

September 2, 2009

TO: The Honorable Mayor, Shirley Franklin
The Honorable President of City Council, Lisa Borders
The Honorable Members, Atlanta City Council
Mr. Calvin Darden, President and Board Members, Atlanta BeltLine, Inc.
Ms. Peggy McCormick, President, Atlanta Development Authority

CC: Atlanta Public School Board
Fulton County Board of Commissioners
Atlanta Planning Advisory Board
Atlanta BeltLine Network
Atlanta BeltLine Partnership
BeltLine Tax Allocation District Advisory Committee

Your Honors, Ladies and Gentlemen:

The single most important task of the BeltLine Tax Allocation District Advisory Committee (TADAC) is to advise the Mayor, City Council, ADA and the ABI and others on the uses of TAD bond proceeds in the implementation of the Atlanta BeltLine. TADAC serves as the eyes, ears and voice of the Atlanta community in these regards.

Several weeks ago, ABI requested TADAC to review and assess ABI's proposed uses of proceeds from the upcoming issuance of BeltLine TAD Bonds and to provide advice and recommendations related thereto. Three possible scenarios were provided: (A) for \$79M; (B) for \$130M; and (C) for \$160M. TADAC has spent an enormous amount of time and energy in meetings among ourselves and with ABI representatives in order to respond to ABI's request.

For reasons cited and fully discussed in the attached report, TADAC is unable at this time to make any specific recommendation regarding the proposed uses of 2009 bond proceeds. We respectfully call upon the Atlanta City Council to respond to the findings of our report so that, in clarity, all parties may move forward responsibly.

The attached "Summary of Recommendations" outlines specific areas in which leadership, actions and responses are needed from the City Council to better enable TADAC to perform its legislated mandate and responsibilities. The Summary is followed by detailed discussions of our concerns. The full report was unanimously approved at a meeting of our members on August 31, 2009. It is our respectful advice that the legislative directions requested will also assist ABI in implementing the BeltLine vision in the most effective, equitable and accountable manner. We respectfully ask that TADAC be included in the development of remedies for all areas of concern.

While we acknowledge improved cooperation and responsiveness from ABI in providing needed information to TADAC, the timeliness and completeness of such information continue to be a major concern. Truly effective community engagement and participation in the BeltLine will not be realized in the absence of full cooperation, transparency and the TADAC's (i.e., the community's) access to complete, accurate, and timely information.

Immediate responses from the recipients of this letter (and others) will be appreciated. My email is EugeneBowensSr@aol.com and my phone number is 404-794-7327.

Yours for a Successful BeltLine,

Eugene H. Bowens, Sr., Chair
BeltLine Tax Allocation District Advisory Committee (TADAC)

**REPORT AND RECOMMENDATIONS
OF
TADAC**

**REGARDING PROPOSED USES OF
BELTLINE 2009 BOND PROCEEDS**

SUMMARY OF RECOMMENDATIONS

TADAC recommends that:

- 1. City Council direct ABI to include TADAC in any and all information regarding any project in the BeltLine regardless of funding source (including partnership arrangements);**
- 2. City Council clarify whether under the BeltLine legislation net bond proceeds is to be reduced by the amount of the 2008 TAD bond for purposes of the Affordable Housing Trust Fund or is to be funded from each dollar of bonds issued like the ADA charges.**
- 3. City Council give ABI express direction on whether the Economic Incentives Fund *must* be funded from each issuance of bonds and, if so, provide ABI specific guidance on how much should be funded (i.e., specify a dollar or percentage standard for funding this goal).**
- 4. City Council decide whether to require public art in the BeltLine to comply with the City's requirement that 1.5% of the funding for capital projects be used for public art and, further, determine whether to require those funds to be set aside from each bond issuance in a separate fund (similar to the Affordable Housing Trust fund or the Economic Incentives Fund).**
- 5. City Council implement structural changes (whether for these bonds or future) in the development of proposed uses and the review process so that TADAC is "at the table" when ABI's consideration of alternatives is taking place.**
- 6. ABI's principles and implementation choices be subjected to a community engagement process that is focused on what these factors mean when it comes to implementation of the BeltLine.**
- 7. City Council provide guidance about whether or when the 5-Year Plan should be revised or and/or a new 5-Year Plan created.**

DISCUSSION

TADAC is charged with reviewing and making recommendations on proposed uses of TAD bond funds. TADAC's review process highlighted a number of key points that resulted in the recommendations set forth below.

Among those points are the following observations: (1) there are a number of areas where policy decisions are needed by Atlanta City Council to either resolve differences of opinion between TADAC and ABI or to eliminate ambiguity or lack of clarity in the application of ordinances to the implementation of the BeltLine by ABI; (2) there are process issues that need to be addressed if TADAC is to be able to carry out its charge of providing recommendations to the City on the use of TAD bond proceeds; and (3) specific proposed uses merit discussion.

These recommendations are influenced by the recognition that evaluations of how the BeltLine is progressing--whether by City Council, the public at large, or TADAC in performing its mandated independent review function--will be difficult to make in the absence of specific, measurable, goals and objectives against which progress to date can be measured.

Policy Decisions Needed from City Council.

1. Scope of TADAC Oversight Needs Clarification. TADAC's interaction with ABI and efforts to carry out TADAC's various roles with regard to the BeltLine have, on numerous occasions, brought to the forefront a difference of opinion between TADAC and ABI on the scope of inquiries and oversight that are appropriate for TADAC to exercise. Implementation of the BeltLine is an undertaking that will require decades and a tapestry of funding sources to fulfill the vision of the BeltLine. Of necessity, ABI is interacting with and planning with funding sources other than TAD bonds and tax increment in the TAD district. These sources include both (a) public sources (such as the Department of Watershed Management, Parks Opportunity Bonds and Federal funding sources) and (b) private sources, including non profit organizations, the foundation community and sources identified and tapped by the Beltline Partnership. The use of these other funding sources and leveraging TAD funds with other funding sources is commendable. However, in order for TADAC to be able to adequately assess whether the plans and implementation to date are equitable ("Equitable Development") and how progress to date and planned for activities compare to the five year plan, TADAC needs to have timely and accurate information on all projects being implemented or planned to be implemented by ABI and its funding partners from whatever source. ABI's position to date has been that TADAC's roles should be limited to oversight and advice on TAD funds only and, as a result of that position, has not included TADAC in information sharing early and often

on projects throughout the BeltLine regardless of funding source. **TADAC recommends that City Council direct ABI to include TADAC in any and all information regarding any project in the BeltLine regardless of funding source (including partnership arrangements).**

2. Funding from "Net Bond Proceeds". Section 15 of the BeltLine legislation requires that 15% of "each TAD bond issuance" be put into the BeltLine Affordable Housing Trust fund. Similarly, ADA charges an administrative charge for assistance with bonds of 15 basis points (0.15%). ABI's position, in part based on a letter from Hunton & Williams, is that "net bond proceeds" should *not* include any portion of a bond issuance that is used to pay off existing bonds. Thus, ABI says that the first \$62.5 million of the 2009 bonds *does not* trigger an obligation to contribute \$9.375 million toward the Affordable Housing Trust fund.

ABI and ADA have had a difference of opinion on how ADA's charges should be computed. ABI has included funding for ADA's administrative charges on every dollar of bonds, not just new funds, in its proposed uses, but has not done the same for the Affordable Housing Trust fund.

In light of the legislative language and the differences of opinion, **TADAC recommends that City Council clarify whether under the BeltLine legislation net bond proceeds is to be reduced by the amount of the 2008 TAD bond for purposes of the Affordable Housing Trust Fund or is to be funded from each dollar of bonds issued like the ADA charges.**

3. Economic Incentives Fund . Section 12 of the BeltLine legislation requires funding of the Economic Incentives Fund from each bond issuance. Scenarios A and B do not include any funding of the Economic Incentives Fund. **TADAC recommends that City Council give ABI express direction on whether the Economic Incentives Fund *must* be funded from each issuance of bonds and, if so, provide ABI specific guidance on how much should be funded (i.e., specify a dollar or percentage standard for funding this goal).** TADAC would like to work collaboratively with ABI in developing a process that encourages both transparency and innovation in the use of Economic Incentive Funds.
4. Public Art . The Beltline 5-Year Workplan, adopted by City Council, shows \$1 million for public art in each of 2008 and 2009; failure to fund these commitments out of the 2009 bond proceeds (no public art funding was in the uses of the 2008 bonds) means that public art is falling behind as the BeltLine proceeds. **TADAC recommends that City Council decide whether to require public art in the BeltLine to comply with the City's requirement that 1.5% of the funding for capital projects be used for public art and further should determine whether to**

require those funds to be set aside from each bond issuance in a separate fund (similar to the Affordable Housing Trust fund or the Economic Incentives Fund).

Process Issues.

TADAC has repeatedly requested to be involved *early* in the process of ABI's efforts to develop proposed uses of bond proceeds. What we have been provided is a list of proposed uses, without any explanation of what other proposed uses were rejected or intentionally delayed in deference to the proposed uses. TADAC was not involved in any deliberative processes leading up to ABI's recommendations.

While the proposed uses may be sensible and many might support them, it is impossible to know if these are the best uses for the proposed bonds without consideration of what other options existed and how the trade-offs were made. Of necessity, then, TADAC's recommendations cannot be as fully informed and robust as they should be. **TADAC recommends that the City Council implement structural changes (whether for these bonds or future) in the development of proposed uses and the review process so that TADAC is "at the table" when ABI's consideration of alternatives is taking place.**

Beyond the specific process question, the "guidelines" that ABI has indicated were used to decide on uses include a group of "principles" described as "Design and Development Principles" that have not been subjected to a public review process. To the extent that those principles guided the decision making process there is a distinct absence of public influence over how funds are being used that needs to be corrected going forward. Further, questions have been raised about whether geographic balance and equitable development are being given sufficient consideration; to the extent bond proceeds allocation decisions utilize criteria such as "projects already started" or "projects funded but not started," these questions resurface and are compounded. **TADAC recommends that ABI's principles and implementation choices be subjected to a community engagement process that is focused on what these factors mean when it comes to implementation of the BeltLine.**

Finally, the BeltLine is now more than halfway through the 5-Year Work Plan. It appears that, for many reasons, some milestones and goals under the Work Plan will not be achieved. In its review of the TAD bond proceeds allocation, the City Council should fully understand how actual BeltLine progress compares with the 5-Year Plan and what aspects of the Plan are ahead and behind. This will help ensure that bond proceeds are used in a manner most consistent with and supportive of the 5-Year Plan and effective and with equitable implementation of the BeltLine. **The Council should also provide guidance about whether or when the 5-Year Plan should be revised or and/or a new 5-Year Plan created.**

Specific Uses. In light of the comments above concerning policy decisions, it is difficult to determine whether any given scenario is consistent with the BeltLine

legislation and Council's intentions. For example, if the Council says that the 15% for Affordable Housing is applied starting with the first dollar of bond proceeds, all of the Scenarios would materially change. Or if City Council says that public art should be funded from each bond issue, none of the scenarios should be acceptable as a result of the absence of such funding.

The proposed uses may be consistent with the guidelines that ABI has stated it is using, but a number of questions remain unanswered. A few observations can be made on the three scenarios that ABI has proposed for uses of funds:

1. It is not clear to TADAC when and how sufficient funds are being earmarked to move transit forward and to ensure that the BeltLine is positioned in a way to be able to match any Federal funds for which it qualifies. Absent vibrant transit, the BeltLine will be a string of parks and trails but will not satisfy the vision of transit connecting Atlanta's neighborhoods and contributing to solving the region's transportation problems.
2. It is not clear to TADAC that paying the 2008 bonds off in 2009 is desirable if the bond market will only support issuing enough bonds to pay off the 2008 bonds. It is not clear that paying off the banks is the only option in that fact pattern. Issuance costs are not insignificant and TADAC recommends that if the total bonds that are realistic to issue do not exceed Scenario A that ABI attempt to negotiate an extension of time from the banks holding the 2008 bonds rather than issuing bonds in an inhospitable marketplace.
3. Scenario B and C both include funds to satisfy the intergovernmental agreement with the Atlanta Public Schools. TADAC would like to know where APS (and/or ABI – it being unclear how the final decisions will be made) plans to install the ballfields contemplated by the agreement in order to understand how those projects fit into the bigger BeltLine picture.

Conclusion. The combination of the need for specific direction on the policy questions set forth above, the process issues in terms of when and how TADAC was involved, the absence of information on alternatives that were rejected and the rationale behind decisions (e.g., excluding public art from all scenarios, excluding economic development from all but Scenario C) make it infeasible to provide specific input and recommendations. Accordingly, TADAC's recommendations highlight the challenges presented and seek the policy decisions outlined above from City Council. Finally, TADAC requests structural changes in the process to allow the review and recommendations on all future bond proceeds to be more fully informed than this review has been.

Unanimously adopted by TADAC on August 31, 2009