

INDUSTRIAL DEVELOPMENT BOARD
Monday, August 31, 2010
Blue Conference Room
Department of Economic and Community Development
1920 S. Germantown Road

The Germantown Industrial Development Board met on Monday, August 31, 2010, in the Blue Conference Room in the Department of Economic and Community Development. Chairman Henry Evans called the meeting to order at 6:00 p.m. A quorum was established with the following members present.

PRESENT: Chairman Henry Evans, Mike Harless, Annette Liles, Dr. Frank Markus and Charlie McCraw.

ABSENT: Keith Saunders and Dick Vosburg.

STAFF PRESENT: Economic and Development Services Director Andy Pouncey, Economic Development Coordinator Katie Graffam and Josh Lawhead, PILOT Attorney, Burch, Porter & Johnson

MINUTES

A motion was made by Mike Harless, seconded by Frank Markus, to approve the March 1, 2010 minutes. Motion passed.

MEMPHIS/SHELBY COUNTY INDUSTRIAL DEVELOPMENT BOARD MATRIX RELATED TO GERMANTOWN TECHNOLOGY CORRIDOR

Chairman Evans asked Andy Pouncey to provide an update on the previous week's meeting of the Memphis/Shelby County Industrial Development Board, attended by Henry Evans, Katie Graffam, Mike Harless and Andy Pouncey, when modification of the Memphis/Shelby County IDB's matrix related to Germantown Technology Corridor was discussed. Mr. Pouncey read the following paragraph which was the essence of the discussion on Item No. 2 of the memorandum of understanding agreed upon several years ago between Shelby County and Germantown regarding the PILOT project in Germantown:

"Shelby County's PILOT incentive showing all cases be the level of incentives that the project will be granted, that the project goes forward using the Memphis and Shelby County IDB matrix. It shall be consistent with their policies, unless the County Mayor grants an exception. It is in the mutual interest of both parties to encourage development in the Germantown Technology Corridor. To that extent, Shelby County by and through its office of Economic Development will present to the Shelby County Mayor at the appropriate time a recommendation that Shelby County consider additional benefits in excess of the Memphis and Shelby County IDB matrix points for a location in that corridor."

Mr. Pouncey said Mr. Evans made an excellent presentation. A decision was not reached on the item, as the Memphis/Shelby County IDB wanted to wait until the new mayor takes office. Mr. Evans said the item is still pending and will go back before the Memphis/Shelby County IDB sometime in the next couple of months.

REPORTS FROM THREE PILOT COMPANIES

Chairman Evans referenced the March 1st minutes which stated that reports are due from three PILOT companies. He stated those reports have subsequently been received and reviewed and in each case the company owning the PILOT is out of compliance in at least one area. He stated there had been a delay in calling this meeting awaiting the Shelby County Office of Economic Development's desires relative to the PILOTS. He stated the last communication with Shelby County was to move ahead with this board's recommendation if their response was not received. He then asked Katie Graffam to proceed with her presentation of compliance issues and staff's recommendations on the three PILOTS.

THREE PILOT UPDATES – KATIE GRAFFRAM

Orgill

Ms. Graffam reminded the board that Orgill is a distributor that provides retailers across the world access to hardware and home improvement products of all types and sizes. She stated Orgill came to the IDB in 2001 for approval for their PILOT and were approved for a 10-year PILOT. Their real and personal agreements were dated 2002 and their PILOT expires January 25, 2012. According to their report, they are compliant in the area of site development and improvements and tangible personal property investment, but are not compliant in the job categories; there are 23 less jobs than what they were required under their application. She stated they are, however, paying twice the average wage than what they reported they would under their application. She reported they have 39 less management positions and are paying lower wages on the technical side than what they originally agreed to do.

Staff recommendation: Staff recommends that Orgill be notified of its non-compliance issues, but not give them any sanctions for 2009.

Mike Harless recommended, seconded by Annette Liles, following staff's recommendation and send a letter to Orgill notifying them of the non-compliance vote without any sanctions.

Chairman Evans asked for any questions or discussion.

Mike Harless commented that basically there is only a year and half to go before this PILOT expires and Orgill is a very good corporate neighbor and has basically met all of the requirements of the PILOT.

Chairman Evans stated the motion before the board was to send a letter to Orgill notifying them of the non-compliance issues, but without any sanctions for the 2009 calendar year. He then asked for the vote.

Motion unanimously approved.

West Fraser

Katie Graffam stated West Fraser was the newest PILOT company and provides lumber mainly for home construction. She reported on a meeting she and representatives from the Memphis Chamber had with West Fraser. She referred to the compliance report and stated they came to the IDB in 2007 for approval of a PILOT and returned a year later stating they had invested more than expected and asked for an additional year in their PILOT. Their request was granted. She stated they had a nine-year PILOT

which expires in 2016 and are where they said they would be for capital investment, but they are not under the jobs category; they are 29 positions short for number of people employed. She stated they are paying more than what they agreed upon; however if you look at the investment dollars, they are still about \$1.7 million down as far as wages are concerned.

Staff recommendation: Staff recommended notifying West Fraser of its non-compliance and request that they submit a plan as to how they are going to become compliant in the 2010 year.

Mike Harless made a recommendation that the board follow staff's recommendation to send a letter to West Fraser notifying them that they are in non-compliance of the PILOT and asking for a game plan on how they expect to achieve compliance within the next 12 months from the date of the letter.

Chairman Evans stated he agreed that they should have a time limit in which they must get into compliance, but a time limit is also needed in which they will get the plan to the board, and he asked for a reasonable time frame.

Mike Harless stated his understanding is that West Fraser has already said that there are some plans to bring additional jobs in because the Canadian laws changed. Ms. Graffam said that is correct that they have a Canadian headquarters and they have very strong anti-trust laws in Canada; they've cracked down on their Canadian headquarters, they are not allowed to grow anymore and the company is going to be reinvesting in their U. S. headquarters.

Following discussion, Chairman Evans stated the motion should state that they have to get the plan to the board in 30 days with a plan to meet the requirements of the PILOT within 12 months from the date of the letter.

Frank Markus seconded the motion. Motion passed.

Thyssenkrupp

Mike Harless recused himself because he was involved with Thyssenkrupp in their initial PILOT before the IDB.

Josh Lawhead stated for the record that Burch, Porter and Johnson represents Thyssenkrupp; however since Thyssenkrupp has been contacted about the proposal and recommendation and they are in agreement with it, there is no conflict, but he wanted to let the record reflect that their firm does represent Thyssenkrupp.

Ms. Graffam explained that Thyssenkrupp specializes in passenger transportation systems; elevators, escalators, etc. She stated that they came to the IDB in 2005 for PILOT Program approval and were given a 10-year approval. They said they would invest approximately \$10 million in tangible and personal property; to date, they have only invested about \$5.3 million, which total they are also shy on the new improvement investment leaving them shy of about \$5.8 million. They also are paying a little less to their new employees; they agreed to pay them \$78,828.00 and their average wage to date is \$73,517.00; however, if you look on the investment side, the jobs are paying out. She stated she had talked to the company comptroller, Mark Baxter, because in looking at the matrix, if they were to amend their PILOT application to reflect the lower investment in tangible and personal property, they wouldn't lose any points in the overall matrix scheme, therefore it wouldn't change the outcome of the number of years they were approved for. They are agreeable to amending their PILOT application, so

they are not out of compliance every year. The site is complete, there's no way they are going to invest another \$5 million in that particular site.

Staff recommendation: Staff's recommendation is to notify them of the non-compliance and recommend that they amend their PILOT application.

Chairman Evans asked for clarification of the language, if the board was really amending the PILOT application and the actual lease agreement or just amending one or the other.

Josh Lawhead stated the lease needs to be amended.

Chairman Evans stated the application and the lease agreement should be amended.

Mr. Lawhead replied yes but he didn't know that an amendment to the application was required.

Mr. Evans stated that since we granted the PILOT based on the application, it is probably a good thing to have them amend that so it is on record, but he did think we have to amend the lease agreement itself. It won't change any of the terms except but does show a reduced amount of capital investment so that every year when they file a report they will no longer be out of compliance. He stated he didn't think some of these numbers are actually in the lease, but he did think the lease should be amended only from the capital standpoint because the rest of that is still in place.

Mr. Evans stated a motion was needed. He stated staff recommends notifying Thyssenkrupp of its non-compliance issue and request that the company amend its application to reflect the reduced capital investment numbers and authorize the chairman to sign an amended lease agreement between the City and Thyssenkrupp. He said the question then is by motion did the board also want to authorize a letter notifying them of non-compliance in the areas of wages paid.

Motion seconded by Charlie McCraw. Motion passed.

ADJOURNMENT

There being no further business to come before the board, the meeting adjourned.