



CITY COUNCIL REPORT

February 11, 2010

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager
John M. Lamerato, Assistant City Manager/Finance & Administration
Mark F. Miller, Acting Assistant City Manager/Economic Development Services

SUBJECT: Amendment of Local Site Remediation Revolving Fund Policy

On February 2, 2010 the Troy Brownfield Redevelopment Authority adopted two resolutions regarding the Local Site Remediation Revolving Fund (LSRRF) Policy. The first resolution approved an amendment to the LSRRF Policy which provided for City Council's ability to divest the LSRRF. The second resolution recommended that the Troy City Council return 80% of the money in the LSRRF proportionally to the taxing jurisdictions that contributed to the LSRRF. City Council has the authority to return the captured tax dollars if it is in the best interest to return a portion of the money held in the LSRRF, based upon paragraph 26 of the proposed LSRRF Policy.

The LSRRF currently includes approximately \$2,861,836. The City of Troy proportional tax capture is \$1,712,236. Based upon the TBRA's amendment of LSRRF Policy and an 80% divestment of the LSRRF the City of Troy would be paid approximately \$1,369,789. The LSRRF would then have a balance of \$572,367, this amount is sufficient to cover any TBRA obligations or loans in the future. The following charts summarize the proposed dispersal of tax capture:

CITY COUNCIL REPORT

	City	County	Community College	Total
BRA Revolving Balance	\$1,712,236.48	\$857,119.88	\$292,479.64	\$2,861,836.00
20% Retention	\$342,447.30	\$171,423.98	\$58,495.93	\$572,367.20
80% Disbursement	\$1,369,789.18	\$685,695.91	\$233,983.71	\$2,289,468.80

The basis for divesting 80% of the LSRRF is twofold. There is very little interest in the development community for the LSRRF loans for the redevelopment of Brownfield sites. The City has not received one request or inquiry to use the LSRRF. Oakland County was contacted and they are experiencing the same lack of interest in their brownfield loan program. Finally, given the financial crisis all taxing jurisdictions are experiencing it is prudent to provide additional revenue by refunding the tax capture.

City Council will need to adopt two resolutions to implement the distribution of the LSRRF funds. The first is a resolution to approve the Amended LSRRF Policy and a second resolution is to return 80% of them funds in the LSRRF proportionally to the taxing jurisdictions.

Reviewed as to form and legality:

Lori Grigg Bluhm, City Attorney

Amended Local Site Remediation Revolving Fund Policy

The Troy Brownfield Redevelopment Authority established a Site Remediation Revolving Fund to further promote the redevelopment of Brownfield sites located in the City of Troy. The Authority established the following terms and conditions to the Revolving Loan Fund in October 2006:

1. No grants shall be provided to an entity. Moneys in the BRA Local Site Remediation Revolving fund are limited to loans where there is sufficient collateral or security to insure repayment of the loans or other administrative or legal obligations for eligible properties that qualify as eligible activities.
2. The tax increment financing shall be collected only for a maximum period of five years after the time that the tax increment revenues are equal to the amount of eligible expenses paid pursuant to an approved brownfield plan.
3. Loan proceeds can only be used for eligible expenses for eligible properties, as defined within the Brownfield Redevelopment Authority Act.
4. An application should be submitted for any request for a loan. The application must detail the site assessment activities completed to date. The application must also describe the overall Brownfield project, and how the loan funding would advance the project goals.
5. Complete loan applications must either be approved or denied within 90 days of the date of submission to the Authority, unless a longer time is agreed to by the applicant and the BRA.
6. All loan applicants must have completed Phase I and Phase II site assessment in order to qualify for a revolving loan fund. The fund may not be used to complete a Phase I and Phase II site assessment.
7. A Loan Agreement shall be executed prior to the payment of any loan from the fund.
8. The interest in the loan shall not exceed the interest rate collected by the City in special assessments.
9. The extent of the applicant's contribution to environmental contamination on the property will be considered. A property that is subject to a unilateral administrative order, consent or judicial decree under CERCLA shall not qualify for a revolving loan fund.

10. Each loan shall not exceed \$1,000,000.
11. The repayment term for each loan shall not exceed 7 years absent extraordinary circumstances.
12. The total amount of loans and grants received shall not be more than 100% of the total approved environmental project costs.
13. An amount not exceeding 10% of the total loan can be used for administrative purposes, including but not limited to attorney fees, permit fees, BEA fees.
14. In multi-phase projects, loans should be distributed only on a phase-by-phase basis.
15. Tax increment financing from an approved BRA Plan can be used to repay the revolving loan funds.
16. The BRA shall be afforded flexibility in the approval of collateral for the loan. Acceptable collateral can include security interest in accounts, liens on property, and/or personal guarantees, as long as the BRA is satisfied that the collateral is sufficient to insure payment of the loan.
17. The loan applicants shall be the owners of the property or persons with a substantial interest in the property where a brownfield is located.
18. The loan applicants shall disclose whether they are currently are or have been in the past subject to any penalties resulting from environmental non-compliance.
19. In the event of a default, there shall be reasonable efforts to enforce the terms of the loan agreement, as permitted by law. The choice of remedies are at the option of the BRA, and include but are not limited to: charging a penalty; proceeding against the assets pledged as collateral to cover losses to the loan; placing a lien on the property, and also recovering court costs and attorney fees necessarily incurred in enforcing the terms of the loan agreement.
20. The loan applicant must be compliant with federal, state, and local laws, and shall also be compliant with any court order, consent decree, or similar governing documents.
21. The loan recipients shall retain financial records including federal tax returns for a period of at least 3 years after repayment. These records shall document the use of the loan funds.

22. In accordance with the provisions of the City Charter, any TBRA member or City officer or employee shall disclose and recuse themselves if they have any significant financial interest in, or benefit from, brownfield activities associated with the loan.
23. Loan applicants must be current with all federal, state, and local tax obligations.
24. The MDEQ must approve a loan application where school tax increments are going to be used to fund eligible activities.
25. The school tax increment should be segregated from all other moneys received.
26. If the Troy City Council, after receiving a recommendation from the TBRA, determines that it is in the best interest to return a portion of the money held in the LSRRF, on a proportional basis to the taxing jurisdictions that contributed to the LSRRF, then City Council can pass a resolution setting forth the amount to be returned. This amount shall not include the amounts required to satisfy any outstanding obligations of the TBRA or the LSRRF, and shall be less than 90% of the total amount available.
27. If the TBRA is dissolved or the LSRRF is dissolved, then any remaining money in the LSRRF shall be returned to the contributing taxing jurisdictions on a proportional basis, after the satisfaction of all outstanding obligations.

The meeting was called to order at 3:01 p.m. at Troy City Hall, Council Boardroom by Chairman Bruce Wilberding.

Members Present: Victor Lenivov
Donald Schenk
Robert Swartz
Joseph Vassallo
Bruce Wilberding (Chairman)

Members Absent: Jim Campbell
Art Cotsonika

Also Present: Lori Grigg Bluhm, City Attorney
Mark F. Miller, Secretary/Treasurer
Brent Savidant, Acting Planning Director
Patti Holland, Recording Secretary

APPROVAL OF MINUTES

Resolution # BRA 2010-02-01
Moved by Vassallo
Seconded by Wilberding

RESOLVED, that the BRA approve the minutes of December 8, 2009.

Yeas: All (5)
Absent: Campbell, Cotsonika

MOTION PASSED

OLD BUSINESS

A. Comprehensive Annual Financial Report Clarification

Mark Miller clarified the financial report, which was requested by Mr. Lenivov at the December 8, 2009 meeting.

NEW BUSINESS

A. Local Site Remediation Revolving Loan Fund (LSRRF) Policy Changes

Mark Miller updated the Board with policy revisions and recommendations by City Administration.

Mr. Schenk called the question to cease the Board's discussion. Motion was seconded by Wilberding.

Yeas: Donald Schenk
Bruce Wilberding

Nays: Victor Lenivov
Robert Swartz
Joseph Vassallo

MOTION FAILED

Resolution #BRA 2010-02-02

Moved by Vassallo
Seconded by Wilberding

RESOLVED, that the TBRA approves the Local Site Remediation Revolving Loan Fund (LSRRF) Policy as revised by City Administration, a copy of which will be attached to the minutes of the meeting, and also forwarded to City Council for review.

Yeas: Schenk, Swartz, Vassallo, Wilberding
Nays: Lenivov
Absent: Campbell, Cotsonika

MOTION PASSED

Resolution #BRA 2010-02-03

Moved by Vassallo
Seconded by Schenk

RESOLVED, that the TBRA recommends that the Troy City Council return 80% of the money in the Local Site Remediation Revolving Loan Fund (LSRRF) proportionally to the taxing jurisdictions that contributed to the LSRRF.

Yeas: Schenk, Swartz, Vassallo, Wilberding
Nays: Lenivov
Absent: Campbell, Cotsonika

MOTION PASSED

BOARD MEMBER COMMENT

Mr. Lenivov asked for the Board to be notified when Brownfield properties have tax appeals.

Mr. Lenivov requested research and review of the state statute to determine what revolving loan funds can be used for.

PUBLIC COMMENT

None

Meeting was adjourned at 4:22 p.m.

The next meeting scheduled is April 20, 2010.

Bruce Wilberding, Chairman

Mark Miller, Secretary/Treasurer