



City of Las Vegas

Agenda Item No.: 5.

AGENDA SUMMARY PAGE
REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 18, 2015

DEPARTMENT: ECONOMIC AND URBAN DEVELOPMENT
DIRECTOR: WILLIAM ARENT

SUBJECT:

Report by Redevelopment Agency staff and discussion for possible action regarding a tax increment financing request from Lucky Dragon Hotel-Casino located at Sahara Avenue west of Fairfield Avenue (APN 162-01-825-60) Ward 3 (Coffin)

Fiscal Impact

☒ No Impact ☐ Augmentation Required
☐ Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Andrew Fonfa has requested tax increment financing assistance for a new hotel-casino in downtown Las Vegas. The Redevelopment Agency considers and makes tax increment financing investments according to the policies adopted in its Redevelopment Plan. The Redevelopment Agency's current Redevelopment Plan does not limit investments in any specific area of commerce. However, as a matter of practice, the Redevelopment Agency has not made any recent major investments in hotel-casino properties. Consideration should be given to whether existing private financing is sufficient to enable downtown hotel-gaming properties to be improved and new ones to be built. If awarded tax increment financing assistance, the project would be required to follow the Redevelopment Agency Employment Plan and to pay State prevailing wage rates for construction.

RECOMMENDATION:

Receive report, and direct staff regarding whether to proceed with negotiating an Owner Participation Agreement for tax increment financing assistance for the Lucky Dragon project.

BACKUP DOCUMENTATION:

Lucky Dragon Hotel & Casino TIF Application

Motion made by BOB COFFIN to Approve failed

Failed For: 1; Against: 6; Abstain: 0; Did Not Vote: 0; Excused: 0

BOB COFFIN; (Against-RICKI Y. BARLOW, LOIS TARKANIAN, CAROLYN G.

GOODMAN, STEVEN D. ROSS, STAVROS S. ANTHONY, BOB BEERS); (Abstain-None);

(Did Not Vote-None); (Excused-None)

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Minutes:

BILL ARENT, Director of Economic and Urban Development, described the project under development by the name of the Lucky Dragon Hotel-Casino off of Sahara Avenue which was requesting Redevelopment Agency assistance. He stated that the request for support for a hotel-casino project with direct financing is one that hasn't been received by the agency in over 20 years and that it was important for the agency to weigh in on the matter.

MEMBER COFFIN commented that the item was worthy of discussion and that an explanation of the project would contradict comments made during Public Comment.

SENATOR RICHARD BRYAN appeared on behalf of the Lucky Dragon Hotel-Casino and clarified that the applicant is not requesting tax increment financing funding but to work with staff in order to come back with a specific proposal to be considered. He then introduced ANDREW FONFA, WILLIAM WEIDNER, and DAVID JACOBY.

SENATOR BRYAN said that the Lucky Dragon Hotel-Casino is a \$139 million project and that MR. FONFA, MR. WEIDNER and others had put up \$20 million of their own money and \$60 million had been generated by the EB-5 Immigrant Investor Program, however additional EB-5 funding had dried up. MR. FONFA and his colleagues had a commitment for \$30 million from First Foundation Bank, however a \$29 million gap remained and without the additional financing the project would not be completed as planned. SENATOR BRYAN stated that he understood, historically, no tax increment financing had been provided to any other gaming project; however, he suggested that it would be appropriate to reconsider the policy of not funding hotel-casino projects as gaming is Las Vegas' largest industry. MR. FONFA and the Lucky Dragon desired to help develop a policy if the agency directed staff to work with them. If a new policy was developed, points to consider would be if the project is in a depressed area, the type of investment, and if the project would add to the tax roll. SENATOR BRYAN asserted that the Lucky Dragon would be in a depressed area, would be a capital investment of \$139 million, would add to the tax roll, and would provide 3,600 additional jobs.

MR. FONFA stated that there is a misconception of tax increment financing funding and that the Lucky Dragon Hotel-Casino is not asking for any City or public money. The intention would be to finish the project, which is ultimately a \$400 million development in two phases; the Allure Tower being part of Phase I and the Lucky Dragon being part of Phase II. A new tax revenue base would be created because the hotel-casino is being built on a piece of land that is not generating any tax revenue and is being built in a location where other developers do not want to build. He reiterated points made by SENATOR BRYAN and pointed out that the City has an opportunity to create new revenue and at the same time to get rid of the blight and crime within the area.

Regarding EB-5 funding, MR. FONFA clarified for CHAIR GOODMAN that the United States Citizenship and Immigration Services has a renewal extension that lasts until December 11th and at that time they are supposed to inform them what these new rules and regulations are. He suspected that Congress and the Senate will probably take their time on this issue and may not

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render a decision by December 11, 2015, which will mean additional delays, and may give a short extension; however, Chinese investors are leery and uncertain of what the future of the program is that they are not willing to put money into any ventures until they know exactly what the new rules and regulations are. If no more EB-5 funding was received, the project would have to shut down or halt construction and continue looking for another source of funding.

MR. FONFA and MEMBER TARKENTIAN discussed the \$25 million needed to cover the gap and the possibility to renegotiate with the bank. MR. ARENT clarified that based on the past practices value of applying the tax rates from the Redevelopment Agency, if a 50/50 split of available new taxes was done between the developer and the agency, where 50 percent went back to the developer and 50 percent was retained by the agency, annually the amount would be \$250,000, the annual tax liability being about \$300,000, however, that was a preliminary projection based on the project information received.

CHAIR GOODMAN confirmed with CITY MANAGER ELIZABETH FRETWELL and CITY ATTORNEY BRIAN JERBIC that there has never been a tax increment financing agreement between the City of Las Vegas Redevelopment Agency and any project and that, if approved, the Lucky Dragon Hotel-Casino would be the first.

VIRGINIA VALENTINE, Nevada Redevelopment Association, discussed her tenure as City Manager for the City of Las Vegas and pointed out that one of the basic incentives to create a redevelopment agency is to encourage development that increases all of the assessed value, which would benefit all of the taxpayers and all those entities that get a slice of the overlapping rate in the taxes. If there was a policy that hotels/casinos were eligible for tax increment financing, and at some point, if all the increment were returned to the development itself, the purpose of creating a redevelopment agency would be defeated. She welcomed the opportunity to participate in a policy discussion but her clients had made an investment, and it was a level playing field as long as everyone played by the same rules and obtained their own financing.

RUSSELL ROWE, Boyd Gaming, emphasized the importance of the policy discussion stating it needed to be thought about as there is a long history of public assistance dollars not going to the gaming industry. At the state level one could not get economic development incentives for a hotel-resort project. Gaming is not the target of redevelopment dollars, it is usually providing the funds for redevelopment dollars. The money that would be used by the Lucky Dragon Hotel-Casino is money that would go to other important redevelopment projects, which included the downtown area.

MEMBER COFFIN commented on the relationship between the redevelopment dollars and tax increment financing. MR. ARENT explained for MEMBER COFFIN and MR. ROWE that if the project moves forward without the Redevelopment Agency's help and does not get built, no new tax revenue would be received by the agency. It is presumed that the project would not move forward without agency assistance.

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CHAIR GOODMAN asked MR. ROWE to clarify his statement in regards to legislative decisions related to redevelopment funding precluding funding for gaming. MR. ROWE replied that at the State level, state economic development incentives are not permitted to be used for hotel resorts.

MEMBER BEERS asked when improvements to real property result in an increase in assessed value. MR. ARENT replied that if there are new improvements, even during construction, there is a partial improvement value that is placed on the tax roll. MARK VINCENT, Chief Financial Officer, confirmed MR. ARENT'S response.

JOE WOODY, El Cortez, expressed the El Cortez family's disappointment of having not received notification sooner on the Lucky Dragon Hotel-Casino item for discussion and spoke in opposition to the request for tax increment financing.

CHAIR GOODMAN wondered if the Open Meeting Law criteria were followed. CITY MANAGER FRETWELL verified that the Open Meeting requirements were met, which included posting the backup documentation so that citizens of the downtown gaming community could be informed of the discussion planned for the day. Since City Council direction was needed prior to holding meetings with all stakeholders in relation to the current policy. MEMBER TARKANIAN suggested implementing a policy that would provide notification for the Downtown Alliance about meetings on items on the Redevelopment Agency agenda which affect downtown businesses.

CITY MANAGER FRETWELL stated that when there is a proposal there is a ten business day notification obligation under state law for projects in addition to the three business day notification. Oftentimes items go to Redevelopment Agency and City Council, but this project was unique, as far as policy and only appeared on the Redevelopment agenda. MR. ARENT affirmed CITY MANAGER FRETWELL and added that law reads 14 calendar days, which is essentially ten business days and that staff will take MEMBER TARKANIAN'S recommendation to heart and would contact the Downtown Alliance, as well as reach out to the stakeholders. MEMBER TARKANIAN noted that although the item is at the proposal level, proposals can cause policy change, so it is important that adequate notification be provided. MR. WOODY commented on the revenue and job numbers provided by the Lucky Dragon Hotel-Casino as being optimistic. MR. ARENT stated that the casino-hotel completed an economic impact report, which was part of the EB-5 financing process, and had an economist determine that the project would generate nearly 3,000 direct, indirect, and induced jobs. Because the policy discussion was happening in real time, MR. ARENT said that this was one of the benefits of having the City of Las Vegas Redevelopment Agency operate like it does, not behind closed doors.

MIKE NOLAN, El Cortez, proclaimed his support for the Redevelopment Agency but noted that this project could hamper agency advancement when casinos become involved. He mentioned that at the same time Echelon, Fountain Blue, and the El Cortez ran into trouble, but were able to find their own financing solutions. He agreed with MS. VALENTINE that approving the item

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could harm the Redevelopment Agency in the future.

SENATOR BRYAN rebutted that the Lucky Dragon Hotel-Casino is seeking discussion only on the policy and that if there was an opportunity for discussion that all things, including what the members from the El Cortez were concerned with, would be up for discussion. He suggested that the best thing would be for the agency to direct staff to address the public notification concerns so that everyone could have an opportunity to join the dialogue. He concluded that if given the opportunity, it may be possible in calculating the tax increment financing request to exclude the gaming areas of the property.

CHAIR GOODMAN asked SENATOR BRYAN what the Lucky Dragon Hotel-Casino's deadline for discussion was and asked MR. WOODY if having any discussion going forward would be detrimental. MR. WOODY replied in the affirmative and added that it would harm the Redevelopment Agency; there is no advantage to proceed. SENATOR BRYAN replied that if the agency were to approve the item, the Lucky Dragon would need until the end of the year. He emphasized, if given the time, they may be able to exclude the gaming area as part of the calculation of the tax increment financing request.

MR. ARENT explained for CHAIR GOODMAN that staff sought agency direction. CHAIR GOODMAN then questioned if other options have been looked at to help the applicant in their project other than tax increment financing. CITY MANAGER FRETWELL replied that staff has looked at other options that did not include tax increment financing. Lastly, CHAIR GOODMAN asked if the \$25 million needed by the project would be reached. MR. ARENT indicated that he did not see any way, based on the project value, that the agency could get close to the needed amount, and that it would be up to the project sponsor to look at other financial assistance options. He estimated that the agency could not fund more than \$5 million.

MEMBER TARKANIAN questioned if policy must change first prior to discussing the needs of the Lucky Dragon in order to continue the discussion. MR. ARENT confirmed and added that if the policy was to change, all partners should be engaged. In response to a question from CHAIR GOODMAN, SENATOR BRYAN stated if only \$5 million was offered by the Redevelopment Agency, that sum would help toward the needed amount to complete the project.

MEMBER BEERS did not understand how it was possible to retroactively comply with the prevailing wage law with a project already underway. MEMBER ANTHONY added that it had never been done and that his constituents did not want tax dollars going towards a hotel/casino project. MEMBER ROSS remarked that he had never said no to a project that created jobs or redeveloped a blighted area, but this was not the right direction to go at the time. He also took into consideration MS. VALENTINE'S comments about the legislature session as it related to the Redevelopment Agency.

MEMBER COFFIN asked MR. ARENT about whether there have been any prohibitions on anyone applying for any kind of assistance from a local government. MR. ARENT declared that he was not aware of any restrictions either in statute when the legislature authorized

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redevelopment agencies or in a redevelopment plan. He clarified that approving tax increment financing for a hotel/casino has not been done within the past 20 years. MEMBER COFFIN continued his thoughts on the importance of opening discussion to allowing the hotel/casino industry to request assistance.

MEMBER BARLOW asked for an explanation from MR. ARENT on the Lucky Dragon Hotel-Casinos employment plan and further information on the tax increment financing request. MR. ARENT explained that per statutory requirement and Redevelopment Agency policy, the project sponsor is to provide an employment plan prior to the start of a project that discusses how the sponsor will engage with different constituent groups, as well as requiring state prevailing wage rates, as determined by the Nevada Labor Commissioner, to be paid on all construction on the project. MEMBER BARLOW questioned if the agency would be in compliance in relation to the employment plan if the tax increment financing request was granted. DEPUTY CITY MANAGER SCOTT ADAMS referenced the Nevada Revised Statute 279.098. CITY ATTORNEY JERBO clarified for MEMBER BARLOW that because there was no employment plan submitted prior to the project having begun, there is no way to retroactively determine the compliance to state law.

DEPUTY CITY MANAGER ADAMS clarified for MEMBER COFFIN that there could be a penalty for failure to submit the employment plan report. He further added that the section discussed the reporting requirements of a developer that receives incentives from a redevelopment agency. MEMBER COFFIN further remarked on the differences between Visual Improvement and the Quick Start Program projects in comparison to the employment plan. MEMBER COFFIN questioned the reason the applicant was given the opportunity to apply for tax increment financing money if it was not understood that it was allowed. He verified for MEMBER TARKANIAN that his motion is to approve the request as outlined and to continue the discussion on this particular item. MEMBER TARKANIAN expressed concern about putting the cart before the horse because there was no policy change yet.

MR. WOODY clarified that the El Cortez supports Lucky Dragon's success downtown but that the particular issue is central to what they do. MEMBER ROSS remarked that this may be the catalyst that may get MR. FONFA to where the applicant needs to be, as there must be other opportunities available to them. CHAIR GOODMAN added that there were other avenues open and to look at ways to provide input that would help them proceed with the project. Subsequent to the vote, SENATOR BRYAN stated the applicant wished to withdraw their request.

See Item 6 for related discussion.