City of Sandy Springs Development Authority Meeting was held at Sandy Springs City Hall, 7840 Roswell Road, Building 500, Sandy Springs, Georgia, 30350, on December 8, 2016, at 8:30 a.m.

I. DA16-037 Roll Call

Vice Chairperson Gabriel Sterling called the meeting to order at 8:32 a.m.

Authority Members Present: Jennifer Steele, Carla Sweetwood, Jimmy Glenn, Joe Houseman, and Jim Squire. Chip Collins was absent.

Staff and Representatives Present: City Attorney Wendell Willard, Director of Economic Development Andrea Hall, City Clerk Michael Casey, Assistant City Clerk Kelly Bogner, and Bond Counsel Jim Woodward.

Motion and Vote: Authority Member Steele moved to approve the December 8, 2016 Sandy Springs Development Authority agenda. Authority Member Squire seconded the motion. The motion carried unanimously.

II. DA16-038 Approval of Minutes from Meeting Held November 4, 2016

Motion and Vote: Authority Member Sweetwood moved to approve the November 4, 2016, Sandy Springs Development Authority meeting minutes. Authority Member Houseman seconded the motion. The motion carried unanimously.

III. DA16-039 Consideration of Amendment to the Bylaws

City Attorney Wendell Willard stated the amendment to the bylaws includes the annual meeting date, which is now in January.

Authority Member Jim Squire asked if there are now regularly scheduled meetings.

City Attorney Willard responded yes. Meetings will be held in January, March, May, July, September, and November. The next meeting will be held on the second Thursday in January, January 12, 2017. The officers will be elected at this meeting.

Motion and Vote: Authority Member Squire moved to approve DA16-039, Amendment to the Bylaws. Authority Member Steele seconded the motion. The motion carried unanimously.

IV. DA16-040 Consideration and Memorandum of Agreement Regarding the City Springs Financing of Public Infrastructure

Bond Counsel Jim Woodward stated the final step of the transaction is this item before the Authority members. The validation hearing was held a week ago this last Monday. Last Thursday, the Fulton County Board of Tax Assessors approved the tax abatement. City Council has already approved these documents. The documents include the title agreement and the tax abatement documents, which are the final documents for consideration. The company will reimburse the City for certain amounts. For the first year, 100% of the value from the tax incentive transaction will come back to the City and the Authority in the form of a reimbursement. In the second year, 40% of that amount comes back to the City and the Authority. During years three through eight, all of the benefit stays with the company. The City Council approved this deal at the Tuesday, December 6th, City Council meeting. A motion is needed to approve the memorandum of agreement as presented.

City Attorney Wendell Willard stated $60,000 is anticipated to come back to the City for the City Springs roads and sidewalks.

Motion and Vote: Authority Member Steele moved to approve DA16-040, Consideration and Memorandum of Agreement Regarding the City Springs Financing of Public Infrastructure, as presented. Authority Member Sweetwood seconded the motion. The motion carried unanimously.

Bond Counsel Woodward stated the deal will probably close on December 21st.

V. DA16-041 Consideration of First Amendment to Lease Agreement City of Sandy Springs Development Authority and JLB Chastain

Bond Counsel Jim Woodward stated in 2014 there were three different transactions for the same project. One was for the commercial aspect of the project, and the other two for residential components of the project. The two residential components are with JLB Chastain. The first phase is JLB Chastain LLC, or JLB I, and the second phase is JLB II, which will start sometime next year. For the first phase, Hudson Hooks was the primary investor and there were a couple of equity investments. USAA is one of the equity investors, and they are transferring their interest to a German company. The German company does not want bonds in the U.S. Glenn Thompson with Alston Byrd, who prepared the first amendment, asked the German company if the bond can be paid off early and the tax abatement still remain, as long as the company agrees to make the payments for ten years to the Authority. The City will apply the money to the realignment of the intersection. If the tax abatement goes away, then the payments are assured to be paid from the company to the Authority. The tax abatement should stay in place and the Authority will still own the property with a lease agreement. If the tax abatement goes away, then the Authority needs some other mechanism to receive the payments.

Vice Chairperson Gabriel Sterling asked if the tax abatement will stay in place for the other two parties.

Bond Counsel Woodward stated because there were three separate transactions, this deal does not affect the other tax abatements.

Vice Chairperson Sterling stated the commercial party tax abatements and the JLB II tax abatements will stay in place.

Bond Counsel Woodward stated the deal being discussed is exclusively for JLB I.

Vice Chairperson Sterling stated he does not understand how the tax abatement is being split.

Bond Counsel Woodward stated there are three separate transactions.

Vice Chairperson Sterling asked if JLB still wants to have a tax abatement. He asked if three entities are financing this deal. There is USAA, JLB, and another entity that are involved.

Bond Counsel Woodward stated the Authority has an agreement with the LLC.

Vice Chairperson Sterling asked if this removes one party from the abatement of the LLC, or is the entire abatement going away for JLB I.

Bond Counsel Woodward stated the entity JLB I LLC will stay in place and nothing changes. The only thing they will do is prepay the bond. The tax bond will go away. That does not mean the tax abatement goes away.

Vice Chairperson Sterling asked how does the Authority have lease holder ownership without the bond.

Bond Counsel Woodward stated the lease agreement provides that if the bonds are paid off early, then both parties can agree to keep the lease in place until the final term. The Authority will still hold the property title. The Authority will still own the project. The ownership interest is still exempt from property taxes. There is an agreement regarding the leasehold interest still in place. The tax abatement will go towards the term. The only difference is there is no bond. The payments owed to the City and the Authority are based on how much savings there are. The company has to make payments to the Authority regardless if there is a tax abatement. We are amending the lease agreement to say if the tax abatement goes away then the company is required to pay the Authority an additional rent equal to what they would have paid from the tax abatement.

City Attorney Willard stated JLB Chastain LLC I will be owned by the German company. As a result, the company is buying the JLB LLC entity and property, and will also pay off the debt owed under the bond. The agreement, as far as ownership of the property and the lease, will remain the same.

Vice Chairperson Sterling asked if the company is contractually obligated either way.

City Attorney Willard responded yes. The agreements will still be in place outside the debt.

Bond Counsel Woodward stated the lease agreement is being amended and it will stay in place. For whatever reason if the bond is paid off early, at that point the company will pay an additional rent.

Vice Chairperson Sterling stated the Authority has a set amount in a spreadsheet. The amount is included in the contract and could be more if the value of the property increases. The Authority and the City have no risk of losing anything we thought we would receive.

Bond Counsel Woodward stated the formula amounts will come from a separate agreement based off the tax savings amount. The company owes the Authority the rent payment even if the tax abatement goes away. This is an additional security for the Authority to make sure they are paid no matter what.

Vice Chairperson Sterling asked if this has to be adopted today.

Bond Counsel Woodward stated he and City Attorney Willard are comfortable with the contract. This is something that the City asked the company to do.

Authority Member Sterling stated the Authority comes out better off in this deal.

Authority Member Joe Houseman asked why Vice Chairperson Sterling is hesitant.

Vice Chairperson Sterling stated his only hesitation is because this is new.

City Attorney Willard stated this topic was brought to him within the last two weeks. He reviewed the documents in this draft and the changes before the Authority. He instructed staff to have this item placed on the agenda.

Authority Member Jimmy Glenn stated nothing changes with the exception of bottom line costs. He asked who is paying the legal fees for all of this.

Vice Chairperson Sterling stated the company is paying the legal fees.

Bond Counsel Woodward stated the amendment in Section I is the additional rent provision. This will be added to the lease agreement currently in place. It is the same formula used to determine what the company will pay the Authority in the separate agreement. The rent is based on the fair market value of the property instead of what the savings would have been. This is a number that is not affected by the tax abatement.

Vice Chairperson Sterling stated the savings in year one is 50%, 45% in year two, and then a 5% step down over the next ten years.

Bond Counsel Woodward stated the number is 57.5% of the savings in year one. The document states if there is no tax abatement the company owes the Authority an amount keyed off the fair market value. The existing contract is still in place. When there is no tax abatement in place, the company will be required to make a rent payment. The company is required to pay the Authority no matter what. The closing occurs later this month.

City Attorney Willard asked if this had come up before with the payoff of a bond.

Bond Counsel Woodward stated not in this context. This is a German company and their accounting rules have an issue with tax bonds. He has had this come up in other transactions where there are several phases. He does work for Frito-Lay in Perry, GA. They started a bond in 1985 and every three or four years they add a chip line. The old lease is continued because they are adding onto an existing building. He has extended leases and kept the old leases in place and it works for that concept. All the bonds for that contract no longer exist. The old facilities are still being leased by the Development Authority in Houston County, GA. Added to the Sandy Springs documents is the ability to keep the lease in place or extend it if need be, even when the bonds are paid off.

City Attorney Willard asked if Bond Counsel Woodward believes that there is an increased risk of the Authority being able to enforce and obtain abatements that are due.

Bond Counsel Woodward stated he thinks the amendment helps. It does not lessen or give any risks. This agreement ensures the Authority gets paid. If the Supreme Court of Georgia decided tomorrow that tax abatements are no longer allowed or valid in Georgia, the Authority will still receive payments.

Motion: Authority Member Glenn moved to defer Agenda Item No. DA16-041 Consideration of First Amendment to Lease Agreement City of Sandy Springs Development Authority and JLB Chastain, as well as the November 4, 2016 meeting minutes, to the next Development Authority meeting. The motion failed for a lack of a second.

Authority Member Glenn stated approving those two items are totally opposed to what was adopted at the last meeting in approving this item with one day's notice.

Authority Member Carla Sweetwood stated she understands that this should not be forced upon the Authority. This might be an extenuating circumstance if the closing is to occur in about two weeks. There is not time to allow for 21 days to meet again if the closing on the deal is to occur by the end of the year.

Vice Chairperson Sterling stated he understands Authority Member Glenn's point. A meeting would need to be held before the end of the year if this item is postponed and that would be before 21 days. This item can be passed now or in a couple weeks if the Board meets again. He asked Mr. Glenn what he thinks will change if there is a delay, and what would make him feel more comfortable.

Authority Member Glenn stated today the Vice Chairperson was asking questions, because he is not familiar with what was being brought up. City Attorney Willard was also asking questions.

Vice Chairperson Sterling stated City Attorney Willard was asking questions so people could understand and help explain the process better.

Authority Member Glenn asked how long this item has been in process.

Bond Counsel Woodward stated he believes this item came up about two weeks ago.

Authority Member Glenn stated he wants items brought to the Board when they first start and then keep the Board updated. It is very important to him that when looking back at retrospect that the Board has the information.

City Attorney Willard stated he did not receive the documents until two days ago. Once it was reviewed by legal staff it was then sent to the Board. It was not sent to the Board as a conceptual plan until legal could comment with their thoughts and place those in the document.

Authority Member Glenn stated he has complete confidence in Bond Counsel Woodward. Until this Board takes a stand and forces people to follow the policy, the Authority will continue to receive documents at the last minute. The 21-day requirement was adopted at the last meeting, and these documents were received a day or two prior to today's meeting. He would like to have the Board receive information at least 21 days prior to the meetings.

Authority Member Carla Sweetwood asked what will happen if Bond Counsel Woodward goes back to the company and says the Board states they want to defer this item.

Bond Counsel Woodward stated the company is looking to transfer the interest before the end of the year. This German entity will be a key equity investor in Phase II. This is part of the negotiations, because they also want to be part of Phase I. There are repercussions if we wait that may cause the company to not close on the deal.

Vice Chairperson Sterling stated he does not want to be in a position to hold up a closing before the end of the year.

Authority Member Jim Squire stated he looked at the motion he made at the last meeting that gave the Chairman discretion to waive the 21 day rule. He asked if the Chairman is asking to waive the 21 rule in this case.

Vice Chairperson Sterling stated he wants to hear from Authority Members Steele and Houseman before he makes that decision.

Authority Member Sweetwood stated as long as the momentum is going, the Board should continue with this and accept the waiving of the 21 day requirement. She appreciates what Authority Member Glenn is saying, because that is what the Board stated.

Authority Member Joe Houseman stated he appreciates that the Authority wants to abide by the bylaws. Common sense needs to prevail on this in that nothing will change in the next 21 days. He would like to move forward with approving this item.

Authority Member Jennifer Steele stated she concurs with Authority Member Houseman.

Authority Member Glenn stated he understands pragmatically what everyone is saying. The German company did not decide on December 7th that they need to close the deal by the end of the year. This deal has been in progress for quite some time and the German company knew it. It burdens staff when they receive documents at the last minute. He requests that in the future the 21-day period be held to.

Vice Chairperson Sterling stated he agrees. One of the issues we have is the Authority is the "tail of a very large dog". He is sure the German company saw the issue at the last minute.

Authority Member Glenn stated the Authority would not be the tail end of the dog if we decided to defer this item. Entities coming before the Authority would have more respect for the Board in the future.

Vice Chairperson Sterling stated JLB Chastain was the first entity the Authority did a payback agreement with, and they have been a good partner so far. He does not want to do anything that will cause harm to this deal that may hurt the Authority's ability for future deals. This item could be deferred for two weeks and then meet a week before Christmas, but he does not want to do that. As the acting Chairperson he would much rather waive the 21-day notice on this item. Part of the problem is each deal can be from a different entity. Even if the Authority enforces the 21-day rule, the entities will not know about it. When companies do come to the Authority, he would like staff to explain during the application process that the documents have to be to staff 21 days before a scheduled Authority meeting, so companies are aware of the process.

Motion and Vote: Authority Member Squire moved to approve DA16-041, First Amendment to Lease Agreement City of Sandy Springs Development Authority and JLB Chastain. Authority Member Sweetwood seconded the motion. The motion carried unanimously.

VI. DA16-042 Other Business

Bond Counsel Jim Woodward stated the Mill Creek transaction was closed earlier this year. It is a multiple phase transaction where bonds are issued each year and that is part of the document. The Authority Secretary will be signing those documents today.

Vice Chairperson Gabriel Sterling stated that money will be used to build a new east/west connector near Boylston and Roswell Road. The east/west connector will likely be named for Dr. Leila Denmark. Dr. Denmark was a pediatrician in Sandy Springs. She was 114 years old when she passed away in 2012, at which time she was the fifth oldest person on the planet. She started practicing as a pediatrician in 1922, and practiced until she was 103 years old.

Director of Economic Development Andrea Hall stated the Sandy Springs Perimeter Chamber will provide an update regarding the innovation center at the January Development Authority meeting.

Vice Chairperson Sterling stated he heard that the lease is coming together and they plan on opening the center in January.

Motion and Vote: Authority Member Steele moved to adjourn the meeting. Authority Member Sweetwood seconded the motion. The motion carried unanimously. The meeting adjourned at 9:06 a.m.

Date Approved: January 12, 2017

Chip Collins, Chairman

Michael Casey, City Clerk