

**NORTH BREVARD ECONOMIC DEVELOPMENT ZONE (NBEDZ)  
SPECIAL DISTRICT BOARD MINUTES**

December 2, 2013 @ 3:00 p.m.  
Heritage Hall at Parrish Health Village West  
931 N. Washington Avenue  
Titusville, Florida 32780

**Board Members:**

In Attendance: Dan Aton, Robert Jordan, Micah Loyd, Alan Matroni, George Mikitarian, Donn Mount, and Louis Sanders

Telephone: Brenda Fettrow and Stan Retz

**Call to Order:** Meeting was called to order at 3:01 p.m. by George Mikitarian, Chairman.

**I. Pledge of Allegiance:**

George Mikitarian, Chairman, led the assembly in the Pledge of Allegiance.

**II. Review and Approval of Board Minutes:**

**III. Discussion and Direction:**

Mayor Jim Tulley advised in order for him to maintain his objectivity as part of the City of Titusville City Council deliberation meeting to be held on December 10<sup>th</sup>, he has been advised by the City Attorney not to be a part of any discussions taking place today; he wanted the Zone to be aware of it being a quasi judicial item; and that he is leaving the meeting.

Troy Post, CEcD, NBEDZ Executive Director, advised today's Special meeting is called asking the Zone Board to approve changes in the North Brevard Development District Economic Incentive Agreement for the proposed Mall Redevelopment Project between the North Brevard Development District, EXXCEL Project Management, Inc., and AG Development Group, Inc., subject to final input from the County Attorney and Chairman Mikitarian.

Stan Retz's presence is noted at 3:05 p.m. via the telephone.

Mr. Post advised there are three documents that are a part of this process; the Interlocal Agreement (ILA) is already approved and establishes the financing structure for the Mall Redevelopment Project; the developer is not part of the Interlocal Agreement; and it is between the public sector entities, such as the Zone, County, and City. He stated the grant agreement is entitled North Brevard Development District Economic Incentive Agreement, because it sets forth the assistance being provided to the developer in the form of grant money being used to offset or defray the costs of certain public infrastructure elements in the project. He advised the Developers Agreement is between

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the City and the developer; the Zone does not have the revenues at this time to assist, without depending upon another entity helping to bridge over a period until the Zone has its tax allocation dollars coming in; and in the ILA, the City will enter into a debt instrument, take the proceeds, and make that into the form of a grant to the developer setting forth how the money is going to be disbursed, reporting criteria requirement, details of the venusia transfer of money, and using revenues from the Zone to retire the debt of the City. He added, originally it was thought that the developer would begin certain elements of the project structure and request its reimbursement from the Zone for those expenditures; but now the developer will go forward with the acquisition, demolition the existing structure and blight, and come back in with some element structure that includes utility and stormwater; and to come out of the ground with structures that will be termed anchor tenant buildings. He stated once those buildings are finished to the point that a Certificate of Occupancy (CO) is issued by the City indicating that all Code standards pass for occupancy use is when the reimbursement of public dollars will be requested; and that strengthens the Zone's ability to demonstrate the developers capacity, by virtue of the fact that the whole Phase I part of the project will be completed at the site. He advised page one of the grant agreement sets forth some of the reasons why this is able to be done through Ordinances by the County and City establishing the Zone; the developer has presented financial information asserting information is accurate and true; page two is definitions within the agreement; and he expressed his thanks to Alan Matrioni for his input as a past developer and helping to fine tune the definitions within the agreement. He added, in Section 3, at the bottom of page two, it references District and developer obligations, and page three, has the minimum qualified investment required and the numbers are consistent with the previously presented numbers; and there are still a lot of estimated costs involved until the actual construction project begins. He stated Section 3.3 is a big part of the document, specifying that the District agrees to provide a \$6.5 million grant on behalf of the developer to induce the project to go forward; the property has not been closed on; the developer is the only option holder right now on the property; and part of their decision making process to close on the property will be whether or not the inducement being considered by the Zone, County, and City is approved. He stated there are reporting requirements, provisions for default, and remedies provided; the latter part of the document is fairly standard; and Section 15, Promotion of Economic Incentives, allows for the mentioning of the project being induced by the Zone, and is public/private partnerships to be used in press release marketing skills and capabilities of the Zone.

He provided the NBEDZ board members with responses to 17 questions fielded at the October 8<sup>th</sup> Board of County Commissions meeting for Mall Project.

Stan Retz's absence on the telephone is noted at 3:35 p.m.

Stan Retz's presence is noted at 3:37 p.m.

Scott Knox, County Attorney, advised the changes being made to the draft North Brevard Development District Economic Incentive Agreement Grant Agreement; in the fifth WHEREAS, where it says COMPANY has filed an application with the DISTRICT, is EXXCEL Project Management, Inc. who actually filed the application; the next change in 2. DEFINITIONS, subparagraph Section 2.1, definition of 'Anchor Tenant', in the second line where it says, prominently located the word 'shopping mall' is stricken, and added the word 'development'; and after the word 'shops', added 'and offices'. He advised the

next change is in paragraph 3.1 and he read aloud the way it has been revised, "The overall Project consists of a demolition and redevelopment of the currently abandoned Miracle City Mall into a mixed use development, which will include retail and medical office uses that will be constructed in a lifestyle development encompassing more than 300,000 square feet of newly constructed buildings once the existing structures are demolished." He stated further in the same paragraph it says Composite Exhibit A, and added together with Composite Exhibit A-3; and the last sentence of the paragraph is to read 'The parties acknowledge that the project will be undertaken in two Phases, the first of which is shown on Exhibit A-1, and the second of which is shown on Exhibit A-2, the reimbursement to the company contemplated by this agreement can accompany developer agreement with the City, is dependent only upon completion of Phase I of the project as shown on Exhibit A-1 and Composite Exhibit A-3, as described in the developer agreement.' He stated paragraph 3.2, changed the second sentence to read 'Phase II of the project will be completed consistent with the demands of the market'. He stated Company's minimum qualified capital investment for Phase I, of the project will be in the form of cash and borrowed funds, excluding the economic incentive provided by the District through the City of Titusville loan, and is set forth in the loan; then they set forth new costs, which is instead of adding up to \$51,360.00, it is now \$34,236,353.00, and that is broken down as Land \$6.3 million, Hard Costs \$25,879,616.00, and Soft Costs \$2,056,737.00; and the word 'note' is stricken. He stated in paragraph 3.3, the last sentence is now changed to read, 'This grant is for a reimbursement of the costs of the installation of certain public improvements, and identified the vertical construction as shown in Exhibit A-1 (Phase I) and composite Exhibit A-3, as approved by the City and County in an approved Developer Agreement, at a cost not to exceed \$6.5 million and the reimbursement will be contingent upon and consistent with the terms of the Developer Agreement.' He stated half way down in paragraph 3.4, supporting documents can be submitted in support of a draw; it now reads, 'documents can be submitted in support of the reimbursement requirements'; two lines down beginning with Titusville now reads, 'Titusville and copies of the Certificate of Occupancy for any Phase I anchor tenant'; three lines further down to delete the word 'Company' and adds, 'together with the issuance by the City of a Certificate of Occupancy, with three anchor tenants'; and in the second to the last line strike 'all or the utilized portion of'.

**IV. New Business:**

**V. Old Business:**

**VI. Public Comments:**

Richard Greco provided a handout of his concerns; stated public safety and health hazards of the asbestos report done in 2006 estimate asbestos abatement costs ranging from \$5.2 to \$6.2 million; the NBEDZ budget is \$500,000; and the possibility of a substantial cost overrun exists. He stated drainage into the Indian River Lagoon cost is substantial; and he inquired if there is enough money in the grant of \$6.5 million to pay for the combined stormwater drainage problem. He stated jobs creation is important, but in his opinion the jobs are exaggerated; he sent Chairman Mikitarian an email on November 19<sup>th</sup> asking for clarification of the impact statement saying there will be 220 jobs produced by Parrish Medical Center (PMC); on November 19<sup>th</sup> Commissioner Fisher said that there was a consulting report that was done by PMC, recommending

consolidation to the area of the Mall, and how it is beneficial for them; and that the Hospital did an independent study, spent thousands of dollars identifying that consolidating to the area of the City was beneficial to them. He inquired if the jobs are new jobs or consolidating jobs that already exists and are moving to another location, which affects the projection of jobs to be created by this project; stated the definition of full-time permanent jobs in the guidelines for NBEDZ versus full-time equivalent jobs is mixed with part-time jobs; and he inquired what are the real jobs to be created.

Ilene Davis stated one of her favorite quotes is by Ronald Reagan, "Self-delusion in the case of reality is failing." She advised 250,000 square feet of space is being proposed for development, with no signs of tenants, in a city with no population growth in 40 years; in 1968 the population was 38,000; today the population is between 42,000 and 44,000; in 40 years there has been 100 people a year coming to Titusville; and age demographics are showing younger people are leaving and older people are coming in, and they are not into shopping. She stated the Mall Project could be the tipping-point that turns Titusville into a zombie-town; retail is an outflow of local dollars, not a source of good revenue; and generally, retail is the result of economic growth, not the source of it. She inquired what if Economic Development Commission (EDC) funds cannot be used for this project; if the project fails who will pay the City back; what if the agreement prevents the sale of the Mall to any other party before all costs, plus a return to the taxpayers, who are being forced to pay for this has been done; if any NBEDZ Special District Board Zone member owns property within 1,000 feet of the Mall; she stated if it is a developed property, the Mall could increase the value of property; and she knows of a couple people that do own property. She inquired how is repayment to the City guarantee that the Mall does not meet the job goals, or is unable to pay the bond; and if the City can barely support the Searstown Mall and its theater, how it can support two Malls and two theaters with the same population.

John Pilley inquired if the County has a say in the grant and development agreements. Scott Knox, County Attorney, responded that both agreements are coming before the BOCC, Thursday night. Mr. Pilley inquired if NBEDZ currently has a copy of the purchase agreement for the property. Troy Post, CEcD, NBEDZ Executive Director, responded he has not seen that actual real estate contract; stated he has seen the document extending to December 16<sup>th</sup>; and he just needs to ensure they consummate the sale. Mr. Pilley inquired if the question can be answered at the December 17<sup>th</sup> BOCC meeting. Mr. Post replied it a moot point, if they do not acquire the site then the deal is off; and there is no money put into the project until they acquire the site, do the improvements, and do a title search verifying the property was purchased.

Milt Farrow inquired what happens to jobs promised if Section 3.2 is being changed to Phase I only; what the material adverse changes are; what happens if the property is sold after \$6.5 million is funded and the property is not completed; what happens if the full-time permanent jobs proposed in the incentive agreement are not verified; what happens if the property is not maintained properly; and what is claw back provision. He stated the City and County should be included in any assignment agreements; and all exhibits and addendums should be verified for completeness and effectiveness.

Peter Fusscas inquired if the grant reimburses actual expenditures. Mr. Post responded it is up to \$6.5 million for eligible public infrastructure costs; and he stated there is a schedule of what the suspected costs are. Mr. Fusscas inquired if the document should

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read 'shall' instead of 'may' in agreement for the proof of expenditures. Attorney Knox responded it should read will, not shall or may. Mr. Fusscas inquired if binding and affects should be included in the assignment agreement. Attorney Knox replied he will take binding and affects under advisement. He inquired who will be held responsible if there is default. Alan Matroni responded the Zone has no liability.

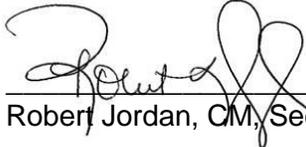
Pat Pasley inquired what is being voted on at tomorrow's BOCC meeting. Attorney Knox responded all things relating to the Mall will be voted on at the Thursday Zoning meeting, because the information he read today was not received until this morning when walking in to this meeting; and there will be nothing at tomorrow's Regular meeting about the Mall.

Motion by Alan Matroni, seconded by Robert Jordan, to approve the North Brevard Development District Economic Incentive Agreement Grant Agreement between the North Brevard Development District, Brevard County, EXXCEL Project Management, Inc., and AG Development Group, Inc. for the Miracle City Mall Redevelopment Project. Motion carried and approved unanimously.

Motion by Robert Jordan, seconded by Brenda Fettrow, to allow for County Attorney Scott Knox, CEcD, NBEDZ Executive Director Troy Post, and Chairman Mikitarian to meet and incorporate the approved changes to the North Brevard Development District Economic Incentive Agreement Grant Agreement between the North Brevard Development District, Brevard County, and EXXCEL Project Management, Inc. and AG Development Group, Inc. for the Miracle City Mall Redevelopment Project. Motion carried and approved unanimously.

**VII. Adjournment:**

By consensus of the Board, the meeting adjourned at 4:30 p.m.

  
Robert Jordan, CM, Secretary

Approved by the Board January 10, 2014.