

City of Columbus
Regular City Council Meeting
10.24.18

The 10.24.18 meeting of the City of Columbus City Council was called to order at 7:00 p.m. by Mayor Povolny at the City Hall. Present were Council Members Jeff Duraine, Denny Peterson, Bill Krebs and Mark Daly; City Administrator Elizabeth Mursko, City Attorney Jacob Steen, City Engineer Dennis Postler, and Public Communications Coordinator Jessica Hughes.

Also in attendance were: Joe & Deb Pribyl, Tim Olsen, Mike Kempf, Bruce Sailer, Wayne Robyn, Don Cordie, John Hraba, Kathy LaVesseur, Jason Garth, Marc Paul, John Seibert, Barb Bobick, Shelly & Arlen Logren, Janet Hegland, and Julia Parent (Forest Lake Times).

A. CITY COUNCIL REGULAR MEETING

- 1. Call to Order - Regular Meeting – 7:00 P.M.**
- 2. Pledge of Allegiance**

B. CONSENT AGENDA

- 1. Motion – Approval of the City Council Meeting Minutes 09.12.18**
- 2. Motion – Agenda Approval with Additions**
- 3. Motion – Pay Bills as Posted**

Motion by Daly to approve the Consent Agenda. Seconded by Peterson. Motion carried unanimously

C. PRESENTATIONS

4. Continued City Council Tax Increment Financing (TIF) and Minnesota Investment Fund (MIF) Public Hearing

The Council continued their consideration of Tax Increment Financing (TIF) and a business subsidy consisting of funds derived from a Minnesota Investment Fund (MIF) grant application from JP E-Commerce (Josh Pribyl).

Tammy Omdal from Northland Securities came forward to consult the Council on the TIF considerations. She started from the beginning to review what has occurred since the process started.

JP E-Commerce requested state funds through MIF and the establishment of a TIF district in the City in order to help fund the relocation of their business to Columbus. They are hoping to construct a 100,000 square foot building in the Freeway District. In considering the TIF and MIF grant potential, Northland Securities requested information from JP E-Commerce to complete necessary applications.

Omdal continued to explain the TIF district in more detail. The projected tax increment for the life of the district (9 years) is roughly \$822,000. City Staff have proposed retaining 20% of the tax increment in order to fund administrative costs of maintaining the district as well as public improvements (specifically Hornsby Street adjacent to the project). An additional consideration

for the Council was how to treat fiscal disparities on this property. When establishing a TIF district in a City with fiscal disparities, the City can determine if the property will contribute to the disparity, or if they will require other commercial properties in the City to contribute an increased amount to cover the difference. With JP E-Commerce the anticipated annual contribution to fiscal disparities is estimated at \$61,000. The Council agreed they would like JP E-Commerce to contribute to the fiscal disparity, which results in a decreased amount of tax increment available to the business.

After considering the 20% to be dedicated to administrative fees and public improvements, and the fiscal disparity contribution, the tax increment note is estimated at \$475,000 to be paid off using TIF dollars at a 5% interest rate, which includes deduction of the City's 20% and the fiscal disparities contribution. If the amount of tax increment exceeds \$475, 000, the note will be paid off in a shorter time frame. The reverse is also true, and if the note is not paid off after nine (9) years, the note will be terminated, and the balance eliminated.

Omdal continued to discuss process. The Council opened a Public Hearing on the topic during a special meeting on 10.17.18. After the hearing was held, the City received written comments on the TIF proposal from the School District, and Anoka County submitted a waiver to the comment period. With those two (2) items submitted, it is now possible for the Council to reopen the Public Hearing and consider final approval.

At this time Mayor Povolny reopened the Public Hearing. The first topic considered was a resolution approving modification of the development plan for a municipal development district and a TIF district.

Hearing no one, Mayor Povolny continued on to the next topic. The second resolution allows City Staff to submit an application to the Minnesota Department of Employment and Economic Development (DEED) requesting funds through a MIF grant. The application requests \$964,500 to assist JP E-Commerce with the acquisition of equipment. If DEED approves the application, a contract will come back to the Council at a future date for approval. Mayor Povolny asked the public for input on this resolution.

Hearing none, he continued to the next topic. The third resolution details how TIF law works and is needed to retain roughly \$40,000 to reimburse the City for costs relating to administering the TIF district. Mayor Povolny asked the public for input on this resolution.

Hearing none, he continued on to the last resolution. The final resolution is approving the contract for private development and awarding the sale of Tax Increment Revenue. Mayor Povolny asked the public for input on this resolution.

Hearing no one, he asked that Mr. Joe Pribyl from JP E-Commerce come forward to address the Council.

Pribyl thanked the Council for their support of TIF and of future upgrades to Hornsby Street. He began his discussion by asking how the maximum amount of TIF dollars available was calculated? He is concerned because the \$475,000 estimate is based off a value of \$60 per square foot for the facility, and he has an appraisal of \$79 per square foot. The discrepancy

results in a lesser amount of money available through TIF. He also was not expecting the amount to have a maximum. Julie Eddington from Kennedy & Graven came forward to explain how the \$475,000 maximum was determined. All TIF contracts contain a maximum amount that can be provided with the note, because the basis for requesting money is that without a certain amount the business could not go forward as proposed. The City relies on Tammy Omdal to investigate what City and County officials may determine is the assessed value of the property.

Omdal continued to explain her process for calculating the note's maximum. Her estimate began with a \$6 million taxable market value with an assumption of a 1% increase for inflation each year. The \$6 million valuation is based on \$60 per square foot. To get that value, she consulted Anoka County and considered other comparable facilities throughout the state. She said that the highest value she found in the metro area for a comparable building was \$54 - \$55 per square foot, which was located near the airport in Bloomington. She continued to say that if the Council determines that the \$60 per square foot valuation should be altered, the contract cannot be approved tonight. To approve the new value Anoka County and the School District would need to receive new notice and be given a renewed period to comment. She added that the Council could also decide to take less than 20% of the money to be dedicated to public improvements and administrative costs. However, in that case the City will have to look at additional funding sources to pay for improvements and administrative costs.

Mayor Povolny asked Omdal if she took into consideration the attributes to the particular building being built by JP E-Commerce? Omdal replied that at the time these considerations are made such information is not available. She reiterated that the point of TIF is to provide the level of assistance that is needed to make the project feasible. Based on her review and information provided from JP E-Commerce's bank, the \$475,000 plus 5% interest is what the business needs to make the project feasible.

Pribyl commented that it is unfortunate that the project is delayed, because the cost for doing construction in the winter will be an additional \$200,000. Mayor Povolny stated in response to Pribyl's concerns about delays, that the Council must keep in mind that the City has worked to expedite the process for JP E-Commerce by holding special meetings, creating a new TIF district, and applying for MIF funds on their behalf.

Mr. Tim Olsen from Carlson Commercial came forward and noted that he was shocked at the \$60 per square foot valuation because warehouses are in high demand and selling for record prices (around \$80 per square foot) in the Twin Cities right now. Krebs commented that with the 5% interest, Pribyl's business will be receiving over \$475,000. Omdal clarified that the total amount will be close to \$650,000, factoring in the 20% being dedicated to the City.

City Attorney Jacob Steen commented that an important factor for the Council to consider when they are making this decision is whether or not the JP E-Commerce project can withstand a potential 45-day delay to go through the process again with a different valuation. Mayor Povolny said in response that the City's options are to either start over with a new valuation or to reconsider the 20% dedicated to the City's administrative and public improvement costs. Mayor Povolny asked Postler for an estimate on the cost to redo Hornsby Street. Postler replied that a very rough estimate is \$1 million.

Mursko said that she wants to ensure the Council understands that the City did not take money up front, and typically a City would take roughly \$20,000 in escrow to cover administrative costs. So far, Mursko added, the City has spent over \$10,000 on this particular project. Her recommendation to the Council is to cover administrative costs with the TIF money. She also reminded the Council that this project is a business subsidy; dedicating tax dollars that would normally have gone to the City and funneling them to the new business.

Omdal noted that the 20% going back to the City includes \$41,108 for administrative costs over nine (9) years as well as \$123,324 for public improvements. Mursko added that in 2021 the City will have budgeted \$350,000 for the Hornsby Street project, and with the additional \$123,324 there would be roughly \$473,324 available for the project. Thus to fund the Hornsby Street project City would have to bond for roughly \$500,000, assuming a \$1 million cost.

Mayor Povolny asked Eddington for her advice as the City's bond counsel. Eddington replied that the best option for the City would be to keep everything as is. The second option she recommended was decreasing the 20% that would go back to the City. Steen noted that his recommendation is to consider the \$475,000 separately from the \$123,324, and whether \$123,324 will be enough to cover City costs. Eddington continued to say that retaining 10% is typical for a City in this situation, and 10% in this case comes out to \$82,000. Mayor Povolny suggested dedicating roughly half of the \$123,324 back to the business, leaving an even \$60,000 for the City's improvement costs.

Motion by Duraine to modify the TIF plan to reflect a decrease in the "Other qualifying improvements" costs from \$123,324 to \$60,000, and an increase in the "Land/building acquisition" costs from \$475,144 to \$538,468. Seconded by Krebs. Motion carried unanimously.

At this point Mayor Povolny asked for any final public input. Hearing none, he closed the Public Hearing and the Council considered resolutions relating to the project.

Motion by Peterson to approve Resolution 18-32, a resolution approving a modification of the development plan for Municipal Development District No. 1 and a Tax Increment Financing plan for Tax Increment Financing District No. 1-1 therein. Seconded by Krebs. Motion carried unanimously.

Motion by Duraine to approve Resolution 18-31, a resolution regarding the authorization and approval for a Minnesota Investment Fund application, grant agreement, and forgivable loan in connection with Prib Capital LLC. Seconded by Peterson. Motion carried unanimously.

Motion by Peterson to approve Resolution 18-30, a resolution authorizing internal loan for advance of certain costs in connection with Tax Increment Financing District No. 1-1. Seconded by Krebs. Motion carried unanimously.

Motion by Duraine to approve Resolution 18-33, a resolution approving contract for private development and awarding the sale of, and providing the form, terms, covenants, and directions for the issuance of its Tax Increment revenue note in the maximum

principal amount of \$538,468. Seconded by Krebs. Motion carried unanimously.

5. Planning Commission Report

Commissioner Pam Wolowski gave the Planning Commission Report on two (2) topics.

Gander Outdoors Recreational Vehicle Outside Storage CUP (Outdoor Storage) Request

The first topic considered by the Planning Commission at their 10.17.18 meeting was a CUP request from Gander Outdoors for the outdoor storage of RVs. The Planning Commission recommended an amendment to condition 1, to say “The CUP authorizes the outside storage of approximately 90 recreational vehicles with the units not to exceed the designated area” rather than “...authorizes the outside storage of up to 90” RVs. An additional recommendation was to add condition 11 stating that “repair vehicles will be stored within the designated parking areas.” Lastly, because Gander Outdoors will be adding five (5) additional service doors, the Planning Commission recommended adding condition 12; requiring an updated site plan showing new service doors, fencing, and storage area.

Jason Garth from Gander Outdoors came forward to address the Council. He said that he agrees to the conditions described by Wolowski, and that they are in the process of finalizing the new site plan.

Peterson asked Garth if his marketing team could label the store as being in Columbus and not Forest Lake? He replied that he can give such feedback to the marketing team and see how it goes. Mayor Povolny added that once the new Hwy 97 bridge over I-35 is installed, it will say Columbus on it, which could help persuade Gander Outdoors to market their store as being in Columbus.

Motion by Duraine to approve PC-18-121, the Gander Outdoors CUP application dated 09.12.18, subject to findings of fact and conditions of approval from Planner’s Memo (dated 10.11.18), and subject to amending condition 1 and adding conditions 11 and 12. Seconded by Daly. Motion carried unanimously.

Gander Outdoors Recreational Vehicle Outdoor Storage CUP Findings of Fact:

1. The City received a CUP application from Gander Outdoors (“Gander”) on August 28, 2018 and supplemented on September 12, 2018. The application was found complete.
2. The 60-day review deadline is November 11, 2018. The 120-day review deadline, if necessary, is January 10, 2019.
3. The proposed CUP is for outside storage of recreational vehicles for sale on property located at 14640 West Freeway Drive, legally described as part of the Southeast Quarter of the Northwest Quarter of Section 25, Township 32, Range 22, containing approximately 13.93 acres (“Property”).
4. The original Gander Mountain retail store was approved in 2003 with an approximate 96,000 square feet retail building and 408 parking spaces (394 parking stalls constructed and 14 “proof of parking” stalls).
5. Gander proposes to store, display and sell up to 90 motorhome, travel trailer, and fifth

wheel RVs in the southerly portion of the existing parking lot. Some RVs may also be displayed in the retail building.

6. The primary outside display area will be fenced. No additional site or display area lighting is proposed.

7. Approximately 252 parking stalls, including 8 handicapped accessible parking stalls, will remain in use on the Property.

8. Gander proposes to maintain RV parts and accessories and will perform minor RV servicing in the retail store. Used RV sales are also anticipated.

9. RV sales signage was applied for under a separate permit application.

10. The Planning Commission held a public hearing on October 17, 2018 to consider the Gander RV Outside Storage CUP application.

Gander Outdoors Recreational Vehicle Outdoor Storage CUP Conditions of Approval:

1. The CUP authorizes the outside storage of ~~up to~~approximately 90 recreational vehicles ~~within the existing parking lot on the Property~~not to exceed the designated area, RV parts and accessories sales, and minor RV repairs within the retail building.

2. Gander shall maintain a minimum of 252 parking stalls on the Property for employees and customers.

3. The RV outside storage area contains the “proof of parking” for the remaining number of parking stalls required for use of the Property, according to the Columbus City Code. Upon a finding by the City Council that additional parking is required on the Property, and upon reasonable notice, Gander shall restore all or a portion of the required parking stalls.

4. The Conditional Use Permit, once issued, may be revoked upon a finding by the City Council that the Property and/or use is not in compliance with the conditions for approval for such use, following notice and a public hearing.

5. Upon abandonment or revocation of the CUP, Gander shall restore the number of parking spaces on the Property, consistent with the Columbus City Code.

6. All uses allowed in the CUP shall be constructed and maintained consistent with all Federal, State and local laws and regulations.

7. There shall be no junked or abandoned vehicles allowed on the Property.

8. There shall be no chemicals, odors, gasses, hazardous wastes or fumes on the Property as a result of the CUP, excepting normal emissions and discharges associated with the operation of motor vehicles.

9. No other uses or intensifications are allowed on the Property without an amendment to the CUP or compliance with the Columbus City Code.

10. Gander shall reimburse the City for all out of pocket expenses incurred in the review and issuance of the CUP and for all ongoing inspections and enforcement actions required for the CUP.

11. Repair recreational vehicles will be stored within the designated parking areas.

12. An updated site plan must be submitted showing new service doors, fencing, and storage area.

18145 Loyola Street NE – IUP Request

Mr. John Hraba has an appraisal business and would like to move it from Forest Lake to his home in Columbus. He reports that there will be no client traffic, and that a secretary will be

reporting to the business on an as needed basis.

Wolowski commented that the Planning Commission would like to make a recommendation to add a condition 11, saying that if the business is out of compliance they will have one (1) year to come into compliance. The Council agreed that one (1) year was too long and would like to shorten the period to three (3) months.

Motion by Duraine to approve the IUP application for 18145 Loyola Street NE, with the addition of condition 11. Seconded by Krebs. Motion carried unanimously.

18145 Loyola Street NE IUP Application Findings of Fact:

1. The City received an IUP application from John Hraba (“Hraba”), on September 19, 2018. The application was found complete.
2. The 60-day review deadline is November 18, 2018. The 120-day review, if necessary, is January 17, 2019.
3. Hraba is currently building a residence at 18145 Loyola Street on 5.13 acres of property, legally described as the Lot 6, Block 2, Deer Trail Acres (“Property”).
4. The Property is zoned RR Rural Residential.
5. Hraba proposes to operate an appraisal business on the Property.
6. There will be no customers or clientele accessing the Property for routine business operations.
7. Outside employees associated with the Residential Zone Business (“RZB”) will access the Property on a non-regular basis to deliver and retrieve files and perform occasional bookkeeping and accounting functions.
8. Outside employees will only access the Property on weekdays between the hours of 8:00 am and 5:00 pm.
9. There is no outside storage associated with the RZB and deliveries are limited to customary surface mail and residential delivery services.
10. The RZB be conducted only in the residence and accessory building.
11. Vehicles associated with the RZB are limited to personal passenger vehicles.
12. There is no proposed signage for the RZB on the Property.
13. The IUP public hearing was held by the Planning Commission on October 17, 2018.

18145 Loyola Street NE IUP Conditions of Approval:

1. The IUP is contingent upon issuance of a Certificate of Occupancy by the Building Official for the residence and accessory building and occupancy of the Property by Hraba.
2. If occupancy of the accessory building is not approved for office use, the Residential Zone Business shall be limited to the principal residential structure.
3. The term of the IUP shall be five years from the date of occupancy on the Property. Hraba may reapply for an IUP upon expiration of the term, according to procedures in the Columbus City Code.
4. There are no vested rights in the issuance of the IUP and the IUP is not transferrable.

5. Conduct of the Residential Zone Business shall be consistent with the application materials received by the City on September 19, 2018, which are attached to the IUP by reference.
6. Outside employees shall access the Property only on an occasional or non-regular basis.
7. There shall be no outside storage or signage associated with the Residential Zone Business.
8. Conduct of the Residential Zone Business shall be consistent with all applicable federal, state and local laws, rules, licenses and ordinances.
9. In the event the City Council determines, in its sole discretion, that the use of the Property is not being operated in accordance with any term or condition contained herein, the IUP may be revoked by the City upon proper notice and a public hearing.
10. The IUP is contingent upon reimbursement of all City expenses associated with IUP issuance, inspections and enforcement.
11. If the property is out of compliance they will be given three (3) months to come into compliance before revoking the IUP.

Lino Lakes I-35 Comprehensive Plan

The Planning Commission reviewed the Lino Lakes 2040 Comprehensive Plan. City Planner Dean Johnson recommended responding with no comment, as nothing in the Plan affects Columbus itself or Columbus' Comprehensive Plan.

**Motion by Krebs to respond to the Lino Lakes Comprehensive Plan with “no comment”.
Seconded by Peterson. Motion carried unanimously.**

6. Public Open Forum

No report.

7. MnDOT resolution and Acquisition of Lands

This topic was not considered during this meeting as the resolution was not received by the City in time. The new resolution will be considered at a future City Council meeting.

D. STAFF AND CONSULTANT REPORTS

8. Engineer Report

City Engineer Dennis Postler provided preliminary numbers for modeling of the strength of water flows on the east side of I-35 in the Freeway District. With the full system up and running they can achieve 52 PSI and 300 gallons per minute for four (4) hours for fire flow protection. Mayor Povolny asked if that rate will be raised when the loop is connected by the asphalt plant? Postler replied that it likely would not.

9. Attorney Report

Steen presented his report on two (2) items.

Aces Hotel Development Agreement

North Metro Harness Initiative (NMHI) has requested an amendment to the Development Agreement for the Aces Hotel. The Development Agreement automatically incorporates the Conditions of Approval from the hotel's CUP. The amendment requested is to condition 18, a standard condition that allows the City in its sole discretion to determine whether or not the CUP is being operated consistent with the Conditions of Approval, and if not, the City can revoke the CUP. Steen explained that because the Development Agreement deals solely with development, NMHI is asking to amend the language to say "in the event the City Council determines that the Property is not being *developed* in accordance with any term or condition", rather than "operated" in accordance. NMHI also requested that the amended condition give the Developer the opportunity to cure such noncompliance.

Mayor Povolny asked why Aces Hotel would request this amendment? Steen replied that the original intent of this condition was to monitor events on the property and give the City discretion to shut them down if necessary. Because the Developer's Agreement is for the hotel, and no such events will be held on hotel property, NMHI has asked for the amendment.

Steen finished by saying the request from NMHI is reasonable and recommend that the Council consider it.

Motion by Krebs to amend the Aces Hotel Development Agreement condition 18 to read:

In the event the City Council determines that the Property is not being developed in accordance with any term or condition in either the Development Agreement or the conditions of approval, the PUD CUP may be revoked by the City upon proper notice and a public hearing. Prior to any hearing, the City shall provide 30 days' notice to the Developer with an opportunity to cure such defect, default or noncompliance in accordance with the remedies provisions of the Development Agreement. The City shall notify regulatory authorities that have issued licenses or permits in connection with the PUD CUP of any such revocation.

and direct the City Administrator to conform the CUP's conditions of approval to this amendment. Seconded by Peterson. Motion carried unanimously.

Howard Lake Drive Park

The City received notice from the Department of Revenue regarding the smaller parcel associated with the Howard Lake Drive Park. That parcel is subject to a 30-year restriction which expires in 2019 saying the land must be used as a park. At a previous Council meeting the City had decided to close the park. The park itself was made of two (2) parcels, and the other parcel expired in 2018. Thus, there is a gap in time between when the individual parcels can cease to be used as parks.

The City has two options to remedy the situation: Continue using the parcel as a park or to return the parcel to the State. Steen clarified that the City could deem the parcel a passive park and forego returning the playground equipment and cross walk. The Council agreed they would rather use the parcel as a passive park than return it to the State. Once the 30-year period has expired they would like to continue with the original plan to no longer use the parcel as a park.

Motion by Daly to rededicate parcel ID #12-32-22-44-0014 as a passive park until the 30-year restriction period is completed. Seconded by Peterson. Motion carried unanimously.

10. Mayor and Council Members Report

Council Member Krebs

Council Member Krebs reported on his attendance at the most recent Lion's Club Pancake Breakfast. He said that the Lion's did a good job putting on the event.

Council Member Daly

No report.

Mayor Povolny

No report.

Council Member Peterson

No report.

Council Member Duraine

No report.

11. Public Works Report

Public Works Superintendent Jim Windingstad came forward to discuss a question about 2019 road paving projects. He recalled a comment made at a previous Council meeting, that it does not appear like there is significant support for paving 165th Avenue NE. Windingstad asked the Council if, in light of this feedback, they would like Public Works to continue doing the work to pursue that project? Duraine and Mayor Povolny said that they do not think it should be included in this year's study. The remaining Council Members thought that in the least the City should still invite residents to a neighborhood meeting to hear the proposal.

Motion by Duraine to exclude 165th Avenue NE from the 2019 blacktop project study. Seconded by Mayor Povolny. Votes as follows; Peterson – nay; Daly – nay; Krebs – nay. Motion fails.

Mayor Povolny suggested that the letter to residents for the 165th Avenue NE neighborhood

meeting include a notice that the City will be funding 40% of the project cost if it goes forward.

12. Public Communications Coordinator Report

No report.

13. City Administrator's Report

Mursko presented an updated employee handbook to the Council. The employee handbook has not been reviewed since it was written in 2004. Mursko said that the City Attorney reviewed the document for legal compliance, and the major revisions made are legal in nature. Any other changes in the handbook are policy changes that were made since 2004 but not yet codified.

Motion by Duraine to approve the updated Columbus employee handbook. Seconded by Daly. Motion carried unanimously.

December calendar

Mursko asked the Council two (2) questions regarding the calendar of meetings for the next few months. She noted that the Planning Commission's 11.07.18 meeting has been cancelled, and the meeting for the third week of November has been moved to 11.19.18 because of the Thanksgiving holiday.

She asked the Council if they would like to close City Offices on Christmas Eve since it is a Monday and the next day is Christmas Day. The Council agreed that the office should be closed on 12.24.18, and staff will be given the option to use vacation time or take time off without pay. Mursko then asked if they would like to do the same for Monday December 31st (New Year's Eve), since the following day is New Year's Day? The Council agreed that they would.

To follow up Mursko asked the Council if they were interested in cancelling their meeting on 12.26.18? The Council agreed they would like to keep that meeting on the calendar until further notice.

Motion by Duraine to close City Offices on 12.14.18 and 12.31.18, and to give City employees the option of using vacation hours or taking time off without pay. Seconded by Krebs. Motion carried unanimously.

Treasurer's Report

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|----------------|----|--------------|
| Receipts: | \$ | 8,987.06 |
| Disbursements: | \$ | 299,379.60 |
| Balance: | \$ | 5,711,167.19 |

E. ANNOUNCEMENTS & REMINDERS

14. Calendar of Meetings.

Announcements – The next Planning Commission meeting will be on 11.21.18.

F. ADJOURNMENT

Motion by Daly to adjourn. Seconded by Duraine. Motion carried unanimously.

Meeting adjourned at 8:49 p.m.

Respectfully Submitted:

Jessica Hughes, Public Communications Coordinator