

CITY OF DERBY
REDEVELOPMENT AGENCY MEETING
APRIL 13, 2005

DERBY CITY HALL – ALDERMANIC CHAMBERS – 6:30 P.M.

Mayor Marc J. Garofalo called the meeting to order at 6:37 p.m. All rose and pledged allegiance to the flag.

Roll Call

Present: The Honorable Mayor Marc J. Garofalo
 Vincent J. Guardiano
 Glenn Stevens
 Greg Russo
 John Oraziotti

Also Present: Alderman Robert Gabianelli
 Alderman Bruce Sill
 Alderman Ron Sill
 Alderwoman Linda Fusco
 Alderwoman Sheri Pflugh
 Michael J. Joyce, P.E., Milone & MacBroom, Inc.
 Thomas S. Corso, President, AMS Advisory Services (arrived at 6:50 p.m.)
 Richard Lutz, Mayoral Assistant
 Richard J. Buturla, Esq.

ADDITIONS, DELETIONS, CORRECTIONS TO AGENDA

A MOTION was made by Mr. Russo with a second by Mr. Stevens to adopt the agenda as posted. **Motion carried.**

PUBLIC PORTION

Brian Calvert, Calvert Safe & Lock, 40 Caroline Street, Derby, CT – I wear three hats here – first of all as a Derby resident when do you think we may see all the income from the taxes from this new project? What's your timeline on that? I'm a little disappointed – I look at the agenda and all of the stuff that I'm going to ask, may be these other people are going to ask, may have been answered had the public portion been after his presentation. Maybe you can consider that in the future. But that's my first question. And as a downtown businessman, when are you going to clean up this garbage down there and smarten the place up? Of course as a business owner most of the time what's the timeline how it's going to affect us personally? How do you see this? Is it a matter of months, years? Just some idea of when we're going to see something come from the taxes, when you're going to clean up downtown and when is it going to affect us personally? Thank you.

Dan Waleski, 21 Elm Street, Derby, CT – From the concerned citizens point of view in an attempt to try to keep up with all that's going on with this large project the first four or

five items on the agenda are to accept minutes of this meeting, accept minutes of that meeting and so on and some of it goes back to January. And I find that a little bit of a mystery particularly so in with our clerk here Pat Finn she's probably the best clerk in the City so I know she's not responsible for it. So I'm just wondering why you have that delay in getting those minutes prepared and available. And then thirdly I think it would be sort of nice on your meeting notice and agenda if you would list the members' names of the people who are on the Redevelopment Board.

Mayor Garofalo – I'll pass your comments along to the City Clerk Joan Williamson. I'm sure she'll be happy to hear your comments.

Jeff Auerbach, Derby Garden Center, 4 Caroline Street, Derby, CT – I just want to take a moment because Brian said some of the things that I wanted to say but I want to stress it. To have the questions – I've made this point at other meetings – to have the questions before presentations and so forth is very unfair to the public. It's doesn't give us a chance to hear what has to be said and then there's fair questions, reasonable questions. It just doesn't seem democratic. And I would like to hear, as Brian has said already, specific timetables about what's really expected – what's really going to happen. It's unfortunate that we get to hear the presentation and we don't get to ask questions.

Mr. Oraziotti – Mayor do you think we can do that? Open it up to the public again?

Mayor Garofalo – If that's the will of the board at this point. There's not really going to be a lot of new information before us other than the Redevelopment Plan itself. But if there's an appropriate time...

Mr. Oraziotti – I would like to see that happen if any of the other members would agree. If the other members agree.

Mr. Guardiano – I'm not opposed either. I think that's only fair. There's new information that is put out there and there's questions that the public (inaudible) that the developer can answer. I don't have a problem with it.

Mayor Garofalo – Anybody else from the public? Without objection the Public Portion was closed for the time being.

APPROVE MINUTES OF OCTOBER 20, 2004 (PREVIOUSLY DISTRIBUTED)

A MOTION was made by Mr. Guardiano a second by Mr. Russo to approve the minutes of the October 20, 2004 meeting. **Motion carried.**

APPROVE MINUTES OF NOVEMBER 10, 2004 (PREVIOUSLY DISTRIBUTED)

A MOTION was made by Mr. Russo with a second by Mr. Stevens to approve the minutes of the November 10, 2004 meeting. **Motion carried.**

APPROVE MINUTES OF DECEMBER 15, 2004 (PREVIOUSLY DISTRIBUTED)

A MOTION was made by Mr. Russo with a second by Mr. Stevens to approve the minutes of the December 15, 2004 meeting. **Motion carried.**

APPROVE MINUTES OF JANUARY 12, 2005 (PREVIOUSLY DISTRIBUTED)

A MOTION was made by Mr. Stevens with a second by Mr. Oraziotti to approve the minutes of the January 12, 2005 meeting. **Mr. Guardiano and Mr. Russo abstained from voting as they were absent from the January 12, 2005 meeting. Motion carried.**

APPROVE MINUTES OF FEBRUARY 9, 2005

A MOTION was made by Mr. Guardiano with a second by Mr. Russo to approve the minutes of the February 9, 2005 meeting. **Motion carried.**

DISCUSSION ON MOTION

Mr. Russo said on page six of fifteen he said basically what we were talking about here is they were coming back to discuss the public input on the February 16th. Then they were talking about putting into motion – moving forward in a positive direction. Place a draft of the PDA and finalize. So I think really what we're looking for here is dating back to February – we were talking timelines. It was the consensus of the public it's also a consensus of this board to move forward on that.

Mayor Garofalo – Right. We'll take that up under item 12 – that will be so noted for the record.

MOTION CARRIED.

APPROVE MINUTES OF MARCH 9, 2005

Mr. Russo said on page nine where he is speaking it says inaudible. He said basically they were discussing the impact of professional studies and credible evidence as it related to the meeting at the Derby High School. He said his concern was that people were getting things that were not factual in nature – they weren't supported by professional studies or credible studies. He said a good example of that would be the study that was performed by AMS to determine the projected population. So the inaudible should be replaced by AMS to determine the projected population. Then the impact on the inaudible would be the school system. He said he further went on to say that 23 was the number that was actually presented by AMS based upon the 512 units that was originally proposed.

A MOTION was made by Mr. Russo with a second by Mr. Stevens to approve the minutes of the March 9, 2005 meeting with the above noted correction. Mr. Guardiano abstained. **Motion carried.**

UPDATE ON SOUTH SIDE OF MAIN STREET REVITALIZATION PROJECT /DISCUSSION AND UPDATE ON PREFERRED DEVELOPER AGREEMENT

Atty. Buturla said at the last meeting of this agency John Ceruzzi laid out roughly a sixty-day two-month timetable in terms of the Preferred Developer Agreement and also with respect to the Plan of Redevelopment. There have been a number of very good, very positive business meetings with Mr. Ceruzzi and the other development principles, their consultant and their attorneys with respect to both documents. We feel we are on tract with respect to the Preferred Developer Agreement – we are hopeful that we would have it sometime next month. Regarding the Redevelopment Plan they feel they are absolutely on tract in terms of the next step, which would be referring it to the Planning & Zoning Commission in accordance to Section 8-121 of the C.G.S. for the purpose of obtaining a written opinion.

Mr. Guardiano said the sentiment of the public is they want to know the timeline for this project. Atty. Buturla said if you recall the other Preferred Developer Agreement that was approved by this board some time ago with respect to the prior vision there is a detailed timeline set forth in that Preferred Developer Agreement. Mr. Guardiano said we aren't using that prior vision anymore. Are we bound by that timeline? Atty. Buturla said we are in full negotiations with the amended Preferred Developer Agreement and that amended Preferred Developer Agreement when present to this agency will contain a timeline in it. He noted that they are not prepared to go public with that Preferred Developer Agreement right now as it is still in the draft stage. Mr. Guardiano said what worries him is he doesn't feel that this Preferred Developer Agreement will be signed in a timely manner. Atty. Buturla said John Ceruzzi stood here last month and said it would roughly take two months. Mr. Guardiano again stressed that we started negotiations with Ceruzzi four years ago. The City can't afford to have this strung out much longer. He feels the dance is coming to an end. In his opinion if we don't have a Preferred Developer Agreement at the next meeting then this board really has to start to look at other options. If there is no Preferred Developer Agreement at the next meeting then he feels that we should stop negotiations. Mayor Garofalo said we are having good faith negotiations. A month ago Mr. Ceruzzi said we would have it in sixty days. Mr. Guardiano said that is all well and good; however, we must have it for next month's meeting. If it is not ready then this agency has to be prepared to stop negotiations and look elsewhere. Mr. Stevens said that without being closely involved in the negotiations this agency is left in the dark. He noted that Shelton is starting to do this type of project. He doesn't want to see this pass us by. Mr. Oraziotti said it does get frustrating. We want it done and we want it done right. We need a way to figure out how to get the correct information out to the public without hampering negotiations. We know as much as the public knows – we can't tell them anything. He feels that this is really taking too much time. Mayor Garofalo said the intent is to have the Preferred Developer Agreement ready for the May meeting and that will include the timeline for the project. Mr. Ceruzzi noted that last month his company laid out a schedule of two months. Last Friday they delivered to City officials unit counts, parking space numbers, property boundaries, etc...He noted that they are 100% on schedule and they should have the Preferred Developer Agreement for the May meeting. He said if they don't have the Preferred Developer Agreement by that time then this agency would need to decide what action to take. Atty. Buturla said Ceruzzi is on schedule – the devil is in the details when it comes to items such as this. He said next month we will be here with the final document or very close to a final document. Mr. Ceruzzi said they are 90% complete with the Preferred Developer Agreement. He said even in the final details they are not miles apart.

There was a discussion about the required approvals from the various boards (Planning & Zoning, Inland/Wetlands). Mayor Garofalo said all the boards are aware that this is going to come before them and they will schedule their meetings accordingly. The Chairs of the boards are keenly aware of the timelines.

TAKE ACTION ON REDEVELOPMENT PLAN FOR SOUTH SIDE OF MAIN STREET

Atty. Buturla passed out the Proposed Business Revitalization (Phase 1A) (Exhibit 1) and the Proposed Land Use Section (Exhibit 2) to the members. Atty. Buturla said there were four maps prepared by Milone & MacBroom, in consultation with Streetworks, under Exhibit 1.

Map 1 – Depicts Phase 1A

Map 2 – Depicts portion of the plan that was in last Preferred Developer Agreement – project will not be going on but there will be a right of first refusal

Map 3 – Depicts City-owned properties within Phase 1A

Map 4 – Depicts Privately-owned properties within Phase 1A

Exhibit 2 is the legal description for the Redevelopment Zone. The difference from the prior project is that this property takes into account all the property on the south side of Main Street from the Shelton Bridge to Factory Street.

Exhibit 3 – Uses of Land

Exhibit 4 – Conditions and Uses of Land Summary by property owner within the area

Exhibit 5 – Draft Relocation Plan

Exhibit 6 – Land Use Section

Atty. Buturla said there was great collaboration between the consultant, developer and City Engineer. He noted under C.G.S. 8-127 it is necessary before adopting a Redevelopment Plan to forward it to the Planning & Zoning Commission to obtain a written opinion. After it is received back from Planning & Zoning it must be referred to the Housing Authority for their opinion.

A MOTION was made by Mr. Guardiano with a second by Mr. Russo to refer the Proposed Plan of Redevelopment to the Planning & Zoning Commission pursuant to Section 8-127 of the Connecticut General Statutes for the purpose of obtaining a written opinion.

DISCUSSION ON MOTION

Mr. Oraziotti said under Exhibit 4 why was Hubbell's excluded? Atty. Buturla said that was not intentional. That is a City-owned property and he will add that to the list. Atty. Buturla said there are two other properties that were also left off – the Simonetti Property and the City-owned property adjacent to Hubbell's. He said he would amend this prior to submission to Planning & Zoning. Mr. Oraziotti asked when are we going to know when the Hubbell Brothers building comes down? Atty. Buturla said that would be addressed next month in the Preferred Developer Agreement.

Motion Carried.

Atty. Buturla reviewed the process that the Redevelopment Plan is going to take. This will now go to Planning & Zoning for their review. After P&Z's review they will send a written opinion back to this agency. Prior to the adoption of the Redevelopment Plan this agency will hold a Public Hearing. The Plan will also be forwarded to the Housing Authority for their review and opinion. The reason it has to go to the Housing Authority is because the plan deals substantially with housing. Mayor Garofalo noted that the Planning & Zoning Commission has a public portion during their meetings to take comments from the public. Atty. Buturla said once this agency is ready to adopt the plan I should then be sent to the Housing Authority for their review. Mayor Garofalo suggested that Atty. Buturla write out the steps for the agency members. Mr. Guardiano asked if the Preferred Developer Agreement must be approved before the Redevelopment Plan? Atty. Buturla said it does not.

PUBLIC QUESTIONS AND COMMENTS

Jeff Auerbach, Derby Garden Center, 4 Caroline Street, Derby, CT – When everything is agreed with developer Ceruzzi does the town, citizens get to vote on it? Or once an agreement is made and the board agrees on it that's it.

Atty. Buturla – The boards that would be voting on that Preferred Developer Agreement would be the Redevelopment Agency and the Board of Aldermen.

Mr. Auerbach – So once they – assuming it's agreed and signed they agree to it and it just goes forward?

Atty. Buturla – Yes.

Mr. Guardiano – It goes forward but it still has to go through the Planning & Zoning, Inland/Wetlands – the public does get another bite out of the apple for input.

Mr. Auerbach – You say they get input – but the boards get to vote on it and then its done.

Mr. Guardiano – Yes.

Brian Calvert, Calvert Safe & Lock, 40 Caroline Street, Derby, CT – At what point will we be able to see this Preferred Developer Agreement publicized? And at what point will we be able to see a copy of the Redevelopment Plan? How early can we see this done?

Mayor Garofalo – The Redevelopment Plan once we make sure all those corrections are made that will be available Monday.

Mr. Calvert – So it would be available to us?

Mayor Garofalo – Yes.

Mr. Calvert – Would I be correct in saying that Redevelopment Plan would list what's going to happen to this gentleman, myself, and others done there? Would our futures be on that Redevelopment Plan or is it just a general thing?

Atty. Buturla – It's a document that – it's more general than it is specific. Because it is the document that authorizes this board to use the full powers under the Connecticut General Statutes to move the project forward. It is specific to the extent it will list you as the property owner and show that your property is included within a phase of the Redevelopment Project. That's as specific as it will get as to you.

Mr. Calvert – At what point will it get specific to say what would be the disposition of us? Aren't there in the General Statutes does it say if you're going to take that property you have to do this for that person? At what point does that ever arise? Or is it just we'll take it and we don't have to answer what we're going to do with people.

Atty. Buturla – I'll speak generally because I can't give legal advice to the folks in the zone but the Connecticut General Statutes lay a whole – there's a whole mechanism with respect to the taking of properties. And it provides a whole host of procedural rights in terms of fair market value and what happens and how it happens. And the City intends to fully comply with that. So as this plan moves forward at the appropriate time it will get more specific. I'm sure you'll be contacted by the developer. I'm sure there will be negotiations. If you can't reach a point of agreement it's no secret based upon the last Preferred Developer Agreement that the City would then at a certain point in time move forward with the powers of Eminent Domain – that was the concept – and then the General Statutes take over. So there's a host of procedural safeguards there.

Mr. Guardiano – Would the Relocation Plan in this document answer some of those questions on a general basis?

Atty. Buturla – I think he's talking about values...

Mr. Calvert – There are certain things. Are we just going to be given a check and be put on the side or are you going to say here's your options?

Mayor Garofalo – It's not going to be laid out in either the Redevelopment Plan or the Preferred Developer Agreement. It's not going to be in either one of those documents. I don't think it would be fair to mislead anybody and say it's going to be because it's not. I mean the specifics as it relates to one specific property is not going to be in any one document. It could be that a person – any owner – could enter into a private arrangement with the developer, which would be your own business.

Mr. Calvert – If that falls flat and it comes to the (inaudible) with the City right now hopefully everything will be done with this gentleman's group and then everybody's happy. If that does not happy then it would come back in a legal (inaudible) to this board. At that point are there in the General Statutes do you lay out what we have to do? Or is it you're taking it and we're out?

Mayor Garofalo – The layout we would follow the Statute.

Mr. Calvert – Does anybody know the Statute?

Mayor Garofalo – Yes – that's why we have a lawyer here.

Atty. Buturla – We do know the Statutes. We know the process for condemnations, eminent domain and takings. We would follow them precisely.

Mr. Calvert – As a general rule is there any provision for town people to know this is what your rights are as far as the General Statutes?

Mayor Garofalo – The General Statutes lay out all of that.

Mr. Calvert – Is this something that we have to research or will you tell us?

Atty. Buturla – There will be further dialogue I'm sure.

Mr. Calvert – I'm not trying to pin anybody down. Thank you.

Mr. Auerbach – Regarding the case that came up in Washington on February 22 regarding New London has there been discussions with the developer that if it turns out that the Supreme Court does rule that eminent domain does not apply would that affect the plans here in Derby? Has there been discussion on that?

Atty. Buturla – Have there been discussions – yes. That's all I'll say.

Mr. Auerbach – Okay that raises another question then. If the Supreme Court does have a ruling and the ruling affects the statute here I assume the Federal Supreme Court would overrule the State of Connecticut's Statute on that.

Atty. Buturla – I don't want to speculate. The one thing that I've learned is never speculate how a court is going to rule in terms of something as broad as that. I've read the briefs and I've read the underlying decision and I won't engage in speculation as to the various types of rulings that could come from the U.S. Supreme Court on that issue. Once they rule then we'll deal with it because we'll know what the parameters are and then I could answer the question.

PUBLIC QUESTIONS AND COMMENTS CLOSED

Mr. Oraziotti said he just had a quick question regarding the approvals from Planning & Zoning and Inland/Wetlands. Are we going to set a time completion as to when this can be done? Mayor Garofalo said this is a priority of the Administration. We are working with the boards and they are well aware of the importance of this and they will accommodate any schedule that we need to take place.

REMINDER OF NEXT REDEVELOPMENT AGENCY MEETING ON MAY 11, 2005

Mayor Garofalo reminded everyone that the next meeting of this agency would be on May 11, 2005 at 6:30 p.m.

ADJOURNMENT

Without objection the meeting adjourned at 7:49 p.m.

Respectfully submitted,

Patricia Finn
Recording Secretary

A TAPE RECORDING OF THIS MEETING IS ON FILE IN THE CITY CLERK'S OFFICE.