



**COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION**

Office of the Comptroller

Scott B. Manske, Comptroller

DATE: May 16, 2017

TO: Supervisor Theodore Lipscomb, Sr., Chairman, County Board of Supervisors
Supervisor Jason Haas, Chairman, Parks, Energy and Environment Committee
Margaret Daun, Corporation Counsel
James Tarantino, Director, DAS – Economic Development

FROM: Scott B. Manske, Comptroller

SUBJECT: Questions on Fiscal Analysis of Ballpark Commons re: Files 17-366 and 17-373

Policy Question

The Office of the Comptroller has been asked several questions related to the proposal to sell County-owned property for the development of the Ball Park Commons on the Franklin Landfill. In order to analyze the impact on Milwaukee County, the Comptroller's Office reviewed issues related to financial viability of the proposal, including the future commitment of funds for possible replacement of the gas extraction system. It was our intent to present a status quo versus the proposal that is in the current term sheet presented to the Milwaukee County Parks, Energy and Environment Committee.

However, at this point, several critical questions remain unanswered which prevent us from drawing any definitive conclusions. Those issues include:

- A TID Plan for the most current development proposal should be reviewed for adequacy of reimbursement for the developer to cover costs incurred, including the gas extraction system. The drawings for a modified development plan, presented to the City of Franklin in March 2017, differ from what was described in the TID #5 documents approved by Franklin in 2016. We believe it would be prudent to wait and review the revised plan.
- The Office of the Corporation Counsel is engaging an expert in environmental law to analyze the County's potential for future risk resulting from the proposed transaction. The term sheet and option to purchase need this attorney's review to better protect the County, with regard to this transaction. While the County Board does not approve the term sheet or option to purchase, it may be appropriate to wait for any information that this expert could provide before proceeding.

- Under the proposed resolution, the County would decommission County Highway K on the Franklin Landfill site. What is the impact on the County if Highway K is decommissioned and the development or land sale does not proceed?
- The term sheet between the Developer and the County describes a trust fund to provide resources to pay for any replacement of the gas mitigation system needed by 2038. The trust would require a multi-year budget commitment on the part of the County (Years 1 and beyond), and a commitment from the Developer (Years 1-20). Does the action presently in front of the Board provide the necessary approval for the multi-year County commitment? Will there be adequate funds from the Developer to meet a significant portion of the replacement costs for the gas extraction system in the future?
- County Highway BB (Rawson Avenue) between Hawthorne Lane and USH 45 (approximately 1.4 miles) will require replacement due to its age. The current cost estimate for its replacement is \$2.85 million. State CHIP funds are available to offset this cost of \$0.8 million for a net County commitment of \$2.05 million. We are uncertain if the traffic for the ball park will require an expansion of the highway project beyond the current estimate.

Background

On April 19, 2017 the Office of the Comptroller staff met with the Department of Administrative Services – Economic Development to review the current draft (v.6) of a term sheet for the sale of County property in support of the development of the “Ballpark Commons” project. The 140 acre property located at 7900 Crystal Ridge Road in Franklin, Wisconsin is currently leased to The Rock Sports Complex, LLC and was formerly the Franklin Landfill.

At the meeting, the Economic Development Director, James Tarantino, described the proposed County action items relating to this project as having various parts:

- 1) Term Sheet – The term sheet was drafted to describe the parameters of an Option to Purchase between the County and the Purchaser, which is associated with Zimmerman Enterprises. It includes the sale of the Franklin landfill site, and county commitments related to the development project. The resulting option to purchase document would be signed by BPC County Land LLC (Purchaser), and the County.
- 2) De-mapping County Highway K (portions of Crystal Ridge Dr. and Old Loomis Rd.) located on the Franklin Landfill. This action has been requested by Franklin and will require County Board approval.
- 3) Cancellation of the current Maintenance and Operation Service Agreement with The Rock LLC. The agreement was entered into in 2012 under file number 12-495. This cancellation will require County Board approval.
- 4) Execution of a new lease for the ski-hill land located in Greendale. This will require County Board approval. (The landfill is located in both Greendale and Franklin.)
- 5) Option to Purchase – if all matters noted above were approved, the County would enter into an option to purchase the Franklin land by the Purchaser. The option to purchase would be approved under current State Statute requirements which would need approval by the County Executive, and either the Franklin designated real estate individual and/or the Comptroller of Milwaukee County.

Based on our meeting, it was determined that the County fiscal transactions for these action items were as follows:

- 1) Replacement of portions of the existing gas extraction system in 2018 based on the proposed Ballpark Commons development.
- 2) Moving and upgrading the gas extraction system in 2018 to 2019 based on the placement of new structures by the Purchaser on the southeast edge and the western edge of the landfill.
- 3) Operation and maintenance of the gas system.
- 4) Sale of the landfill site located in Franklin.
- 5) Lease of the land located in Greendale.
- 6) Continuing commitment of County funds associated with the project.
- 7) Cash flow of trust for future replacement of gas extraction system between 2031 to 2038

Subsequently we met with Corporation Counsel on April 25 and the Milwaukee County Sustainability and Environmental Engineering Division on May 1 and 12, in an effort to further understand the environmental/liability issues.

Preliminary Analysis

The information currently available is summarized below.

We understand that the Ballpark Commons development proposal has been scaled back. A revised TID economic document based on the scaled back development is unavailable. The following is from the original TID proposal that was prepared for Franklin.

Original Proposal – Memo from Ehlers, Inc. dated June 23, 2016 – “With the construction of the above improvements, it is anticipated that the developer shall construct a 120,000 square foot indoor sports facility, as well as 98,000 square feet of mixed use office and commercial and 100 units of residential housing north of Rawson. The development south of Rawson is anticipated to include a 100 unit hotel, 25,000 square feet of commercial development and 303 garden apartments.”

Modified Proposal – March 2017 - A document provided to the Franklin Common Council in March 2017 indicated that north of Rawson Avenue the indoor sports facility was now 92,000 square feet for two buildings, and commercial area was reduced to 82,000 square feet, with 104 units of residential housing. South of Rawson Avenue the plan remains for a 100 unit hotel, as well as 44,000 square feet of commercial space, and 300 apartment units.

- It is difficult to determine what impact these changes in buildings and space will have on the TID proposal.
- Utility, shared parking, excavation of unsuitable soils and roadways development on the landfill site, former DOT land, and a parcel of land southwest of the landfill is subsidized by a Tax Incremental District (TID) in the City of Franklin. The County has no responsibility for these costs.

- As currently proposed, the developer incentives at these sites, plus the cost of the gas extraction system will be further subsidized by the TID. However, the subsidy for these additional development costs will only occur if the TID is able to generate excess property tax revenue beyond the utility/roadway/parking development commitment. If the TID does not generate such excess revenue, the developer will be responsible for the costs. The County has no responsibility for reimbursement of any of these costs. Under the proposed term sheet the City of Franklin would have to modify the TID to include the 2018-2019 costs of the gas extraction system.
- Costs for future environmental remediation are allocated in two ways.
 - The operating costs, would become the responsibility of the new owner.
 - First 20 Years – The future gas extraction system replacement would be shared by the County and the owner via a trust. The Trust would be funded by the County's share of the TID proceeds, had the County continued to receive property tax payment until the TID is closed. The Developer would no longer contribute to the Trust after the first 20 years.
 - After First 20 Years – The County's contribution to the Trust would be 30% of property tax proceeds produced by the properties in the current TID, until no additional environmental remediation was necessary.
- The lease revenue from the Greendale site would generate limited revenue for Milwaukee County.
- An appraisal was done of the Franklin land parcel to be sold. The appraisal determined that the property, on a recreational basis, is worth \$840,000 for the 140 acres. Under the term sheet the County would receive benefit for this land value, which would be reduced by offsets included within the term sheet for the annual operating costs of the gas extraction system. Our fiscal estimate will likely assume that the County would receive no proceeds from this sale after cost offset. The cost offsets result from the County returning the benefit of eliminating its operating costs to the Purchaser.
- A trust agreement created under the term sheet would require a commitment by the County, as noted earlier, and the Developer. The goal of the funding mechanism would be to have funds to offset the replacement of the gas extraction system in 20 years. Subsequent potential replacements of the gas extraction system after 2038 are the responsibility of the Developer, with assistance from the continuing contributions to the trust by Milwaukee County. Annual contributions by the Developer to the Trust are not required after 2038. The County contribution is based on 30% of the assessed value of the properties within the TID times the County property tax rate (estimated at \$117,000 per year). Although the trust fund after 2038 will likely only include funds from Milwaukee County, the term sheet indicates that if the trust closes after 2080, the remaining trust funds would be distributed to both the

County and the Developer. There is no indication on how funds will be distributed if the trust closes prior to 2080.

- The proposed development also includes property believed to have been acquired by the buyer/developer from the State which needs environmental remediation requiring soil removal. The options for disposal of that soil include shipment out of state with an estimated cost of \$4 million or adding the displaced soil to the landfill at an estimated cost of \$2 million. To deposit the soil on the current landfill, the landfill cap would be disturbed, and likely would need to be replaced. We would recommend that the requirements for this landfill option be fully defined before proceeding.
- The term sheet indicates that the gas monitoring system in place indicates readings that are functionally zero and so any increase in this measure could be used to determine liability resulting from subsequent development activity.



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Cc: Members, Committee on Parks, Energy and Environment
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Kelly Bablitch, Chief of Staff, County Board
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