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Investor to Buy Center City Bonds Is Apparently the Developer?s Father [1]

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By:
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After asking many questions of attorneys gathered in the room, the East Lansing Brownfield Redevelopment Authority [2] voted unanimously today to issue up to $31 million in bonds to support the Center City District project [3]. The investment company that has stepped forward to buy these bonds to make the project happen has one principal: Peter Paul Bell, apparently the father of Mark Bell, the developer.

At today?s meeting [4], City Attorney Tom Yeadon was asked by Brownfield Redevelopment Authority (BRA) members Douglas Jester and Peter Dewan why the BRA needed to take this action today. They noted that the Master Development Agreement for the deal is still not settled?in fact, Council is taking it back up next Tuesday night.

Laughing, Yeadon answered that that was a better question for the City?s bond counsel or for the developers? attorney.

Ron Liscombe of Miller Canfield [5], acting as bond counsel for the City, said the BRA was being asked to act now so that ?all the pieces move together.? He insisted the action taken by the BRA would not mean the bonds were *definitely* issued. That would only happen, he said, if the City Attorney is finally satisfied that the deal is really complete.

The action today authorized the Chair, the Vice Chair, or the Treasurer of the BRA to sign off on the $31 million in bonds. (Only one has to sign off now.)

Jarrod Smith of Dykema [6], representing the developers, told the BRA ?we are diligently wrapping up? the Master Development Agreement parts. He said his clients wanted the bond resolution passed to get the project ready to move as soon as the senior lender for the private development comes through with a commitment.

This suggests the senior lender hasn?t signed on yet, which means the finances for the project still haven?t cohered. That senior lender would fund the private development along Grand River Avenue.

As we?ve reported elsewhere [7], East Lansing?s BRA is being asked to issue these bonds in order to provide construction financing for the *public* infrastructure in the public-private deal. Under a previously-approved $58 million tax increment financing (TIF) plan, the bonds are designed to be paid off using new taxes from the project.

The BRA had been told previously that a private investor would likely step up and buy the bonds to get the cash into the system. That investor would likely then sell off the bond to other investors.

Today?s packet for the BRA was not issued until about 10:30 last night. In that packet was a letter from the private investor [8] stepping up to buy the bonds?Scottsdale Capital, LLC. But nowhere in the packet did Scottsdale or City staff indicate what I found by looking up the company this morning:

According to one [9] of only two results on the company, "Founded in 2004, Scottsdale Capital Llc is a small organization in the investors industry located in Libertyville, IL. It has approximately 2 full time employees and generates an estimated $80,136 USD in annual revenue.?

According to the other [10], "The company has 1 principal on record. The principal is Peter Paul Bell from Richmond IL.?

That appears to be Mark Bell?s father.

I presented this information during public comment at today?s meeting, in advance of the vote. (My full comments are reproduced here [11].) My questions and comments were then picked up by numerous members of the BRA, and expanded upon.

In response to many of these questions, bond counsel for the City and bond counsel for the developer reassured the BRA that the way the bonds are structured minimize (although do not eliminate) risk.

Mayor Mark Meadows, a member of the BRA, asked why the City?s bond counsel had previously told the BRA bonds could not be issued until the project was done. Meadows also asked what will be used to pay the bond investors before the tax revenue can start.

Liscombe answered that these bonds are needed for construction, and that the bonds themselves will be used to pay interest on the bonds until the project is built. He expects the bonds will be refinanced, in three to five years, once the project is built and tax revenue is flowing. He said that as long as the BRA holds on its promise to use any new eligible tax revenue from what gets built to pay the bonds, the BRA will be fulfilling its obligation.

What happens if the developer doesn?t complete the project, and a new developer has to come in? Liscombe says that after a new developer completed the project, the new taxes would have to go to pay the bonds as planned.

And what if the developer starts the public infrastructure and goes belly-up? According to City Attorney Yeadon, the City will have performance bonds, paid for by the developer, that allow the City to finish the public infrastructure or take interim construction down to return Lot #1 to its current use.

This is not how the performance bonds have been described in the past?returning Lot #1 to its original state. Today, Yeadon said that he isn?t sure what the performance bonds will really look like because he hasn?t seen them yet.

Asked how long it would take to litigate the performance bonds to get the money to get Lot #1 into usable shape?would it be years, as some experts have told me and I?ve told the BRA??Yeadon reiterated he isn?t sure because he hasn?t seen them. But, he said, he doesn?t think it would take three to seven years.

Developers for the Park District?entirely separate?previously told Council and ELi that obtaining performance bonds that would complete public infrastructure would be so expensive as to be effectively impossible to obtain. But in the case of Center City District, the City Manager has maintained that he believes the City will get the performance bonds they seek.

What if the November tax proposals pass and the City property tax millage falls dramatically [12]? Liscombe said that?s the problem of bond investors, not the City or the BRA.

Brian Lefler of Robert W. Baird & Company, who has been advising on the bonds, said he calculates that if the 5 mill reduction happens following the November election, there will be $4.9 million less than expected in the tax capture to pay back the bonds. (It is unclear whether his figure includes compound interest; it appears not to do so.)

Lefler reiterated this is all the problem of the developers and their investors, not the City or the BRA.

Asked by BRA member Jim Croom about whether he?s ?worried about Scottsdale being thinly capitalized,? Lefler said no. He said they would have to come up with the money to buy the bonds. He added, ?My understanding is there is someone behind them [behind Scottsdale] investing in this, and that?s all I?ve been told.?

Liscombe and Lefler repeatedly assured the BRA none of this was unusual or concerning. Asked bluntly by the Mayor, ?Are you comfortable with the process we?re being asked to perform??, Liscombe answered, ?Yes. It is not unusual at all. There?s probably greater protection involved here than in some other deals.?

In response to a question from Jester, Liscombe said that, ?If the project fails and tax increment revenue is never generated, as long as you pay any TIF revenue you receive, there is no default? on the bonds.

Asked what that would look like practically, Smith answered for the developer, assuring the BRA that then the performance bonds would come into play.

Asked if he thought the performance bonds would pay quickly, allowing the City to recover Lot #1 in some form, Liscombe answered, ?I?m a transactional lawyer for a reason. I would certainly look to someone with more experience.?

On Tuesday, Council will be taking up an amendment to the Master Development Agreement attachment that is the ground lease with the developer. The would-be senior lender for the private properties wants assurance that if the developer defaults on the loans, the lender can maintain the lease agreements with the City. Without that, the lender faces massive risk.

Yeadon explained this agreement is being sought by the lender in case the lender has to foreclose on the developer. Yeadon said the wording he has arranged?pending Council?s approval?would require the lender to make up any gaps in the lease payments caused by the developer defaulting.

Shortly before the vote happened today at BRA, Jester pushed on the Scottsdale issue again. ?You suggested we shouldn?t be worried about Scottsdale? because there is a supposed investor ?behind? Peter Paul Bell, Mark Bell?s father. ?But we don?t know who that is. What can go wrong??

Liscombe answered, ?There are risks associated with all developments, particularly where there is a mix of public and private money.? But, he said, ?the protections we built in for you are pretty strong.?

Pushed one last time by Jester, Liscombe answered, ?Everyone has an interest in getting this done. There will be money invested [by the developers and others] to get the private piece done that is contingent on the public piece being done. If the public part dries up, everyone will be feverish to find more money to make it happen.?

The members of the BRA who were present and voted in favor were Peter Dewan, Doug Jester, Jeffrey Kusler, Lindsey Clayton, Mayor Mark Meadows, and City Manager George Lahanas. No one voted against. Jim Croom had to leave the meeting for another appointment before the vote occurred, and Colin Cronin and Tricia Foster were absent. Brad Ballein was also absent but he would have recused himself had he been present, as he is a co-developer of the project.

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