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Pavilions Brownfield Plan

I sent the following to city council in an email concerning changes to the Pavilions Brownfield Plan. I will blog later why I decided to support the plan, although I did discuss why with two members of city council.

Council members,

As you are aware, the Troy Brownfield Redevelopment Authority (TBRA) voted 4 to 2 on April 15, 2008 to approve the Pavilions Brownfield plan. I initially voted against the plan on March 31, 2008 but on April 15, 2008, voted for it. My **personal opinion** is that the Brownfield Plan should be **denied** but my role on the Authority is not to vote my personal opinion but to vote on a plan based on its merits.

I view my role **not** as a policy maker, that is a role for the Troy City Council, but as an administrator that makes sure the plans presented meet the statutory requirements and are **reasonable and appropriate** for the City of Troy to implement. We have on occasion been derelict in our role of ensuring the plans meet the statutory requirements but have taken corrective action as we have become aware of those violations. (I did not execute Ronal Reagan's Trust but Verify practice on all questions asked of staff, woe is me). If a plan meets the statutory requirements, I then look at whether what is presented is reasonable and appropriate. We as a board have previously discussed to what extent we would reimburse a developer. We decided that we prefer a plan to have repayment schedule of 15 years or less but would consider a repayment schedule up to 20 years. Beyond 20 years would require a showing of extraordinary circumstances for us to consider it. Statutorily we have up to 30 years to repay a developer.

I suggested several changes to the plan. Some were incorporated, some were not. I would like to discuss some of those that were not. The Troy City Council, per Act 381 of 1996 as amended, can approve, deny or **modify** the plan. It is the fact that you can modify the plan that I will discuss those changes not incorporated. I will not discuss why these changes were not included other than that city staff and the developer did not agree with me.

1). I requested that changes be made that specifically stated what the actual costs for each eligible activity was instead of the total cost which included the interest costs. For example, the pre-demolition lead and asbestos abatement activities list a cost of \$440,000. This amount includes both the actual cost and the interest cost. To be honest, I did not hear any good reason not to separate. Maybe they were afraid of the next point.

2). I wanted to cap both the actual costs and the interest costs. By only capping the total, you allow a misuse to occur. Hypothetically, taking the previous example of \$440,000 and splitting that amount as \$220,000 for actual costs and \$220,000 for interest costs, if for some reason the TIF revenues do not generate fast enough you could end up paying \$220,000 in interest before paying off the actual costs. Without capping both, or at least capping the interest and capping the total, you could pay \$340,000 in interest and only \$100,000 towards actual costs. Most people would say, "what is the difference" since in both cases you pay out the \$440,000. I believe that in a reasonable and appropriate plan you do not pay out more in interest than you do actual costs. In the plan before you, Exhibit C1 was added per our request. We have capped the total payment for this plan at \$3,872,203. I would ask that you also place a cap on the total interest that is to be paid. This schedule uses the maximum per cent we are authorizing. If the developer can get a lower interest rate, less interest could be paid and more could be applied to his actual costs. I would suggest capping the interest at \$1,909,565 or less. Again, you would not be capping the actual cost portion and thus the less interest paid the more towards actual costs that could be applied up to the grand total cap.

3). In the Reimbursement agreement, the rights of the Developer to reimbursement would **not** be affected should the developer not construct a portion of the privately owned improvements on the property. I requested that be stricken and make some contingency that would require the developer to develop a minimum amount. My reasoning is that we are going to help pay for the demolition on the basis that the development can go forward. They argue that we only have to pay them from new TIF revenues generated and if they don't build, they won't get paid. Except, they demolish, we owe, they sell and a new developer builds something else and we have to keep paying up to 20 years or until \$3.87 million is paid out, whichever comes first. Since the developer is sure that they are going to build phase 1, what is the problem with requiring what they list in the plan. This is less than what is allowed for phase 1 in the PUD.

There were some other changes but I believe incorporating these changes would make the plan and reimbursement agreement better. You as a council are the only ones that need to agree to include the changes. If the developer disagrees, he can withdraw his plan.

Respectfully,

Victor Lenivov

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