

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

**Thursday, February 18, 2016  
8:30 a.m.**

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Chairperson Gotthelf welcomed everyone and convened the meeting at 8:35 a.m.

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

Member Absent: Dani Torcolacci

Also Present: Dan Cassidy, Vice President of SME  
Gary Shiffman, Alden Development Group, LLC  
Developer of 34965 Woodward Ave., Peabody's  
Restaurant  
Brett Stuntz, AKT Peerless Environmental Services, City's  
Brownfield Consultant  
Chris Longe, Project Architect

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

**1. Approval of August 13, 2015 Minutes**

**Motion by Mr. Robertson**

**Seconded by Mr. Runco to approve the August 13, 2015 minutes as presented.**

**Voice**

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

**Motion carried, 4-0.**

**2. Resolution approving the Brownfield Plan and associated Reimbursement Agreement pertaining to the Brownfield Plan for 34965 Woodward Ave. (Peabody's Restaurant) 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 offered background. In December 2015, the owner of the above-captioned property submitted a draft Brownfield Plan ("the Plan") to the City in anticipation of the construction of a new mixed-use, five-story development proposed for the site. The Plan outlines numerous environmental concerns on the site, including historical operations performed at the site, contamination from adjacent sites that has migrated onto the site, and contamination on the subject site, including the presence of petroleum hydrocarbon constituents and heavy metals in the soil, and barium in the groundwater.

City staff, the city attorney and our environmental consultants at AKT Peerless reviewed the draft Plan and requested additional information on the extent of the contamination. The applicant submitted a more detailed Plan, and the City provided comments and suggested several changes. On January 27, 2016, the applicant submitted a revised Plan reflecting the changes discussed, requesting the reimbursement of \$1,438,238.00 in environmental cleanup costs in order to clean the site to meet the Michigan Department of Environmental Quality standards.

Ms. Ecker advised that both the City's legal counsel and the City's environmental consultant have reviewed the Brownfield Plan for 34965 Woodward, and all requested amendments have been made by the applicant.

Mr. Chris Longe, the architect, provided a general idea of what the proposed building will look like. It will be mixed-use and will step back at the fifth floor. The components of floors 2 and 3 have not been determined; however floors 4 and 5 must be residential. They anticipate two floors of underground parking for 88 spaces. The building materials will be limestone with steel windows. This will be a significant structure on Woodward Ave.

In response to Chairperson Gotthelf, Ms. Ecker replied the Peabody Building is not a historic site and it is not located in a historic district.

Mr. Dan Cassidy, Vice President of SME, summarized the background as it relates to the Environmental Site Assessment. From an engineering perspective it will be a significant challenge to construct so they don't undermine the structure and integrity of the Greenleaf foundation while developing the foundation system for the new building.

Throughout time there were many different structures and uses on the property. Soil and groundwater at the property is contaminated with concentrations of metals and volatile organic compounds that exceed Michigan's cleanup and safe use standards. As

to the existing building, there are a number of suspect building materials that contain asbestos, and probably lead paint that will have to be assessed and abated.

Looking at the Brownfield Plan, the group studied the table relating to costs. The demolition is categorized as a necessary environmental activity because impacted fill that is below Peabody's must be removed. However, they have omitted that cost from their request. The hazardous materials assessment and abatement (estimates) have been left in. Expenses related to BEA activities, Due Care Activities, and Soil Management were discussed.

Chairperson Gotthelf thought it might be helpful to have a workshop with staff and with the City Commission so that the Authority understands the direction they should take in the future as the City evolves. Discussion turned to the disposal of fill that comes off of a site. At times it may be relatively clean and can be sold and re-used. Therefore, the person taking it away is going to absorb the transportation costs.

The chairperson asked staff to put together a comparison of all general costs that were requested and approved on the sites where the Authority has already asked for reimbursement. That will provide some guidance and consistency for this site and a running chart can be kept for reference in the future.

Mr. Cassidy explained that installing a vapor barrier is a likely potential cost. They are installed on the exterior of the foundation walls to prevent vapors from migrating through the foundation walls or up through floors and into the interior space. Mr. Robertson commented he would put one in every time as a precaution. Mr. Cassidy noted there are definitely contaminants coming from the Greenleaf property to the south. There is a question mark on the Peabody side, and supportive evidence with the chemical results to the north. They included the vapor barrier but hope not to incur the cost. However, they want it in their request as a contingency in case it is needed.

Mr. Cassidy went on to discuss groundwater management. Their request is in the ballpark of what they incurred on the Balmoral and Greenleaf projects. They are asking for the difference between what would normally be incurred on a construction project and what would be incurred because this is a Brownfield site. Their goal is to get the project done in compliance with State law as cost effectively as possible.

The only other item remaining is dust suppression. They anticipate that the dust is contaminated and has to be disposed of differently. Again, they are asking for the difference between what would normally be incurred on a construction project and what would be incurred because this is a Brownfield site.

It was concluded that payback on the project would occur in year seven. Values in the City are not only holding, but increasing.

Mr. Gary Shiffman, one of the developers of the proposed Peabody project, said they have taken a careful look at the parking issues and the parking report that has been developed by the City. They are trying to self-contain their parking and even add additional spaces. The Peabody project covers the requirements on the residential but it puts all the burden of office and retail into the parking structure. On the Brookside Terrace project they are at \$75,000 per space for the second level down. The first level is cheaper. Because of that they will charge premiums for the ability to create additional parking for their users. They are trying to be thoughtful of what is taking place in the City. Additionally, he will ask the owners for a timing extension on the closing in order to give the Authority time to study the comparison costs that will be provided by staff. Lastly, Mr. Shiffman added they are working hard with the owner of the frame shop and hope to be able to incorporate it in the project.

Mr. Robertson assured the developer it isn't that there won't be a Brownfield; it is the amount that is in question.

**Motion by Mr. Robertson**

**Seconded by Mr. Runco to postpone 34965 Woodward Ave. (Peabody's Restaurant) to Wednesday, March 9 at 8:30 a.m.**

**Voice**

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

**Motion carried, 4-0.**

**3. Resolution approving the TIF reimbursement for the previously approved Brownfield project at 33588 Woodward Ave. (Citgo/Shell) and directing the Brownfield Redevelopment Authority to reimburse the applicant for expenses up to \$226,153 as covered under their Reimbursement Agreement dated June 29, 2015, as listed in the reimbursement request dated January 26, 2016, to the extent of property taxes captured to date for 33588 Woodward Ave.**

Ms. Ecker verified that the owner of 33588 Woodward Ave. has submitted all of their receipts and invoices and they were sent to AKT Peerless, the City's Brownfield environmental consultants, who reviewed the reimbursement request and are recommending reimbursement of up to \$226,153.

Mr. Brett Stuntz, AKT Peerless Environmental Services, advised that the Brownfield plan capped the amount of reimbursement at \$226,153. However, the submitted costs for reimbursement were higher than that, but there were some that AKT would have questioned whether they were actually reimbursable costs under the Plan and the Agreement.

**Motion by Mr. Robertson**

**Seconded by Ms. Zabriskie to approve the TIF reimbursement for the previously approved Brownfield project at 33588 Woodward Ave. (Citgo/Shell) and directing the Brownfield Redevelopment Authority to reimburse the applicant for expenses up to \$226,153 as covered under their Reimbursement Agreement dated June 29, 2015, as listed in the reimbursement request dated January 26, 2016, to the extent of property taxes captured to date for 33588 Woodward Ave.**

Chairperson Gotthelf noted the City wants to encourage its redevelopment, but this is money the City would have had but it does not. If paying a developer back is the only way to get a site redeveloped, that is one thing. However it should not just be free money for them for something they would have done anyway. Mr. Stuntz thought maybe the Authority should back off or cap certain activities in Birmingham and say they are not going to be approved.

**Voice**

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

**Motion carried, 4-0.**

**4. Initial Screening Requirements for Brownfield applications.**

Chairperson Gotthelf emphasized that Brownfields are not intended to reward the person who caused the contamination. That should be taken into consideration by the Brownfield Redevelopment Authority, because the City doesn't want someone buying the property at a reduced price because of its contamination and then double dipping by applying for a Brownfield reimbursement. Perhaps the Authority should think more about the type of information it wants in advance in order to make thoughtful and informed decisions.

Mr. Valentine noted the activity level in terms of the Brownfields that have come in has increased. Rather than just r processing the applications, the Authority should have the ability to review the applications in the context of whether they meet the objectives of the City as well as having a criteria to evaluate them against in order to make that determination. That was the intent of the modifications being proposed today.

Mr. Robertson commented the application contains all of the questions that the Authority ends up asking when applicants come in anyway. It is great to have them on the front end. It is all about the soil and disposal and what they would have done

anyway. Also, it is about the contamination and whether the applicant got the property at a discount.

Mr. Haynes added that an item should be included that breaks down the transport and disposal costs of soil. Mr. Robertson said the first question should be what it would cost if this was totally clean soil. Then, if this was a contaminated site what would they be doing differently. Mr. Haynes said rather than a generic question, break it down so the applicant understands where the board will be focusing on the specific line item costs.

Consensus was that the Brownfield Project Application form should include a section on initial screening requirements as discussed. Mr. Valentine agreed to come back to the next meeting with the format the Authority has indicated they want to see revised. He advised that when the Authority determines what they want the ceilings to be, it ought to be formalized in the policy of the Brownfield Authority. That will provide the ability to be objective rather than somewhat arbitrary in the reviews.

Mr. Valentine summarized that going forward in this direction meets the expectations. Additionally, the processes can certainly be modified in the future if needed.

Mr. Gerber noted a few projects have stretched the timeline they typically would like to see for reimbursement to come back. There is some intrinsic value in removing the contaminant from the community but there is also the timeline it will take to make that happen. Maybe looking at future projects, the Brownfield Redevelopment Authority should consider how much time it will take to reimburse the City.

## **5. Project Updates**

Ms. Ecker announced that 856 N. Old Woodward will be coming in the near future.

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

## **7. Adjournment**

No further business being evident, the board passed a motion to adjourn.

Respectfully submitted,

Carole Salutes  
Recording Secretary