Remarks by Alice Dreger to the East Lansing Brownfield Redevelopment Authority
October 6, 2017

I do not usually read remarks but as I have a number of questions about the bonds for Center City District, I thought I had best write them down.

I want to reiterate a few facts that you already know just for background.

City staff, City Council, and the City Attorney have been working hard to mitigate financial risk to the city in this deal. This is the reason for the non-recourse bonds. It is also the reason why the development agreement calls for the developer to assume cost risk with regard to the public infrastructure. If that public infrastructure ends up costing more than expected, as I read the development agreement, that's the developers' problem, not ours. The City has required the purchasing of performance bonds for the public infrastructure.

The TIF, as you will recall, is maxed out in terms of tax capture and years. It estimates tax capture, based on current millage rates, of $58 million and will last for 30 years.

The $31 million in bonds are to be paid back out of the TIF and the bond money is to be used exclusively to pay for public infrastructure. This part of the deal certainly could not be described as generous to the developers.

Originally, you will all recall, we were told these bonds were not to be issued until the project was effectively complete. That's because, until that point, there won't be a revenue stream to pay back the bonds with TIF. Additionally, we won't know the taxable value of the project for sure until it is finished and assessed.

Now you are being asked, chiefly by the developers, to issue the bonds now? Why?

They need the money for construction of the public infrastructure. This isn't too surprising. Usually commercial construction loans are secured on the land being develop. In this case, that's our land, so they can't use it for security.

But why was this not foreseen months ago? Indeed, I asked months ago how the construction loans were going to work without a property to secure them. I was told the developer would have to put up security for those construction loans, because the bonds could not be issued until the project is done.

With the bonds issued now, the interest starts to accrue when they are bought. Does this not result in a ballooning of the debt owed on the bonds? How is that to be managed when we already have a situation where the TIF has been said to be maxed out in terms of repayment of bonds that were supposed to be issued after the project was done and the revenue stream had started?

In conversation with me, Mayor Meadows indicated that the TIF has been designed using conservative figures. But this is not my impression. In fact, to make the project look viable when our own city assessor's estimates showed it was not by his numbers, a City planning staff member who no longer works for the city put forth a TIF plan that used the developers'' sunny estimates instead of the tax assessors'. We've never seen that happen.

The only point at which the tax assessors' estimate surfaced and was used was after I FOIAed it and obtained it. At that point, FOIA shows city staff decided they'd better tell Council the truth so that they didn't hear it from me.

Mr. Lee's assessment estimate now provides for the $58 million TIF. But will that be the case once built? The developer is nervous enough about this that their attorneys have asked the city attorney to promise a tax reassessment won't happen over the 30 years if it will lower the value. The City could not agree to this, even if it wanted to, as it would not be legal.

Let's imagine Mr. Lee's new numbers, revised at the request of the developers, holds up. Are we simply not acknowledging in word or in writing the fact that on November 7, this TIF capture may be radically altered? By my calculation, a millage drop from 17 to 12 results in the TIF capture going down by about $6 million.

Is this possibility of no concern to the BRA?

Bond counsel has said that if these bonds go belly up – if they cannot be repaid – it will not impact the credit rating of the City or the BRA. Are we sure, particularly if we will have known that there is some significant chance the TIF won't pay back the bonds?

The intent to bond resolution last week suggested that the developer will have to put up extra security to make up the gap in the bond. What is that security?

Now we find that Scottsdale Capital is going to be the ones buying the bond. What do we know about them?

Here's all I could find this morning:

"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."

"The Registered Agent on file for this company is Peter Paul Bell and is located at 6219 Broadway Pob 508, Richmond, IL 60071. The company's principal address is 6219 Broadway Pob 508, Richmond, IL 60071. The company has 1 principal on record. The principal is Peter Paul Bell from Richmond IL."

So it would appear that Scottsdale Capital is Mr. Bell's father.

When due diligence was discussed, Jim Croom said he trusted the lenders for this project to figure out if this developer had the wherewithal to see the project through. The major lender for the public infrastructure side is now the developer's dad. Do we trust him to know if this is the right deal for us?

Jim was right that lenders are very critical. Normally they'd be effectively on our side where due diligence is concerned. Now, if they are Mr. Bell's father…?

If it is true that Mr. Bells' family is going to be buying the bonds, what we have here is an increased financial reliance on a single entity. The entire project is depending very heavily on the solvency and viability of a single entity. Is the city and BRA really willing to take this kind of risk – that the Bells' LLCs will hold up?

City Council is set on Tuesday to vote on some change to the land lease agreement. We've been told the Development Agreement is done. But it isn't really if the exhibits aren't signed off on. One of them is now being changed enough that it's going back to Council as a whole.

Why are we issuing bonds before the land lease is done? Why are we moving forward when the development agreement isn't really completed yet?

Are the performance bonds in place? If they are, can someone explain how B2 can be built without B1 being built?

Is the City and the BRA aware that performance bonds rarely pay 100% of the face, and that experts say they take 3-7 years to litigate? My understanding is properties stay in limbo until they are litigated. We are talking about Lot 1.

Mr. Chappelle has taught us that you don't need to have a good case to sue. Is it possible that these bonds, which seem financially somewhat questionable even beyond the November 7 election, could open us up to lawsuits?

Have we disclosed in them that the city has on its ballot a 30% reduction in city property taxes?

I've heard a number of people say that with non-recourse revenue bonds, there's no risk to the city or the BRA. The city and attorney and BRA have done a good job trying to mitigate direct financial risk.

But indirect risk is substantial and remains.

The risk here is not that the project never starts. It's that it does.

That's what happened with City Center 2. We bought the Evergreen Avenue properties. Mr. Chappelle let go vacant and blighted the Evergreen Arms, the commercial buildings on Grand River Avenue. He wrecked just enough of 303 Abbot Road to make it unusable.

The risk here is not that the project doesn't start. It's that it does.

Is now the right time to issue the bonds?