

**ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY SPECIAL MEETING MINUTES**  
**Friday, May 20, 2011**  
**DDA Offices, 150 S. Fifth Avenue, Ann Arbor, MI 48104**

Place: DDA Office, 150 S. Fifth Avenue, Suite 301, Ann Arbor, 48104  
Time: DDA Chair Joan Lowenstein called the meeting to order at 12:03 p.m.

**1. ROLL CALL**

Present: Gary Boren, Russ Collins, Bob Guenzel, Roger Hewitt, John Hieftje, Joan Lowenstein, John Mouat, Sandi Smith, John Splitt

Absent: Newcombe Clark, Leah Gunn, Keith Orr

Staff Present: Joe Morehouse, Deputy Director  
Julie Uden, Management Assistant

Audience: Dave Askins, Ann Arbor Chronicle  
Mark Lyons, Republic Parking System  
Josie Parker, AADL  
Andrew Cluley, WEMU  
Lizzy Alfs, Ann Arbor.com  
Adrian Iraola, Park Avenue Consultants  
Ray Detter, Downtown Area CAC

WELCOME AND SPECIAL MEETING PURPOSE:

Ms. Lowenstein welcomed everyone and asked for verification that the meeting had been properly noticed due to special date. Mr. Morehouse verified that it had been sent over to the city clerk for posting, placed on Legistar as well as being posted in the DDA office. She stated that the meeting only had two items for discussion: Resolution to approve a parking agreement with the city of Ann Arbor until June 30, 2022 and amend the DDA approved 2011/2012 and 2012/2013 budgets, and the Resolution for city ordinance, Chapter 7 TIF repayment.

RESOLUTION TO APPROVE THE PARKING AGREEMENT:

Ms. Lowenstein asked for someone to move the resolution to open it for discussion.

**Mr. Mouat moved and Mr. Collins seconded the following resolution:**

**RESOLUTION TO APPROVE A PARKING AGREEMENT WITH THE CITY OF ANN ARBOR UNTIL JUNE 30, 2022 AND AMEND THE DDA APPROVED 2011/2012 AND 2012/2013 BUDGETS**

**Whereas,** Since April 1992, pursuant to agreement with the City, the DDA has operated and maintained public parking facilities, leased or owned by the City;

**Whereas,** Under DDA management, the public parking facilities have become sustainable and have been maintained to the highest standards of safety and efficiency, and have been operated to support the goal of a vital, active, and attractive downtown core area;

**Whereas,** Under the current and enforceable City-DDA parking contract, in addition to parking revenue funds for the City's street funds, the City was to receive no more than \$10 million in parking revenues through 2015 which the City elected to take early in the contract period;

**Whereas,** In fiscal year 2010/11 the DDA granted to the City an additional \$2 million from parking revenues beyond what was required under the existing contract;

**Whereas,** Since May, 2010 the DDA and the City have, in good faith, negotiated toward a new agreement intended to supersede the 1992 Agreement as amended in 2002 and 2005, and provide reliable and fair payments from the DDA parking system to the City;

**Whereas,** Through these negotiations the Mutually Beneficial Committee has created a new DDA/City Parking Agreement that will benefit the City by providing additional revenue and the DDA by clarifying and strengthening its role in parking operations;

**Whereas,** This resolution provides for annual payment to the City of 16% of the gross parking revenue and a term of 11 years, with an 11 year option (agreement attached);

**Resolved,** That the DDA approves the attached Agreement if and only if the same Agreement is approved by City Council with no substantive changes; and

**Resolved,** That with the execution of this New DDA/City Parking Agreement with no substantive changes, the FY 2011/12 & 2012/13 DDA budgets will be amended to reflect this expenditure change.

Ms. Lowenstein began the discussion by presenting a PowerPoint to explain how they arrived to this point. She wrapped with five points to think about while discussing the parking agreement 1) DDA pledges to continue to partner with the City 2) Revision of Parking Agreement based on knowledge that City needs additional money 3) DDA has a responsibility to maintain parking system infrastructure 4) DDA has responsibility to maintain a fund balance and 5) DDA TIF is capped under Chapter 7 so future budgets must account for this.

Mr. Collins wanted to know what the anticipated impact might be on DDA TIF revenues, as compared to the DDA's 10-year plan, given that TIF capture would now be calculated correctly. Mr. Morehouse explained that in the next year, the TIF valuation is expected to drop and the DDA's 10-year plan uses an average projection of a 2% increase in TIF revenue per year therefore the impact of the correct calculations in the future would be zero.

Mr. Guenzel said he did not understand why the DDA fund balance will be less than previously anticipated. Mr. Morehouse explained that it's due to the one-time payment the DDA will need to make to return excess TIF capture to the other taxing entities.

Mr. Hieftje asked Mr. Morehouse to show the fund balance figures for the 17% scenario to compare the difference for the 16%. He said that the city is ultimately responsible if the DDA defaults on its obligations and the city would be willing to "backstop" the DDA for the years when the DDA was concerned about the fund balance being low. He said it was much more important to put the parking contract in place so that the city would have the yearly income and the DDA could live with those

lower fund balances. Mr. Hieftje did not think it made sense to plan a long-term agreement on the basis of just avoiding a low fund balance in certain year is not the smartest thing to do or the best approach to take. He stated that at the appropriate time he would be offering up an amendment to go back to the 17%.

Mr. Mouat wanted to clarify that the DDA had not been in negotiation mode for a while and the resolution before them was the DDA's best take on the situation and then it would go to the city council. Ms. Lowenstein confirmed that back on May 2, the DDA had effectively concluded negotiations through its Mutually Beneficial Committee (MBC). The only change to the situation has been the impact of Chapter 7 effect.

Mr. Guenzel asked Mr. Hieftje if he thought he had enough support on the council for the new parking contract, if the percentage of gross were set at 17%. Mr. Hieftje replied that he felt there would be sufficient votes. Mr. Guenzel understood that there's no way to predict for sure. Mr. Hieftje responded that there is still discomfort among some council members about the provision in handing over the ability to set parking rates solely to the DDA.

Mr. Hieftje said he had a note from Tom Crawford that said that if the percentage of gross is 16% then the city would need to make an additional \$250,000-300,000 reduction to its fund budget this year and next. He said that some on the DDA board had asked why that's the DDA's problem in the past and reiterated that it's all of our problem.

Mr. Hieftje then offered an amendment to the resolution, changing the amount from 16% to 17%. Mr. Guenzel seconded the amendment.

Ms. Smith said that if it's important to maintain a fund balance then there are other strategies the DDA can explore. She gave 2 examples: The first being the \$100,000 contribution to the housing fund that was paused this year, which is to resume in 2013, could be eliminated. Eliminating that \$100,000 would start to change the picture. Secondly, Ms. Smith also pointed out that the DDA had set aside \$500,000 to support the alternative transportation maybe look towards AATA to pick up some cost. If there's a concern not to drop the fund balance then there are ways to change that. Ms. Smith said none of the decisions are easy. She said that the city is planning to dip into the general fund reserve balance for around \$1 million, which is not a position the city wants to be in either. Ms. Smith recalls Tom Crawford's conversation when the DDA was planning to build the underground parking garage and had cautioned the DDA about maintaining a fund balance of 15%, and she said she understands that things change but had taken that to heart. She said she was tormented about the issue and what to base the most important part on but was willing to hear the arguments of others on the board.

Mr. Boren clarified that they were currently debating just the amendment to change the number from 16% to 17%. He followed up responding to Ms. Smith's suggestion of cutting housing fund transfers or alternative transportation grants and said those are significant elements of the DDA's core mission. Mr. Boren stated that those go to the heart of what the DDA does and affects what the DDA will be able to do in the future.

Ms. Lowenstein pointed out that this budget already includes deferring some maintenance on the parking structures in order to accommodate the city's need for additional revenue.

Mr. Hieftje said that for some time he has heard the concern about the dip in the fund balance from the MBC and said he believes Mr. Crawford's remarks about fund balances are a little different from what they were intended. He suggested an additional meeting of the MBC to give the DDA some comfort with respect to the city's assurance that it would backstop the DDA's fund balances. He said it is certainly not in the city's interest to see the DDA fail to meet its financial obligations and if the DDA needed the money it would be there.

Mr. Collins asked if the backstop could be added to the amendment adjusting the amount from 16% to 17%. Mr. Hieftje then suggested that he'd asked council members to add time on May 31 to their calendars for another meeting. Then MBC could meet and work that clause out then let the city council make a decision on the parking contract.

Ms. Smith asked Mr. Hieftje to provide some information about what was happening in the state legislature with respect to health care benefits for public employees. He said that the legislation had the potential to have a good impact on local governments because it would require some public employees to contribute 20% of their health care costs but would not have an immediate impact on funds.

Ms. Lowenstein asked that if it were to be necessary that the DDA required support from the city to meet its obligations, then any expenditure over a certain amount would need city council approval. Mr. Hieftje said that he couldn't guarantee that the council would approve it but he thought there would be strong support.

Mr. Guenzel said the issue with percentages is really tough and having worked in an organization where the goal was an 8-10% reserve, it's very important to maintain that. He said he might disagree with Mr. Crawford that 15-20% should be a goal, but said that 8-10% is necessary. He had a concern that with 16% and 17% as there is a difference. Mr. Guenzel said he was encouraged that it goes up and that they are projections. He said he liked the idea of the city stepping up and saying something. The question is whether it could bind a future council. He stressed that the DDA did not want the city to take over its assets as the DDA is a separate entity but if they were talking about a partnership, then if the city is willing to consider making some kind of an assurance on the DDA's fund balances, he'd vote for 17%.

Mr. Hewitt stated his concern about the fund balance dipping below \$1 million and it would not be above \$2 million again until 2017. He said he was interested in seeing what the city would be willing to offer in the way of an assurance. Mr. Hewitt pointed out that with a \$50 million construction project currently underway the 17% scenario left the DDA with a pretty slim balance that he was not comfortable with. He said he would not support the 17% without the additional language about city support should the fund balances go below that and he would attend one more MBC to see if that could happen.

Ms. Smith pointed out that the amount would reach \$60 million because of the construction on the parking deck that's part of the City Apartments project to be built by Village Green at the First and Washington lot.

Mr. Collins said he's likely to follow Mr. Guenzel's analysis. He said when you're talking about several million dollars, the difference between \$1 million and \$2 million in reserves isn't much of difference at all. He said the committees had worked hard to come up with something that is mutually beneficial to both parties. Mr. Collins said he shared an interest in seeing the city chime in with something that would provide some underpinning.

Mr. Collins said he was concerned about how the DDA is perceived. He said he serve on the DDA board and committees to try to do good things for the city and the downtown in particular. But the word on the street is that the DDA is up to something and not sure what it is but is it a positive thing He said as the DDA tries to accomplish its mission and feels that that is not the word on the street or the media in that way, and it's not accepted that way in the hearts and minds of the city council. Mr. Collins said he hoped the new parking contract would help change that perception. He stated that people who sit on the board to try to do something positive are volunteers and he would support the 17% contract.

Mr. Mouat said his concern is that despite two years of conversation, the city and the DDA are still negotiating and he agreed with Mr. Hewitt that they are not done yet. His tendency would be to put out the 16% offer.

Ms. Smith said that without having a specific trigger identified she could not vote for the 17%. She wanted to either vote down the amendment or table the resolution until MBC could meet again.

Ms. Lowenstein said it is cumbersome and difficult to think about having an additional MBC meeting, having the committees make a recommendation, coming back to the DDA for a special meeting, and then having the matter go back to the city council. She also stated that the DDA had been negotiating against itself for a long time. She said in principle she would be in favor of 17% as Mr. Hieftje had represented it. She suggested approving the contract at 16% and if the city council was serious about making some kind of pledge in exchange for 17%, then the DDA would only need one more special meeting in order to approve that limiting the number of times they would have to get a whole bunch of people together.

Mr. Hieftje then proposed another friendly amendment secondary to his earlier amendment that changed the percentage to 17%. He suggested the amendment would read with the DDA approval "contingent" on city council approval of a plan that is acceptable to the DDA to backstop the DDA fund balance in certain years.

Mr. Guenzel seconded the friendly amendment.

Mr. Collins suggested the word underwrite instead of backstop. Those attending thought that was friendly.

Mr. Splitt said that with the additional language he would support 17%.

Ms. Smith said that one concern she had with this scenario is that a future city council would be making decisions about whether the DDA needed to do maintenance on parking structures. She did not

want an expensive preventative maintenance issue to be overlooked or other downtown projects such as streetscapes finished in order to keep the fund balances high.

Mr. Hieftje reiterated that it is certainly not in the city's interest to see the DDA struggle neither to pay bills nor to see some major maintenance undone.

Mr. Mouat said it felt as though were hovering around the same and the devil was in the details. He wondered at what point it would not be the DDA board that would be overseeing DDA funds but rather the city council. Mr. Mouat said he feels the city needs to be more clear. He said it's hard to pass a resolution without knowing exactly how this assurance was going to work.

Mr. Hewitt said agreed with Mr. Mouat and he did not want the city council to be performing the function of the DDA board. He said he could support the resolution as amended but would look very critically at the language that was acceptable to the DDA.

Mr. Splitt asked Mr. Hewitt if the MBC could work out such language. Mr. Hewitt replied that they could certainly give it a try.

Mr. Collins noted that the DDA's legal counsel, Jerry Lax is available again.

Mr. Hieftje said he could appreciate the discomfort of some board members but if the contract with the amendment is not approved by the DDA that the same thing will happen at 16% by city council. He suggested that the DDA keep a meeting slot open as he has asked council members to reserve some time on May 31 should the need arise to continue budget talks.

Ms. Smith asked to review some of the hybrid solutions she'd proposed in the past with the 17 % upfront for 3 years and 16% thereafter. Mr. Morehouse changed the percent to show the difference.

Mr. Collins said the DDA needs to remember that some folks at the city were looking for 20% and they were pretty firm about that and said he recognized the difficulty of negotiation from the city's side. He stated the DDA is ready to get this resolved and move on and the DDA would have the opportunity to manage itself toward better fund balances and with the city's underwriting in place he would be fine with this.

Mr. Guenzel said that under either scenario it's not enough so the city's promise is significant. It shows that there is a mutual benefit in the new contract because it clears up some of the ambiguities about the parking system. He said the board needs to get this thing done and he was willing to live with the amendment and pass it that way.

Mr. Mouat commented that the DDA was going at the issue yet again at a board meeting and felt like they were doing the same thing they'd done before. He asked if would it make any sense to see if there is any other key folks on the city council who might participate in drafting the specific language of the city's underwriting assurance.

Mr. Collins responded that he felt the DDA was already at a decision point and that progress had been made. The board is at the decision point now.

Mr. Hieftje asked for confirmation that the projections for future DDA fund balances included TIF revenue from the 601 S. Forest and Zaragon II projects. Mr. Morehouse confirmed that the projections did include those amounts. Mr. Hieftje said he could not tell the DDA board for sure that council would approve the contract, but he could assure them that he would take it to council. Ultimately, he said, it is a partnership. He commented about the community's perception of the DDA and stated there are some pretty staunch defenders of the DDA on the city council.

Mr. Splitt said he did not want to delay. He felt that a deal could be made at 17% but not at 16%.

Mr. Boren asked if the amendment is approved are they going to vote on the resolution itself pending the language that is obtained from city council.

Ms. Lowenstein and Mr. Hewitt confirmed the DDA would vote on the motion as amended and then vote on the additional language next week.

Ms. Lowenstein asked if everyone was ready to vote on the amendment and asked Mr. Morehouse to do roll call vote.

**A roll call vote on the amendment showed:**

AYES: Collins, Guenzel, Hewitt, Hieftje, Lowenstein, Mouat, Smith, Splitt

NAYS: Boren

Absent: Clark, Gunn, Orr

**The amendment was approved.**

Ms. Lowenstein stated that now they are back to motion.

Ms. Smith said she has one minor amendment she would like to make to the contract. It is in regards to number 2 letter h. She stated she thought the phrase was a little harsh and right now when we build new parking we built to accommodate many, many uses with multiple users and that help to pay for the parking. She would like the forward phrase replaced with may not be available versus could not be used.

Mr. Splitt seconded the amendment.

Mr. Boren asked for clarification of the amendment. He was understanding that this agreement protects the DDA in the sense that city can do what it wants in its own parcel but will not open up lots to compete with this agreement.

Ms. Smith said her take on the paragraph was if the city chooses to build a structure next to the city hall solely for the use of it employees would be better used if it was something the city and the DDA undertook together and after hours allowed public parking.

Mr. Hewitt suggested adding public parking with DDA approval to Ms. Smith amendment. Several others chimed in and it was finally decided that it should read "These new parking facilities could be used for parking open to the public subject to the terms of this agreement."

**A vote on the amendment to the parking contract showed:**

AYES: Boren, Collins Guenzel, Hewitt, Hieftje, Lowenstein, Mouat, Splitt, Smith

NAYS: None

Absent: Clark, Gunn, Orr

**The amendment was approved.**

Mr. Hieftje noted that some council members have discomfort with the idea that the DDA would have sole authority to set parking rates. He thought there were a majority who would support the contract with that provision, but he felt that a larger majority could be achieved and proposed the idea of an annual review one year later after a rate change, where the council could decide if it wanted to take action.

Ms. Smith stated she felt that would undermine a fair amount of what she found mutually beneficial.

Mr. Hewitt noted his concern that the DDA is undertaking some fairly dramatic financial commitments, and without the ability to set rates, the DDA couldn't be confident it can meet those commitments. It's one of the only keys in the contract that the DDA doesn't already have, he said. With the implementation of a program of transportation demand management, there'll be a number of different rates, varying with geographic area, time of day, and day of week. He said he felt that would fundamentally change the agreement.

Mr. Mouat wondered if there was a risk of politicizing rates in different areas, depending on the council ward.

Mr. Hewitt explained that the idea of transportation demand management is based on where the demand is, not based on what the DDA would like to charge. It's about what you're trying to achieve, and was dependent upon demand and what the goals of the parking system are.

Mr. Collins said he thought the DDA could invite the city council to review and comment, just as the DDA invited review and comment from the public. That kind of language could be added.

Mr. Boren noted that kind of language was already included.

Ms. Lowenstein suggested the addition of "City Council" to number 2 letter k of the parking contract as one of the entities to be consulted before undertaking rate changes.

**Mr. Guenzel moved that additional amendment and Mr. Hewitt seconded.**

Mr. Hieftje said he thought the amendment moved it in a good direction.

**A vote on the amendment to the parking contract showed:**

AYES: Boren, Collins Guenzel, Hewitt, Hieftje, Lowenstein, Mouat, Splitt, Smith

NAYS: None

Absent: Clark, Gunn, Orr



**The amendment was approved.**

Ms. Lowenstein stated they were back to the resolution as a whole on the parking agreement.

Mr. Boren stated that he had been against this from the beginning but that there were really two big issues. He said one of those is a misperception of what the DDA is all about and it gets no respect. The second issue is that the city was taking a public service like parking and turning it in to a for-profit venture. That approach is at least marginally going to cause business and residential tenants to shop elsewhere instead of downtown. When you charge people more to park than it takes to provide the service, he said, it's effectively a tax. And that pushes people out of downtown. Mr. Boren said he sees that as directly in opposition to the DDA's mission. He said in the future the DDA needs to hammer the city council in benefiting downtown and this agreement puts downtown money in the neighborhoods and should be the other way around.

Mr. Mouat said he'd struggled for a while with the issue and it is a tough situation. He stated DDA board members aren't elected officials but our job is to represent downtown and to look out for the community as a whole. He said he was hopeful that when the DDA and the city get past the contract that we can have some fruitful conversations.

Mr. Collins said he'd support the contract. He recalled the DDA had taken a negative amenity, and turned it into a much more positive one. The DDA had made a decision that the parking infrastructure as a key way it wants to enhance the downtown and that is the DDA's legacy.

Mr. Boren said there were ways the parking contract could have been structured that could have gotten his support such as pegging the parking revenues to downtown services that supported the DDA mission.

Ms. Lowenstein pointed out that in the new contract there is a reporting system for what's being done with the money. Previously, the DDA had been transferring close to \$1 million to the city for street maintenance in the downtown, with absolutely no accountability about how it was being spent. There's also a standing committee on enforcement of parking regulations.

Mr. Hewitt said he also agreed with Mr., Boren and the contract is far from perfect from the DDA's standpoint. There are a few advantages in the new contract, but also some significant disadvantages. He stated he was not real happy with it and looking at the parking system the DDA was the victim of its own success. Mr. Hewitt said the issue reduces to whether it's better to run the parking system under this agreement or give the system back to the city and he personally concluded that it's better to have the agreement.

Ms. Lowenstein asked if there was any more discussion and if the board was ready for vote. She asked Mr. Morehouse for a roll call vote.

**A roll call vote on the motion as amended showed:**

AYES: Collins, Guenzel, Hewitt, Hieftje, Lowenstein, Mouat, Smith, Splitt  
NAYS: Boren

Absent: Clark, Gunn, Orr

**The motion carried.**

**RESOLUTION FOR CHAPTER 7 REPAYMENT:**

Ms. Lowenstein asked for someone to move the resolution to open it for discussion.

**Mr. Guenzel moved and Mr. Mouat seconded the following resolution:**

**RESOLUTION FOR CITY ORDINANCE, CHAPTER 7 TIF REPAYMENT**

**Whereas**, It was brought to the DDA's attention on May 2, 2011 that an overpayment of TIF had been made to the DDA since 2004 based on City Code Chapter 7 limitation;

**Whereas**, The DDA has met with City Staff and the DDA's attorney to calculate the amount of this overpayment;

**Whereas**, The amount owed to each taxing entity for fiscal years 2003 - 2011 has been determined to be:

City of Ann Arbor	\$711,767
Washtenaw County	\$242,179
Washtenaw Community College	\$156,520
Ann Arbor District Library	\$ 74,666

**Whereas**, The City has agreed to forgive any amount owed in exchange for the past grants given by the DDA to the City using TIF funds;

Resolved, The DDA will make payment to the remaining three taxing entities in the amounts above by June 30, 2011; and

Resolved, The City and the DDA will work together to make sure the DDA receives only the appropriate amount of TIF per the City Code Chapter 7.

Mr. Guenzel asked Mr. Morehouse if he'd verified the numbers. Mr. Morehouse indicated that he had, and they'd been forwarded to the taxing units to which the excess would be returned. The DDA had not received a response from them except for the city. Mr. Guenzel guessed that if they disagree, they'll let the DDA know.

Ms. Lowenstein said she'd talked to Josie Parker, director of the Ann Arbor District Library, and they'd agreed to sit down and go over it. Ms. Lowenstein said the resolution states that this is the DDA's calculation and the DDA is willing to go over the figures.

Mr. Hieftje asked that the language in one of the "whereas" clauses be modified as he did not want anyone to be alarmed but he said that it could not yet be said that the city has agreed to waive the return of the excess that would be due to the city. He suggested that instead it should say something like "is likely to forgive."

Mr. Boren clarified that this is an obligation the DDA has to return the excess so the board is approving the calculation, not the obligation.

Mr. Collins wondered if it would be more appropriate to check the calculations with the different taxing units, before passing the resolution.

Mr. Morehouse suggested that what the resolution was doing is affirming the method the DDA is using to interpret the city's DDA ordinance.

Mr. Hieftje suggested making an administrative change to the whereas clause versus an amendment and changing it to say "Whereas, Assuming the city will forgive..."

Mr. Boren noted that it was only in the DDA's interest that board members be aware of the issue of the excess TIF capture issue before they had voted on the parking contract, so he thanked the mayor publicly for bringing it to the DDA's attention, because it was the right thing to do.

Mr. Hieftje said that it was a head-scratching moment.

Ms. Lowenstein stated that this situation shows you should go back and read your ordinances. She also commented that there was nothing underhanded or nefarious about it. She asked if everyone was ready to vote and noted the "whereas" clause would be changed administratively.

**A vote on the motion to approve the resolution showed:**

AYES: Boren, Collins Guenzel, Hewitt, Hieftje, Lowenstein, Mouat, Splitt, Smith

NAYS: None

Absent: Clark, Gunn, Orr

**The motion carried.**

**ADJOURNMENT:**

There being no other business, Mr. Mouat moved and Mr. Splitt seconded the motion to adjourn. Ms. Lowenstein declared the meeting adjourned at 1:48 p.m.

Respectfully submitted,  
Joe Morehouse, Deputy Director