

TOWN OF TOPSHAM
SPECIAL BOARD OF SELECTMEN MEETING
AUGUST 22, 2013, 7:00 P.M.

MEMBERS PRESENT: Donald Russell
Marie Brilliant
David Douglass
Ronald Riendeau
James Trusiani

MEMBERS ABSENT: All present

STAFF PRESENT: Town Manager, Cornell Knight

A meeting of the Topsham Board of Selectmen was held on Thursday, August 22, 2013 at the Municipal Building at 100 Main Street, Topsham, Maine.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE/ROLL CALL

Chairman Russell called the regular meeting to order at 7:00 p.m. All present were invited to stand and recite the Pledge of Allegiance to the Flag. The recording secretary took the roll call and noted that all Selectmen were present.

ADJUSTMENT TO THE AGENDA

Motion was made by Mr. Douglass, seconded by Mr. Riendeau and it was unanimously

VOTED

To adjust the agenda to eliminate Item 82-13, which had been addressed at a previous meeting, and to add in its place:

82-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE REQUEST FROM WICKED JOE'S (A COFFEE ROASTING COMPANY) FOR SUBMISSION OF AN APPLICATION FOR A CDBG ECONOMIC DEVELOPMENT PROGRAM GRANT

Chairman Russell explained the procedure by which the meeting would be conducted: "First, I am going to take the first item, the Affordable House Tax Increment Financing District. We can ask any questions we wish. I will turn to the audience to take any comments they wish and then I will close the Public Hearing and move down to the item that is right below under New Business, 79-13, and take action on that 1 item and we will work our way down through."

PUBLIC HEARING

PRESENTATION BY KEVIN BUNKER, DEVELOPERS COLLABORATIVE

79-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON PLACING ON THE SEPTEMBER 25, 2013 SPECIAL TOWN MEETING WARRANT, AN ARTICLE TO CREATE AN AFFORDABLE HOUSING TAX INCREMENT FINANCING DISTRICT TO BE KNOWN AS THE "29 ELM STREET AFFORDABLE HOUSING DEVELOPMENT DISTRICT" FOR INCLUSION ON THE TOWN WARRANT

Kevin Bunker, of the Developers Collaborative, provided an overview, including a slide presentation, of the proposed Affordable Housing Tax Increment Financing (AH TIF) and the underlying River Landing building project, 36 unit affordable senior housing facility.

The slides presented images of the building project, including site plan, elevations and floor plans and a detailed rendering of the exterior, which incorporated many architectural details from several historic buildings in the immediate neighborhood. The developers of the project are a team including Kevin Bunker, of the Developers Collaborative, and Matt Teare and John Wasileski, both of Seacoast Management, which owns the Highland and Highland Green.

Mr. Bunker also noted that he had originally provided an outline of the project to Selectmen at their meeting on June 6th, and that he, along with Matt Teare and Chris Wasileski, had since presented the plan in an advertised public workshop as well as several informal meetings with Topsham residents and frequent contacts with Town staff. He added that the project was also reviewed at several meetings of both the Historic District Commission and that Planning Board and that the project has received all required permits from these boards.

He reviewed the general function of AH TIFs (which are overseen by the Maine State Housing Authority - MSHA), and noted how they differ from other TIFs (which are overseen by the Maine Department of Economic and Community Development - DECD). He stated that a primary difference with an AH TIF is that the rebated taxes are not returned to the benefit of the developer in paying for capital expenses of the project, but were instead applied to the operating expenses of the project in order to reduce the rental costs of tenants.

Mr. Bunker stated that the most important impact that having the Town support a 50% AH TIF was that it made the project much more competitive in securing points under MSHA's scoring process, which would award Low Income Housing Tax Credits (LIHTC) only to the highest scoring projects. Without these tax credits, it would be economically unfeasible to build a facility that could afford to charge affordable rents. He noted that the process is always competitive, with only five or six projects getting tax credits most years, and that it will be particularly competitive this year with 21 potential projects. Mr. Bunker stated that point totals in the high forties to low fifties were typically required for an award of tax credits and that a single point could be the difference between getting the credits or falling short.

Mr. Bunker explained how the Town's portion of revenues under the AH TIF plan could provide the community with some good opportunities to maximize its purchasing power with its portion of the district's tax revenues, as follows:

In the first place, he noted, the total taxes would increase from the current \$5,500 per year to approximately \$40,000 per year when the project is completed, a new revenue increment of nearly \$35,000, in round numbers. With no TIF in place, though, the Town would lose a bit more than 60% of that revenue to county taxes and the impact of the formulas for school funding and revenue sharing, leaving the Town with only about \$15,400 of that \$40,000. These impacts currently reduce the Town's share of the present \$5,500 in tax revenue to about \$2,100.

But Under the AH TIF plan the Town would keep all of the current net revenue on the existing value (about \$2,100 of the \$5,500, as outlined previously), plus half of the taxes on the increment of new value, or about \$17,500, which would be fully sheltered for a total of nearly \$20,000. So the Town's actual revenue would actually increase about 9 fold, from \$2,100 to \$19,600.

Then the Town can use the sheltered portion (\$17,500) at its full value for any of the uses permitted under the statute and that are included in the Town Development Program, such as infrastructure, public safety and some recreational facilities, as the Town may decide in the future. But he noted that these projects would only be funded if they were approved in the future as required by the Town's regular budget process.

At this point, Mr. Bunker ended his presentation, indicating that he would be pleased to answer any questions from the Selectmen.

Selectman Douglass asked what would happen in the event the AH TIF district was approved but the project did not receive the necessary tax credits. He expressed a concern that the Town would be stuck with an AH TIF district that could not be developed without the tax credits. Mr. Bunker stated that this would not be the case, since the Town is bound by the AH TIF plan only if the developers complete the project. If the project isn't completed, the Town can simply decommission the district and the property can be developed in any way permitted under the parcel's zoning.

Selectman Douglass noted that the project developers had hoped to have the local Housing Authority manage the project and asked if that had been achieved. Mr. Bunker said that the local Housing Authority had decided not to take on this role, in part because of recent budgetary constraints imposed on local authorities by HUD. So the development team would continue to own and operate the facility.

Selectman Douglass then asked if there was a need for affordable senior housing in Topsham. Mr. Bunker responded that there certainly was as indicated by the State's rating of Topsham as a moderate to high need community and based upon the developers' own pending market study.

Chairman Russell then opened a formal public hearing to take any comments relative to this project, either for or against.

Selectman Trusiani noted that the AH TIF project had been before the Selectmen since June and that, despite some changes as the plan has developed, the more he heard, the more comfortable he was about taking it to the Town Meeting. He stated that, with tax bills going out soon, it would be important for the Selectmen to defend this project and explain why it should be put before the Town Meeting. He added that there were some parts of the plan he was not sure

about, such as the Explorer or the need for a culvert repair on Elm Street, and that these elements would need to be fully explained and understood for the project to get support.

Chairman Russell responded by saying that he agreed that it was most important that the Selectmen worked to ensure that Topsham residents understood how the AH TIF plan would work. He noted that the project would bring the Town a substantial increase in tax revenues that would benefit all Topsham tax payers, especially if the Town took advantage of the sheltering opportunity. Chairman Russell also noted that, as the Town's experience with other TIFs made clear, the development plan was only a menu of projects that the Town could chose to do, and not a commitment to do them. He asked Mr. Bunker to clarify the issue of the Explorer or other transit in connection with the project.

Mr. Bunker stated the Explorer was included in the Town Development Program, at the request of Town staff, apparently due to ongoing interest in the program and that it was subject to MSHA approval. He said that the developers would be pleased to have the Explorer serve this area, but that would be up to the Town. In the meantime, the developers had committed to providing transit service using the Highland's small buses.

Receiving no further comments, Chairman Russell closed the public hearing, so the Board of Selectmen could take action on this matter:

79-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON PLACING ON THE SEPTEMBER 25, 2013 SPECIAL TOWN MEETING WARRANT, AN ARTICLE TO CREATE AN AFFORDABLE HOUSING TAX INCREMENT FINANCING DISTRICT TO BE KNOWN AS THE "29 ELM STREET AFFORDABLE HOUSING DEVELOPMENT DISTRICT" FOR INCLUSION ON THE TOWN WARRANT

Chairman Russell asked the Selectmen for their comments regarding placinh the AH TIF on the draft warrant for the upcoming hearing for the September 25th Special Town Meeting.

Selectman Douglass stated that he agreed with both the Chairman and Selectman Trusiani that this project does put us ahead, but that it is also our responsibility to fully inform the voters for the Town Meeting, so the Selectmen need to do that in September. Based on the revenue numbers Mr. Bunker outlined, Selectmen Douglass noted that they would provide the Town about \$350,000 in sheltered revenue over an 18 year period, and that he was confident that the Town could find good uses for these funds, even if he did not support every project on the list.

Chairman Russell agreed, stating that many of the projects on the development plan list would need to be done whether there was a TIF or not. That happens just with the wear and tear of the infrastructure that's sitting out there.

Hearing no further comments, Chairman Russell requested a motion on the matter.

Following a motion by Selectmen Douglass, seconded by Selectman Riendeau, it was unanimously

VOTED

To forward Article 79-13 to create an Affordable Housing Tax Increment Financing District, to be known as "29 Elm Street Affordable Housing

Development District" for inclusion on the Town Warrant for the September 25th Town Meeting.

PUBLIC HEARING

80-13 PRESENTATION BY CHARLES LAWTON, PLANNING DECISIONS

Charles Lawton, of Planning Decisions, provided an overview, including a slide presentation, of the proposed Downtown Tax Increment Financing District (DT TIF), reviewing the function of the DT TIF, the basis for the DT TIF boundaries and development plan, and the benefits it provides for the Town. Planning Decisions (represented by Charles Lawton, PhD) and Bernstein Shur (represented by Shana Cook Mueller, Esq.) were retained by the Selectmen at their meeting on May 2nd, 2013 to as consultants and counsel for the formation of a Municipal Downtown Tax Increment Financing District (TIF).

Mr. Lawton began by assuring the Selectmen that the neither Town's approval of the DT TIF plan, nor its approval by Maine Department of Economic and Community Development (DECD), does not commit the Selectmen or the Town to approve any project listed in the plan or to provide funding for it. He noted that any funding for any of the listed projects remains subject to the regular Town budget process of the Selectmen approving the project as part of the budget to go to the Town Meeting and approval at the Town Meeting.

Regarding the proposed district borders, Mr. Lawton referenced a series of prior Town planning efforts that provided guidance for the boundaries, including the Bike Path Feasibility Study (2004), the Comprehensive Plan updates (2005 & 2008) and, most importantly, the Village Main Street Plan (2008). He presented slides that illustrated that the proposed DT TIF district very closely followed the area covered by the Village Main Street Plan.

Mr. Lawton reported that he had sought input on the content of the DT TIF plan at two advertised public workshops, and meetings with Town Committees as well as direct outreach to Topsham residents located in or near the proposed district and ongoing, frequent contacts with Town staff and with the director of TIF programs at DECD.

Mr. Lawton then discussed a series of slides that illustrated the benefits of tax sheltering provided under the DT TIF plan. One slide demonstrated how county taxes and impact of the formulas for school funding and revenue sharing by reduce the Town's unsheltered tax revenues by a little more than 60%. He noted that after these County and State impacts, the Town would be left with only 36 cents of each tax dollar. This means that sheltered revenue from the DT TIF district that is used for a project included in the TIF's development plan, provides the Town with 100% of its value, or 2.75 times as much as the Town nets from regular tax revenue.

Mr. Lawton then reviewed how projects were selected for inclusion in the DT TIF development plan. He noted that all projects included in the plan must demonstrate a relationship to enhancing economic development in downtown , and emphasized that this was key to DECD's approval. With this requirement in mind, specific projects were included based on a review with staff of the recommendations in the Town planning efforts mentioned previously, recommendation from TDI and projects that would support areas with a high potential for high value redevelopment, along or near the Main Street corridor.

Regarding the future funding of any of the listed projects, Mr. Lawton repeated that the development plan did not commit the Town and the funding could only come through approval by Town's established fiscal process.

At this point, Mr. Bunker ended his presentation, indicating that he would be pleased to answer any questions from the Selectmen.

Selectman Trusiani stated that when the DT TIF was originally presented it emphasized providing the public with clear information, which he felt had been done. But he had a concern about whether the district would generate enough tax revenue to fund the projects listed on the development plan.

Mr. Lawton answered by saying that the estimated revenues for the district were projections, but they were carefully developed based on a professional evaluation of market demand and the value of similar properties when redeveloped. He added that, as this district develops, the Town will have to make project spending decisions based on the actual revenue that is produced and available at a given point in time, so that the more revenue the district produces, the more projects the Town can fund. He also noted that the project list is grouped by categories only and is not intended to establish any priority of one project over another.

Selectman Trusiani stated that he had reservations about two or three listed projects that he did not support, including the roundabout and the sewer improvements. He also acknowledged that the future of any specific project on the list depended on the people of the Town voting for it or against it.

Ms. Mueller responded by noting that, when representing a municipality in connection with a TIF, she advises that the municipality put a lot of things on their development plan list, so you have greater flexibility in the future. Even if some of the projects seem unlikely in the short term, it's important to remember that it's a 30 year plan. She added that even if some projects don't have unanimous support at this time, including the project on the list allows it to be considered in the future when it may be more feasible, without having to go through the process of a TIF amendment. Including many projects gives the Town a broader choice of projects that can be developed at a discounted price out of a TIF district rather than out of your general fund.

Chairman Russell observed that the length of the project list is probably what caused the greatest concern for the Selectmen. But he added that, as Ms. Mueller stated, the Town will always have the right to pick and choose which projects are viable for the Town – Town Meetings will have the choice of approving or rejecting projects.

Selectman Brilliant asked if the project list could be amended without jeopardizing the TIF, if the Town decided there was something they wanted to add.

Ms. Mueller replied that once the TIF district is approved, the plan can be amended through a formal process which requires another public hearing and a Town Meeting vote so that can be done at any time. She added that this was why she recommended that Towns try to be over-inclusive in their original project list. Including a project that may seem unlikely right now, means that you could avoid a potentially lengthy process if you have to seek an amendment to add the project later.

Ms. Mueller also noted that she'd responded to the Selectmen's earlier concerns that the plan language seemed to commit the Town to these projects by getting DECD's approval to change the plan language to make it very clear that it is entirely up to the Town to choose which projects are funded. This is why the plan now uses "the Town may" instead of "the Town will." She said she had used the earlier language because it was the standard approach and it was what DECD expected to see. She hoped that the new language resolved the Selectmen's concerns that the earlier language conveyed the wrong message to the Town about their level of choice.

Selectman Douglass commented that the change in the language alleviated his concern that someone would use the earlier language to assert that we had to pursue a project because it was on the list. While he was pleased with the change, he observed that the issue could have been resolved sooner if there had been at least one more update to the Selectmen on the developing DT TIF plan. He noted that he is leery of unduly influencing the process by speaking out at public workshops, so another update directly to the Selectmen would have been helpful.

Chairman Russell added that one thing that reduced his concern about the list was that so much of it was based on earlier Town planning efforts which each included additional public input. He also noted that he and Selectmen Trusiani served on the County budget committee so they both recognized how difficult it was to be sure about where spending would be best directed even ten years in the future, but this plan protects the Town's flexibility to make those decisions in the future.

Chairman Russell then opened a formal public hearing to take any comments relative to this project, either for or against.

Curtis Picard identified himself as a resident of Topsham and a director serving on the TDI Board to speak in favor of the DT TIF. He regretted that he was unable to attend previous two Select Board meetings when the DT TIF was discussed, but said he was very heartened by the Selectmen's favorable comments he heard at this meeting. He thought it was a good plan for the Town, and noted that Mr. Lawton's demonstration of the difference between 100% of sheltered TIF revenues going to the Town versus only 36% of regular tax revenues would really open resident's eyes to the benefits of the DT TIF.

Receiving no further comments, Chairman Russell closed the public hearing, so the Board of Selectmen could take action on this matter:

80-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON PLACING ON THE SEPTEMBER 25, 2013 SPECIAL TOWN MEETING WARRANT, AN ARTICLE TO CREATE A MUNICIPAL TAX INCREMENT FINANCING DISTRICT TO BE KNOWN AS THE "TOPSHAM DOWNTOWN AND TRANSIT-ORIENTED MUNICIPAL DEVELOPMENT AND OMNIBUS TAX INCREMENT FINANCING DISTRICT."

Following a motion by Selectmen Douglass, seconded by Selectman Riendeau, it was unanimously

VOTED

To forward Article 80-13 to create a Municipal tax Increment Financing District to be known as the "Topsham Downtown and Transit-oriented Municipal

Development and Omnibus Tax Increment Financing District” for inclusion on the Town Warrant for the September 25th Town Meeting.

81-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON PLACING ON THE SEPTEMBER 25, 2013 SPECIAL TOWN MEETING WARRANT, AN ARTICLE TO ADOPT A COMMUNITY REVITALIZATION PLAN TO BE KNOWN AS THE "ELM AND GREEN STREETS NEIGHBORHOOD REVITALIZATION PLAN:

John Shattuck, TDI and Economic Community Development Director, introduced Angela Twitchell, member of the Downtown Revitalization Committee and Regina Leonard, the town's consultant on developing the community revitalization plan.

Ms. Twitchell presented history, including the need for a structured plan to include the Elm and Green Streets neighborhood.

Following Ms. Twitchell's presentation, Ms. Leonard talked about the plan from the view of the town's consultant.

Chairman Russell asked for questions and/or comments from members of the Board.

Selectmen Douglass questioned the amount of public input since the approval on July 18th.

John Shattuck said that opportunities for public input included the public workshop on August 8th, tonight's public hearing and public hearing for the warrant on Sept 5th. He added that there aren't a lot of new and novel ideas in the report, because it was intended to consolidate and organize the Town's planning work from over a decade of extensive public process in other plans.

Chairman Russell said that it was good to see a lot of these studies and plans come off the shelves and be used for a starting point of where we need to go.

Selectmen Douglass said there are a lot of things in here that with an amount of public input may not make it to the plan. He also questioned if the scope of the Lower Village Committee has changed.

Selectmen Trusiani questioned the long range project list that totals \$2,255,000. And also the roundabout is mentioned. He said he had spoken to 7 businesses in the area and they were all opposed to the roundabout. The listing of the sewer pump station should not be in the plan. He is not in favor of the plan because of the cost of the project list, the roundabout and moving the sewer lines.

Mr Shattuck said that the project list included items from both the affordable housing TIF and the Downtown TIF and that, without the TIFs, many of them would likely have to be paid out of the general fund.

Selectmen Douglas said that although the town is not committed to doing the projects the plan could be held up at some point as support for them being done.

Ms. Leonard said that the plan is merely stating the work that is being done or has been done and the recommendations that have come forth to these vetted planning processes. People will not have to reference 10 documents – instead, they will be in one place.

Selectmen Douglass was concerned about rushing it through and if it could wait until May town meeting.

Kevin Bunker said that it helps his project be successful and if approved in September he can include it in his application.

Selectmen Douglass said that when approved on July 18th, the whole reason for the plan was left out and now the board is just hearing about it.

Mr. Shattuck said that there were discussions during the July 18th meeting about the benefits of the plan to the project.

Fred Wigand, 7 Main Street business owner, said the board should be a lot more open minded to the committee's suggestions, and that the board's actions are discouraging business development.

Motion was made by Mr. Russell, seconded by Ms. Brilliant to move this forward to Sept 25th town meeting and for the warrant public hearing that states "To adopt a Community Revitalization Plan to be known as the Elm and Green Street Neighborhood Revitalization Plan."

Selectmen Douglass asked that this vote will simply add it to the warrant and not an endorsement?

Chairman Russell said that is correct.

VOTE WAS CALLED

and the **motion passed** by a vote of 3 in favor and 2 opposed. (Voting in favor were Russell, Douglass and Brilland. Against: Riendeau and Trusiani.)

NEW BUSINESS

82-13 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE REQUEST FROM WICKED JOE'S (A COFFEE ROASTING COMPANY) FOR SUBMISSION OF AN APPLICATION FOR A CDBG ECONOMIC DEVELOPMENT PROGRAM GRANT

The Town Manager explained that this item came up on Tuesday, and why such a short notice. He asked Mr. Shattuck to present the review.

He said that Wicked Joe's, a local food processing company (coffee roaster) is interested in moving into the former commissary building in the Topsham Commerce Park as their business is becoming too large for their current location. With the addition, they expect to add 8 new jobs to their current staff of 12 full time employees. They are asking for a CDBG grant to help defray their costs of relocating.

Following discussion, motion was made by Mr. Douglass, seconded by Mr. Trusiani and it was unanimously

VOTED

To move to a public hearing for consideration of inclusion on the town meeting warrant for the September 5, 2013 special town meeting, to:

1. Authorize Town staff to work with Wicked Joe's to prepare LOI to submit a CDBG-EDP application and to submit the LOI to DECD.
2. To hold a public hearing on the proposed warrant article at their September 5th meeting and approve the publication (10 days in advance) of a public notice of the hearing pursuant to DECD requirements, and
3. To place the proposed warrant article on the warrant for the Special Town Meeting on September 25, 2013.

83-13 CONSIDERATION AND ANY APPROPRIATE ACTION TO SCHEDULE A PUBLIC HEARING ON THE TOWN MEETING WARRANT ON SEPTEMBER 5, 2013

Motion was made by Mr. Douglass, seconded by Mr. Trusiani, and it was unanimously

VOTED

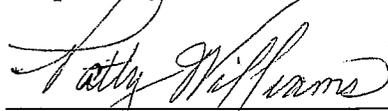
To schedule a public hearing on the town meeting warrant on September 5, 2013.

With no further business to discuss, motion was made, seconded, and it was unanimously,

VOTED

To adjourn the meeting at 9:35 p.m.

Respectfully submitted,



Patty Williams, Recording Secretary