



Economic Development Retail Sales Tax Board

6801 Delmar Boulevard · University City, Missouri 63130 · 314-505-8500 · Fax: 314-862-3168

AGENDA

ECONOMIC DEVELOPMENT RETAIL SALES TAX BOARD

City Council Chambers-5th Floor City Hall

6801 Delmar Blvd., University City, MO 63130

6:00 P.M.; Tuesday, July 23, 2019

1. Roll Call
2. Approval of July 9, 2019 Minutes
3. Old Business
4. New Business
 - a. Consideration of Updated Bylaws
 - b. Review of FY 2019 Funded Projects
 - c. Review and Discussion of Proposals Received for Preparation of an Economic Development Strategic Plan
5. Public Comments – (Limited to 3 minutes for individual's comments, 5 minutes for representatives of groups or organizations.)
6. Future Meetings: None Schedule at this Time
7. Adjournment

Economic Development Retail Sales Tax Board
Minutes
July 9, 2019
6:00 p.m.

The Economic Development Retail Sales Tax Board (EDRSTB) held meeting at University City City Hall, 5th Floor, located at 6801 Delmar Boulevard, University City, Missouri on July 9, 2019. The meeting commenced at 6:05 pm.

Voting Members Present

Traci Moore
Kathleen Sorkin
Robyn Williams
Byron Price (Arrived at 6:15)
Matthew Erker
George Lenard

Voting Members Absent

Brendan O'Brien
Matt Bellows (new member)
Robert Kuhlman

Council Liaison

Mayor Terry Crow

Staff Present

Gregory Rose, City Manager
John Mulligan, City Attorney
Libbey Tucker, Director of Economic Development
Adam Brown, Planner

Approval of Minutes

Ms. Moore moved to approve minutes from June 18, 2019. Mr. Erker seconded. The minutes were approved unanimously.

Ms. Sorkin said she would like to move the Public Comments section earlier in the meeting, before discussion on the applications. There were no objections.

Old Business

Ms. Tucker presented the current financials of the EDRST funds. The funds available to the board for FY 20 are \$367,018, with funds in reserve totaling \$1,195,474. Mr. Rose asked Ms. Tucker to provide a list at the next meeting of projects that have been funded and where they stand financially. Mr. Lenard clarified that the fund balance would increase with any unused funding such as the 20% that must be spent on infrastructure.

There was discussion about whether applicants could make changes to applications at this stage of the process. Mr. Lenard moved to vote on applications as submitted. Mr. Erker seconded. The motion carried unanimously.

Public Comments

Ms. Angie Sadl spoke representing Classic Coin Laundry, 7200 Balson Ave. She spoke in support of the façade improvement program, stating that her father had invested about \$70,000 in upgrades to his business in the last five years. She was hoping to get Wash U students involved in design elements to further upgrade the exterior of the building. Mr. Rose stated that Ms. Tucker could provide information on the Façade Improvement Program if it were approved by Council.

Old Business (continued)

The board began discussion on all projects. Ms. Sorkin explained she would entertain motions to approve projects, and if no motion were entertained, a project would not be approved. There was discussion about the process of funding applications for less than they requested. Mr. Rose suggested that applications could be voted on to move to a second round if they were projects worthy of funding, regardless of funding amounts. For clarification, Ms. Sorkin said there could be a second meeting on this round of applications, and the board could eliminate applications that would not be moved forward. Mr. Rose stated that the City was removing the application for tree wells to be revisited once U City in Bloom had been consulted with to determine what trees should be used in the Loop. The Board then began going through the applications.

-iNeighborhoods - Smart Cities/STEAM: Ms. Sorkin felt there was not enough information in the proposal, which was from a for-profit entity, to determine if this was an appropriate cost. She felt it was beyond the expertise of board and staff to determine this. She also noted the Loop Business District had concerns about the project. Mr. Erker felt that the application should be given consideration due to the potential transformative nature of the project. Ms. Sorkin also noted that the upcoming Economic Development Strategic Plan might offer guidance as to whether this strategy was appropriate, then perhaps proposals could be reviewed. Mr. Lenard suggested that the proposal be given to the consultant performing the ED Strategic Plan for consideration. Mr. Lenard made a motion to deny the application without prejudice to future applications, and that the City notifying the consultant hired for the ED Strategic Plan of the proposal. Ms. Moore seconded. The motion carried with Mr. Erker as the only opposing vote.

-LED Craft-Loop Lighting: Ms. Sorkin noted that a lighting study was to be conducted in the Loop which might inform what kinds of lighting would be appropriate. Ms. Moore made a motion to deny the application without prejudice and with the City keeping the application for consideration after the lighting study. Mr. Lenard seconded. The motion passed unanimously.

-Loop Special Business District: Mr. Rose explained that the City is in the process of reconciling the Loop's accounts to find out exactly how much of the prior award has been used, and stated that the board may defer all the Loop proposals for a future round to be determined once the City has reconciled those accounts. Mayor Crow stated that the Loop

Special Business District was also considering which applications were the highest priority, and that they may sort some of this out on their own. Ms. Moore moved that all requests by the LSBDD be deferred to give the City time to reconcile accounts. Mr. Lenard seconded. The motion passed with Ms. Williams the only opposing vote.

-U City Farmer's Market: There was discussion about supporting the market and the best ways to promote the market. Mr. Price moved to approve the Market's application. Ms. Moore seconded. The motion carried with Ms. Williams the only opposing vote.

-St. Louis Artworks-Mural Project at Barbara Jordan Elementary: Mr. Lenard abstained from the discussion and vote because of his affiliation with the School Board. Ms. Moore moved to approve the application. Mr. Price seconded. The motion carried with Ms. Williams the only opposing vote.

-U City School District - EMT Training Program: Mr. Price asked if the proposal was a collaboration between the School Board and the City. Mr. Rose said it was, and clarified that the goal was to create career pathways for U City students to living wage jobs, either in U City or elsewhere. Ms. Moore moved to approve the application, and Mr. Price seconded. The motion carried with Mr. Lenard abstaining and Mr. Erker the only opposing vote.

U City School District - U Can Center: Mayor Crow said that Council would have a hard time funding the purchase of a building. Ms. Sorokin said that based on her experience in construction, undertaking a major renovation such as the one proposed could be costly and that without knowing if the program would succeed, this could be a risky investment for the City. Ms. Moore motioned to deny the application. Mr. Erker seconded. The motion carried with Mr. Lenard abstaining.

-U City in Bloom: Mr. Price moved to approve, Ms. Moore seconded, the motion carried with Mr. Lenard the only opposing vote.

-Urban Sprouts Child Development Center: There was discussion again about funding a major renovation, and although board members support the program, they could not fund this project, as requested. Mr. Lenard moved to deny the application without prejudice for future applications. Mr. Price seconded the motion. The motion carried unanimously.

-Yan Chen Restaurant: Ms. Moore moved to deny this application. Mr. Lenard seconded. The motion carried unanimously.

-City of University City Façade Improvement Program: Mr. Rose clarified that the request would be for one year of funding at \$150,000. There was discussion about supporting this program due to its leveraging of private investment and visibility. Ms. Moore moved to approve the application. Mr. Lenard seconded the motion. Following a question about allocations to certain areas of the City, and Mr. Rose explained that Council members could give input as to where the money was spent, but he was hesitant to set precise limits. The motion was approved unanimously.

-City of University City-Delmar Street Trees: As per earlier discussion, this application was withdrawn by the City Manager.

New Business

Ms. Moore asked for a list from staff with the remaining projects from FY 2019.

Ms. Tucker reviewed the approved projects:

- Farmers market for \$28,500
- St. Louis Artworks for \$11,100
- U City School District, EMT Training for \$68,300
- U City in Bloom for \$50,573
- U City Façade Improvement Program for \$150,000

The total of these projects is \$308,473.

The Board discussed whether another meeting would be needed for this round of applications, and it was decided that only if the Loop finances were reconciled before the August round of applications would another meeting be needed. Those projects approved at this meeting would be brought before City Council at their August 12 meeting.

Mr. Rose discussed the status of ex-officio members of the EDRST Board. There are currently representatives from the Loop Business District and the Olive Boulevard Corridor stated in the bylaws. However, he is having the City Attorney look into whether having these members is in keeping with the state statute which governs the Board. He anticipates that these members will no longer be a part of the board, and will update the board once he has an opinion from Mr. Mulligan.

The next meeting is set for July 23 at 6 pm in City Council Chambers, and will be a discussion of the proposals received for conducting an Economic Development Strategic Plan. Ms. Tucker explained that the Board would receive copies of all the submittals for review prior to the meeting.

Ms. Moore motioned to adjourn, Mr. Lenard seconded. Meeting was adjourned at 7:35pm

Prepared by Adam Brown, Planner

Libbey Tucker

From: jfmulliganjr@aol.com
Sent: Wednesday, July 17, 2019 5:00 PM
To: Gregory Rose
Cc: John F Mulligan; Libbey Tucker
Subject: EDRST By-Laws
Attachments: BY-LAWS OF THE ECONOMIC DEVELOPMENT RETAIL SALES TAX BOARD - redline version.docx; BY-LAWS OF THE ECONOMIC DEVELOPMENT RETAIL SALES TAX BOARD - clean version.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Gregory,

Municipal Code Section 120.480 established the Economic Development Retail Sales Tax Board (EDRST Board). It "shall consist of nine members." *Id.* Two members shall be appointed by the school district, two shall be appointed by the St. Louis County Council, and five shall be appointed by the Mayor with the consent of the majority of the City Council. Code Section 120.490.

Code Sections 120.480 and 120.490 comply with Section 67.1305.13 RSMo, which requires either a five-member or nine-member EDRST Board. They also comply with the City Charter in that Section 20 authorizes the City Council to establish boards and commissions and Section 22 provides that boards and commissions established by the City Council "shall have such powers and perform such duties as are prescribed by law or by this Charter; and if not prescribed, then as may be prescribed by ordinance."

The EDRST Board "may elect from its members a Chairperson, a Vice Chairperson, and a Secretary." Code Section 120.500. Further, the EDRST Board "may adopt such rules of procedures as it deems necessary to effectuate the provisions of the Chapter [120]."

The EDRST Board has adopted By-Laws, dated November 21, 2013, including Article II (Membership). Article II states that Ordinance No. 6678 established a five-member board. Ordinance No. 6678 (1/8/2007), though, was amended by Ordinance No. 7005 (1/11/2016), which established a nine-member board, so Article II is outdated in that respect.

Article II also provides that "[a] representative from the Loop Special Business District and a representative from the Olive Business Association shall be ex-officio members and shall have no vote upon matters coming before the Board." In my opinion, this is not a rule of procedure within the meaning of Code Section 120.500. It increases the number of members by two. Code Chapter 120, Article X (Economic Development Retail Sales Tax Board) and Section 67.1305 RSMo (Retail sales tax...board to be established) do not authorize an eleven-member board. (By way of comparison, in Chapter 120, Article I, Commissions, Authorities, Board and Committees, the City Council has authorized ex-officio or non-voting members of certain boards or commissions; the EDRST Board is not among them.)

Members of boards and commissions provide unclassified administrative service. Charter Section 54. The City Manager is the chief administrative officer and is responsible to the City Council for the proper administration of all of the City's affairs, and has the power and is required to enforce all laws and ordinances. Charter Section 19. Therefore, in my opinion it would be appropriate for you to take action necessary to enforce Code Chapter 120, Article X, with respect to the number of EDRST Board members.

Attached are potential changes to the By-Laws that increase the number of members from five to nine and increase the number for a quorum from three to five. City Council and staff liaisons are retained, although the Community Development Director is no longer required to be the staff liaison, as the City Manager or his or her designee may serve as the staff liaison, consistent with the City Manager's Charter authority over the administrative service. While the substantive changes are limited to Article II (Membership), Sections 1 and 2, and Article V (Meetings), Section 1, there are various minor changes in other sections, mainly stylistic. Redlined and clean versions are attached.

Article VII (Amendment) of the By-Laws provides that the By-Laws may be amended at any regular or special meeting by a two-thirds vote of a quorum. Article V (Meetings), Section 1, states that a quorum is three members, but Section 2 states that a quorum for the transaction of business shall consist of a majority of the appointed members. In my opinion, the EDRST Board may interpret its By-Laws so as to require five members for a quorum. The supermajority requirement arguably is a rule of procedure, in which case a two-thirds vote is required to amend the By-Laws. See *State ex rel. Collector of Winchester v. Jamison*, 357 S.W.3d 589, 595 (Mo. 2012) ("Statutes dealing merely 'with the means by which the parties may assert their underlying rights,' but not otherwise defining 'the nature or the extent of the underlying rights,'

are procedural."). The City Council, of course, may amend Code Section 120.500 with respect to the EDRST Board's authority to require a supermajority vote to approve all business.

Please let me know if I may be of further assistance.

John

John F. Mulligan, Jr.
Attorney at Law
101 South Hanley, Suite 1280
Clayton, MO 63105
(314) 725-1135

From: grose@ucitymo.org
To: jfmulliganjr@aol.com
Cc: CityCouncil@ucitymo.org, lreese@ucitymo.org, grose@ucitymo.org
Sent: 6/26/2019 10:12:05 AM Central Standard Time
Subject: EDRST Board Bylaws

John,

In an effort to ensure that our codes relative to the EDRST Board are properly enforced, I would ask that you provide me with a legal opinion on whether the EDRST Board has the authority to create ex-officio members within their bylaws.

In the attached document you will note that in November 2013, the EDRST Board adopted by-laws that establishes ex-officio members representing the LSB and the Olive Business Association.

State statutes nor City codes provide for an ex-officio member.

Thanks,

Gregory



BY-LAWS OF
THE ECONOMIC DEVELOPMENT RETAIL SALES TAX BOARD OF
UNIVERSITY
CITY, MISSOURI

ARTICLE I
AUTHORITY AND OBJECTIVES

Section 1. The general purpose of the Economic Development Retail Sales Tax ~~(EDRST)~~ Board ~~(Board)~~ is to serve as an advisory committee to the Mayor, City Council and City ~~s~~Staff on matters relating to the Local Option Economic Development Retail Sales Tax, and to perform such other duties as may be assigned by the City Council.

The ~~EDRST~~ Board will assist in facilitating the implementation of ~~e~~Economic ~~d~~Development ~~related~~ goals set forth in the Comprehensive Plan (including all updates), the Olive Boulevard Design Guidelines, and other planning documents and initiatives approved by the City Council. The Board pursues these goals by making recommendations to the Council for the use of the Economic Development Retail Sales Tax. The City's strategic planning effort includes, but is not limited to, plans for a vibrant, economically healthy community with a healthy population and livable neighborhoods. The plans are also intended to ensure that the City is a center for business and tourism, and a destination for the appreciation of leisure, culture and history.

Section 2. The ~~EDRST~~ Board shall accomplish its objectives by following the ~~statutory~~ guidelines for the use of funds set forth in ~~University City Municipal Code Chapter 120, Article X, and Section 67.1305 RSMo. Article VIII of the Charter of the City of University City, Missouri and Chapter 2.41 Administration and Personnel of the Municipal Code of the City of University City, 1950, as Amended.~~ These ~~laws~~documents serve as the basic authority for the establishment and organization of the ~~Board.~~Economic Development Retail Sales Tax Board of University City, Missouri.

ARTICLE II
MEMBERSHIP

Section 1: ~~As established in Ordinance No. 6678, the membership of the Economic Development Retail Sales Tax Board shall consist of:~~

- ~~• Three (3) citizen members, appointed by the City Council for terms of four (4) years each, shall be voting members of the Board.~~
- ~~• One member appointed by the School Districts affected and one member appointed by the St. Louis County Council; both shall be voting members of the Board.~~

~~One council liaison shall be designated by the Mayor, and the Director of Community Development or his/her designee(s) shall act as staff liaison to the Board. A representative from the Loop Special Business District and a representative from the Olive Business Association shall be ex-officio members and shall have no vote upon matters coming before the Board.~~

~~Section 2: Any member of the EDRST Board, including ex-officio members, who has a conflict of interest in a matter before the EDRST Board shall not vote thereon, and shall not participate during that portion of meetings or hearings at which said matter is under consideration.~~

Section 1. University City Municipal Code Sections 120.480 and 120.490 provide that the Board shall consist of nine members who shall be appointed as follows:

1. Two (2) members shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized under Section 67.1305 RSMo., (the “tax”). Such member shall be appointed in any manner agreed upon by the affected districts;
2. Five (5) members shall be appointed by the Mayor with the consent of the majority of the City Council; and
3. Two (2) members shall be appointed by the St. Louis County Council.

The City Council may designate a Councilmember to serve as a Council liaison to the Board, and the City Manager or his or her designee may serve as a staff liaison to the Board.

~~Section 2. Any member of the Board who has a conflict of interest in a matter before the Board shall not vote thereon, and shall not participate during that portion of the meeting or hearing at which said matter is under consideration.~~

Section 3. Any member of the Board may resign at any time with written notification. ~~The EDRST~~ Board reserves the right to recommend replacement of a member as a result of three unexcused consecutive absences or unexcused absence from four meetings within any one year.

ARTICLE III OFFICERS AND THEIR DUTIES

Section 1. The ~~EDRST~~ Board shall elect a Chairperson and a Vice-Chairperson from its membership and adopt by-laws and regulations to govern its proceedings. The ~~EDRST~~ Board may also elect a Secretary from its membership.

Section 2. The Chairperson shall oversee the affairs of the ~~EDRST~~ Board. The Chairperson shall preside ~~overat~~ all meetings of the ~~EDRST~~ Board and may appoint such committees and sub-committees of such size as may be necessary in order to carry ~~outther~~ the purposes of the ~~EDRST~~ Board. The Chairperson shall be an ~~ex-officio~~ member of all committees and sub-committees.

Section 3. The Vice-Chairperson shall perform such duties as may be delegated by the Chairperson. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform all duties and exercise all powers of the Chairperson.

Section 4. The Secretary shall record minutes of the meetings, or may delegate this task to a City staff member.

ARTICLE IV ELECTION OF OFFICERS

Section 1. The ~~e~~Election of the Chairperson and Vice-Chairperson from the Board ~~m~~Membership shall take place once a year at the first meeting of the year.

Section 2. A candidate receiving a majority vote of the voting members of the ~~EDRST~~ Board shall be declared elected and shall serve until the next scheduled election.

Section 3. If a Secretary is to be elected from the ~~EDRST~~ Board membership, this election shall follow the procedures outlined in Sections 1 and 2 of Article IV.

ARTICLE V - MEETINGS

~~Section 1: The EDRST Board meetings shall be held on an ad hoc basis. Three (3) members of the EDRST Board shall constitute a quorum for the transaction of business.~~

Section 1. EDRST Board meetings shall be held on an ad hoc basis. Five (5) members of the Board shall constitute a quorum for the transaction of business.

~~Section 2. A t~~Two-thirds (2/3) affirmative vote of at least a quorum of the ~~Board voting members~~ may pass motions and adopt resolutions. ~~A quorum for transaction of business shall consist of a majority of the appointed members.~~ All voting members shall have equal voting rights and the vote of each member shall be counted as one vote.

Section 3. The agenda for regular meetings of the ~~EDRST~~ Board shall be structured, in general, as is indicated below, however, nothing in this section shall preclude additional agenda items ~~from being added~~:

Call to Order

1. Roll Call
2. Approval of Minutes
3. Old Business
4. New Business
5. Other Business
6. Reports
7. Adjournment

Section 4. In the absence of objections, the Chairperson, ~~or other member presiding over anyone else that is leading~~ the meeting, may vary the order of business at his/her discretion.

Section 5. Special meetings may be called by the Chairperson, ~~or by~~ any three (3) ~~voting~~ members, as long as no less than forty-eight (48) hours' notice has been given to each member of the Board.

Section 6. All provisions of the Missouri Sunshine Law shall apply and shall be observed.

Section 7. The public is welcome to attend all meetings of the ~~EDRST~~ Board.

ARTICLE VI
HEARINGS

Section 1. In addition to those required by law, the ~~Economic Development Retail Sales Tax~~ Board may at its discretion hold public hearings when it decides that such hearing will be in the public interest.

Section 2. Notice of such hearings shall be published in the manner prescribed by law or, in the absence of any legal provision, in the manner determined by the ~~EDRST~~ Board.

ARTICLE VII
AMENDMENT

These By-Laws may be amended at any regular meeting or special meeting by a two-thirds (2/3) vote of a quorum, upon presentation of the proposed changes to all ~~EDRST~~ Board members.

Adopted on: ~~July 23~~~~November 21~~, 201~~9~~~~3~~

~~Kathy Sorkin~~~~Barb Sydnor~~, Chairperson
Economic Development Retail Sales Tax Board

BY-LAWS OF
THE ECONOMIC DEVELOPMENT RETAIL SALES TAX BOARD OF
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Adopted on: July 23, 2019

Kathy Sorkin, Chairperson
Economic Development Retail Sales Tax Board