

Part 201 Brownfields Work Group Meeting Summary

November 9, 2006
Michigan Department of Environmental Quality
Lansing, Michigan

Work Group Members Present

Brownfields: Peter Anastor, Richard Barr, Scott Beckerman, Alison Benjamin, John Byl, Anne Couture, Susan Erickson, Kevin Johnson, Sara Lile, Jim Linton, Bruce Rasher, Darlene VanDale, Jim Tischler, and Grant Trigger; Administration: Gary Klepper

Staff Present

Bill Rustem and Amy Spray, Public Sector Consultants; Mitch Adelman, Ron Smedley, and Jim Sygo, Michigan Department of Environmental Quality

Public Present

Cathy-Brubaker Clarke, City of Muskegon; Julie Gales, Legislative Service Bureau

Welcome and Introduction

The meeting began at 9:05 PM.

Bill Rustem from Public Sector Consultants welcomed the members of the Part 201 Phase II Discussion Group Brownfields Work Group. Work Group members, DEQ staff, and others in attendance introduced themselves. Rustem thanked the DEQ for hosting the meeting and reviewed the agenda. There were no suggested changes.

Purpose Statement

PSC has drafted a purpose statement for the state brownfield programs:

To promote and facilitate the revitalization, redevelopment, and reuse of certain property that is contaminated (real or perceived), blighted, or functionally obsolete.

There was discussion about what the word “reuse” implies in this statement. Does this preclude any contaminated agricultural land or land that is contaminated by nearby uses, but is vacant itself? The group determined that “use” is better.

There was also discussion on the word “certain” and its connotations. This signals that “brownfield” does not imply all property; however this does not need to be defined further in the purpose statement. Because this purpose statement will be not for just Act 381, but also Brownfields Grants and Loans, it further signifies that there are limitations and we must prioritize lands.

The rewritten statement agreed upon by the group is as follows:

To promote and facilitate the revitalization, redevelopment, and use of certain property that is contaminated (real or perceived), blighted, or functionally obsolete.

Conceptual Approval

Grant Trigger and Jim Tischler drafted a proposal whereby a developer could gain “conceptual approval” from the DEQ for an Act 381 brownfield work plan. The “task-by-task” approval system currently in use is both time and cost intensive to the developer and local Brownfield Redevelopment Authority (BRA), as well as to the DEQ.

The proposal objectives are to:

- Continue review authority by the DEQ to review and approve specific work plan tasks, as required by Act 381.
- Provide for submittal of work plans in preliminary format to identify the anticipated potential scope of eligible activities proposed to support a project planned at an Act 381 eligible property, including demonstration of the necessity of eligible activities in order to receive DEQ approval. [Do you really need both anticipated and potential? Seems like one or the other would be sufficient.]
- Increase time and cost efficiency in (1) planning for possible Act 381-eligible activities by submitters and in (2) final review of necessary eligible activities by DEQ.

Points of discussion on this concept:

- Lenders need to see that all parties are on board with a plan and that there is a commitment from the DEQ. The sooner in the process that this can be done, the sooner financing can go forward.
- It is assumed that the developer will be including in the work plan only eligible activities on eligible property—the cost of any ineligible activities are the developer’s responsibility. It can be assumed that the developer will take the risk of spending more money than might be eligible for reimbursement for the opportunity to move the project along with fewer delays.
- Under the current system, consultants sometime advise clients not to seek school tax capture in order to circumvent the cumbersome DEQ process. There are only 40–50 work plans that go to the DEQ for approval of school tax increment financing (TIF) capture each year. Many more go only to the MEDC’s Michigan Economic Growth Authority (MEGA) for SBT credits.

Scoping Process and Multi-Agency Coordination

Anne Couture prepared a document for discussion that looks at the possibility of unifying the application for all the brownfield redevelopment incentives and providing a “one-stop shopping” approach for applicants. This “uni-application” would include enough information about the project to support the review by the MEDC, the DEQ, and other relevant agencies for consideration of 381 work plans, grants, loans, TIF, tax credits, or other brownfield incentives that may be available. The objectives of this approach are to:

- Compress time frames for brownfield projects through a “one-stop shopping” approach and minimizing the time and expense of preparing various extensive applications for different brownfield programs
- Provide greater certainty to projects with respect to receipt of state brownfield incentives

- Improve communications between state agencies and among divisions/sections within agencies
- Allow for all projects receiving state brownfield redevelopment assistance to be tracked using similar metrics

The application would originate with the applicant (prospective purchaser, developer, owner, etc.) with support from the local unit of government (LUG). It would be submitted to the newly created Brownfield Redevelopment Coordinating Office (BRCO) that would have the responsibility and authority to convene and coordinate relevant agencies for a scoping meeting. The objective of the scoping meeting is to define the project sufficiently to allow the state agencies and LUG to determine applicability and scope of the various brownfield incentives that may be available to the project and also identify additional information needed to process the application. There will be a “Brownfield Redevelopment Specialist” (BRS) from each relevant agency charged with tracking the application through its processing.

Points of discussion on this concept:

- If the state is making a financing “package” offer up front, should there be a tax “clawback” provision if certain items are not implemented? There needs to be more postproject monitoring and evaluation to ensure the project is completed as outlined in the work plan. The uni-application [will it really be this, or can it be called a unified application, universal, uniform,...]should also have enough detail on baseline economic indicators so we can see the impact of the project.
- What happens if the economic development project fails after the money is spent because of a bad economy or other reason out of the control of the applicant? This kind of thing happens in the private sector all the time; the state should be more willing to take this kind of risk.
- The state might not have the resources to exert this level of effort for every brownfield project. How should they be prioritized? Consider certain sizes of projects, amount of incentives needed, jobs created, 80/20 rule etc. [item for discussion at next meeting]
- Will this create an additional level of bureaucracy? How can we build in flexibility? Our desire is to reengineer the process, not just add another layer.
- What is the outcome of the scoping meeting? Possibly a “development agreement” that outlines the conceptual approval of the financial package offered by the state. The BRS from each agency must have the delegated authority to sign something like this.
- Perhaps the BRS could be a regional advocate—a person familiar with the area that is cross-trained to know all the programs and contacts in each state agency and can pull together the scoping meeting. This was the original approach for the CATeams (Community Assistance Teams); however, the funding was cut and authority transferred to MSHDA. The Cities of Promise approach might also be a good model to consider.

Funding-related discussion:

- Should we look at the program fees currently collected by MEGA and the DEQ and track where these go and how they are used? Can we make sure they stay in the program?
- There could be a nominal fee for a scoping meeting and uni-application, but a larger fee for going forward with processing.
- There could be a state revolving fund created at the beginning of the project that would help fund staff.
- Fees for small projects in small communities should not be the same as those for big projects; this could be comparable to the microincentive package.
- Businesses could support paying higher fees if they saw that it helped streamline the process. However, additional fees may not be necessary. This may be basic staff reallocation; a more intensive process up front rather than the continuous back and forth of multiple reviews.
- As a condition of approval of school tax capture, could 1 mil (out of the 6 mils possible) be captured by the state to pay for program? [Jim Tischler will draft a proposal on this concept.]

Next Steps

Follow up on issues and ideas from this meeting:

- Jim Tischler will draft a proposal for the 1 mil concept to help fund the administration of the brownfield program.
- PSC will draft a merged proposal combining the scoping meeting and conceptual approval concept as well as a flow chart to describe it.
- PSC will invite relevant state agencies to participate in the next brownfield work group meeting: MSHDA, MDOT, HAL, and Treasury.
- The DEQ will present its ideas on how it would implement this program if it were completely starting over again.
- The agenda for the next meeting will include discussion of: the 80/20 criteria (how to decide which projects require a greater level of effort of staff and resources); the revised concept paper and flow chart; and using the CATeam or Cities of Promise approach for brownfield redevelopment specialists.

Next Meeting

The third meeting is scheduled for December 12, 2006, from 1:00 PM to 4:30 PM at the Michigan Economic Development Corporation in Lansing, Michigan. Logistics and directions will be provided via e-mail prior to the meeting date.

The fourth meeting is scheduled for January 17, 2007, from 9:30 AM to 12:30 PM at Public Sector Consultants in Lansing, Michigan.