

**A regular meeting of the Leelanau County Brownfield Redevelopment Authority was held on Wednesday, June 22, 2022 at the Government Center.**

**CALL TO ORDER**

Meeting was called to order at 10:13 am by Chairman Heinz who led the Pledge of Allegiance.

**ROLL CALL**

**Members Present:** D. Heinz, J. Arens, L. Bahle, T. Eftaxiadis, R. Foster, D. King

**Members Absent:** C. Janik  
*(Prior Notice)*

**Staff Present:** T. Galla, Director

**Public Present:** J. Hawkins, L. Mawby

**PUBLIC COMMENT** – None

**DIRECTOR COMMENTS** – None

**CONSIDERATION OF AGENDA**

Heinz requested adding a budget amendment as number 2 under Financials.

*It was moved by Foster, seconded by Arens, to approve the agenda as modified. Motion carried 6-0.*

**CONFLICT OF INTEREST** - None

**CONSIDERATION OF MAY 17, 2022 Minutes**

*It was moved by Eftaxiadis, seconded by Arens, to approve the minutes as presented. Motion carried 6-0.*

**CONSENT AGENDA**

*It was moved by Foster, seconded by Eftaxiadis to accept the Consent Agenda as presented. Motion carried 6-0.*

**UNFINISHED BUSINESS**

Update on Brownfield Plan: Maple City Crossings/Habitat for Humanity

Galla gave an update on the brownfield plan and presentation to Kasson Township Board. Hawkins, Galla and Wendy Irvin from Habitat for Humanity went to Kasson Township last week to present the plan to the Township Board and ask for approval. They had quite a few questions. One of their members was missing and after discussion, they moved it to their July meeting as they want all to be present for consideration. We are gathering information to answer the questions they had at the meeting. The County Board held the Public Hearing last night at the government center so that step is completed. We need to wait and see what Kasson Township will do. The County Board moved this to their July meeting. If Kasson Township does not approve it, it will not be approved.

Update on TIF/Brownfield Modeling for Land Bank

Hawkins reviewed the TIF modeling for the six parcels owned by the Land Bank and identified for the modeling. In the model, it was anticipated these would be primary residential homes and would be 100% homestead properties. This model would generate about \$5,000 per year as a total for all six properties. It drops to about \$4,000 per year after the first 5 years of 5/50 capture of TIF. Over 30 years, it would generate approximately \$169,000.

Heinz commented on the earlier Land Bank meeting and the members requested seeing the numbers recalculated using an approach for SEV vs taxable value to see what would be generated.

Eftaxiadis said Hawkins talked about 1/100 of an acre used to determine value. Hawkins replied that they used that

factor and multiplied the size of the parcel. Eftaxiadis asked if all of the parcels were buildable and have enough room for setbacks and zoning requirements. Hawkins said they did not specifically look at building, they looked at the parcels and compared based on parcel sizes and homes of a similar size. Unless there are some severe terrain issues on a parcel, they have assumed they can be built on.

#### Update on West Shores Development and Existing Brownfield Plan

Galla gave a brief review on the West Shores development. She has asked the township for an update and was told the developer is working on the marina and is supposed to get permits in place. That was several months ago. The original development for this project has changed a couple times and there is only one partner left from the original developers. She had a conversation with him a few years ago and correspondence has been sent to him regarding his plans, and the LCBRA possibly terminating this brownfield plan.

Hawkins said there were several Act 381 Work Plans developed for school tax capture for the site. Envirologic did not write the last 381 Work Plan. It included a need for vapor mitigation system for new development for the site. Some concerns that Galla and Hawkins have discussed is that it is a fairly long road to go through to get all these approvals in place. However, not knowing what this current development is going to be means the developer may need to go through this all over again, especially with the vapor mitigation. What was approved years ago may not work now and there will be more scrutiny. The statute is pretty clear on what we can do. And, what is happening with the TIF that is being captured? You don't want to set a precedent with taxing jurisdictions on this with regard to capturing TIF. We have shown a good faith effort to work with the developer and they are not proceeding. They have been given notification. Terminating the plan does not prevent them from coming back and doing a new plan for the site.

King asked if this was by Dockside and what was the down side to terminating the brownfield plan. Hawkins replied that it is located by the Dockside. Terminating the plan means the developer has to spend money to write a new one and go through all the approvals again. And there is a risk the township won't approve a new plan. That is probably the bigger risk. The township has been supportive in the past of projects. King stated the property has been vacant for quite some time and nothing is going on. Hawkins said that even if the current owner/developer comes to you for reimbursement, you do not have a reimbursement agreement with this individual. That needs to be negotiated. King suggested inviting the current developer to come to the next meeting and he can talk and ask to continue the plan.

Heinz asked if the LCBRA is collecting TIF and Hawkins replied, yes. It is just sitting there. Heinz asked what happens if we close out the plan. Hawkins said you could put some of the TIF into the local revolving fund and could return some. King felt that would show we are being compliant.

Heinz thought with the current economy and interest rates going up it would take a while to break ground. The marina is the fastest thing and would collect revenue. Would it make sense to send a letter of intent to Mr. Johnson and tell him at the next meeting we intend to make a final conclusion on terminating the plan, unless he can come and give us input and his concerns?

Arens asked what constituted activity on behalf of the developer? Hawkins said the statute speaks to that. Heinz noted they added about 3' of additional soil from dredging across the street.

Eftaxiadis asked if the original development agreement transferred from the old developer to the new developer/owner? If so, do we know whether that was actually transferred? Also, the 381 work plan included vapor mitigation. How long ago were the VOC (Volatile Organic Compounds) samples taken? Could it have changed? Eftaxiadis thought it would make sense, before agreeing to reimburse for vapor mitigation costs, to have or require some updated soil samples for VOCs to see what is needed today.

Galla stated the first brownfield plan was adopted around 2008 and then amended. From 2008, we are running out of time to reimburse eligible costs through the plan. There are so many things that are questionable as to what that development will look like and what are the eligible costs.

Arens suggested sending the developer a letter that we are having legal counsel review our options. The developer can return with a concrete plan on what they are doing. We are 10 years into this and the clock is ticking. We need

to make this clear to them so invite them to come in and show us their plan. Hawkins added they will need a vapor system. Eftaxiadis said they can update us on where they are, and what they have done so far. They have also added dredging spoils from the planned marina across the street. We don't know how that has potentially impacted the contamination already there. Spoils are wet, and added liquid filtrates down. Could that have spread the contamination laterally? Was vapor due to the product or to contaminated soils? Foster replied there could be contamination in the marina spoils.

King asked if there was any reason to engage Corporate Counsel before we reach out? Do we get things set with our obligations first, or say we are considering reaching out to Corporate Counsel. We need to make sure we understand our obligations under the agreements. Heinz replied that may be something the attorney needs to confirm. King agreed and said they may have suggestions on what we do. He felt Corporate Counsel should look at this before we reach out to the developer.

***It was moved by Foster, seconded by Eftaxiadis, to ask our attorney to look at this problem and advise us on the steps we can take and the information we need to have to make decisions.***

Arens suggested an amendment that we ***will send communication to the current developer that we have our attorney looking at our agreements for review and by the August meeting we would like to get everyone together and discuss this. Foster and Eftaxiadis agreed to the amended motion. On a voice vote, the motion carried 6-0.***

#### Update on Revolving Loan Fund/Leland project/Closeout Agreement with EPA

Galla reported on the EPA Revolving Loan Fund (RLF) grant which was closed out several years ago. She received a phone call earlier in the year from our EPA Project Manager who stated that while the RLF grant was closed out, there was never a closeout agreement regarding the repayment of the funds into our local revolving fund for future projects. She stated this was a slip on their part, not the county. Galla has worked with Jeff Hawkins and his firm to draft a response and documentation showing what has been developed on the site in Leland, the TIF dollars to be collected, and all the liabilities we have on the property. Hawkins added that the original development did not happen and the property was then sold to Courthouse Redevelopment Group who just sold the land. There are supposed to be 12 housing units built but only 4 have been built so far. That lowers the TIF that we projected to be collected and lowers the amount left to be used for the RLF repayment into the local fund. Galla noted that EPA will review what we sent and if satisfied, will present a Closeout Agreement to the county. This grant was with the county, and the LCBRA administered it. There is no action. This is an update for the members.

#### **NEW BUSINESS**

##### 2023 Budget Worksheets

Galla reviewed the budget worksheets and explained several of the line items, mainly referring to the new EPA assessment grant. The budget needs to be approved before the end of the year. It can be amended, as needed.

Heinz said he would like to see balance sheets in the future to go along with the budget.

***It was moved by Eftaxiadis, seconded by King, to approve the 2023 budget with Galla making any final adjustments to make sure it balances. Motion carried 6-0.***

##### Review of Draft Work Plan RE: EPA Assessment Grant, and next steps (No Action Required)

Galla gave a review of the document and stated there was no action needed. Once the Cooperative Agreement is received, it will be taken to the County Board to accept.

Eftaxiadis questioned the process for selecting a consultant and Galla replied that the county participates in a couple online sites which meets requirement for EPA for selecting consultants, if they are participants on the site. There are a couple ways to have contractors selected for work and the LCBRA will look at those options after the Cooperative Agreement is in place.

Hawkins noted that EPA requires federal procurement steps to get consultant on board. For sub-consultants, they typically run through your selected consultant, because of laboratories used for testing. A QAPP (Quality

Assurance Project Plan) has to be completed by consultant and approved by EPA and it is pretty extensive. Hawkins noted that on occasion, they have been selected back-to-back to work on grants. It has been a while since you had your last grant so that scenario would be difficult to explain for this new grant. There is MiDEAL through the state and if a county participates, they can select consultants through that program as they have already been through the state process to get on that list. You don't necessarily have to go through an RFP process. Galla confirmed that Leelanau County is a participant with MiDEAL.

## **FINANCIALS**

Claims & Accounts

*It was moved by Foster, seconded by Arens to approve Claims & Accounts in the amount of \$2,333.45. Motion carried 6-0.*

Budget Amendment 22-001 for \$25,000

Galla explained the budget amendment to the 2022 budget for addition of the EPA assessment grant.

*It was moved by Eftaxiadis, seconded by King, to approve the budget amendment #22-001 as presented. Motion carried 6-0.*

## **CORRESPONDENCE/COMMUNICATION ITEMS**

**PUBLIC COMMENT** - None

## **DIRECTOR COMMENTS**

Galla reported she was signed up for the 2022 Brownfield Conference in Oklahoma City and had registration, airfare, and hotel all set. She paid for a portion of the costs herself, and will have a reimbursement request for consideration following the conference in August.

## **MEMBER / CHAIRPERSON COMMENTS**

Arens asked if the Land Bank properties have any contamination or is the only defect the fact that they are tax foreclosed? Galla replied there have been some in the past that had issues and grant dollars were used to assess the properties. There were also some that had to be demolished.

Heinz stated he was remiss not welcoming new member Lois Bahle to the board at the beginning of the meeting. Members welcomed Bahle to the LCBRA.

## **ADJOURN**

Meeting adjourned at 11:31 am.