

BROWNFIELDS STUDY GROUP
FINANCIAL INCENTIVES/BIG PICTURE SUBCOMMITTEE
October 23, 2008

I. Attendees

Karen Dettmer, Milwaukee (via telephone)	Tom Mueller, Sr., TEMCO
Darsi Foss, DNR	Tom Mueller, Jr., TEMCO
Shelley Fox, DNR	Michael Prager, DNR
Art Harrington, Godfrey & Kahn (phone)	Al Rabin, Department of Commerce
Bruce Keyes (phone)	Andrew Savagian, DNR
Tory Kress, City of Milwaukee (phone)	Lynn Scherbert, Ayres Associates (phone)
Mike Lobachek, Godfrey & Kahn (phone)	Scott Wilson, Ayres Associates
Nicole Loop, City of Racine (phone)	

II. Welcome, Introductions, Agenda Repair

Darsi Foss provided a brief update on the upcoming EPA application process; for questions or more information please contact Darsi at 608-267-6713 or darsi.foss@wisconsin.gov

III. Create Wisconsin's *Brownfields Opportunity Fund*

Darsi briefly summarized the discussion from the July 18th meeting about creating a broader pool of brownfields money via a Wisconsin's Brownfields Fund; 1) create an open, rolling application process; 2) fund more types of brownfield costs, and 3) provide a greater amount of funds/project

Continuing/Rolling Application Process

Tom Mueller, Sr.: You can create threshold criteria that helps define whether or not these projects are ready to go

Foss: So we need to determine from what the applicant gives us so we know what is shovel ready

Tom Mueller, Jr.: Need some sort of threshold, say for municipalities; for example the city of Milwaukee submits a large number of grants

Michael Prager: We see that problem now with SAGs, some folks throw something together that's not that ready, and we try to look at those more closely; one of the key parts of the rolling grants is knowing that there's funding in the future, say in the next biennium or the next six months vs. thinking there might not be any funding left in the future so they try to get an application in right away

Foss: A couple of important points: we may see less applications for those "spec" projects if we don't have a deadline, and I'd hate to lose those projects; SAG is little and approachable, I'd hate to lose that, and to lose those little towns

Al Rabin: In many ways a rolling SAG application would be the "perfect marriage" between Commerce brownfield grants and SAGs, since you need a Phase I and II to get in the door

Group agreed that a rolling application process is the preferred model; but that the project needs to be fairly close to “shovel ready”

Targeting Certain Initiatives/More flexible funding for area-wide brownfields cleanup/redevelopment

Muller, Sr.: When you start targeting funds out of a pot of money instead of allowing the market to determine that, you could get into trouble; for example, maybe this year there isn't a need to fund the old electroplaters sites, it's more about waterfront redevelopment, but you haven't set aside the money for that; I'd just as soon see the marketplace determine it

Rabin: Similar to Commerce choosing a development zone; that's another approach that has worked successfully

Art Harrington: How would you propose to establish the target initiatives?

Foss: Well, for example, if you look at NJ, they have a little competition, certain criteria have to be met, i.e. “we're ready to take on this area, multiple local governments involved, consultants involved, know which properties” etc. etc.; the state would give them money to do more flexible things, e.g. demo and cleanup, so instead of waiting three years to get six grants, you get one big grant in six months

Harrington: Strategically, we are trying to get legislative support for adequate funding; obviously the governor is trying to put together a climate change package; we could target a piece that is keys into greenhouse gas emissions, whether it's projects that help reduce vehicle miles traveled or what have you; I only throw that out because one of our goals is to preserve our funding sources

Mueller, Sr.: We have to think about the total dollar pot that we have available; if we're diving up \$2.7 million between SAG and Greenspace, and we're going to bring in other items, plus if we're going to target so many dollars set aside for these initiatives, we're going to need to make sure we are also focusing on the future pot of funding growing over time

Grants & Loans To Local Governments Choosing To Partner with Private Parties to Leverage Additional Investment

Muller, Sr.: We need to amend the “known causer” issue so a private entity would feel more comfortable providing equity up front, especially if the local government is involved via the application

Harrington: I agree, if the local government is the applicant, that might make it better for the known causer issue; the question is should there be some objective evidence of the city being a partner in the deal?

Mueller, Jr.: So far the conversation has been limited to private, entity-owned properties; we have local governments that have lots of SAGs on properties that have sat because there are known causers, so to me there's no difference if the city owns them versus a private owner

Andrew Savagian: If there is a sub-subgroup developing some criteria for a community-causer partnership, what other pitfalls might be out there so that, if we are satisfied with the partnership initially, that there is some type of hammer in case the partnership does not follow through on what they said they were going to do

Harrington: I think an MOA created for the partnership would provide the transparency needed related to the causer and community involved in the agreement

Group agreed to have two or three folks split off to develop the criteria for an “LGU-causer” partnership

Eligible Properties/Eligible Activities

Foss briefed the group on eligibility; eligible properties or areas would include property that meets the brownfields definition; also, a person that caused the contamination is not financially viable, or the responsible party (RP) is not responsible for “extra” costs of higher-end land use; or, it could be eligible if it is a landfill and it will be reused for public purposes, or if the funding will be used to address the orphan shares at a waste site; eligible activities would include assessments, planning, demolition, asbestos abatement with demolition, site investigation, demobilization of equipment, above ground and below ground tanks or containers, outreach, RAOP preparation, interim and remedial actions, relocation, recycling of materials and habitat restoration

Group briefly discussed and agreed with the eligibility language; Darsi will develop drafting instructions for Brownfields Opportunity Fund; Darsi will also look for the old drafting instructions, which includes the RP issue

IV. Create the *Sustain Wisconsin Tax Credit Program*

Foss briefly explained the topic; the goal here is to promote sustainable development at brownfield properties, thus promoting energy independence and cost savings, by offering up to \$10 million in transferrable income tax credits; credits would be offered for the following costs that could be incurred during the environmental cleanup and development processes: use of alternative energy and efficient fuels; materials recycling and green infrastructure and sustainable development

Mueller, Sr.: My only question is what happened to the tax credits for only remediation; the problem with the tax credit is it's the nexus of the credit itself; if it has to apply to a specific piece of property, most corporations don't run a profit by that specific property and it's non-portable or transferrable

Foss: What we'd be proposing here is you could also transfer or sell your credit; a lot of states do that

Mueller, Sr.: What I'd also like to see is this work for net operating loss (NOL) carryover; some newer companies won't have a lot of profits in their first few years, so if they could carry it over to future years it'd be more beneficial for them

Foss: We have six of these and there may be some money left, i.e. credits

Bruce Keyes: We've always hit opposition on the transferrable tax credit; it starts looking like a grant, but a tax credit is more palatable; in the sustainable world, the highest obstacle is rehabilitation as opposed to new development; market responds pretty well to new construction with green attributes; the area that hasn't really been tackled is retrofit and old constructions

Tom Mueller, Sr.: Is that because it's not financially viable?

Keyes: Right

Foss: Oregon uses a “per square foot” formula for LEED certified structures

Prager: This matrix might be the best approach, because you don’t want to be looking at the standard practices versus a more sustainable development

Keyes: Can this carry over to the grants programs as well? Is there any reason we can’t give people “an enhancer” as part of these grants?

Group agreed to continue to discuss this issue

V. Create The *Brownfields Virtual Library* For Environmental Data & Reports

Foss briefly explained the topic; the present and past environmental conditions at properties are often one of the most noted and confusing aspects of real estate transactions; oftentimes, these issues are identified late in the real estate transfer process; obtaining quick access to environmental records may be a costly endeavor, if immediate information is needed from state agencies; providing these documents on the web would lower real estate transaction costs, accelerate land use decisions and streamline property transactions by: (1) creating an efficient system for electronic filing of reports and data; and (2) creating a virtual library of historic environmental data and reports for the 20,000 cleanups that have already occurred at contaminated properties

Group briefly discussed and agreed with the intent of this proposal

VI. Accelerate The Reuse Of Properties By Ensuring Sufficient Staffing Resources

Foss briefly explained the topic; the goal would be to provide DNR funding to support four existing brownfields positions by transitioning them to state-funded staff, in order to expedite grant decisions, accelerate the progress of projects in the clean-up pipeline and lower administrative transaction costs associated with delays in real estate-related approvals

Group briefly discussed and agreed with the intent of this proposal

Drew will send an email out with the upcoming Brownfields Study Group and subgroup meetings scheduled

Adjourn