

**MINUTES
OWOSSO BROWNFIELD REDEVELOPMENT AUTHORITY
MEETING OF JUNE 14, 2023**

Note: Authority Member Haber's term expired and participation has been struck from the record. <Robert's Rules of Order, 9th edition, pg. 36.>

Meeting was called to order at 7:31 a.m. by Chairperson Susan Osika.

Roll Call.

Members Present: Gregory Brodeur, Michael Dowler, Janae Fear, Dallas Lintner, Julie Omer, Susan Osika, ~~Jerry Haber~~, Randy Woodworth.

Members Absent: None.

AGENDA:

It was moved by Authority Member Woodworth and supported by Authority Member Brodeur to approve the agenda for June 14, 2023 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 June 23, 2022 as presented.

Yeas all. Motion passed.

COMMUNICATIONS: None.

PUBLIC COMMENTS: Kevin Agnituck and Greg, Owners of Qdoba Mexican Grill/Southwind Restaurants, introduced themselves and outlined their request for consent to sell the real estate, for the TIF to remain in place throughout the sale of the real estate and beyond and their plan to escrow funds to cover any shortfalls between the loan payments and the Tax Increment Financing (TIF). They signed a 10-year franchise agreement and will be leasing back forty-eight percent of the retail square footage.

Mr. Agnituck was also requesting clarification as to whether or not the shortfall amounts they are paying now (\$12,000 per year difference between the loan payment and the what the TIF is collecting) will be able to be collected back after the loan is repaid.

ITEMS OF BUSINESS:

1. Book Developer Approved Reimbursements as Liabilities for Active Brownfield TIFs: Woodard Station, Wesener, Armory and J&H Oil.

City Manager Henne explained this was being done for accounting purposes and clarified this would formalize the developer reimbursement portion, but not change any of the development agreements or brownfield plans.

Motion by Authority Member Woodworth and supported by Authority Member Brodeur to record developer approved reimbursements as liabilities on the City of Owosso financials as follows:

RESOLUTION NO. 01-2023

**RESOLUTION AUTHORIZING FINANCE DIRECTOR TO BOOK LIABILITIES FOR
CURRENT BROWNFIELD DEVELOPER REIMBURSEMENTS – WOODARD,
WESENER, ARMORY, J & H OIL**

WHEREAS, the Brownfield Redevelopment Authority has agreed to reimbursement developers' eligible expenses for certain brownfield projects; and

WHEREAS, the brownfield projects being reimbursed – or slated for reimbursement – according to agreements respective brownfield plans are: Woodard Station, Wesener, Armory, and J& H Oil; and

WHEREAS, this is a budgeted item from fund 243, 246, 259, and 277 respectively.

NOW THEREFORE BE IT RESOLVED by the Brownfield Redevelopment Authority of the City of Owosso, Shiawassee County, Michigan that:

FIRST: The authority authorizes the Finance Department to book the following liabilities as developer reimbursements for the corresponding brownfield plans and subsequent reimbursement agreements:

1. Fund 243 – Woodard: \$1,314,567.57
2. Fund 246 – Wesener: \$276,010
3. Fund 259 - Armory: \$316,674.94
4. Fund 277 – J&H Oil: \$388,358.62

YEAS: Omer, Lintner, Brodeur, Woodworth, Haber, Dowler, Chairperson Osika.

NAYS: None.

Motion Passed.

2. Suspend Reimbursement to TiAI Products for Lack of sufficient Receipts.

City Manager Henne detailed that as part all of the reimbursement agreements with active brownfields, developer/owners are required to provide eligible receipts for expenses to be reimbursed by the Authority. TiAI has provided a little over \$21,000 in receipts, hence reimbursements have ceased until more receipts are received. Reimbursement agreement and plan indicate \$58,600 is available for developer reimbursement. If receipts are subsequently provided, reimbursements will continue. He is requesting formal Board action on this item.

The Board asked what communication means have been used. City Manager Henne indicated that phone calls, emails and letters have all been attempted.

Motion by Authority Member Brodeur, ~~supported by Authority Member Haber~~ to suspend reimbursement payments to TiAI Products for lack of sufficient receipts submitted for eligible developer reimbursed activities until such time the City of Owosso receives those receipts as follows:

RESOLUTION NO. 02-2023

RESOLUTION AUTHORIZING THE SUSPENSION OF DEVELOPER REIMBURSEMENTS TO TIAL PRODUCTS FOR LACK OF SUFFICIENT RECEIPTS

WHEREAS, the City of Owosso Brownfield Redevelopment Authority approved a brownfield plan and reimbursement agreement with Tial Products in 2007; and

WHEREAS, beginning in the year 2008, Developer reimbursements shall be made on the basis of the balance available after the Authority reimburses the City of Owosso related to the Cass Street improvements; and

WHEREAS, the developer has not submitted evidence of the eligible costs to the BRA in the total amount of the reimbursable eligible expenses outlined in the plan (\$58,600 – Schedule 4 of Amended Plan).

NOW THEREFORE BE IT RESOLVED by the Owosso Brownfield Redevelopment Authority that:

FIRST: The City of Owosso Brownfield Redevelopment Authority has theretofore determined that it is advisable, necessary and in the public interest to suspend developer reimbursements to

Tial Products until more receipts are provided related to the eligible costs outlined in the amended brownfield plan and in accordance with the reimbursement agreement.

Motion on the table is amended to note the receipts are to be submitted to the City of Owosso.

YEAS: Dowler, Haber, Woodworth, Brodeur, Lintner, Omer, Chairperson Osika.

NAYS: None.

Motion Passed.

3. Suspend Reimbursement to Robbins Lofts for Lack of sufficient Receipts.

City Manager Henne explained the Brownfield for Robbins Loft expires in 2026 and it calls for more than what has been completed. Receipts were not submitted and reimbursement payments have been withheld; the fund balance is growing.

Motion by Authority Member Woodworth and supported by Authority Member Omer to suspend reimbursement payments to Robbins Loft for lack of sufficient receipts until such time as City of Owosso receives those receipts as follows:

RESOLUTION NO. 03-2023

RESOLUTION AUTHORIZING THE SUSPENSION OF DEVELOPER REIMBURSEMENTS TO ROBBINS LOFTS FOR LACK OF SUFFICIENT RECEIPTS

WHEREAS, the City of Owosso Brownfield Redevelopment Authority approved a brownfield plan and reimbursement agreement with Robbins Lofts in 2006; and

WHEREAS, beginning in the year 2007, Developer reimbursements shall be made on the basis of the balance available; and

WHEREAS, the developer has not submitted evidence of the eligible costs to the BRA in the total amount of the reimbursable eligible expenses outlined in the plan (total amount unclear because all components of the plan were not completed).

NOW THEREFORE BE IT RESOLVED by the Owosso Brownfield Redevelopment Authority that:

FIRST: The City of Owosso Brownfield Redevelopment Authority has theretofore determined that it is advisable, necessary and in the public interest to suspend developer reimbursements to Robbins Lofts until more receipts are provided related to the eligible costs outlined in the brownfield plan and in accordance with the reimbursement agreement.

YEAS: Omer, Lintner, Brodeur, Woodworth, Haber, Dowler, Chairperson Osika.

NAYS: None.

Motion Passed.

4. Consider Consent and Clarification Agreement – Qdoba BRA

City Manager Henne explained that PA 381 and agreements with Southwind indicate in order to transfer ownership of real estate with a TIF plan, owner should provide a written request which the Authority approves. A Consent and Clarification Agreement has been drafted by Southwind. This agreement defies the loan agreement and adds costs to the plan by requiring the City to reimburse the owner for all shortfall payments made by the developer as a result of insufficient tax capture. Henne stated the developer/owner agreed to take on the risk of annual shortfall payments.

Authority Member Woodworth detailed TIFs are historically transferred with a sale. The question is whether the shortfall will be saddled to the taxpayers. In the agreement, the developer escrows \$96,000 to mitigate that risk. The Authority does not want to set a precedent of being unfriendly to developers.

Motion by Authority Member Woodworth that the sale of Qdoba plaza (901 W Main Street) would be approved with the TIF transfer.

No support for the motion. Motion Failed.

Clarity needs to be provided to the buyer. A possible amendment needs to be made to the agreement that they have to pay off loan entirely upon transfer and BRA plan amendment to consider authorization of shortfall payment reimbursement.

Motion by Authority Member Omer and supported by Brodeur to table the issue until legal counsel has been sought regarding the actual agreement and whether it needs to be amended with guidance from the attorney regarding payments of the shortfall.

YEAS: Dowler, Haber, Brodeur, Omer, Lintner, Chairperson Osika.

NAYS: Woodworth.

Motion passes to table the issue.

Authority members discussed the agreement was specific to pay loans and 'other things,' which need to be defined. The loan was always meant to be paid off before the expiration of the TIF. The main difference is why TIF was built out fourteen years beyond the loan if not to recapture the shortfalls.

PUBLIC COMMENTS: None.

BOARD COMMENTS: Authority Member Dowler asked if there was a provision for the Authority to retain undisbursed funds to be used for other projects (ie. BRA Revolving Fund) and he inquired into the local site remediation revolving fund.

ADJOURNMENT:

Meeting adjourned.

Nathan R. Henne, City Manager

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