

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

The Bismarck Renaissance Zone Authority met on March 10, 2010 in the 1st Floor Conference Room in the City-County Office Building at 221 North 5th Street.

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

Technical Advisor Jeff Ubl was present.

Staff members present were Jason Tomanek, Kimberley Gaffrey, Carl Hokenstad, Charlie Whitman and Brenda Johnson.

Guests present were LeAnn Eckroth (Bismarck Tribune), Brenda Smith – 2043 South Grandview Lane, Jim Christianson – PO Box 1097, Michael Lindblom – 116 North 5th Street, Josh Askvig – 428 West Broadway, Dawn Kopp and Kate Herzog (Downtowners).

CALL TO ORDER

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

MINUTES

The minutes of the February 10, 2010 meetings were distributed with the agenda packet.

MOTION: A motion was made by Mr. Keiser and seconded by Ms. Vondrachek to approve the minutes of the February 10, 2010 meeting as corrected. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Magstadt, Vondrachek and Walth voting in favor.

RENAISSANCE ZONE PROGRAM SUGGESTED POLICY CHANGES

Mr. Tomanek said that at the February 10, 2010 meeting, the Renaissance Zone Authority continued the discussion regarding the suggested policy changes. Mr. Tomanek stated that the suggested policy change in question reads “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. Keiser said one of the reasons the discussion was carried over was to allow the Renaissance Zone Authority members the opportunity to conduct further research. Mr. Keiser went on to say he met with the two new people that will be taking over the Renaissance Zone for the North Dakota Department of Commerce, Division of Community Services and the State Tax Commissioner, the Assistant State Tax Commissioner, their legal counsel, other state attorneys, Dave Weiler (House Tax Committee) to discuss this issue and will continue to research it. Mr. Keiser stated a question has been raised as to the constitutionality of the current law and it is very likely there will be a filing challenging the legislation with the Attorney General's office for an opinion. Mr. Keiser concluded by saying the state does have the right to impose income tax, but does the state have the right to delegate it to a non-elected authority.

Mr. Whitman said the question that was raised is whether or not the Renaissance Zone Authority can grant any income tax exemption, it does not matter if it is owner occupied or not, but that question is at least partially answered by the state and does not come in effect when the Renaissance Zone Authority recommends it. It only comes into effect when the state approves it. Mr. Whitman stated that the Renaissance Zone Authority does not have the authority to grant an income tax exemption, the state grants the approval.

Mr. Grossman stated that if the State, the Tax Department and the Department of Commerce do not think the current policy is appropriate then they ought to tell the City of Bismarck, but until there is some legal determination on the policy, he is going to support it as is. Mr. Grossman went on to say that that after he has reviewed all the various arguments, he is going to support the program without the changes until the legislature tells the City of Bismarck otherwise. Mr. Grossman concluded by saying he does not want to see Bismarck developers that want to improve and enhance the downtown, be denied the ability that surrounding communities allow.

Mr. Tomanek said that over the last month he has spoken with attorneys and accountants to get answers to questions regarding the different options of structuring businesses. Mr. Tomanek continued by saying that business owners are being instructed to own the building under one entity as the operating business and operate a business as a different entity because of financial, liability and legal reasons. Mr. Tomanek went on to say that he was told by an employee of the Dakota Certified Development Corporation, a Division of the Bank of North Dakota, the new trend is for business owners to structure their small businesses this way and the business owners are being told this by their attorneys, accountants and banks.

Mr. Walth commented that as long as the State allows the state income tax exemption, then so should the City of Bismarck, however he does have a problem with the SRSSM Partnership project and the way the entities and actual office space was structured.

Mr. Keiser added that accountants and attorneys have a fiduciary responsibility to tell business owners to structure their businesses that way in the Renaissance Zone and if they did not, they would become liable themselves because of the tax advantages. Mr. Walth said he thinks the reason business owners are being told this, is because of liability reasons. Mr. Ubl agreed with Mr. Walth and stated that the reason business owners structure their companies this way is for liability reasons.

It was the general consensus of the Renaissance Zone Authority to leave the discussed policy as is and to take no action that would modify the current Development Plan for Bismarck Renaissance Zone .

RENAISSANCE ZONE STATE GUIDLINE CHANGES

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. The changes include:

1. Public Utility Infrastructure
2. Three Block Island
3. Leasehold Improvements
4. Property Tax Exemptions
5. Public Utility Infrastructure Tax Credits
6. Completed Blocks
7. Extension of the Renaissance Zone
8. Renaissance Zone Fund Organizations
9. Recordkeeping for Annual Monitoring and Reporting

After a brief discussion it was the general consensus of the Renaissance Zone Authority that staff will prepare recommendations to be reviewed at the April meeting for each change.

MOTION: A motion was made by Mr. Keiser and seconded by Mr. Magstadt to recommend approval to adopt all the proposed changes with staff recommendations except No. 3. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Magstadt, Vondrachek and Walth voting in favor.

MOTION: A motion was made by Mr. Walth and seconded by Mr. Keiser to review investment amount minimums for lease, rehabilitation and new construction projects. The motion passed unanimously with members Blackstead, Grossman, Huber, Keiser, Magstadt, Vondrachek and Walth voting in favor.

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 4:54 p.m.

Respectfully Submitted,

Kimberley Gaffrey
Recording Secretary

APPROVED:

David Blackstead
Chair