

BRIEFING NOTES

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 29, 2017, 1:35 p.m., City Council Chambers, Room 112, County-City Building, 555 South 10th Street, Lincoln, Nebraska.

MEMBERS IN ATTENDANCE: Tom Beckius, Tracy Corr, Tracy Edgerton, Deane Finnegan, Maja Harris, Chris Hove, Dennis Scheer, Sändra Washington, and Ken Weber.

OTHERS IN ATTENDANCE: David Cary, Steve, Henrichsen, Rachel Jones, and Amy Huffman of the Planning Department; Rick Peo, Law Department, David Landis of the Urban Development Department.

STATED PURPOSE: Briefing on **Redevelopment Plan Process** and **Airport Zoning Regulations**.

Chair Chris Hove called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

REDEVELOPMENT PLAN PROCESS

David Landis, Director of Urban Development, stated Tax Increment Financing (TIF) is a tool available for use for community redevelopment projects. Planning Commission is part of that process. TIF is based on the ability to divert tax revenue for the purpose of making redevelopment projects work in areas where blighted and substandard conditions make the market reluctant to invest. The City strives to meet legal standards to the letter of the law. This starts with an independent study to declare the basis upon which the designation of “blighted and substandard” exists for an area. If challenged in court, the study and subsequent City Council designation provides substantial findings for the designation. Based on population, 35% of a city this size could be declared blighted; Lincoln is at about 11%, so the City does not make as much use of this tool as it could.

Hove asked the qualifications required for a company to be able to provide the blight study. Landis said there are no legal rules or certifications. Lincoln uses two companies; JEO Engineering and Hanna: Keelan.

Weber asked if 35% was an average amount of area declared blighted. Landis said no. The law states a city of this size cannot designate more than that amount as blighted. In comparison, a small village could be declared blighted in its entirety.

Edgerton asked if this was State law. Landis said yes.

Hove asked if that percentage changes due to areas falling out of a declaration zone after redevelopment. Landis said that is not usually the case because designated areas are typically in older areas, resting on aging infrastructure. Parcels are likely to be small. A project like Assurity improved the entire value of the Antelope Valley. They had to buy 16 separate small parcels to accomplish this, rather than easily purchasing a large, open area at the edge of town. This can be a challenge and artificially inflates prices of the last lots to go. TIF is a tool to incentivize infill and to that end, the City helps. Hove added there is also the additional cost of demolition in existing areas. Landis agreed; in a core area, developers purchase a building they do not want, and they pay to tear it down.

Washington asked if the area is still blighted at the end of the 15 year period. Landis said, for example, the location of Assurity is not, but the area within which it rests will continue to be.

Weber asked if there is an impact to the budget if Lincoln went up to 35%. Landis said no because the existing taxes continue to be raised and allocated as they are today. If a house pays \$1,200 today, that amount will continue to be sent to the County, schools, NRD, etc. The new tax is the increment of growth from what it was to what it becomes. Tax dollars are not transferred to any other project in the city.

Hove noted that the developer pays for the project, but the incremental increase goes back to them in the form of a list of ways to spend the money in ways that have public benefits. Landis said that means things like streetscape, utilities, sewers, energy efficiency, etc. The money is spent in furtherance of the project, but for a list of purposes that has clear public benefits.

Scheer pointed out that the percentage of the city that is declared blighted can go down due to annexation. A healthy city is a growing city. Landis agreed. This is not about "slum" removal. The goal is to achieve a vibrant city center, as stated in the Comprehensive Plan, and to avoid having a "donut effect" where only the edges are active.

Landis went on to say that a "but for" letter is used to mean that one of the expectations is that the City has incentivized the market to do what it otherwise would not do, but for the extra assistance. It is now asked that developers state in a letter that they would not have chosen projects in the middle of the city, where it is more costly and complicated to build, but for the incentives. Since another goal of the Comprehensive Plan is to build up, rather than to sprawl out, these larger projects are better investments. The City also makes sure that developers prove that money was spent for the agreed upon purposes.

If a property pays \$2,000 in taxes now, that is the existing tax base. That never changes throughout the process. If a \$25 million building is built on the property and then pays

\$500,000 in taxes, \$498,000 is the increment that is used. Once the assessor has placed a value on the new building, it does not lose value over time so a lender can expect the valuation to be there for 15 years. They loan money based on access to that middle increment and will purchase a bond. That bond is important because it allows the lender to provide money up front. The increment then goes into paying off the bond. If the revenue comes up short, it is the developer's problem; the bond-holder is responsible, not the City. Under the Beutler administration, developer-purchased bonds are done so there is no risk to the City. Just like other properties, the tax base grows over time. The "spillover" TIF is that growth in valuation and it provides cushion and can further other projects like historic preservation, site acquisition and preparation, public art, and off-street parking, for example. At the end of the period is growth that occurred and that becomes available to all of the usual recipients of tax base funds.

The TIF process starts with the declaration of blight. A redevelopment plan comes forward and describes the larger project area, as a whole. Then there could be plan amendments which add specific project details. At this stage, we know the general cost and how large the project will be. All of these phases are reviewed by both Planning Commission and City Council. An additional step seen only by City Council includes the redevelopment agreement, which is the contract between the developer and the City. There is also a bond hearing. Urban Design Committee reviews projects and gives advice. Their advice is not binding, but it is taken very seriously and has had significant impact on the direction of projects. The same is true for the Historic Preservation Commission. If they rule that something is inappropriate, it causes a 6-month delay. Capitol Environs reviews projects around the Capitol, where there are additional limitations in place.

The first 20 projects that Lincoln did are now old enough to assess the results. The net total assessment valuation was \$20 million. \$8 million were spent and diverted. The valuation now is \$207 million. That is a growth of 1,000%. They went from paying around \$400,000 in taxes in a year, to over \$4 million a year.

Hove asked about public property improvements. Landis said this tool is not for public properties since they do not produce taxes.

Landis listed several prominent TIF funded projects around Lincoln. The Haymarket is an example where a prime industry like the rail fields, fell out of favor even though it cut through the heart of the city. The traditional Haymarket were warehouses but by location, they are more valuable than just for storage uses. Many cities have a downtown area that is only open during business hours. In Lincoln, these areas are now active districts due to development. The changes have been generational. Many areas have been revitalized and the city has built itself to a higher standard.

Hove asked what the rules are on residential development. Landis said State law would permit it and there have been uses in other locations.

Harris asked how the beautification of the Capitol malls was financed. Landis said TIF funds accounted for \$2 of the \$9 million that went into that project. When the City showed commitment to the project, that was the first domino that fell in terms of getting the project moving. Hove and Washington wondered about the source of those funds. Landis replied this was a unique use of the TIF tool. The mall project had stalled for a long time so increased valuations were used.

Harris said that in the case of the Lofts, TIF funds were used for parking. She wondered if the parking had to be located within the designated blight area. Landis said all funds are spent within the blight area. Most of downtown is included; it rests on 90 year old infrastructure. There are buildings that are not in conformance with current ADA and fire standards.

Scheer asked if the increment funds generated within the district must be used in that specific plan area, or if funds can be spent in another area. Landis said they are spent within the boundaries. On rare occasions, boundaries have been altered.

Landis concluded by noting that the use of TIF funds is easily misunderstood. There is a portion of the population that thinks that TIF uses their dollars to benefit people who should be able to pay for development themselves. Although developers may choose to move forward on projects, they would likely choose easier locations. TIF laws here are the most conservative in the country.

AIRPORT ZONING REGULATIONS

Rachel Jones of the Planning department said today's discussion is intended to give a general overview. There are two text amendments coming forward in two weeks so more details will be provided at that time. The goal of the amendments will be to reduce areas affected by airport height requirements and to streamline the review process.

Airport zoning regulations apply to both City and County and encompass things like noise, land use, and building height. Chapter 27.59 of the LMC covers noise and land use. High noise levels are incompatible with certain land uses such as houses, schools, hospitals, churches, etc. These guidelines are developed with federal guidance. For Lincoln, they are established by the Part 150 study. That study is conducted by airports periodically to establish what noise levels are generated by aircraft in the area. Then noise restrictions and sound insulation requirements are established. Overall, the trends in noise contours around the country are shrinking because aircraft are getting quieter over time. Since that area has shrunk, that opened up more area for sensitive land uses like houses and churches, which are prohibited in the highest noise contours. As you go out farther, certain uses may be permitted, but with insulation requirements.

Height regulations are covered in Chapter 27.59 of the LMC. The purpose of regulating height of structures in certain zones is to prevent hazards. Zones have a maximum structure height to accommodate aircraft approach, turning operation zones, and transition zones. In Lincoln, there is an exemption area downtown to allow for height to allow for taller buildings that would otherwise not be permitted.

A height permit is required only in certain designated areas with height elevations 75 feet above grade, in the approach zone, if less than 7,700 feet from the runway. Those permits are issued by Building and Safety and the Airport Authority is involved in the review. A survey is required after construction for elevation certification, to verify structure height. There is quite a lot of area covered by higher elevations, especially to the north and west.

Washington asked if this meant the built height is higher. Jones said the topography is higher, impacting the built height. Currently, the elevation is set at 1,248 feet.

There are a few items that go into applying for the height permit including the height of the ground, the location of the building, the elevation of the closest runway, and the distance to the nearest runway. If a structure will violate standards, a permit will not be issued.

Washington asked how long that would remain in place. Jones said those restrictions run with the land and are permanent.

Jon Large, Deputy Director – Engineering, Airport Authority, came forward to state Lincoln's airport is not a federal, state or county airport but a specific political entity capable of running itself. That requires help in protecting airspace, which is critical infrastructure to Lincoln and an asset worth protecting. These numbers are not current, but the airport, through primary and secondary avenues, creates 5,600 good-paying jobs and has a total economic impact of over \$470 million. It is important to protect investments already made through grant funded projects. Federal money is not free and we must ask to protect the use of land and airspace so their investment is not eroded away. There are also statutory requirements regarding the creation of airport hazards.

All of this is focused on ground-based environments just outside the perimeter of the airport. The complementary piece is the FAA regulations and Part 77, which controls safe navigation of airspace environment. When that airspace is modified, they review and modify a safe path to runways. The ceiling in Lincoln is about 600 feet and pilots must break through that ceiling and make a decision as to whether he or she is able to safely land. If the FAA needs to increase those minimums for any reason, the potential is that a pilot would have to circle around again. That would create a loss in some utility and the investments made by the airport. This is a component that the FAA must analyze and Lincoln relies on that.

Hove asked if any changes will be approved in a couple of weeks, or if it is more of a review and acknowledgement that the guidelines are in place. Large said that most of the growth in Lincoln has been away from the airport to the south and east. Now, development has started to move north and west, which is right in the vicinity of the airport. Developers discover they have to apply for the height permit, at some cost to them. The current ordinance would require a flight surveyor to go out.

Beckius noted the 2004-2005 Part 150 reduced the noise contours. That does not impact height, just noise. Large agreed that was the case.

Beckius asked if there are any issues that could impact the future, considering Lincoln is able to accommodate larger aircraft. Large said that the airport can accommodate any aircraft in the world 13,000 feet long.

David Haring, Executive Director for the Lincoln Airport Authority, stated that aviation is cyclical. Lincoln is not unique in that the community will eventually encapsulate the airport and that is one reason we are passionate about this; there must be prevention in the degradation of the environment, and that includes the approaches of aircraft. Lincoln also serves as a backup to the shuttle. This is not an effort at enhancement, per se.

Washington asked how things would be analyzed. Haring said Part 77 is the governing doctrine for obstruction in general. The FAA has taken the stance that they would not enter a community and take a structure down, they would only modify approaches. That is difficult for a pilot in a cockpit, relying on maps and gauges, when they have to trust the findings that say there is an object.

Washington asked if the FAA has identified any problems now. Haring said not currently. The fear is that someday someone will propose a structure and the FAA will determine that it is an obstruction and will increase the buffer.

Steve Henrichsen of the Planning Department said that in terms of land use, it is part of the Comprehensive Plan to work with the Airport Authority. There have been developers who look at the southern end of the runways and Planning has turned them down because of noise restrictions. That is not a good place to build. Unlike many communities, our land use plans included careful consideration to make sure that there is not encroachment. Airport restrictions are very important to the department and even cell tower application gets routed to the airport.

Hove asked what would happen if a structure gets built and we find out later it is too high. He wondered if there is a way to require that it be brought down. Jones said that currently, airport regulations cannot be waived. If they built above the max height, the only recourse would be to go to the Board of Zoning Appeals. Large added that in the case of a public airport, the

ordinance says a building shall not be constructed above the described surfaces. If that happens, the right exists to have that structure removed.

Scheer noted that it would be tough for something like that to happen since it would have to be built with the approval of the City.

Bill Austin, legal counsel for the Airport Authority Board, stated that if a structure were built that pierced the height zone, we could seek an injunction. Someone might be in compliance with zoning, but still affecting airport operations. In those cases, we have no recourse and the FAA will not step in. There is a grey area there.

Large added that if a structure was built and the FAA determined it was an obstruction, they would increase approach levels. One of the biggest problems is lack of public awareness. The FAA must publish an approach procedure that they can trust. If the FAA never got notice the structure existed, they would not have the opportunity to modify a safe approach.

Henrichsen came forward to note this is an educational briefing and specific questions about the text amendment changes should be made during the public hearing when people have the opportunity to testify.

Austin stated they have completed their own application for text changes.

Beckius asked about the process of changing flight path approaches. Large said if someone proposed a tall structure, the review is done by the FAA would offer some results as to what the effect on the airport would be. Changes of this nature could have a significant impact on the airport's ability to obtain future federal funds. Haring said that depending on the severity, if an approach was degraded enough, that could change lighting and markings on runways. It could change the type of approach made. Large said if Lincoln lost the ability to do precision approaches, that would jeopardize the ability to develop additional commercial service and destinations. Airlines need to be able to fly every day. The airport would be far less attractive for use if it became a "good weather only" airport.

Jones concluded by saying there are very extensive review processes in place, not only at the height level, but also for PUDs, special permits, and any amendments, which are also reviewed by the Airport Authority. The intent of the City will be to continue our cooperation and balancing the needs of the airport with community growth.

There being no further business, the meeting was adjourned at 2:50 p.m.