



Town of Johnstown

TOWN COUNCIL SPECIAL MEETING

**450 S. Parish, Johnstown, CO
Friday, August 19, 2022 at 6:00 PM**

MISSION STATEMENT: Enhancing the quality of life of our residents, businesses, and visitors through community focused leadership.

AGENDA

CALL TO ORDER

Pledge of Allegiance

ROLL CALL

AGENDA APPROVAL

PUBLIC COMMENT

Members of the audience are invited to speak at the Council meeting. Public Comment is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position.

EXECUTIVE SESSION

1. An executive session to receive legal advice from the Town attorney pursuant to C.R.S. Section 24-6-402(4)(b) regarding economic development and Ledge Rock Development.

PUBLIC HEARING

2. Ordinance 2022-237. An Ordinance Amending The Town Of Johnstown Municipal Code Concerning Town Sales Taxes To Provide A Credit Against Sales Tax If A Certain Public Improvements Fee Has Been Paid In Connection With The Development Known As Ledge Rock Center; Repealing And Replacing Ordinance No. 2022-231

COUNCIL REPORTS AND COMMENTS

MAYOR'S COMMENTS

ADJOURN

AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (970) 587-4664 within 48 hours prior to the meeting in order to request such assistance.



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** August 19, 2022
- SUBJECT:** Public Hearing – Ordinance 2022-237. An Ordinance Amending The Town Of Johnstown Municipal Code Concerning Town Sales Taxes To Provide A Credit Against Sales Tax If A Certain Public Improvements Fee Has Been Paid In Connection With The Development Known As Ledge Rock Center; Repealing And Replacing Ordinance No. 2022-231
- ACTION PROPOSED:** Consider First Reading of Ordinance 2022-237
- ATTACHMENTS:** 1. Ordinance 2022-237
- PRESENTED BY:** Matt LeCerf, Town Manager
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AGENDA ITEM DESCRIPTION:

Enclosed for your consideration is Ordinance 2022-237. Ordinance 2022-237 will repeal and replace Ordinance 2022-231. Ordinance 2022-231 provided authorization by the Town to contribute 2.0% of the Town’s 3.0% General Fund (GF) Sales Tax for the benefit and construction of public improvements within the Ledge Rock Center development. This contribution is commonly referred to as a Credit PIF.

Ordinance 2022-237 proposes an increase in the Credit PIF by the Town from 2.0% to 2.75%. The request which was made by the developer to consider increasing the Credit PIF is because of the facts that construction costs have increased substantially since the initial agreement was developed, but even more challenging was the significant increase in interest rate of the bond market. The modification of the Credit PIF from 2.0% to 2.75% is anticipated to last no longer than 10 years and based on the market, the District would be required to refinance at a lower interest rate.

The Ledge Rock Center is generally divided into two phases – I and II. The developer would be able to proceed on Phase I, but would not be eligible to proceed into Phase II until such time as the Town is provided funding for the Town’s use for any lawful purpose an amount equal to the increase collected in the Credit PIF from 2% to 2.75%.

The Community That Cares

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As part of the increase in the Credit PIF, Staff was directed to analyze the Town's cost to deliver services to the Ledge Rock Center. The impetus of this analysis was to ensure that the Town remained "whole" and was not delivering services to Ledge Rock at a loss when compared to the GF Sales Tax generated and distributed to the Town. The analysis supports retainage of 0.25% GF Sales Tax and increasing the Credit PIF by 0.75%. The analysis did not consider residential development adjacent to the Ledge Rock Center or revenues and expenditures for the Street Fund which have a dedicated 0.5% sales tax for this exclusive purpose and are still retained by the Town.

LEGAL ADVICE:

The ordinance was drafted by the Town Attorney in consultation with Special Counsel and Staff.

FINANCIAL ADVICE:

Approval of Ordinance would in the interim decrease the GF Sales Tax to the Town as described above.

RECOMMENDED ACTION: Approve Ordinance 2022-237 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2022-237, as presented upon first reading.

For Denial: I move to deny Ordinance No. 2022-237, as presented upon first reading.

Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2022-237

An Ordinance Amending The Town Of Johnstown Municipal Code Concerning Town Sales Taxes To Provide A Credit Against Sales Tax If A Certain Public Improvements Fee Has Been Paid In Connection With The Development Known As Ledge Rock Center; Repealing And Replacing Ordinance No. 2022-231

WHEREAS, the Town of Johnstown, Colorado (the “Town”) is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town desires to cooperate in the development of certain property within the Town known as Ledge Rock Center and to cooperate in the funding of certain public improvements related to such development, and thus entered into that certain Development and Reimbursement Agreement for Ledge Rock Center Commercial by and among the Town, Ledge Rock Center, LLC, a Kansas limited liability company (“Developer”), and Ledge Rock Center Commercial Metropolitan District, a quasi-municipal corporation and political subdivision of the state of Colorado, effective on February 18, 2022 and as amended thereafter (“Agreement”); and

WHEREAS, Developer intends to impose public improvements fees on certain sales or provisions of tangible personal property or services occurring within Ledge Rock Center (the “PIF Property”) to contribute to the financing of public improvements within the Town; and

WHEREAS, pursuant to the Agreement, the obligation to impose the public improvement fees shall be set forth in a PIF Covenant; and

WHEREAS, the Developer has requested that the Town Council consider this Ordinance prior to recordation of the PIF Covenant, and the Town Council desires to accommodate such request on the condition that the sales tax credit contemplated herein shall not be effective unless and until the PIF Covenant has been recorded against the PIF Property; and

WHEREAS, pursuant to the terms and conditions of the Agreement, as amended, the Town desires to provide a tax credit against the obligation to pay, collect or remit a portion of the sales tax to the Town for persons or entities who pay the public improvements fees, defined in the Agreement as the Credit PIF; and

WHEREAS, the Town Council finds that an amendment to the Johnstown Municipal Code to implement the aforementioned sales tax credit would be in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO:

Section 1. Sales Tax Credit. Section 4-60 of Article IV of Chapter 4 of the Johnstown Municipal Code, as set forth in Ordinance No. 2022-231, is hereby repealed in its entirety and replaced in full to read as follows:

Sec. 4-60. Sales Tax Credit – Ledge Rock Center.

Notwithstanding any other provision of this Article, and in order to implement the provisions of the Development and Reimbursement Agreement for Ledge Rock Center Commercial, dated as of the Effective Date thereof (as amended or supplemented from time to time, the “Agreement”), by and among the Town of Johnstown, Ledge Rock Center, LLC and the Ledge Rock Center Commercial Metropolitan District, there shall be granted to each person or entity obligated to pay, collect or remit sales tax on the sale of tangible personal property at retail or the furnishing of services, which are subject to Town sales tax occurring within the PIF Property, as defined in the PIF Covenant, and incorporated herein by this reference, a tax credit against collection of the sales tax as hereinafter set forth. Such sales tax credit shall be granted in form of a reduction in the applicable sales tax rate in an amount equivalent to two and seventy-five hundredths percent (2.75%), the rate of the Credit PIF, and shall attach to a particular transaction only to the extent that the Credit PIF Revenues are received by the PIF Collecting Agent for such transaction. The sales tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction within the PIF Property, but shall be subject to the applicable retailer’s remittance to and receipt by the PIF Collecting Agent of the Credit PIF Revenues in accordance with the PIF Covenant and the Agreement. The sales tax credit shall be granted during the Credit PIF Period and shall automatically terminate when the Credit PIF Period terminates. All capitalized terms used in this Section and not otherwise defined herein shall have the meanings set forth in the Agreement.

Section 2. Effect of Sales Tax Credit. The Town Council hereby finds and determines that the creation or termination of the sales tax credit does not constitute a tax increase, the imposition of a new tax or a tax policy change directly causing a net tax revenue gain to the Town, and that nothing herein or in the Agreement creates a multiple fiscal year direct or indirect financial obligation or other indebtedness of the Town. The Town shall have the right to reduce or terminate the sales tax credit at any time in accordance with the terms of the Agreement.

Section 3. Repealer. Ordinance No. 2022-231 is hereby repealed. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 4. Effective Date. This Ordinance shall be effective on March 1, 2023, on the condition that the PIF Covenant has been recorded against the PIF Property. If the condition is not satisfied, this Ordinance shall be void and of no effect.

Section 5. Publication. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town Charter and the adoption, publication and posting shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2022.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2022.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor