

Terri Soliday - E-mail to Brownfield Redevelopment Authority

From: Lori Mullins
To: DDA members
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Subject: E-mail to Brownfield Redevelopment Authority
Attachments: To East Lansing Brownfield Redevelopment Authority for 112014 meeting Brownfield Park District Investment Group_1.GWI

Sorry for the multiple e-mails, but some people had difficulty opening the attachment. I have pasted it in text form below.

>>> Eliot Singer <picaresquescholar@gmail.com> 11/19/2014 10:52 AM >>>

The number one reason why 43.5% of East Lansing voters, and a much higher percentage of well-informed voters, do not trust our government on matters of development is the disturbingly close relationship between city officials and Strathmore Development Company and its affiliates and successors (shell companies in common lingo). The refusal of government to adopt rules to prevent public-private partnerships and tax-incentives for developers with history of fraud, tax liens and serial delinquencies, foreclosures and defaults, layered shell companies, and high-risk or mystery lenders, will be a major issue in next year's council election and possibly a ballot initiative.

The DDA/BRA hardly needs to be reminded of the Strathmore track record, which continues to be troubling. A new IRS tax lien against Strathmore has just been recorded, and although one of the four IRS tax liens for unpaid employee withholding and payroll taxes has been paid off, the current total owed is ~\$325,000. There are also state tax liens against Strathmore in Michigan, Florida, and Ohio, and the nearly \$900,000 in IRS tax liens against Terra Management Company, which was manager of record for CADA Investment Group at the time it purchased the Big Bank Building and one of the other Grand River properties, are still on the books (later properties were under management of Strathmore). I presume the only reason the most recent property taxes on the City Center II properties were paid, instead of the long history of serial tax delinquencies, is because the mortgage lender, Mountain Vista Real Estate Opportunity Fund I, LLC, took the unusual step for a commercial loan in the November 8, 2013 mortgage for nearly \$32 million, incorporating prior notes, of requiring City Center Two Project, LLC, to make property tax payments as part of mortgage payments.

City government appears, once again, to be in violation of the city charter for doing business with Park District Investment Group, while the owner of the properties, City Center Two Project, is in breach of contract for having failed to demolish the 303 Abbot (Little Bank) building, as stipulated in the April 2012 pre-development agreement, whether or not a development agreement followed. Park District Investment Group did not participate in the Park District RFQ/P, and would have been excluded for lack of transparency, so selling it the Little Bank Building by private arrangement is in violation of any notion of good government and only cements the view of East Lansing residents and others that there is still something very rotten going on in city hall. I will also remind that the private properties became blighted by neglect of the property owner and hence giving tax breaks will be perceived by the community as a reward for doing wrong and as an incentives for other property owners seeking tax breaks to allow their properties to become blighted.

The first job of government is to engage in risk management to protect the interests of its citizens. Given the Mountain Vista mortgage and Strathmore's track record, including ongoing litigation with lenders over

projects in Florida, Michigan, and Ohio, the possibility of obtaining private financing for a project of this magnitude is exceedingly unlikely (no one will be fooled by a new name). Government needs to consider alternative motives for seeking brownfield tax incentives. Therefore, it is essential to place legal language in the brownfield agreement stipulating that it is not transferable. It is not uncommon for developers to use unrestricted tax incentives to enhance sale value of properties.

As to the brownfield agreement itself, one of the key concerns of citizens is how much tax incentive is really needed to make a project financially viable for the developer, as opposed to the politically untenable practice of maximizing developers returns. In this case, City Center Two Project claims to have \$12.5 million (if I remember correctly) in legacy MBT brownfield tax credits, which was awarded based on a percentage of private investment for a much bigger project and which should never have been allowed for a project that was not already under construction. That credit alone should be far more than enough to cover any costs that supposedly make urban redevelopment non-competitive with "greenfield" (sprawl) development, which is the whole point of brownfield tax incentives. There should be no need for diverting East Lansing and other taxes in a brownfield plan to make the project adequately profitable.

A 2011 FOIA request produced a Strathmore document for a prospective lender for City Center II that projected nearly \$6 million NOI for Building A alone. The current proposal is slightly different, but Building A is pretty similar. Admittedly, this is a considerably higher NOI than from the Oetzil-Hartmann 2012 due diligence appraisal, but if developers want to claim they need tax breaks for financial viability, that should be based on what they tell prospective lenders -- no having it both ways. Unless a developer can prove that tax breaks are absolutely necessary, none should be rewarded.

Given who we are dealing with, there needs to be independent verification of the estimated eligible activity expenses. This should hold true for any developer, but especially one no citizen smart enough not to respond to phishing requests would let get a shoe in the door. I want to point out that the mortgage denies any environmental concerns with any of the properties and that PM Environmental was shown through a court case to have been an investor in City Center II, so its report has no credibility. The 5% interest estimate from someone (or close affiliate of) with a 14% mezzanine mortgage in default who paid something like 24% interest to ELBB during the many extensions to the redemption period for the sheriff's deed is highly questionable.

Pending a verified expenditure breakdown from a credible independent source, the document before the BRA gives an eligible activities expenditures estimate of \$4,828,779 in direct costs plus \$5,177,611 in interest, for a total of \$10,618,890. Separately, there is a tax increment schedule for 30 years, using apparently the city assessor's projection for post construction taxable value, that comes to \$37,187,976 (adding local plus school tax increment values). The 2% growth assumption is clearly too high, ~1% having become the new standard, so this needs to be recalculated. The document states that "personal property is included as part of the eligible property." If that actually is part of the taxable value projection, it needs to be removed, since there will be no personal property taxes.

This is a tax increment schedule. It is not a reimbursement (TIF) schedule. I believe all the brownfield plans I have looked at for the City of East Lansing have been approved by the BRA and Council as reimbursement schedules (even if there has been a tendency to come back for second helpings). There is no reason for waiting for a reimbursement agreement done behind closed doors or a development agreement, which should not be necessary without public financing, to devise a reimbursement schedule as part of the brownfield plan. With a 1% growth estimate, a 50-50 sharing between reimbursement for developer and tax increment to taxing bodies would probably take about 20 years. Of course, the irreparable harm done to this community by Strathmore should preclude any tax incentives, but at the very least a vote needs to be postponed until a proper plan, with a reimbursement schedule, is produced.

Another technical issue is that these properties are in the expanded DDA TIF #2 district, for which the county opted out, so that needs to be figured out.

The document before the BRA states there will be no bonds and that "the authority and the City of East Lansing will not be financing or advancing any funds for eligible activities." So, what does it mean that "it is the intent of the parties to allocate the tax increment...to the Authority and the Applicant in accordance with the parties' relative share of eligible expenses..."? This sounds like the real intent is to change the plan behind closed doors so the city in fact does spend money.

Given the history of the close ties between city hall and Strathmore, not to mention conflicts of interest involving the DDA/BRA, such as the January 15, 2013, Declaration of Use Restriction by City Center Two Project, LLC, "to establish and preserve a non-compete restriction solely for the benefit of Ballein Management, LLC," there is no possibility of trust. Everything must be done in public with tough conditions and scrutiny. This brownfield plan for Park District Investment Group is not ready and needs to be redone before being brought back to the BRA for a vote.