# Fairfax County Board of Supervisors
# Economic Initiatives Committee (EIC)
# Fairfax County Government Center
# Board Auditorium
# October 26, 2021

## Meeting Summary

**Board Members present:** EIC Chairman Supervisor John W. Foust, EIC Vice-Chairman Supervisor Daniel G. Storck, BOS Chairman Jeffrey C. McKay, BOS Vice Chairman Penelope A. Gross, Supervisor James R. Walkinshaw, Supervisor Walter L. Alcorn, Supervisor Rodney L. Lusk Supervisor Dalia A. Palchik, Supervisor Pat Herrity, Supervisor Kathy L. Smith

**<u>Chairman's Opening Remarks</u>**

EIC Chairman Foust provided a brief review of the meeting agenda. The minutes of the July meeting were approved with no changes.

**<u>Item 1. Economic Opportunity Reserve (EOR) Project Review: Herndon Downtown</u>**

Chairman Foust began by recognizing Herndon Town Mayor Sheila Olem and Herndon Town Economic Development Manager Dennis Holste, who were in the audience. He then introduced Herndon Town Manager Bill Ashton as one of the presenters along with DEI Catalytic Development Manager Scott Sizer. The purpose of the presentation was for staff to provide a recommendation on the additional funding needed from the Economic Opportunity Reserve for the Herndon Downtown project which would be submitted for approval at a future Board of Supervisors meeting.

Sizer mentioned that the Board request for an initial staff evaluation was made at the October 5 Board of Supervisors meeting. He worked very closely with Ashton, who then presented the proposal.

Ashton began by reviewing important goals and milestones of the Herndon Downtown project: creating a town center, revitalizing the community, providing more public parking (from 162 surface spaces to 330 structure spaces), establishing a permanent arts center, and diversifying and growing its tax revenue. The project involves 4.675 acres with an estimated cost of $109.1 million. It is a mixed use PPEA project with Comstock Herndon Venture, L.C. as the private partner. The initial RFP was issued in 2015 and was planned and zoned to include mixed uses such as multi-family apartments, retail/restaurants, and parking. The Board of Supervisors approved $1.2 million in 2018 from the EOR to fund construction of the interior of the arts center, but the funds have yet to be used since the exterior of that center has yet to be built.

The initial 2016 project estimate of $79.4 million jumped to $111.4 million in 2019 because of higher material and labor costs. However, the cost variance has been reduced to $24.6 million with value engineering and the elimination of one of the underground garage levels. The Town of Herndon and Comstock agreed to split the cost gap. Since Herndon has an active arts district, it can provide permit fee reductions and tax abatements to incentivize economic activity. As a result of some adjustments on those incentives, its share of the gap now stands at $5 million, which is the amount now being requested from the EOR.

Sizer followed with an economic analysis that focused on the General Fund revenues generated from the real estate taxes, though there will be other revenue sources (e.g., local sales tax and commercial and industrial tax) from the project that will benefit Fairfax County. The Town hired JLL to perform the financial review. A staff recommendation on the request for the additional $5 million is that it be provided over a period of years to minimize any future impact on the EOR and improve Fairfax County's ROI.

Sizer stated the Herndon Downtown meets the EOR criteria for a capital development projects. The staff evaluated that the payback of the total of $6.2 million over 6 years would happen in Year 8, which amounts to a County contribution of 5.7% of the total project cost. Over the 1—year period of the project evaluation, Fairfax County is estimated to receive $9.2 million in General Fund real estate revenue. The project will continue to generate about $1 million per year after the ten year evaluation period has concluded. There will be a future MOU that will set parameters for the funding, which cannot be used for operational expenses. He provided a timeline for the project for the Board's review and consideration.

<u>Discussion</u>

- BOS Chairman McKay inquired about other milestones for the project's progress to release the funding. The Town of Herndon needs to match the initial $1.2 million contribution with an equal contribution. There would also be specific construction milestones identified by the partners.
- Supervisor Gross asked about the vision for the public arts center. The original concept is for a 200-seat black box theater as well as some additional space for galleries, classes, and other activities. There will also be an outdoor space (arts walk) that will have events and activities for the general public at no cost. Supervisor Gross mentioned that the outdoor space could be used as rehearsal space for some dance groups in good weather.
- Supervisor Herrity asked if an analysis has been done on the viability of the art center's operations. The MOU will address any concerns about financial shortfalls. Supervisor Herrity also asked about any community use of the indoor facilities. The Herndon Town Council has yet to decide on the center's operating model. There will be some down time on the use of the facility once the two primary users, Next Stop Theater and Arts Herndon, provide their schedules.
- Supervisor Lusk recommended that the Town look at the Capital One Center as a model for how to utilize the facility fully. He also commented that this project could be a model for other areas of the county to revitalize.
- Supervisor Alcorn received confirmation that the additional services needed for the additional dwelling units was not part of the staff analysis. With respect to parking, there will be no charge for users to park in one of the 330 public parking spaces. In addition, there are three improvement projects currently underway on Elden Street. The Herndon Downtown project has a streetscape improvement with widened sidewalks as well as improvements on Center Street to support biking and multimodal users. There was also a discussion on whether the agreement has any provisions addressing the prevention of wage theft.
- Supervisor Foust pointed out that the EOR was created because of the Herndon Downtown project. The impact on the Town will go well beyond the project area. He concluded by saying that the matter will be brought to at a Board meeting for approval.

**<u>Item 2. Tax Increment Financing and Public Investment in Support of Private Development</u>**

EIC Chairman Foust introduced the Tax Increment Financing (TIF) as another tool use to incentivize revitalization, along with the EOR and the recently passed Economic Incentive Program (EIP). A TIF was used in the very successful Mosaic project. The presentation will analyze the Board's criteria for using a TIF and how it might be used for other projects. He introduced DPD Director Barbara Byron. Byron introduced the others involved in the presentation: Joe LaHait, Debt Coordinator, Department of Management and Budget; Keenan Rice, President of MuniCap (administrator of Mosaic CDA); JoAnne Carter, Managing Director of PFM Financial Advisors; Peter Canzano, Fairfax County's Bond Counsel; and Emily Smith, County Attorney's Office (by phone).

LaHait discussed the importance of the establishment in 2008 of the 16 Principles of Public Investment to guide decisions on public investment to stimulate revitalization. These principles established the criteria for the establishment of a Community Development Authority, which is the mechanism for TIFs to occur. The Mosaic CDA was established in 2009 and issued $65,650.,000 in bonds for the project. It remains the only TIF in Fairfax County and is very successful. A TIF provides the ability to expand the tax base and facilitate redevelopment by selling bonds for public improvements related to a development, using the increment of tax revenues generated by the development to pay the debt service. TIFs are used more widely in other parts of Virginia. LaHait went into the revenue sources to repay CDA bonds through:

- A TIF in which the locality can pay all or a portion of the incremental tax revenue that would exceed the debt servicing needs.
- A Special Assessment that would not exceed the cost of improvements that may involve a third party consultant.to set rate and method.
- A Special Tax District for a specific project.
- A combination of the above tools. (LaHait pointed out that Mosaic utilizes all three tools.)

LaHait continued with a comparison between TIF and the EIP. The TIF is initiated by a petition from at least 51% of the property owners to the Board versus an application to the Board for the EIP. (The Bboard has approved one EIP application to date and two are pending.) Both programs look to the Comprehensive Plan to identify projects. The TIF project must meet the "but for" test for public financing or infrastructure to succeed. The EIP project just needs to demonstrate it is for economic development. There is tax abatement for an EIP while a TIF uses incremental tax revenue to pay debt. Finally, the tax abatement time limit for the EIP is ten years versus TIF which is tied to the amortization of a bond (20 years or more).

LaHait then briefly reviewed the 16 Principles of Public Investment. Public funds should be used for those seen as "Pioneer Projects" that result in area-wide benefits and further economic development. If funds are being put toward a TIF, it should be for a public use. A TIF must stand on its own and should have no additional support from the General Fund and no negative impact on the county's bond rating. Although the TIF has a maximum of 20 years, a change in that limit could be considered for future projects. Mosaic did exceed the 20-year limit. Finally, a TIF must include full disclosure to accounting records.

Rice followed with an overview of how TIFs work. It is a tool that uses new taxes from a project to pay for public investments. It is meant to be self-funded. There is a base value set at the time the redevelopment starts. Those taxes continue to go to the General Fund during the project. The project generates new taxes that are used to pay the debt service, with any excess going to the general fund.. When the TIF is paid fully all revenues then go into the General Fund. The locality can use all or a portion of the revenues to pay the debt service on revenue bonds. The proceeds from the bonds increase new development and, in turn, increase tax revenues. The important distinction with a TIF versus EIP is the financing and capital provided up front to make a project happen. He remarked that the county may use the EIP more often when up front financing is not critical.

Rice continued with a brief history of TIFs, which originated in the 1950s and have grown extensively throughout the country. In the past decade they have been used in over 40 states. He did point out that TIFs are risky since they involve borrowing money and incurring debt. Development projects that involve TIFs are riskier since there is an identified need for the financing in the beginning because of some challenge with the project. The 16 Principles adopted by the Board are key in determining the risk of a project and whether the benefits outweigh them.

Rice continued by explaining the reasons for using a TIF. TIFs are used for projects with special public merit. They are important, involve key locations and have significant public benefit. The project also must prove that it could not happen without the financing ("but for" test). The funding should be performance based and tie the developer to milestones to receive the funds. TIFs can be used to accomplish land use, economic development, equity, and public infrastructure goals. Rice presented the pros and cons of TIFs. They provide needed funding to generate the tax revenues so that no funds are taken from the General Fund. However, the risks associated with TIFs mean that they need to be carefully considered.

Rice then provided details on the successful Mosaic TIF and CDA. The assessed value of the Mosaic CDA increased from $38,271,740 at the beginning of the project to $625,288,970 now. The annual property taxes jumped almost twenty-fold from $409,508 to $7,564,592 during the same period. It was a well-conceived and executed plan that led to the increased revenues. The TIF only provided about one-third of the infrastructure funds with the developer covering the rest. Because of its significant investment, the developer needed to be certain of the project's success. The initial bonds issued in 2011 were speculative with investment grade ratings and higher costs, but they were refunded in 2020 due to the growing revenues generated by the project. The county ended up saving about $24 million from the refinancing.

Carter emphasized the importance of due diligence in the CDA and TIF process for any future projects being considered. They include financial risks, development risks and legal risks and some key questions associated with them. Fairfax County should not be the only funder at the table. Risk cannot be mitigated without transparency in the process. She concluded with key takeaways: 1) The goal is to protect Fairfax County and its reputation in the capital markets. 2) The 16 Principles are the foundation for identifying and mitigating risks. 3) The 16 Principles support TIF financing. 4) It takes more than solid financials to have a successful TIF project.

<u>Discussion</u>

- EIC Chairman Foust, who has been on the Mosaic CDA Board since 2009, thanked the team for the excellent presentation and the work on the successful Mosaic project.
- BOS Chairman McKay requested that the team to look at the 16 Principles and provide some thoughts on revisions to them at a future Board meeting. He also requested an analysis of the characteristics of a failed TIF. EIC Chairman Foust added that they should have individual meetings with Board members before presenting a package of revisions to the 16 Principles to the entire Board. Rice provided examples from the City of Hampton and York County of TIFs that did not succeed initially or failed all together.
- Supervisor Palchik asked for an analysis of all the different financing tools available for projects. She also requested an evaluation tool to assess projects and the risks taken.
- Supervisor Alcorn added that an evaluation of using TIFs during deflationary periods should also be considered. The protection absorption rate is a measure used for the analyses. Special assessments have been used throughout Virginia with TIFs. They are used to mitigate risks.

- Supervisor Lusk also asked to include successful TIFs from other areas of the country as models for Fairfax County on future projects.  He also wanted clarification on the A2 rating for the Mosaic bond.  (It is a single A rating with a 2 out of 3 rating from Moodys.)  With respect to refunds, LaHait mentioned that the County received about $7 million in FY21.  It is the intent to pay off the bond early.
- Supervisor Gross emphasized that the Board needs to look at which areas of Fairfax County a CDA or TIF could work.
- Supervisor Storck raised the question about the minimum size of a property to make a TIF effective.  Byron responded that there is no limitation.  She also remarked that there has not been another TIF proposal until very recently.

Meeting was adjourned.