



COMPREHENSIVE PLANNING AND TRANSPORTATION COMMITTEE MINUTES

The Comprehensive Planning and Transportation Committee convened in a regular meeting on Monday, August 5, 2013 at 301 W. Second Street, Room #1101, Austin, Texas.

Subcommittee Members in Attendance: Mayor Pro Tem Cole (Chair)
Council Member Morrison
Council Member Riley

CALL TO ORDER

Mayor Pro Tem Cole called the Comprehensive Planning and Transportation Committee meeting to order at 2:05 p.m.

1. CITIZEN COMMUNICATION

Joe Reynolds, spoke briefly on the recent legislation of the land development bill between the City of Austin and the Texas Facilities Commission (TFC). TFC is required to advise the City and citizens of the local situation. The Legislation is clear that TFC is to be a good neighbor and cooperate with the plan and development.

2. APPROVAL OF MINUTES

October 17, 2013 – Unanimously approved on a 3-0 vote.

3. DISCUSS RECENT LEGISLATION RELATED TO THE DEVELOPMENT IN AND AROUND THE CAPITOL AND ITS EFFECT ON THE PENDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUSTIN AND THE TEXAS FACILITIES COMMISSION

Mayor Pro Tem Cole, explained the reason for Mr. Dukes presence was to inform the Committee of what happened at Legislation pertaining S.B. 211, related to Planning, Development and P3s. Before the legislative, the City passed a resolution to participate in the planning process.

Mr. Aundre Dukes, Real Estate Portfolio Manager, Texas Facilities Commission, thanked the committee for inviting him to present at the Comprehensive Planning and Transportation Committee meeting.

Prior to last session TFC was working with the city to promote an interlocal agreement of the planning of site specific master plan for a number of state properties within the Capital city. Primarily, the Capitol Complex, Bull Creek annex, Camp Mabry, Will Hobby complex and the Austin State Hospital. Prior to session TFC had worked out a number of items to be included in the scope of work, and due to the reaction from the public and elected officials who were not necessarily up to speed on the work that TFC was working on in the interim, a decision was made to postpone the interlocal agreement and to wait and see the results of session.

The information that Mr. Dukes will cover only the high points of those changes that occurred which is a section by section summary of S.B. 211 of the Sunset bill relating to the authority and function of the TFC; real property development plans in connection with long-range planning by the TFC for governmental entities and authorization of fees. There were quite a few changes made.

Section 3 relates to the confirmative of the State Preservation plan of the Capitol and the Capitol grounds, the board must conform its plan to the Capitol complex master plan prepared by the Facilities Commission under Section 2166.105.

Section 7 was amended to add the requirement that the TFC staff the Partnership Advisory Commission by providing professional service staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), to support the appointees of the Partnership Advisory Commission in the review and evaluation of qualifying project proposals submitted for approval under chapter 2268, Government Code.

Section 12 Subchapter F, Chapter 2165, was amended by adding Section 2165.259. This section provides that only the TFC has the authority to develop and operate qualifying (P3) projects in the Capitol Complex through comprehensive agreements approved by the Partnership Advisory Commission and the Legislature.

Mayor Pro Tem Cole, asked Mr. Dukes to explain his statement of the confusion about the authority of TFC development of the P3 plan?

Mr. Dukes, stated the introduced bill included language that would have prevented any public private partnerships within the Capitol Complex. That language was amended.

Council Member Morrison, stated one of the things that was important to her as she was reading the headlines that the P3 plan now will require any Legislative approval?

Mr. Dukes, stated that information is consistent with their new bill statute under a separate chapter. That all projects have to be approved by Legislation and that is how they will receive their funding. It was always a requirement but wasn't written in the statute.

Council Member Morrison, asked was this a requirement because money is always needed to make something happen?

Mr. Dukes, stated that is correct, as well as buy in approval from out state leaders.

Section 2165.355 related to the initial public hearing is consistent with existing Commission guidelines which require that before submitting a detailed proposal to the Partnership Advisory Commission, the TFC must hold an initial public hearing on the proposal; post a copy of the detailed qualifying project proposal on the commission's website before the required public hearing; and before posting the proposal, redacting all information included in the proposal that is considered confidential under Section 2267.066(c).

Mayor Pro Tem Cole, asked about the new language regarding the Municipal Project, is that consistent with what was done previously in the agreement with the City?

Mr. Dukes, stated correct. He also stated that a lot of this language is related to the steps after the planning.

Section 16 is to align with existing authorities of the Facilities Commission related to building construction projects of the state, the acquisition of real property for state purposes, and the disposition of real property owned by the state. This amendment broadened the definition of applicability of Chapter 2166 to encompass the commission's existing authority under Section 2166.052 of this Chapter.

Mayor Pro Tem Cole, asked if Section 16, is the section that gives you provision of the broad authority such as Camp Mabry, Bull Creek and the Austin State Hospital?

Mr. Dukes, stated those are unique properties of the state, there are other agencies that have interest in these properties and Bull Creek to be specific has three different agencies that control the property.

Council Member Morrison, asked how does Bull Creek fit in all of this? Is it under the Facilities Commission?

Mr. Dukes, stated that S.B. 211 addressed certain things maybe not Bull Creek but the Facilities Commission does have that authority. Some properties requested that the Facilities prepare and present during Legislation on their behalf.

Section 20 provided a number of changes to the Capitol Complex Master Plan requiring an update every year and was amended by adding Sections 2166.105, 2166.106, 2166.1065, 2166.107, and 2166.108 including new requirements as well.

Section 24 addresses the Applicability and the Infrastructure Act, which is the P3 act. This section included language which have prohibited development or operation of P3s in the Capitol Complex. However, this section was amended, authorizing only the Facilities Commission to develop and operate qualifying (P3) projects in the Capitol Complex as provided by Section 2165.259.

Mayor Pro Tem Cole, asked for clarification on the section that would have limited TFCs authority to restore the Capitol Complex? How does that play into the other properties that TFC have already received a request to handling their planning?

Mr. Dukes, stated those are separate. Section 24 only focuses on the Capitol Complex.

Mayor Pro Tem Cole, asked if we could deal with that question later in regards to their authority of the other properties?

Mr. Dukes, stated it remains unchanged.

Section 2267.006 of the Development Plan was added and modeled on the process beginning in Section 31.161, Natural Resource Code which applies to private development on state land. This section is permissive and provides that if a responsible governmental entity intends to develop or operate a qualifying project (for private purposes) the responsible governmental entity proposing the project may adopt a development plan on the real property associated with the project. The term “qualifying project” is defined in Sec. 2267.001 (10), Government Code. The purpose of a development plan is to conserve (create), and enhance the (market) value of real property belonging to the state (before entering into a comprehensive agreement with a contracting person), taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated. If the responsible governmental entity chooses to promulgate a development plan, the plan must address local land use planning ordinances and must comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations, orders, or

ordinances are not detrimental to the interests of the state as determined by the special board of review.

Mayor Pro Tem Cole, asked if this section previously discussed is what the Interlocal agreement is to get at?

Mr. Dukes, stated correct.

Mayor Pro Tem Cole, asked Mr. Dukes to specify again what authority does the City have over a project pursuant to this project?

Mr. Dukes, stated the Interlocal authority suggest that any agency is requested to submit copies of the plan. The local government shall evaluate the plan and either accepts or reject the plan not later than the 120th day after the date the responsible governmental entity submits the plan. The plan may be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances. If the plan is rejected, the local government shall specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance. If the plan is rejected, the responsible governmental entity may modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval. If the local government does not act within the 120-day period the plan is deem approved.

Mayor Pro Tem Cole, asked if this provision establishes the zoning authority?

Mr. Dukes, stated yes.

Section 2267.0065 Special Board of Review was added creating a special board of review to consider appeals by a responsible governmental entity whose rezoning request was denied by a local government. The special board of review consists of the following members: the land commissioner; the mayor of the municipality where the real property is located; the county judge of the county in which the qualifying project is located; the executive director of the state entity that proposes to develop or operate the qualifying project; and a member appointed by the governor. The land commissioner serves as the presiding officer of the special board of review.

Mayor Pro Tem Cole, asked if the land commissioner was a member of the Travis County Commissioners Court?

Mr. Dukes, stated that is a commissioner of the General Land Office.

Council Member Morrison, asked that Mr. Dukes clarify the word changes. Meaning what was originally introduced or changes of what exist today?

Mr. Dukes, stated the Special Board of Review was not part of the public private facilities act. It was replicated out of the Natural Resources Code.

Council Member Morrison, asked what type of appeals so the Natural Resources Code hear?

Mr. Dukes, stated same type of appeals.

Section 26, Sec. 2267.051 (a-1) prohibited unsolicited proposals in the Capitol Complex has not effect. As stated in subsection (b) if S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation related to real property within the Capitol Complex are enacted and become law, this section has no effect. S.B. No. 894 was enacted and S.B. No. 211 and H.B. 3436 included similar provisions as S.B. No. 894 and both were enacted on June 14, 2013.

Council Member Morrison, asked what does S.B. 894 address?

Mr. Dukes, stated that S.B. 894 replicated the language of 2165.259.

Subsection (b) to Section 26 ensures that the governmental entity, for a proposes project to improve real property; evaluates design quality; life-cycle costs; and the proposed project's relationship to any relevant comprehensive planning or zoning requirements. This section was amended to provide a cap for the competitive posting period, as determined by the responsible governmental entity, of not less than 45 days or more than 180 days, except a longer period may be specified by the governing body of the responsible governmental entity to accommodate a large-scale project, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project.

Council Member Morrison, asked if this section was just the Capitol Complex or everything and if the 120-days was what the City had to comply with as well?

Mr. Dukes, stated the 120-day time period is during the development process, it is the plan that is used prior to the proposal process. This plan is after a plan has been promulgated and are now receiving proposals as a result of the plan being published.

Council Member Morrison, asked if this is part of the implementation phase?

Mr. Dukes, stated yes.

Section 28 provides clarification of an unsolicited proposal for evaluation does not by that act approve the unsolicited proposal. Under this subsection a responsible governmental entity that accepts an unsolicited proposal for a qualifying project, in accordance with the requirements of Section 2267.052 (b) (11) (B), is required to solicit additional (competing) proposals through a request for qualifications, request for proposals, or invitation to bid.

Section 29 changed as to what proposals are required and when they should be submitted to the local government.

Subsection (e-1) requires that a public hearing be held on the final version of a proposed comprehensive agreement (the overall agreement) including a vote on the proposed comprehensive agreement after the hearing.

Council Member Morrison, asked for purposes of this subsection what is a comprehensive agreement?

Mr. Dukes stated, it is the equal to that of the master development agreement.

Section 36 subsection (e) provides that the Partnership Advisory Commission in a public hearing, by majority vote of the members present, the authority to approve or disapprove each detailed proposal submitted to the Partnership Advisory Commission for review.

Section 37 is the removing authority of the General Land Office related to real property owned by the state in the Capitol complex. This section precludes the General Land Office from selling, leasing, or developing real property owned by the state in the Capitol Complex.

Section 41 states that the TFC is required to provide the Capitol Complex master plan no later than April 1, 2016.

Council Member Riley, thanked Mr. Dukes for coming and explaining how this process will work. Council Member Riley, asked who is on the Partnership Advisory Commission?

Mr. Dukes, stated the Partnership Advisory Commission was created during the 82nd Legislature as part of the public private act which is under 2267. The commission consists of 11 members who are appointed by the Governor, Lt. Governor and the speaker.

Council Member Riley, stated several presentations have been laid out about the Capitol Complex plan how is the plan that is due for April 1, 2016 different?

Mr. Dukes, stated that the plan that he has presented a number of times to city officials is really a presentation on the highest and best use of the potential for the Capitol Complex plan. It was never intended to be the plan, but to raise awareness if we decide to maximum these areas.

Council Member Riley, asked if TFC plans to get any type of help?

Mr. Dukes, stated that RFQ was awarded prior to Legislative and already engage PSP to work on this project.

Council Member Riley, asked when will the citizens began to see some of the processes?

Mr. Dukes, stated those are details that are still being worked out. Rest a sure there will be a public engagement process.

Council Member Riley, asked what would happen to unsolicited proposals that may come up in the meantime?

Mr. Dukes, stated there is nothing that prevents an unsolicited proposal at any time. That most developers will wait until there is a certainty due to the vast amount of money involved.

Council Member Riley, asked if there was any expectation of revising these items at the next session?

Mr. Dukes, stated the plan will be revised routinely through the interim.

Mayor Pro Tem Cole, asked that in the Interlocal Agreement that we passed by resolution we budgeted about \$200,000 for the planning and \$200,000 for the other properties. Is there anything else you need from the city to continue to move forward with that process?

Mr. Dukes, stated yes. As the resolution states there will be an action by Council approving the second \$200,000. It is stated that we would look at the Capitol Complex, Bull Creek annex, Camp Mabry, Will Hobby complex and the Austin State Hospital as one project. The \$400,000 that has been proposed by the city will cover the difference that has been budgeted at the state level for this project.

Council Member Morrison, asked about the pending planning of the other properties and how those were settled?

Mr. Dukes, stated that it remains the same. TFC are required to prepare a facilities master plan report.

Council Member Morrison, asked if the TFC was hearing from other Legislative offices regarding ideas of what they think should be done.

Mr. Dukes, stated absolutely.

Council Member Riley, asked about the timeline. How these other developments will tie in with this plan?

Mr. Dukes, stated that has been discussed for the past 3 year and according to the Sunset Bill it would not tie their hands to present this in phases and seek direction.

Council Member Riley, asked properties to the east of MLK is considered UT property and they will do, whatever they plan to do and to the West is Capitol Complex property?

Mr. Dukes, stated that is a difficult question to answer on how fast we see change. His hope is to see this done before April 1, 2016, but who knows what will surface during that process.

Mayor Pro Tem Cole, stated that the City may need to see this phase laid out as to how the City would like to see this transpire and clear up with TFC as to what else they need in order to move forward and the city is very excited.

4. UPDATE ON US290/SH71 (BEN WHITE BOULEVARD) AND US 183 PROJECTS WITHIN THE AUSTIN CITY LIMITS

Item postponed to September 4, 2013

5. DISCUSS THE LSTAR RAIL SERVICE AND ITS ROLE IN THE PROJECT CONNECT VISION RELATING TO THE RAIL TRANSPORTATION BETWEEN AUSTIN AND SAN ANTONIO, REQUESTING THE CITY OF AUSTIN'S PARTICIPATION AND LOCAL FUNDING SUPPORT

Mr. Joe Black, Lone Star Rail District, thanked the Committee for the invitation. The LSTAR effort fill a Central Texas originally has 16 stations at full service without spilt station service. There are 32 round trips a day at full service and 118 miles of passenger rail; San Antonio north to Georgetown. In addition, to make that possible an Urban Freight Bypass rail is necessary which would include 30 plus through freight trains per day rerouted, 80 plus miles of new freight rail line from Seguin to Taylor and 40 plus miles of improved freight rail line from San Antonio to Seguin. The City of Austin is the third most congested highway in regards to freight movement.

The Project Connect Partnership on the rail side consists of MetroRail, LSTAR, COA Urban Rail. On the bus side the partners are also Cap Metro – MetroRapid and Express Lanes. The project connect was formed to answer three questions, they are simple questions but have complex answers. What does the system look like and how does it operate? How do we organize as a region and how do we pay for the system? The regional status is the corridor studies system, local community funding discussions and the regional system owners funding ILAs. The vision map consists of a single system of 25 centers & ABIA, 4 counties/13 cities of Bastrop: Elgin; Hays: Buda, Kyle, San Marcos; Travis: Austin, Manor, Pflugerville; and Williamson: Cedar Park, Georgetown, Hutto, Leander, Round Rock and Taylor.

As of now LSTAR is looking at 7 possible rail locations within the City of Austin. Including a location at Parmer Lane close to the new Apple site of which they have stressed a mass support of the transit. This would expand mobility within the city as well as help with the congestion around the city.

The Central Texas Rail Vision is made up of several pieces to include: Urban Rail, serves region's core destination center (inside Austin's ring of congestion), key to final destination rail service and meets build from core outward requirement. The Regional Rail System, link riders to regional centers (origination and destination), must work as a single system, must be competitive with automobile, must meet affordability test (pay to play, fair share and pay as you grow-growth funded). The Travel Certainty adds transportation capacity, predictable & affordable mobility option, congestion proof and protects region's economic advantage. The Permanent Investment, anchors regional centers investments (including central city), adds diversity to urban development, builds high value tax base, adds lifestyle options (attracts creative class employees).

Mr. Joe Lessard, Knudson, discussed the local funding sources of what is available now CapMetro dedicated sales tax, property tax value capture, on-street parking, GO-Sources short term, In-kind O&M, local station contribution, passenger fares, freight usage fee, sales tax increment and miscellaneous such as advertising, park-n-ride fees and interest income. Other funding sources are private partnerships, federal/ state government authorization, voter authorization and legislature authorization.

Mayor Pro Tem Cole, asked if the client counties had agreed to provide funding?

Mr. Lessard, stated no. These are the client counties who the project connect plans to request funding from.

Ms. Beverly Dunkerley, stated we have different ask of different local entities. The City of Austin has asked to capture the 50% value. The other smaller

cities were asking for some sales tax participation, maybe even maintenance of the station. Their value capture is not enough to cover their cost.

Mr. Lessard, stated the LSTAR capital cost is that LSRD retains the obligation to secure capital funding and the goal is to secure the capital funding within six years. On the O&M side, O&M is one key to securing capital funding, the draft LSRD business plan splits the costs by thirds, the smaller cities, Austin metro service and San Antonio metro service.

The LSTAR Cost-Benefit consists of the local participation with Austin value capture funding, growth in property tax and in-kind service and station upgrades. Capital Metro sales tax, other cities value capture funding, growth in property tax, growth in sales tax, station area parking revenue and in-kind service and station upgrades. Private property MMD or PID participation and added station location. The LSTAR benefits are location jurisdictions congestion proof transportation mode, regional project connect partnership, value growth from LSRD investment and economic sustainability, Alt. to sprawl development pattern, union pacific railroad participation, remove through freight trains from urban cores and capital investment.

During this process there are a number of questions that must be addressed in order for the community to understand this process. Why focus local funding on O&M level of support? O&M funding required to secure capital funding, is affordable for local funding – Capital is responsibility of LSRD, O&M is traditional responsibility of local jurisdictions and aligns with growth and service demand. What are the funding options? The funding alternatives are general fund annual appropriation – tax rate impact and too complex to approach. What are the funding options? The General fund annual appropriation, transit authority, new funding source, special districts and value capture. What use a value capture mechanism for O&M? Source authorized by Texas for rail, value capture allows growth to pay for itself, driven by LSRD capital investment – not guaranteed by local debt, regional partnership needs simple & predictable source and other options are not available or appropriate. Is value capture appropriate from public policy point of view? Rail is unique infrastructure investment needs innovative funding approach, traditionally used to fund private or public capital investment, infrastructure usually as little or no annual O&M, O&M usually dedicated or private sources or general fund and replacement reconstruction bond funded.

Mr. Joe Lessard explained the investment issues of funding, regional service needs regional approach to funding; support from communities that benefit or pay to play, each community contributes fair share/equal effort, growth pays for the service or pay as you grow. Early local participation will ease local participant's transition to cover costs, cost sharing eases burden on any single local participant and late joining or opting out community impacts. Which include extensions complete against other system investments, private

development decisions impacted, interim developments may lock in non-transit development, limited revenue growth and lower affordability, economic development may go to other locations, community makes needed capital investments and or catch up payments.

Ms. Beverly Dunkerley, stated that any funds that are collected prior to the rail service will be in a special account and those funds will not be used without the approval of the City of Austin and after six years any that haven't been used will be sent back on an annual basis to the city.

Mr. Joe Black discussed the next steps of local funding for the LSTAR line is gateway to Federal, State and private partner capital funding. Lone Star Rail District is requesting begin development of value capture funding mechanisms for adoption by December 1st and capital market research update economic impact studies, including downtown restudy.

Mayor Pro Tem Cole, stated that one of the things that make Lone Star real to this community is the relationship with UP. Can you provide an update?

Mr. Black, stated yes. The memorandum of understanding that they signed with them in 2010 was a significant document which committed both parties to jointly study the by past line and the current. As well as lay out those deal points as to what happens.

Mayor Pro Tem Cole, asked if they had made a comment to move their line?

Mr. Black, stated they have not committed until they find the bypass line acceptable.

Mr. Lessard, stated they have also identified this project as one of their top three priorities in the country in terms of capital development.

Council Member Morrison, stated she had several questions but we do not have time. She has asked staff to help figure out a way to submit questions to the presenters and then provide the questions and answers to the full Council, which may be a question for our legal staff.

Council Member Morrison, also stated the committee had a good presentation from our legal staff about TIF and she submitted several questions to them because again we did not have time and they will be answering them and providing the responses to full Council. She also stated she is very supportive.

ADJOURNMENT

Mayor Pro Tem Cole adjourned the meeting with no objection at 3:59 p.m.

