

**PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**  
**February 21, 2008**  
**7:30 am at 3CDC Conference Room, Suite 1440**

**I. CALL TO ORDER**

Mr. Rouse called the Port of Greater Cincinnati Development Authority Board of Directors meeting to order at 7:40 a.m.

**BOARD MEMBERS PRESENT:**

Bailey, Clifford  
Budig, Otto  
George, Louis  
Love, Steve  
Muller, Paul  
Rouse, Jack  
Siebenburgen, David

**EXCUSED:**

Hull, Betty  
Johnson JioDucci, J. J.  
Otto, Charlotte  
Zimmer, Joe

**STAFF:**

Richardson, Connie  
Robb, Deborah  
Russell, Christine  
Satzger, Kim  
Schafer, Ray  
Thomas, Susan

**GUESTS:**

Baas, Mark – Bear Creek Construction  
Drane, Emmett – Institute for Entrepreneurial Thinking, Ltd.  
Engel, Mark – Bricker & Eckler, LLP  
Reed, Keith – Cincinnati Enquirer  
Tarpley, Audie – Bear Creek Construction

**II. APPROVAL OF MINUTES**

**Motion:** Mr. Budig made a motion to adopt the minutes of the December 14, 2007 Board meeting. The motion was seconded by Mr. Bailey. The motion was approved unanimously.

### III. BROWNFIELD PROJECTS UPDATE

Ms. Russell provided the following brownfield project updates to the Board.

**5025 Carthage Avenue, Norwood, OH (Linden Pointe)** – Remediation was completed at the end of August 2007. The No Further Action (NFA) letter is under review by Al. Neyer, Inc. and is expected to be submitted to the Ohio Environmental Protection Agency (OEPA) by the end of this month. The process to obtain a Covenant Not to Sue (CNS) from OEPA typically takes approximately four months. With this time frame in mind, the CNS should be received in early summer 2008.

Mr. Rouse asked if there was any reason that the CNS would not be received.

Ms. Russell said no, and explained that the Linden Pointe cleanup had been straight forward.

**320 South Anthony Wayne Avenue, Lockland, OH (Hamilton County Regional Business Park)** – When the Board last met, this project had one identified area (Identified Area 3) left to be remediated, and the property owner was awaiting a permit from the Metropolitan Sewer District (MSD) to approve covering an existing private industrial water line with soil. That permit was received, and the soil cover was placed in the appropriate area. There are a few piles of concrete left and a fence that needs to be taken down, but the remediation field work has, for the most part, been completed. Ms. Russell is scheduled to meet with the environmental consultant to finalize the schedule for submission of the No Further Action (NFA) letter. The NFA letter should be ready for submittal to the OEPA in the next two to three months.

**4101 Spring Grove Avenue, Cincinnati, OH (American Can Building)** – The remaining remediation is for polychlorinated biphenyl (PCB) clean up. The Port Authority has arranged a low interest revolving loan from the Ohio Department of Development (ODOD) to help fund the remaining remediation on the site. American Can Building, LLC decided that, before entering into that loan, they would take a step back and get a legal review of the remaining remedial action. The legal review should be completed in a few weeks, and it is believed that a preferred path forward has been found. The ODOD is holding the loan allocation for American Can Building, LLC, so there is currently no risk of losing the loan. The low interest revolving loan will be closed as soon as American Can Building, LLC has had the opportunity to review and move forward with the results of the legal review.

Mr. Rouse asked if the legal review was being conducted to determine the process American Can Building, LLC would be using to remediate the building.

Ms. Russell said yes, adding that PCB regulations are very complicated. There are several paths that can be taken within the PCB regulations. American Can Building, LLC had previously chosen a path that required meeting a prescribed standard across the board. There is another path that is a risk-based implementation that American Can Building, LLC wanted the opportunity to review before moving forward.

Mr. Rouse asked if there was an impact for the Port Authority.

Ms. Russell replied that there was not. She further stated that decisions made at the beginning of a project, as to which path of remediation is chosen, are based on a relatively small amount of data, and as the project progresses more data is collected that might suggest going in another direction with regard to remediation.

Mr. Muller asked if the change in remediation path required any community notification.

Ms. Russell replied that currently no additional notification is required beyond that which was done for Clean Ohio Funds and the Revolving Loan.

Mr. Bailey asked if the American Can Building project was still on track.

Ms. Russell replied that the project is significantly off-track. The American Can Building, LLC was originally hoping to have the cleanup completed by December 2007. The change in schedule is driven by the property owners/developers as they investigate their remediation options. As this project involves Clean Ohio Funds, the ODOD has been kept up to date as to the project schedule.

Mr. Budig asked how American Can Building, LLC was handling this setback – financially.

Ms. Russell replied that American Can Building, LLC remains very committed to this project as demonstrated by the willingness to take the additional loan to finance the remaining remediation.

Mr. George asked if the Port Authority had an exit strategy should American Can Building, LLC decide to walk away from the project.

Ms. Russell replied that, because most of the Clean Ohio Assistance Fund Grant has been spent, the Port Authority would have to work with the ODOD concerning the status of the grant funds – if American Can Building, LLC walked away from the project. However, there currently is no indication that the American Can Building, LLC will walk away from the project.

Ms. Satzger added that the Port Authority had joint and several guarantees of repayment of grant funds, if requested by ODOD, from the principals of American Can Building, LLC.

Mr. George asked if the Port Authority had seen the financials of the American Can Building, LLC principals.

Ms. Satzger replied yes. The Port Authority had reviewed the financials of the American Can Building, LLC prior to entering into its agreement with the developers.

#### **IV. FINANCING PROJECTS UPDATE**

Ms. Thomas provided the following financing project updates to the Board.

**Galbraith Road at I-71, Sycamore Township, OH (Kenwood Towne Place)** – The Kenwood Towne Place bonds closed on January 29, 2008. This was a \$20.43 million Tax Increment Financing (TIF) to fund the public portion of the 2,500 space garage associated with Kenwood Towne Place.

Mr. George asked about the rate for the bonds.

Ms. Thomas replied that the bonds were issued in two series. The Series A Bonds are tax-exempt and the Series B Bonds are taxable. Both series were issued as seven-day floating rate bonds, and are backed by letters of credit to cover principal and interest.

**3000 Disney Avenue, North Oakley, Cincinnati, OH (Millworks Town Center)** – In December, the Board was informed that another developer had obtained an option on one of the parcels comprising approximately seven acres of the seventy-four acre site. At that time, the developer was working with the City of Cincinnati to revise the development agreement to decrease the size of the site to sixty-seven acres, and show the remaining seven-acre parcel that was currently controlled by another developer as a site for possible future development. The City of Cincinnati and the developer reached an agreement, and the City of Cincinnati approved the revised development agreement at the end of January 2008. The developer is currently in the process of finalizing the revised development agreement and locking-in financing.

## V. ECONOMIC INCLUSION UPDATE

Ms. Robb provided the Board with the following economic inclusion update.

**Red Bank Road** – Lot 1 is now available for the Wal-Mart pad, which should be starting later this year. The next portion of this project for which the Port Authority is responsible is the police sub-station. Regency Centers will be sending out bid documents in early March 2008. Regency Centers has been asked to notify Ms. Robb when the public notice is to be placed in newspapers, to ensure that inclusion companies are invited to any pre-bid meetings.

Mr. Rouse asked for the timing on the Wal-Mart pad.

Ms. Robb replied that Wal-Mart has not disclosed that information.

Mr. Budig asked Ms. Robb if an accounting could be given as to how Small Business Entities (SBE), Minority Business Entities (MBE), and Women Based Entities (WBE) are coming along as far as inclusion on the project.

Ms. Robb replied that on the excavation and site development portion, Regency Centers did have a large amount of trucking that incorporated the use of SBEs, MBEs, and WBEs. Specifically, the building of Track Street was done by an SBE, Prus Construction, that self-performed the majority of the work. The last portion of the project will be the building of the police sub-station, and Regency Centers plans to follow the same economic inclusion process as it did on previous portions of the project.

**Sisters of Mercy** – This project involves two schools that are undergoing renovations: McAuley High School and Mother of Mercy High School. Mother of Mercy High School is complete. McCauley High School will be complete by the end of the month. A certificate of occupancy is expected by Friday, February 22, 2008. The McCauley High School portion of the project consists of renovation on the two thousand seat auditorium, which included an orchestra pit and a lift. Messer Construction was the project manager for this project, and did very well with regard to inclusion.

**Kenwood Towne Place** – We have guests here today that will be speaking shortly regarding economic inclusion on this project – Audie Tarpley from Bear Creek Construction and Emmett Drane from the Institute for Entrepreneurial Thinking.

The garage portion of the project is nearly complete. Bear Creek Construction has started to build the retail spaces for Kroger and Crate and Barrel atop of the garage. As you may recall, as

of the December Board meeting, the Port Authority had not received data that supported the status of inclusion on the site. Since then, Bear Creek Construction has hired a consultant to develop and implement an internal diversity program for Bear Creek Capital and Bear Creek Construction. Dr. Melvin Gravely and Mr. Emmett Drane from the Institute for Entrepreneurial Thinking have also been engaged to assist in evaluating, planning, and executing future efforts for inclusion on this and future Bear Creek Construction projects. Additional staff has been hired to specifically handle the bidding and economic inclusion reporting processes. Ms. Robb reported that she has been working with the newly hired staff with regard to securing the economic inclusion reports.

The bid packages have been broken down into smaller packages in order to improve opportunities for diverse companies to be a part of the bid process. Bear Creek Construction has contracted with a small minority business enterprise to assist in project management. In an effort to increase the capacity of that MBE firm, Bear Creek Construction has assisted in obtaining project management software for the company, as well as training for this company's internal staff on this project management software.

Bear Creek Construction has opened the hiring of additional personnel to ex-offenders, which is part of the Blueprint for Success program. This was one of the recommendations from the consultants. One of the ex-offender new hires will be in the office and the other will be out in the field. An executive summary process has also been implemented that will detail all inclusion efforts, and will be forwarded to the Port Authority on a monthly basis.

Mr. Rouse asked for a summary from Mr. Audie Tarpley and Mr. Emmett Drane on the progress made by Bear Creek Construction with regard to economic inclusion.

Mr. Tarpley, Director of Construction for Bear Creek Construction, introduced himself to the Board. Mr. Tarpley then reported to the Board that Bear Creek Construction, did in fact, start off very slow with regard to economic inclusion. Bear Creek Construction did not take advantage of the assistance offered by the Port Authority. Mr. Tarpley took full responsibility for the slow start in inclusion reporting. Bear Creek Construction did begin to engage in the late November/ early December timeframe. Dr. Gravely has been engaged as a consultant, and has subsequently asked that Mr. Emmett Drane be onsite to assist in economic inclusion efforts for the project. The process has been productive and insightful.

Mr. Tarpley said that the Port Authority has the commitment of Bear Creek Construction that it will ensure that economic inclusion reporting is done, and that Bear Creek Construction is committed to improving economic inclusion efforts for the project. Mr. Tarpley remarked that what is interesting is that as Bear Creek Construction re-examined the work already completed on the project, there were many instances of inclusion about which Bear Creek Capital was not aware. Once the contractors sensed that Bear Creek Capital was serious about accumulating inclusion reporting, these contractors re-examined the processes already completed and found that inclusion had occurred, and simply had not been reported.

Mr. Bailey asked what the expected outcome would be, as it pertains to small business, at the conclusion of this project.

Mr. Tarpley replied that Bear Creek Construction, through efforts with Dr. Gravely, is in the process of "turning the process around," and instead of finding SBEs, MBEs, and WBEs to fit the bid packages, Bear Creek Construction is talking with SBEs, MBEs, and WBEs before bids go out

in order to find out the various capacities of companies that are categorized as MWSBEs. They are using this information to inform the bidding process.

Mr. Tarpley wanted to ensure that the Board understood that, of the \$33 million cost of the garage, \$11 million was a pre-cast portion which came from one supplier which did not qualify as an MWSBE. This significantly affected the ability of the project to meet economic inclusion aspirational goals for the garage portion (public portion) of the construction. Bear Creek Construction will now focus its efforts on economic inclusion on the entire project – both the public and private portions of the project. As the Port Authority has traditionally tracked economic inclusion on the public portions of projects, the economic inclusion efforts on the private portions of construction likely will not show up in the economic inclusion reports for the Port Authority. What Bear Creek Capital has tried to do is overcome limited opportunities for economic inclusion with regard to the garage by expanding opportunities for the remainder of the project. To this end, the sub-contracts on the private portion have been re-written to include the economic inclusion aspirational goals of the Port Authority. Mr. Tarpley asked Mr. Drane to speak to the Board concerning the expected outcomes for economic inclusion for the project.

Mr. Drane reported to the Board that all the processes had been reviewed and the contracts verified. Mr. Drane replied that overall, for the entire project, it is projected that the economic inclusion on the project will achieve the 14% MBE, 4% WBE, and 14% SBE participation rates.

Mr. Love expressed concern that the MBE and SBE percentages were the same.

Ms. Robb explained that the percentage for SBEs will be larger in the end. The Port Authority groups MBE and WBE companies together with SBEs to arrive at SBE percentages, while Bear Creek Capital did not include this in their numbers. As Ms. Robb receives inclusion percentages from Bear Creek Capital, the formula used by the Port Authority will be applied to arrive at SBE percentage that will be higher.

Mr. George asked if the final result was consistent with inclusion reporting on other projects.

Ms. Robb replied that it was consistent.

Mr. Love said, just to clarify, these percentages apply to the entire \$94 million project, including public and private portions of the development.

Mr. Drane said yes.

Mr. Drane went on to report to the Board that one of the things that has always been a problem is creating bid packages, and then trying to go out and find firms to bid on those packages. As Mr. Tarpley indicated, by first seeking input as to MWSBE capabilities, and then putting the bid packages together, they believe that they will improve economic inclusion outcomes. In fact, Bear Creek Construction has had a number of contractors come in and explain the capabilities of their companies. By matching capabilities with potential bid packages, MWSBE companies have been able to advise Bear Creek Construction where their skills and experience may match up to potential bidding opportunities. This has proven to be a much more successful way of getting inclusion on this project.

Mr. Tarpley added that while this process sounded like a one that should be common knowledge, it was not. It is contrary to normal practices and contracting. It does, however, allow a much easier flow for the entire project.

Mr. Muller said that one of the problems that the Port Authority had seen when projects utilize Clean Ohio Funds was the long period of time involved in contractors getting reimbursed. Mr. Muller asked if that type of situation applied to Bear Creek Construction.

Mr. Tarpley replied that long reimbursement periods did apply to this project. Mr. Tarpley went on to say that Bear Creek Construction had talked with several of the firms about payment in order to make sure that the firms can withstand the terms of payment. Bear Creek Construction has not had to pay firms on a weekly basis; however, Bear Creek Construction is ensuring that those funds are available, if needed.

Mr. Bailey said that the present attitude of Bear Creek Construction was appreciated, and asked what prevented having this proactive attitude in the beginning.

Mr. Tarpley replied that while no excuses were being offered, the project was started with an extremely tight time line. With this in mind, the priority was to immediately engage contractors. To be honest, inclusion was not the main focus.

Mr. Bailey said that he appreciated Mr. Tarpley's honesty.

Mr. Bailey then asked what the Port Authority could do going forward in dealing with other potential developers that might get off to a slow start on economic inclusion efforts.

Mr. Tarpley replied that a written economic inclusion process guide for firms that are new to the inclusion process would be helpful. This type of document could assist in getting these firms engaged earlier in the economic inclusion reporting process. Mr. Tarpley said that to be perfectly honest, Ms. Robb did try to get Bear Creek Construction engaged early, but unfortunately Bear Creek Construction did not get engaged until it was well into the project. However, as was previously indicated, when we went back to look at the types of firms engaged on this project, it was discovered that we did have inclusion on the project that was not recorded earlier.

Mr. Love asked Mr. Tarpley to explain, in more detail, his last remarks.

Mr. Tarpley replied that the designer for the garage, Desmond and Associates, has been onboard with the project since May 2007. Desmond and Associates has only been included on the inclusion reports since last month. Mr. Tarpley said that this was due to the fact that he was not aware that a certification from another city qualified Desmond and Associates as an MBE in the City of Cincinnati.

Mr. Love asked if Bear Creek Construction was only including certified SBEs, MBEs, and WBEs in the inclusion reports.

Mr. Tarpley replied that that was correct.

Mr. Love then said that part of the process is the SBEs, MBEs, and WBEs stepping forward with the appropriate certificates.

Mr. Tarpley said that was where he needed to be more proactive.

Mr. Love said, to Mr. Bailey's point, that Ms. Robb is a very valuable resource, but accountability does rest with Bear Creek Construction to ensure that firms that are included are certified.

Mr. Tarpley said that what Bear Creek Construction has implemented, going forward, that it will confer with Ms. Robb before responses to bids are accepted to confirm that firms are certified. The reports are being tweaked so that SBEs, MBEs, and WBEs are not going to be included on the inclusion reports until a fully executed agreement is signed.

Mr. Rouse said that the entire Board appreciated Mr. Tarpley's honesty. Admitting that it had gotten off to a slow start and that it had not done what it could to offer opportunities to MWSBE firms does not come easy to some people. But more importantly, Bear Creek Construction commitment going forward is also appreciated.

Mr. Love asked if the change to include inclusion on the entire \$94 million would be seen on the economic inclusion tables that Ms. Robb provides to the Board.

Ms. Robb replied that, as currently planned, the reports would continue to reflect only the original \$33 million for the public (garage) portion of the project, and that the \$94 million for the entire project (including both the public and private portions of the project) would be reflected in a footnote.

Mr. Love asked that the Port Authority staff come back to the Board, in the future, with recommendations as to how to improve the implementation of its economic inclusion policy.

Ms. Satzger replied to Mr. Love that those recommendations had been prepared and would be available for discussion at a future Board meeting.

**National City Bank** – The Port Authority has been working with National City Bank in order to provide a program for gap financing for MBE, WBE, and SBE companies working on the Port Authority's Clean Ohio Fund brownfield projects. The Port Authority has reviewed the proposal from National City, and has consulted with financial experts which have confirmed that the proposed program will be an attractive financing option for small businesses. We have received a legal opinion that verifies that there is minimal risk to the Port Authority. A Memorandum of Understanding has been drafted and is currently under review. We plan to have the due diligence for this program completed by the March 2008 Board meeting.

## **VI. CHAIRMAN'S REPORT**

Mr. Rouse reported that Hamilton County is processing its 2007 operational support for the Port Authority.

Mr. George made a motion pursuant to O.R.C. Section 121.22(G)(1) to adjourn the meeting of the Board of Directors of the Port of Greater Cincinnati Development Authority to go into executive session to consider appointment, employment, and compensation of a public employee or official. Upon conclusion of the executive session, the Board will reconvene its meeting of the Board of Directors. Mr. Budig seconded the motion. The motion was passed unanimously by roll call vote.

The Board adjourned into executive session at 8:15. The Board came out of executive session at 8:26.

Mr. Budig made a motion to adopt the resolution authorizing the extension of an agreement for consulting services provided by Kim Satzger to perform the duties of President and Secretary. Steve Love seconded the motion. The motion was passed unanimously.

## VII. PRESIDENT'S REPORT

Mr. Schafer reported the following financial information to the Board.

**Financial Report** – Mr. Schafer indicated that the monthly financial documents (Balance Sheet and Statement of Revenue and Expenses) for December 2007 and January 2008 had been included in the Board packet. He asked if there were questions concerning these documents. There were none.

**2008 Budget** – Mr. Schafer referred to a document entitled, "Comparative Statements of Revenues and Expenses, and Capital Expenditures for Initial 12/31/2007 Resolution, Projected 12/31/2008, and Estimated 12/31/2007," which was included in the Board packet.

He said that the appropriation from last year is in the first column followed by "Projected 12/31/2008," "Estimated Actual 12/31/2007," and the last two columns are comparisons. Mr. Schafer asked the Board to focus on the comparisons in the second to last column titled "12/31/08 Over/ (Under)." On the revenue side, "Grant-Operations" reflects a fluctuation of \$820,000. This is due to the fact that, in 2007, the Port Authority received \$350,000 for 2006 grants. In 2008, the Port Authority has budgeted monies from the City of Cincinnati and Hamilton County for both 2007 and 2008.

Mr. Bailey asked if the City of Cincinnati and Hamilton County were current with grants to the Port Authority.

Mr. Schafer replied that the City of Cincinnati and Hamilton County were not current with grant payments to the Port Authority. Both entities are a year behind. Earlier this year the City of Cincinnati's provided its 2007 grant funds; and we have been informed by the County that it is currently processing the Port Authority's 2007 grant.

The next line item, "Income-Financing Fees," reflects the typical fluctuations in the financings that the Port Authority experienced in 2007 and 2008. In 2008, \$228,000 is included from the January closing on Kenwood Towne Place bonds. This is the majority of the difference.

With regard to expenditures, in general, there are basically two pieces. One is Personnel and the other is Consulting Services. In looking at Personnel, \$134,000 reflects the cost of new positions that were added last year and this year and the recommendation, which has been discussed with the Finance Working Group, for a new administrative position for 2008. The administrative position is going to be two-fold, to support Ms. Satzger administratively, and to support the expanding staff.

Mr. Bailey asked for clarification of expanding staff.

Mr. Schafer replied that the expanding staff included the positions added last year. He said that time has shown that the existing administrative assistant's position responsibilities cannot be accomplished by one person. For example, the project to update and maintain the Port Authority's website has not been undertaken. Being able to provide assistance to generate

financial information is another need. This would free up Ms. Satzger and Mr. Schafer to work on strategic planning, operations, and similar activities.

Mr. Bailey expressed concerns about adding administrative support for a small staff. And, in light of the fact that the City of Cincinnati and Hamilton County are a year behind in granting funds to the Port Authority, he was concerned about additional expenses. Mr. Bailey then suggested that the Port Authority consider contracting out some of the tasks that are not currently being addressed.

Mr. Schafer replied that some of the tasks that need to be performed require a full-time employee to understand the operation and to perform that segment of the administrative work on a routine basis.

Mr. George said that he had a “push-down, pull-up” theory of management that required one to push down as much work as is possible to free management up to set and implement the strategic vision of an organization. Management should want to pull-up the people within an organization – to take them to their highest performing level. Mr. George concluded by saying that he believed that what was being proposed was appropriate. There is a lot of detail work that is currently performed by the Finance Working Group and the Board, which should be done by Mr. Schafer; however, Mr. Schafer cannot perform these tasks because he has many other responsibilities.

Mr. Rouse said that the Finance Working Group has reviewed the proposed budget, and is in support of passage of the 2008 Budget for the Port Authority.

**Motion:** Mr. George made a motion to adopt the 2008 Budget. The motion was seconded by Mr. Budig. The motion was approved unanimously.

**Economic Impact Study** – Ms. Satzger reported that the University of Cincinnati finished the Economic Impact Study. The Study will now be sent to the graphic designer to format it for publication. The Study should be available by the next Board meeting, and subsequently for mass distribution.

## VIII. ADJOURNMENT

**Motion:** Mr. George made a motion to adjourn the meeting. Mr. Budig seconded the motion. The motion was passed unanimously.

The meeting was adjourned at 8:38 a.m.

Respectfully,

Kimberly Satzger  
Secretary