

INDUSTRIAL DEVELOPMENT BOARD

February 9, 2012

6:30 pm

Present: Bruce Carter, Mike Fussell, Shelton Hatcher, Elbert Jones, Terry Smith, John Sheley, John Zobl, John Steinhauer

Others Attending: JoAnna Blauw, Keith Dennen, Ed Spurlock, Fred Qualls, Garry Forsythe, Jack Long, Ray Bucy, Jerry Stone, Leah Dennen, John Bradley, Don Long, David Lawling, Leah Fisher, Robert DeBlasio, Sean Roach, Elizabeth Lance, and others.

Absent: None

Roll was called, and there was a quorum.

Steinhauer called the meeting to order.

PUBLIC HEARING

None

MINUTES

Steinhauer called for approval of the November 10, 2011 minutes. Jones so moved; Zobl seconded. The minutes were approved.

OLD BUSINESS

Steinhauer recognized Keith Dennen who gave a report on the Indian Lake Village TIF project. Dennen gave a power point presentation (see attached/related DVD) reviewing mission of the board as well as the Indian Lake Village project as far back as 2006 when the board was first approached by Danny Hale of Halo Properties with idea of Indian Lake Village. He also reviewed the points of what a TIF is, that is, a plan to create economic growth, higher property values, and higher tax revenues due to development of said area. A TIF is not a rebatement; property taxes are paid, and under a TIF, everyone pays their taxes based upon the value of the property. He then went over the key elements of a TIF including the development of previously underused/underdeveloped land and the need for public infrastructure, and, ultimately, the increase in sales tax, other taxes, increases in employment and wages and other benefits. The county is not liable for the debt associated with the TIF loan, and it does not impact the county's bond rating or its borrowing ability. TIF bonds are not payable by the county; therefore it allows the county to spend its money on its priorities. It is essentially a risk free investment. When government borrows money, it tends to go through bonds and bond purchasers with the only collateral being the full faith and credit of the county. The IDB has no authority to borrow money or pledge county or city credit, but the board can make recommendations

to the city and county about bond issues. THE IDB is simply a conduit for the borrower, the underwriter, the bond purchaser, the bond trustee, the letter of credit issuer, et al. Addressing the specific issue of Indian Lake Village, Dennen pointed out the difference in tax revenues before and after the TIF deal.

Before TIF in 2006 taxes collected on the property were roughly \$43,000.00. After TIF from 2007-2011 taxes collected on the property were roughly \$1,400,000.00.

Dennen then reviewed the process for approving this economic impact area. In 2006, the board held two public hearings, and the board agreed that Halo Properties had a good idea. This was not a pledge of anyone's money, just a statement that the economic impact plan was a good idea and, thus, recommended the plan to the Hendersonville BOMA and the County Commission. The plan recommended was for a thirty year economic impact plan that would be paid for with industrial revenue bonds. Swap payments were included in the plan, and it was specifically agreed that taxes would be used to pay the bond. The plan was overwhelmingly approved by the BOMA and the County Commission.

In 2007 when the bonds were issued, many variable rate issues contained a fixed rate swap, too. The borrower and underwriter determined that the swap rates be in place, not the IDB. The length of the payoff is the same as the expiration of the TIF – thirty years. The TIF expires when the bond is paid off. Halo Properties had hoped to pay off the bonds in 15-20 years, notwithstanding the current economic recession. The bonds do have a prepayment feature. In 2011, \$500,000.00 was prepaid and \$540,000.00 will be prepaid in 2012. Any excess money is available to prepay the bonds.

Finally, has the Indian Lake Village TIF worked? 113 businesses have been documented, \$35 million in payroll, \$225 million in retail sales and \$5 million in local sales tax has been collected and 2,000+ jobs are related to the project.

Carter asked about the timeline for payments. Dennen answered that the first payment is due on May 1, 2012 with an increase over time every May.

Hatcher asked if there was money available to make payments. Dennen answered that we don't have the figures yet.

Fussell praised the project and asked if due diligence was done in 2006-2007. Dennen answered that there was two public meetings in 2006 with members of the BOMA and County Commission attending before it was presented to the BOMA, County Commission and relative committees. Fussell reiterated that there was no risk to the county and city and made reference to recent bad press. Dennen addressed the recent misinformation and insinuations regarding this TIF. He spoke specifically about the county's request to have a member of the IDB attend an Ad Hoc committee meeting, and Dennen reminded the board that the board must abide by the open forum policy, and therefore could not send anyone in an official capacity to speak for the board without the prior approval in a public meeting. He also referenced a letter from the county and their demands of Firth Third (5/3) Bank. Attorneys for the bank and the county did have a conference call regarding the county attorney's questions. 5/3 provided responses and said they would be willing to have additional calls and meetings to discuss the interest rate swap rates and fees. 5/3 was unable to come tonight, but would come to the next meeting to answer any further questions.

Steinhauer made a motion to suspend the rules and allow members of the county commission and ad hoc committee to speak. Fussell so moved; Jones seconded and the motion was approved. The rules were suspended.

Jerry Stone handed out a memorandum, and introduced Ray Bucy who would go over the memorandum. Bucy began by saying that he was not there to debate the merits of the project but to debate the use of tax dollars in the best way possible. He is simply raising questions about this particular TIF deal, not the concept of TIF deals in general. He believes that tax dollars are being wasted. He and the county raised a number of questions to 5/3, specifically asking them if they saw any errors or mischaracterizations of the numbers as Lawling had put them together. 5/3 answered, no. Bucy then went over the costs of the Series A and Series B bond (see hand out). When the deal was being done, the bank said it was worried about bonds being subject to variable rates, and therefore, the bank made it part of the deal to buy interest rate swaps that covered both bond series. The net cost has been \$2 million +. The IDB pays a fixed interest rate to the bank, and has received less than \$1 million, and over \$4 million has been paid to 5/3 for the bond. The summary cost has been \$6.6 million. In his judgment, that seems to be poor use of the taxpayer's money in the eyes of the County's Ad Hoc committee. He asked if there was a way to fix this problem. Every TIF deal does not have to have an expressive letter of credit or interest rate swaps attached to it. He went on to say that 5/3 had not done a true swap and assume the obligations of the IDB on these bonds. 5/3 said IDB had a choice with these swaps, but 5/3 said the IDB picked this particular swap index. As a result, the IDB can expect these fees and unfavorable swaps to continue over many years. He added that the fees might go down in respective amounts, but the fees will continue.

Carter asked if another meeting was scheduled with 5/3. Dennen replied that there is no meeting scheduled as of now, but everyone is available if needed.

Bucy then posed the ultimate question – what can we do to stop the bleeding and work on the financing side of this bond issue. If we can work together, we think we can come up with a solution.

Hatcher asked if the IDB or Halo did the swap. Bucy said that the IDB did the swap and that he had confirmation.

Dennen replied that the IDB is a conduit, and that the IDB executed the documents assigned to it by the borrower. The borrower was involved in the mechanics of the swap, and it was presented to the board as part of the greater good of the borrower. Without the letter of credit, this transaction would have never gone forward. A penalty would be paid if the board opted out or undid the swap contracts.

Bucy said that the payment is not improper; it is part of a contractual payment. Maybe it was imprudent, and we should make an effort to correct the course and save the taxpayers' money going to TIF revenues.

Fussell asked if any aspects of the TIF arrangement were different from what the county approved. Bucy answered, no, and Fussell asked if it would have been better if counsel for the county commission had raised these questions then and not now. Bucy said that the next time a TIF deal comes around, the county commission will have a lot more questions about the deal and that future deals may even suffer from a lack of confidence.

He reiterated that he was not here to criticize this board, and that next time we need to call in an expert on these matters.

Steinhauer pointed out again that when we met with county originally, everyone was happy. No questions were raised. He noted that this was a waste of time to go back and forth, and asked what we can do as a board to work with the county and solve the problem.

Zobl said that we are all open to questions and that we were more than willing to facilitate the answer and work together. He asked to table this disagreement in favor of helping answer questions with Dennen representing the IDB in any future conference calls and meetings. Dennen agreed and added that if the county would pledge \$18 million to take care of this bond, we would avoid all the fees.

Sheley asked if 5/3 could calculate obligations with current swap and no swap in regards to what the fees would have been in both scenarios.

Steinhauer recognized the alderman present and asked if any would like to add to the discussion. They said no. Jerry Stone reiterated that we should work together and was just looking for cooperation and an opportunity to save money that has been paid in fees. Hatcher agreed and said he looked forward to that cooperation.

Steinhauer asked Mike Fussell and Ed Spurlock to serve as an Ad Hoc Committee with Keith Dennen. Zobl moved; Hatcher seconded and the motion was approved.

FORWARD SUMNER

Steinhauer asked John Sheley to serve as the board's representative on Forward Sumner's board. Fussell so moved; Smith seconded, and the motion was approved.

NEW BUSINESS

Unison Site Development wants to speak with the board about the cell tower site.

Dennen said he would provide Unison rep with information on the tower and report back to the board.

The letter of credit with 5/3 expires on May1, 2012. They will renew it through 2014, and would like the IDB to acknowledge renewal. He asked for a motion to accept renewal of the letter of credit with the same terms and conditions. He added that this issue could not wait, and there was no reason not to renew it. We still pay the fees annually, but we could also cancel at any time. We are not obligated to pay any additional fees. This takes the burden off the county and the IDB to act too quickly.

Fussell so moved to renew the letter of credit; Sheley seconded. Zobl asked who would normally request a letter of credit. Dennen said the borrower would, but since the borrower in this case, Halo, is in receivership, the borrower is in a unique situation and the task falls on the board. The motion was approved.

With no further business the meeting was adjourned.

John Steinhauer, Chairman

Bruce Carter, Secretary/Treasurer