City of Glendale

5850 West Glendale Avenue
Glendale, AZ 85301

Meeting Minutes - Final

Tuesday, June 20, 2017

1:30 PM

Workshop

Council Chambers

City Council Workshop

Mayor Jerry Weiers
Vice Mayor Ian Hugh
Councilmember Jamie Aldama
Councilmember Joyce Clark
Councilmember Ray Malnar
Councilmember Lauren Tolmachoff
Councilmember Bart Turner

CALL TO ORDER

ROLL CALL

Present 6 - Vice Mayor Ian Hugh, Councilmember Jamie Aldama, Councilmember Joyce Clark, Councilmember Ray Malnar, Councilmember Lauren Tolmachoff, and Councilmember Bart Turner

Absent 1 - Mayor Jerry Weiers

Also present were Kevin Phelps, City Manager; Michael Bailey, City Attorney; and Julie K. Bower, City Clerk.

WORKSHOP SESSION

1. 17-297 DISCUSSION RELATING TO CAMELBACK RANCH
Staff Contact: Michael D. Bailey, City Attorney

Mr. Bailey said the item was a Council item of special interest. He said the project partners for Camelback Ranch were the Arizona Sports and Tourism Authority (AZSTA), the baseball teams and Rightpath Limited. AZSTA was to provide funding for two-thirds of the project as well as future capital investments. The Chicago White Sox and the Los Angeles Dodgers were responsible for operations and maintenance of the facility and would provide the draw to the destination.

Mr. Bailey said the teams would be future partners and developers in the option agreement. Rightpath Limited was the developer for the project and responsible for a portion of the infrastructure. Proposed development for the project included mixed-use and commercial development on or around the spring training facility; an 18-hole golf course and additional commercial and restaurant development near the site.

Mr. Bailey said Bank of America and Comerica Bank were the financial institutions involved in the project and bonds would be issued to finance the entire spring training facility. The City would finance AZSTA's contribution and defer interest payments until cashflows were available. The agreement provided that Glendale would own the facility and the two teams would operate and maintain the facility. He explained that the Western Loop Facility Corporation was later formed, which would be the financing corporation for all of the City's infrastructure. Debt was issued in 2008 and was refunded in 2012. Revenues were going to be generated off the spring training facility and the sale of the lease of the land to the developer. Additionally, a portion of the sales from the developer went to the City. The agreement was similar to a partnership agreement between the City and a private developer. The ongoing sales taxes would be generated from the proposed private development.

Mr. Bailey said the estimated 20-year revenue was $144 million, which came from sales tax, property tax, common area charges and development revenue. The estimated 20-year expenses were $137 million and included the training facility, infrastructure, land and debt services. The agreement provided that AZSTA's contribution would not occur until 2017 and was $48 million. The public/private contribution was $32.7 million. The cost of the project included $62 million for spring training facilities, $10 million for infrastructure, $6 million in parking costs and $2.7 million in financing and related costs.

These numbers were what was initially provided to Council.

Mr. Bailey said there was going to be development of an 18-hole golf course and a jet center was also planned at the airport. Rightpath's responsibilities included acquiring and developing the land on the Main Street PAD, developing Camelback Ranch parcels and leasing and operating the airport FBO. The revenue sharing agreement provided for 6% on the Main Street development activity, 6% on Camelback Ranch development activity and 3% on airport development activity. When there was a sale of property, the City would receive 6% of the profits on the sale. In terms of the acquisition, some of the land was given to Rightpath by the City and some of it was financed with Mortgages, Ltd.

Mr. Bailey explained Rightpath was formed by Rick Burden, Danny Herndon and Robert Banavac, and while the three men signed personal guarantees, most of the deal was financed by Mortgages, Ltd. and Diversified Funding Group. There was also a proposal for over $1 billion in IDA bonds. The recession began in December of 2007 and the impact wasn't felt until mid-2008. Most of the agreements were entered into in late 2007 and early 2008 and as soon as the agreements were finalized, the economy went downhill very quickly. Rightpath borrowed $120 million from Mortgages, Ltd. and entered into a development agreement with the City in early 2008. Mortgages, Ltd. was forced into bankruptcy in June 2008 because it was so over-leveraged at the time. The $1.2 billion in IDA funding was never acquired because the bonds were never sold. The City also provided land for development to Diversified Funding, but nothing was ever constructed by Diversified or Rightpath.

Councilmember Tolmachoff asked if Rightpath still existed today.

Mr. Bailey said Rightpath no longer existed and had no development rights on City property. Only successor entitlements remained that loaned money to Rightpath. Some of the properties that remained near the facility had been taken back by Mortgages Ltd. and were currently held in a receivership for auction due to the bankruptcy. He said the Bank of Olaf foreclosed on the lease at the airport and most of the properties had been taken over by operating entities.

Councilmember Turner asked where the 18-hole golf course was supposed to be located.

Mr. Bailey pointed out the location on the map where the golf course was going to be located.

Councilmember Turner pointed out a triangular section just north of the ballpark sometimes referred to as parcel 1 and asked if that was originally intended to be residential development.

Mr. Bailey said it was a mixed-use development and there were proposals for residential, a golf course as well as some commercial development.

Councilmember Turner asked where the retail and commercial properties were supposed to be located.

Mr. Bailey said those properties were to be located closer to Maryland Avenue in the Main Street area.

Councilmember Turner asked if there was supposed to be retail and commercial development just north of Camelback Road on Ballpark Boulevard.

Mr. Bailey said there were proposals to develop that area but the City had to acquire certain parcels of property from the city of Phoenix. The property was going to be a large commercial and retail development area.

Councilmember Turner asked what land was owned by the City prior to entering into the project.

Mr. Bailey said the City-owned property was where the facility was now located and the property just to the north of that.

Councilmember Turner clarified that the property where the facility was located included the ballfield and the stadium. He asked if the property Mr. Bailey pointed out north of the facility, was the triangular portion located on the map provided.

Mr. Bailey said that was correct. Due to the economic downturn, Rightpath was never able to develop the property and the rights that existed at that time, no longer exist.

Mr. Bailey said the next item was the teams and the construction of the facility. The Facility Development Agreement (FDA) provided that the City was responsible for the land and construction of the facility. Although the City owned the land, the land was located in Phoenix, requiring Glendale to get the entitlements from the city of Phoenix. The FDA had required the Dodgers to contribute to a minor league facility. The termination of the FDA occurred upon completion of the facility, which had been open and operating since 2009. He was unaware of any item that would lead to the conclusion that the agreement had not been terminated.

Mr. Bailey said under the Facility Use Agreement, the primary responsibility of the baseball teams was to relocate to the facility and the teams relocated from Florida and Tucson. The teams were allowed to use the facility free of charge and were responsible for all maintenance and operations. The teams retained all revenues, sales, advertising, naming and parking rights. The City was responsible for capital maintenance improvements. The long-term lease initially expired in 2028 and there were four options to renew at five years each.

Councilmember Tolmachoff asked if there was a definition for capital maintenance and improvements in the Facility Use Agreement.

Mr. Bailey said there was and he would review the definitions.

Mr. Bailey said the City contributed $10.9 million to the project and the Dodgers contributed $10.9 million, which included a field, the Dodger's clubhouse and a minor league facility. The total cost for the project was $152 million. The Dodgers contributed $10.9 million so the ultimate cost was $141 million.

Mr. Bailey said, because AZSTA was not contributing to the project until 2017, an amount greater than what was owed was borrowed to cover the debt service for the gap until development occurred and AZSTA funds began coming in. The MPC outstanding debt was $200 million in principal.

Mr. Bailey said the agreement spoke to repair and upgrade, as well as capital repairs. Section 8.1 of the agreement stated the City was responsible for all capital improvements and upgrades. He reminded Council that Major League Baseball (MLB) standards were higher than what the City might normally see and making improvements was an ongoing obligation.

Councilmember Aldama asked if pages 13 and 18 of the agreement defined the City's responsibility for construction.

Mr. Bailey said the actual cost of infrastructure and the acquisition of the facility was $141 million. The City then borrowed $157 million.

Councilmember Aldama asked how much land the City contributed for the agreement and the value of that land.

Mr. Bailey did not know the exact value of the land, but thought it was valued at $7 million at that time. He thought the land was used as collateral and was provided to Rightpath and not the teams.

Councilmember Aldama asked if Mr. Bailey would provide that information to them.

Mr. Bailey said he would.

Councilmember Aldama asked who was responsible for managing the entire project.

Mr. Bailey said contract managers were hired to manage the project.

Councilmember Aldama asked who hired the contract managers.

Mr. Bailey said the City hired the managers, but technically it was the Facilities Corporation.

Councilmember Aldama asked if it was a separate cost from the figures provided.

Mr. Bailey said no.

Councilmember Aldama asked if it was inclusive.

Mr. Bailey said the cost of the facility was $141 million.

Mr. Bailey referenced section 8.3.7, which set forth the repairs the City was required to make. He said when the MLB came out with a required upgrade for the facility, the City was required to upgrade the facility to meet the standard. He said the agreement provided in section 8.3.8 that the City was obligated to replace fields, but was not obligated to do it more than once a year. The City was also responsible for facility upgrades as stated in section 8.4 of the agreement. Additionally, the City was required to maintain the complex at a comparable level to other facilities. He said an example was the facility scoreboard, which had become obsolete. Pursuant to the contract, when other facilities started upgrading technology, the City had to upgrade the scoreboard or whatever technology that existed at the time. Almost everyone in the Cactus League had upgraded scoreboards in the last two years, so that triggered the provision in the contract.

Councilmember Aldama said the agreement stated that AZSTA would provide future capital improvements. He asked if that was because the City financed AZSTA's contribution, or if it was a separate capital.

Mr. Bailey said AZSTA was designed to create the facility and provide future upgrades based upon available funding and there was no available funding from AZSTA. He said

AZSTA would sunset and the funding source might go away before the City was fully reimbursed.

Mr. Bailey said the Facility Use Agreement contemplated construction of a conference center and the City was not required to commit anything to development and/or construction. An Option Agreement was contained within the Facility Use Agreement, which provided an option to purchase Lots A and B and the Hickman Hog Farm (brown lot). The property was 10 acres, west of the intersection of Northern Avenue and 91st Avenue. The negotiated price was $10.58 and the option expired November 8, 2017, with an extension of 12 months, if there was a need for the entitlements.

Councilmember Tolmachoff asked if the options were part of the original Facility Use Agreement or if subsequent MOUs added those in.

Mr. Bailey said the Option Agreement was included in the original Facility Use Agreement.

Mr. Bailey said the City entered into an IGA with the city of Phoenix in order to obtain revenue from the sales tax, water and other services. The IGA was not entered into until 2009, which was after the facility opened, and was amended in 2014. In the original IGA, Phoenix pledged that 80% of its general fund TPT would come to Glendale, but it would be capped at $37 million. The funds were for reimbursement of infrastructure costs and the construction of Ballpark Boulevard. The facility land was originally planned as a Phoenix city park. Glendale was required to acquire certain pieces of property and dedicate those back to Phoenix for roads and reimbursement of other fees.

Mr. Bailey said although the IGA was amended in 2014, the TPT pledge still remained and amounted to $65,000 to $100,000 a year and the contribution was now capped at $16 million. The costs had been split up and the City paid $668,000 in FY15-16, FY16-17 and FY17-18. The City did not have to purchase the property until FY18-19. The city of Glendale was required to execute the purchases and if the City did not complete the requirement, it would lose the tax pledge. If someone else purchased the property, the City would be relieved of the obligation without losing the tax pledge. If Phoenix decided to keep the land, the City would be relieved of its obligation, but would continue to receive the tax pledge.

Mr. Bailey said the AZSTA IGA was entered into in 2009, and the funding commitment was $60 million. Two years after the construction of the $140 million facility, the revenue projected from AZSTA was $60 million. In terms of funding priorities, there were subordinate bonds and other facility renovations, which included renovations to Surprise, Scottsdale, Tempe and Peoria. He said most cities were undertaking the cost of bonding and expecting repayment later, because AZSTAs initial projections were greater than actual performance. In terms of the $60 million, AZSTA allowed 4%-5% to accrue on the amount.

Mr. Bailey said the original projection was that payments would begin in 2017, although current projections showed payments beginning in 2021, which was obtained from AZSTA's June 2016 annual financial report. That was by no means a guarantee payments would occur. He said in terms of the value of the receivable in 2016, the actual value was $83.6 million with a $60 million principal balance and $23.6 interest. The City reasonably estimated it would not receive all of that $83 million and anticipated only $32.2 million of that receivable. AZSTA would sunset in 2031.

Mr. Bailey said the 2014 financial forecast provided to the Council, projected a loss of

$11.3 million, with a five-year forecast of $63 million lost. He said the 2018 forecast showed $11.9 million, with a $64 million five-year forecast. Revenues were forecast at $160,000 and expenditures of $12.1 million.

Mr. Bailey said development had been the challenge. Once the debt was paid off, the total price would be $427 million, because the City had made interest-only payments. After the refunding, the City began making principal payments, which it had been doing since that time.

Mr. Bailey said the summary provided to Council was a good resource for issues the City might face in the future and would assist in understanding the City's responsibilities. Capital repairs and routine maintenance were broken down in the summary, as well. He said the challenge was maintaining the facility to MLB standards and moving between maintenance obligations and the City's capital repair obligations. He said staff was working very well with Camelback Ranch to find an appropriate balance.

Vice Mayor Hugh asked about the failure to develop that area and asked if the City had any guarantees that development would occur.

Mr. Bailey said there was no evidence of any guarantees regarding performance. He said the City did not secure an interest with Mortgages Ltd., so when it foreclosed, the City lost its interest.

Councilmember Tolmachoff asked if anyone had looked to see if all the agreements were voted on publicly in front of Council and nothing was signed off by staff without being brought before Council.

Mr. Bailey said as a matter of practice, agreements were brought before Council in a substantially final format and then actually entered into at a later date, with some changes. While the Council might have approved an agreement, it was not actually executed until a later date.

Councilmember Tolmachoff asked if there were substantive changes to the agreements.

Mr. Bailey said, in some instances, there might have been substantive changes.

Councilmember Tolmachoff asked if there was any remedy for that.

Mr. Bailey said there were always possible remedies, and they could have further discussion about that. He said that practice no longer occurred.

Councilmember Tolmachoff knew that now, but it was a little late in the game. She was having trouble understanding how terms such as capital repairs were defined and asked where the definitions could be found.

Mr. Bailey said section 8.2 Facility Use Agreement detailed routine maintenance and section 8.3 detailed capital repairs. He said City staff and Camelback Ranch were working through the issues and would bring the issue of capital repairs back to Council for further discussion.

Councilmember Tolmachoff asked if the two-year requirement for facility upgrades was two calendar years.

Mr. Bailey said the agreement was not clear. There was a reasonable element to that provision and included when the City recognized the need for an upgrade or if it was brought to the City's attention. He said it allowed the City to budget for the upgrades and maintenance. There should be further discussions about it.

Councilmember Turner asked if a ruling that disallowed car rental tax in a pending lawsuit would impact AZSTA funding and the City's ability to collect any funds.

Mr. Bailey said that was correct and there was litigation regarding the legality of the actual funding mechanism for AZSTA, which was a car rental tax. The argument was that it must be used for transportation purposes and the trial court ruled that the tax was unconstitutional and it was currently under appeal. A future ruling might impact funding.

Councilmember Turner said there was a similar report in 2014 that discussed the economic impacts of the facility and the teams playing there, which would be $14.9 million per year. Based on what had been presented, he said it didn't look like the math was going to work right from the beginning.

Mr. Bailey couldn't answer the question directly, but said while the numbers might have been slightly inflated for the time, they weren't out of context as to what people were experiencing with regard to the market at the time.

Councilmember Turner said there still seemed to be a missing connection between the economic activity generated and the actual taxpayer portion of it, which would be applied to all the debt the City took on. He asked if the bonding attorney should have checked the math since all of it was done through bonding.

Mr. Bailey said Councilmember Turner was correct in that the numbers presented were very aggressive. The City was also sharing profits off land sales and properties were selling at $22 a square foot at that time. At that time, it was a different market and it was tough to conclude the numbers were bad.

Councilmember Turner asked for information on how often the City was able to use the facility.

Mr. Bailey said the Facility Use Agreement provided the City had up to 5 days per year for civic, youth sports activities and recreation events and programs.

Councilmember Turner asked if the City typically used those 5 days per year.

Mr. Bailey said the City had not used the dates.

Councilmember Malnar asked when AZSTA planned to start making contributions toward the debt.

Mr. Bailey said AZSTA's 2016 financial report estimated it would start making payments in 2021, but clarified that was a forecast and that date could change.

Councilmember Malnar asked if the City had done any refinancing on the debt.

Mr. Duensing said the City was only able to refinance when the outstanding bonds were available to be called. He said the current refinancing was associated with the facility, but he was not sure what the savings would be. Staff was working with the City's financial advisor to get the bonds refunded.

Councilmember Malnar asked what the schedule was for bonds available for refinance.

Mr. Duensing said the bonds available for refinancing was almost $70 million.

Councilmember Malnar asked if that amount was as of today's date.

Mr. Duensing said it was as of today's date and said those were the bonds that they were currently refunding.

Councilmember Malnar asked when the rest of the bonds would be available for refinancing.

Mr. Duensing said currently, $189.9 million on the facility was outstanding. He didn't know exactly when the other bonds would be available for refinancing, but it could be several years.

CITY MANAGER'S REPORT

Mr. Phelps had no items to report.

CITY ATTORNEY'S REPORT

Mr. Bailey had no items to report.

COUNCIL ITEMS OF SPECIAL INTEREST

Councilmember Tolmachoff asked for a workshop presentation about the projects listed in the documentation for the utility rate study. She said it was important for her constituents to know why a rate increase was being proposed.

Councilmember Aldama, Councilmember Clark and Councilmember Turner supported Councilmember Tolmachoff's request.

Vice Mayor Hugh made a request on behalf of Mayor Weiers, for staff to report back on leveraging the City-owned assets downtown and using the assets as catalysts to attract opportunities that would help to reactivate the city center. He would like Council to provide direction that would permit staff to engage the lease, sale and use of City-owned assets in downtown Glendale in order to support redevelopment efforts.

MOTION AND CALL TO ENTER INTO EXECUTIVE SESSION

It was moved by Councilmember Turner, and seconded by Councilmember Tolmachoff, to enter into Executive Session. The motion carried by the following vote:

Aye: 6 - Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Malnar, Councilmember Tolmachoff, and Councilmember Turner

Absent: 1 - Mayor Weiers

EXECUTIVE SESSION

The City Council entered into Executive Session at 2:42 p.m.

A motion was made by Councilmember Malnar, seconded by Councilmember Tolmachoff, to adjourn Executive Session. The motion carried by the following

vote:

Aye: 6 - Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Malnar, Councilmember Tolmachoff, and Councilmember Turner

Absent: 1 - Mayor Weiers

The City Council reconvened in regular session at 2:59 p.m.

A motion was made by Councilmember Malnar, seconded by Councilmember Tolmachoff, to adjourn the meeting. The motion carried by the following vote:

Aye: 6 - Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Malnar, Councilmember Tolmachoff, and Councilmember Turner

Absent: 1 - Mayor Weiers

ADJOURNMENT

The City Council adjourned at 2:59 p.m.