Scaffolding Community Benefits Agreements:
A Look at Equity in Public Works Programs

Olivia Butts

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Project Advisor: Kerry Duggan (kduggan@umich.edu)

Abstract

This paper discusses the history of Detroit from a socioeconomic perspective, setting the stage for Detroit's urban renewal and the politics surrounding the Community Benefits Ordinance (CBO) passed in 2016. The framework for the CBO does not apply to the Solar Neighborhood Initiative project, a collaborative effort between DTE Energy and the City of Detroit, but it provides an understanding of the current governmental attitudes towards sustainable development principles. A criteria for an edit of the community benefits ordinance is suggested, and the community benefits agreement for the Solar Neighborhoods Initiative is discussed, with recommendations made for more equity in future projects.

Keywords: community benefits, sustainable development, environmental justice, government partnerships, Detroit, gentrification

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Background

In 2016, Detroit passed the nation's first public policy measure outlining the need for developers, government, and other private entities to negotiate with the communities in which they plan to initiate large scale projects on benefits for community members. This measure, named the Community Benefits Ordinance, is applicable to projects that are valued at $75 million or more and are the recipients of at least one million dollars in property tax abatement or a city held land transfer or sale amounting to at least one million dollars.

An ordinance of this kind holds special value in Detroit, a city that has faced years of disenfranchisement from government and private industry alike. In the early 20th century, Detroit was a vision of metropolitan success – the Great Migration brought thousands to the city, looking for employment, automakers like Ford and General Motors paid well for a day's work, and the city's waterfront was crucial for domestic and international cargo. However, in 1939, the city was redlined by the federal government, a practice that "graded" communities by their economic and social desirability. The Home Owners Loan Corporation (HOLC), an agency created by the New Deal, graded neighborhoods with large Black and immigrant populations as red or yellow, depending on the racial and economic homogeneity of the area. Communities with more white homogeneity were graded blue or green; a green grade was given to a select few areas where racial "purity" and economic elitism converged (Carpenter, n.d.).

In the 1950s, the economic conditions of Detroit began to slowly deteriorate, especially as big manufacturing and automotive companies like Studebaker-Packard and Ford closed or downsized (Sugrue, 2004). In the Jim Crow era, white Detroiters left the city as laws were passed that prohibited segregation in housing, employment, and education. The Riot of 1967 spurred exceptional movement, with the number of white residents leaving the city doubling (Detroit Historical Society, 2015). Between 1960 and 2000, Detroit's Black population rose from 28.87% to 81.55% of the city's residents.

As white flight accelerated in Detroit, the economic downturn of the city began to follow. The automotive industry continued to reduce its capacity in Detroit, preferring to site new factories in the surrounding suburbs, like Warren, Livonia, and Plymouth. The increase in facilities outside of Detroit proper hurt employees who did not have the capital to move elsewhere. Big plants inside of city limits where cars could be manufactured in full were reduced to doing only parts of the job, with automotive giants breaking up the tasks to discourage laboring workers from unionizing (Sugrue, 2004).

While auto manufacturing was not the only industry in town, many smaller businesses began to follow suit and move their operations and offices to the surrounding areas. Businesses that relied on the foot traffic of workers and families, like bars and restaurants, were forced to close due to

the shrinking population of the area. Soon, the "Motor City" held only a small fraction of the economic promise it had reached in the early 20th century. As historian Thomas J. Sugrue writes, "The loss of property taxes, wage taxes, and population was devastating, particularly as urban governments faced the costs of providing education and social services to an increasingly impoverished population… Redeveloping brownfields, as disused factory sites were called, became difficult because of the residue of decades of industrial waste left behind."

Another key factor of Detroit's economic decline was the role of housing development in the late 20th century. Because of the Federal Housing Administration and Veterans' Administration's offerings of subsidies for highway expansion as well as mortgages at attractive rates, developers sought to make as much profit as possible. To do so, housing was built at a rate far higher than the market demanded for it and by 2010, after the subprime mortgage crisis, the average value for a home in Detroit was around $13,000. The excess of homes in Detroit with no interested buyers were abandoned by their developers and became prime locations for crime, squatting, and illegal dumping. When the city conducted land use assessments in 2009 and 2013, it found that, in total, over 150,000 parcels of land were vacant or blighted (Galster, 2017). A land use crisis that had been brewing for decades had come to a dire strait.

Detroit's financial problems would have major implications for the vitality of the municipal government and its operations well into the 2010s. In July 2013, Detroit became the largest city in the United States to file for Chapter 9 bankruptcy (Davey & Williams Walsh, 2013). At the time, the city owed $18 billion to its creditors, which included debts to labor unions, banks, and the state government. A year before, then Mayor Dave Bing and Governor Rick Snyder had arranged for Detroit to come under increased financial oversight from the state of Michigan. After conducting a survey of the city's financial outlook, emergency manager Kevyn Orr described the situation as "dysfunctional" and "insolvent" and recommended bankruptcy (Orr, 2013, p. 21, 26).

Chief Judge of the Eastern District Gerald Rosen assumed the role of mediator in the bankruptcy proceedings and developed a plan, named "The Grand Bargain", which would help Detroit on the road to financial recovery. This plan entailed a twenty year long term commitment from the private sector, philanthropic organizations, state government, and institutions such as the Detroit Institute of Art. After much back and forth between creditors and the city, in November 2014, Judge Rosen's plan was accepted by Judge Steven W. Rhodes; in just seventeen months, the city government had regained its control of the finances and paid its creditors between 14 and 75 cents on the dollar (Dolan, 2014).

While the bankruptcy settlement terms were being negotiated, Detroit was also embroiled in a mayoral election. The city's financial troubles put increasing pressure on government leadership to plan for the future of the city. In January 2014, Mike Duggan became Detroit's 75th mayor.

This outcome brought much attention because of the bankruptcy, but also because Duggan was the first white mayor of Detroit in nearly four decades.
In his first term, Duggan would focus on improvements to emergency services and public safety, including adding or repairing street lights in areas throughout the city. His administration also focused on improving the aesthetics of Detroit; he increased maintenance at many of the city's parks and waterfront facilities, and sought harsher enforcement for vandalism violations. Towards the end of this term, he created the Office of Sustainability, a government agency whose focus would be on identifying and reducing climate change impacts as well as developing projects that emphasized sustainability (Pratt, 2017).

An important piece of legislation passed in Duggan's first term was the Community Benefits Ordinance (CBO). In early 2010, community organizers and grassroots organizations began discussing the possibility of community benefits agreements for various projects happening in the city. These organizers, many of whom were women of color, first came to an agreement with grocery retailer Whole Foods on a new retail location being built in Midtown. Leadership at Whole Foods decided that they would begin hiring 50% of their employees at that location at above minimum wage; ultimately, 70% of employees came from the local community. While this was a big victory, Whole Foods was under no obligation to sign any legally binding contracts that would ensure continued partnership with the community.

After the city bankruptcy filings had concluded, residents noticed that many new development projects were being accepted and going forward without any community input. Reverend Joan Ross, cofounder of Equitable Detroit, described it as "two Detroits [that] are being created, one at the expense of another". Rev. Ross gathered a group of local organizers and activists to discuss the prospect of proposing a community benefits ordinance to the city government. Ross and the coalition found that in 1984, a resolution passed that stipulated that local development projects should engage the community and communities should be able to secure benefits from projects that directly impact them (Kravetz, 2017).

In 2014, the Detroit City Council passed a motion to create a community benefits ordinance. Over the course of several months, Equitable Detroit, the Sugar Law Center, and city council collaborated on the content of a community ordinance. Equitable Detroit worked to engage community members, canvassing neighborhoods and hosting or attending meetings. The fight for a community benefits ordinance began to grow, and new organizations began demanding CBAs for companies and corporations in their areas.

Momentum slowed when the city council became stagnant. Many residents suspected that city council members avoided addressing the ordinance because of economic and business relationships that remained important in politics. Because of this, Equitable Detroit opted to introduce a ballot referendum in the upcoming election. To do so, the group needed to amass

signatures as proof of community support (Kravetz, 2017). After 6,000 signatures were collected, challenges to the validity of each signature were brought forth. After confirming that all signatures were legitimate, the ordinance was placed on the ballot as Proposal A. Shortly thereafter, a council member introduced Proposal B, an alternative to the CBO that had been drafted by Equitable Detroit. This proposal increased the threshold for CBAs: Proposal A required all projects valued at least $15 million to enter into legally binding agreements directly with residents in the entire census tract. The alternate proposal set the minimum project size for a CBA to $75 million, only including residents within 300 ft. Under this plan, the process was facilitated by the city council and may or may not end in any agreement (Saha, et al., 2024).

Ultimately, with major financial and political support, Proposal B was passed in 2016, and was updated in 2019 and again in 2021. Because of the criteria in the ordinance, few projects have been required to participate in the community benefits process, and many residents feel that developers and industries have shirked their part of the deal. As the ordinance comes up on its ten year anniversary, research has been published critiquing the ordinance language and application.

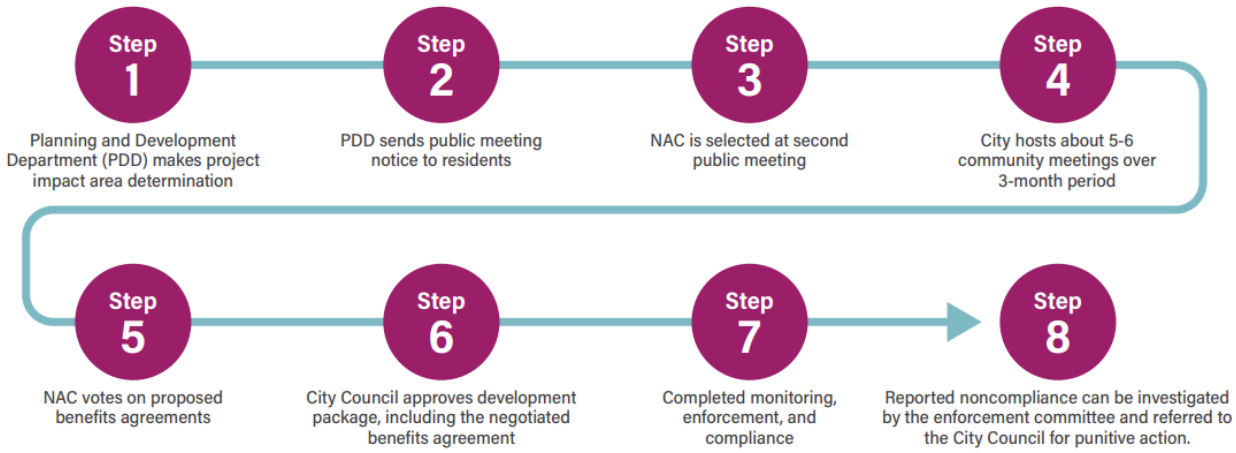


Figure 1 - The final CBO process, which gives city council near complete oversight of negotiations and selection of the NAC (neighborhood advisory council)(from Saha, et al. 2024).

Researchers (Berglund, 2020; Saha, et al., 2024; Berglund & Butler, 2021) found that there are key setbacks that prevent the Community Benefits Ordinance from actually being a tool for sustainable, equitable development. The findings of this research overwhelmingly suggests that:

- The neighborhoods affected by development have an unequal share of the power in the current CBO process. The NAC selection process is not representative of the community, and NAC members do not have sufficient time, education, and resources to make informed decisions.

- There is no legally binding contract between developers and the affected community. The promises made cannot be enforced by law, and any violations found are at the discretion of the Detroit city council to investigate and determine punitive action.
- Projects that have significant community impact do not fall under the jurisdiction of the CBO because of the high investment criteria.

Detroiters and local activists and organizations are still fighting for more power in the community benefits process. Nationwide, the movement for community power in city planning and economic development continues to grow; cities like Seattle, Los Angeles, and Cleveland have various policies legislating the criteria and processes for people to negotiate and maintain democratic power and ownership in their communities. The efficiency and equity of these programs remains to be seen, but the social consciousness surrounding equitable urban development persists.

Problem Statement

As the world slowly turns towards more climate conscious and sustainable systems and processes, questions arise concerning the stake of inequality in decision making, planning, and access. Historically, the burden of environmental risks and consequences has fallen disproportionately and deliberately on the underserved across the world. The challenge for governments in the 21st century is to create equitable and sustainable solutions for the communities they represent; this is the quintessential task of sustainable development.

The core tenets of a sustainable society or community can be summarized as:

- Meeting the social needs of the community (e.g. offering spaces for community organizing, prioritizing healthcare prevention and treatment services, valuing inclusion and cultural exchange, ending homelessness, improving public education)
- Fostering a strong economy (e.g. supporting local entrepreneurship, establishing a living wage, localizing food systems, taxing high income earners appropriately)
- Vigilantly protecting our environment (e.g. funding research, increasing biodiversity, decreasing pollution and waste, focusing on general environmental education initiatives, cultivating renewable energy, land back).



Figure 2 - "Sustainable Development and Its Conflicts" (Campbell, 1996)

According to research conducted by Shkembi et al. (2022), environmental exposures for redlined neighborhoods in Detroit are consistently higher than neighborhoods with higher HOLC grades. Residents of these neighborhoods face increased risk from diesel particulate matter, proximity to brownfields, air toxins, and noise pollution. Because of the role of the federal government in allowing, or in some cases, encouraging these environmental hazards to be sited near low income, minority communities, the government must dedicate particular effort to correcting the wrongs of the past and preventing future harm.

Detroit and Michigan more broadly have been at the center of a resurgence on the national stage. In 2023, Governor Gretchen Whitmore signed an executive order dedicating $129.1 million to the expansion of renewable energy. This announcement followed then President Joe Biden's Infrastructure Investment and Jobs Act and Justice40 Initiative, which outlined "a goal that 40 percent of overall benefits of certain Federal climate, clean energy, affordable and sustainable housing, and other investments flow to disadvantaged communities that are marginalized by underinvestment and overburdened by pollution." (The White House, 2022). DTE Energy Company, the primary energy company for southeast Michigan, has invested around $5 billion in "renewable energy infrastructure aims to invest an additional $4 billion over the next several years."

One of DTE's projects, in collaboration with the city of Detroit Office of Sustainability, is the Solar Neighborhoods Initiative. This project, under the leadership of Mayor Mike Duggan, identified "disinvested" neighborhoods in Detroit with vacant or blighted land and plans to convert the areas to solar arrays, used to power municipal buildings. Around 250 acres across two phases will host the arrays, and the city government will maintain the Renewable Energy Credits for the project. Funding for this project is provided by tax incentives from the Inflation Reduction Act and the Utility Conversion Fund, and DTE Energy will maintain the solar arrays on their grids. (City of Detroit, n.d.)

To be eligible for consideration, neighborhoods had to submit formal proposals. After a four month community engagement campaign, ten neighborhoods submitted proposals, with nine ultimately being selected as finalists. At the time of this paper, five neighborhoods have been chosen for the project: Gratiot Findlay, State Fair, Van Dyke/Lynch, Greenfield Park, and Houstin-Whittier/Hayes.

The City has stressed throughout their media and press releases that only neighborhoods who wanted to participate in the program were considered. Additionally, the City created a community benefit program for residents of the selected neighborhoods. Renters whose homes fell into the area of the solar array would receive 18 months of rent and relocation assistance. Owner occupied homes (11 total) within the solar array area would receive a $90,000 buyout, and homes in the identified neighborhood would receive $15,000-$25,000 in energy efficiency upgrades. Once all residents of the solar array area were handled, the land itself would be claimed via eminent domain.

This process was not reached through negotiation, as the city estimates the budget for the solar fields to be around $8.3 million per year. However, between renewable energy savings and municipal utility savings, that cost is reduced to about $1.7 million per year (City of Detroit, n.d.). These numbers fall well below the criteria in the current community benefits ordinance.

Interestingly, this project would be required to negotiate with community residents under the initial Proposal A ordinance.

Although the City of Detroit Office of Sustainability characterizes this project as “engaging communities and nonprofits to stabilize neighborhoods”, it places community residents at a great disadvantage regarding the future of their neighborhoods and the burden of sustainable development. The City of Detroit receives far more benefit than the neighborhoods it will be extracting its renewable resources from, and the true benefit is still unknown: the City will retain ownership of all land in the solar fields. This means that while solar arrays have an average lifespan of thirty years, the City of Detroit can sell the land to developers, leading to the gentrification of low income minority neighborhoods. There is also no publicly available language that suggests how long the solar arrays will be used and maintained, meaning that this process may come more quickly than thirty years.

As mentioned, the City has emphasized the community engagement and input that they’ve considered during this process. However, the issues with transparency are paramount. While there were town halls or neighborhood meetings, there is no record of the minutes from such meetings or the education materials provided to residents. The City simply states that there were liaisons from local nonprofits to help advocate for residents. There is also no indication of legal representation for these communities or their members when signing over documents, such as those needed to sell a property. Lastly, the City retains the Renewable Energy Credits (RECs), which have market value that remains undisclosed, as well as the land and any current or future tax incentives that prioritize renewable energy and climate change mitigation. The value of these assets is not accounted for in the total savings calculation for this project.

The Solar Neighborhoods Initiative is dangerously performative; it makes very little effort towards correcting a racial and economic history plagued with disenfranchisement and instead, protects government and private interest. Essentially, the project provides good press and credibility in the sustainable development sphere, but lacks any real depth that would make it an equitable step towards honest, people and earth centered partnership of community, industry and government.

Recommendations

Recommendations for improvement of the Community Benefits Ordinance and the Solar Neighborhoods Initiative are based on the values of transparency, consent, and equity in the decision making process.

Community Benefits Ordinance

- As the World Resources Institute recommended (Saha et al., 2024), the neighborhood advisory council (NAC) should be expanded to include at least 5/9 community elected members. Additionally, there should be considerable effort to engage community members on the responsibilities of the NAC and build investment in the CBA process.
    - NAC members should receive a stipend for their time served on the council.
- NAC members should be elected to the position no more than three times.
- Threshold for eligible projects should be lowered tenfold, from $75 million to $7.5 million. Community benefits can be tiered to cater to different sized projects, but each negotiation process should end in a legally enforceable agreement.
    - NACs should be supported by nonpartisan legal teams, with funds from the proposed project. The NAC should be able to choose its representation according to its values.
- Analyze proposed projects for conflicts of interest with any city council or mayoral official; if any arise, the identified party should abstain from voting, or speaking with other officials about the vote.
- Provide NAC members with educational resources (from surrounding universities, non profit organizations, etc.) that remain confidential to prevent interference from government or the proposed business.

Solar Neighborhoods Initiative - Improving Community Benefits

- The solar array area should be put into a land bank, giving the community ownership and decision making power regarding what happens to the land as Detroit continues to grow. In the future, the land bank can prioritize responsible development that contributes to the goals of the community.
- Energy efficiency upgrades should be increased from $15,000-$25,000 to offers to retrofit homes in the affected areas. This will reduce the carbon footprint of the entire city, as well as encourage homeowners to economically invest in their communities. Provisions can be made that require homeowners to retain occupancy/ownership of the home for a specified period.
- The City and DTE Energy should create renewable energy job training programs specifically for members in affected communities, offering education on the construction, maintenance, and operation of solar panels, wind turbines, and other renewable resources.

This job training can be geared towards 18-30 year olds, and enhance the City's efforts for economic development and an overall increase in average household income.

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