

City of Green River

460 East Main Street, Green River, Utah

City Council Minutes
Special Meeting
Tuesday, July 31, 2012

ATTENDING: Mayor Pat Brady, Council Members Kathy Ryan, Penney Riches, Philip Engleman and Gary Riches; Citizens Emery County Economic Development Director Mike McCandless, from Zion's Bank Susie Becker, Attorney Craig Smith

ABSENT: Council Member Kent Johnson, City Employee Conae Black

CONDUCTING: Mayor Pat Brady, the meeting began at 6:14 p.m.

ORDER OF BUSINESS:

1. A presentation and training on tax increments. Mike McCandless said tax increment financing is the way most communities in the state do their community building. It is not typically done in rural Utah because of the lack of knowledge and resources. Emery County has hired Susie Becker to do a study on retail tax leakage. She looks at what money is leaving Emery County that shouldn't be. What money is going to Price or the Wasatch Front? This way Emery County will know of the sales tax opportunities that they should be getting and how much is leaving the county. The BEAR (Business Expansion and Retention) organization also hired her to analyze these results so that they can report back to the legislature. The report that she generated this year helped BEAR secure some more money. The BEAR organization of Carbon and Emery County has now been replicated by 25 other counties. He has asked Susie Becker and Craig Smith to come and talk about how to implement an overview of the tax implements financing.

Craig Smith said he and Susie Becker does not compete with each other, they provide different services. He is with the law firm of Smith Hartvigen. He is an attorney that provides legal advice. They are not financial advisers or experts in finance. He works with communities when they have specialized needs and do act as city attorney for some communities that you are familiar with like Castle Dale and Orangeville and some other smaller communities in northern Utah. These tools that we are going to talk about are typically done in larger communities such as Salt Lake City but he has done projects like this in as small of a community as Ellwood which is smaller than Green River. He was born and raised in Price and is familiar with Green River and this part of the State. Utah laws give you certain tools to help with economic development. These tools are commonly known as Redevelopment Agencies and the ability to use Redevelopment Agencies to take tax increments and or some sales tax. When you see something happening in Utah such as Proctor and Gamble Company coming into a community there is usually some public/private partnership that makes that happen. They just don't locate somewhere by chance. Big companies have site selectors and go through a process. Incentives are the name of the game. We want to talk about how Green River can use those tools to your benefit. Susie Becker asked to throw in some numbers to validate what Craig Smith just said. The amount of money that was generated from tax increments in 1980 was 2 ½ million dollars. Last year the amount of money that was generated from tax increments was over 124 million dollars that was used for projects. It is a trend and other communities are using this to attract business. In order to do a tax increment project you need to create a redevelopment agency. A redevelopment agency is a separate legal entity that is created by the city by ordinance. It is controlled and operated by the city council. By State law the redevelopment agency board is the city council but has different powers than the city. If a business came to Green River City and said they would like to locate in Green River but would like the city to do things for them and help them and give them money to get located here it is illegal for the city to do that. A business in Orem Utah tried to get them to do that and this case went all the way to the Supreme Court and the Supreme Court ruled it illegal because you have to show benefits to the city. A redevelopment agency has to operate under separate laws and separate powers. Some people worry that it may raise their taxes. A redevelopment agency does not have any taxing powers. What they work on is the tax increments. If you have a successful project that creates tax

increments part of the budget from that project goes towards administrative expenses such as the attorney expenses or the financial studies by professionals.

Mr. Smith explained what a tax increment is and said a private piece of property will be assessed property taxes. That is called the base taxes. For example if a piece of property's assessed value is 1 million dollars and the taxes on that is \$100,000 that would have nothing to do with the redevelopment agency but if improvements were made on the property to increase the value of the property to 10 million dollars the taxes on that additional 9 million dollars is what's called the tax increment. All or a portion of that extra tax money over a period of time can be redirected to the redevelopment agency. The base taxes continue to go to all of the entities who benefit from tax revenue. This money can be used for many things such as infrastructure, incentives to buy property and administrative expenses. A five, ten or twenty year budget is put together and approved and that is where the tax increment money goes. Mike McCandless said one of the reasons this is so important is that city councils change and their priorities change. Allowing you to target that now is making a statement that for the life of this project we have defined where that money is supposed to go. Flipping directions is hard. It can be canceled but you really tie yourself to completing a project once it starts. Mr. Smith said twenty to twenty five years is the longest that he has ever seen a project go on. Ten years is probably the most typical amount of time for a project. There are two things that you do. You either have a participation agreement that is a contract between the agency and the company or you issue bonds. When bonds are issued that is when a professional financial adviser is very important. It is common to do either options or both options. When you have a participation agreement and the company and if those taxes do not get paid then there is not a tax increment. It is a performance based program. If no improvements are made and a participation agreement is in place then you do not give them any money because there isn't any money to give them. Mike McCandless used Price City as an example. On the west side of Price there is the new JB's restaurant and Wingers which are new. None of that development would have happened if they were not a part of a redevelopment agency. Price City rebated back the building permit fees for Wingers which was about \$90,000. That is a big deal for someone who is trying to find cash to build a business. Banks do not like to give money for building permit fees because it is not a tangible asset. Susie Becker said that was a good example of the guide and philosophy that you want something that you really want that wouldn't happen on its own. You make up that gap so that it can happen now. Craig Smith said he and Susie Becker are not here to give money to corporations that could otherwise build and do things. His advice is to have them do it on their own. Susie Becker can help with justifying whether a business needs help and where they need help. Every project requires some private investment. Banks are not going to lend you 100% of the money for your business no matter who you are. Mayor Brady asked Craig Smith if he said the city council is over the redevelopment agency. Craig Smith said the City Council is the agency board and makes every decision as the governing board. Everything that happens has to be approved by a resolution of the agency board. Mike McCandless said the agency will include anybody who assesses taxes. The School Board assesses the most taxes. They get 2/3 of the money collected in taxes and it is hard for them to comprehend their benefit from tax increments. Susie Becker said the Redevelopment Agency Board is the City Council. You will make all decisions, govern and erect the RDA. In order to get a project area you have to get the approval of the Taxing Entity Committee consisting of two representatives from the county, two representatives from the city, two representatives from the School District, one representative from the State Office of Education and one representative from all other taxing entities such as Special Service Districts. Once you get the approval from the Taxing Entity Committee then it becomes your program and you are off and running. Mayor Brady asked if this has ever been done in Emery County. Mike McCandless said it has been done in other counties including Carbon County but not Emery County. Craig Smith felt it would not be as tough of a sale to the Emery County School District because the schools are not full to capacity and they do not have to build new buildings and they could benefit by bringing in new business which would bring in more families and fill their schools. Mayor Brady asked if all of the taxing entities would benefit from tax increments. Craig Smith said yes. Mike McCandless said there is a way to exclude some of the taxing entities but if you do then you are missing out on that revenue. There is a discussion every year on whether to bus the children to Emery High School. The most traditional way of declaring a Redevelopment Agency is the finding of blight. He believes that blight is a problem in Green River. Even though there are blighted areas in Green River they may not rely on that particular

tool to do this but if there is a way we can do this by reducing the blighted areas and meet the needs of those businesses then that is what we should do.

Susie Becker said in Utah Code 17 C chapter 1-4 it lays out three types of redevelopment project areas. You have the base taxes which is so important when speaking with the School District and state to them that there will not be any changes to the amount of revenue that they are now receiving. You may negotiate with the other taxing entities by giving them 20% of the additional revenue during the term of the project and the rest will go back into the project area and when the project ends then all property taxes flow to the taxing agencies. Mike McCandless said if Green River City had not put on a property tax then we wouldn't even be able to have this conversation. The city would not be able to have a say in this process. Susie Becker said there is a wide range of the use of this money except to build a new city hall a few other buildings. Mayor Brady asked her what a land-write down was. Susie Becker said if the city wanted to buy some land and give it to a developer or sell at a reduced rate to get them to come. It could be worth it for the amount of money they will be bringing in. She said sometimes the land, building and equipment are taxed. There are three types of project areas. First is the Urban Renewal and that is when we have to have a finding of blight and is the only one that lets you use eminent domain. It requires a 2/3 vote from the taxing entity committee. Another type is Economic Development. With that you have to show job creation and also require a 2/3 vote from the taxing entity committee. Community Development is a little more flexible. You don't need a vote from the taxing entity and you negotiate with each taxing entity separately. Craig Smith wanted to explain about eminent domain. He thought that in twenty five years he has only filed one eminent domain lawsuit. It is rarely that you ever have to exercise that power and there are a lot of limits in that power. Susie Becker said an area cannot be declared in an open field. It has to be an urban area with at least 50% of the parcels within the proposed project area is supposed to have buildings. You cannot go out into a Greenfield and declare blight. You have to find physical dilapidation, deterioration or defective construction of buildings or infrastructure or significant noncompliance with current building, safety, health or fire codes. The buildings may also be declared unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community. Mike McCandless said the ones that we have had problems with are those buildings that have gone halfway through the trust process and family members are not agreeing what to do with the property and it stays stagnate. Craig Smith said how the process is done is you hire a blight consultant who goes out and does a study. They make a presentation to the agency board in a public hearing. At that same hearing property owners and the company can make any presentations that they want to make. It is up to the agency board which is the city council to make any determinations. Susie Becker said if you do an urban renewal you tack this blight study on before you do the next step. It has worked really well to have an initial public meeting and approach all of the property owners in the project area let them know what the process is such as taking pictures and what they are looking for and address any concerns. She gave some examples of what the potential concerns would be. The next step to take is to do a plan and a budget. The budget shows how many years for which the increment will be collected so you need to have a good plan on what needs to come in here because you have to sell it to the taxing entities. The Utah Code plan and budget requirements are very broad. Craig Smith said no matter what the project is it is never going to look like the first concept that he may bring to you. He is working with Sandy City where they are on their 63rd concept drawing. You do not want to have your budget and project plans too specific so that you can't change it because then you have to go through a process to make that change. You need to make it flexible and broad to make changes. Susie Becker said you need to describe how you are going to reduce blight or describe any specific projects. She gave an example of the town of Vineyard. If you decide on an Economic Development Area you need to show new job creation and not a job transfer. This is probably the one she would recommend the least except there are some counties where School Districts and Counties will give a higher percentage of increments if it is an EDA than anything else. Craig Smith said EDA are really designed for industrial developments. For the nuclear power plant you would probably establish an EDA for that. Mike McCandless said the legislature does not like retail. U.S. cities live off of retail but the legislature believes that retail if everything else is in good shape. They believe that if retail isn't succeeding is because something else is failing. Craig Smith said they do not understand that retail may be your only industry. He would guess that retail and tourism is one of Green River's main tax revenue. Susie Becker said your School Districts can see the advantage of retail coming into the

community and that is benefits everyone but if we were to go along the Wasatch Front and try and sell this it would never fly. Community Development Areas you don't get the whole taxing entity to vote you go out and get individual votes. Susie Becker said some of the things that she has learned over the years in working with the taxing entities to get them on board is to show them the additional property value that they wouldn't have otherwise, the competitive nature of the project like "if we don't do this here it will go to another County," the need to clean up a blighted area. There was a project that needed to clean up a blighted area and they took the taxing entities on a van tour to show them the area and then took them back to vote and it worked very well. Craig Smith asked if there was a citizen from Green River who served on the School Board. The answer was yes. He said that will be our key person who will be an advocate. You can work with him behind the scenes before we get anything that goes to the Board. Susie Becker said you really need to be careful in your phrasing. You want to show them what they will be getting not what they will be giving up. She said it depends on the project but in general she has found it is better to do it for a shorter time but take as much as you need, get in get it done and get out. Mike McCandless said another advantage to having a shorter timeframe is when it is done that whole increment goes to those taxing entities and do that within their election cycle while they are still on the Board. He said with the nuclear power plant there is a unique situation. He said the current owner of the property is SITULA and the tax revenue is nothing. So the base right now is zero and every dollar that we create is new dollars. It is like finding money. Everything we can develop on those 2,400 acres out there is going to generate new income. There is also 600 acres owned by the 6/70 Group. That has been in the greenbelt area but will automatically move into industrial. As soon as we start anything there we almost have an increment there from day one. Susie Becker said you need to get that in place now so that you can start with a zero base. Mike McCandless said you have two different areas. There is the industrial park and the blighted area downtown. He feels they are two separate projects. He said the Hardware store is a good example. He said that rural economic is extra hard. When the Hardware store built onto the building they had to come up with 100% of the cost to do that. In Salt Lake City there would have been a developer who would have expended that cost and you would be paying them rent. So the hardware store started with an offset the first day they opened business. Craig Smith agreed that the industrial area would be a different project than the downtown blighted area. That way you can focus on different goals. Susie Becker felt there are two criteria. She said the city will not get any money out of this if normal investment occurs because you are starting with the base where it is. But if the nuclear power plant comes then it is going to jump and that is an easier one. There are two factors, where is development likely to occur and where do we want to spend the money. A bigger area can be studied and then carved down but we can't make it bigger. You have to spend the money in the project area. Sometimes there may be an area where you are going to get your increment from but you really have a blighted area somewhere else you might put that all into that area to generate and spend it a little further. That happened in the Gateway area. The Gateway is where the money is going to be generated but those blocks just to the west were just a disaster. Mike McCandless said one of the biggest fears that the downtown business owners have is more development on the east and west interchanges and what it will do to them. That is part of the process of the evaluation. Are you going to push more development out there or something else? Craig Smith said you may not want to do anything about the interchanges. They may be able to develop perfectly well on their own. You look at your city and decide where you want to give incentives and create development. He can give the city all of the legal advice and Susie Becker can give you all of the economic development advice but you make all of the decisions on what you put in your project area. Just because it is in your project area doesn't mean you have to give any incentives. You get to decide whether it makes sense to give an incentive to something in the project. One of the incentives that you can give is the cost of demolition. You can say you will pay for the cost to demolish the buildings in the project area. There is a lot of flexibility and they have learned over the years that one size does not fit all. Craig Smith said that Green River City may want to do a Community Development Area. That works just as well with downtown areas because you don't have eminent domain powers and he doesn't know if we need that at this point. The outside industrial areas he felt would fit best with an Economic Development Area. Mike McCandless said most of the property tax revenue in Green River comes from that strip of land Emery County acquired from the county annexation. Craig Smith said for the Urban Renewal Areas you are required to use 20% for affordable housing for the others you can budget money to promote

housing. If there are parts of town that people cannot build because there isn't a good enough infrastructure you could use the money for that development. Mayor Brady asked if it could be an incentive to tear down the old Mancos Rose property and rebuild some housing there. Penney Riches said that would also be a good place to put a strip mall. Mayor Brady asked if there was any size limit to the project area. Mike McCandless said you have to limit it to the overall property tax revenue so you can't put it in your residential areas and he didn't think the city would want the project area to be where there is that long strip of motels. Mayor Brady said he would like to see the project area start at the old Green River Inn going east and end at the river. Mike McCandless said he would also include Broadway. Mayor Brady said if we are going to do something with Crown Housing he would like to extend it there. Mike McCandless said want to see where you look at how far you can get the best benefit but you don't want to extend it too far beyond to where you can have a good impact. You need to look at where you can actually have the most impact. Mike McCandless said his job is to generate tax revenue and he can be jaded about the kind of things that he works on. Craig Smith and Susie Becker are independent. Their job is to help you through a process. Craig Smith said his job is to make sure that if you do these things you do them legally so that you don't end up in court. Mayor Brady asked about the old Tesoro property. He said that he understood there are a lot of liens on the title. Mike McCandless said there are a lot of IRS liens on that property. Craig Smith said there are ways to clear up the title. Mayor Brady asked if the City Council decides they want to do this then what is the first step. Craig Smith said the first step is to create an agency by ordinance because all of the things that we have talked about are done through the agency. The City Council and the Agency has different powers. That means the city is not legally liable for anything that the agency does because the agency is a separate legal entity. It is a layer of protection for the city. All of the agreements are just between the agency and the city is never under any contracts involved with the redevelopment projects and you can't come back onto any of the individuals. Mike McCandless said if you have a Brownsfield cleanup it might be that agency that will help to get that work done instead of everything having to come through the city. Mayor Brady asked if city owned property can be declared blighted and get some money to help develop it. Mike McCandless said to a certain extent for infrastructure yes but not for the building. Craig Smith said Dutch John is an interesting example. In 1998 they transferred most of it to the Daggett County. Now it is owned by the Daggett County Redevelopment Agency and they gave them money for 15 years from the Federal Government to run the town and that is running out. They thought that people would come and build there and it didn't happen on its own. He is now working with Daggett County to offer incentives because a lot of things didn't happen. Green River has some advantages that many parts of rural do not have with the railroad, interstate and power. Mike McCandless said the rail here in Green River is really unique because there is capacity to build spurs. Mayor Brady said the only thing we lack is the way to do it.

2. Adjourn The meeting adjourned at 7:53 p.m.

Pat Brady, Mayor

Conae Black, City Recorder

Approved: _____