

NEW JERSEY STATE TDR BANK BOARD

**Health/Agriculture Building
(Auditorium)
Market & Warren Streets
Trenton, NJ 08625**

October 12, 2016

The meeting was called to order at 2:35 p.m. by Monique Purcell, Acting Chairperson. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture Building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, The Times of Trenton, The Camden Courier Post, and filed with the Office of the Secretary of State.

Roll call indicated the following:

Members Present

Monique Purcell, Acting Chairperson
Santo Maccherone (N.J. State Board of Agriculture)
Gerard Scharfenberger (rep. Edward J. McKenna, Jr., State Planning Commission)
James Fruscione (rep. State Treasurer Andrew P. Sidamon-Erstoff)
James Lewis (rep. NJDOT Commissioner James S. Simpson)
Dan Kennedy (rep. DEP Commissioner Robert Martin)
Thomas Stanuikynas (rep. DCA Commissioner Richard Constable)
Aileen Egan (rep. Dept. of Banking and Insurance Commissioner Richard Badolato)

Susan E. Payne, Executive Director
Jason Stypinski, Deputy Attorney General

Members Absent

Jennifer Coffey (rep. Nelson Dittmar, Jr., ANJEC)

Others in Attendance: Steven Bruder, Sandy Giambrone (SADC/TDR Bank Board staff), Jane DiBella, Matthew Blake, Tim Kernan, Richard Dodds, David Roberts and William Harrison.

APPROVAL OF MINUTES:

Monique Purcell, Acting Chairperson, requested a motion for approval of both the open and closed session minutes from the September 8, 2015 meeting. It was moved by Mr. Kennedy and seconded by Mr. Fruscione. Mr. Maccherone and Ms. Egan abstained.

CHAIRPERSON'S REPORT:

Acting Chairperson Monique Purcell stated she had no report at this time.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Payne indicated that the most significant issue to report since the Board last met is that the administration and the legislature came to an agreement on how the funding associated with the corporate business tax dedication the voters approved in November 2014 can be utilized and distributed. The State Agriculture Development Committee (SADC) at its meeting on September 22 approved a \$65.3 million farmland preservation appropriation request for FY2017 which included FY2017 Corporate Business Tax (CBT) funding, remaining FY2016 CBT revenues not previously made available, unexpended CBT monies in the Diesel Risk Mitigation Fund and reprogrammed bond funds due to canceled or stalled farmland preservation projects.

COMMUNICATIONS

There was nothing at this time.

PUBLIC COMMENT

None at this time.

NEW BUSINESS

A. Fiscal Year 2017 Budget

Ms. Payne referred the Board to the FY2017 administrative budget sheet.

The FY 2017 administrative budget was moved by Mr. Scharfenberger and seconded by Mr. Stanuikynas. The motion was unanimously approved.

B. Planning Assistance Grant Application

1. Kingwood Township, Hunterdon County

Mr. Bruder summarized Kingwood Township's TDR proposal. Kingwood is located on the edge of the Highlands and looking to use TDR to preserve properties fronting or adjacent to New Jersey Route 12, the East/West connection between Frenchtown and Flemington, and transfer development to a new center at the eastern edge of the Township along Route 12. The need for preservation of the scenic resources along Route 12 was identified following a survey associated with the 2011 reexamination of the Township's master plan. Two ordinances creating the "Scenic Corridor Overlay Zone" and "Eastern Gateway Village Center Overlay Zone" were enacted

following this reexamination. The “Scenic Corridor Overlay Zone” increased setbacks, restricted some uses, reduced potential building sizes and coverage within the corridor and included building design standards compatible with traditional farm buildings along the Route 12 corridor. The “Eastern Gateway Village Center Overlay Zone” encourages mixed use, compact traditional neighborhood design, associated parking standards, a well-defined grid street network, and open space standards.

Development projections for Kingwood Township include an additional 420 residential units (+/- 1400 existing now) and 400,000 SF of commercial / industrial development in next 30 years.

Kingwood received a Local Demonstration Project grant from Together North Jersey for work on a Development Transfer Plan Element and Real Estate Market Analysis (REMA) to examine the use of TDR. Based on the preliminary REMA and recommendation in the Together North Jersey report, it was determined that the “Scenic Corridor Overlay Zone” was overzoned for commercial so a rezoning of the area consistent the Township’s AR-2 zone, with TDR credit allocation based on residential development potential prior to adoption of TDR ordinance, was proposed. There are 134 parcels in the “Scenic Corridor Overlay Zone” of which 45 (1,800 acres) have additional development potential. The right to construct 109 homes and 3.068 million SF of commercial equates to 188 credits based on residential zoning

For the “Eastern Gateway Village Center Overlay Zone” the Together North Jersey report examined four development scenarios: three with sewer service at a variety of development densities and housing types to accommodate 188 sending area credits, with commercial not requiring credits, and one septic scenario requiring between 2 and 5 acre lots which would accommodate limited credits and require additional receiving area sites. The report concluded that further investigation regarding size and location for new wastewater treatment plant, location for treated wastewater, and funding alternatives is needed.

Kingwood is proposing to match funding received from Together North Jersey with the Bank’s Planning Assistance Grant to continue work on:

- the Utility Service Plan, including suggestions on resolving wastewater issues, amending the Hunterdon County Wastewater Management Plan and building a new treatment facility.
- the Development Transfer Element
- completing the REMA
- the Capital Improvement Plan to identify capital improvements necessary to effectuate receiving area development.

It was moved by Mr. Maccherone and seconded by Mr. Kennedy to approve the Planning Assistance Grant for the Township of Kingwood, Hunterdon County, as presented and discussed. The motion was unanimously approved.

OLD BUSINESS

A. Resolution of Approval for Matching Funds in support of Woolwich Township, Gloucester County TDR Credit Auction

1. Woolwich Township, Gloucester County

Mr. Bruder provided a history of Woolwich Township's TDR proposal. In brief, the Township adopted their TDR ordinance in 2008 at which point sending area zoning was changed from 1.5 – 2 acres / unit to 15 acres with TDR credits allocation as the mechanism for equity compensation. Since that time there has been the economic recession and several TDR program amendments. The most notable amendment was the Township's decision to relocate the primary receiving area within the Woolwich Regional Center to the site of the former Woolwich Adult, LLC project once approvals for that project lapsed. The Township conducted a comprehensive master plan review to address this redesign of the Regional Center. During this time there has also been continued investigation into options for sewer provision to the Regional Center and TDR receiving area.

Woolwich Township has requested funding from the State TDR Bank Board to match those provided by their recently established municipal TDR bank. This request was conditionally approved at the Board's September 8, 2015 meeting. It was discussed that the State TDR Bank would contribute \$5,000,000 as a match to \$2,000,000 contributed by the Woolwich TDR Bank for purchase of development credits from properties identified through an auction conducted by the Woolwich TDR Bank. The conditions of the Board's approval, as outlined in the resolution, include the statutory requirement that the Board find the Township's TDR ordinance viable and that a firm solution for provision of sewer to the receiving area is found.

On March 29, 2016 the Township held a reverse auction for the purchase of credits from landowners. The auction identified qualifying bids for the purchase of 268.5 credits on 17 properties, totaling 801.3 acres.

Susan Payne noted that staff will review the SADC's farmland preservation grant agreement to develop an agreement with Woolwich Township that will address standard provisions such as easement monitoring. Ms. Payne also noted that before we take a motion on the resolution she would like to have the Township provide a status update on adoption of the ordinances implementing the recent master plan amendments.

Mr. Blake introduced himself as Woolwich Township's Director of Community Development. He indicated that the master plan was adopted in July of 2016 by the Joint Land Use Board and that the next step is for the Township Committee to adopt the ordinances effectuating the changes. This action has been tabled the last few Committee meetings due to ongoing litigation involving the provision of affordable housing. At the time of the master plan revision the developer owning the commercial aspect of the Woolwich Adult settlement area, Steve Wolfson, purchased additional properties in the settlement area and became an intervenor in their affordable housing negotiations.

Mr. Blake noted that the 1,029 age restricted units and a golf course associated with the Woolwich Adult settlement is not an operable land use in today's real estate market but that the Township wants to preserve the affordable housing aspect of the agreement. The Township and the Mr. Wolfson mutually agree that there is a need to update and revise the settlement agreement. The adopted master plan revision retains the current Woolwich Adult settlement agreement with the golf course and senior housing but includes an overlay that will permit the

developer to realize additional densities above 3.5 units per acre and allow multi-family housing within proximity to the Woolwich Main Street portion of the Regional Center. Mr. Blake stated that the Township is meeting on a near weekly basis with their affordable housing court master, Frank Banisch, on a settlement that would be acceptable to both parties. It is recognized that once they develop a revised settlement agreement and go through a fairness hearing and they must revisit the master plan.

Ms. Payne noted that the master plan calls for a minimum development density in the residential portion of the settlement area of 4.5 units per acres therefore requiring the use of credits. If they are not going to build an aged restricted golf course then TDR is the other option. Ms. Payne asked Mr. Blake if this may change through the settlement agreement.

Mr. Blake noted that Mr. Banisch advised that the Township cannot include a credit purchase requirement in the settlement agreement. In the settlement area there is a buy right density that is preserved under the settlement agreement and what is being disconnected is the requirement to build above that. Mr. Blake noted that they have high confidence that the developer is going to want to build a density of higher than 3.5 units per acre and that any revision to the master plan will allow that.

Mr. Blake also noted that there are several TDR receiving areas outside of the settlement area. The Woolwich Adult area can accommodate less than 200 credits but there are about 1,000 credits total in the program. They are still going to find a home for every credit as required by the statute.

Mr. Kennedy stated that the question is whether the other receiving areas will be able to accommodate the 279 credits identified for purchase at the TDR Bank auction. Mr. Blake affirmed they would.

Mr. Kennedy challenged the idea that you can't associate TDR credits with affordable housing noting that the TDR receiving areas in the past have had successful affordable housing associated with them. He noted that this would not be a good precedent and encouraged continued dialogue.

Ms. Payne stated that this discussion was new to staff and reminded the Board that the law requires the receiving area have capacity to accommodate 100% of the credits. Ms. Payne stated her review of provided documents indicates about 260 credits associated with the settlement area. If these credits are no longer able to be accommodated the Township must amend their ordinance and master plan.

Mr. Kernan, Woolwich Township Planner, noted that Mr. Wolfson does not control all the residential receiving areas in the Woolwich Adult Project; there are two other parcels on the east side of Kings Highway that are owned by others.

Ms. Payne stated that in reviewing the master plan the Board understood that the developer could file for subdivision approval to build 1,000 age restricted homes and a golf course and that there was no market for that. The Board was comforted by the fact that the Township's zoning ordinance and master plan called for a minimum TDR credit absorption in that area. It has the potential to accommodate a quarter of the total credits. She is hearing that this is potentially coming off the table on the eve of the Bank getting this money out to credit auction landowners. The Board's determination that the program is viable is central to its ability to spend money and Ms. Payne relayed concern that a large component of the program is uncertain.

Mr. Kernan stated that the other receiving areas are not complicated by the old settlement agreement and are proposed to have lower density. The multifamily units are desired in proximity to commercial areas but densities could be increased in the western receiving areas if Mr. Wolfson goes forward with a plan that does not require TDR credits. Again, Mr. Kernan stated his belief that this will not be the case and noted that Mr. Wolfson submitted a concept plan in the spring with a calculated density over 4.5 units to the acre which matched the zoning at the time.

Ms. Payne stated her concern for landowner equity protection noting that TDR is a delicate balance and it is not as easy as adding density in another part of the receiving area. The REMA assumes credits are going into that settlement area and if that no longer applies the REMA would have to reassess any new proposal.

Mr. Kennedy noted that this new information is disconcerting and that the transaction at hand comes with a certain level of risk, however, if we move forward 800 acres will be preserved regardless of what happens to the TDR program. He suggested adding a condition to the resolution recognizing that if the town decides to settle with this landowner in a way that is contrary to what is called for in the master plan than the Board's viability determination will have to be reassessed. He added that they should move on with the grant of \$5,000,000, a calculated risk. He also noted discomfort with affordable housing being disconnected from the TDR aspect of the project. Lastly, he acknowledged that Woolwich has taken on a large share of the state policy implications of TDR and should be commended.

Mr. Kennedy noted his comfort with moving forward with the preservation transactions and he hopes that Woolwich will continue pushing back on the opinion that affordable housing cannot be part of TDR.

Mr. Harrison stated that there is existing language in the resolution that permanent receiving area capacity will be maintained until the credits associated with the auction are ultimately extinguished and that the Woolwich TDR Bank recognizes this.

Ms. Payne noted that the Board is concerned not just with the investment of the State TDR Bank but also about ensuring there is a realistic opportunity for equity compensation for all the sending area landowners.

Mr. Kennedy moved to amend the drafted resolution to add a #5 in the "Be it Further Resolved" stating that if the Township settles and TDR credit absorption capacity is removed from the settlement area the Board's determination of TDR ordinance viability will have to be reaffirmed.

Mr. James Lewis seconded the amendment.

Mr. Maccherone motioned to move the resolution and Mr. Scharfenberger seconded the full resolution. The motion was unanimous.

Ms. Payne stated that Treasury has indicated they are going to be selling bonds in November or December and that they have agreed to advance \$4,000,000 of the \$5,000,000 to be bonded to allow closings to proceed immediately. She noted that the grant agreement should go out next week.

Mr. Blake thanked SADC staff for their assistance and guidance on such a complex process noting that despite much trepidation leading up to the auction once it occurred it was very well received.

PUBLIC COMMENT

None at this time.

TIME AND PLACE OF NEXT MEETING:

To Be Determined

It was moved by Mr. Lewis and seconded by Mr. Fruscione to adjourn the meeting at 3:53 pm. The motion was approved.

Respectively Submitted,



Susan E. Payne
Executive Director
State Transfer of Development Rights Bank Board

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