$700K in Local Taxes Earmarked for Developer?s Attorneys, Financial Advisor, and Father

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By: Alice Dreger

Through the Freedom of Information Act (FOIA), ELi finds that almost $700,000 in future local taxes from the Center City District project have been earmarked to pay the developer?s attorneys, the developer?s financial advisors, and to pay an ?origination fee? to the developer?s father?s company, Scottsdale Capital.

FOIA results show that payments totaling about $700,000 were made to these companies out of the public bond issued in December for the project. These payments are set to be paid back with taxes from the project through a Tax Increment Financing (TIF) plan, which directs taxes that would otherwise come to local taxing jurisdictions to instead pay for a redevelopment project.
Mayor Mark Meadows tells ELi he is “absolutely” comfortable with this use of local tax money.

**How the financing has been structured:**

As part of the $132 million Center City District proposal, City planners and leaders and the developers wanted construction of major new infrastructure, including the new parking garage now being constructed along Albert Avenue between Abbot Road and M.A.C. Avenue. The public infrastructure also includes building the shell of the retail space that will be on the ground floor of the parking garage along Albert Avenue, and a major reconstruction of that part of Albert Avenue as a more pedestrian-friendly corridor, as shown below.

![Image of pedestrian-friendly corridor](image-url)

The cost of all that public infrastructure comes to about $24 million. East Lansing’s Brownfield Redevelopment Authority (BRA) and City Council agreed to dedicate 100% of new capturable local taxes on the project for thirty years, the maximum allowed by law, to pay for the public infrastructure. So, a TIF plan was approved to capture about $56 million in new taxes to pay for the cost of the public infrastructure and some other project costs, plus 5% interest, over 30 years.

Someone still had to put up about $24 million up front to pay for the public infrastructure. The idea developed was to offer a public bond via the BRA and to get an investor to put up the money with the promise from the BRA of being paid back later, with interest, from the captured taxes.

Usually it is not too difficult to find investors for a public bond paying 5% interest today. But, in this case, the bond was understood to be relatively risky for potential investors.

The bond is a “non-recourse revenue bond”; it promises only tax revenue and payments by the project to the East Lansing Downtown Development Authority (DDA). It promises no other security, so there is “no recourse.” The bond was structured so that if there isn’t ultimately enough tax money and DDA revenue from the project to pay back the investor, that’s the investor’s problem, not the City’s or the BRA’s.

No investor ultimately stepped up to buy this bond (that is, to put up the money needed for the public construction) other than Illinois-based Scottsdale Capital, which ELi discovered [3] (and...
informed the BRA) is actually a company owned by Peter Paul Bell, the father of lead developer Mark Bell of Harbor Bay Real Estate. Scottsdale Capital put up $24.4 million to buy the bond from the BRA to get the project to move forward. Most of that money was put in a trust fund to pay for the public infrastructure, to guarantee completion [4] if the developer goes belly-up.

**What payments have been made out of the bond:**

What FOIA has now shown is that the $25,265,000 bond proceeds included not only payments for the public infrastructure ($24,389,518) and payments to the trustee, but also:

- $353,250 to Dykema Gossett PLLC, Harbor Bay’s attorneys;
- $243,895 to Scottsdale Capital, Peter Paul Bell’s company, as an ?origination fee?;
- $115,000 to Robert W. Baird & Co., named as the ?developer?s financial advisor.?

This brings to about $700,000 the amount to be ultimately paid out of local taxes to the developer’s financial advisor, attorneys, and father’s company. Local taxes will also provide Scottsdale Capital 5% on the whole sum of the bond.

The bond closing statement obtained via FOIA also shows that $155,000 has been paid from the bond to Miller Canfield. This company is bond counsel for the City and BRA.

Last October, at a tense meeting of the BRA [3], representatives from Miller Canfield, Dykema Gossett, and Robert W. Baird & Co. all advised East Lansing’s BRA to go ahead and agree to this bond.

**What do City leaders say about these payments?**

ELi asked each member of City Council if they were aware of these payments being built into the public bond and if they are comfortable with them. Each was also asked whether it is correct that our bond counsel only gets paid if the bond closes, or is at least paid far more if the bond closes than if it doesn’t? If that?s the case, what makes the bond counsel an objective counsel to us??
The Mayor’s responded, as noted above, that he is “absolutely” comfortable with these payments. Asked if he is comfortable having a bond counsel who is only paid—and paid a significant amount of money—if the bond closes, he answered, “Yes.”

Mayor Pro Tem Erik Altmann did not respond to our inquiries. Councilmember Shanna Draheim indicated she expected the City Manager and the Mayor to answer our questions. Councilmember Ruth Beier responded, “I can usually answer some of your Qs [questions] but I don’t know the answer to any of these.” She then directed City Manager George Lahanas to answer.

Councilmember Aaron Stephens told ELi, “I wasn’t on council when this was being decided but from what staff has told me about this, everything is above board.”

City Manager George Lahanas, in turn, asked Director of Planning Tim Dempsey to answer questions about the bond closing fees. Lahanas serves by virtue of his office on the BRA and voted for this bond. Dempsey, who is also Deputy City Manager, signed the closing document as “Authorized Authority Representative” of the East Lansing BRA.

According to Dempsey, “The origination fee was part of the costs that Scottsdale wanted to recoup upfront via the deal. Their attorney’s fees were for all the work on behalf of the developer to close the deal.”

“As for the question on our bond counsel,” Dempsey said, “the City has used Miller Canfield as bond counsel since at least [the year] 2000, possibly prior. Like any legal counsel, they have an ethical obligation to ensure the City is protected in the manner in which the agreements are crafted and in which they represented to the BRA and City Council.”

BRA Chair Peter Dewan responded to ELi’s questions about this matter to say, “I would not have the knowledge to assess whether these payments are inconsistent with the prevailing rate or cost of issuance of Limited Obligation Tax Increment Revenue Bonds.”

He said he would welcome any information we could share.

Asked whether he is comfortable with bond counsel getting paid a large sum if a bond closes, and not if a bond doesn’t close, Dewan responded that Bond Counsel should provide industry data on this matter. He added, “The City’s Bond Counsel is contracted to provide trusted recommendations to the City which will protect the City’s interests. The DDA nor the BRA is not party to setting the Bond Counsel’s compensation schedule.”

You may also want to:

- Read ELi’s complete coverage of the Center City District project. [5]
- See the signed Trust Indenture for the Center City District bond, also obtained via FOIA. [6]
- Support our public service investigative journalism for East Lansing today, so we can keep doing this work. [7]