

BATTLE CREEK TAX INCREMENT FINANCE AUTHORITY

Tuesday, October 15, 2019

A regular meeting of the Battle Creek Tax Increment Finance Authority was held on Tuesday, October 15, 2019 at 3:00 p.m. at the Frederick R. Brydges Customs Cargo Center, BCU Board Room. The following individuals were in attendance: Messrs. Christensen, Davis, Newsome, Stewart, and Wilson and Mmes. Darner, Fleury, Visger, and White.

Absent were: Messrs. Claywell, Czerney, and McKernan.

Also, in attendance were: Messrs. Corder, Dearing, Greg Dilone (Clark Logic), Gibson, Mumford, Reid, Sobieralski, Jeff Smoke (Great Lakes Capital) and Mmes. Jones (via conference call) and Young.

Mr. Stewart called the meeting to order at 3:00 p.m. Roll call of attendance was recorded.

INTRODUCTIONS

Introductions were made around the room. Jeremy Wilson was introduced, and comments made.

APPROVAL OF MINUTES

MOTION: Mr. McKernan moved that the Battle Creek Tax Increment Finance Authority Board of Directors approve the May 29, 2019 minutes as presented. Mr. Christensen supported the motion and it was unanimously approved.

BASF TODA TAX CAPTURE

Mr. Gibson stated for the BASF TODA Brownfield project the TIFA loaned funds to the Brownfield Authority for the project. The intent, as described in the Brownfield Plan for the project, was that the Brownfield Authority would capture taxes from the parcel and use that revenue to pay back the TIFA. The TIFA acknowledged in the minutes that, "The Battle Creek Brownfield Redevelopment Authority would capture taxes and repay the loan back to the BCTIFA as the new tax base comes through." However, the TIFA did not officially relinquish its right to capture taxes on this parcel for the duration of the Brownfield Redevelopment Authority's payback period.

This was an administrative oversight. To remedy this, there needs to be a motion and approval by the TIFA stating: The Battle Creek Tax Increment Finance Authority temporarily relinquishes its right to capture taxes on the BASF TODA site for the duration of the Brownfield Redevelopment Authority's loan repayment. The taxing rights to capture are reinstated at the end of the loan repayment.

MOTION: Mr. Christensen moved that the Battle Creek Tax Increment Finance Authority Board of Directors temporarily relinquish its right to capture taxes on the BASF TODA site for the duration of the BCBRA's loan repayment. The taxing rights to capture are to be reinstated at the end of the loan repayment. Mr. Newsome supported the motion and it was unanimously approved.

LAWN CARE RFP

Ms. Jones stated that every four years staff sends out bids for lawn care and snow removal maintenance. There were 15 proposals mailed out and three were submitted. Turfworks, Diamond Edge Lawn Care, and MLA Enterprise were the three businesses that submitted to the RFP. Turfworks is the current provided of both services. The contracts are separated out between Battle Creek Unlimited and the BCTIFA. The Robbins Building would be on a month to month contract due to the pending sale.

Currently Turfworks is paid \$7,200 monthly to maintain the Fort Custer Industrial Park roadsides and snow removal. Turfworks new proposal is for \$6,750. Diamond Edge proposed \$4,250 monthly to complete roadsides and snow removal. The Robbins Building current contract is for \$1,000 monthly. Turfworks proposed \$900 and Diamond Edge proposed \$1,250. A monthly difference of \$2,150.

Staff recommends awarding Diamond Edge Lawn Care located in Athens, Michigan with a 3-year contract. A 30-day out clause will be added to the contract should the business not perform as expected. The contract begins April 2020.

MOTION: Mr. Newsome moved that the Battle Creek Tax Increment Finance Authority Board of Directors award the Fort Custer Industrial Park lawn care and snow removal contract to Diamond Edge Lawn Care as presented. Ms. White supported the motion and it was unanimously approved.

ROBBINS BUILDING SALE

Ms. Jones stated the Robbins Building Committee has entertained an offer to sell all four BCTIFA-owned units (A, B, C, and D) at the Robbins Building located at 4661 W. Dickman Road.

- Effective date: September 3, 2019
- Purchase price: \$350,000
- Title company: Sun Title, Kalamazoo
- Title commitment ordered within 10 days of effective date – September 13, 2019
- Buyer to notify Seller of title issues within 30 days of receipt – TBD
- Seller to have 15 days from the date Seller is notified of issues to remedy – TBD
- Earnest money deposit \$5,000 to be deposited week of September 23, 2019
- Inspections (90-days): December 2, 2019
- Closing will take place 10 days of expiration of inspection period: December 12, 2019
- Buyer will repair the roof within 12 months after purchase

Ms. Jones stated that staff recommends selling all four BCTIFA-owned units A-D in “As-Is Condition” for \$350,000 to the prospective buyer and to authorize the Chair to sign all closing documents after the inspection period has ended.

MOTION: Mr. Christensen moved that the Battle Creek Tax Increment Finance Authority Board of Directors approve to sell all four units (A, B, C, and D) of the Robbins Building in “As-Is Condition” for \$350,000 to the prospective buyer and to authorize the Chair to sign the closing documents after the inspection period has ended. Ms. Darner supported the motion and it was unanimously approved.

ARMY CORPS OF ENGINEERING RIGHT OF ENTRY ASSISTANCE / ASM

Mr. Sobieralski reported since 2017 the Army Corps of Engineers has been seeking Rights of Entry to several properties within the Fort Custer Industrial Park (FCIP) to evaluate possible pollutants that date back to when the FCIP was an active military installation. These evaluations have been done on various parcels throughout the years ever since the FCIP was created. Although they do take time to complete, the evaluations have never been a hinderance to a property sale until now. The reason that the evaluations and possible remediation take so long is that they are dependent on Congressional appropriation dollars.

Environmental issues that are a result of the former Fort Custer Military Installation are solely the liability of the federal government. A landowner cannot pay a third-party firm to come in and complete an evaluation. They could for reassurance, but the Army Corps will not and cannot accept any findings unless the evaluations and potential remediations are completed by the Army Corps and their contractors. This becomes a huge problem during a sales transaction, because in any sales transaction in today’s environment the buyer wants assurances that their property is clean or will have an environmental baseline that clears them of any liability.

This is a cause of concern for delaying property sales within the FCIP as buyers are hesitant to sign off on a sale until all testing is complete and validated. Limited funding can hold these activities up. Army Corps is indicating the investigative work and possible remediation (if anything found) cannot be complete until 2021.

Staff is working with the Roosevelt Group and the Army Corps, a solution could be that a governmental entity (BCTIFA) provides funding to the Army Corps to execute work that would not soon be funded by Congressional appropriation. This would pay for the testing and validation of results at the sites under discussion and if necessary, pay for the remediation of the sites if something is found. But the work would be handled by the Army Corps and their designated contractors to ultimately gain a sign off from the Army Corps.

Staff suggests the BCTIFA consider a not-to-exceed amount of \$50,000 and work with the affected companies to cover overages. We would need some timeline assurances as well. This would only apply in a case-by-case scenario with properties that have active sales transactions which are being affected by the delayed evaluations.

MOTION: Ms. Visger moved that the Battle Creek Tax Increment Finance Authority Board of Directors authorize a not to exceed \$50,000 to work with Army Corps of Engineers. Mr. Christensen supported the motion and it was unanimously approved.

CLARK LOGIC PROPOSAL FOR I-94 SOUTH

Mr. Greg Dilone of Clark Logic provided an updated proposal for the sale of the I-94 South property. The original offer for the land was for \$100,000. The I-94 South property was appraised at \$1.4 million. The new offer proposal is for \$300,000 for the property, \$100,000 at closing and a \$200,000 Promissary Note. Clark Logic is proposing a \$10 million investment on the property with the construction of up to six spec buildings over the next 24 months.

Mr. Jeff Smoke of Great Lakes Capital is based in South Bend, Indiana introduced himself. Great Lakes Capital and Clark Logic have teamed up to co-develop other sites in Michigan. Mr. Smoke has a niche for spec industrial buildings and attracting tenants. The Battle Creek area currently has no existing industrial buildings available to lease. They proposed to have a shell building ready in 60-120 days for the leasing tenant. The Battle Creek market demand is strong and they look forward to the partnership.

The proposed \$300,000 would allow for the construction of market rate spec buildings in a competitive market. The average lease cost per sq. ft. will be \$4.25-\$4.50.

Mr. Stewart stated that BCTIFA acquired the proposed property approximately 20 years ago for the purchase price of \$800,000 and the appraised value is \$1.4 million. There is a large gap in price. He likes the investment and timing on investment.

The original proposal included building six spec buildings, three 50,000 sq. ft., one 100,000 sq. ft., and two 150,000 sq. ft.

Mr. Smoke suggested the amendment of \$800,000 for the property, \$100,000 due at closing and \$700,000 Promissary Note. If the development falls through with the proposed timeline, BCTIFA is made whole on the land.

Mr. Mumford suggested that the BCTIFA Board not engage in negotiations unless the BCTIFA Board authorizes staff to continue to work with Clark Logic and clarify the agreement and provide a proposal to the Board prior to next meeting.

Legal counsel did not have the opportunity to review the amended agreement prior to meeting today.

Additional points of concern from the BCTIFA Board on this project include:

- Gap in price from \$1.4 million
- BCTIFA originally paid approximately \$800,000 for the property
- Proposal to acquire 25 acres with option on remaining property
- Paying for the property up front, BCTIFA paying the money back instead of dealing with lawsuit to get BCTIFA paid
- Consideration of Tax Abatement

A special meeting will need to be considered. Timeline includes a revised proposal and having legal counsel review. Mr. Sobieralski suggested that Clark Logic put a list of items together and email staff to begin negotiations. Once staff receives all the metrics, a special meeting will be scheduled.

HILL BRADY ROAD LINEAR PATH

Mr. Sobieralski stated the path on Hill Brady Road is scheduled to be completed by October 31, 2019.

Construction for the infrastructure of the left turn signal at the corner of Hill Brady and West Dickman Road is underway. Completion is scheduled for next year.

PUBLIC COMMENTS

No comments were made.

There being no further business, the meeting was adjourned at 3:52 p.m.