

Economic Incentive Board

~ Minutes ~

701 N. Main
Clovis, NM 88101
www.cityofclovis.org

August 17, 2023

4:00 p.m.

North Annex, Clovis-Carver Library

I) CALL TO ORDER

Mr. Mondragon called the meeting to order at 4:00 p.m. and established the presence of a quorum.

II) ROLL CALL

Present: Alan Kinlund
Brett Johnson, Virtual
Gail Tarson
Kevin Cass
Matthew Glenn
Raymond Mondragon
Danny Jariwala, Virtual
Jason Gonzales
Tyler Lucas

Absent: George Jones

Others Justin Howalt, City Manager
Present: Claire Burroughes, Assistant City Manager
Tina Dziuk, CED Director
Lee Malloy, CED Chairman

III) REQUEST FOR APPROVAL OF AMENDMENT OF LEDA FOR RETAIL POLICIES AND PROCEDURES

Mr. Howalt advised they have been trying to get the best LEDA for retail policies and procedures in place for the City of Clovis. They have made a couple of modifications since it was originally adopted. They removed the upfront financials. They have come to learn that the developers, not the tenants of the stores, are the ones doing the recruitment for the tenants to come to this community. The developers are entering into the lease agreements with those retailers. In order to encourage the developers, they decided to change the policies so that the developers would also be incentivized.

They had one section that prevented developers from participating in the LEDA for Retail incentives in the existing LEDA for Retail Policies and Procedures. On page 7 of the packet, they recommend removal of the wording "developers of projects for retail shall not be eligible for consideration for incentives under the program." Page 9, Project Criteria, will stay the same.

Mr. Mondragon asked who the agent would be as it states on page 2, "recommended by agent". Mr. Howalt advised rather than listing a specific organization they left it broad by listing agent. Currently the Agent is the CDC.

Mr. Kinland asked what the thought process was behind originally not allowing developers. Mr. Howalt advised they did not want to incentivize a developer that is going to build a lot of spec space and not know who the tenant is. They want everything tied back to the gap analysis. The developer will have to have the tenant lined out so the board can analyze to make sure they fit into the gap analysis. If they do, they can incentive the developer and not the tenant directly.

Ms. Tarson asked, if this was a reimbursement from gross receipts, how would this apply to the developer. She asked if they would be double dipping if the retailer then asked for incentives. Mayor Morris advised this concept for a city this size wasn't even legal until few years ago (when the State of New Mexico changed the LEDA statute). Clovis has developed a policy and are learning as they go. He advised they had a discussion in the LEDA for Retail working group regarding avoiding awarding a grant to a developer to build a spec strip mall and not having tenants lined up. If they are reimbursing the 2 1/2% of the GRT of retail sales within the gap then they don't care who they are reimbursing as long as it is happening. By striking that language they have the opportunity for a developer see the opportunity to work with a project that would fill the gap, build the facility, rent it, and then the developer would earn the incentive based on the generation of retail sales. The tenant would provide the developer with a copy of their GRT remittance from each month and that is what the developer would use to request their rebate from the City of Clovis. Ms. Tarson asked if it would have to be one or the other that would apply the rebate. Mayor Morris advised it would be one or the other, but striking the language would give the EIB, Ms. Dziuk and CED the opportunity to be creative. They wouldn't want to prohibit a sharing of the rebate.

Ms. Tarson asked how they will keep track of this. Mr. Howalt advised once the applicant is approved then it comes back to staff to track and monitor. Another scenario, is what is eligible for incentives is tied to land, building and infrastructure, so theoretically if all it took to bring a retailer in was for the developer to consider their construction costs, then the board could reimburse those construction costs and there would not need to be a relationship with the tenant. The tenant is going to be tied to the lease payments.

Mr. Kinlund asked how someone was going to apply and tell the board that their potential lessee falls inside the gap analysis before the board evaluates. Mayor Morris advised CED would be working with the projects and advising the developers of the incentives that are available. Mr. Howalt advised they would have to have LOI's signed up front and the gap analysis is public information.

Mr. Malloy, CED Chairman, advised CED would be creative when they bring things forward. It might potentially be a bookkeeping scenario where they rely on the city to keep up with it for them. If the developer is the recipient of the incentive, they can always pass a portion along as they see fit, but that would be a negotiation between the tenant and developer. Mr. Mondragon asked if the CED Board was on board with these recommendations. Mr. Malloy advised they were.

Mr. Kinlund asked if a developer builds a new structure, could they partner ahead of time with CED to get back their 2 1/2% on GRT on the labor cost it took build the facility. Mr. Howalt advised the developer could but would have to have a tenant lined up that already fits into the gap analysis. Mr. Kinlund asked, for example, if he was the developer and Mr. Glenn was the tenant, then he could apply to get the 2 1/2% on the money he spent to develop the building and then Mr. Glenn could put in a separate application. Ms. Tarson advised not if the developer received all of the 2 1/2%. There is only 2 1/2% to offer. Mr. Kinlund advised the first year the tenant will not have sales because the developer is building the tenant's building. The developer would want the GRT for the year he spent the capital to build the building. Mayor

Morris advised the incentive was generated by those retail sales so the developer is not getting a rebate while they are building the building.

Mr. Lucas asked if the developer sells the property, does the new owner have to go back through the process or will it transition to the new owner of the building. Mr. Howalt advised it would depend on the agreement between the buyer and seller.

Ms. Tarson advised it seems it could get murky in keeping track of the developer's costs. If a developer is developing an entire strip mall and has a tenant in unit A and one in unit B, could the developer submit for each of the tenants. How are they keeping track of those costs for each unit. Mr. Howalt advised if the developer is asking for construction costs, they can break that down by price per square foot. If it is rebating the tenant sales then it would be very specific to each one of those units.

Mr. Jariwala advised it seems they are trying to make this more complicated. He asked why they couldn't leave it up to the developer and tenant to work out between themselves rather than having it done this way. He asked why they couldn't split the 2 1/2% between the developer and tenant and let them work it out themselves. Mayor Morris advised they made that same argument. He has spoken with developers and CED has spoken with a longer list of developers and it doesn't seem to work in the real world. What is being proposed still allows for this but it creates flexibility for the incentive to go either/or, or to both. Mr. Mondragon advised that was generally settled during negotiations.

RESULT:	ADOPTED
MOVER:	Alan Kinlund
SECONDER:	Gail Tarson
AYES:	Alan Kinlund, Gail Tarson, Kevin Cass, Matthew Glenn, Raymond Mondragon, Danny Jariwala, Jason Gonzales, Tyler Lucas
NAYS:	None
ABSENT:	George Jones, Brett Johnson

IV) FOR THE GOOD OF THE ORDER

None.

V) ADJOURNMENT

There being no further business to come before the board the meeting adjourned at 4:37 p.m.

SEAL
(ATTEST)

Chairman

City Clerk