should we have to impose the penalty phase. I'll call it a penalty phase and it's really not even a penalty, it's just a mandate that they have to pave it. If the project wasn't moved forward, but the project is still being discussed and moving forward through Planning & Zoning is my understanding.

Mr. LaSala said yeah, that's right, that's a fair way to put it. There's really three things that could happen here. They can either—this project can materialize and the Commission approves it in which case the obligation just goes away. A second thing is that if the project doesn't materialize, they can pave the lot before November 30th of this year, and the third thing is the project doesn't happen, they don't pave the lot, and November 30th, you can decide we're just going to demand the \$500,000 to have them pay us. Those are the three choices. **Chairman Burroughs** said that's a great way to summarize it then. Any other questions or comments? **Ms. Sparks** said BPU Board Member Wakes has his hand up.

Stevie Wakes, BPU Board Member, said I had my hand up, but he just answered the question that I was going to ask. Those three scenarios were what I was looking for.

Chairman Burroughs said I'll ask the Clerk if there are any comment received from the public. **Ms. Sparks** said no comments were received. **Chairman Burroughs** said I'll now recognize members of the public who wish to address the committee. I'll ask the Clerk if there are any hands raised. **Ms. Sparks** said no hands are raised. **Chairman Burroughs** said we do have one back here. You will be given up to three minutes for your comments. Please state your name and city of residence for the record.

Dave Claflin, Leawood, KS; said I have my feet in both camps really. I've worked with Legends and Walton Street on the development side in the past and right now I'm working very closely with the Monarch's team in developing the project Mr. LaSala refers to. The project, in brief, is the same one we've been talking about for the last couple years. It's a 200-room hotel accompanied by 80 to 100,000 square feet in entertainment and retail adjacent to it. Walton Street and the Legends are very supportive of the project. They see it as a rising tide that would definitely add to their business, and just as Mr. LaSala said, we continue to be very optimistic about getting this deal across the finish line. We have an active LOI with a partner, a large brand that would be a wonderful boom to the area and a great brand name to add to the flags flying out there in Village West. I'm happy to answer any questions anyone has. **Chairman Burroughs** said Committee any questions?

Commissioner Townsend said just for my refresher, again, what were some of the other options than just paving, and it's been a while since we talked about that and I remember the Smoke Stack area and all those changes so, again what were some of the other things other than paving that we talked about. I know it's been several years that this is '04 or '24. **Mr. Claflin** said I know we've entertained offers to do drive-through restaurants on that corner, and they do well, but they wouldn't quite have the cache that a 200-room hotel would. I don't know specifics of any other developments or projects out there other than these drive-through restaurants. **Commissioner Townsend** said is anything being removed out there now to accommodate that? **Mr. Claflin** said if you're asking what was the rest of the West Lawn project at the time, we could talk about that,

but all of that got completed. This one lot was either just going to be paved or from time-to-time Walton Street has talked about well we could do a quick service restaurant there or something very easily, but they think this grander vision is more exciting and they'd rather do that. And right now, the Monarch's use that land for parking and they do some other events. They stage them there so the land is being used it just doesn't look as good because it's gravel.

Chairman Burroughs said any other questions or comments? Committee, if there's not any other comments or questions, I'd entertain a motion.

Action: Commissioner Burns made a motion, seconded by Commissioner Townsend, to approve as submitted. Roll call was taken and there were six "Ayes," Wakes, Lopez, Burns, Stites, Townsend, Burroughs.

Item No. 2 – 213023...APPROVAL: EXTENSION OF DEADLINE TO ISSUE INDUSTRIAL REVENUE BONDS (ADDED PER AGENDA UPDATE)

Synopsis: Approval of an extension of certain deadlines to issue industrial revenue bonds related to the American Royal Project to July 31, 2024, submitted by Jeff Conway, Assistant Counsel.

Chairman Burroughs said I'll recognize Jeff Conway from our Legal Department once again for comments.

Jeff Conway, Assistant Counsel, said this was a late arrival to the agenda. Ordinarily it probably would have a resolution that would accompany it and we could easily do that if that's the wishes of the committee, but this was to put the item for discussion and then staff will just take whatever guidance that the committee would like to go with at that point. This is the American Royal project. I think it looks like a pretty simple extension of deadlines for the IRB's. I don't think it's much more than that and they're here to talk about it. **Mr. Clafin** said you want any context from before we start? **Chairman Burroughs** said I believe that would be important to do so. Committee it was blue sheeted tonight. There was some issues that came up earlier this week to get this thing blue sheeted. It wasn't just a surprise to you tonight that we've been working on this blue sheet for about a week, if I remember correctly, to get it on this committee, so please give an overview.

Mr. Claflin said when the American Royal came before this body in August of last year, they were getting ready to get started and start doing some earth work, some dirt work out there and they were looking for Industrial Revenue Bonds solely for the purpose of abating the sales tax on the construction materials and the money that they were going to spend out there. So, as many of you know, the Industrial Revenue Bonds provides—you can use them in a couple of different ways, but one of them is to just abate the construction materials sales tax on labor and on labor materials. That's really what they were after in August. However, this project's been out there for a while, we knew that it was evolving. This committee and the UG at the time asked let's do this now, but let's also move the development agreement which needs to be amended with a bunch of changes. We need to update the project plan, which is now out of date and so there was a deadline embedded into this ordinance and a letter agreement about doing those two things by March 31st. Your IRB ordinance in this particular case, it expires on March 31st, unless we extend this deadline. The developer is now before you and I think Mr. Lee is going to update you about what's going on in the project and the feasibility study and how far away they think we are from being able to bring forward a project plan and an amended development agreement that would meet those obligations.

Chairman Burroughs said it was important to get the development agreement, I mean not the development agreement, the agreement on the IRB so they could go forward with the development agreement and the financing aspect with the state if I remember correctly.

Todd LaSala, Stinson Leonard Street Law Firm, said I think that's right, they were ready to start work, and they didn't want to do that without the IRB's in place and so it was really a collaborative effort to say yes, we need to do these other things, but we need the IRB's right now. So, that's the reason that this has a March 31st deadline on it. We wouldn't typically do that, but I think there was some interest in making sure that those other pieces, subset of pieces of the larger project, moved forward in some timely fashion. **Chairman Burroughs** said It's better to do them all collectively together than have to come back and do them a piecemeal. This IRB extension will allow them to put everything back together by the end of—are we going to until the end of July on this one if I remember correctly?

Kevin Lee, Polsinelli Law Firm, said appearing on behalf of the American Royal Association, so that's correct. We're asking that this date be extended out to the end of July of this

year with the hope that we'd be back before you and then full commission with the development agreement, the project plan that Todd was mentioning and have those approved in advance of that date and so that that would, upon approval, make this deadline go away. The bonds themselves were always contemplated to be issued at the end of the project around I think the PEC the exemption certificate itself was good through the end of '26. So similar to your comments, Mr. Chairman, in connection with the previous agenda item I wouldn't characterize this as an extension of the project, it's just an interim step and deadline that we set to keep things moving along. We have been working diligently in the background with the state to try to get the updated feasibility study done. We're hoping that that's going to be done here within the next week, matter of days. So, that will then enable us to go and work with Todd and the UG and your staff on finalizing the project plan and development agreement amendments, so hope to have those back before you in the very near future, but would ask that we have this extended tonight ultimately for consideration at the second meeting in March.

Chairman Burroughs said any questions or comments Committee? Seeing none, I would ask if there's anybody from the public who wish to address the Committee? Are there any hands raised wish to address the Committee? **Ms. Sparks, UG Clerk**, said no hands raised online. **Chairman Burroughs** said is there anyone in the audience that wishes to speak to this item? Let the record show nobody stepped forward. Any other questions or comments Committee?

Commissioner Townsend said for clarity, we are looking at the development agreement coming around, what was that all—what did you say we're hoping for. **Mr. Lee** said the deadline extension that we're requesting be the end of July and so it would be an advance of that. We're hoping it will be sooner and sometime in June but there's some statutory steps we have. **Commissioner Townsend** said I just wanted to clarify.

Chairman Burroughs said any more questions? Seeing none, this is an actionable item and entertain a motion.

Action: Commissioner Townsend made a motion, seconded by Commissioner Lopez, to approve as submitted. Roll call was taken and there were six “Ayes,” Wakes, Lopez, Burns, Stites, Townsend, Burroughs.

Chairman Burroughs said I will entertain a motion to adjourn.

Action: Commissioner Bruns made a motion, seconded by Commissioner Lopez, to adjourn. Roll call was taken and there were six “Ayes,” Wakes, Lopez, Burns, Stites, Townsend, Burroughs.

Meeting adjourned at 5:23 p.m.

JG