JOPLIN CITY COUNCIL
INFORMAL MEETING NOTES
DECEMBER 3, 2018
602 S. MAIN ST.
JOPLIN MO 64801

Mayor Shaw called the December 3, 2018 Informal Meeting of the Joplin City Council to order at 5:15 p.m.

In attendance were Council Members: Taylor Brown, Melodee Colbert-Kean, Doug Lawson, Anthony Monteleone, Mayor Gary Shaw, Ryan Stanley, Phil Stinnett, and Jim West. Also, in attendance were City Manager Sam Anselm and City Attorney Peter Edwards. Absent: Diane Reid Adams

Presentation from David Martin: Overview of Chapter 100 Bonds:

One of the items on the formal council agenda for tonight (December 3) is an ordinance seeking approval of a plan for an industrial development project consisting of the acquisition and installation of manufacturing equipment, authorizing the city of Joplin, Missouri to issue its taxable industrial revenue bonds in a principal amount not to exceed $67,215,000 and approving certain related documents and actions.

City Attorney Peter Edwards asked David Martin of Gilmore and Bell to give a brief overview of Chapter 100 Bonds.

Mr. Martin stated he has worked on the last few Chapter 100 projects that Joplin has done. Chapter 100 is a mechanism by which you can provide tax abatements to private companies for projects that are done virtue being done under Chapter 100, considered to be municipal projects solely for the purpose of exempting them from tax rolls. They do not become municipal projects for purposes of performance bonds, prevailing wage, and that sort of analysis. It's solely technical ownership of the property for purposes of removing it from the tax rolls. There is some sort of condition built into the transaction. Sometimes there is a portion of that tax that is paid in lieu of taxation. In certain circumstances that abatement is 100% and there's complete removal of the tax so long as they maintain certain employment.

The basics of how it works is, if you're going to undertake a Chapter 100 transaction, you have to give notice to all your taxing jurisdictions 20 days in advance of holding a hearing at which those taxing jurisdictions have the opportunity to show up and give comments, either in support of or against the project. There is not a requirement of any specific reaction to those comments. The mechanism of how it actually functions is, you have to achieve municipal ownership of the underlying assets. If you're doing a real property transaction, that property at the beginning of the Chapter 100 closing is conveyed to the city and then the improvements that are built on that property are a municipal project by virtue of the Chapter 100 bond issuance and remain exempt from the tax rolls.

In a personal property transaction, any property that has already been purchased by the company at the closing is conveyed to the city by a bill of sale and then, as the property is acquired, it is done so with bond proceeds and will be abated over a series of years. That property never hits the tax rolls. If it is subject to a Chapter 100 before January 1 of any given year, it's not taxable so it's not reported in the self-reporting that businesses have to do, and so that maintains it separate from the tax rolls. The bond capacity – the amount of bonds that are issued – that is a restriction on how much the company can spend on property; how much property they can bring into the Chapter 100 transaction. The reason that is a requirement is if you don't spend Chapter 100 bond proceeds on an item of personal property or real property, it's not technically a part of the Chapter 100 project. So, it serves as a limitation. If you're issuing $67 million worth of bonds, they hit that point where they can't include any more property in the transaction, and so they've reached their limit. Any property that is acquired in excess of that would have to pay taxes on it.

Technical ownership of these assets being in the name of the City is merely to facilitate the transaction. The City doesn't want or have beneficial ownership of that property. The company still has the ability to depreciate that property on their books, the companies are still operating on the property which presents some manner of risk to the city and so in all of our performance agreements and leases there are indemnity provisions that basically say that if anything happens with the property like if anyone is injured on it the company is going to indemnify the city for any losses and defend the city to the extent if the city would go into a lawsuit. There's also a provision that requires insurance to be carried and for the city to be named as an additional insured. So there's double coverage there for anything that might arise in the nature of a liability.
The lease purchase agreement puts the property back in the hands of the company so that they can operate it and contains some of those provisions that protect the city from how the company actually operates the property.

Typically, there are some requirements built into the performance agreement that say you promised us that you were going to provide x number of jobs and if you don't do that, we're going to start calling back or reducing the level of abatement that we promised to provide you in exchange for that.

Following the overview, Mr. Martin answered questions from the Council members.

In closing Mr. Martin stated Chapter 100 bonds are a conduit structure, which means that the City is liable only to make payments on the bonds from the lease payments. So regardless what happens at the site of a Chapter 100 transaction in terms of the company goes bankrupt, the true lender that provided the real financing for the project comes in and is looking for somebody to rule against, the City is never liable to make a payment on a Chapter 100 bond.

Mayor Shaw reminded the Council of the board/commission recognitions at the formal meeting and asked for their participation in congratulating those who will be in attendance.

The meeting adjourned at 5:35 p.m.

Submitted,

Barbara J. Gollhofer, City Clerk