MFP #4
January 25, 2010

MEMORANDUM

January 21, 2010

TO: County Council

CHS

FROM: Charles H. Sherer, Legislative Analyst

SUBJECT: Resolution to designate a Recovery Zone to enable the County to take advantage of Recovery Zone bonds created as part of the American Recovery and Reinvestment Act of 2009 (ARRA)

The American Recovery and Reinvestment Act of 2009 (ARRA) created two types of Recovery Zone bonds which can be used to promote economic development in areas of the County which the Council designates by resolution as a Recovery Zone. The two types of Recovery Zone bonds are "Facility Bonds" and "Economic Development Bonds". The attached resolution will designate the entire County except the agricultural reserve as the County's Recovery Zone. The resolution does **not** approve any bonds, so there is no fiscal impact.

Both types of bonds are designed to assist "Recovery Zones", consisting of areas (i) designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress, (ii) economically distressed, as designated by the issuer, as a result of the closure of a military base, or (iii) for which a designation as an empowerment zone or renewal community is in effect.

After the Council approves the resolution, the Executive will then be able to recommend using these bonds to fund specific County and private projects to promote economic development. The Council has to approve each project for such funding with a separate resolution.

Further background is in the table below and in the Executive's memorandum recommending that the Council approve the attached resolution to permit the County to take advantage of this funding.

- One objective of the ARRA bond programs is to make municipal debt more attractive to more investors.
- These bonds count against the $300 million ceiling.
- The debt service on these bonds will be included in the SAG calculation of debt service as a % of the operating budget.

- As Executive staff explain below, "In the case of the Facility bonds, the primary benefit resides in the fact that tax-exempt bonds can be used to finance projects that have a private use."
- The benefit to the County of using a Facility bond to finance a private project is that the private entity would pay the debt service.
- The Economic Development bonds are taxable and have a higher interest rate, and the Federal Government will pay 45% of the interest, so the interest cost to the County will be roughly the same as a General Obligation bond.

Council staff asked Executive staff to respond to the following questions. The responses follow the questions.

1. Why is there any benefit to the County of using a Recovery Zone Facility bond or a Recovery Zone Economic Development bond to finance a public project, when the County would pay the debt service?

In the case of the Facility bonds, the primary benefit resides in the fact that tax-exempt bonds can be used to finance projects that have a private use. If the County were to issue debt for, let's say the Live Nation project, under normal circumstances, the interest on the bonds would be taxable. Needless to say, the interest on taxable bonds would be higher than the interest on tax exempt debt. So in the case of County issued Facility bonds, the County is able to reduce its cost of funds. The RZEDBs (Economic Development Bonds) are somewhat different. Issued by the County as taxable bonds (higher interest rates); the Feds pay 45% of the interest on the bonds by way of an annual subsidy. That subsidy effectively reduces the cost of funds to near or below tax-exempt rates. This was true, for example, for the BABs (Build America Bonds) that we issued this past fall. The BABs have a similar structure, but the subsidy is only 35% and our net cost was below expected tax-exempt rates.

2. How does either type of bond differ in essence from a General Obligation bond?

The differences are only in structure and marketability – the security is the same as GO bonds for all Recovery Zone bonds issued for County facilities. Keep in mind that an objective of the ARRA bond programs is to make municipal debt more attractive to a wider audience of investors. RZEDBs are now attractive to investors who typically would not have an interest in tax exempt bonds, such as pension plans or 501(C) 3 organizations. Since the investor market is expanded for quality municipal debt, the demand has increased; therefore, the bonds are more expensive, which drives down the interest rates and lowers the cost of borrowing for issuers.

In most cases, Recovery Zone debt would be a general obligation of the County. However, if the County opted to issue Facility bonds and lend the bond proceeds to private borrower, then the debt would be an obligation of the borrower and not the County. That structure is typical of the County's conduit programs. The borrower must be creditworthy and the debt must be rated or backed by a financial institution.

Council staff recommends approval of the resolution.

RECOVERY ZONE BONDS: FACILITY BONDS AND ECONOMIC DEVELOPMENT BONDS

Type of bond	**Recovery Zone Facility Bonds**	**Recovery Zone Economic Development Bonds**
Amount allocated to Montgomery County	$35.5 million	$23.7 million
Use of proceeds?	Both public and private projects	Must be for general government projects
Examples of projects, all must be in the Recovery Zone designated by the Council	Depreciable capital projects such as buildings or equipment for original uses in active businesses. Manufacturing, commercial, and retail uses. Not for residential rental housing.	Broad range of projects to promote economic development or other economic activity. Capital Expenditures Public infrastructure and construction of public facilities Job Training and educational programs
Tax exempt?	Yes	No, but the Federal Government will pay 45% of the interest, up to the amount allocated ($23.7 million), so the County's cost is roughly the same as if the bonds were tax exempt. The advantage to the investor is a higher interest rate.
Who pays the debt service?	County General Fund pays for public project; private borrower pays for private project.	The County General Fund
Debt service included in the SAG calculation of debt service as a % of the operating budget?	Private borrower, not included. Public purpose, included.	Included.
Impact on the County's GO bond ceiling	Counts against the $300 million ceiling	Counts against the $300 million ceiling

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

December 7, 2009

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: County Council Resolution - Recovery Zone Designation

The attached resolution is the first step in accessing two new types of tax-advantaged municipal bonds, which were created as part of the American Recovery and Reinvestment Act of 2009.

The first type of bond, known as Recovery Zone Facility Bonds, is a tax-exempt instrument that may be used to finance private development projects in Montgomery County and certain projects owned by the County. The State of Maryland received over $313 million in volume cap allocation for these bonds, of which, $35.5 million is allocated to Montgomery County. Some requirements of the Facility Bonds issuance are as follows:

- The bond issue must meet all of the tax requirements for exempt facility bonds (private activities or qualified businesses that would otherwise not be eligible for tax-exempt financing); and
- At least 95% of the proceeds must be used for Recovery Zone property.

The second category of bond, called Recovery Zone Economic Development Bonds, will result in a federally paid cash subsidy to the County. The subsidy will be 45% of the interest payable on bonds issued to support public projects like infrastructure and job training programs. Approximately $23.7 million is allocated to Montgomery County under this program. Some requirements of the Economic Development Bonds include:

- The bond issue must meet all of the tax requirements for traditional tax-exempt governmental bonds;
- 100% of the proceeds and the investment earnings must be used for qualified economic development purposes; and
- Projects financed with these bonds are subject to the Davis-Bacon Act.

Intro Jan 12
MFP Jan 23
action Feb 2

Both types of bonds must be issued by January 1, 2011. In addition, both types of bonds may only be issued for projects within a dedicated area called a "Recovery Zone." Each jurisdiction must create its own eligible zone, and while there is only one Recovery Zone per jurisdiction, the zone can be comprised of multiple, non-contiguous areas.

I recommend accomplishing this task by designating the County's existing Enterprise Zones and Priority Funding Areas as Montgomery County's "Recovery Zone". A map encompassing both designations is attached.

For your information, both Baltimore City and Baltimore County passed resolutions earlier this fall regarding their Recovery Zone designations. Baltimore County issued $32,570,000 Recovery Zone Economic Development Bonds on November 10, 2009. Similar to this proposed resolution, Baltimore County included existing Priority Funding Areas in its Recovery Zone.

At this time, it is too early to determine the volume of Recovery Zone Bonds the County might issue, if any. It is not too early; however, to put the mechanisms in place to readily access funding for the County's most challenged communities.

I would appreciate the Council's prompt action on this matter. Questions about the Recovery Zone bonds may be directed to Steve Silverman in the Department of Economic Development or Jennifer Barrett in the Department of Finance.

IL/gww

Attachments

Resolution No: ______________
Introduced: ______________
Adopted: ______________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council at the request of the County Executive

SUBJECT: Designation of Recovery Zone

Background

1. On February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 Stat. 115 (2009 ("ARRA").

2. Section 1401 of Title I of Division B of ARRA authorizes state and local governments to issue Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds.

3. Recovery Zone Economic Development Bonds may be used to finance certain "qualified economic development purposes" and Recovery Zone Facility Bonds may be used to finance certain "recovery zone property," as such terms are defined in ARRA.

4. The term "Recovery Zone" means: 1) any area designated by the issuer as having significant poverty, unemployment, a high rate of home foreclosures or general distress; 2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and 3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009.

5. Montgomery County seeks to designate the following areas as one recovery zone: existing Enterprise Zones (Wheaton, Long Branch-Takoma Park and "Old Towne" Gaithersburg), and the Priority Funding Area as defined in the State Finance and Procurement Article, Section 5-7B-02.

Resolution No.: ______________

Action

The County Council for Montgomery County, Maryland, approves the following resolution:

The County Council designates the existing Priority Funding Areas and Enterprise Zones as one "Recovery Zone" for the purpose of issuing Recovery Zone Bonds and taking related actions in a Recovery Zone as allowed under ARRA from time to time such area as shown in the attached map, entitled "Montgomery County Priority Funding Areas."

This Resolution shall be effective upon its adoption in accordance with applicable law.

This is a correct copy of Council action:

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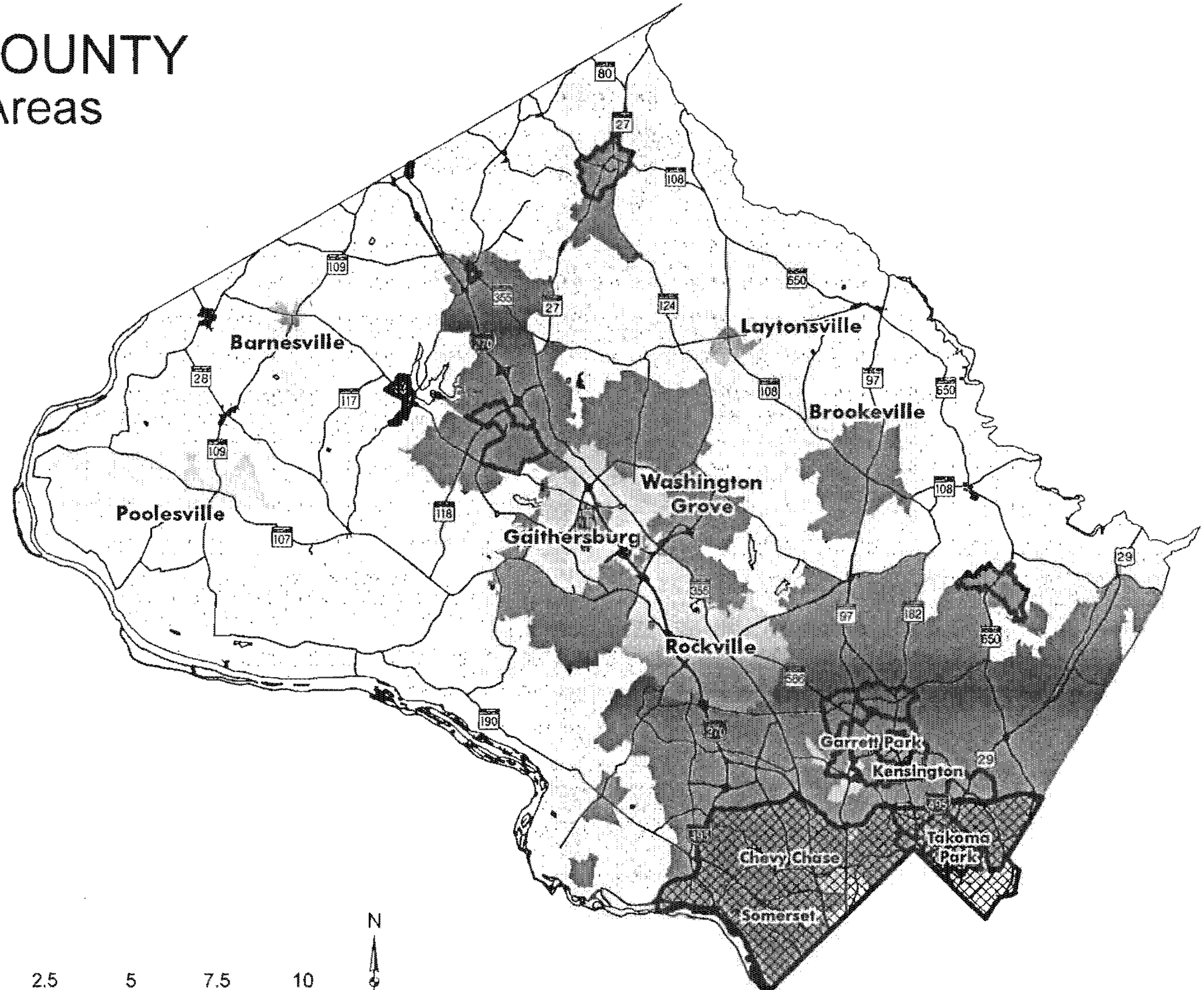
Linda M. Lauer
Clerk of the Council

MONTGOMERY COUNTY
Priority Funding Areas

Priority Funding Areas

Pre-defined Areas
- Inner Beltway Area
- Heritage Area
- Designated Neighborhood
- Enterprise Zone
- Municipality
- Municipal Comment Area

County Certified Areas
- Compliance Area/ Eligible for Funding
- Area Not Meeting Criteria
- Rural Villages/ Community with Water Only



Sources: Designated Neighborhoods (2001) - Maryland Department of Planning and the Department of Housing and Community Development; Enterprise Zones (2001) - Maryland Department of Planning and the Department of Business and Economic Development; Municipalities (1997) - Maryland Department of Planning; Heritage Areas (1998) - Maryland Department of Planning

Maryland Department of Planning Comment: Any proposals for projects in the area labeled as "Area Not Meeting Criteria" will be referred to the Smart Growth and Neighborhood Conservation Coordinating Subcommittee for review.

0 2.5 5 7.5 10 Miles

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MDP Maryland Department of Planning
Land Use Planning and Analysis Division
Current as of February 2008

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