

Lockwood TEDD Advisory Board Minutes
Wednesday, July 17, 2019 – 2:30
Yellowstone Conference Room, 1st Floor – Granite Tower

Board Members Present: Woody Woods, Terry Seiffert, John Ostlund, Tim Miller, Frosty Erben, Kelly Wilson, Pam Ask, Nick Pancheau

Board Member Absent: Mike Ariztia, Vu Pham, Josh Starr

Staff and Guests: Dianne Lehm (BSED), Matt Corcoran (KLJ), Becky Bey (KLJ), John Staley (Lockwood Fire), Scott Walker (City/County Planning), Tracy Marsh (Weave), Chris Kukulski (Billings City Administrator), Kevin Gustainis (MT Peterbilt), Thom MacLean (BSED)

1. Welcome and Introductions

Woody Woods called the meeting to order at 2:30.

2. Approval of Agenda

Nick Pancheau moved to approve the agenda. Terry Seiffert seconded. Board voted to approve.

3. Approval of Minutes

Frosty Erben moved to approve the minutes of the June 19, 2019, meeting. Terry Seiffert seconded. Minutes approved.

4. Old Business

KLJ Update: Matt Corcoran and Becky Bey of KLJ Engineering provided an update on their current project for the TEDD. Matt has some maps/exhibits prepared that he will forward to BSED for distribution to the Board. They are currently developing cost estimates for the proposed projects: extension of utilities through Johnson Lane interchange to Coulson Road and the extension and improvements of North Frontage Road. Once the cost estimates are complete, they will analyze possible funding methods and sources. They will have this information by the next Advisory Board meeting.

Update on LWSD/City discussions: Discussions have been ongoing with the City to resolve the impasse related to extension of the sewer district boundary to include the Lockwood TEDD Study Area. Until recently, it has been the understanding of the Lockwood Advisory Board, Lockwood Water and Sewer District (LWSD), BSED, and the Lockwood Steering Committee that

the current agreement between LWSD and the City of Billings would be extended to include the Lockwood TEDD area (as is allowed under that contract, with the consent of the City) once the TEDD was established and recruitment to and development of that area began in earnest. When LWSD approached City Council on April 1 about beginning that extension process, the subject of annexation arose. The basic position on each of the parties is:

City of Billings: Will agree to the extension of the sewer district boundary to include the TEDD Study Area but require that any property that hooks into the sewer service sign a "Waiver of the Right to Protest Future Annexation" (Waiver) as a condition of hooking into and using that system. The City would agree forego annexation of those properties until after the sunset of the TEDD. If the TEDD bonds to develop the area infrastructure, that sunset date may be as late as 2056.

Lockwood TEDD: Feels that the sewer boundary should be extended as allowed under the contract without the annexation (waiver) condition. The contract has served both parties well, the City is compensated for their service without the need for and cost of maintaining the collection and transportation infrastructure associated with a sewer system, and LWSD has been paying for a large reserve capacity that will not need to be increased with this boundary extension.

Since the last Advisory Board meeting, BSED has arranged for several Lockwood TEDD property owners or representatives to meet with City Administrator Chris Kukulski. The property owners were able to provide their perspective on the issue, and Mr. Kukulski was able to explain the City's position. The property owners are generally against the idea of a waiver of their right to protest annexation or annexation in general. For developed properties, it was a business decision to locate in the County versus the City. For all TEDD properties, annexation would be another business decision – will the service provided by the City be worth the additional expense and regulation? The City's position is that City services should not be extended to an area without annexation, unless there are significant reasons that does not make sense. In this case, because of the circumstances – the restriction imposed by TIF law as well as the TEDD's distance from current City limits – the City is willing to accept the Waivers instead of immediate annexation.

Kevin Gustainis of Montana Peterbilt asked if the City would consider no connection fees. Even if the City or the TEDD extended a sewer line to his property boundary, he would still face significant expenses in on-site infrastructure and tap fees. Chris Kukulski suggested items like that are negotiable.

Commissioner John Ostlund stated that industrial properties across Montana are generally in the counties, not cities, because of lower taxes and other costs. He cited the Exxon refinery as an example. It is profitable despite its small size relative to Exxon's other refineries because

Yellowstone County works hard to keep its taxes low. He also noted that there are less stringent regulations in the County and overregulation may make businesses uncompetitive and force them to move elsewhere. Mr. Kukulski responded that he believes the value of the service that the City brings to the table offsets the additional costs and regulations. He also noted that residents generally don't want to pay for the whole suite of services offered by a city government, but that is not how a city works. The Billings Bypass will be a catalyst for that area and, given the \$25 million local match on the project, the City of Billings would be remiss not to seek to recoup that investment in the future.

Nick Pancheau and Frosty Erben both voiced concerns they have heard from Lockwood residents regarding how possible annexation of TEDD properties would affect their taxes. Mr. Kukulski stated there would be no change until the TEDD sunsets as 1) tax increment will be retained by the TEDD until then and 2) the City would not annex before the sunset of the TEDD. Afterward, there would be little change to the County or School District revenue. The most affected entity would be the Lockwood Fire District. Commissioner Ostlund noted that the Lockwood Fire District has been supportive of the TEDD project and willing to forego receipt of tax increment from that area because of their expectation of a larger tax base and increased tax revenue in the future when the TEDD sunsets. Lockwood Fire Chief John Staley stated that if TEDD properties sign the Waiver, there is no incentive for his department to provide protection. If there will not be the promise of additional future tax revenue to recoup revenue lost to increment in the interim, he would advise his board to not include the TEDD in the fire district.

Matt Corcoran of KLJ noted that, though the City's proposed solution suggests the Waiver decision is up to the individual landowners, that may not be the case. State law says that if a sewer system is within 500 feet of a property, it will not permit a septic system and that landowner must hook into the sewer system for that service. This may force some to sign the Waiver if they want to develop their land even if a septic system would otherwise have served their needs. Matt also asked who would own the infrastructure after annexation. If the City takes ownership, there may be significant costs to upgrade due to different standards between the City and the County. Chris Kukulski stated that there is nothing saying one entity must own all the infrastructure of a city. Cooperative agreements could be made in the future with entities like LWSD and Lockwood Fire.

Frosty Erben stated that it feels like we are being held hostage and wondered if we would have gone forward with this project if we'd known this was going to be an issue, and if this is resolvable. Woody Woods stated it is a resolvable issue.

Kelly Wilson of Pacific Steel stated we don't want over-regulation. It can make a business uncompetitive. He suggested the City is trying to solve a future problem by creating a big current problem.

Nick Pancheau suggested the possibility of a 10-year recuperation period after the TEDD sunsets but before the City would annex in which entities like Lockwood Fire would be able to receive the additional tax revenue from development of the TEDD to compensate for the services they provide during the lifetime of the TEDD.

Pam Ask asked if the City was profiting from the current agreement with LWSD. Mr. Kukulski said there is no additional profit in the sewer agreement. It is payment for services rendered and adding a profit factor is not allowed. Pam suggested that LWSD has been and continues to pay for a large reserve capacity that it is still only using a small fraction of; that is advantageous to the City.

5. New Business

Annual Work Plan: At the last meeting, it was suggested that the Annual Work Plan, which currently is aligned with the calendar year, be revised to coincide with the County's Fiscal Year. A revised Annual Work Plan has been developed featuring new information since January 2019 and reflecting the most current increment and budget numbers available. The revised plan was distributed to the Board for their review. They will provide any comments or suggestions before we take the new plan to the Yellowstone County Board of County Commissioners for their approval.

6. Public Comment

None.

7. Adjourn

Meeting adjourned at 3:33.

Next Meeting: August 21, 2019 – 2:30 – 3:30 – Yellowstone Conference Room,
Granite Tower