

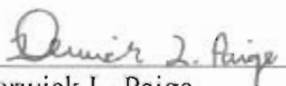


interoffice
MEMORANDUM

To: Mayor Allen Joines and Members of the City Council
From: Derwick L. Paige, Deputy City Manager
Date: November 13, 2007
Subject: Brookstown Development Project

Per the recommendation of the Committee of the Whole, item 3 relating to the developers' request to modify the condition regarding the parkland so that it may be in one or more parcels, and used as green space or a new City park has been removed.

I am available if you have any questions regarding this matter.


Derwick L. Paige

pc: Lee D. Garrity, City Manager

City Council – Action Request Form

Date: November 6, 2007

To: The City Manager

From: Derwick L. Paige, Deputy City Manager

Council Action Requested:

Approve Request for Revised Economic Development Assistance to Brookstown Development Partners, LLC, Sports Menagerie, LLC and Sports Menagerie Corporation.

Summary of Information:

Since the City Council's most recent approval of this item, the attorneys for both parties have been preparing the actual Incentives Agreement associated with the deal based upon the City Council's August 6, 2007 approval. During this process, several issues have arisen that need clarification. The attached resolution and Exhibit A (Project Description) include these clarifications.

- 1) Corporate entity- The corporate entity that will be contracting with the City is Sports Menagerie Corporation (SMC). This entity is the parent company for Sports Menagerie, LLC, and must be listed in the Council's approval and in the Incentives Agreement.
- 2) Catch-up payment retroactive to August 1, 2007- Under the initial approval, the City would make equal monthly payments totaling \$12,000,000 over a 12-month period. Since the Incentives Agreement has not been completed, no payments have been made even though qualifying expenses have been accrued. This adjustment would allow a one time catch-up payment of \$4.0 million to be made retroactive to August 1, 2007. Afterwards, monthly payments would be made as originally provided.
- 3) Parkland- The initial agreement required the developers to convey to the City 0.6 acre of land to use as a new City park. The developers request that this condition be changed such that the land, subject to site plan approval by the Council, may be in one or more parcels and used as green space or a new City park.
- 4) Option to purchase the stadium- Sports Menagerie Corporation would have the option to purchase the stadium at its fair market value from the City after its conveyance to the City.
- 5) Future stadium parking- This amendment requires Sports Menagerie Corporation to sell to the City, at fair market value, ample land to build parking decks and/or facilities or for surface parking at the time of transfer of title.

Committee Action:

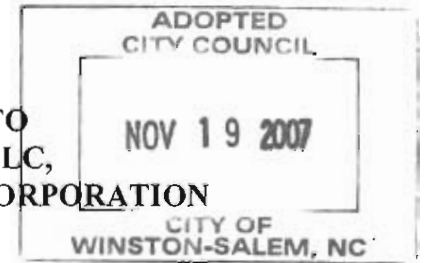
Committee	Committee of the Whole 11/12/07	Action	Approval
For	Unanimous	Against	

Remarks:

Committee of the Whole recommended approval with deletion of Item 3, Parkland.

D-27220

**RESOLUTION AUTHORIZING ASSISTANCE TO
BROOKSTOWN DEVELOPMENT PARTNERS, LLC,
SPORTS MENAGERIE, LLC AND SPORTS MENAGERIE CORPORATION**



WHEREAS, Brookstown Development Partners, LLC (BDP), Sports Menagerie, LLC (SM), and Sports Menagerie Corporation (SMC) are considering the construction of the Brookstown Project, an estimated \$189,000,000 mixed-use development including a 5,500 seat baseball stadium, which is also envisioned to include a multiplex movie theater, office, retail and residential space in Winston-Salem; and

WHEREAS, the City Council previously approved the City's participation in this economic development project to help offset the project costs including public infrastructure improvements, site preparation and stadium construction costs associated with the development; and

WHEREAS, while preparing the Incentives Agreement based upon the City Council's August 6, 2007 approval, several issues have arisen that need clarification; and

WHEREAS, none of these issues adversely impact the original agreement; and

WHEREAS, given the public benefit created by this project, the City of Winston-Salem is interested in assisting BDP, SM and SMC with their development of the Brookstown Project.

NOW, THEREFORE, BE IT RESOLVED, by the Winston-Salem City Council, after a duly advertised public hearing, that the Council finds that the Brookstown Project will stimulate the local economy, promote business, create new full-time jobs, increase the property tax base and revenues, and increase business prospects. Therefore, the Council approves, pursuant to G.S. 158-7.1(a), up to \$25,388,327 of financial assistance to BDP, SM and SMC under the revised terms and conditions outlined in Exhibit A attached hereto and incorporated herein by reference to assist with construction of the Brookstown Project.

EXHIBIT A

Information to be provided prior to the November 19, 2007 City Council meeting.

EXHIBIT A

PROJECT DESCRIPTION

Brookstown Baseball Stadium Project

Brookstown Baseball Stadium Project (hereinafter the "Project") is a public/private economic development project pursuant to N.C.G.S. §158.7.1 proposed by Brookstown Development Partners, LLC (hereinafter "BDP"), Sports Menagerie Corp. (hereinafter "SMC") and Sports Menagerie, LLC ("SM"), to involve the City of Winston-Salem (hereinafter, the "City") and Forsyth County (hereinafter, the "County"). Phase I of the Project covers approximately 7.2 acres and is located north of Business 40, west of Peters Creek Parkway, east of Park Circle and south of First Street in downtown Winston-Salem. Phase II of the Project covers approximately 32.5 acres and surrounds the Phase I parcel, being north of Business 40, west of Broad Street, south of Brookstown Avenue/Second Street and including properties to the west of Westdale Avenue. Attachment A shows the location of properties included in Phase I and Phase II. Phase I, which involves construction of a downtown baseball stadium that will be used by SM's minor league baseball team, will be developed as outlined in this Exhibit. Phase II, which is envisioned as a mixed-use commercial development project, is anticipated to be developed in the future, but no specific development commitments have been made by BDP with respect to Phase II and the economic development assistance and other obligations of the City and County with respect to Phase II that are described in this Exhibit would be conditioned upon BDP's satisfaction of the conditions described in this Exhibit related to the Phase II proposal. Based on current values, the estimated taxable value for the entire Project (assuming completion of all Phase I and Phase II development) would be \$189,000,000 and all development, except for a small park to be owned by the City as described below, is expected to be taxable property. All parcels involved in the Project are shown on Attachment A hereto. The current tax values of the properties included in the Project are shown on Attachment A hereto.

The parcels of property necessary for the Project are in various ownership, and it would be BDP's and SMC's responsibility to acquire all of said parcels. Parcels to be purchased from the City by BDP or SMC would be sold at their fair market values. Only Phase I is guaranteed pursuant to this Exhibit. All Phase II development activities are within the discretion of BDP and all obligations of the City and County with respect to Phase II are conditioned upon the performance by BDP or its assigns of specific commitments, as stated herein. BDP may assign its rights and obligations in the Project to one or more third parties for execution. All proposed improvements for the entire Project are conceptually shown on Attachment B hereto.

Phase I, Immediate and Guaranteed

Phase I would be completed by SMC within 28 months of the execution of the Project Agreement and consists of construction of a baseball stadium (5,500 seating capacity minimum) with a total capital investment of at least \$22.6 million. Additionally, Phase I will include the conveyance of at least 0.60 acres of land within the Project boundaries for a new City park.

To enable the development envisioned in the Project, BDP and SMC request the City to amend its definition of Central Business District (CBD) to include the Phase I property and all Phase II property being east of the existing Peters Creek Parkway as designated on Attachment A. This will enable the City to contract for development in the Project pursuant to the provisions of N.C.G.S. §160A-458.3.

The City would provide up to \$12.0 million in Phase I as an upfront economic development incentive to assist in the construction of the baseball stadium, including land acquisition, infrastructure and site work. Of this amount, (1) \$5.5 million would be financed by the City; (2) \$5.5 million would come from either the proceeds of the sale of Ernie Shore Field to Wake Forest University or, at the discretion of the City, other funds of the City that are made available as a result of the sale of Ernie Shore Field, and (3) \$1.0 million would come from the Economic Development Project Fund (via previously approved COPS and 2000 G.O. Bonds). The City funds would be available after the execution of the Project Agreement. The first payment would be \$5 million, representing payments for August, September, October, November and December 2007. The remaining 7 payments of \$1 million each will be made commencing January 1, 2008. SMC must obtain and maintain any grading, drainage or building permits required for each applicable stage of construction. Revenues to pay the City's debt service for the upfront incentives would come from the following sources: (a) new property taxes on the baseball stadium developed in Phase I and (b) fixed annual surcharges on baseball stadium tickets (100% guaranteed by SMC for 25 years as shown on Attachment C hereto). Additionally, a letter of credit in a form satisfactory to the City of Winston-Salem shall be provided by SMC as shown on Attachment D hereto. The City would not pay any additional incentives to SMC based on the property taxes derived from the Phase I development. It is anticipated that the County would pay to SMC or BDP annual incentive payments commencing on July 1 first following payment of property taxes on the Phase I baseball stadium improvements and such payments would be made annually thereafter for a term of up to 25 years. The County's annual payments in each year would not exceed 55% of the incremental property taxes resulting from the Phase I development and paid during the preceding year.

SMC would provide at least \$8.6 million for baseball stadium land acquisition, infrastructure site work and construction in Phase I. It is anticipated that SMC will secure its funds through a commercial bank loan from one or more banks with a 25-year loan amortization schedule following completion of construction. SMC would also provide evidence of a lending commitment for \$8.6 million prior to January 17, 2008 before the City would issue financing for the project.

The Millennium Fund has committed to provide additional grant funds towards Phase I development costs.

An additional \$4.0 million of federal or state funding for site improvements, roads and other infrastructure will be sought for Phase I. Of this amount, \$1,718,000 has previously been awarded to the City by the U.S. Department of Transportation under the SAFETEA-LU program. The City will match the \$1,718,000 grant with \$429,500 of City funds. The City will use its reasonable best efforts to obtain an additional \$2.0 million of federal or state funding. To the extent that this additional \$2.0 million is not obtained, the City would have no responsibility

to provide replacement funds. Further, if enlargement or cost overruns are encountered for the baseball stadium, funding for same shall be SMC's responsibility and obligation.

Commencing on the completion of the construction of the baseball stadium and following the close of the first baseball season (which is currently expected to be in 2009), and in each year thereafter for a term of 25 years, SMC will pay to the City the baseball ticket surcharges in the amounts shown on Attachment C. Payments will be made on or before October 1 in each year. SMC will guarantee the full amount of the payments shown on Attachment C without regard to actual ticket sales or any shortfall in the surcharges collected, and SMC shall be entitled to retain all revenue from ticket sales or surcharges in excess of the fixed amount to be paid to the City as shown on Attachment C.

SMC would agree to play substantially all minor league home games of its franchised club at the baseball stadium for the term of the City's financing of its upfront incentive payments. SMC would agree that should the team be relocated before the expiration of the City's financing term without being replaced by another minor or major league baseball team, SMC would be required to repay the City a portion of the \$12.0 million upfront incentive necessary to pay off the debt incurred by the City and remaining outstanding at the time of the relocation. Upon such payment, SMC would be released from its obligation to pay the baseball stadium ticket surcharges as shown on Attachment C and SMC would convey the stadium improvements and the underlying land to the City as described below.

Phase II, Conditional and Not Guaranteed

BDP and SMC would be unable to implement Phase II without the benefit of the economic development incentives set forth below. Phase II, if implemented, could support approximately 455,000 square feet of mixed-use commercial development, including commercial, office and residential properties. As currently envisioned, Phase II would involve one or more office buildings, a multi-screen movie theater complex and other development properties. Funding for all Phase II construction activities would be provided by BDP or other third parties (BDP's assigns under the Project), including commercial lending sources.

If implemented, the development activities in Phase II would support (1) annual incentive payments from the City and County as described below, and (2) the purchase of parking facilities by the City as described below.

General Development Activities

As BDP completes construction of properties in Phase II, lists such properties for taxes, and pays property taxes thereupon, it would be eligible for annual incentive payments from the City in the maximum amount of \$8,012,252 as shown on the Attachment E. The first incentive payments from the City would be made on July 1 first following the payment of property taxes on Phase I development properties and would be made annually thereafter for a term to end simultaneously with the Phase II incentives as described below. The City and the County would make annual incentive payments on July 1 first following the payment of property taxes on Phase II development properties and upon an initial application by BDP and SMC for such payments. Such payments would be made annually thereafter for a term of up to 25 years.

The City's annual grants would be equal to (and would not exceed) 100% of the property taxes paid to the City on the Phase II development properties during the previous year, and the City's cumulative annual grants would never exceed 100% of the cumulative property taxes created by Phase II of the Project and would be capped at the aggregate amount of \$8,012,252 over the 25-year period. Annual incentive payments from the County will not exceed 55% of the amount of the incremental increase in annual property taxes paid on the proposed project in the prior fiscal year. BDP and SMC acknowledge that Phase II development must have a taxable value of at least \$65 million to cover all incentives on Attachment E assuming an \$8.6 million construction loan.

At the end of the 25-year incentive payment period, SMC would convey title to the baseball stadium to the City.

Parking Facilities

In addition to providing annual incentive grants in Phase II the City would commit to purchase up to 1,000 parking spaces in one or more parking facilities to be constructed as a part of Phase II at a cost not to exceed \$16.34 million or \$16,340 per parking space. All parking deck spaces purchased by the City must be self-funding. Self-funding may be demonstrated based on projected new property taxes from Phase II that are not otherwise allocated to Phase I incentives that are to be paid to SMC and other guaranteed financial commitments made by BDP or third parties at the time that the City enters into an agreement with BDP or such third parties for the purchase of these spaces. Phase II revenues to cover the City's full debt service could take the form, among other things, of (i) parking fees or other charges; (ii) surcharges imposed on tickets sold at any movie theatre developed as a part of Phase II; (iii) surcharges or other fees imposed upon developers, owners or tenants of properties developed as a part of Phase II and based on square footage of properties or other agreed measures; or (iv) other similar financial commitments. However, the City's specific participation would be better defined and considered by Council, at the appropriate time, based upon the Project occurring as described herein.

In the event that Phase II of the Project is not developed by BDP, upon the transfer of title to the Stadium and underlying property to the City, either upon completion of the 25-year incentive term or upon the relocation of the franchised team by SM, the City will have the option, exercisable within one (1) year of such transfer, to purchase at fair market value those existing parking facilities or properties in the Phase II development area that are utilized for Stadium parking.

Option to Purchase

Upon the transfer of the Stadium and the underlying property to the City upon the completion of the 25-year incentive term, or upon the relocation of the franchised club, SMC will have the option to purchase the stadium and underlying property back from the City at its fair market value. Such option must be exercised within one (1) year of the date of transfer of the Stadium and underlying property to the City.

Assignability

The obligations of BDP and SMC under the Incentives Agreement to be entered into by the parties, including the grant funds and obligations which are subject to such Agreement, may be assigned by BDP and SMC to one or more affiliated corporations or entities controlled by the current owners of BDP and SMC; provided, however, any such assignment by SMC will not relieve SMC of any liabilities or obligations under the Incentives Agreement.

EXHIBIT B

CITY OWNED REAL PROPERTY TO BE
ACQUIRED BY BDP
OR ITS ASSIGNS

<u>BLOCK</u>	<u>LOTS</u>
0637	001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 009P, 013W, 110A, 111, 110B
0639	002, 003, 004, 005, 007, 115, 116A, 116B
0659	109
0098	003A, 101A, 201, 003B, 101C and 202A
0103	106, 107

Total Purchase Price: \$1,192,872

EXHIBIT C



Brookstown Development District

Brookstown Development District



URBAN DESIGN ASSOCIATES

24 MARCH 2006

EXHIBIT D

**SURCHARGE SCHEDULE
(Baseball Tickets)**

<u>Year</u>	<u>Baseball ticket Surcharge</u>
1	
2	
3	\$350,000
4	350,000
5	350,000
6	350,000
7	350,000
8	350,000
9	350,000
10	437,500
11	437,500
12	437,500
13	437,500
14	437,500
15	437,500
16	437,500
17	437,500
18	437,500
19	437,500
20	437,500
21	437,500
22	437,500
23	437,500
24	437,500
25	437,500
26	437,500
27	437,500

Total \$10,325,000.00

350,000 tickets

\$1.00 years 3-9

\$1.25 years 10-27

Note: If the number of tickets exceeds projections, SM would retain any additional surcharges beyond the minimal amount shown in this table.

EXHIBIT E

LETTER OF CREDIT REQUIREMENTS

A letter of credit in a form satisfactory to the City of Winston-Salem will be provided by Sports Menagerie Corp. as follows:

1. The letter of credit will be in place for the amount of \$350,000 for the period from the issuance of the CITY Debt on the stadium to the second year of the financing term in which the ticket surcharge payment is due to the CITY.
2. Thereafter, a letter of credit will be provided each year in an amount equal to \$350,000 minus the amount of ticket surcharge revenue collected from actual ticket sales in the previous year or \$210,000, whichever is greater.
3. The letter of credit will remain in effect until such time as at least \$50,000,000 of new tax base has been created and placed on the Forsyth County tax rolls.
4. Should said \$50,000,000 in new tax base not be created by year eleven of the financing term, the letter of credit calculation shall change to an amount equal to \$437,500 minus the amount of actual ticket surcharge revenue collected in the previous year or \$287,500, whichever is greater.

EXHIBIT F

TRANSPORTATION PROJECTS

**[TO BE DETERMINED BY THE ASSISTANT CITY MANAGER-PUBLIC WORKS IN
COOPERATION WITH REPRESENTATIVES OF BDP, SM OR SMC PER THE
GUIDELINES ESTABLISHED FOR THE USE OF U.S. TRANSPORTATION FUNDS]**

EXHIBIT G

PHASE II
INCENTIVE PAYMENTS
SCHEDULE

		Assuming \$8.6 million Construction Loan (\$65 mill. investment)	
Year		City Assistance	Cumulative City
1	2009		
2	2010		
3	2011		
4	2012		
5	2013	\$242,516	\$242,516
6	2014	242,516	485,032
7	2015	242,516	727,548
8	2016	242,516	970,064
9	2017	485,031	1,455,095
10	2018	485,031	1,940,126
11	2019	485,031	2,425,157
12	2020	485,031	2,910,188
13	2021	485,031	3,395,219
14	2022	824,553	4,219,772
15	2023	824,553	5,044,325
16	2024	618,801	5,663,126
17	2025	261,014	5,924,140
18	2026	261,014	6,185,154
19	2027	261,014	6,446,168
20	2028	261,014	6,707,182
21	2029	261,014	6,968,196
22	2030	261,014	7,229,210
23	2031	261,014	7,490,224
24	2032	261,014	7,751,238
25	2033	261,014	8,012,252
26	2034		
27	2035		
28	2036		
Total		\$8,012,252.00	

Note: While the above schedule is based upon a proposed 21 year payout based upon the developer's anticipated Phase II build out schedule, the developer actually has up to 25 years to recover the total grant amount shown for the respective investment levels based upon the annual incentives payment formula described in the Agreement.

From: Renee Henderson
To: Council
Date: 11/16/2007 10:00:50 AM
Subject: Brookstown Economic Development Project - Exhibit A

Good Morning,

As indicated in your agenda book for the November 19 City Council Meeting, attached is Exhibit A for the Brookstown Economic Development Project (Item G-1). This item will be put at your place on Monday night.

Let me know if you have questions.

Renée P. Henderson, CMC
City Secretary
City of Winston-Salem
P. O. Box 2511
Winston-Salem, NC 27102-2511
336-727-2224 (voice)
336-727-2880 (fax)