

KALAMAZOO COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY

MEETING DATE: Thursday, January 27, 2010
PLACE OF MEETING: County Administration Building
201 West Kalamazoo Avenue, 207A
TIME: 4 pm

AGENDA

1. Call to Order 4:00 pm
2. Members Excused 4:02 pm – Ruth Blake, Leroy Crabtree, Matt VanDyk
3. Introduction of New Board Liaison – Brandt Iden 4:05 pm (Robert Barnard will remain as the alternate.)
4. Approval of the Agenda 4:07 pm – action
5. Approval of Minutes: December 15, 2010 - (pp 4 through 9) 4:10 pm – action
6. Citizens Comments (4 minutes each / Please state name and address)
7. Consent Calendar 4:15 pm - action on items a through f
 - a. Gazette Posting of Public Notice of Hearing on Tuesday, December 7, 2010 in front of the County Board of Commissioners. Notice was published on November 19 and November 20, 2010. Total amount - \$717.60 from BRA Account# 247-000-808.11
 - b. Clerical Support Services through Lori S. Pyatt of Kalamazoo – Minutes of the Meetings on November 18, 2010. Total amount - \$101.25 from BRA Account# 247-000-808.11.
 - c. Clerical Support Services through Lori S. Pyatt of Kalamazoo – Minutes of the Meetings on December 15, 2010 with review in January 2011. Total amount - \$120.00 from BRA Account# 247-000-808.11.
 - d. Legal Services – Susan Padley, Howard and Howard – December 8th through December 21, 2010 for review of Midlink Documents. 4.3 hours – Total amount - \$1,333.00 from BRA Account 247-000-808.11
 - e. Envirologic Technologies - Invoice #26826: Total \$300.00. Midlink Business Park – BRA Account 247-000-808.00. Work Order #1 (Bill Group A) Activities include: communications with County, review of revised Developer Agreement and Act 381 Work Plan
 - f. Meeting Calendar for BRA for 2011 – 4th Thursday of the month except for November and December 2011 wherein it will be the 3rd Thursday of the month – (See p 10)
8. County's BRA Financial Balance Sheets will be handed out at the meeting for review and discussion only: **4:20 pm**

9. Discussion &/OR Action Calendar: -

- a. Consider approving the following application fee – **action** – (was tabled on 12/15/2010 for further review) **4:30 pm**

"I move that the BRA designates its staggered application fee to be potentially a total of \$2,500: \$1,500 non-refundable for environmental assessments application and \$1,000 for development of a Brownfield Plan if necessary; effective applications received 1/1/11 or later. The fee may be waived at the discretion of the BRA in circumstances they deem appropriate. The purpose of the fee is to cover the cost of processing the application and writing of a BRA. It is an eligible activity for reimbursement through Tax Increment Revenue (TIR) under a BRA Plan if the BRA Plan is created."

- b. Consider approving the Developers agreement with Midlink if ready– **action** – (was deleted from agenda on 12/15/2010 as final plan was not approved) **4:40 pm**

"I move that the BRA approves the final version of the BRA Development and Reimbursement Agreement with 5200 East Cork Street Investors, LLC as dated and herein authorizes its chair to sign said agreement"

- c. Consider approving an expanded public notice procedure when board meetings are cancelled/ rescheduled. Item 1 has been the only required step to this date and items 2 & 3 have been informal & not required to this date. Staff will introduce this issue. The purpose of the expansion is to be openly communicative and welcoming. **4:50 pm -action**

"The BRA/EDC approves the expansion of the public meeting notice procedure to minimally include: 1) Posting formally in the County Board Office; 2) Posting on the BRA web page; and 3) Sending email notice to the BRA Partners listing ASAP (Partners listing includes regular attendees).

- d. Others will be added if necessary

10. Staff Reports –

- a. Update on Terra Contracting, LLC – **5:00 pm**
- b. BRA PLAN/ Amendment #3 – copy sent to BRA members on 12/28/2010. **5:05 pm**
- c. EPA Closeout report – Formal final report on EPA grants submitted on 12/28/2010. **5:10 pm**
- d. 381 Work Plan – was submitted to MDNRE on 12/27/2010 along with the final BRA Plan Amendment #3 as Attachment A. **5:15 pm**
- e. By-laws update – were approved on the consent agenda of the County Board of Commissioners on 1/17/2011. **5:20 pm**

- f. Media Exposure: **5:25 pm**
 - i. Article in Gazette December 16th related to BRA and Beckan Industries and receipt of our first TIR check from K-Twp.
 - ii. TV spot on WWMT-TV Channel 3 because of earlier article in Gazette on 12/17/2010
 - iii. Email correspondence related to above & our response of 12/20/2010 (p 11)
- g. There will be a verbal media report related to a January presentation at the Chamber of Commerce, Environmental Committee (with Mr. Crabtree) and a letter that was crafted for an early positioning on the possibility of a change in the BRA Act related to School Tax sent by Mr. Peregon. **5:35 pm (pp 12/13)**
- h. The BRA and its work will be included as a part of the Annual Report on the Planning and Community Development Department to the County Board in May. This is a part of the County's overall Strategic Framework.
- i. Policy Binders will be made for all BRA members for the meeting in February if desired
- j. Other

11. Committees - times dates and places

- a. Land Bank Report **5:30 pm** – Thell Woods
- b. Executive Committee – *NONE WERE SCHEDULED FOR JANUARY.*
However, February's schedule is FRI. 2/11/11 @ 7:30 am in County Admin
- c. Project/Finance Committee – *NONE WERE SCHEDULED FOR JANUARY*
However, February's schedule is THUR. 2/10/11 @ 4:00 pm in County Admin
- d. PR/Media Committee- none scheduled for January – will work with Mr. Crabtree

12. Other

13. Board Member Comments 5:40 pm

14. Adjournment approximately 5:55 pm depending on variables

Next Meeting: February 24, 2011 at 4 pm.
PLEASE CALL 384-8304 OR EMAIL AT dpartl@kalcounty.com
IF YOU ARE UNABLE TO ATTEND THE MEETING, Please advise.

KALAMAZOO COUNTY
BROWNFIELD REDEVELOPMENT AUTHORITY
MINUTES

MEETING DATE: Wednesday, December 15, 2010
PLACE OF MEETING: County Administration Building

Present were: Joe Agostinelli, Clare Annen, Robert Barnard, Larry Baumgart Leroy Crabtree, Ken Peregou, Julie Rogers, Matthew VanDyk, Thell Woods
Kalamazoo Township: George Cochran
Staff Support: David Artley, Jeff Hawkins (consultant)
Absent: Ruth Blake, Anne Summerfield, Representatives from Augusta and Comstock, Lotta Jarnefelt
Recording Secretary: Lori Pyatt

1. CALL TO ORDER

The meeting was called to order by Chairperson Rogers at 4:29pm.

2. MEMBERS EXCUSED

Ms. Blake and Ms. Summerfield were excused.

3. APPROVAL OF AGENDA

Seven) C) would not be an action item

A motion was made to approve the agenda as amended.

Motion: Agostinelli Support: Crabtree

Motion carried by unanimous voice vote.

4. APPROVAL OF MINUTES

Mr. Artley summarized the changes made to the minutes before the meeting. Mr. VanDyk further asked that the words "because his firm represents Georgia Pacific *in this matter*" be added. Mr. Annen later pointed out that the numerical balance in the minutes should reflect the \$6,100 less the \$400.

A motion was made to approve the November 18th minutes as amended.

Motion: VanDyk Support: Agostinelli

Motion carried by unanimous voice vote.

5. CITIZENS COMMENTS

No comments were made.

6. CONSENT CALENDAR

There were no items on the consent calendar.

7. DISCUSSION &/OR ACTION CALENDAR

A. CONSIDER APPROVING THE APPLICATION FOR ENVIRONMENTAL ASSESSMENT, et. al., funds from Terra Contracting, LLC, for the Georgia Pacific and Nolichucky sites on Kings Highway (Work Order #2. Final development agreement sooner if possible; staff to walk the BRA through the adjustments since the previous week.)

Ms. Rogers noted the aerial view of the property, and Mr. Artley explained the account number in the motion. If the project became a Brownfield Plan, a budget adjustment would be made to another account number for tracking purposes. Discussion ensued on the following:

-tracking expenses

-the function of the reimbursement agreement; if Terra Contracting did not begin development within twelve months of purchase, the BRA would be reimbursed

-the Apollo project

-Mr. Hawkins summarize the timeline of the offers

-the difference between placing a lien on a property and suing for non-performance

-Mr. Artley assured the Board that a lien provision or a similar claw-back clause would be added if County Legal said adding it would not complicate the purchase. Terra would have closed on the property by the time the lien remedy in the reimbursement took effect; they will have had to own it for a year and not developed for a year (this would apply to other properties as well) so there may be a better option to assure the claw-option and protect the funds and the needs of Terra.

-the next Kalamazoo Township meeting would be 7:30pm January 10th with a 5:30pm work-session

The following motion was made as amended to include language addressing the approval of the application submitted by Terra Contracting, LLC:

"The BRA authorizes the \$41,000 in environmental assessment and environmental activity funds as requested by Terra Contracting, LLC as outlined in their request dated November 17, 2010; and further approves Work Order #2 with Envirologic Technologies, Inc. to perform said work. Source of funds is account # 247-000-808.00.

This action is contingent on receipt of three items: A) an executed reimbursement agreement with Terra Contracting, LLC related to the actual development of the properties within the specified timeline; and B) Land ownership transfer to Terra Contracting, LLC in the form of a copy of a signed purchase agreement with Georgia Pacific and C) Land ownership transfer related to the Nolichucky site to Terra Contracting, LLC in the form of documentation of an agreement between Kalamazoo Township and Terra Contracting, LLC."

Motion: Agostinelli Support: Crabtree

The roll-call vote was as follows:

Ayes: All present besides abstention

Nays: None

Absent: Blake, Summerfield Abstained: VanDyk

Motion Carried

B. CONSIDER THE APPROVAL OF THE FOLLOWING APPLICATION FEE:

A lengthy discussion was held on the application fee where the following points were covered:

-while \$2,500 was appropriate for an application that led to a Brownfield project, it could be too high for a project more limited in scope.

-Mr. Artley summarized the steps involved in reviewing an application.

-it was possible the Authority wouldn't want to do just a Phase 1 for an applicant, because the goal was to get the property into a plan; it would seem more appropriate for them to hire a firm on their own for smaller projects.

-it would be helpful to establish priorities as an organization on the projects it would consider-- which projects would help sustain the program.

- the longer the vote was postponed, additional opportunities would be missed.
- suggested wording: 'The fee may be waived or reduced' and 'The fee may be waived or altered'. Discussion ensued on the vagueness of the "may be waived" wording; it would need to be run by County Legal.
- the goal was to be self-sustaining, and staff time needed to be allocated for.
- another suggestion was to charge the fee only if the project went to a Brownfield Plan.
- a staggered fee structure was possible. Mr. Artley agreed to do more research on this, including contacting Grand Traverse County's fee structure and County Legal.

A motion was made to table the vote until the January meeting.

Motion: Annen Support: Woods

The roll-call vote was as follows:

Ayes: Seven Nays: Two

Absent: Blake, Summerfield Abstained: None

Motion Carried

C. CONSIDER APPROVING THE DEVELOPERS AGREEMENT WITH MIDLINK.

This was not further covered.

D. DISCUSSION AND CONSIDERATION OF APPROVING A NEW WORK ORDER RELATED TO MIDLINK NOT TO EXCEED \$2,500 (Work Order #1).

Mr. Hawkins' expertise continued to be needed after October 1st; the previous work was covered out of the EPA grant.

The following motion was made:

"The BRA approves Work Order #1 with Envirollogic Technologies, Inc. in an amount not to exceed \$2,500 for additional work at the Midlink site. Source of funds is account # 247-000-808.00."

otion: VanDyk Support: Crabtree

Motion carried by unanimous voice vote.

E. DISCUSSION AND APPROVAL OF AN ET INVOICE

Mr. Hawkins's billing was on quarter-hour increments; this invoice was for October and November.

The following motion was made:

"The BRA Approves ET Invoice # 26729 in the amount of \$1,260.00 for work related to Midlink and our Brownfield work. Source of funds is account #247-000-808.00."

Motion: VanDyk Support: Woods

Motion carried by unanimous voice vote.

F. DISCUSSION AND CONSIDERATION OF APPROVING THE ATTENDANCE POLICY

It was County Legal's position that bodies could have attendance policies if they chose in order to ask the County Board to take action. The group held a lengthy discussion on the pros and cons of having an attendance policy:

- it would allow for objectivity, and encourage attendance
- Because Public Act 381 did not address attendance policies, it may have to be addressed in the by-laws

- If attendance became an issue, the County Commission would probably ask if there was a policy in place
- the City Brownfield Authority's attendance policy was explained
- during the interview process it was asked if the applicant could make the time commitment
- it was recalled how this issue was informally addressed through staff in the past, which led to the members volunteering to leave the Board, yet adopting a policy would not preclude this
- a hypothetical 'sticky' situation was raised

A motion was made to not have an attendance policy.

Motion: Annen

Support: Agostinelli

The roll-call vote was as follows:

Ayes: Six

Nays: Three

Absent: Blake, Summerfield Abstained: None

Motion Carried

G. OTHER: There was nothing reported.

8. STAFF REPORTS

A. BRA PLAN / AMENDMENT #3 (Approved by the County Board on 12/27/10)

Mr. Artley handed out the latest version (dated 11/12/2010) and noted the differences in opinions between BRA and Midlink (in blue was the BRA's changes; in red was Midlink's) in the following sections:

-5.3.e. on page 7 on insurance

-6.1 & 6.3 on page 7 changed back to sixty days

-9.4, 9.5, 9.6 on page 9: additions due to Midlink's strike-throughs in that section

-11.9 on page 12 on signage/website/marketing materials (discussion ensued on this topic; the group suggested adding the words "for the duration of construction" regarding signage).

Midlink was informed that the next meeting of the BRA would be January 27th, and no special meeting would be called.

B. EPA CLOSEOUT REPORT: Brownfield Assessment Grant – Expenses as of 12/06/2010

Of the assessment grant, four point eight-eight percent (4.88% [Hazardous Substance: \$12,847.58 and Petroleum \$6,671.78] for a total of \$19,519.36) was not spent and it would not count against the BRA, nor would the dollars go back. A brief discussion was held on the past decision to take it all out of salaries and fringes. The reasons for the unspent amounts were:

-two other projects had not materialized

-more dollars were found due to the reconciliation process

-the Davis Creek Business Park's phases 2 & 3 revealed lower expenses beyond initial estimates, resulting in \$3,567.89 remaining in the budget as well as an additional \$2,000 previously pulled out of the contingency budget. These amounts would have come out of the Petroleum Budget, almost zeroing it out.

Ms. Rogers hoped that the new account numbers would allow for a closer tracking of the dollars in the future.

C. 381 WORKPLAN

Midlink had agreed that there was not enough detail, yet were willing to submit the workplan and let the State determine what would still be needed; the plan would be sent 'as is' to the State by the end of the year. There had been no additional feedback from Midlink.

Mr. Artley would send the 381 Workplan to Mr. Annen as requested. As part of the new process, the Plan would be reviewed by the Grant Coordinator for the region, Susan Wenslik. There was little possibility that it would be *fully* approved before the end of the year, especially if more information was needed.

D. BY-LAWS UPDATE: There was nothing further reported.

E. PRESS RELEASE: There would be an article the following day about brownfields, with a focus on Beckan Industries. It was clarified that 21, not fewer, jobs had been created. The reporter had contacted Mr. Cochran as well.

F. OTHER—There was nothing further reported.

9. COMMITTEE REPORTS

A. LAND BANK REPORT: The Land Bank had accepted the 78 properties from the City of Kalamazoo. The creamery plant could cause issues. Kelly Clark was a great addition to the Land Bank.

B. EXECUTIVE COMMITTEE: Not scheduled for January. Mr. Artley would contact the members if he received any information from Midlink.

C. PROJECT/FINANCE COMMITTEE: Not scheduled for January.

D. PR/MEDIA COMMITTEE: Nothing was reported.

10. OTHER – Nothing was covered.

11. BOARD MEMBERS COMMENTS

-Mr. Annen drew their attention to an article that ran the previous day about the BRA and its first TIR check from K-township of approx \$4,700.

-Mr. Woods asked if the webinar "The Brownfield Design Collective: Maximizing Results Through Innovative Strategies." Since it was understood to be general in nature, many members didn't feel it would be beneficial to attend. He stated he would like to have future discussion of property rehabilitation and taking possession.

-Mr. VanDyk would like to have someone at a future meeting to explain the impact of the changes to Act 381 changes.

-Ms. Rogers commented on the Smart Shop/River's Edge article. She also asked the members to continue to respect whoever may be speaking.

-Mr. Peregón reported on the progress being made on the Parchment mill.

-Mr. Barnard questioned the minutes recording him as absent on Nov 18th. It was explained that he came in late to the second meeting, missing the first, but Mr. Artley said he would re-check his notes.

-Mr. Cochran stated that KATS would apply for the grant to do the study for the need for the 131 egress. He also said that Ms. Blake was doing well.

12. ADJOURNEMENT

A motion to adjourn the meeting was made at 6:02pm.

Motion: VanDyk Support: Baumgart

Motion carried by unanimous voice vote.

Next Meeting: January 27, 2011

Respectfully submitted: LP

PUBLIC NOTICE
OF
BROWNFIELD REDEVELOPMENT AUTHORITY (BRA)

The Kalamazoo County Brownfield Redevelopment Authority (BRA) conducts regular meetings on the fourth Thursday of each month at 4:00 p.m. The meetings are held in Room 207-A of the Kalamazoo County Administration Building, 201 W. Kalamazoo Avenue. The Authority will meet on the following dates in 2011:

January 27, 2011
February 24, 2011
March 24, 2011
April 28, 2011
May 26, 2011
June 23, 2011
July 28, 2011
August 25, 2011
September 22, 2011
October 27, 2011
November 17, 2011 (*Note: 3rd Thursday*)
December 15, 2011 (*Note: 3rd Thursday*)

David Artley - Re: gazette and news 3 article

From: David Artley
To: Dillworth, John
Subject: Re: gazette and news 3 article

John:

Thank you for the input. Always good to hear how others percieve things and I always have respected your opinion.

I feel bad that the media reports came out in such a fashion to aggravate you and/or apparently ignore the contributions of others.

We have the highest respect for SWMF, Goodwill and MDNRE and all that they do. And in this instance, each played a major role in the unfolding of Beckan buying and moving into the former Goodwill site from its former site in the city. What was shared with the media did in fact recognize several of our community partners.

But we did not write the article nor did we cut the 4+ minutes interview into the mini segment that aired.

Our role is to serve the public and assist where and when we can with turning "brown to green" and in the retention and creation of the jobs.

Thanks again for your sharing your insights.

Best regards, David

>>> John Dillworth <JDillworth@goodwillswmi.org> 12/20/2010 2:14 PM >>>

David:

Next time you complain that the Brownfield Development Authority isn't given credit to the work they do, think back to the article in the Gazette and the story on Channel 3 and how you presented what you did to make that happen. No mention of Southwest Michigan First being the organization that brought Beckan to Goodwill. No mention of the financing from Goodwill so that Beckan could economically buy the building. An implication that the Brownfield Authority paid for the entire cleanup when we've contributed to this point in time at least \$150,000, a contamination that happened while one of your Brownfield Authority members was a Goodwill board member by the way. And last but not least, no mention of any assistance from MDRNE. Not cool.

Just remember this event.

John Dillworth
President/CEO
Goodwill Industries of Southwestern MI
420 East Alcott Street
Kalamazoo, MI 49001
(269) 382-0490 ext. 231
jdillworth@goodwillswmi.org

11

David Artley - Re: 10 Regulations: TIF Capture

From: David Artley
To: Peregón, Ken
Date: 1/12/2011 11:47 AM
Subject: Re: 10 Regulations: TIF Capture
CC: Hawkins, Jeffrey C.

Excellent response and it dovetails nicely with what we presented at the Chamber Environmental meeting earlier this week. Appreciate both of your insights on this.

Best, Artley

>>> Ken Peregón <kperegón@OCBA.com> 1/12/2011 9:47 AM >>>
Ryan,

Rather than eliminating a regulation, we would like to suggest a slightly different approach to a particular issue. We understand, due to the State's budget situation, that there has been some discussion regarding the elimination of tax increment financing (TIF) capture through a Brownfield Plan from new investment at a brownfield site. We believe that a distinction must be made between TIF capture of "school" taxes vs. "local" taxes.

The State legislature may want to consider eliminating capture of school taxes as a means to improve the State budget, since the State reimburses school districts for these. This would restrict the ability of Brownfield Redevelopment Authorities (both the Cities of Kalamazoo and Portage, the County, and several other entities in Kalamazoo County have Authorities) to promote the economic redevelopment efforts in our region.

Even more importantly, we believe the capture of local taxes in TIF must be protected. Without this ability the Authorities will be severely restricted in their ability to contribute to redevelopment efforts.

We suggest the Chamber discuss protection of TIF capture for brownfield redevelopment authorities, with a strong emphasis that, at a minimum, the capture of "local" taxes must be protected, even if capture of "school" taxes were reduced or eliminated. In all cases, using TIF through a Brownfield Plan for reimbursement of eligible activities at a brownfield site is revenue neutral to the State and the local units of government since the TIF comes only from new investments at the site, and not from existing taxes currently being collected prior to the redevelopment.

Please consider taking this issue to Rep. Bolger and other legislators.
Thank you.

Ken Peregón, ASLA
O'Boyle, Cowell, Blalock & Associates, Inc.
Phone: 269 381 3357

12

Cell: 269 760 2154

Please consider the environment before printing this message.

-----Original Message-----

From: Ryan Simpson [mailto:rsimpson@kazoochamber.com]

Sent: Wednesday, December 29, 2010 11:20 AM

To: Ken Peregon

Subject: 10 Regulations

Good morning!

We are in the process of finalizing plans with Representative Jase Bolger's office to host a reception in his office! Our target date is January 27 with the breakfast reception in Lansing starting around 8/9 a.m. The goal of this reception is to meet with area legislators and their staff to discuss legislative priorities.

We would like to put together a list of 10 regulations that we want changed. That is, 10 specific regulations that we think we can bring to the attention of our Southwest Michigan delegation and actually eliminate or adjust. We would like to be proactive right from day one in Lansing (first week of session is that week).

I am coming to you as an expert in your field seeking your advice. What regulations would you recommend that we advocate in Lansing to eliminate or request changes? If each council member provides at least 3 regulations we should have enough material to make this reception impactful. Also, the more materials you provide the Chamber, the more we can work to advocate for business today and on into 2011.

If you would like more information about this reception, please don't hesitate to give me a call! I can be reached at 269-381-4000. I look forward to bringing this to your attention in more detail at our Jan. 11 Environmental Advisory Council meeting.

Happy new year!