OCR Tysons Stakeholder Meeting Notes

MCA representatives were invited to a meeting on May 8th hosted at the Office of Community Revitalization (OCR) along with Tysons Partnership (TP) members, a number of attorneys, as well as senior County staff from P&Z, Transportation, Finance and Legal. [Assistant County Executive - Robert Stalzer also joined the meeting.] Sally Horn, Mark Zetts and Kathryn Woods attended for MCA.

The purpose of the meeting was to discuss financing options for the private sector share of Tysons-wide transportation improvements as laid out in Table 7. The private sector is being asked to pay 90% of improvements that lie mostly within Tysons. The County has set a "working number" of $506M for this share, a figure that Commissioner Walter Alcorn said is the outcome of a community and stakeholder process. OCR's Barbara Byron confirmed that the $506M figure does not include financing costs and said those must be borne by the private sector. (Note: Separately, the developers are responsible for the grid of streets estimated at $1.5B.)

Walter Alcorn said that the County staff and the PCTC have considered the option of two tax districts: a "Tysons-wide district" that would encompass all of Tysons and a so-called "amoeba district" which they understand to be the preferred TP approach and would include only the current rezoning applicants seeking approval for the high-density developments. Future rezoning applicants would join the "amoeba district." The tax rate in the Tysons-wide district would be small, but applicable to all property-owners in the district; the applicant tax might be between 22-29 cents per hundred. Byron noted that the Tysons-wide district could either be established by "petition" by the Tysons landowners or it could be County-imposed by the Board of Supervisors, and she had the impression that the BOS was prepared to take action to impose a district, if necessary. She also noted that there might be options for an "applicant specific approach" but that it would need to be legal, practical and guarantee that the required funding would be provided.

The County had several major issues with the TP proposal for the amoeba district and is generally not supportive of it:

1) Legal – This type of district is untested in the Virginia courts; the County Attorney's office does not believe that it would meet the Virginia Supreme Court requirements for tax districts. In response to a question from Sally Horn, he noted that the risk associated with a legal challenge would be a "hole in the budget" – at best, this would mean a delay; at worst, require the money be repaid to the landowners.

2) Financial – Len Wales, former County Debt Manager and now a consultant, said the County would plan on obtaining the upfront financing for the private sector share of transportation, which would then be repaid over time. The County seeks a combination of cash and debt. His issue is that, in order to secure a highly rated bond, there would need to be a stable base of revenue, which a broader and more stable district would offer. A reliable revenue stream means less risk for the bondholders, which lowers the interest rate of the bonds.

3) Practical – Not all Table 7 requirements for improvements within Tysons would fall within this proposed district, and funds raised within the district could only pay for improvements inside its boundaries. This is a critical problem for a tax district that would only include the rezoning applicants. A good portion of the Tysons road project would fall outside this district. Also, it is very difficult statutorily to change boundaries; yet future applicants would be expected to join the district.

TP favors this type of district because it does not require a petition of landowners - unlike a self imposed Tysons-wide tax district, which would need 51% of landowners. TP believes such a petition would fail.

Stu Mendelsohn said that some risk was acceptable and differed in interpretation of case law. He also argued that proffers could be used and that the Table 7 line items could be redefined to reallocate projects. While the proffers are defined as voluntary, it was agreed that they were in essence required.

Barbara Byron, OCR, made it clear that the County is favoring a combination of Tysons-wide and applicant financing. She said that the county is considering imposing a Tysons-wide tax district [if TP could not get one through petition]. Several options already being used in Fairfax County were presented: A transportation district like Route 28 and Dulles Rail; a sanitary district such as those for leaf collection and Community centers; or a service district such as those for insect control and stormwater.

All three districts [as well as the TP amoeba-style district] would provide for tax revenue linked to the Phase I of Dulles Rail district tax. Each could provide affected taxpayers with a stable $.22 tax rate – the current rate for Dulles rail – and, as that begins to phase out, the Tysons transportation tax would be phased in. Barbara Byron described these options as a "rail wrap". She pointed out that Georgelas had agreed to both a pro-rata share of costs for improvements based on his square footage and to joining a tax district.

The County wants transportation to lead in the development phasing vs. having transportation "chase" development. That is to say, the County would like the needed roads constructed concurrently or in expectation of imminent new development. Hence, predictability of a revenue stream and phasing were key considerations in any financing plan.

TP members expressed frustration about nailing down costs and funding mechanisms. The attorney for applicant Capital One said their rezoning case will get a public hearing before the Planning Commission in 60 days so they needed to know what costs would be imposed on them by the tax district. TP members want the cost of improvements locked down with some flexibility on projects, but not on the bottom line.

Len Wales said that the County would look for applicant cash contributions and tax district revenue extraction, and is considering the possibility of two districts. He noted that growth would pay for the lion's share of costs, but key questions are timing and whether the district can support a financing. He noted that Route 28 was 75% developerand 25% state-funded. The County could decide that fixed percentages be paid by applicants and by a Tysons-wide district.

In agreement with TP members, Len Wales said the County would model the cash flow for a "rail wrap" tax district at both a $.22 rate and a higher $.29 rate. And he will ask PFM, their financial consultants, to look at a $506M bond and model interest rates and time frame. He noted that the Silver Line Phase I payback period is about 30 years and should be done by 2034; the $.22 tax being paid by that tax district should begin to come down by a few cents in the next few years. With respect to the new Tysons-wide debt, he expected that would be repaid within an estimated 40-year period, depending on growth rate in Tysons. A comparison was offered to Tysons rail financing. Phase I tax district, which is contributing $400M, included $300M in debt and $100M in cash; debt service is about $18M a year; total costs will likely be $600M-$700M. Alcorn stated that it would be expected that Tysons landowners similarly would provide a significant cash contribution to financing the required transportation infrastructure and that he would like to see the debt repaid by 2052.

As an aside, the County Attorney noted the improbability of contributions to Tysons from the Commonwealth in the near-term (e.g., the next 5 or so years). Barbara Byron separately said that they were pursuing federal funds to help pay for the public share of funding. Regarding the size of Tysons revenue, Len Wales noted that the County has a $3.5B annual budget and that the value of Tysons is about $10-11B. This means that Tysons generates about $100M a year in real estate taxes and another $150M in other revenues for a total of $250M. Thus, it contributes less than 10% of the county revenues.

At the end of the meeting Byron summed up the "to do" list coming out of this meeting, including:

1. The County attorney and Stu Mendelsohn will discuss further the legal concerns that the TP proposal has raised;

2. Len Wales and PFM will model the private sector contribution costs at both the 22 cent and 29 cent rate and include in their modeling both inflation and debt servicing costs.