

Joint Economic Development Organization Board Minutes
March 15, 2010
11:00 a.m.

The Joint Economic Development Organization (JEDO) Board met at 11:00 a.m. with the following Board members present: Shawnee County Commissioner Ted Ensley, Chair; Shawnee County Commissioner Shelly Buhler; Shawnee County Commissioner Vic Miller; City of Topeka Councilman Larry Wolgast; City of Topeka Councilman Bob Archer; City of Topeka Mayor Bill Buntten. Absent: City of Topeka Councilman Richard Harmon.

OTHERS PRESENT: Councilwoman Sylvia Ortiz; Councilman Jeff Preisner; Rich Eckert, Shawnee County Counselor; Jackie Williams, City Attorney; Robert Perry, Shawnee County Bond Counsel; Norton Bonaparte, City Manager; Tom Vlach, Shawnee County Public Works Director; Tom Flanagan, Shawnee County Public Works; Brian Armstrong, Bartlett and West; Steve Briman, Bartlett and West; Tim Hrenchir, Topeka Capital Journal; Steve Jenkins, Topeka Chamber of Commerce; Jo Feldman, Topeka Chamber of Commerce; Nora Patton-Taylor; Olivia Simmons, Visit Topeka; Ken Daniels, Midway Wholesale.

County Commissioner Ted Ensley called the meeting to order.

ITEM NO. 1: County Commissioner Ted Ensley was elected as the 2010 JEDO Presiding Officer.

Commissioner Miller moved to nominate Commissioner Ted Ensley to serve as the presiding officer, seconded by Commissioner Buhler. Motion carried unanimously.

ITEM NO. 2: The JEDO meeting minutes of November 19, 2009 were approved.

Mayor Buntten moved approval of the minutes of the JEDO Board meeting of November 19, 2009, seconded by Councilman Archer. The motion carried unanimously.

ITEM NO. 3: Discussion regarding the advancement of the 2004 Sales Tax Program's North Topeka Boulevard and 46th Street intersection improvement project.

Shawnee County Public Works Director Tom Vlach presented the JEDO Board with a drawing of the North Topeka Boulevard and 46th Street intersection projects, a sales tax project cash flow spreadsheet, as of February 24, 2010, and the interlocal agreement regarding the 2004 sales tax program approved by the voters.

Mr. Vlach said currently Shawnee County is planning on constructing intersection improvements to NW 46th Street and Rochester Road and are currently under design with Bartlett and West for that project. Also,

proposed improvements to the 46th Street and Topeka Boulevard intersection are planned to be made as part of the sales tax program. The Rochester intersection is planned to be constructed in 2013. According to the sales tax program's project schedule, the Topeka Boulevard project is scheduled for 2016.

Mr. Vlach said as they got into the design of the Rochester improvements and what they would need to do with the tangent segment on 46th street, they noticed they would end up with grading issues where they stopped one project and began the next project. It would result in a little bit of a hump in the roadway. A temporary transition zone would need to be constructed to eliminate the hump. The temporary transition zone would then be torn out and replaced three years later if they constructed the two projects separately.

Mr. Vlach said in looking at the monies that have been coming in from sales tax, they looked into whether it would make sense from a financial standpoint to combine the two projects. He said if all things occur as they project, they are now anticipating they will have a \$6.3 million balance at the end of the sales tax program after all infrastructure projects on the list are completed.

Mayor Bunten asked if there would be a \$6.3 million balance after all the projects are done, if that money could be used for any other project other than specified. Mr. Vlach said, the way he read the interlocal agreement, those monies are then to be distributed, according to a state statute, between the City of Topeka and Shawnee County and other cities in the County. Mayor Bunten asked if Mr. Vlach felt comfortable about that figure. Mr. Vlach said, as of right now, they did. He said when the projections were originally estimated; it was his understanding they were done conservatively.

Mayor Bunten asked if there was any possibility that money could be distributed prior to completion of all the projects, in anticipation of having a balance. Commissioner Miller said he did not think the money could be distributed until the projects are completed or at least until the final cost of the projects are known. Even with sales tax being down, they're doing way better overall on the final analysis than what was projected. That's not surprising because they were told all along everything they were doing was conservative both in terms of construction costs, projected revenues and interest rates. They were finding half way into it that's exactly what has happened because they're \$6.3 million ahead of what was initially projected.

Mayor Bunten asked if, at this point in time, the money, under any circumstances, would not be eligible to be used for something other than those projects. Commissioner Miller said that was as much a political question as it was a legal question. He said this question was put on the ballot and specifically listed the projects they were asking the voters to fund. Commissioner Miller said he thought from a political point of view,

even if you could do it legally, they are bound to these projects and these alone unless they get approval of the voters to do something else.

Councilman Preisner said to expand on Commissioner Miller's comments; he asked if these numbers were projected from 2010 out. If the revenue expectations were lowered on the sales tax? Tom Flanagan with Shawnee County Public Works Department said "no we did not". Through 2009 the projections made for the original program, were coming in equal or better. The 2009 projections for sales tax were projected at \$14.3 million and it came in at about \$200,000 above that. Councilman Preisner asked what the fund balance is at this point. Mr. Flanagan said under 2009 the fund balance shows \$6,015,000. Commissioner Miller said he knew the City's sales tax projections are higher than the existing revenues are coming in at but understand they were revising their sales tax projections each year. These projections are not the same projections. Consequently the revenues, even with the sales tax having dropped from what we were four or five years ago, they're still coming in ahead of what was projected because they projected so conservatively.

Mr. Vlach reviewed the following JEDO Board Presentation handout.

JEDO Board Presentation
Advancement of NW 46th/Topeka Blvd Project
March 15, 2010

- Currently under design for NW 46th & Rochester Road Intersection
 - Will be roadway grade issues on segment between Rochester & Topeka
 - Current Sales Tax Program cash flow projection = \$6.3M balance at end of program
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1. Will reduce construction engineering/inspection costs by estimated **\$160,000**
 - a. One 8-month project vs. two 6-month projects
 2. Will eliminate required temporary transitioning construction (est. **\$50,000**)
 3. Economies of scale
 - a. (25%-33% Labor & Equipment savings);
 - b. (6%-8% Mobilization)
 - c. Assuming 15% savings on a \$1.7M project = **\$255,000**
 4. Typical construction inflation – 6%/year
 - a. At a rate of 3%-6% = **\$150,000-\$300,000** savings
 5. Disrupt the traveling public once instead of twice
 6. KDOT is administering the Rochester project and is agreeable to include the Topeka Blvd project as part of the Rochester project. Topeka Blvd costs tracked as Non-participating
 - a. As such, bidding and plan reproduction costs borne by KDOT
 7. Resulting anticipated construction project cost savings:
 - a. **\$615,000-\$765,000**

8. Interest costs estimated to be **\$165,000**
9. Total Estimated Project Cost Savings = **\$450,000-\$600,000 (Shared)**
10. Propose Shawnee County finance the project in 2013 with costs, including bond interest, reimbursed by sales tax in 2016

The recommendation would increase the bottom line on the sales tax cash flow projections from \$6.3 up to \$6.8 or \$7 million dollars.

Councilman Preisner said the roundabout at 61st and Wanamaker has been let for 2010 and asked if the Croco Road project had been let. Mr. Flanagan said yes. Councilman Preisner asked how soon they would go for bid for the 61st street/53rd Street on Wanamaker. Mr. Flanagan said December of 2010. Councilman Preisner asked if it would be easier to move the last project up and slide the two County projects down. Mr. Flanagan said since the projects were being funded by Federal funds through KDOT they have a timeframe for which they administer their projects and 2013 is the quickest they can get it into their timeframe. Mr. Vlach said Public Works also needs time to acquire right-of-way. Three years out is about the time they like to get moving on it.

Councilman Preisner said the Wanamaker Road 61st/53rd is going to be a done deal and then we're into 2012. At 2012 there are four projects; two in the County and two in the City, given the two projects on Adams, the value is \$13 million from those two projects. The two projects on 21st street that are left from the City for about \$6.5 million. Councilman Preisner said he hates to see them borrow money when they don't have to, if they can rearrange the projects. In 2012 the value of the Adams project is almost \$7.1 million. He said maybe they can put the lesser value project forward and finish this program with the 45th street project.

Mr. Flanagan said on the 45th street corridor project, the County has already completed purchasing all the right-of-way and they're moving into the utility relocation phase. Probably have the utilities moved next year. Mr. Flanagan said his concern is he has purchased temporary easements and has a date certain in which they will go away. So if they get moved lower than where they are currently scheduled he would have to repurchase those temporary easements again and that would cost money.

Commissioner Miller asked Mr. Flanagan what kind of investment was made on temporary easements. Mr. Flanagan said combined total for both projects on 45th Street, about \$85,000 has been paid in temporary easement costs. Commissioner Miller said Public Works would need to go back to the same people and purchase a new time frame and that would only be a fraction of the \$85,000, which would be a lot less than the projected interest cost.

Commissioner Miller asked if he had any idea how many landowners he dealt with. Mr. Flanagan estimated 25 total between south Topeka and California. Commissioner Miller said they could surrender the temporary easement they have for the timeframe you have and move it forward as a negotiation.

Bond Counsel Bob Perry said he talked with County Financial Administrator Marti Leisinger and she asked him to look at the structure for the bridge bond the City issued in 2006. Mr. Perry said if the bridge bonds are refinanced (they were sales tax revenue bonds) with Countywide General Obligation refunding bonds, as of last Thursday there was a gross savings of over a million dollars. Which in essence would allow less debt service to be made from sales tax revenues and more sales tax revenues for projects. The savings come from the GO bond of the county as a whole. Commissioner Miller asked what the projected net savings would be. Mr. Perry said that would be the net savings, a million dollars overall what they're paying now as compared to what would be paid under a GO bond. The real savings is the present value savings of \$950,000.

Commissioner Miller said looking at the interlocal agreement, in order to advance this project as requested by County Public Works it would take not only a recommendation of this Body but also take the approval of both the City and County. He said the interlocal agreement is between the City and County and this would modify that agreement as it relates to attachment A. Mr. Vlach said the bottom of paragraph eight on page six reads "Nothing in this agreement shall be construed as precluding the sales tax ballot projects being completed earlier than scheduled."

Commissioner Miller asked for an answer to his question from respective Counsel as to their opinion. County Counselor Rich Eckert said in an abundance of caution they should run it through both bodies. There might be some bonding issues as well. The bond companies might actually require that. City Attorney Jackie Williams agreed. Mr. Perry said the way paragraph eight read to him is that it's an administrative issue of expenditure of funds. If you're going to rearrange the date of the project on Exhibit A, it's his opinion both the County and the City governing body need to approve it.

Commissioner Miller said his interpretation of what Mr. Perry reported was if they're concerned about their cash flow, this is a way to free up an additional million dollars. It's a separate issue. Commissioner Miller said he likes the idea of advancing the project for all the reasons set forth by Mr. Vlach. He likes what Mr. Perry had to say apart from what Mr. Vlach is talking about. Commissioner Miller said he's not adverse to what Mr. Preisner was suggesting. He felt very comfortable on the conservative side with the figures and the amount of interest we pay these days on a project for that period of time does not get in his way of going ahead and bonding it for that short term.

Mayor Bunten clarified they would refinance the bond for the Topeka Boulevard bridge with County General Obligation Bonds because the interest rate is lower and they could save a million dollars. Mr. Perry said the average interest cost of the sales tax revenue bond is about 4.7%. One of those reasons is there's a six million dollar maturity in the last year of which has approximately a 5.00% interest rate. A General Obligation

Refunding bond would be short term bonds, 2016 maturity, and the effect of that interest cost is 2.1% as of the marketing conditions on Thursday. The structure of the sales tax revenue bonds, there's a \$3 million debt service reserve fund so there's \$3 million sitting with the trustee in St. Louis on which you will be using sales tax proceeds to pay interest on. When that \$6 million matures in 2016 the \$3 million debt service reserve fund is going to help pay the maturity. Take \$3 million out of debt service reserve; reduce the amount of the General Obligation Bond accordingly. We're issuing less debt and using General Obligation to reduce the interest cost. The sales tax revenues can still pay the General Obligation bond but not as much sales tax is going to be needed.

Commissioner Miller asked if this Body was to act and recommended what Mr. Perry was suggesting, it would also take approval of the respective governing bodies. Mr. Perry said in his opinion no it would not. It would require this Body to agree to allow the sales tax revenues to go to the County's payment of the Bond as opposed to going to the trustee in St. Louis to pay those investors. Commissioner Miller asked how Mr. Perry was going to issue County GO Bonds if the County Commission hasn't approved it. Mr. Perry said the County Commission would have to approve it but the City Council wouldn't.

Commissioner Miller moved that the Board do what Mr. Perry suggested and recommend to the County Commission to do the concomitant act to make that happen.

Councilman Archer asked if there is no expense to calling the bonds. Mr. Perry said not in the OS (official statement) he looked at. He would have to look at the ordinance.

Councilman Wolgast seconded the motion. The motion was carried unanimously.

Commissioner Miller said for him to make the right motion he needed to elicit comment from the City Council representatives because if they're wedded to what Mr. Preisner is suggesting versus Mr. Vlach's first proposal, he didn't want to do something that's not going to get Council approval because in order to be effective, he believed, this had to be approved by both bodies.

Mayor Buntin said Mr. Preisner's the one who brought it forward and he wasn't sure everybody understands it to the extent Mr. Preisner does. Councilman Archer said he hadn't studied it enough to have thoughts on it at this point. He said if the City and County could collaborate and save \$650,000 or \$700,000 he didn't know why they wouldn't do it. Councilman Wolgast said he thought the same. This is a lot of information to receive in one presentation. It's difficult to see the big picture and know what all the ramifications are with the presentation. It sounds like the appropriate thing to do. Maybe after thinking about this some more there are more questions they should be aware of.

Mayor Bunten asked if in fact with Mr. Preisner's proposal they can save \$600,000. Mr. Vlach said the interest cost was around \$165,000. Commissioner Miller said minus added costs of reacquiring temporary easements. Mayor Bunten said he hadn't heard any objections to that and he didn't know and was not prepared to make a commitment to go either way but would be happy to listen. The City's legal department can look into it and make a recommendation.

Commissioner Buhler said she would be interested in an opinion from Public Works because it would be the County project that would be moved further down the project schedule. She asked what impact Public Works could anticipate from that other than what was said. Commissioner Miller rejected the notion they are "County projects". They happen to lie outside the City limits. These are projects the people approved and the improvement of the streets is going to benefit everyone. Commissioner Buhler said they are administered by the County. Mr. Vlach said the only other concern he would have is several constituents are aware of the current timeline for these 45th Street projects and Public Works would like to stay on that timeline as much as possible from a credibility standpoint. Commissioner Miller said in translation of that, they're not his constituents but he drives that road and that road needs to be improved from a safety standpoint, that's why it's on the board. The quicker it's improved the better. He said 45th street needs to be widened; it's very unsafe right now. Mr. Vlach said assuming construction inflation is back up; an increase would eat up the cost they would save in interest.

Councilman Preisner said he agreed with this project and how it should be pulled together in 2013. What that leaves is four projects, which in essence is only two projects; 21st street or 45th street. The value of the 45th street project is \$13 million. The value of the 21st street projects is \$6.5 million. He said if they're concerned about revenue stream in the next few years, they would be able to start these more inexpensive projects earlier and upon completion he's sure we could get into the 45th street projects well before the date they may or may not be moved to. If this package was put together in 2004 then project costs should still be okay, like our revenue projections. The temporary easements are just for ingress/egress for construction purposes only. Councilman Preisner said he's in this business and knows roads are being built now for 20% less than they were two years ago.

Mr. Vlach said he thought Councilman Preisner's suggestion was valid. He said, however, with a delay of one year, it was likely construction inflation will occur again and wipe out the savings in interest.

Commissioner Miller said he was now convinced because while it may cost us \$160,000 in interest to advance the one project, he thought the amount it would cost inflation wise on the others would far exceed that. **Commissioner Miller moved approval of the proposal as outlined by Mr.**

Vlach and to recommend to the respective governing bodies to amend the interlocal agreement to reflect that, seconded by Commissioner Buhler.

Commissioner Miller said, before Mr. Vlach presents this to the City Council, that Mr. Vlach add a line immediately below the sales tax revenue line in the sales tax cash flow projection spreadsheet that illustrates what the projected sales tax revenues were for the first five years. Commissioner Miller said the JEDO Board's action to approve it will become null and void if one of the other bodies does otherwise. But it won't be necessary once they approve it for it to come back to this Board for later action. You might vote yes today and no tomorrow.

Commissioner Ensley called for a vote. **The motion carried unanimously, 6 to 0.**

Councilman Wolgast said in establishing these meetings if it would be possible to give more notice it would be appreciated. He said Councilman Harmon could not be present and Councilman Archer and he had appointments. Councilman Wolgast said if they could get any information ahead of time it would be appreciated when they don't have the background everyone else does, so they can better understand when they come to meetings, what the issues are. Mr. Bonaparte said Councilman Harmon did indicate he had a conflict and that's what precluded him from attending this meeting.

Commissioner Miller said as Councilman Preisner has pointed out in the past City Council members can always appoint another Council member to cast their ballot. Councilman Harmon missed other meetings before. There are other Council members in attendance today, and there almost always is. It has a consequence of the City being under represented.

Councilman Preisner said it was an excellent point made by Commissioner Miller. He said maybe the JEDO Board ought to look at its bylaws and consider assigning a proxy in writing.

Commissioner Ensley requested the record show Council member Sylvia Ortiz was present.

Meeting adjourned.