Official Minutes

Iowa Flood Mitigation Board

Iowa State Capitol, Room 116

April 30, 2013

The Iowa Flood Mitigation Board held its first meeting on April 30, 2013 at the State Capitol in Des Moines, Iowa. The meeting was called to order at 1:00 PM by Chair Mark Schouten. A quorum of voting board members was present.

In attendance:

Board Members:

Mark Schouten, Amy Kaleita, John Torbert, Arnold Honkamp, Bill Ehm on behalf of Chuck Gipp, Jake Friedrichsen, Carolann Jensen.

Ex-officio*: Robert Hogg, Jared Klein

Excused Absences: Lorraine Glover, Daniel Lundby*, Dan Zumbach*, Bill Northey

(* = nonvoting)

I. CONSENT ITEMS:

A. Approval to adopt the agenda
Bill Ehm moved for approval of the April 30, 2013 agenda; Arnold Honkamp seconded. Motion carried. [Attachment A]

II. REVIEW OF THE CODE OF IOWA, CHAPTER 418

The bill passed the Senate unanimously in 2011. The Iowa Code plans for mitigation at a local level with incremental sales tax revenue. The intent is for the state to partner with communities on pre-disaster mitigation projects to safeguard our citizens, our economy and investors. This is a bill that is intended to work for communities in Iowa. At this time, there are no funds allocated to the flood mitigation fund therefore projects will be funded from the applying entity's tax increment. If there are communities where the sales tax increment does not work, the legislature should be informed.

Open bidding on projects will be required, following Chapters 26 and 573 of the Iowa Code. Projects have to receive at least 20% of the total cost in federal financial assistance. If the project receives funds under the FEMA Hazard Mitigation Grant Program, it is not eligible for this money.

The board can start accepting applications as soon as they determine to do so. The board will not accept applications after January 1, 2016. The tax incremental financing will be made available as of January 1, 2014.

Project Funding
There are some issues with the interpretation of the funding distribution within the chapter 418.9 subsection 2.d. The City of Dubuque submitted a comment letter which interprets the language as the sales tax being 50% of the total project cost. The remaining 50% must be a combination of state and federal funds.

Senator Hogg commented that the original intent was to offer communities the most flexibility through a 20% federal share and split the remaining cost 40% local matching funds and 40% sales tax increment fund. HSEMD staff will consult with the Attorney General on this issue.

The board will consult with the Department of Economic Development to verify the economic impact the application will have to that area.

If the board receives an application that will not be supported by the tax incremental fund, the board will consult with the Department of Revenue.

Independent review (Ch. 418.9 subsection 3)
The board may request an independent review of a project to verify the project impact is accurate. If an application is denied, the reasons will be communicated to the entity.

Bonding
If the entity issues bonds, they will be required to follow any state statute that applies. The board is considering requiring notification from the authorizing bond council prior to approving the project.

Duration
Once approved, the application will go to the Department of Revenue who will determine how much revenue can be generated. The maximum tax generation for all approved projects in one year is $30M. A single project can only receive $15M in a year. The entity is only eligible to keep 70% of the revenue generated. The 30% remaining goes back to the State General Fund.

The sales tax revenue is may be used for 20 years after approval from the board.

The Department of Revenue will calculate the base year using the fiscal year in which the project in approved. The law then requires the comparison of the subsequent calendar year. There is a lag time needed by the Department of Revenue to calculate tax revenue.

The Department of Revenue will hold some funds to average the 70% of earning throughout the year. The language of the bill says when the project has reached the limit, the Department of Revenue is to remit the money to the State General Fund. It is the Department of Revenue's interpretation that any project that exceeds the limit, those funds will be moved to the State general fund.

Department of Revenue will work very closely with the board, to plan for the cash flow into the future. It would be up to the cities and bond council to determine if they have the cash flow. There are pockets in the state where an increase in sales tax will be low and significant bonding may be difficult. Bonding companies will do a rating which will assist the board in determining the economic feasibility of the project.

III. REVIEW AND DISCUSSION OF DRAFT ADMINISTRATIVE RULES

The board has to approve the Rules before they are submitted. The board determined to "double-barrel" the Rules so as to best serve the schedule set out in the statute.

The draft Rules and application will be available for public review and comment on the Iowa Homeland Security and Emergency Management website: http://www.iowahomelandsecurity.org/about_HSEMD/flood_mitigation_board.html. Comments should be sent to John Benson, John.Benson@iowa.gov or he may be contacted by phone at (515)725-3231.

IV. REVIEW AND DISCUSSION OF DRAFT APPLICATION

The application breaks out into two parts: the eligibility of the project and the revenue. The application components include: applicant's information, project plan, mitigation impacts, schedule, cost which includes their match commitment.

Costs that may be incurred such as interest are not considered an eligible match. It is considered to be the cost of doing business and is not a match.

The board will consider if a multi-phased project which include costs not covered by federal funds are eligible for funding.

The board will establish the mechanism of how projects are to be evaluated and scored and whether funding be first-come-first-served. Bill Ehm (DNR) asked that a scoring system be incorporated into the application and that projects designed to protect existing infrastructure be given favor over those projects that would allow the creation of new infrastructure in the flood plain.

Larry Weber of the Iowa Flood Center cautioned that the incremental tax revenue program could result in unintended consequences. A possible scenario could be that a community would define a tax district, provide flood protection to a certain design level, engage in business development to enhance the district's tax increment to repay project bonds, and then have even greater economic loss when a future flood exceeds the flood protection design level.

V. ESTABLISH BOARD MEETING DATES AND TIMES

The board will hold its second meeting the first week of June. Meetings will be held in locations across the state to enable greater access to the public.

Board members will receive draft meeting minutes and summary of the comments received on the Rule and draft application. The Attorney General's office will be asked to advise on the calculation of the project cost distribution. This will also be shared with the board.

VI. PUBLIC COMMENTS

Joe O'Hern, City of Cedar Rapids: The City is interested in the increment issue. We have had discussion with the Department of Revenue and will work with them to calculate the increment. In terms of the project and the application, there is some concern over the definition of "project". There was

devastation on both sides of the river in 2008. The City has been approved by the Corps for a project on the east side but under their current rules have not been approved yet on the west side. There is a bill in Congress that includes the City of Cedar Rapids. That would be phase two of attaining the Corps approval. If Cedar Rapids would define a project as both sides of the river, the project would not have federal approval. There are a number of projects related to mitigation on both sides of the river. Cedar Rapids has a FEMA program that buys out parcels (97) for green space. We also have CBDG projects and a federal grant to protect the east side of the river. We have substantial amount of federal funding that could be encompassed in a citywide project. What is likely is that funding will come over time. It is hard at this point to put a hard number to that. The Corps project is over $100M – the Corps paying 65%. There are changes along the way.

City of Dubuque: The City of Dubuque sent a letter which was distributed today. The legislation outlined that the bonding is a way to pay for the project over time. There is a finance costs to issuing debt and the City would like to know if those costs are included. There were other places where Chapter 418 did not match the language in the application. The 36 month completion deadline is not feasible as there may be delays. At the end of the 20 year period, would the entity be left to pay the remaining balance if it comes up short at the end? Similar to the hazard mitigation program, there is a project officer to make sure the project is complete; the City would like to make sure those officers are available through this process.

Chair Schouten thanked the board for their commitment to the process. There being no further business, the meeting was adjourned at 3:37 PM.

Attachment A

STATE OF IOWA

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

DEPARTMENT OF PUBLIC DEFENSE
IOWA HOMELAND SECURITY AND
EMERGENCY MANAGEMENT DIVISION
MARK J. SCHOUTEN, HOMELAND SECURITY ADVISOR
AND EMERGENCY MANAGEMENT ADMINISTRATOR

Iowa Flood Mitigation Board

1:00 PM - Tuesday April 30th, 2013
Iowa State Capitol, Room 116
Mark Schouten, Chair
Dr. Amy Kaleita, Vice Chair

PROPOSED AGENDA

- Welcome and Introductions
- Approval of Agenda
- Review of Code of Iowa, Chapter 418
- Review and Discussion of Draft Application Package
- Review and Discussion of Draft Administrative Rules
- Establish Board meeting dates and times
- Public Comment
- Adjournment

http://www.homelandsecurity.iowa.gov/about_HSEMD/flood_mitigation_board.html

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THE CITY OF DUBUQUE
Masterpiece on the Mississippi

Dubuque All-America City 2012

April 29, 2013

John Benson
Legislative Liaison/Alternate State Coordinating Officer
Iowa Homeland Security & Emergency Management
7105 NW 70th Ave.
Camp Dodge, Bldg. W-4
Johnston, IA 50131

VIA EMAIL

RE: Flood Mitigation Program

Dear Mr. Benson,

The purpose of this letter is to advise you of some apparent inconsistencies between Iowa Code Chapter 418, the legislation establishing the State's Flood Mitigation Program, and the Draft Application for this program.

Without clarification, we believe these issues could prevent communities from taking full advantage of the Flood Mitigation Program and leave them at continued risk of future flood damage. We describe these issues below in order of priority. We have attached additional information to help illustrate our concerns.

1. Calculation of Local Match Funding

A calculation used in the Draft Application does not appear to match the legislative language. The legislation dictates that the Flood Mitigation Program funding cannot be more than 50% of the total project cost, and that the remaining funds must be a combination of federal and local funds. In contrast, the Draft Application outlines that the Flood Mitigation Program funding cannot exceed local funding.

Section 418.9(2)d states: "The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal assistance for the project, is funded using local matching funds".

This language establishes that that the maximum state flood mitigation funding that the board can approve for a project is 50% of the total project cost. The remaining 50% must be a combination of federal and local funds.

The legislation requires that the *combination* of local and federal funds must equal the state flood mitigation funding. The Budget Detail (Tab C-2) of the Draft Application requires that the local match must equal the state flood mitigation funding. Please see the enclosed ***Appendix A***

for additional information comparing the calculation of local match in the legislation and in the Draft Application.

The calculation of local match is critically important for communities. We hope the Draft Application will be revised so that the *combination* of federal and local funding will be at least 50% of the total project cost.

2. Interest on the Bond is Part of the Project Cost

It is clear that the legislation anticipated and allowed for a community to issue bonds for a project and to utilize the state flood mitigation sales tax revenue to help retire the debt. But it is unclear how the project costs associated with financing the project should be reflected in the total project cost.

Section 418.14(1)c states: "The costs of a project may include but are not limited to...interest during construction or reconstruction and for one year after completion of the project...and such other costs as are necessary for the construction or reconstruction of the project and financing thereof."

Section 418.12(4)a states: "In lieu of quarterly requests, (the City) may submit a certified schedule of principal and interest payments on bonds issued." The department of revenue shall then "(remit) . . . the amounts necessary for such principal and interest payments in accordance with the certified schedule."

Section 418.13(1) states: "Sales tax revenue remitted by the department of revenue . . . shall be used to fund the costs of the governmental entity's approved project and to pay principal and interest on bonds issued."

Interest on bonds issued to fund a project (20-year bond maximum) will be a significant part of the total project cost. We believe the bond interest should be treated as one of the line items that make up the total project cost.

3. Inconsistencies between Application and Legislation

There are two instances where the Draft Application language does not conform to the legislation, as identified in the enclosed ***Appendix B***.

We recommend revision of the Draft Application to match the legislation as follows:

1. "if the larger project is a part, otherwise" be changed to "if the larger project, of which the project is a part, otherwise"
2. Language relating to the calculation of maximum state award.

4. Project Completion Deadline

The Legislation does not mention a project completion deadline, but the Draft Application (Tab A, page 5) reflects a 36-month total project duration. The size and complexity of flood control projects require prudence. The legislation does not set a project completion deadline.

We recommend that the Administrative Rules should reflect that the Board can grant extensions to the 36-month deadline, on a case by case basis.

5. Bonds - relating to the project approval date

Per the legislation, the governmental entity can collect sales tax revenue for a period of 20 years following the board's approval of the project, not 20 years following the issuance of debt for the project.

Section 418.15(1) states: "A governmental entity shall not receive remittances of sales tax revenue under this chapter after twenty years from the date the governmental entity's project was approved by the board."

Depending on when the board approves a project and when the debt is issued, the last bond payment may not be covered by sales tax increment due to the 20-year limitation in the legislation.

We recommend that the Administrative Rules establish that the "board approval date" be considered the same as the bond date set forth in the approved certified schedule submitted to the Department of Revenue pursuant to Section 418.12(4)(a).

6. Project Officer assigned to each applicant

The Draft Application proposes that a "Project Officer will work with you to ensure that your application is complete, which may require multiple revisions." The availability and work load of a Project Officer may slow the application review and approval process.

We recommend that the Board ensure that Project Officers are available and will have the time to respond in a timely manner.

Conclusion

The State Flood Mitigation Program will be a vitally important source of funding for communities across Iowa. Thank you for your consideration of our comments. Please feel free to contact me or Assistant City Manager Teri Goodmann for more information or with any questions.

Sincerely,

Michael C. Van Milligen
City Manager

Attachments

cc: Teri Goodmann, Assistant City Manager
Gus Psihoyos, City Engineer
Deron Muehring, Civil Engineer
Jenny Larson, Budget Director
Laura Carstens, Planning Services Manager

APPENDIX A

Calculation of Local Match Funding

Pertinent Legislation:

Section 418.9(2)d: "The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal assistance for the project, is funded using local matching funds"

Legislation Section 418.9(2)(d): 50% x Total Project Cost – Federal Assistance = Local Match

Total Estimated Cost		300,000,000

Federal Funds (at least 20% of total)	$ 60,000,000 (20.0%)	
Local Funds	$ 90,000,000	
Total Federal and Local Funds (at least 50% of total)	$ 150,000,000 (50.0%) →	$ 150,000,000
Sales Tax Revenue Share (max 50% of total)		$ 150,000,000

Draft Application Tab C-2 (Budget Detail): (Total Project Cost – Federal Assistance) x 50% = Local Match

Total Estimated Cost		$ 300,000,000
Federal Funds (at least 20% of total)	20.0% of total	$ 60,000,000
Non-Federal total		$ 240,000,000
50% Sales Tax Revenue Share of Non-Federal total		$ 120,000,000
50% Local Share of Non-Federal total		$ 120,000,000

Legislation:

Local Match = $90,000,000

Draft Application:

Local Match = $120,000,000

Comparison of Local Burden:

Additional Local Share = $30,000,000

In this example, the governmental entity will have to locally fund $30,000,000 more of the project due to the draft applications incorrect interpretation.

Recommendation:

Change Application Tab C-2 to match the legislation requiring that the *combination* of federal and local funding be at least 50% of the total project cost.

APPENDIX B
Draft Application inconsistent with Legislation

Iowa Homeland Security & Emergency Management
7105 NW 70th Avenue
Camp Dodge, Bldg W-4
Johnston, IA 50131

DRAFT with Budget

Iowa Flood Mitigation Program (FMP)
Flood Mitigation Project Application

What is the Iowa Flood Mitigation Program?

Authorized under the Flood Mitigation Bill, (Senate File 2217) the Flood Mitigation Program is funded by the Flood Mitigation Fund or the use of Sales Tax Revenues to provide funding to governmental entities to implement long-term flood mitigation projects.

Eligibility:

1) An eligible applicant is a governmental entity as defined under the Code of Iowa section 418.1, subsection 4.

2) Eligible project types include construction and reconstruction of levees, embankments, impounding reservoirs, or conduits that are necessary for the protection from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of flood waters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project is a part, otherwise meets the requirements under the Code of Iowa section 418.1, subsection 5.

Section 2:
Last line doesn't match legislation. Should be "if the larger project, of which the project is a part of, otherwise..."

3) For the project to be eligible for sales tax increment funding it is required to have been approved to receive federal financial assistance under the Water Resources Development Act (WRDA), Environmental Protection Agency (EPA), or other federal program providing assistance specifically for hazard mitigation. The federal award must be in an amount equal to at least twenty percent (20%) of the total project cost or thirty million dollars ($30,000,000), whichever is less. Code of Iowa section 418.4, subsection 3b.

4) For the project to be eligible for flood mitigation funding or sales tax increment funding, the governmental entity shall provide a local match of at least fifty percent (50%) of the total cost of the project less any federal financial assistance. Code of Iowa section 418.9, subsection 2d.

Section 4:
This is not the same calculation as described in the legislation.