

**Minutes of the Economic Development Corporation of Pittsfield Charter Township**

**August 17, 2005**

**E.A. Jackson Morris Hall, The Robert A. Lillie Service Center  
6201 W. Michigan Avenue, Ann Arbor, Michigan 48108**

**Members Present:** Hadden, LeClair, Lirones, Maloney, Meyer, Richards, Schroer

**Members Absent:** None

**Others Present:** Yolanda Holmes(Recording Clerk), Raphael Richmond, Tom Colis, Jim Hilmer, Enders Dickinson, *James Walter, Tom McFadden, Stuart Dowty.*

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**1.0 Call Meeting to Order**

Vice President LeClair called the meeting to order at 5:04 p.m. A quorum was present.

**2.0 Pledge of Allegiance**-led by Vice President LeClair

**3.0 Approval of Agenda**

Motion by Director Lirones, supported by Director Richards, to approve the agenda.

**MOTION CARRIED.**

**4.0 Election of Officers (President, Vice-President, Secretary, Treasurer)**

Motion by Director Maloney, supported by Director Hadden, to nominate the following: Feliziana Meyer President, Donald LeClair Vice-President, Christina Lirones Treasurer and James Richards Secretary, and elect the officers as nominated.

**MOTION CARRIED.**

**Public Comment**

Supervisor Walter said he appreciated everyone showing up on very short notice. He said Arbor Hospice is in a position to refinance their Bonds and they have a fairly tight timeline.

**5.0 Old Business**

**6.0 New business**

**6.1 Discussion regarding Bonds for Arbor Hospice.**

Tom Colis, of Miller, Canfield, Paddock and Stone, P.L.C said he and his colleague worked with the Township and the EDC in the original transaction of the 1997 Bonds that were issued for Arbor Hospice which financed the facility on Oak Valley Dr. He said the opportunity has arisen where Arbor Hospice can refund those bonds, in other words replace higher interest rate bonds with lower interest rate bonds. He said Arbor Hospice is a non-profit corporation but under the tax code they don't have the ability to issue tax exempt bonds, so the way that the State statute provides is that a governmental entity needs to issue taxes and bonds on their behalf. He said the EDC Act was put in place in 1974 to provide for fostering economic development within communities, adding that the

Township created its own EDC and counties can also but they really foster different projects to the extent that they qualify for taxes and financing under the federal tax code. Projects can then be financed through the local economic development corporations because they then are the governmental unit. He said when the EDC acts in that context they really are acting as a conduit issuer, they are providing the means for Arbor Hospice to access a tax exempt bond market and the purpose of that is, instead of Arbor Hospice just going to the bank and getting conventional bank rate, which is typically a much higher taxable rate, it can access the multi billion dollar tax exempt municipal bond market and get much lower tax exempt interest rates. He said there are still qualifications they have to go through, the projects have to meet certain requirements in the tax code and Miller Canfield, as bond counsel undertake that analysis because ultimately they are giving an opinion to the bond holders that says the bonds are legal, valid, binding obligations and are exempt from Federal and State income tax. He said when the EDC acts in this capacity, they aren't pledging any monies of the EDC or the Township, and there is no liability for the EDC or the Township or the State. He said it is clear on the bond documents, the offering document that's submitted to the public, clearly states on the cover this is a limited obligation payable only from Arbor Hospice and any sources that they have available. He said in this particular bond issue it will be structured where there will be a letter of credit securing the bonds, adding that if he was a bond holder he would really be looking at the letter of credit. He said because these will be variable rate bonds instead of a fixed rate with a set particular rate, which he believes are at 7.875% on the bonds they will take out, they will issue variable rate bonds which have the ability to change interest rates every week. He said because your on a shorter period of time you have a lower interest rate, there's also some risk associated with interest rates rising but overall the analysis has been that variable rates have been sufficiently lower then fixed rates. He said a letter of credit is typically used to secure the payment and Arbor Hospice's obligation to make payment on the bonds. He then said the EDC is never obligated to make payment, neither are the Township or the State, and the bond holders look to Arbor Hospice and to the bank. He said primarily they look to the bank because it will say on the cover of the document the bank letter of credit and they're sold with the credit of the bank on them. He said Arbor Hospice is important but they won't look at the EDC or the Township's credit rating, there will be no information on the Township in the offering document because it is not relevant. He said basically what happens is Arbor Hospice puts the deal together, they put the business transaction together with the bank and the underwriter, then they come to the EDC and say they want to access the taxes and bond market and they need your assistance. He said Arbor Hospice then presents the transaction, the EDC then authorizes the bonds, issue the bonds and the loan money to Arbor Hospice pursuant to a loan agreement and that loan agreement has many covenants in it that says Arbor Hospice is responsible for payment and operating the facility not the EDC, which is not liable on anything and is indemnified for all the actions taken in connection with issuing the bonds. He said it is truly the obligation of Arbor Hospice to make payment on these bonds not the obligation of the EDC or the Township, adding that there is no personal liability and no liability with respect to the EDC or the Township's funds. He said the resolution today authorizes a few things, it tentatively agrees to proceed with issuing the bonds. He went on to say bonds will be issued in an amount not to exceed 5.5 million dollars; they will have a better idea as to the exact dollar amount when they start getting into the actual pricing of the bonds. He then read paragraph 2 of the resolution and said it will be clear not only in this resolution but in all the documents prepared not to look to the EDC or the Township but look to Arbor Hospice for

repayment of the bonds. He said the EDC assumes no obligation to actually proceed with transaction by adopting this resolution or any liability from Arbor Hospice from lost or damage that the applicant receives by adopting this resolution. He said if it is determined that a month later for some reason the EDC does not want to continue along the process you haven't obligated yourself by adopting this resolution. He said this resolution hires Miller, Canfield, Paddock and Stone as bond counsel to the Economic Development Corporation and they will prepare all the necessary documents related to not only the resolutions that the EDC adopts but also the Township Board and all the bond documents associated with the bonds for them to give their opinion that the bonds are legal, valid and binding obligations, authorized pursuant to State Law and Federal Tax Law. He said his firm found long ago that it was best that they prepare all those documents because they are most comfortable that the proceedings have been accomplished in the proper manner. He said since the EDC is the conduit borrower, in order to achieve some savings from Arbor Hospice's stand point it makes some sense to have Miller, Canfield take on multiple responsibilities with respect to the transaction that they perceive to be not adverse to Arbor Hospice. He said because the underwriter and the EDC never really enter into any agreements that are contentious they propose to represent the underwriter, EDC and the bank in this transaction. He said the true document that will be in negotiations with respect to is the reimbursement agreement, adding that, that is a document between the bank, who will issue the letter of credit to Arbor Hospice and it has all the financial covenants that the bank will require of Arbor Hospice. He went on to say Arbor Hospice will have its own counsel on this transaction which will not be Miller, Canfield but will be Dykema Gossett, PLLC which is an Ann Arbor firm. He said the reason they propose this is because by having one firm take on a couple of these roles you can achieve some economies of scale with respect to cost, adding that if you were to break out individual roles it would be a higher cost. He said his firm does not perceive these to be adversarial roles at all and have done this in numerous transactions which has always worked out very positively. He said the remaining process from here, there will be two (2) additional full time Directors appointed to the EDC to fill out the nine member board plus two (2) additional Directors will be appointed for this particular project. He said it is a requirement under the EDC Act that when the EDC issues bonds on behalf of a particular project that there be two (2) additional Directors appointed that have an interest or are familiar with the project. He said the purpose of that is there is a project plan that's prepared in each transaction that lays out what's actually taking place at this facility, what improvements are going in, are new jobs being created, is employment being transferred, how will the bonds be sold. He said they will come back and amend that project plan because they will talk about an additional series of refunding bonds so there will be a small amendment to the project plan and the two (2) additional Directors need to be part of that discussion. He said the Township Board at its August 23<sup>rd</sup> meeting will consider appointing two (2) additional full time Directors to the EDC, two project Directors and then set a public hearing. He said once the EDC considers the amended project plan, which it will do at it's next meeting, the Act requires a public hearing to be held in connection with the amended project plan. He said they will come back to the EDC two more times, once to consider the amended project plan, the Township Board will then hold it's public hearing concerning the project plan an issuance of the bonds, then they will come back to the EDC again with the bond authorizing resolution. He said they will then have the final documents and there will be references to Trust Indentures, Loan Agreements and Offering Memorandums, basically the documents they will need to sell the securities in the bond market.

Director Lirones said they invited two residents from the neighboring subdivisions to be Project Directors. She then asked if that would be acceptable and if their actual title would be Project Director?

Mr. Colis replied they are really just additional Directors to the EDC only for this project. He said they will vote only on matters related to this project. He said they will attend the next two meetings and that's really about it.

Director Richards asked if this resolution is what used to be called an inducement resolution.

Mr. Colis replied the short answer would be yes.

Jim Hilmer, of W.Y. Campbell & Company, said they are 95% sure the bond issue will be five million dollars. He said they have done a not to exceed 5.5 million dollars in case during the tax talks or talks with Arbor Hospice there may be a bump up of \$100,000 to \$200,000, adding that they decided it is better to put it in this resolution rather than have to come back in front of the board later. He said he also wanted to clarify the relationship with the letter of credit bank and the Trustee and in this situation they will be looking at US Bank, National Association as Trustee. He said they will pay the investor's interest and principle when due and how they pay them is to withdraw directly on the letter of credit bank, so in this case Comerica Bank will pay the Trustee interest or principle, Trustee will pay the investor, after that the bank will look to Arbor Hospice to get reimbursed for those payments. He said if something ever goes wrong, if there's a default situation or a bad situation occurs, the Trustee will draw on Comerica Bank for the full amount of the bond outstanding plus accrued interest, the bonds will be completely paid off and then its' Comerica Bank and Arbor Hospice who will go into a "workout" situation to figure out how much money the bank can actually get out of Arbor Hospice for their payment. He said the EDC and the Township is never going to be liable for any of those funds, all monies are paid through that draw on the letter of credit.

Mr. Colis said when they come back for the bond authorizing resolution they will have that exact final amount in that resolution so that amount will come back to the board.

Supervisor Walter asked for a timeline in terms of public hearings and publications.

Mr. Colis said the Township Board will meet again next Tuesday where they will appoint the Directors and actually direct the publication of the public hearing. He said in between the time that the hearing is conducted and after the Directors are appointed the EDC should meet again, adding that it could be the end of next week or the beginning of the following week to consider the amendment to the project plan because that should be conducted prior to the actual public hearing. He said once the public hearing takes place it can be the next day or within a few days the EDC meets again to adopt the bond authorizing resolution. He then asked if there was a public hearing date already.

Supervisor Walter replied September 13, 2005 would be the next Board meeting.

Mr. Colis said then that would be the date they would publish and have the public hearing. He said shortly thereafter the bond authorizing resolution can be adopted and that would be it for the meeting process. He said because this is a refunding bond transaction as opposed to a new issuance the EDC will have three meetings but the Township Board is just going to have one additional meeting it's a little more simplified process just because they are doing a pure refunding transaction. He said by the middle of September they

should be completed with the proceedings and he thinks they will try to close by the end of the month.

Mr. Hilmer asked if on September 13<sup>th</sup> the public hearing was being held and if there was any way to do an authorizing resolution at that public hearing or are there days needed in between.

Mr. Colis said the public hearing is conducted by the Township Board and the Board of Directors of the EDC would meet to adopt the bond authorizing resolution shortly after the Township Board meeting.

Mr. Hilmer asked if they could be authorized to go out with a preliminary prior to the bond authorizing resolution.

Mr. Colis said Mr. Hilmer was asking if his company can print a preliminary offering document prior to actually having the bonds authorized by the EDC. He said he replied yes but that means that Arbor Hospice takes the risk that they have submitted a document to the market but to the extent the EDC doesn't adopt the bond authorizing resolution then that is a risk that Arbor Hospice's takes.

Director Schroer asked why they would want to do that.

Mr. Hilmer said from the underwriting point of view, they are on a very tight schedule because of the original investor. He said Eaton Vance has given Arbor Hospice an opportunity under a short window to be able to refund these bonds.

Director Schroer asked if Mr. Hilmer goes out with a preliminary offering then he does not think he will have problem?

Mr. Hilmer replied no, if he goes out with a preliminary he is simply trying to garner investor interest in financing. He said the process is he goes out with a one week preliminary offering memorandum, that gets a whole universe of investors down to a few, one week after that when the bonds have been authorized he would price and go for final confirmations from investors that they will buy these bonds which is another one week period, making it a two week selling period leading up to a closing. He said in order to hit the business date of October 3, 2005, they have to close on September 29, 2005 and to do that he looks at September 29<sup>th</sup> works back two weeks and sees that he pretty much has to be in the market with his preliminary by September 13<sup>th</sup>-14<sup>th</sup>. He said if the EDC does not authorize the bonds he can always pull them back, he can pull back that preliminary and say it has not been authorized. He said it is only after he goes and takes final confirmations he is really selling the bonds, however he will not do that until after there is a bond authorizing resolution and he is legally able to sell the bonds.

Mr. Colis said there really is a timing mechanism associated with this and there is going to be a significant difference in interest cost associated with these two bond issues. He said to the extent it is possible it makes a lot of sense for Arbor Hospice to try to take advantage of this opportunity.

Enders Dickinson, CFO of Arbor Hospice, said they are very excited about this refinancing with Eaton Vance. He said there is very low probability that they would approve proceeding with an alternative financing at this time, the original bond offering had an original call date of February 2007 and the alternative was to wait until that date or negotiate with them on earlier refinancing. He said this refinancing will allow them to reduce the outstanding debt from six million to about five million or somewhat lower. He said it will reduce their annual interest cost by about \$275,000 and the interest rate comes

down, and as Mr. Colis mentioned their coupon rate now is 7.875% but in addition to that they have compensating sinking fund balances that are required at the Trustee of over one million and that money would then be freed up with this alternative financing. He said he had a summary of major points and a financial trend over the last five years that he will leave with the Directors. He said the debt number that shows is 7.9 million and that includes \$300,000 of short-term borrowings that were at the time of 1997. He said he will also be leaving the Directors with a couple copies of their last audited financial statement

Motion by Director Lirones, supported by Director Schroer, to adopt the resolution to approve Arbor Hospice Project for 2005 refunding. (See Attachment 1)

**ROLL CALL VOTE:**

**AYES:** Hadden, LeClair, Lirones, Maloney, Meyer, Richards, Schroer.

**NAYS:** None.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION CARRIED.**

- 6.2 Discussion regarding Appointment of two (2) additional Directors to the Board of Directors of the Economic Development Corporation, related to the Arbor Hospice Project.**

**7.0 Adjournment** by President Meyer at 5:35 p.m.

ECONOMIC DEVELOPMENT CORPORATION  
PITTSFIELD CHARTER TOWNSHIP  
COUNTY OF WASHTENAW, STATE OF MICHIGAN

RESOLUTION TO APPROVE ARBOR HOSPICE PROJECT - 2005 REFUNDING

August 17, 2005

WHEREAS, there has been presented to the Board of Directors of The Economic Development Corporation of the Charter Township of Pittsfield (the “EDC”) a proposal relating to the refunding of the EDC’s Revenue Bonds, Series 1997A (Arbor Hospice Project) (the “1997 Bonds”), the proceeds of which were used to pay part of the cost of the acquisition, construction and equipping of a hospice located in the Pittsfield Charter Township, County of Washtenaw, State of Michigan, for use by Arbor Hospice and Home Care, a Michigan not-for-profit corporation (f/k/a Personalized Nursing Services, Inc. d/b/a Arbor Hospice, Home Care & Care-Ousel) (the “Applicant”); and

WHEREAS, said refunding of the 1997 Bonds is permitted by Act 338, Michigan Public Acts of 1974, as amended (the “Act”), and will assist the Applicant in providing programs, services and facilities in the Pittsfield Charter Township (the “Incorporating Unit”); and

WHEREAS, it is desirable to begin proceedings under the Act by authorizing and directing the Applicant to prepare an amendment to the original Project Plan approved by the EDC that describes the refunding of the 1997 Bonds with the refunding bonds (the “Bonds”) and requesting the Township Board of the Incorporating Unit to call a public hearing regarding the refunding and the issuance of the Bonds; and

WHEREAS, in order for the Applicant to be able to be reimbursed from bond proceeds for certain expenditures made prior to the issuance of the bonds and the receipt of the bond proceeds, the EDC must declare its intention to reimburse such expenditures; and

WHEREAS, it is appropriate for the EDC to appoint bond counsel for the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. In order to assist the Applicant, and subject to the hereinafter special provisions, the EDC tentatively agrees to issue its economic development limited obligation revenue refunding bonds in an amount presently estimated not to exceed Five Million Five Hundred Thousand Dollars (\$5,500,000), for the purpose of paying all or part of the cost of refunding the 1997 Bonds and paying the costs incidental to the issuance of the Bonds to the extent permitted by the Internal Revenue Code of 1986, as amended. The Bonds will be issued pursuant to the Act provided that a loan agreement and other documents and details pertaining to the Bonds are prepared with such provisions and details as are acceptable to and approved by this Board of Directors and provided, further, that all other necessary action is taken in conformance with the Act and provided, further, that the Bonds can be sold.

2. The proceedings and agreements relating to the EDC's assistance by issuing the Bonds shall contain such provisions and details as shall absolutely and completely make certain that under no circumstances will the EDC, the Incorporating Unit, the State of Michigan or any of its taxpayers or citizens, ever be required to pay the

principal of and interest on, or any costs relating to the Bonds from tax revenues or other funds of such governmental units, and shall in addition contain provisions fully protecting the EDC, the Incorporating Unit and the State of Michigan against any other liability and all costs relating to the Bonds.

3. By adoption of this resolution the EDC assumes no obligation or liability to the Applicant for any loss or damage that may result to the Applicant from the adoption of this resolution and all costs and expenses in connection with the issuance and sale of the Bonds and all costs of the issuance of the Bonds and any and all other costs relating to the issuance and sale of the Bonds shall be paid from the proceeds of sale of the Bonds or by the Applicant.

4. The firm of Miller, Canfield, Paddock and Stone, P.L.C. of Detroit, Michigan (“Miller Canfield”), is hereby designated and retained by the EDC as bond counsel with respect to the Bonds and is authorized and directed to prepare and submit to all appropriate parties all proceedings, agreements and other documents as shall be necessary or appropriate in connection with the issuance of such Bonds, to make application on behalf of the EDC to the United States Internal Revenue Service and other governmental agencies for such income tax and other rulings and approvals as may be necessary in relation to the issuance of such Bonds, and the Secretary of this EDC is authorized to execute such powers of attorney and other documents as may be appropriate in connection with the foregoing. The legal fees of Miller Canfield for work done in connection with the Bonds shall be paid from the proceeds of sale of such Bonds or by the Applicant and in any event shall be at no cost to the EDC.

5. The EDC has been advised that W. Y. Campbell & Company in cooperation with Comerica Securities, Inc. (together, "W. Y. Campbell") will act as placement agent for the Bonds and that Comerica Bank will provide a letter of credit as security for the Bonds. The EDC acknowledges that it has been advised that Miller Canfield has represented W. Y. Campbell and Comerica Bank in other transactions and may represent these parties in connection with the Bonds. The EDC consents to the representation of these parties by Miller Canfield in connection with the Bonds.

6. All resolutions and parts of resolution insofar as they conflict with the provisions of this resolution hereby are rescinded.

AYES: Directors \_\_\_\_\_  
\_\_\_\_\_

NAYS: Directors \_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Secretary

Attachment 1

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Board of Directors of The Economic Development Corporation of the Pittsfield Charter Township, County of Washtenaw, State of Michigan, at a special meeting held on August 17, 2005, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Directors were present at said meeting

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ and that the following Directors were absent

\_\_\_\_\_.

I further certify that Director \_\_\_\_\_ moved adoption of said resolution and that Director \_\_\_\_\_ supported said motion.

I further certify that the following Directors voted for adoption of said resolution

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ and that the following Directors voted against adoption of said resolution

\_\_\_\_\_.

\_\_\_\_\_  
Secretary