



## WASHTENAW COUNTY BOARD OF COMMISSIONERS

### SPECIAL WORKING SESSION

May 17, 2011

The meeting was called to order by Chair Rabhi at 6:30 p.m. in the Board Room, Administration Building, 220 North Main Street, Ann Arbor, Michigan.

**MEMBERS PRESENT:** Comms. Bergman, Judge, Peterson, Ping, Prater, Rabhi, Conan Smith, Dan Smith, and Turner

**MEMBERS ABSENT:** Comms. Gunn and Sizemore

**OTHERS PRESENT:** Verna McDaniel, County Administrator; Kelly Belknap, Interim Deputy County Administrator; Curtis Hedger, Corporation Counsel; Tony VanDerworp, Brett Lenart, Economic Development and Energy; Ken Schrader, ITS; Bob Tetens, Parks and Recreation; Joanna Bidlack, County Administration; Jason Brooks, Clerk's Office; various citizens; and members of the press.

#### **Roll Call**

#### **Citizen Participation**

None

#### **Commissioner Follow-Up to Citizen Participation**

None

#### **Discussion Items:**

##### **Full Faith and Credit Policy – County Commissioner Conan Smith**

Draft Policy Items on Brownfield Loans (on file in County Clerk's office)

Comm. Prater asked how the Board can put together a FFC policy without risk to the County. Comm. Conan Smith stated that it is not possible to put together a policy without risk. He added that bonding and any full faith and credit project comes with risk. Comm. Conan Smith stated that the question is the acceptable level of risk. Comm. Dan Smith stated that it is impossible to mitigate all risks. He added that there is a looming consideration on this one project followed by a discussion on expanding the County's full faith and credit. Comm. Rabhi stated that he wanted to have the discussion about the policy prior to discussing the project.

Comm. Turner stated that there is a safety net when offering FFC to a public entity as opposed to a private entity. He added that the Board has to do everything it can to safeguard the people's money. Comm. Turner stated that as a fiduciary he is not willing to put the people's money at the slightest risk. Comm. Rabhi stated that he would like to have a discussion about offering FFC to private entities in general and added that he feels that Comm. Turner is right on track.

Comm. Conan Smith added that he agrees with Comm. Dan Smith on narrowly tailoring policy. He stated that public projects do not need to be discussed and the focus on brownfields is an important consideration. He added that he would ask if the County would put money into a project if a private entity was not involved. He stated that the County may need to take on some risk to do that. Comm. Conan Smith stated that he does not want to put the Board out on a limb at all. He added that there are many opportunities to meet security interests and achieve interest both on the public and private side.

Comm. Prater stated that the Board should talk about what the County is interested in as far as brownfields. He added that there has been little discussion in this area. Comm. Prater added that he feels that this has turned into developers that cannot get their own funding. He stated that he has seen no proof that there is actually a Brownfield in this case. Comm. Prater stated that he would like to see documentation. He added that the Board takes the ultimate responsibility in this project.

Comm. Peterson stated that it is clear that government should not be in the banking business. He added that it is important to stay competitive with other communities. He stated that the Board needs to be fair in offering the same assistance to others. Comm. Peterson asked if the amount in the policy could be capped and stated that a project should have public interest associated. He asked what the difference is in offering FFC or doing a bond to promote economic development projects that are in the public interest. Comm. Peterson stated that projects with contamination would never go without assistance from the government. Curtis Hedger stated that a cap could be built in to the policy. Comm. Peterson asked about the flexibility of the Board to put a fund in place to promote economic development in Washtenaw County through a bond. Hedger stated that he is not comfortable commenting on this issue at this time and would need to consult with Bond Counsel. Comm. Peterson stated that he feels more comfortable with a bond than an FFC policy. He added that there needs to be an open door with a cap that invites other developers to participate.

Comm. Rabhi asked for a brief description of the current policy and how it addresses the current situation. Hedger reported that it does not address private companies.

Comm. Prater stated that the County does have an Economic Development Policy and an Economic Development Corporation. He added that selling bonds is something totally different.

Comm. Ping stated that she is not in favor of putting a policy in place that will tie the hands of any future Board. She added that this should be done on a case by case basis. Comm. Ping added that she is in favor of public/private partnerships. She stated that the Board has not been a part of the vetting process with the developer. Comm. Ping added that the Board needs to go through the process in the future. Comm. Rabhi stated that he feels that it is good for the Board to have guidelines and to be able to present these guidelines. Comm. Ping stated that the taxpayers should know where the Board stands.

Comm. Conan Smith stated that the pulse that should be taken immediately is whether the Board has a desire to participate in public/private partnerships. He added that the next step is to ensure that the project has a public benefit. Comm. Conan Smith stated that the risk question needs to be quantified and added that he would recommend limiting the encumbrance of the unearmarked reserves to 30-50% to participate in projects such as these. He added that he appreciates Comm. Ping's idea of looking at these projects on a case by case basis. Comm. Conan Smith stated that he would expect that the vetting of projects is being done at some level. He added that after going through this process will enable the Board to move forward with a level of security.

Comm. Dan Smith stated that he has heard some concerns about the Board not having the ability to fully vet these projects. He added that this Board has far less control over projects like these than the local municipality. Comm. Dan Smith stated that the County could put its FFC behind a project after the municipality does. He added that he would like to see the policy changed to ensure that taxes are paid prior to consideration by the County. Comm. Conan Smith asked if there have been thoughts on taxes due in the case where the previous owner has fled. Comm. Dan Smith stated that he feels that there are mechanisms in place to deal with properties such as these. He added that he finds it difficult for someone asking for the County's FFC with back taxes.

Comm. Peterson stated that projects like this are good for the County. He stated that he would like to have Hedger explain the difference between bonds and the cap on projects. Comm. Peterson stated that a policy created needs to be consistent on criteria. Hedger stated that the County's general bonding authority does include full faith and credit for public interest projects. He added that this is different than the EDC which does not have the full faith and credit associated with it. Comm. Peterson stated that his interests would be finding the correct mechanism and added that he feels more comfortable with the bonding option.

Comm. Prater stated that the Board may be going to extremes on this issue. He added that he agrees with Comm. Dan Smith that the local community should step up and be the first to offer FFC.

Comm. Conan Smith stated that there are projects that will need capital and those that need FFC. He added that he could see the Board going down both paths.

Comm. Rabhi stated that security and risk, limiting the amount of money, the public good, local government buy in, current taxes paid are the issues that have come up in this discussion.

Comm. Turner stated that irrevocable letters of credit are as good as they are written and as good as the bank issuing the letters. He added that he would like to have a minimum capital ratio of the institution at 8% and ensure that an institution has been in business at least 10 years built into the policy. Comm. Turner stated that the boilerplate letter should come from the County.

Comm. Dan Smith stated that his level of comfort goes back to the local units of government. Comm. Turner stated that there are good projects that may not come through a community and might need to stand on its own. Comm. Prater stated that community approval would only occur on brownfield projects. Comm. Dan Smith stated that the local municipality is intimately involved with any project. Comm. Turner stated that local communities may not always stand behind these projects.

Comm. Peterson stated that he does not feel that a developer would come forward without community support. He added that businesses may come forward looking for a place to set up shop or for support or guidance. Comm. Peterson stated that economic development needs to stand on its own. He added that this project does benefit the entire County. He stated that there is a payback aspect to this issue. Comm. Prater stated that the Board policy on economic development is to do it through SPARK or SPARK East.

**Packard Square Brownfield Redevelopment Project – Economic Development & Energy Director Tony VanDerworp and Economic Development & Energy Project Manager Brett Lenart**

Brett Lenart presented the next steps on the Packard Square Brownfield Project. He reported that the applications and approval of the Brownfield Plan are being presented in two different agenda items at the Ways and Means meeting on May 18<sup>th</sup>.

Comm. Judge asked if the application on the grant/loan needs to move forward to pass the Brownfield plan. Lenart stated that it does not. Comm. Judge stated that she would not be supporting the grant/loan.

Comm. Prater asked if the grant/loan would take care of contamination. Bruce Measom, Harbor Development, stated that the grant would take care of removing contamination. He added that the \$1 million loan is for the meeting City of Ann Arbor standards. He stated that the storm system on the site has no controls and added that the developer is proposing controls and filtration of storm water. He added that the developer has also been asked to replace water mains up to the nearest side street. Measom stated that you are talking 100's of construction jobs during the project. He added that the project has been designed by LEED Certified Architects. Measom stated that approximately \$770,000 in back taxes has been paid. He added that taxes would be paid at the time of closing if the application does come through. Comm. Prater asked if the former owners are the same people that created the LLC. He asked how the Board could be expected to approve the application on behalf of someone that is not known.

Comm. Judge stated that many brownfield projects have been approved by the County and added that the City is requiring many extras. Lenart stated that most brownfield projects that have been approved are for TIF and some for the Michigan Tax Credit. He added that this case was seen as an opportunity for faster TIF growth to local jurisdictions.

Comm. Dan Smith stated that it bothers him that taxes are still going unpaid. He added that this would be a nonissue if the County full faith and credit was not being requested.

Comm. Conan Smith stated that the taxes are under appeal and added that the back taxes have been paid. He added that he would encourage the Board to think about the County role in this project. Comm. Conan Smith stated that the next best option is to leave the property blighted and dilapidated. He added that this is an innovative tool that results in faster increases in revenue to local jurisdictions. Comm. Conan Smith stated that he is comfortable with the loan process as long as parameters of this meeting are followed. He added that there has been a good faith effort by the developer to bring the taxes current. Comm. Conan Smith asked if the loan is reimbursement financing. Anne Jamieson-Urena, Director, Brownfield and Redevelopment Incentives for AKT Peerless Environmental and Energy Services, reported that the money is distributed to the County and added that the loan is reimbursable. She added that the development team submits documentation for work done on the plan to the County and the State. She reported that the dollars are then released. Jamieson-Urena stated that these loans have been around for fifteen years. She added that grant dollars are going to be used to clean up the site and added that the loan will not be drawn on unless construction begins. Lenart reported that the State is charging 0% for the first 5 years and 1.5% for the final 10. Comm. Conan Smith asked if final approval by June 1st would work. Jamieson-Urena reported that the timeline works.

Comm. Peterson stated that he would want the policy from the Chair of the Board that will be inclusive of how business is done in the future. Comm. Peterson stated that the Board assembled to specially consider this project. Lenart reported that the full faith and credit only applies to the loan application. Comm. Peterson asked when the State needs final resolution. Lenart reported that it is not a hard timeline with the State but is in the interest of developers. Jamieson-Urena reported that this project is listed as a priority project with the State. She added that she does not want to delay it in case another project comes in that is a sweeter deal. She stated that she would like to be able to have a good indication that the Board feels comfortable with the developer making the application.

Comm. Smith stated that he would anticipate bringing a draft policy forward to Ways and Means at tomorrow's meeting. He added that he would put the policy approval in front of the project approval.

Comm. Dan Smith stated that he would like to see this available to all businesses. He added that he would not want to derail the current train by hooking on too many cars. Comm. Dan Smith added that he would like to do a general policy. He stated that there is plenty of capacity to get the loan on their own based on the amount of back taxes. Lenart stated that \$1 million in activity is needed for this project to move forward. He added that the County can reduce the cost of the \$1 million being financed.

Comm. Turner asked if approval of the grant moves things along while holding action on the loan. He stated that there is no problem with the Brownfield itself. Comm. Turner stated that he would like to see the grant separated from the loan and moved forward at both meetings.

Comm. Conan Smith asked if the grant and loan are on the same application. Lenart stated that they are both on the same application and added that he feels it is worth putting in the grant portion. Jamieson-Urena stated that she asked the DEQ if they would consider the grant and then the loan.

Comm. Prater stated that he believes that this is the first time that the County is doing clean up. Lenart reported that this is the third project for application and the first actually going through.

Comm. Prater stated that both the clean up issue and FFC should be reviewed for development of policies.

Comm. Dan Smith asked if the TIF and grant portion could be moved through both meetings. Comm. Conan Smith stated that he feels that it is possible and added that his preference is to move slowly.

Comm. Peterson stated that he is a strong advocate for the eastern part of the County. He added that he cares about other parts of the County. He stated that this is a good project and a City of Ann Arbor project. Comm. Peterson stated that he would like to see a draft policy at the meeting tomorrow evening. Comm. Conan Smith stated that he is still planning on bringing a policy forward.

**County Administrator's Report**

Verna McDaniel reported that McFarlane has accepted a position at the State and will be working with Administration on a transition plan. She added that she will be on vacation next week and will be a call away.

**Items for Current/Future Discussion**

None

**Pending**

None

**Citizen Participation**

None

**Commissioners Follow-up to Citizen Participation**

None

**Adjournment**

Comm. Peterson seconded by Comm. Prater moved that the meeting be adjourned until May 19<sup>th</sup>, 2011 at 6:30 p.m.  
Motion carried.

The meeting adjourned at 9:31 p.m.

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Yousef Rabhi, Chair

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Lawrence Kestenbaum, Clerk/Register

By: Jason Brooks, Deputy Clerk

APPROVED: June 1, 2011