

Ecorse Receivership Transition Advisory Board (TAB)
Minutes
July 23, 2013
9:00 AM

Ecorse City Hall
2nd Floor Conference Room
Albert B. Buday Civic Center
3869 West Jefferson
Ecorse, MI 48229

Members Present:

Robert Bovitz
Edward Koryzno
Joyce Parker

Members Absent:

None

I. CALL TO ORDER

- A. Roll Call - Mr. Koryzno called the meeting to order at 9:06 AM. Let the record show that all Board members are in attendance.
- B. Approval of Agenda – By motion made and supported, the Board unanimously voted to approve the agenda.
- C. Approval of June 11, 2013 minutes – By motion made and supported, the Board unanimously voted to approve the June 11, 2013 TAB regular Board meeting minutes as presented.

II. BOARD ORGANIZATION

- A. Selection of Chair, Vice Chair, Secretary – By motions made and supported, the Board unanimously voted to approve the following Board Officers: Ed Koryzno as Chair, Joyce Parker as Vice Chair, and Robert Bovitz as Secretary.
- B. Adoption of TAB Rules of Procedure – By motions made and supported, the Board unanimously voted to approve the TAB Rules of Procedure in its entirety as presented.

III. REQUESTS FROM CITY OF ECORSE

- A. Paragraph 1 of Letter of City Administrator of June 10, 2013 (Outside Counsel) The City requested a description of the TAB's understanding of the applicable requirements for the City to retain outside counsel to provide advice and representation to the City at the present time.

Koryzno – It is my understanding that nothing in Emergency Orders, including EM Order 94, authorizes the City Council or the Mayor to retain outside counsel. However, under EM Order 94, the City Council (which includes the Mayor) may adopt ordinances and resolutions consistent with the City Council's authority to set policy that are subject to the approval of the TAB. Accordingly, the City Council could adopt a resolution providing for the retention of outside counsel which could be implemented with TAB approval and funding for such expenditure in the City's lawfully adopted budget.

Parker – That is correct. Questions to CA Openlander - Will outside counsel work with the City Attorney? Is this issue in front of the TAB to appoint a city attorney or other outside attorney?

CA Openlander – The City Attorney was concerned that Council would not work in tandem with the City Attorney. Our question to the TAB is who appoints outside attorney once the City Attorney is in place?

Koryzno – The TAB's job is to review resolutions from the City Council. City Council must take action then resolutions will come to TAB for action.

Koryzno – Motion that the Board state that the Board's understanding is that the City's retention of outside legal counsel could be undertaken pursuant to a resolution of City Council and that City Council's resolution is subject to the approval of the TAB and its implementation is dependent upon the availability of an appropriation in a lawfully adopted budget for the cost to be incurred by the City.

By motion made and supported, the Board unanimously approved the motion.

- B. Paragraph 2 of Letter from City Administrator of June 10, 2013 (Litigation Settlement Authority) The City requests a description of the TAB's understanding as to the applicable requirements for the settlement of litigation. In addition, the City Administrator seeks the authority from the TAB to settle claims of less than \$25,000 or some other designated amount.

Koryzno – Inquires as to whether the budget includes a pool of funds to settle litigation? Is there anything in the current EM orders that gives the authority for settlements of any kind to the City Administrator or the City Council?

Parker – Yes, there is a line item in the budget that includes a pool of funds to settle litigation. No, there is not anything in the current EM Orders that gives the authority for settlements of any kind to the City Administrator or the City Council.

Koryzno - Nothing in your Emergency Orders speaks directly to litigation settlement authority. It appears that litigation settlement activity could be

undertaken by the City Council pursuant to a resolution for a specific case or to authorize the City Administrator to settle cases under a certain dollar amount.

Koryzno – Motion that the Board state the Board’s understanding is that the City Council could adopt a resolution providing for the settlement of a current lawsuit or potential litigation, as well as, for authorizing the City Administrator to settle such litigation, which could be implemented with TAB approval and funding for such expenditures in the city’s lawfully adopted budget.

By motion made and supported, the Board unanimously approved the motion.

- C. Paragraph 3 of Letter from City Administrator of June 10, 2013 (Authorize City Representative for Collective Bargaining) The City requests a description of the TAB’s understanding as to the City’s authorized representative for collective bargaining.

Koryzno - Does the current job description designate the City Administrator as the City’s representative in collective bargaining?

Openlander – This language is taken from the Ecorse City Administrator job description. The City Administrator position and the job description were authorized by the Emergency Manager in her Order #82 issued on October 22, 2012. My contract has the job description incorporated into it.

“City Administrator administers all benefit programs for both active and retired City Employees, oversees the negotiation and implementation of all Union contracts, investigates and responds to all grievances and discrimination complaints.”

Koryzno - Otherwise, the City Council may adopt a resolution designating a collective bargaining representative for the City that is subject to the approval of the TAB.

Koryzno – Motion that the Board state the Board’s understanding is that the City Administrator is the City’s authorized representative in collective bargaining.

By motion made and supported, the Board unanimously approved the motion.

- D. Paragraph 4 of Letter from City Administrator of June 10, 2013 and paragraph 6 of Letter from City Administrator of July 15, 2013 Letter (Deputy City Treasurer Position) The City submits correspondence regarding the proposed establishment and filling of the position of Deputy City Treasurer, a position that the City Administrator notes was eliminated by EM Order 47.

Koryzno – Section 21 (2) of PA 436 states that an EM's orders remain in effect until one year after the termination of the receivership.

Koryzno – Motion that it is the TAB's understanding that since section 21 (2) of PA 436 provides that an EM's orders remains in effect after an EM's departure until one one year after the termination of a City's receivership, which has not yet occurred, there is no basis for the establishment or filling of the position of Deputy City Treasurer.

By motion made and supported, the Board unanimously approved the motion.

- E. Paragraph 5 of Letter from City Administrator of June 10, 2013 (Status of the Reorganization of the Building Division in the Department of Public Works) The City Administrator reports that the City Mayor and other members of the Council oppose the appointment of a new employee to a newly established position that would complete the reorganization of the Building Division and that they support maintaining the old structure of the Building Division.

Koryzno - This appears to be an information item as to which no action is being requested.

Openlander – The City wants to move forward with the reorganization but the City Council disapproves.

Bovitz – If you are looking for guidance, the TAB does not have any authority to direct City Council.

Koryzno – No action taken on this item.

- F. Paragraph 2 of the Letter from the City Administrator of July 15, 2013 (Proposed Wayne County agreement as to which Ecorse is a third party beneficiary) City seeks approval of HOME funds.

Koryzno – These are federal funds allocated to Wayne County. The City is a third party in this contract. How was the developer chosen? Was there a competitive process?

Openlander – Yes, there was a competitive process.

Koryzno - The City seeks approval of the proposed agreement for the use of HOME funds to rehabilitate three residences in the City.

Koryzno – Motion that the TAB approves the July 9, 2013 resolution of the City Council regarding HOME Funds.

By motion made and supported, the Board unanimously approved the motion.

- G. Paragraph 4 of Letter from City Administrator of July 15, 2013 letter (Proposed budget amendment for replacement of the City Hall Air Handler at a cost of approximately \$190,000).

Koryzno - PA 436, Section 23(5) (c) authorizes the TAB to approve budget amendments which shall not take effect until approved by the TAB. In addition, until the expiration of the FY 13-14 City budget, the State Treasurer's approval of budget amendments is also required by PA 436 Section 21(2).

Koryzno - Motion that the TAB approves the budget amendment as proposed which may be implemented by the City after it obtains approval by the State Treasurer of this amendment Pursuant to PA 436, Section 21(2)". The City will submit the budget amendment to the Treasurer for approval.

By motion made and supported, the Board unanimously approved the motion.

- H. Paragraph 5 of Letter from City Administrator of July 15, 2013 (Proposed budget amendment to move \$50,000 from reserves in the Public Works budget for residential building demolitions).

Parker – Why is this request being made and what is the City requesting?

Openlander - There was \$50,000 set aside for building demolitions. It was removed but we were not awarded the MSHDA grant money. The final version of the budget did not include the \$50,000 and I did not catch the mistake.

Parker - Is this the total final cost or are there other expenses?

Openlander - This is a 3-phase project. The air conditioning failed one year ago. Our contractor proposed replacement of the air conditioner unit. Phase 1 was complete in April 2013 at the cost of \$225,000. Phase 2 is the replacement of the air handler at a cost of \$190,000. This has already been bid out and we will use the same contractor and is planned to be complete in the fall or spring. This project is not funded in the budget. Phase 3 is the rehabilitation (not replacement) of the boiler at a cost of \$150,000. The cost of replacement would be an additional \$100,000. Replacement will bring the boiler up to 80% standards.

Parker – What is the time frame for Phase 3 - rehabilitating the boiler?

Openlander - We can do it anytime and it can be phased into the next budget, but Phase 2 needs to be done as soon as possible.

Parker – Is Phase 2, the replacement of the air handler, the phase of the project that gives you the efficiency you are looking for?

Openlander – Yes.

Parker - Where are you with your fund balance?

Openlander - We set aside \$400,000 for this project.

Koryzno - PA 436, section 23(5) (c) authorizes the TAB to approve budget amendments which shall not take effect until approved by the TAB. In addition, until the expiration of the FY 13-14 City budget, the State Treasurer's approval of budget amendments is also required by PA 436 Section 21(2).

Koryzno – Motion that the TAB approves the budget amendment as proposed which may be implemented by the City after it obtains approval by the State Treasurer of this amendment Pursuant to PA 436, Section 21(2). The City will submit the budget amendment to the Treasurer for approval.

By motion made and supported, the Board unanimously approved the motion.

- I. Paragraph 7 of Letter from City Administrator of July 15, 2013 (Page on Ecorse Web site with TAB's agendas, minutes, and resolutions) The City proposes to develop a page on the Ecorse website.

Koryzno - The TAB will be in charge of its own website and will provide a link to the City when it is available.

Koryzno – Motion to request the Department of Treasury to develop a web page for the posting of the information related to the Ecorse TAB and its activities.

By motion made and supported, the Board unanimously approved the motion.

- J. Paragraph 1 of Letter from City Administrator of July 7, 2013 (Offer to purchase Building housing Ecorse Public Works Department and adjacent parking lot for \$50,000).

Koryzno – Mr. Openlander, please provide background on this matter.

Openlander - This item has not gone to City Council yet. The building north of City Hall was purchased to house the Public Works Department. The Court has moved from our current building and we now have room to house the Public Works Department. We would like to sell the building north of City

Hall that was purchased to the business across the street since we do not need it anymore. We purchased the building for \$65,000. We have an informal offer for \$50,000 and it will go before Council at its meeting tonight. We wanted to make the Board aware of the resolution before Council.

Parker – What is the value of the building? Have we appraised it?

Openlander – We have not appraised it. The assessed and taxable value is approximately \$55,000 - \$60,000. We have already spent money on the new building to wire computers, landscaping, carpeting, and painting.

Parker – Was the building advertised for sale? Was the person who made the offer a relative of a Council Member?

Openlander – No, it was not appraised. And yes, the person that made the offer is a relative of a Council Member.

Koryzno - The TAB is authorized to approve City Council resolutions based upon the Governor's appointment letter and EM 94. At this point the sale is not being proposed by a resolution so there is no basis for TAB approval at this time. No action taken.

- K. Email from City Contracted Controller dated June 13, 2013 (Proposed Budget Amendments to the General, Drug Enforcement and Community Development block Grant Funds for FY 12-13)

Koryzno - The Treasurer has approved this request and we are approving for consistency.

Koryzno – Motion that the TAB approves the budget amendment as proposed which may be implemented by the City after it obtains approval by the State Treasurer of this amendment Pursuant to PA 436, Section 21(2).

By motion made and supported, the Board unanimously approved the motion.

IV - Discussion items

- A. Koryzno – The Governor's appointment letter for TAB members has three responsibilities listed here. The TAB should start thinking about the process of how we are going to accomplish these responsibilities.
1. Fulfill the Board responsibilities outlined in Emergency Manager Order No. 094.
 2. Recommend amendments, modifications, repeal, or termination of Emergency Manager Order No. 94, or any other Ecorse Emergency Manager Orders, to the Treasurer of the State of Michigan.

Recommended amendments, modifications, repeal, or termination of Emergency Manager Orders must be approved by the Treasurer before any such modification becomes effective.

3. Conduct a formal annual evaluation of the City's operational and financial progress by identifying strengths, weaknesses, benchmarks achieved, and benchmarks not yet achieved, including a list of specific recommendations, potential resources available to assist the City officials, and any other constructive feedback that informs City officials, residents, and other stakeholders concerning how the City can promote and ensure its long-term sustainability.
- B. Bovitz – Made a suggestion that all in attendance at the meetings should introduce themselves.

IV. PUBLIC COMMENTS

No public comments.

V. Other Business

- A. Koryzno - Introduced Deputy State Treasurer Wayne Workman.

VI. MOTION TO ADJOURN

There being no further business, and without objection, Mr. Koryzno adjourned the meeting at 9:52 am.

As approved August 13, 2013.