Meeting Summary of the Environmental Financial Advisory Board (EFAB) Workshop on Transit-Oriented Development for Sustainable Communities

Alexandria, VA

May 24, 2012

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Summary of the EFAB Workshop on Transit-Oriented Development for Sustainable Communities

Welcome and Introductions

Speaker: Michael Shapiro, EFAB Designated Federal Official & Deputy Assistant Administrator for Water

This meeting/workshop of the Environmental Financial Advisory Board (EFAB) is officially gaveled to order.

I welcome the attending EFAB members, the expert witnesses from the EPA-supported Environmental Finance Centers, and our distinguished speakers and panelists.

EFAB is an EPA Federal Advisory Committee Act advisory group charged with providing advice and recommendations to the Agency on environmental finance issues.

This particular EFAB workshop will be focusing on examining a range of model approaches that could be used to finance transit-oriented development, or TOD.

As you can see from the agenda in your folders, we will be hearing today from a range of outstanding speakers with experience and expertise in transit-oriented development.

Workshop Overview

Speaker: Philip Johnson, EFAB TOD Workgroup Chair & President/CEO, Green Terra Energy Corporation

EFAB is looking at TOD in the context of sustainable communities. Its interest is infrastructure and getting the resources required to finance that infrastructure.

I strongly believe that our cities, counties, and states need to become more market-oriented and they need to know how to assess risk in order to successfully implement development that is both financially and environmentally sustainable.

These public entities will increasingly need to replace financing that can no longer come from government sources.

There are billions of dollars in this country whose managers seek good investment opportunities, e.g., pension funds.

Today, the Board is examining TOD case studies trying to find examples of best practices and seeking to identify what is needed to develop financing models that embody successful market-based approaches.

Financing TOD: Lessons from DC and the Nation

Speaker: Sam Zimbabwe, Associate Director for Policy, Planning & Sustainability, District of Columbia Department of Transportation

The definition of TOD can be elusive. TOD means a walkable neighborhood near high-quality transit. Size wise, TODs range from individual buildings to regional structures.

The market for TOD is strong and growing, but uneven. TOD demand will represent at least a quarter of the U. S. housing market by 2030.

Social equity is critical and multidimensional. Benefits don’t always accrue to those who finance the development, TOD or otherwise.

No one participant controls everything. TOD requires long-term flexible funding.

Equity becomes an issue when there is a mismatch in supply and demand. We want affordable housing, yet the demand for housing near transit raises prices, making subsidies for low-income housing more expensive.

TOD benefits include: affordability, improved public health and safety, economic development and competitiveness, revitalization without displacement, reduced carbon emissions, and policies and investments at all levels of government.

None of the players—developers, community, champions, transit agencies, local government, federal agencies, regional planning agencies—can do it alone.

We are seeing place-based collaborative investments: multi-sectoral public investment, philanthropy with community stakeholders, new forms of advocacy and social networks.

Transit doesn’t create the market, but it increases accessibility to destinations. The approach varies by location, and proactive investment is often needed.

The biggest challenges are: societal benefits (social equity, public health, etc.) don’t bring in much money and pay-offs are long-term (avoided costs, long-term revenues).

It is hard to match resources to needs (mostly in the public sector in a difficult short-term fiscal climate), and short-term payoffs (leveraging market, infrastructure costs).

Tax incentives must be used wisely and include accelerated payback. In the 1990s, DC was bankrupt, but tight control of tax incentives helped many successful developments.

To support TOD, a city needs: support for innovation (know of and how to use models); flexible, long-term funding sources and short-term innovation funds; a way to take on costs no one else will (important public role); reliable direct allocation of resources; and performance measures for spending tied to outcomes.

Steve Teitelbaum: The concept of different structures of different kinds of TOD is useful and important—they're not all the same. At the neighborhood and corridor scale, there are also different kinds of TOD.

<u>Transit-Oriented Development at EPA</u>

Speaker: Lee Sobel, Real Estate Development and Finance Analyst, US EPA Office of Policy, Office of Sustainable Communities

Smart growth benefits the economy, the community, the environment, and public health. It provides new choices for housing, working, shopping, playing, and getting around.

EPA is interested in smart growth because how and where we build has direct and indirect effects on the environment and human health.

The HUD, DOT, and EPA Partnership for Sustainable Communities' guiding principles include providing more transportation choices, promoting equitable and affordable housing, and enhancing economic competitiveness.

EPA has studied finance strategies for TOD in Salt Lake City, Utah (suburban TOD); in Wheat Ridge, Colorado (end-of-the-line station); in Atlanta, Georgia (new line and station); in Chicago, Illinois (a freight conversion).

The first step has been to look at every method these communities use to finance projects. From this, we created a matrix of some 50 financing sources and 29 finance tools and surveyed how communities were using them.

For each of the communities, based on priorities and context, policy solutions were derived, e.g., land disposition, joint development, shared parking, debt, value capture, federal grants, utility fees, private–public partnerships, bonds, land bank, tax increment financing, anchor institution, and structured funds.

For each, we identified the appropriate entity that has the capacity to carry out the project and the approaches that are viable.

Some communities use a tool in conjunction with other tools, while others do not, using layered financing based on timing, financing structure, and market-based considerations.

Bundling is one aspect of many good TODs. Bundling different infrastructures or capital projects into one bond or financing saves time in underwriting.

TOD happens more often in a stronger market, while land banking happens more in a weaker market. We need to know how to create a land-banking scheme for TOD.

David Eberle*:* In Idaho, part of the problem in attracting capital is identifying the level of risk involved with TOD. Bond suppliers do not have expertise to assess risk and risk management, so we must educate new investors.

Panel 1 - City Experiences: Challenges and Successes

Moderator: Leanne Tobias, EFAB Member & President of Malachite LLC

There is promising quantitative data about TOD for community real estate development with regards to income appreciation and total returns of office properties near transit.

Property is more valuable because of higher sales prices, not increased income per square foot. Properties near suburban transit appreciate more rapidly.

Panelist: David Eberle, Member, Boise City Council; Commissioner, Boise Urban Renewal Agency; Commissioner, Community Investment District

The 20^{th} century city was built for the automobile. Miles of single-family housing were built with no transit services.

Land consumption is a consequence of not internalizing the true cost of infrastructure. Governments used an average tax, but did not properly price the infrastructure costs.

Investors must also look at tax structure and policy. TOD will result if they truly cost the price of infrastructure.

Lowering risk is very important to financing, and constitutes a structural barrier for small cities without dedicated revenue.

When communities in a metropolitan area want to cooperate, it generates a lot of work for local agencies, which creates a huge time challenge. In developing a central city, one must keep suburban communities happy and involved.

Transit corridors must be identified and included in a comprehensive plan that aligns land use designations and zoning to promote TOD densities.

Developers need certainty and reduced risk for a project to succeed. Boise's ordinances are being revised to migrate from prescriptive to criteria-derived laws (e.g., zoning).

Eight policy guidelines: support transit, facilitate appropriate densities, be place making, include pedestrians and bicycles, manage transit and vehicles, address parking needs, include outreach, and address energy and environmental concerns.

TOD is important; we have to figure out how to fund it; but every community is different.

Panelist: Alexander Iams, Commercial Development Planner, Arlington Economic Development—City Experiences: Crystal City Plan, Arlington, Virginia

More than100 community meetings were held to improve Crystal City without losing what is valued. Participants conducted market studies to create a preliminary plan to market demand for planned uses, analyze factors affecting feasibility, tax benefits, etc.

The easy option was to re-let the buildings rather than to rebuild. Analysis was applied to when demand would occur according to developers, age of buildings, and other factors. From a taxable perspective, redevelopment spurs $100 million over doing nothing.

A concept plan was adopted to break up super blocks, create a 2-acre park, rebuild the street with building sites for more hotels and retail space, and build a streetcar route.

By 2028, the Crystal City plan infrastructure costs will exceed $200 million, of which $128 million has been identified as money not yet available.

Through 2028 $1.1 billion can be generated by tax increment financing (TIF) to pay for infrastructure.

Panelist: James Alexander, Manager of Housing & Economic Development, Atlanta Beltline Inc.

Atlanta Beltline is an evolving 25-year project. A main goal of the project is to clean up land (toxics) along the rail corridor, remove rails, and build trails.

The Atlanta Beltline redevelopment poject is centered on reusing an abandoned rail corridor. It includes 22 miles of transit, 33 miles of trails, and 1300 acres of new parks within 2 to 3 miles of the city core. It also incorporates 5600 affordable housing units.

However, by building these amenities, some residents can no longer afford to live there, so an early effort is to ensure housing for a range of incomes and to leave the current residential character intact.

Incentives include an Affordable Housing Trust Fund, mandated for 15% of each tax allocation district (TAD). They want to create more than 5600 units over 25 years.

Parks will be nodes along the Atlanta Beltline, and incentives for development. Of the 33 miles of trails, 12 are now open to the public.

The funding plan totals over $2.8 billion. In 07/12, a 1-penny sales tax for transportation is likely to be implemented, with $600 million slated for Beltline projects. If enacted, it will be a game-changer, enabling a BRT line to run from center city to Cobb County.

In 10 sub-areas, master plans have been drafted for improved connectivity, new land uses (but not zoning), and higher intensity development (a new concept for residential areas).

Since 2005, more than 50 projects have been completed or are underway (i.e., the bond projects) within the TAD. More than 9000 new residential units and more than 700,000 square feet of new commercial space will be added.

Project funding is a problem. The main funding mechanisms are TIF, regional sales tax, planning and due diligence. They expect to use New Starts Funding, which costs money and time. If passed, a regional sales tax will be huge and will accelerate efforts.

Transportation, environmental, and housing issues coordination start at the executive level—the mayor has given the project priority. In addition, major departments have liaisons to the project. Coordination with the region and the state is more challenging.

Mr. Eberle: You need political support to work together across Agencies. The mayor furthers it for the central city, and then you move to county and state.

A Metropolitan Planning Organization is central. Enable the staff to do the work and bring forward a recommendation, and have a champion. Coordination can be a barrier.

Panel 2: The Economic Development Dynamic

Moderator: Tobias Rittner, EFAB Member & President/CEO, Council of Development Finance Agencies

Atlanta Beltline is arguably the country's most important development project.

Development and economic development involve a push and pull that can deter sustainability. We have to balance community decisions about jobs versus environment versus housing.

Panelist: Steve Teitelbaum, Senior Real Estate Advisor, Washington Metropolitan Area Transit Authority (WMATA — A View from Inside a Transit Agency

TOD is compact, mixed-use development, but there must be a synergy between transit and development; the transit cannot just be adjacent.

Transportation can lead to development, but it isn't automatic. It takes planning, zoning (a critical issue), a lot of financing and a lot of political will. There is a direct correlation between political will and TOD.

Transit agencies don't own very much developable real estate and they are not economic development agencies. They move people.

It is unusual for transit agencies to benefit from land value recapture taxes, even given the land value created by transit.

Many cities want public transportation; 95 have either a rail-based or a BRT-based system in place or planned. But, the capital costs and operating losses are daunting.

WMATA has found that parking attracts riders, but eliminates other development near stations. It is hard to reduce parking near stations to encourage development and still maintain ridership.

WMATA has also found that development may lag or not occur at all around stations if local governments lack political will and/or are ineffective.

For TOD, use is key, but mixed use is difficult. Not many lenders are interested in financing mixed-use projects, and not many developers can do mixed use.

The blessing of mixed use is that the diversity mitigates risk to some extent because something will be hot when something else is not.

Panelist: Steve Friedman President, S.B. Friedman & Co.—Keys to Success

Planning to create environments suitable for private development and transit is better characterized as development-oriented transit.

Sites and environment must meet use requirements—access, visibility, livability, services, useable spaces. The area around a transit stop should have public space, pedestrian and bike access to the station, and parking.

Six critical principles:

1. Provide a comfortable, pleasant walking environment in the station area.
2. Build a good vehicular and pedestrian grid or network around/for access to the station.

3. Provide a diversity of housing types and densities.
4. Encourage convenience services in the station area.
5. Provide for street orientation of housing.
6. Sites must meet private developer needs and be financeable as private projects.

Development financing is many layered. Commonly it is structured with real estate components—debt, equity, tax credits, tax increment financing (TIF), or payment in lieu of taxes (PILOT)—and/or public components—general funds, revenue bonds, TIF.

Transit improvements funding often takes the form of value capture mechanisms. These tools capture the increased private property values that result from public investment in transit.

There are several value capture mechanisms:

1. A special assessment—an added tax on a defined district that most benefits from the improvements, which offers a stable source of bond revenue.
2. TIF is a defined district form, which taxes property values above a base assessed value are diverted to the TIF district to fund infrastructure improvements.
3. Additional mechanisms include land value tax, joint development, transportation utility fee, and development impact fees.
4. Special service area (SSA)-like transit value capture is a more predictable and bondable funding source. It impacts development economics and feasibility, and requires significant property owner or taxpayer buy-in.

TIF offers a source of long-term funding but is speculative. Revenues depend on the development that actually occurs.

TIF eligibility requirements limit the use for new transit and new roadways, and existing obligations of overlapping districts must be respected.

Value capture funding can generate local matching funds for major projects. It requires a strong market, an existing base of value, and stakeholder support and consensus.

Value capture funding may need legislation and credit enhancements, but a layering of mechanisms can increase funding potential.

Panelist: Anita Hairston, Senior Associate for Transportation Policy, PolicyLink — Meaningful Community Engagement in Planning for Equitable TOD

Equity means just and fair inclusion. Achieving equity requires intentionality, focus, and a commitment to community engagement and participation.

Planning processes have historically excluded low-income, marginalized communities, and exclusion results in many people being cut off from access to opportunities.

Lack of engagement in the process has sometimes resulted in opposition to results that did not reflect community needs.

It is vital from the beginning to integrate the knowledge and wisdom of the community by empowering residents, building the capacity of communities to engage, prioritizing community knowledge and concerns, targeting resources to support ongoing engagement, and facilitating mechanisms that encourage mutual learning.

Community advisors help translate the benefits to the community, invite a diversity of groups, make the case for potential benefits, ask leaders to facilitate meetings, and set goals to ensure a critical mass of people from marginalized groups are represented.

The process is equitable if it is inclusive, accessible, and transparent.

Inclusivity may be aided by including representatives from civil rights organizations, faith-based organizations, community-based organizations, public health organizations, and workforce development and labor organizations.

To address accessibility, assess and accommodate any special needs, e.g., language.

To ensure transparency, work with community organizations, inviting them to development meetings. And, be clear.

Recent studies found that where investment in transit results in low- and moderate-income residents being displaced by high-income residents, ridership declines. .

Mr. Eberle: Ms. Hairston points out the displacement of less advantaged people. We must remember this because the people being displaced are essential to our communities..

Mr. Teitelbaum: In the DC, area, a task force is getting together to address affordability. If housing costs go up in desirable areas, transportation costs go down, so housing should be recalibrated to housing+transportation. Formulas should take this into account.

Mr. Friedman: The other piece is the need to build into planning mixed-income housing. Montgomery County, MD has had success with this. One unintended consequence is that the county's high school dropout rate has declined to 2%. We need to overcome opposition to integrating income groups because it resolves many social problems.

Ms. Hairston: All these things need to be measured. DOT is struggling with this, and incentivizing things that increase mobility and accessibility.

Ms. Tobias: We need a more in-depth discussion. Can there be a synergy between the points that makes these projects affordable. TOD projects have tremendous returns.

Mr. Johnson: Can we fashion models that would include these issues so we can incentivize or monetize a system to engage the private sector to finance these projects —perhaps short-term investments to fill gaps or gap financing with short-term guarantees.

We must think about different roles and different pieces: private sector role, private sector development, public development, risk profiles

Panel 3: Transit-Oriented Development Finance 1

Moderator: Kevin O'Brien, Executive Director, Great Lakes Environmental Finance Center at Cleveland State University

Panelist: Michael Pehur, Development Finance Consultant, Duane Morris

The Transportation Revitalization Investment District (TRID) Act is supplemental to the TIF Act in Pennsylvania. In Pittsburgh, the eITRID Study Area focused on ½-mile radius around the Liberty Bus Station, analyzed by short walks from the station.

Currently, the infrastructure is oriented to automobiles, lacks connectivity to the station, and is a poor pedestrian environment.

The station is heavily used, but poorly integrated with the surrounding neighborhood, in addition to the TOD-inhibiting factors of the surrounding parking and one-way streets.

Developers want to further multi-modal activity. Of the acreage, 33% is tax exempt and 60% is controlled by the government. The land is divided into small parcels and a few large potential development sites of which a high percentage are vacant or underutilized.

Using the TIF model to fund projects, they focused on site-specific and district-wide infrastructure by creating an eastern gateway to this area, beginning with reversing one-way traffic flow around the business district.

Value capture funding will cover implementation and maintenance with $400 million in incremental taxes flowing into the fund. eITRID's value capture strategy centers on standalone TIF financing for projects requiring large infrastructure investment and other development that contributes to the value capture fund, which in turn is used to create district-wide improvements and maintenance

Panelist: Nathan Betnun, Managing Director, Public Finance, Stone & Youngberg, LLC

Many projects exemplify transit driven development, as well as development-driven transit:

> ***Washington, DC:*** A bond was issued in 2001 to support building the NY Avenue Metro station. It was funded in a 3-way split between government, property owners and

developers. The project used a special assessment on property taxes—the amount paid was fixed from the beginning on residential not commercial owners—to repay DC.

LA, California: For the Placentia Redevelopment, the city acquired land for parking for a stop on MetroLink connecting Riverside to downtown Los Angeles, which has generated revenues annually from increases in property taxes. They could issue notes due in 2014.

Fairfax County, Virginia: To finance the Silver Line to Dulles Airport, developers met with property owners and levied a special tax on property owners based on 22 cents per $100 of assessed property value (this could go up to $40 cents). They will have to issue additional bonds to fund the $400 million.

Stamford, Connecticut: Harbor Point, the Stamford Transportation Center for the commuter line and Amtrak, was done in 2010. They issued $145 million in bonds to finance the infrastructure for development. Land was pledged and a special tax was levied on property owners. TIF revenues will offset paying the special tax.

Fairfax County, Virginia: For the Mosaic development, within a 10-minute walk of the Dunn Loring Metro stop, security for bonds was incremental property taxes and a special tax. Mixed-use development is under construction, and the project is 90% leased or sold.

Panelist: Kevin Warner, Vice President for Investments, Emerald Cities Cooperative

Various financial mechanisms are suited to TOD.

1. Structured financing offers single closings, private placements, and lower total costs.
2. TIF offers public benefits, and public uses versus private uses, but it is not a panacea and is not unlimited.
3. Payments in lieu of taxes (PILOT), or project revenue bonds, are TIF-like and self-financing.
4. Special assessment districts (business improvement districts [BID], community improvement districts [CID]) are useful for infrastructure and public amenities.
5. Density bonuses and public benefit incentives could be non-monetary. In essence you pay developers to develop.
6. Sustainability incentives and offset funds (beyond zoning requirements) could be energy efficiency, net zero, carbon reduction, transit, health care, etc.

Aligning interests in a non-traditional approach to financing offers incredible flexibility, and recognizes that one size does not fit all. There are public uses and private uses, and care must be taken to align public spending with public benefits. For example:

1. DCUSA at 14th Street and Park Road, NW sits over a Metro stop. There was a perceived gap in financing, but it was a problem in delivering financing. After 10 years, they brought in a buyer and CityBank bought taxable and exempt notes for the largest single

TIF development in the country that year. After its first year, the Target store's revenue was the highest per square foot in the country. Among the lessons learned was that the The underground garage was overbuilt 2-fold (because of the site's proximity to the Metro stop), but the TIF was under-projected 3-fold.

2. The Emporium Westfield San Francisco Centre was vacant for 7 years. It became 1.6 million square feet of mixed-use TOD. Lessons learned included: things aren't always as they appear and you don't get what you don't ask for. Since transit was already there, they just increased use of the existing structure. They met economic, employment goals. The city took space.

All projects are not the same. You have to tell the right story.

New markets are developing today, as are new sources of revenue. We must align resources with the right project; e.g., public non-profit hospitals are now required to invest in public benefits.

Mr. Haskins: Many communities realize such opportunities, but social benefits accrue to communities that are not captured.

Mr. Warner: It's happening. For example, Alameda County, CA approached its water and sewer utility with an interest in projects that reduce water and power consumption. The payback is not in dollars. A challenge is to find the drivers and package them.

Mr. Pehur: The Pittsburgh project had 6 to 8 different funding sources, mostly EB-5, in which foreign nationals invest in exchange for a visa.

The challenge is to find developers, some of whom are slow to discern benefits. We really need to market better on the real estate side.

Mr. Rice: The New York Avenue Metro stop is a good model, but we did not fully appreciate the magnitude of the effect of the stop on the increase in development. The private sector now says they would have paid not 30% but 70% of the project if they had known what the results would be.

There is a real need for due diligence in planning.

Mr. Johnson asked about energy efficiencies, e.g., solar generators on rooftops of businesses to power those businesses. It might reduce operating costs, but efficiency would be better.

Mr. Warner: The challenge with energy efficiency is that no one understands investing in savings revenues. We have to re-characterize savings as revenues.

District energy and micro-grids are popular. Peak-use plants could be used to add renewable on-site energy, and sell the power on the open market during low-usage times.

Panel 4: Transit-Oriented Development Finance 2

Moderator: Scott Haskins, EFAB Member & Vice President of the Global Water Business Group, CH2MHill

Panelist: Keenan Rice, President, MuniCap, Inc.—Primary Public Policy Issues

Mr. Rice explained how local governments evaluate decisions to invest in development noting that analysis from the public sector can be more complex because of the triple bottom line—people, planet, and profit).

New development may create an opportunity for increased taxes, which may justify public investment in a project (which may be needed to make it happen).

Best practices require a disciplined approach to public investment, including written guidelines must be applied to each project.

A review of policies of local governments elicited 10 policies consistently recommended throughout the country:

1. Is public assistance appropriate for this project, i.e., does the project merit public assistance; does it implement an adopted policy? We want to implement something that's already a goal for the local government.
2. Apply the "but for" test, i.e., quantitative and qualitative evaluation.
3. How much assistance is appropriate? What improvements qualify (state law and IRS ramifications)? What will the tax increment revenues support? How much can the local government afford? How much does the developer need?
4. What is the sponsoring government agency receiving in return for the TIF? This must be very specific. (TIF is both a financial and land-use development tool.)
5. What is the amount of private investment? (Is the public investment adequately leveraging private investment?) Look for $5 to $8 per public dollar.
6. Will there be sufficient surplus tax revenues to cover costs of public services required for the project?
7. Is the proposed TIF economically efficient (i.e., more tax revenues or benefits than the no-TIF alternative)?
8. Are there clear linkages between the properties in the TIF area and the TIF plan? The logic is that we're investing tax dollars created by that investment.
9. What are the risks associated with the TIF plan and have they been addressed? Identify the risks (which implies due diligence) and manage or mitigate them.
10. Will the public support the TIF? The previous 9 issues come down to this very important one.

These criteria are used on a standard basis. They recently closed on $60 million in bonds for a project in Fairfax County, VA. The public redevelopment process was costly, but Fairfax worked with the developers to make it work.

Panelist: Deborah Nisson, Vice President for Investments, ULLICO Investment Advisors, Inc.—Public–Private Partnerships

Public–private partnerships (P3) relate to infrastructure in 4 sectors—transportation, utilities, social services (hospitals, schools), and specialist services (bulk storage, logistics).

Infrastructure business entails: assets, management team, maintain assets, useful life of perhaps 40 years, and capital to manage the business.

Competing priorities and constraints include the contract agreement, daily operations and revenue collection, operating company senior management, and real estate providing essential services.

Long-term maintenance and capital expenses can be deferred; deferring either is bad, but both are deferred routinely.

Market realities include the economic environment and the state of infrastructure. The economy is in a severe fiscal crisis and U. S. infrastructure is poor (a "D" grade).

Water systems face an annual shortfall of $11 billion. Leaking water pipes lose 7 billion gallons a day. Electricity demand has not been matched by investment in new capacity. Roadway conditions are a significant factor in nearly a third of traffic fatalities.

P3s are contractual agreements that allow more private involvement, as well as risk. The private entity usually retains ownership.

A partnership can provide a critical service to the community and be a vital community asset. If the private partner fails to fulfill its part, the agreement is subject to termination.

Canada has done a good job of P3, and Great Britain will start to use their model.

Recent P3 examples are: design, building, financing, operation, and maintenance of the Long Beach, California, Courthouse; and construction and maintenance of a 2-km tunnel linking the Port of Miami, Florida to the MacArthur Causeway.

Every billion dollars invested in transportation creates 14,000 jobs directly and another 14,000 indirectly.

Other benefits are the increased efficiency and market effectiveness of existing firms, leading to an expansion of output and employment, increased business investments, and expansions at locations of improved accessibility.

Canada has progressed far, but the U.S. has not because U.S. democratic structure and culture are different. All states operate differently. But, with enabling legislation, P3s work well.

Panelist: Richard Norment, Executive Director, National Council for Public–Private Partnerships

The U.S. has a kaleidoscopic market. If the governor and lieutenant governor approve a bill, it gets to the House of Representatives and everyone wants to tweak the legislation. Then they cannot reach reconciliation.

Partnerships are built on the concept that the private sector has marketable skills. Management has to be efficient and competitive.

Most new technologies, e.g., energy efficiency in water use, are introduced by the private sector because they are driven by the bottom line. But, the public has the legal authority, i.e., control.

The secret is to balance the strengths of both the public and private sectors. The two sectors think differently and use different language sometimes.

The major advantage is shifting risk to the sector that can best handle it. For TOD, various other infrastructure—electricity, water, IT—must be in place.

Partnerships can be effective tools to deliver all of these.

Successful P3 are founded on 7 keys factors:

1. Public sector champion—a responsible spokesperson recognized by the public.
2. Statutory regulatory environment. No one will invest on a handshake.
3. Organized structure. Partnerships are complex and the public needs the expertise to evaluate them.
4. Contracts should be performance-oriented, not design-oriented. Detailed business plan.
5. Guaranteed and clearly defined revenue stream. There has to be a reasonable return on investment.
6. Stakeholder support. Partnerships require open, frank discussion with the general public, labor unions, competing interests, public sector employees; and knowing the facts.
7. Pick partners carefully, particularly in long-term contracts. Remember each sector's motivation. A company has to have deep enough pockets to complete the project.

Most important of all is strong leadership. For more information see www.ncppp.org.

Ms. Nisson: American investment funds are involved on the equity side, but on debt side it's mostly foreign banks.

Pension funds may also be involved. California was going to invest in infrastructure, so they had the state statute changed to allow them to do that. These fund managers are having trouble finding projects in which to invest.

The public sector may issue an RFP with insufficient due diligence regarding the required performance standard, but the investment community won't invest unless they see due diligence has been done.

Mr. Friedman: What kind of organizational, legal, managerial infrastructure does the public need to manage and monitor a project?

In Chicago, because a faulty due diligence process, lawsuits are being filed because parking meters cannot be used during public events. They also didn't cover handicapped parking (legally free) or street maintenance.

Mr. Norment: An interesting contrast is the Indianapolis negotiation of the same kind of contract 9 to 10 months after the problems in Chicago. In Indianapolis they have a dedicated team that understood the process, and went through and clearly defined every step, so Chicago's problems did not arise.

Governments' Roles

Speaker: Philip Johnson, EFAB TOD Workgroup Chair & President/CEO, Green Terra Energy Corporation

Given the current economic situation – deficits and the need to reduce the public debt – we need to find ways to engage the federal government in policy processes to provide ways and means for broader financing options, rather than relying on federal funding.

EFAB needs to consider recommendations on desirable policies. A basic role of government is providing a policy framework to facilitate development, create new models and innovations for policy and legislation needed to facilitate that.

We need to break down silos and find ways for agencies to collaborate, e.g., achieving the transportation bill was a struggle in this political climate, but the real world must come together collaboratively.

The ways that the government does business must change to get things done in an era of limited resources.

The role of the federal government has to change and it will. EFAB should make creative policy recommendations for assisting development and bringing together the private and public sectors.

Public Comment

There were no public comments.

Final Comments

Ms. Tobias: Most people in development or infrastructure planning become specialized, which gets them into "silos," but today we had a cross-section of specializations. All those perspectives should be incorporated into any report.

Mr. Haskins: The hard work is still ahead in summarizing the findings and recommendations.

Ms. Tobias: It would be useful if the material presented here could at some point be disseminated to communities to be used. EFAB should develop materials to help move the process forward at EPA and other agencies and with stakeholders across the U.S.

Mr. Shapiro: Are there any further comments or statements that anyone wishes to make. Hearing none, I thank all of you for your work here today and declare this meeting adjourned.

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