

KALAMAZOO COUNTY  
BROWNFIELD REDEVELOPMENT AUTHORITY  
**MINUTES**

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**MEETING DATE:** Wednesday, December 15, 2010

**PLACE OF MEETING:** County Administration Building

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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 18<sup>th</sup> 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 10<sup>th</sup>; 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 1<sup>st</sup>; 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 27<sup>th</sup>, 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. COPIES OF 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 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. Peregon reported on the progress being made on the Parchment mill.
- Mr. Barnard questioned the minutes recording him as absent on Nov 18<sup>th</sup>. 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. ADJOURNMENT

*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