



Birmingham Triangle District
Corridor Improvement Authority
Thursday, June 30, 2016
Birmingham City Hall
151 Martin
Commission Room #205
8:30 A.M.

MINUTES

1. Call to Order by Commissioner Sherman at 8:39 A.M.
2. Roll Call:

Present: J.C. Cataldo
Edward Fuller
Curtis Hays
Stuart Sherman
Robert Ziegelman (8:55 AM)

Absent: Kip Cantrick, Jr.
Victor Saroki

Others Present: Bond Counsel McGow, City Engineer O'Meara, City Attorney Currier,
City Manager Valentine, Planning Director Ecker, Deputy Clerk Arft

Commissioner Sherman noted there have been a few developments on negotiations with the county to make everyone aware of and provide guidance to send to the City Commission as to how to deal with certain issues.

3. Approval of minutes from January 22, 2015

MOTION: Motion by Fuller, seconded by Hays:
To approve the minutes of January 22, 2015

VOTE: Yeas, 5
Nays, None
Absent, 2 (Cantrick, Saroki)

Motion carried.

4. New Business

a. Review of history of TIF Plan

City Manager Valentine briefly outlined the history of the TIF plan since January 2015. The presumption at that time was that the Corridor Improvement Authority (CIA) had completed its role in developing the Development and TIF plans for the District and subsequently the Commission adopted the plans in May 2015. Shortly after that, the county notified the city that it was changing its policy for how TIFs were going to be reviewed, and provided the city with a draft of that policy. Discussions with the county continued to ensure their participation in the plan. Initially, the county opted out of the TIF until an agreement could be entered into between the county and the city. Discussions continued and documents were provided on multiple occasions. The county agreed to proceed with participating in the process to take this before their various boards. The city had several meetings with the boards, presented the plan, answered their questions and the county subsequently approved the plan, subject to an agreement with the city which was consistent with their new policy. The policy was adopted by the county in April after the discussions had already started. Negotiations began with county for the \$1.6 million they would contribute under the TIF plan. The city was presented with language, and the city responded and negotiated terms by which the city could come to an agreement and actually start collecting. The city subsequently missed the first year of capture because of the negotiation process, and it looks like it will miss the collection for 2015 as well.

City Manager Valentine explained that we are now at the position where the conflict of interest language is the sticking point. There is also some unclear direction from the county in terms of what they want to see in the plan. Initially, the city in its plan proposed to build two parking structures over the course of a 25 year period. The county subsequently indicated that because it is not definitive as the city does not own the property yet, the county had concerns about the city completing the plan as it was presented. The city then proposed putting the funds in into one structure for the \$1.6 million, it was submitted to the county and subsequently was denied and the city was told to stick with the original plan. So now the city will go back with two structures and work out the period for which the TIF collection is going to be for each structure. Initially, the city had 25 years up to 2040. The county wants one structure with a definitive time frame and if the structure is not built in that time frame, the city would reimburse all the funds collected under the TIF for that first period. Under the second period, if the structure is not built in the time frame, the city would do the same. In effect, this gives the city for \$800,000 for the first structure and \$800,000 for the second. It changed the city's concept of what was in the original TIF plan.

City Attorney Currier explained the conflict of interest language. He said the language basically disqualifies anyone with an ownership interest in the Triangle District. The city felt the stakeholders should have a voice in the district. He said the city has stated our ethics ordinance should be relied upon, and the county has come around recently to agree to include the ethics language. The city felt it was important for the stakeholders to have a voice in the district, not that they would profit from the information, but they have the greatest insight into how this district should operate. He said the county wants to shorten the time frame but have not given the city a time frame as yet, and discussions are continuing.

Mr. Fuller asked if the way would be cleared if property owners were removed from the board. City Attorney Currier responded that he believes that is now resolved. The city wanted the stakeholders involved. The county now agrees with the makeup and understands the logic.

Commissioner Sherman noted the amount of money being discussed is declining. He said one possible recommendation is to tell the commission the board is no longer interested in participating with the county.

City Attorney Currier said the long-run issue to consider is engaging the county in this project and possible future projects. His feeling is to pursue this regardless.

Mr. Cataldo asked for an idea of the dollar amount of the potential TIF funds.

City Planner Ecker referred to a table prepared by Finance Director Gerber, and said between 2014-2015 tax years, there was a 7.3% increase. From 2015-2016, there was a 9.6% increase. All Seasons represented an increase of \$6.8 million in tax value, which is what the city hoped to capture.

Commissioner Sherman said the county also wants to reset the base year.

Bond Counsel McGow said he understands the city will not capture for 2015 because the county had exempted, and the city would not capture for 2016 until there is an agreement, but the base year was based on the date the plan was approved by the city. He confirmed that the county thinks the base should be reset to when they approved the agreement.

City Attorney Currier said he does not believe the county is correct. Bond Counsel McGow agreed it is not correct under the statute. What the county is attempting to do in the sharing agreement is further limit the capture based on a higher base value.

City Attorney Currier noted many counties have gotten together to oppose TIF legislation at the state level. Oakland County has said they are still in favor of it.

City Manager Valentine said there was a different administration handling the TIF program in the county in 2008. Prior to 2008, the participation by the county was at 100% of the capture. The new policy limited the capture from the county's perspective to 50%, but it was possible to get up to 75% if the city met certain criteria, which the city met. Everyone participating would have to be equal in the capture, so that lowered the amount of the total capture that the city would receive based on the county's policy change.

Mr. Cataldo asked if the city can we go back and capture 2015 if the county is eliminated. City Manager Valentine said he thinks we could; however, HCMA and Oakland Community College opted out because the county opted out, and the county has said it would help assist to get the other entities to come back in. Those entities do not make up for the shortfall.

Bond Counsel McGow said the amount was \$17,000 for 2015, and if we miss this year then that is \$40,000 from the county alone, assuming 5 mills. He said the troubling thing is the change in the base year, as the city does not get that moving forward. He believes the city can still capture based on the 2014 base year. City Manager Valentine said the value is the additional capture from the county, HCMA and the college.

Mr. Valentine said the key to this succeeding is to have the county participate in this project. He wanted to bring the language to the authority and discuss the implications for the individual authority

members.

City Attorney Currier read the language to be included in the agreement and said it is almost verbatim from the ethics ordinance. The county now understands our reasons to include stakeholders as members of the authority. Negotiations continue over the number of structures, the term, and what base year it is going to be. The city wants to keep it 2014. The county wants to change that for themselves.

Commissioner Sherman thinks that section 1(e) in agreement is also a problem. City Attorney Currier said the city can operationally get past the land acquisition itself. City Attorney Currier said the consideration is if we abandon the county now, do we risk future participation.

Bond Counsel McGow said that one of the things counties object to is the use of the funds to pay for things they had to do anyway, for example, DDAs that use the funds to run police departments, pay for municipal buildings as opposed to economic development.

City Manager Valentine said the county likes to see a plan that is ready to go with the land purchased. In the city's case, we do not own the land yet or know exactly when we are going to construct, and the county has had some issues with that. Part of their resistance to this is the fact that we do not have the details down.

City Manager Valentine asked for consensus in terms of the language and any feedback on whether or not that would be acceptable to continue with what has been proposed, or if the members wanted to see any modifications to the agreement based on any concerns. Mr. Valentine stressed to the county that the language they proposed is not acceptable.

Mr. Fuller noted that the city has always had the ethics language situation to deal with. It does not stop the city from doing anything, but says you have to disclose it.

City Attorney Currier stated the practice that the city has followed for a long time is the federal land acquisition standards as far as buying property which means we obtain an appraisal to determine what the fair market value is and the city will not deviate from that a lot.

The consensus is that there is no problem with the sharing agreement.

Mr. Fuller left the meeting at 9:15 A.M.

Commissioner Sherman has a concern with section 5(c) regarding promotion and what the county requires of the city. He asked for clarity of that section as to exactly what is meant by promotion of county services and what could constitute a breach of that provision.

City Manager Valentine said going back in negotiations, we would continue to promote the 2014 year capture and provide some time frames for the structures. He said those are the points in contention.

Bond Counsel McGowan agreed the biggest financial impact is changing the base year since it carries forward every year. He said the way the CIA works is that it does not know what the dollars are going to be because it is based on the ultimate development. He asked if this agreement written with a hard cap of \$1.6 million. City Manager Valentine confirmed that it is, even though it is only projections. All

of this transpired after the CIA adopted their plan and the county came up with their new policy and set the conditions for their participation.

Commissioner Sherman asked what the statute says about the cap. Bond Counsel McGow said the statute talks about how the capture works, and then there is a section which says the taxing units can enter into an agreement with the city and the authority to provide for the sharing and capture of taxable value. Effectively that means the statute says you can contract for anything less than you would otherwise get, so if you want to limit it to years, dollar amount, percentages that can all be part of an agreement. Parameters, including the use of the money, can be placed in the contract. He believes that is permitted under the statute.

Mr. Cataldo said the city is looking at \$1.6 million from the county to be invested in the decks over a period of 25 years. The decks are in general \$37 million including land acquisition. City Manager Valentine clarified that the city would apply the county money toward the deck construction. Mr. Cataldo said it is looking at less the 3% of the total project that the county would contribute.

Mr. Cataldo asked about the time frame. City Manager Valentine said if the city comes to an agreement subsequent to this meeting, and assuming their position does not change, the city would start the capture in 2016, so the city is still looking at several years before it has anything to work with. It does not stop the city from pursuing something in the district to start moving ahead, it is just having the pool of funds to utilize for that project is going to be more limited.

Mr. Cataldo asked if it affects any current relationships. Commissioner Sherman said it affects the ability to bond. City Manager Valentine stated when looking at project cost, we will have to look at how to finance the project, so the TIF would be one of those components. If the TIF is not in a position where it can be counted on to contribute to the project, then arguably the city is not going to be able to count on that as part of the financing formula as we go forward. Indirectly, there is a disconnect because of that. The \$1.6 million dollars is not going to prevent the city from moving forward.

City Attorney Currier noted that bonding will be based on the city's financial strength, not the participation of the county. It will be a consideration, but he is not sure it will be a determining consideration.

There were no comments from the public.

The meeting adjourned at 9:25 A.M.

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