

**RENAISSANCE ZONE AUTHORITY
MEETING MINUTES
February 10, 2010**

The Bismarck Renaissance Zone Authority met on February 10, 2010 in the Tom Baker Meeting Room in the City-County Office Building at 221 North 5th Street.

Authority members present were Dave Blackstead, Parrell Grossman, Chuck Huber, George Keiser, Carol Vondrachek and Curt Walth.

Technical Advisor Jeff Ubl was present.

Staff members present were Jason Tomanek, Kimberley Gaffrey, Kim Lee, Carl Hokenstad, Bill Wocken, Charlie Whitman, Ray Ziegler, Deb Goodsell and Bob Aller.

Guests present were Andrew Keller (KFYR), Lee Ellison (KFYR), LeAnn Eckroth and Mike McCleary (Bismarck Tribune), Dick Olson – 401 East Brandon Drive, Bismarck, Michael Linblom – 116 North 5th Street, Bismarck, Travis Vanatta, Chris Short and Jacob Backous (Jimmy John's), Jody Smith – 123 North 4th Street, Bismarck, Ondine Baird – 107 North 5th Street, Bismarck, Gordon La France, Andrea Pfenning and Zac Weis (North Dakota Department of Commerce), Jim Christianson (Northwest Company), James Devine (J2 Studio Architecture + Design), Paul Everson – 116 North 5th Street, Bismarck, Mary Van Sickle (Dakota Media Access) and Dawn Kopp and Kate Herzog (Downtowners).

CALL TO ORDER

Chairman Blackstead called the meeting to order at 4:00 p.m.

INTRODUCTION

Chairman Blackstead introduced and welcomed Jeff Ubl as a Technical Advisor to the Renaissance Zone Authority.

MINUTES

The minutes of the January 13, 2010 meetings were distributed with the agenda packet.

MOTION: A motion was made by Mr. Keiser and seconded by Mr. Walth to approve the minutes of the January 13, 2010 meeting as received. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Vondrachek and Walth voting in favor.

PUBLIC HEARING – OFFICIAL URBAN RENEWAL PLAN REVISIONS

Bill Wocken, Bismarck City Administrator, presented the Official Urban Renewal Plan revisions. The plan is attached as Exhibit A.

Chairman Blackstead opened the public hearing for the Official Urban Renewal Plan revisions.

No public comment was received.

Chairman Blackstead closed the public hearing.

MOTION: A motion was made by Mr. Walth and seconded by Ms. Vondrachek to recommend approval of the Official Urban Renewal Plan revisions as presented. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Vondrachek and Walth voting in favor.

RENAISSANCE ZONE PROJECT APPLICATION

A. 521 East Main Avenue – James Devine/J2 Studio Architecture + Design – Lease

Mr. Tomanek gave an overview of the lease project by James Devine/J2 Studio Architecture + Design for the building at 521 East Main Avenue. Mr. Tomanek said that the applicant is proposing to lease space on the first floor of the building at 521 East Main Avenue for the expansion of a professional architecture office. The owner of the building, Civic Square Development, LLP, has rehabilitated the building as a separate Renaissance Zone project. The building floor area is 16,876 square feet and the applicant's lease area would be 1,176 square feet, with an estimated income tax benefit of \$8,000 over five years.

Mr. Tomanek then listed the following findings for the proposed Renaissance Zone Project:

1. The proposed use is consistent with the City's Renaissance Zone Development Plan.
2. The building has been rehabilitated as a separate Renaissance Zone project.
3. The lease would be for an expanding business relocating within the Zone. The business is currently located in downtown Bismarck, but will be moving to this new location in order to expand the size of their operation. The current space occupied by J2 Studio Architecture + Design is 600 square feet; the office would be adding 576 square feet and expanding in occupied space by 49%. The additional space will provide adequate room for a recently-hired staff person and two additional personnel in the future.
4. The space proposed for occupancy has not previously been occupied by a business receiving Renaissance Zone tax exemptions.
5. Occupancy of the space is anticipated for March 31, 2010.

Mr. Tomanek said based on the above findings, staff recommends approval of the lease of space in the building at 521 East Main Avenue by James Devine/J2 Studio Architecture + Design as a Renaissance Zone project, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of occupancy.

Mr. Grossman asked if James Devine will be adding any staff people to his firm. Mr. Tomanek responded by saying that relocating to this property will provide being able to staff two more people.

Chairman Blackstead opened the public hearing for the lease of space in the building at 521 East Main Avenue by James Devine/J2 Studio Architecture + Design.

No public comment was received.

Chairman Blackstead closed the public hearing.

MOTION: Based on the findings included in the staff report, a motion was made by Mr. Keiser and seconded by Ms. Vondrachek to recommend approval of the lease of space in the building at 521 East Main Avenue by James Devine/J2 Studio Architecture + Design as a Renaissance Zone project, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of occupancy. The motion passed unanimously with members Blackstead, Grossman, Keiser, Vondrachek and Walth voting in favor. Authority Member Huber abstained from voting.

B. 301 South 3rd Street – Travis Vannatta (Dakota Subs, LLC)/Jimmy John’s – Lease

Mr. Tomanek gave an overview of the lease project by Travis Vannatta (Dakota Subs, LLC)/Jimmy John’s for the building at 301 South 3rd Street. Mr. Tomanek said that upon completion of the renovation for the above-mentioned property by Travis Vannatta/Jimmy John’s, the applicant is proposing to lease space in the building for a new, independently-owned franchise restaurant. The project will include complete rehabilitation of the space proposed for the business including new walls, flooring, cabinets and other improvements required by the franchise. The building floor area is 22,500 square feet and the applicant’s lease area would be 1,400 square feet, with an estimated income tax benefit of \$8,000 over five years.

Mr. Tomanek then listed the following findings for the proposed Renaissance Zone Project:

1. The proposed use is consistent with the City’s Renaissance Zone Development Plan.
2. The building has not been rehabilitated as a Renaissance Zone project. City of Bismarck guidelines for lease projects require the applicant to invest at least \$10.00 per square foot in capital improvements. The applicant has indicated that the estimated cost of rehabilitation would be \$75,000 for the 1,400 square feet of leased space, this equates to an average per square foot investment exceeding \$53.00.
3. The lease would be for new business locating within the Zone.
4. The applicant has indicated that 20 to 25 new full and part-time employment positions would be created by the new business locating within the Zone.
5. Occupancy of the space is anticipated for April 1, 2010 with the projected opening of the business on June 1, 2010.

Mr. Tomanek said based on the above findings, staff recommends approval of the lease of space in the building at 301 South 3rd Street by Travis Vannatta (Dakota Subs, LLC)/Jimmy John’s as a Renaissance Zone project, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of occupancy.

Mr. Walth asked if there is a breakdown of the work anticipated work to be completed. Mr. Vannatta answered by saying the space will have a complete remodel to meet Jimmy John's expectations for the franchise, which will cost approximately \$120,000 for the full build out and the equipment will cost approximately \$90,000. Improvements will include new walls, flooring, electrical and plumbing work and all new fixtures.

Mr. Grossman asked of the 20 to 25 new full and part-time employment positions will be added right away or a few at a time. Mr. Vannatta said the addition of the employees will be immediately.

Mr. Kesier asked if the group will be approaching the City for additional funds through the CORE Incentive Program for the same project. Mr. Vannatta stated they will be submitting a request for signage.

Chairman Blackstead opened the public hearing for the lease of space in the building at 301 South 3rd Street Avenue by Travis Vannatta (Dakota Subs, LLC)/Jimmy John's.

No public comment was received.

Chairman Blackstead closed the public hearing.

MOTION: Based on the findings included in the staff report, a motion was made by Mr. Huber and seconded by Mr. Walth to recommend approval of the lease of space in the building at 301 South 3rd Street by Travis Vannatta (Dakota Subs, LLC)/Jimmy John's as a Renaissance Zone project, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of occupancy. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Vondrachek and Walth voting in favor.

DISCUSSION WITH THE STATE RENAISSANCE ZONE PROGRAM MANAGER GORDON LA FRANCE

Mr. La France said he is attending the Renaissance Zone Authority meeting today at the request of the City, to answer any questions or clarify any issues regarding the Renaissance Zone Program. Mr. La France stated the Renaissance Zone Program has been in existence for approximately ten years and there are over 800 projects, 650 of which have been completed across the State. By the end of the year, between twenty to thirty percent of those projects will be back on the tax rolls, which means the project has reached the five year tax exemption period. Mr. La France added that there were a lot changes that affected the Renaissance Zone Program at the last legislative session. One of the changes is the three block island that had to be within a half mile of the Renaissance Zone, which has been eliminated and the three block island can be located anywhere within the City. Mr. La France noted that it is up to the City where the three block island is located, but the larger cities will most likely keep the Renaissance Zone whole. The other changes with the legislature were in regard to leasehold improvements and public utility infrastructure.

Chairman Blackstead asked if a three block island were to be added, would an area have to be taken away from the existing Renaissance Zone. Mr. La France responded by saying the yes, Renaissance Zone is allowed a certain number of blocks based on population.

Mr. Keiser inquired what issues are surfacing throughout the State with the Renaissance Zone Program. Mr. La France answered by saying that across the entire State, there are no issues that he is aware of at this time, but one of the issues that has been brought up is if a group of investors owns a building, should they be allowed to lease space within that building as a separate project. Mr. Keiser asked what cities have that issue. Mr. La France said Bismarck is the only city where that issue has been brought up. Mr. La France stated that the state income tax exemption needs clarification. If a business that operates in downtown, unless one hundred percent of their business is associated within the Renaissance Zone, not receive one hundred percent tax exemption. It is only a percentage of that business across the entire state that is tied to the approved Renaissance Zone project location. Mr. La France said that if there was an implement dealer that was located in downtown Bismarck and completed a project through the Renaissance Zone, but also had dealerships in Jamestown and Fargo, only the Bismarck dealership would receive the tax exemption.

Mr. Walth asked what the percentage is based on. Mr. La France responded by saying further explanation of the formula would be obtained from the Tax Department and he can get this information for the Renaissance Zone Authority members if they like.

Mr. Huber asked Mr. La France to elaborate on the owner occupied issue and explain the concern with owners of the building leasing to themselves with a Renaissance Zone project. Mr. La France responded by saying there is a concern in Bismarck that the owner of the building is getting a tax exemption from property taxes for five years plus a five year state income tax exemption on the income generated by owning a building and their own lease as a separate business. At the same time lessees can also lease space from the owners and they can receive a five year state income tax exemption. Mr. La France continued by saying that under the existing state law and Bismarck's existing Development Plan, it is allowed. Mr. Huber then asked if the benefits are really any greater if an owner is leasing to themselves or a different tenant. Mr. La France answered by saying possibly not, but there are a lot of different scenarios that would play into who benefits and who does not. Mr. La France concluded by saying there probably would not be a lot of difference in the income tax benefit.

Mr. Grossman asked if there is any interest at the state level to change the existing policy. Mr. La France said there is a little bit of interest at the state level and there might be a change at the next legislative session. Everything is being discussed at this time, but there is no formal bill that has been introduced.

Mr. Walth inquired whether or not a lessee can receive state income tax exemption without doing any enhancements to the property. Mr. La France responded by saying that currently under the state law, if it is a new business moving into the Renaissance Zone or if the business is expanding in the Renaissance Zone, a business can collect the state income tax benefit without having to do any improvements. Mr. Walth asked if that is an issue at the state level. Mr. La France said he is not aware of a concern with that matter. Mr. La France added that since he has been involved with the Renaissance Zone there has been a tremendous amount of growth across entire the state and the improvements are very noticeable.

Mr. Tomanek said he wanted to further elaborate on Mr. Walth's question regarding whether or not a lessee can receive state income tax exemption without doing any enhancements to the property. Mr. Tomanek stated that the answer is yes under Bismarck's Development Plan, however, the space must have been previously rehabilitated through a Renaissance Zone project. If the property was not previously rehabilitated, then the tenant is required to invest a minimum of \$10 per square foot in capital improvements.

Mr. Keiser asked if a group of people form a limited liability company purchase the building and apply for Renaissance Zone project designation and rehabilitate the building, then the same individuals under a different corporate structure lease the building that they own, how much investment do they have to make to receive the tax exemption when they are leasing from themselves. Mr. La France said at the state level, most of the time the building owners will make the improvements and receive the property tax exemption and then the lessee comes in and will receive the state income tax exemption without a financial investment.

Mr. Huber asked if the State would be providing any more of a tax exemption to an owner that leases to themselves, rather than leasing to a non-related tenant. Mr. La France said the tax benefits would be the same. Mr. Huber added that owner occupants are much more engaged in maintenance of the property and have more of an interest in downtown. Mr. Huber concluded by saying he is not sure what will be solved by eliminating the owner occupant type of scenario.

Mr. Keiser said that the numbers would have to be run and take hypothetical scenarios, but there is a big difference for people that did not create a property management company because you pay lawyers to set up all these corporations. Mr. Keiser stated that the reality is that if you can place all of your expense into one corporation and then make a tremendous profit in the second corporation and not have to take it on to the other side and have the tax exemption from that income that could conceivably be a dramatic difference.

Mr. Grossman asked Mr. La France if he agrees with Mr. Keiser's statement. Mr. La France responded by saying he is not an expert when it comes to the tax law or how a corporation is structured, so the Tax Department would have to answer that question. Mr. La France commented that as a whole, the Renaissance Zone across the state is doing what it was intended to do and is working very well.

Mr. Keiser stated that in Bismarck we have seen the evolution of this new strategy, adding it is a fairly recent one with a few projects with this new approach. He then asked how common is this approach is in other cities. Mr. La France said it is fairly common throughout the state, approximately thirty percent of the projects are set up where the property owner leases to themselves and the owner owns the building under one corporate structure and rents under a different corporate structure as a different company.

Mr. Huber asked if any other cities have seen an application where the entities create virtual office space and not actual suites in the space and list themselves as different entities with their own space. Mr. La France said is unaware of any concern of that across the state.

RENAISSANCE ZONE PROGRAM SUGGESTED POLICY CHANGES

Mr. Tomanek said that on January 4, 2010 the Renaissance Zone Authority discussed and proposed the following changes to the policy; If an applicant applies for and receives

designation as a Renaissance Zone purchase, purchase and rehab or rehab project, the applicant may not also apply for a state income tax exemption under a lease to itself. An applicant (lessee) may not be granted a lease benefit if it owns or has any ownership interest in the building. Ownership interest would include a partnership interest, corporate interest or any family interest in the ownership of the building. Family interest would include parents, grandparents, siblings, spouse, children, in-laws or any significant relationship intended to defeat the prohibition against the owner leasing to itself. Renaissance Zone Lease projects should be limited to leases to third parties. Mr. Tomanek said there was also discussion regarding the use of both Renaissance Zone Program and CORE Incentive Programs at the same time and also the use of multiple CORE Incentive Programs. The proposed policy changes are attached as Exhibit B.

Mr. Grossman said he would like to hear any public input regarding the policy changes.

Mr. Lindblom with Rainmaker Gusto Ventures, LLC provided the Renaissance Zone Authority with a letter of opposition to the suggested Renaissance Zone policy changes as a result of the January 4, 2010 Renaissance Zone Authority meeting and presented the same. The letter is attached as Exhibit C.

Paul Everson with Rainmaker Gusto Ventures, LLC said he thinks the reason behind the suggested policy changes is that some people think that some state income tax dollars will be lost temporarily. Mr. Everson said that it is a short sided request, because after the five year exemption period ends there will be even more income coming in, not to mention the revitalization of downtown. Mr. Everson went on to say a vibrant and bustling downtown is critical and Bismarck is on the cusp of becoming a great city.

Mr. Huber asked of the Bismarck Renaissance Zone projects, how many of those are owner occupied leases. Mr. Tomanek said five out of the twenty four completed projects lease space to themselves and other agencies, or approximately twenty percent. There is only one project where the owner leases space only to themselves.

Mr. Walth suggested that language to include the allowance of Housing Incentive Grant also be included because the intent of the programs is to promote housing in the downtown area. The general consensus of the committee was to support the allowance of the HIG.

MOTION: A motion was made by Mr. Keiser to recommend approval of the underlined bulleted items as policy changes regarding the use of both CORE Incentive Grants and Renaissance Zone Programs as outlined in Exhibit B, with the exception that both underlined bullet items include the language “except for the Technical Assistance Bank grants or Signage grants”. Mr. Grossman seconded the motion with members Grossman, Huber, Keiser, Vondrachek and Walth voting in favor and Blackstead voting against. The motion passed 5 to 1.

MOTION: A motion was made by Mr. Huber to disregard the suggested policy changes that would prohibit an entity from leasing space in a building that is owned by itself or partnership interest, corporate interest or any family interest in the ownership of the building. Family interest would include parents, grandparents, siblings, spouse, children, in-laws or any significant relationship. Mr. Walth seconded the motion with members Blackstead, Huber and Walth voting in favor and members

Grossman, Keiser and Vondrachek voting against. The motion failed for lack of a majority vote.

MOTION: A motion was made by Mr. Keiser and seconded by Mr. Grossman to continue the discussion regarding the suggested policy change regarding an entity leasing space in a building that is owned by itself to the March 10, 2010 meeting. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Vondrachek and Walth voting in favor.

RENAISSANCE ZONE STATE GUIDLINE CHANGES – OVERVIEW

Mr. Tomanek said the item included in the packet is the list of state Renaissance Zone Guideline changes as a result of the 2009 Legislative Session. Mr. Tomanek stated that if there are any questions, they can be addressed at the March 10, 2010 meeting.

STATUS OF APPROVED RENAISSANCE ZONE PROJECTS

Mr. Tomanek said that no Renaissance Zone Projects have been closed out on the last month.

STATUS OF APPROVED CORE INCENTIVE PROJECTS

Mr. Tomanek said that no CORE Incentive Program Projects have been closed out in the last month.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business, Chair Blackstead adjourned the meeting of the Bismarck Renaissance Zone Authority at 5:04 p.m.

Respectfully Submitted,

Kimberley Gaffrey
Recording Secretary

APPROVED:

David Blackstead
Chair