

**Brownfield Redevelopment Authority
MINUTES
City Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan**

**Thursday, May 14, 2015
8:30 a.m.**

1. Chairperson Gotthelf welcomed everyone and convened the meeting at 8:30 a.m.

Members Present: Chairperson Beth Gotthelf
Paul Robertson, Jr.
Robert Runco
Dani Torcolacci
Wendy Zabriskie

Members Absent: None

Also Present: Duayne Barbat, representing Shell Gas Station (former Citgo Gas Station)
Scott Barbat, representing Shell Gas Station (former Citgo Gas Station)
Blake Burstein, Intern
Dan Cassidy, Vice President of SME, representing Catalyst Development Co.
Anne Jamieson, AKT Peerless Environmental Services, City Brownfield Consultant
Elizabeth Masserang, PM Environmental, Inc.
Christie Santiago, PM Environmental, Inc.

Administration: Jana Ecker, Planning Director
Mark Gerber, Finance Director
Jeffrey Haynes, City Attorney
Carole Salutes, Recording Secretary
Joseph Valentine, City Manager

Ms. Torcolacci, newest Authority member, introduced herself and offered her background.

2. Approval of September 10, 2014 Minutes

Motion by Mr. Robertson

Seconded by Ms. Zabriskie to approve the September 10, 2014 minutes as presented.

Voice

Vote: Yeas, Robertson, Zabriskie, Gotthelf, Runco, Torcolacci

Nays, 0

Absent, 0

Motion carried, 5-0.

3. Resolution approving Brownfield Plan and associated Reimbursement Agreement pertaining to the Brownfield Plan for 33588 Woodward Ave. (former Citgo Gas Station) and requesting the city clerk to forward the Brownfield Plan and Reimbursement Agreement to the Birmingham City Commission for their review and consideration.

Ms. Ecker talked about the development. The owners are expanding the convenience store footprint, recladding the building, adding a new canopy, new tanks, new screenwalls, new lighting. Everything other than the shell of the original building with the addition will be new. When the applicants first submitted their Brownfield Plan the City saw there was not only contamination on the site, but that it was perhaps spreading to the public property to the east, south and west. They met with MDEQ who agreed to do additional testing to determine the furthest extent of the flow.

Mr. Haynes clarified that there was free product in the soil but apparently not in the ground water yet. The meeting with MDEQ established that fact and that the free product was probably confined to the site. The City was concerned that it was migrating into the alley, so the applicant went out and did some soil gas tests which showed no soil gas in the alley to the east.

Chairperson Gotthelf noted the total the developer is requesting is approximately \$200 thousand with another \$26 thousand of 15% contingency.

In response to Mr. Robertson, Ms. Santiago said the tanks have been removed from the ground as well as all of the contaminant. They took out almost four thousand tons of soil. Of the four thousand tons they removed, they are asking for reimbursement of a portion.

Ms. Masserang from PM Environmental covered the expenses that have been incurred already and what is to be incurred. Initially they were looking at an amount that was significantly less. However, the developer had some concerns about not addressing due care and additional response activities to the standard that the City wanted to see. They also wanted input from MDEQ and that meeting was arranged.

Per the City's request, the developer came forth to amend his SLUP to include and to insure that all soils above CSAT (soils that are impacted with gas that could be representative of free product) will be removed from the property. In order to address

the SLUP, 4,000 tons of soil had to be removed from the property. They are now requesting reimbursement for around three thousand tons of that soil.

Mr. Robertson noted there are some contaminants on the southern edge of the property. He asked if there is concern about leakage into the adjacent parcel. Ms. Santiago replied there was soil gas there and they dug up to the property boundary and removed all the impacted soil. They have to go back out now that the site has been backfilled and retest to show there is not a soil gas concern there any longer. The developer has spent a significant amount of money to clean up to that point.

Ms. Jamieson asked whether there was additional testing within the right-of-ways to ascertain whether or not there was any off-site migration. Ms. Santiago replied they did a ground penetrating radar survey to locate underground utilities but they still do not have a schedule of when they will get out to do the drilling. The entire site has pretty much been excavated. Ms. Jamieson said once they have more information they can make decisions on how to proceed.

Chairperson Gotthelf raised the question of whether there is a liable party for the contamination. Ms. Santiago said that is one thing the MDEQ is looking into to get the site to closure. Mr. Scott Barbat indicated the prior owner is a single owner/operator who is no longer in business. He had operated the station for about twenty years. Ms. Santiago noted the age of the contamination can't really be determined.

Mr. Haynes added there is a trust that shows up on the title search. There may be some recourse against those parties. The statute allows this authority to pursue liable parties for reimbursement of anything that this Authority agrees to reimburse the new owner. The State is doing their own investigation for a liable party.

Mr. Barbat said he purchased the property from one owner and the business from another. They cleaned up and excavated almost the entire site as they said they would at a cost of well over \$200 thousand. His property is clean.

Ms. Masserang said the EPA paid for the Phase 1 Environmental and that is as much as they can cover.

Discussion considered \$2,700 for asbestos containment which is another ticket item incurred as a result of the contamination. It is an additional cost that people sustain when they are renovating older facilities. Since the Authority had previously approved asbestos expenditure for the Catalyst Building they agreed to this reimbursement. Ms. Jamieson indicated it is a public health and safety issue.

Motion by Mr. Robertson
Seconded by Ms. Zabriskie

Whereas, the City of Birmingham has created a Brownfield Redevelopment Authority and appointed members to serve on the Authority, pursuant of 1996 PA 381, and and

Whereas, the Brownfield Redevelopment Authority is charged with the review of Brownfield Plans for Brownfield projects in the City of Birmingham, and

Whereas, the owner/developer, 33588 Woodward, LLC, intends to develop a new retail building and gasoline station at 33588 Woodward Ave, and has determined that the subject property is in need of approximately \$226,153 in environmental cleanup in order to meet certain Michigan Department of Environmental Quality standards, and

Whereas, PM Environmental has prepared a Brownfield Plan for the environmental cleanup of the site at 33588 Woodward Ave. dated April 16, 2015, and

Whereas, the Brownfield Redevelopment Authority has reviewed the Brownfield Plan.

NOW THEREFORE BE IT RESOLVED THAT:

The Brownfield Redevelopment Authority approves the Brownfield Plan for 33588 Woodward Ave. (former Citgo Gas Station) prepared by PM Environmental dated April 16, 2015 and requests the city clerk to forward the Brownfield Plan and associated Reimbursement Agreement to the Birmingham City Commission for its review and approval pursuant to Act 381.

Voice

Vote: Yeas, Robertson, Zabriskie, Gotthelf, Torcolacci, Runco

Nays, 0

Absent, 0

Motion carried, 5-0.

The next step will be a public hearing before the City Commission. Mr. Robertson wanted to make sure they drill one hole in the parking lot to the south to see if there has been any migration. Ms. Santiago stated when she talked to the project manager at the MDEQ she specifically asked whether they were going to drill on the south adjoining property. The project manager indicated they can't go onto that property but will return later if they are concerned about something. Mr. Haynes said in answer to Mr. Robertson that either he or Ms. Jamieson will follow up with the MDEQ and report back.

4. Resolution approving the TIF reimbursement for the previously approved Brownfield project at 34977 Woodward Ave. (Catalyst Building) and directing the Brownfield Redevelopment Authority to reimburse the applicant for all expenses covered under their Reimbursement Agreement dated November 11, 2008 as listed in the reimbursement request dated July 1, 2014, to the extent of property taxes captured to date for 34977 Woodward Ave.

Chairperson Gotthelf explained that reimbursement is from the incremental tax increase of the property. The property has been built, occupied, and now it is assessed at a higher tax. At this time, the money between the low tax and the high tax is available for cost reimbursement as documented in the Brownfield Agreement that was entered into with the developer.

Mr. Dan Cassidy said he represents Catalyst Development who constructed the Greenleaf Trust Building. Their request for \$761,581.35 has been documented and reviewed by the City.

Motion by Mr. Robertson

Seconded by Ms. Zabriskie to approve the request for \$761,581.35.

Voice

**Vote: Yeas, Robertson, Zabriskie, Gotthelf, Torcolacci, Runco
Nays, 0
Absent, 0**

Motion carried, 5-0.

5. Project Updates by Ms. Ecker:

- There are several projects that will be pending, primarily in the Rail District, but so far they have not seen any actual Brownfield plans.
- The BP Station at Cranbrook and Maple Rd. is under discussion now. It will be redeveloped as a credit union. There are some issues about off-site migration. They received Final Site Plan approval at the Planning Board for the new construction. It is a Special Land Use so they still have to go before the City Commission.
- The other project that seems to be close is on Lincoln in the Rail District, the former school bus garage property. A mixed-use building is proposed and the developer has indicated they will be submitting a Brownfield Plan and seeking reimbursement.

6. Open to the public for items not on the Agenda (no public comments)

7. Adjournment

No further business being evident, meeting adjourned at 9:20 a.m.

Respectfully submitted,

Carole Salutes
Recording Secretary