

PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY
BOARD MEETING MINUTES
Friday, January 8, 2010
7:30 AM, 3CDC Conference Room, 1014 Vine Street, Suite 1420, Cincinnati, OH

I. CALL TO ORDER

Otto Budig called the Port of Greater Cincinnati Development Authority Board of Directors meeting to order at 7:30 a.m. Mr. Budig acknowledged the passing of Kim Satzger's mother and expressed the Boards' deepest sympathy.

BOARD MEMBERS PRESENT:

Budig, Jr., Otto
Dunn, Marty
Greive, Rick
Handy, Clark
Jacobs-Horton, Lydia
Williams, Tom
Zimmer, Joe

EXCUSED:

Marmer, Lynn
McShea, Karen
Wright, Shane

STAFF:

Karimi, Marjorie
Robb, Deborah
Russell, Christine
Schafer, Ray
Thomas, Susan

GUESTS:

Engel, Mark – Bricker & Eckler, LLP
Norman, Mark – Vorys, Sater, Seymour & Pease LLP

II. APPROVAL OF MINUTES

Motion: Marty Dunn moved to adopt the minutes of the December 11, 2009 Board meeting. The motion was seconded by Tom Williams, and was approved unanimously.

III. BROWNFIELD PROJECTS UPDATE

Christine Russell provided the Board with the following brownfield projects update.

5025 Carthage Avenue, Norwood, OH (Linden Pointe) – Hull & Associates collected additional data at the Linden Pointe site and submitted an addendum to the No Further Action Letter (NFA) on September 11, 2009. Comments from the Ohio Environmental Protection Agency (EPA) were received on October 15,

2009. Additional sampling has been completed to address Ohio EPA's comments, and that data was submitted to Ohio EPA on November 12, 2009. A revised NFA Addendum will be submitted on January 8, 2010.

Mr. Budig inquired as to why the addendum was necessary.

Ms. Russell said that the addendum was necessary to address Ohio EPA comments on the original NFA submittal.

320 South Anthony Wayne Avenue, Lockland, OH (Hamilton County Regional Business Park) – Remediation of this site is complete and the No Further Action Letter was submitted to Ohio EPA on February 26, 2009. Comments from Ohio EPA were received on June 23, 2009, and an NFA Addendum addressing these comments was submitted on August 19, 2009. Ohio EPA notified the Port Authority that the NFA Addendum resolved all of their comments, and that the Covenant Not to Sue was expected by the end of October 2009. The delay is not due to any technical issues. The Ohio EPA has received an unusually high number of Covenant Not to Sue requests this year due to a change in the cleanup standards, and it is simply taking longer to work through the backlog of submittals.

4101 Spring Grove Avenue, Cincinnati, OH (American Can Building) – The property owner continues to work to put together the financing package for the entire project (including remediation and development), and is simultaneously pursuing two distinct sources of financing. Work will begin soon on exterior improvements and parking lot upgrades that are being funded separately by Federal stimulus funds.

3241 Spring Grove Avenue, Cincinnati, OH (Former Kahn's/Sara Lee Site) – The Port Authority has been asked by the City of Cincinnati and Hamilton County to submit a Clean Ohio Revitalization Fund application for the 17-acre former Kahn's/Sara Lee site in Camp Washington. The \$3 million grant would fund demolition and environmental remediation at the site to prepare it for redevelopment. The grant application is due on January 15, 2010.

Ms. Russell stated that, since this is the first Clean Ohio Grant submission with the new Board, Mark Norman will provide an overview of the types of agreements required by the State of Ohio if the Port Authority is successful in receiving grant funds. He will also review the agreements that the Port Authority has used historically when contracting with both the developer and the environmental consultant.

Mr. Norman said that, before a grant agreement is executed between the State and the Port Authority, there are a number of agreements into which the Port Authority enters with the developer. There is a Letter of Intent outlining what the project will entail and expectations of each of the parties. There is a Development and Site Preparation Agreement that looks like a development agreement. There is an Access Agreement that is required by the State of Ohio, and there is a Reimbursement Agreement which allows the Port Authority to get paid costs and expenses from the developer over the life of the grant-funded activities.

If grant funds are awarded, then the State enters into a Grant Agreement with the grantee. Before the Port Authority enters into the Grant Agreement with the State, it enters into an agreement with the developer to act as the project manager responsible for undertaking the cleanup activities, the Clean Ohio Fund Project Management Environmental Services Agreement. In that agreement, the Port Authority lays out the areas of responsibility for the developer and the Port Authority, including flowing down the requirements of the grant agreement from the State to the developer.

Finally, there is a Certified Professional Agreement. Clean Ohio Fund projects are implemented through the Ohio Voluntary Action Program (VAP). One of the benefits is that the grantee and property owner receive a No Further Action letter from Ohio EPA.

Mr. Budig asked if the Port Authority has fiscal liability.

Mr. Norman said that the development agreement has an indemnity for the time period during the grant application preparation period and review process. Then, after the Grant Agreement has been signed, the Port Authority's agreement with the redeveloper has an indemnification in it that stipulates that, if for any reason the State seeks repayment of the grant funds, the developer is responsible for repayment of the funds. This is why the Port Authority has a guaranty in place as part of its redeveloper agreement.

Mr. Budig asked Mr. Norman to walk through the flow of funds.

Mr. Norman stated that grant-funded activities may not begin until the Grant Agreement is signed. When the Port Authority is the lead applicant, the Grant Agreement is between the Port Authority and the State of Ohio. The Grant agreement is typically signed by the Port Authority first, and then the Ohio Department of Development Director, and the Lieutenant Governor. The Grant Agreement is not considered effective until the State of Ohio signs the agreement.

Once the Grant Agreement is signed, the project is funded on a reimbursement basis. He further explained that the work must be completed in a manner consistent with the State's procurement competitive process. Once the work has been completed, the contractor(s) submit invoices to the Port Authority for payment. The Port Authority reviews the paperwork and forwards onto the Ohio Department of Development (ODOD) for payment. Once ODOD reimburses the Port Authority, the cash flows back to the redeveloper/subcontractors.

Ms. Jacobs-Horton asked if the Port Authority is the intermediary for this type of grant.

Mr. Norman explained that, per the Ohio Statute, only governmental entities can be grant recipients. Therefore, as a governmental entity, the Port Authority may receive grant funds.

Ms. Jacobs-Horton asked if grant funds could be used for a reimbursement fee.

Mr. Norman responded that is not an eligible expense under the grant program.

Mr. Greiwe asked if the fees for this type of work cover the Director of Brownfield Development's salary.

Mr. Schafer said historically the Reimbursement Agreements have been structured to pass along out-of-pocket expenses to the developer, and the developer is charged a monthly fee for the Port Authority's involvement.

Mr. Greiwe asked if the Port Authority initiated any clean ups on its own.

Ms. Russell indicated that the Kemper Road property was owned by the Port Authority and taken through the cleanup process, funded by Clean Ohio Funds.

Formal Action Requested – Before the Board today is a proposed resolution authorizing the Port Authority to submit the Clean Ohio Revitalization Fund application and to enter into multiple agreements with the property owner or a development partner or both.

Motion: Rick Greiwe moved to approve Resolution No. 2010-01 authorizing the Port Authority to prepare and submit an application for a Clean Ohio Revitalization Fund Grant and to enter into multiple agreements related to the Kahn's property revitalization. The motion was seconded by Marty Dunn, and was approved unanimously.

IV. FINANCING PROJECTS UPDATE

Susan Thomas said that port authorities have a broad range of innovative financing capabilities under Ohio law that enables these governmental entities to play a unique role within the community. These tools can be used to supplement the programs and activities of State and local municipalities, and provide another vehicle for enhanced economic development activity.

Financings issued by the Port of Greater Cincinnati Development Authority have historically fallen into three broad categories: tax increment financing, lease financing, or conduit financing.

Conduit Revenue Bonds – The Port Authority can serve as a conduit revenue bond issuer for many different types of transactions. These bonds are based on the credit worthiness of the borrower and are often backed by a letter of credit. For example, port authorities have the ability to issue tax-exempt debt and can, therefore, issue tax-exempt conduit revenue bonds for 501(c)(3) non-profit organizations. The borrower does not necessarily need to be a 501(c)(3) organization. There are a series of Federal programs, particularly in the stimulus package, where a borrower would need a government issuer to take advantage of a Federal program that would allow them to issue debt on a tax-exempt basis. The Port Authority would be an eligible issuer for that purpose.

Examples of conduit bond projects that the Port Authority has issued to date are the National Underground Railroad Freedom Center, Cincinnati Zoo, Sisters of Mercy projects, and the Fountain Square refinancing. These projects are all 501(c)(3) organizations.

The repayment source is the borrower. The Port Authority issues the debt and loans the proceeds to the borrower, and the borrower is obligated to make loan payments back to the trust, and the trust pays the bondholders. There is usually some additional form of security that is included.

These bonds do not appear on the Port Authority's balance sheet as these bonds are not a Port Authority asset or liability.

Lease Financing – Port Authority lease financings have been utilized to convey a variety of tax and accounting incentives. Port authorities are the only governmental entity in the State of Ohio that can undertake lease bond financing. Generally, the Port Authority purchases or constructs a facility, and then leases the facility to a master lessee who makes lease payments sufficient to cover debt service on the bonds. The general resources of the Port Authority are not pledged to debt repayment, and any lender or bondholder has recourse only to the lease payments made by the lessee or to the asset leased or financed. Lease bond financings are heavily credit dependent and are typically, but not exclusively, used by investment grade entities. Large institutions, like universities and hospital systems, are common issuers.

Examples of lease financing projects that the Port Authority has done to date are the 303 Broadway Building and the Queen City Square Tower projects.

Ms. Jacobs-Horton asked if the master lessee is able to eventually buy the land and structure.

Ms. Thomas stated yes, but that the price depends on whether there is a capital lease or an operating lease in place. Both types of leases are triple-net leases.

Mr. Greiwe asked how this type of bond affects the financing and construction costs, and what are the benefits.

Ms. Thomas stated that, when working with the Port Authority, prevailing wage must be paid and a commitment must be made to follow the Port Authority's Economic Inclusion Policy. The Port Authority, however, is able to offer an exemption on sales tax on construction materials that are used in the building of Port Authority facilities. Additionally, historically, lease bond financings have been up to 100 percent of the project. This, of course, is market dependent. This is attractive as it allows less equity upfront and allows a cash flow stream to finance the project.

Ms. Jacobs-Horton inquired how the Port Authority comes to acquire the land.

Ms. Thomas stated it is typically given to or purchased at a non-market rate by the Port Authority as part of the deal.

Mr. Dunn asked that, given the Port Authority's expanded powers, is there competition with any other issuers, and why would someone choose the Port Authority as opposed to some other options that may be available to a developer.

Ms. Thomas responded that the Port Authority is definitely in competition with other issuers, most notably Hamilton County, on the conduit side, and municipalities for TIF bonds.

Although the Port Authority generally is more expensive than these other entities that frequently charge nominal or no fees, Ms. Thomas believes that the Port Authority adds value as this is what the Port Authority does on a daily basis.

Mr. Dunn asked if the stimulus package changes the way 501(c)(3)s can get bond financing.

Ms. Thomas responded that in the finance world there is a concept termed "bank-qualified debt." There used to be a cap of \$10 million that was based on the issuing entity. The Port Authority has historically declined to do bank-qualified debt as this would end the Port Authority's ability to do another bond deal for the remainder of that year – if it were to have issued \$10 million of debt. As part of the stimulus package, the bank-qualified rules have been revised and the cap has been raised to \$30 million. This cap relates to the actual borrower and not to the issuer. This is not a permanent change and may or may not continue beyond 2010.

Tax Increment Financing – Tax Increment Financing ("TIF") is a financing tool that allows the future increase in property taxes to be used to finance part of the cost of the improvement that will generate the increased taxes.

Examples of TIF deals the Port Authority has done to date are the Kenwood Towne Place, Cincinnati Mills, Pictoria, and Redbank Road projects. There are TIF components at both the 303 Broadway Building and Queen City Square Tower projects.

A TIF is put in place by an ordinance of the city council or township board of trustees and provides an exemption from property taxes that would be generated from the increased value of a development project. The exemption applies only to the increment. Existing property taxes continue to be paid to the respective government entities. The owner of the property is required to make "service payments in lieu

of taxes” (commonly referred to as “PILOTS”) with respect to the exempted real property taxes. The PILOTS are then used to pay debt service on bonds issued.

In Ohio, school districts often receive all or a portion of the tax revenue that would have otherwise been received out of the PILOT payments. Some school districts have arrangements with the local city or township that govern all TIFs while others decide on a case-by-case basis.

TIF bonds may be issued on a taxable or tax-exempt basis. The bonds are non-recourse to the municipality and the Port Authority, and do not count against the city’s general obligation bond cap unless the city specifically agrees to provide credit support.

TIF bonds are also backed by some form of security in addition to the TIF proceeds. The form of this security varies depending on the structure of the deal, but it can take the form of a reserve fund, a minimum service payment agreement with the developer, a letter of credit provided by a bank, and/or a special assessment. A special assessment is a charge levied upon a property especially benefited by a public improvement for the purpose of paying for part or all of the cost of the improvement.

Ms. Thomas noted that bonds do not go away after issuance. Projects are constantly monitored, and there have been a number of revisions to deals several years after the bonds have been issued. This takes a significant amount of time.

Ms. Thomas also provided the Board with a list of Port Authority financing deals and a PowerPoint presentation that Ms. Thomas uses as a tool when meeting with municipalities to educate on the role of the Port Authority and what the Port Authority can do to assist with tax increment financing.

Mr. Greiwe asked if the service fees charged cover the Director of Public Finance’s salary.

Mr. Schafer responded yes.

Ms. Thomas reiterated that the Port Authority is not restricted into these three types of financings. There are a lot of possibilities available as discussed in prior Board meetings.

Mr. Dunn stated that if the Port Authority is going to coordinate with the greater Cincinnati community regarding the various financing packages, available bond funds, etc., then the Port Authority will need to reconcile some of the competition. It would appear that how things fit together is confusing to the borrower.

Ms. Thomas affirmed that it is confusing for developers and businesses due to the fact that one needs to speak with multiple entities that do different things. Some entities are better educated about what other entities do. The Port Authority has been making strides to address this by having more joint meetings upfront whereby a developer or business can make their case once in front of a number of different parties.

The Port Authority will counsel a developer or business on whether or not the Port Authority is the right entity to do the deal or if someone else can do it better, faster, cheaper, and/or has a more appropriate program. The Port Authority considers that to be the right thing to do.

V. ECONOMIC INCLUSION UPDATE

Deborah Robb provided the Board with the following project economic inclusion update.

Queen City Square Tower, Cincinnati, OH – There continues to be visual progress at the site. The fifth tower crane jump of another 60 feet occurred on December 5, 2009. It will stay at this elevation until just before the start of the tiara construction in the spring. When it jumps the sixth time in the spring, it will be raised another 100 feet to allow for the tiara construction. The concrete core is now complete through level 44, and the core forming system is being dismantled over the next two weeks. The steel floor will continue to stay with the concrete core but stops at level 42, which is the roof. This steel “Topping Out” will be celebrated in a media-worthy event on January 19, 2010 (See attached invitation). The tiara is currently being fabricated in Mississippi and will start arriving at the jobsite in mid-March. The tiara erection will begin April 1, 2010.

The curtain wall enclosure is currently at level 25 and is progressing by a floor a week. The stone and glass enclosure of the lower five floors of the building has begun along Third Street and will continue for the next eight months.

The mechanical and electrical rough-in is proceeding according to schedule and is staying on pace with the new floors as created. Duke Energy has delivered the transformers which are currently being installed. The conversion from temporary power to permanent building power will happen in April of 2010, if not sooner. The Thyssen Krupp elevator is active in all of the 25 office tower elevator shafts and is on schedule with its work. Turner Construction is currently going out to bid for the public lobby and promenade areas. This work will begin in the field in the spring when the building is more enclosed

The Project Team (Eagle Realty, Ellington Management Service, Turner Construction, and the Port Authority) continue to meet on a monthly basis to receive project updates, and to insure that companies are following the contracting guidelines that were established by the team. The team held a community outreach and networking session on December 15, 2009, at the Urban League, to update key stakeholders on the progress of the site, as well as provide them with an update on economic inclusion. Both prime and sub-contractors were in attendance at the event.

Progress on the project may be viewed at: www.queencitysquare.com/construction.htm. There is a webcam at the site that captures photos of the site on a daily basis.

Ms. Robb directed the Board to the Economic Inclusion Reports. In the “Projects Completed through December” report, the Harrison Terminal project has been added to the report as the project has been concluded. The overall results for “Total Projects” since the Port Authority’s inception are 23.6% for Minority Business Enterprise (MBE) participation; 14.7% for Women Business Enterprise (WBE) participation; and, 35.3% for Small Business Enterprise (SBE) participation. The Port Authority is above target on two and near target on one for Total Projects Completed.

In the “Projects in Process” report, MBE is at 23% participation; 14% participation for WBE participation; and 13% SBE participation.

Mr. Budig stated that, since the Port Authority began in 2001, the Port Authority has had an extraordinary record in minority, women, and small business participation, which has exceeded expectations. He asked if the Port Authority should be communicating its successes with stakeholders and the public.

Ms. Robb confirmed that this is taking place through her active role in the African American Chamber, Urban League, as well as the South Central Ohio Minority Supplier Development Council. People active in this space are aware of the Port Authority’s inclusion efforts.

Mr. Zimmer commented that there is a common misconception that, if a minority contractor is hired, there is a minority workforce. This is not necessarily the case. The minority workforce may be slightly higher; however, it

is not a 100% minority workforce with a minority contractor. The Port Authority may want to consider reporting on the workforce in addition to the contractor inclusion numbers.

Mr. Budig stated that this topic may be given further consideration in the future.

Mr. Greiwe asked if the Director of Economic Inclusion's salary was covered in the Port Authority's fees.

Mr. Schafer affirmed that it is.

VI. CHAIRMAN'S REPORT

Mr. Budig instructed the Board that, per the Bylaws, Board Officers must be elected each year.

Motion: Mr. Williams moved to nominate the following: Mr. Otto Budig, Jr. as Chairperson, Ms. Lynn Marmer as Vice Chairperson, Ms. Kim Satzger as Secretary, and Mr. Ray Schafer as Assistant Secretary. The motion was seconded by Mr. Marty Dunn. The motion was approved unanimously.

Mr. Budig thanked the Board for its approval of Board Officers.

Mr. Budig stated that the Board meeting dates must be approved for the year 2010. A calendar of proposed meeting dates is located in the Board binder.

Motion: Marty Dunn made a motion to adopt the Board meeting date as the second Friday of each month beginning at 7:30 AM, noting a recess during the months of July and August. The motion was seconded by Joe Zimmer. The motion was approved unanimously.

Mr. Budig informed the Board that Mr. Williams, as chair of the Economic Development Working Group, has indicated that the group is working on a strategy document that the Port Authority will share with the City and County as to its future activities.

Mr. Williams stated that there is nothing to report at this time as we are in the process of framing the strategic plan.

VII. PRESIDENT'S REPORT

Mr. Schafer referred to Resolution 2010-02, Appropriations Resolution, of the Board of Directors of the Port of Greater Cincinnati Development Authority for the Fiscal Year 2010.

Mr. Schafer commented that it has been difficult to budget without a reliable revenue stream. Historically, the Port Authority has typically received monies at the end of the year. The staff has had discussions with the Finance Working Group (FWG) reviewing the details of the budget as in previous periods. In doing so, the FWG has had questions that were addressed and the draft budget was amended accordingly. At this point, the Board is presented with a budget with which the staff and FWG are comfortable.

Mr. Schafer directed the Board to the 2010 appropriations budget, and asked if there were questions regarding the explanation of the fluctuations.

Mr. Budig stated that the Port Authority depends on \$350,000 per year from the City and County for a total of \$700,000. Unfortunately, the County has not paid its \$350,000 for 2009.

Mr. Budig suggested that Mr. Schafer direct a letter to the County to ensure they understand that the Port Authority continues to depend on and need the funds which are past due. It is unfortunate that despite the Port Authority's desires to move forward in an aggressive fashion and the City and County's expectation that the Port Authority will play a bigger role in economic development, the Port Authority continues to be held back by limited income.

Mr. Schafer continued and directed the Board to line item "Revenue from Prior Year End Cash Balances." This reflects beginning of the year cash balances that cover shortfalls of the current year. Mr. Schafer pointed out that, when the last appropriations resolution was passed, the Port Authority had projected a \$795,000 shortfall because the Port Authority had not received either of the City's or County's money for 2009. As a result of having received the City's money for 2009, and with the reserve, the 2009 shortfall is now \$395,000. The 2010 proposed budget reflects a \$464,000 shortfall. The projected cash at 12/31/09 of \$895,000 will be decreased by \$464,000, leaving a cash balance at 12/31/10 of \$431,000, which is roughly 3.6 months worth of operations.

Mr. Budig stated that, with the proposed budget, at the end of the year, the Port Authority will have approximately four months remaining of cash reserves. Mr. Budig added that \$700,000 in grants that it receives from the City and County is the operational support that the Port Authority has relied on since its inception.

Mr. Schafer stated that the Port Authority has had some bond financings that have provided additional revenue. Being at the point of needing to calculate months of cash remaining, is no different than what has been typical during each year.

Mr. Schafer reiterated that in order to continue to operate, the Port Authority needs at least the \$350,000 from both the City and County, and potentially additional funds.

Mr. Dunn asked what the long-term commitment was of the City and County.

Mr. Budig responded that neither the City nor County have been prompt with their payments. The County has indicated that it simply does not have the money, and are unable to pay the Port Authority.

Mr. Dunn asked if there was a written five-year commitment.

Mr. Schafer believed that there was a statement in the most recent reformation of a commitment, of \$350,000 per year. While the commitment statement is reflected, the funds still need to be appropriated.

Mr. Budig stated that he appreciated the Finance Working Group's efforts in working on the 2010 budget and requested a motion to approve the 2010 Appropriations Budget.

Motion: Tom Williams moved to approve Resolution No. 2010-02 Appropriations Resolution of the Board of Directors of the Port of Greater Cincinnati Development Authority for the Fiscal Year 2010. The motion was seconded by Clark Handy, and was approved unanimously.

Financial Report – The balance sheet reflects \$895,000 in cash at the end of December. Expenditures are projected to be within the \$1.4 million budget amount. There may be some year-end adjustments that need recording.

Mr. Greiwe asked if the revenue from fees reflected in the Resolution is all from current outstanding deals.

Mr. Schafer affirmed this was correct.

VIII. ADJOURNMENT

Mr. Budig asked for a motion to adjourn the meeting.

Motion: Marty Dunn made a motion to adjourn the meeting of the Board meeting at 8:59 a.m. The motion was seconded by Joe Zimmer. The motion was approved unanimously.

Respectfully,

Ray Schafer
Assistant Secretary