

**MINUTES
OWOSSO BROWNFIELD REDEVELOPMENT AUTHORITY
MEETING OF MARCH 6, 2024**

Meeting was called to order at 8:00 a.m. by Chairperson Susan Osika.

Roll Call.

Members Present: Vice Chairperson Janae Fear, Members Gregory Brodeur, Michael Dowler, Dallas Lintner, Randy Woodworth, and Chairperson Susan Osika.

Members Absent: None (one vacancy).

AGENDA:

It was moved by Authority Member Brodeur and supported by Authority Member Woodworth to approve the agenda for March 6, 2024 as presented.

Yeas all. Motion passed.

MINUTES:

It was moved by Authority Member Brodeur and supported by Authority Member Woodworth to approve the minutes of the June 14, 2023 meeting as presented.

Yeas all. Motion passed.

COMMUNICATIONS:

None.

PUBLIC COMMENTS:

None.

**PUBLIC HEARING: **Owosso Brownfield Redevelopment District #23
Woodland Trails/Washington Park Redevelopment****

City Manager Nathan R. Henne began the hearing by describing the purpose of the plan and noting its complexity. The plan was developed by AKT Peerless and involves two separate properties, two developers, and two local governments. It proposes \$14,000,000 in capital investment, ultimately resulting in 30 new housing units within the City. Site #1 is the current Woodland Trails condominium development. The sewer system in the development was originally intended to become part of the City's sewer system, but construction deficiencies present since its installation have prevented the City from accepting it. The proposed Brownfield Plan will allow the City to fix the deficiencies, officially accept that portion of the sewer system, and be reimbursed for this expense which would normally be borne by a developer. Upon completion of the sewer repair, a developer has agreed to build out the remaining 14 units of the original development. Site #2 is the future Washington Park condominium development. Utilities infrastructure will be constructed, and 16 new housing units developed. All of the properties are currently held by the Shiawassee County Land Bank, thus making them eligible for Brownfield treatment. Mr. Henne concluded by recommending approval of the full 24-year plan, noting that the proposed plan does not score well according to the City's current tax abatement policy because the policy is geared toward economic development and not housing development.

Sam Seimer, VP of Economic Services for AKT Peerless Environmental Services and author of the proposed plan, indicated that the plan suggests a "public, public, private, private" partnership to accomplish the end goal. The developer of the Washington Park project will have the most investment to recoup, but will be the third party repaid, after the County and the City respectively. Due to the plan's complexity, she indicated that she would always be available to answer any questions.

Justin Horvath, representing the Shiawassee County Land Bank, said the SEDP will administer the plan which will result in 30 new homes in the City. J. W. Morgan Construction will complete the build-out for the Woodland Trails development and Venture Incorporated will be responsible for infrastructure development and build-out of the Washington Park project. He also noted that the City will be completely financially protected by the plan and related agreement for all City investments required by the projects.

There were no citizen comments.

Authority Member Dowler asked about adding a 5% administrative fee for the City to the plan. It was noted this addition would add another year to the plan.

City Manager Henne inquired if the plan needed to include specific language regarding costs that have already been incurred. He also noted that the School sinking fund millage expired in December of 2023 and should be removed from the plan.

Ms. Seimer indicated she will make the necessary changes to the plan.

Authority Member Dowler noted for the group that the Washington Park project will also have a PILOT agreement. Venture Incorporated representative Allan Martin indicated that in exchange for the PILOT the townhomes in the project will be rentals for the first 15 years, the units will then be sold according to income restriction guidelines.

The hearing was closed at 8:33 a.m.

Motion by Authority Member Brodeur, supported by Authority Member Woodworth:

RESOLUTION NO. 2024-01-BFA

**CITY OF OWOSSO
BROWNFIELD REDEVELOPMENT AUTHORITY
BROWNFIELD PLAN FOR THE WOODLAND-WASHINGTON PROJECT**

WHEREAS, the Michigan Brownfield Redevelopment Financing Act, Act 381, P.A. 1996 as amended, (the "Act") authorizes municipalities to create a brownfield redevelopment authority to promote the revitalization, redevelopment, and reuse of contaminated, blighted, functionally obsolete, historically designated or housing property through tax increment financing of eligible environmental, non-environmental, and/or housing development activities with an approved Brownfield Plan; and

WHEREAS, the City of Owosso City Council (the "City Council") established the City of Owosso Brownfield Redevelopment Authority (the "OBRA") under the procedures of the Act, to facilitate the cleanup and redevelopment of Brownfields within the City of Owosso; and,

WHEREAS, the Shiawassee County Board of Commissioners (the "Board of Commissioners") established the Shiawassee County Brownfield Redevelopment Authority (the "SCBRA") under the procedures under Act 381, to facilitate the cleanup and redevelopment of Brownfields within Shiawassee County; and

WHEREAS, a Brownfield Plan (the "Plan") has been prepared for the redevelopment of the Woodland Trails and Washington Park Properties located at 1493 N. Mallard Circle, 1491 N. Mallard Circle, 1487 N. Mallard Circle, 1485 N. Mallard Circle, 1479 N. Mallard Circle, 1477 N. Mallard Circle, 1473 N. Mallard Circle, 1441 Pintail Ct., 1411 N. Mallard Circle, 1430 N. Mallard Circle, 1426 N. Mallard Circle, 1424 N. Mallard Circle, 1406 N. Mallard Circle, 1408 N. Mallard Circle, and N. Washington Street, all of which are currently under control of the Shiawassee County Land Bank Authority (the "SCLBA"); and

WHEREAS, the City Council will review the Brownfield Plan for the Woodlands-Washington Project at a public hearing with notice of the public hearing and notice to taxing jurisdictions provided in compliance with the requirements of Act 381, the City Council will offer a Resolution of Concurrence and a Resolution of Understanding to authorize the Plan to be administered by the Shiawassee County Brownfield Redevelopment Authority; and,

WHEREAS, the SCBRA, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), will review and recommended for approval by the Shiawassee County Board of Commissioners, a Brownfield Plan (the "Plan") pursuant to and in accordance with Section 13 of the Act; and

WHEREAS, a public hearing on the Brownfield Plan is anticipated to be held by the Shiawassee County Board of Commissioners and notice of the public hearing and notice to taxing jurisdictions will be provided in compliance with the requirements of Act 381.

NOW, THEREFORE, Be It Resolved that the City of Owosso Brownfield Redevelopment Authority hereby approves the Brownfield Plan District No. 23 for the Woodland-Washington Project, and recommends approval of a Resolution of Concurrence and Resolution of Understanding by the City of Owosso City Council, and further recommends approval by the Shiawassee County Brownfield Redevelopment Authority, and Shiawassee County Board of Commissioners with the following changes:

1. the addition of lookback language for costs already incurred by the County and City
2. the addition of a 5% administration fee for the City
3. removal of the expired School sinking fund millage from the plan; and

BE IT FURTHER RESOLVED that should any section, clause or phrase of this Resolution be declared by the courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof, other than the part so declared to be invalid; and,

BE IT FURTHER RESOLVED that any prior resolution, or any part thereof, in conflict with any of the provisions of this Resolution is hereby repealed.

Yeas 6, nays 0. Motion passed.

ITEMS OF BUSINESS

Consider Consent and Clarification Agreement – Qdoba BRA District #16

City Manager Henne introduced the next topic saying that it was postponed from the last meeting while the Authority awaited an opinion from the City Attorney. The case involves a request from Qdoba to allow the sale of the property and change the terms of their loan repayment. On its original presentation, the Authority took no issue with the sale of the property, but questioned whether the TIF could be transferred to a new buyer, whether the developer is required to pay-off the MDEQ loan upon the sale of the property, and whether the developer should be reimbursed for any shortfall payments it was required to make.

Mr. Henne indicated the Authority is now in receipt of guidance from the City Attorney advising the board that while the TIF could be transferred to a new owner they are under no obligation to use tax capture to reimburse the developer for shortfall payments made over the course of the agreement. Mr. Henne further opined that it was never intended for the City to take responsibility for shortfall payments, and he does not want to see taxpayers ultimately saddled with an expense that rightfully belongs to the developer.

Authority Member Woodworth asked if the buyer of the property could assume the terms of the plan and related agreements. City Manager Henne indicated they could, but the loan would need to be paid in full

prior to the transfer. The MDEQ is insisting on sticking to the terms of the pass-through loan agreement it has with the City, making it difficult for the City to agree to changes in the terms of the City's corresponding loan agreement with Qdoba. Authority Member Woodworth protested, saying those terms penalize the developer for paying off the loan early. City Manager Henne indicated that Qdoba was welcome to negotiate different terms if they so desire, but it is not the City's responsibility to come up with the terms.

Authority Member Dowler noted that the developer has yet to deed the extra lot to the City the way they had suggested last summer.

Authority Member Woodworth said he felt it was a problem that the developer was not formally invited to today's meeting. City Manager Henne noted that their request had not changed, and it was on the developer to maintain their involvement. Authority Member Woodworth felt very strongly that he wanted the opportunity to hear from the developer before making a decision on the matter.

There was further discussion regarding whether the City was obligated to provide their attorney opinion on the matter to the developer.

Authority Member Brodeur asked if anyone could think of anything the developer could say that would cause the Authority Members to shift the burden of the shortfall payments to another party.

Motion by Authority Member Brodeur to deny the Consent and Clarification Agreement presented by Southwind Restaurants, LLC.

Motion supported by Authority Member Dowler.

Roll Call Vote.

AYES: Authority Members Brodeur, Dowler, and Chairperson Osika.

NAYS: Vice Chairperson Fear, Authority Members Lintner and Woodworth.

ABSENT: One vacancy.

Motion fails for lack of affirmative votes.

There was further discussion regarding notifying the developer of the next meeting and whether the attorney opinion should be shared. City Manager Henne cautioned the group saying the City would be treading on a slippery slope if it began reaching out to each person/organization that it thought might have an interest in a meeting. Some members expressed concern for the developer because the Authority only meets on an as-needed basis. Vice Chairperson Fear indicated that she would be comfortable addressing the issue again at the next meeting as long as the developer is notified.

The discussion then turned to whether the Authority should hold regular meetings and how frequently they should be held. It was noted that the City's auditors would like to see them establish some sort of regular schedule. City Manager Henne indicated he would put together a suggested schedule.

Authority Member Dowler inquired what should be done with companies receiving abatements that do not comply with the annual reporting requirements?

PUBLIC COMMENT:

None.

BOARD COMMENT:

None.

ADJOURNMENT:

Motion by Authority Member Woodworth to adjourn the meeting at 9:10 a.m., supported by Vice Chairperson Fear.

Yeas 6, nays 0. Motion passed.

Nathan R. Henne, City Manager

akk