

**City of Derby
Redevelopment Agency
November 13, 2007**

**Aldermen's Chambers
6:30 P.M.**

Call to order: Meeting called to order at 6:35 P.M. All stood and pledged allegiance.

Roll Call: Present: Glenn Stevens, Greg Russo, Rick Dunne - Chair, Michael Kelleher, also present: Corporation Counsel – Joseph Coppola. Absent: John Oraziatti.

Approval of Minutes: A motion by Greg Russo to accept the minutes of September 11, 2007 with a second by Glenn Stevens, all in favor, motion passes.

Additions, Deletions Corrections and Adoption of the Agenda: Mr. Dunne stated item 8A may get marked off as the meeting goes on. Motion to accept the agenda and adopt by Mr. Russo, with a second by Mr. Stevens, all in favor, motion passes.

Public Portion: Mr. Carl Yacobacci, 10 Lombardi Drive. Mr. Yacobacci has a concern with the issue for the board to authorize the Board of Aldermen the use of eminent domain on property owners in downtown. He is asking them to vote no for a variety of reasons. He passed out books (Bulldoze) for the board to read which tells of the effects of eminent domain from a victim's point of view. They have been told by the current administration that the owners can and will be sacrificed. He feels this is not a good way to treat any of your citizens. The book just came out. The book will illustrate just what the board is doing to people in the downtown area. Secondly, he urges the board, with Rick Dunne here who knows the City plans, and location of City owned property and the fluctuations in any of those plans that the public may not be aware of, or have the time to research, to actually sit down with the property owners and negotiate a possible solution. All along the owners were told they would have updates, to sit tight and don't worry. There has never been any contact to reach a solution. The only negotiation has been the delivery of an offer from the City based on an appraisal which is now void. It is also a year and a half old. The developer has never given him an offer except for the one in 2004 for \$185,000.00 stating they were going to wait for the City's appraisals. These are not negotiations. We now have an Economic Developer and Grant Writer that can help, but he hasn't heard from her to find out what his needs are and what possible solutions are. These are City officials that should be approaching us since they have the intimate knowledge of what is happening in the City and State level. Before you decide the first step of their fate, he is asking the board to actually sit down, negotiate and try to come to an agreement. This has never been done. It would benefit the property owners, the board, and the developer. Negotiation is less expensive than litigation. If this board authorizes the Board of Aldermen to use eminent domain before any real or serious negotiations are done, then my opinion of this board and the administration never really wanted to live up

to the promises it made and make sure the businesses and property owners are compensated for their losses and never wanted to hold Mr. Ceruzzi for the promises that he made dating back to the November 2004 in the redevelopment meeting. Please vote no for this. Actually tell your aldermen and your administration to please sit down with the property owners, the developer and the Mayor first before saying we are going to eminent domain. This could probably be worked out before it goes that far.

Jeff Auerbach – Derby Garden Center. The comments he will make will relate to just himself and Derby Garden Center. He wants to go on record that Derby Garden Center has never been contacted by the City to make any effort, communications, discussion or anything. The only thing he did receive was two appraisals. The appraisals were different in amounts and does not make an offer. There were never any negotiations or attempts for negotiations. He has contacted the Mayor several times going back a year and a half ago and told him I was ready to sit down and talk. There has been no contact from the City at all. The Mayor has made some statements in the paper stating they have been negotiating. With Derby Garden Center there has not been any negotiations. Also, the City hired someone to work with the property owners and the City discussions. He has never been contacted, called or visited by that person.

Brian Calvert – 40 Caroline Street. Eminent Domain is a tool. It is a tool that the City has, it is a tool that the government has. This board has a lot of other tools that you can use before you go to that. First, yourselves. This board has been in office when this started. You could have said, “why don’t you guys come up, just the four of us, no big arguments, and just lay out what your feelings are”. We would have done that. It would have made us feel a lot better. There is another tool, the three representatives who are on the Board of Aldermen. We spoke to some of those. They could have sat down too. Ms. O’Malley was not hired for this specific purpose, but that’s a part of her job. She never did contact us. Now he says, “Shame on the Mayor”. He called and she came by and he thought what a waste of a liaison that they didn’t use her to speak to these three other people. They had a great discussion and he thought she was very into this. The City never used that tool. Lastly, is the City fathers themselves; the Board of Aldermen, the Mayor to ask us as a group, to say; Guys what are your concerns. When it started there were seven of us. Now we are down to four of us. Let’s sit down, we are not going to argue, we are not going to scream, tell us what your concerns are and then we can see if we can help. He thinks the tool the board is going to use or recommend to the Board of Aldermen is premature. Speak to us yourselves, get Ms. O’Malley to speak to people so we can get this done and get it behind us. We are all sick and tired of this. We are not just trying to hold this project up. We are also a little fed up with the Mayor’s statements that we are holding this project up. We haven’t settled, and we haven’t spoken with the developers. He takes issue with the statement that they are holding this project up. A multi million dollar project and four small businesses are holding it up? He doesn’t think so.

Keith McLiverty – 15 Academy Hill Road. He is concerned with the number of housing units that’s being proposed down there. He is opposed to any additional housing, especially that kind of housing. People tell us there is a demand; they know better than him, but he doesn’t think we need 300 more homes or 600 more residential units to tap

our already tapped resources. Secondly, he keeps hearing this gap. Switching hats, the City of Derby should not have to fill one dollar of debt to fill a gap. To him, a gap tells him a developer does not have enough money for this project. He as a tax payer should not have to pay for that. Either the developer should not do the project or find another developer. We can't afford to issue any money in debt to fill a gap.

Mike Christobarro of New London. His family took the whole eminent domain case to the U.S. Supreme Court. In listening to everyone speak, he sees and hears the same thing. In looking at the Redevelopment team, there are blank stares like it is going in one ear and out the other and like you really don't care. He hopes that is not the case. The City of New London is 6.2 square miles. They were economically deprived, they was distress, but there still is ways to work with people, especially business owners that are trying to make a living. This agency is the choice. New London gave the State a black eye. When they came and took his family's property it didn't take it once, it took it twice. It was wrong, period. Eminent domain does not work. His property was taken and settled one and a half years ago and now nothing is there. It is a giant dust ball. His family lost their property for nothing. He encourages the board not to use eminent domain. These people have worked hard to remain in their businesses, where no one else was willing to stay. They are not asking for much. They just want to be part of the redevelopment. His family just wanted to stay on their property and be part of the change. His family owned their property for forty years and they got nothing, they got compensated in the end, but it wasn't about the money. You should not take their livelihood away. They did not ask anything of you or the State. They are just trying to make a living. You say you are working with these individuals in coming to a settlement, but when you say you will use eminent domain, it is like you are holding a gun to their head. That's not trying to talk to them. He knows, that is what they tried doing to him. They came to him and said this is what we are going to give to you, but if you are not going to take it, then they will use eminent domain and give you less money anyway. How is that being fair? How is that being negotiating with property owners? That's not negotiating. Property is a place that you own. It means something you put your hands on and do something. These people work hard, make them part of the development. If you have to take their buildings, move them to a place where at least they can prosper again. Remember, the nation is watching you. This will be the first City since the decision came down. Don't let that happen. His family settled the fiasco in New London a year and a half ago. If you plan on using eminent domain, be prepared for a battle. Be prepared to pay these people for what their business and property is really worth. Not what you are saying what the land is worth. They came to his parent's and said the property is worth \$150,000.00, which is only 70% of the actual value. Remember after a ten year battle, they finally settled and not because they gave them more money, it was because it was time to let it go. The State gave them 3 ½ times more than the original appraisal. If you take these properties by eminent domain, he and the others from New London have already set the rules. Someone will have to pay dearly for their property.

Mr. Dan Waleski – 21 Elm Street. He is not personally involved but he is a concerned citizen about the Downtown Redevelopment. It has been a topic of conversation for many years. Eminent Domain is a serious situation and a route to go. He wants to go on record

as saying he doesn't like the take it or leave it attitude. We are dealing with Derby business men and upstanding outstanding City residents. He can't see why with the Board of Aldermen and Ms. O'Malley can't sit down and work this out between these people. Certainly a common ground should be sought after and a common ground could be met and work this thing out in a positive manner that would be beneficial to everybody. He feels this project as presented thus far is too ambitious of a project for Derby and further discussion is needed on that. Lastly, he is concerned about the 45 million dollar gap, in his judgment should null and void this project as far as proceeding.

Kathleen Mitchells of 64 Dell Avenue, New London CT. She wants to agree with Michael Christobarro that for almost ten years they went to the City Council meetings and pleaded with them, tried to kid with them to forget the plans that they had, threatened them with no votes. We did whatever we could. Frankly, they had their minds made up. We might have well stayed home. She is wondering now is since they made the long trip down south, should we have stayed home tonight too. She read in the paper that it is a 4-1 vote. She is asking if it is appropriate to ask if it is in fact a 4-1 vote to use eminent domain. She said Derby is proposing taking what doesn't belong to you. Ms. O'Malley said to just to give the City a statutory tool to deal with what happens to be out there. The reason for eminent domain is there are rare instances where somebody is being unreasonable. In her opinion, eminent domain is only asked for two reasons; one to intimidate property owners whether they be homes or businesses and two to use it, to take what doesn't belong to you. This does not belong to you. She wishes the Mayor was there tonight because she would like to comment on what he said. He said this is all about them and not about the City. The truth is; who in this room can blame the four property owners for wanting their share of the American Dream. Mr. Yacobacci is not just a business owner in a building. He is a man who has a family who is trying to raise his family, who is paying his taxes and trying to get his share of the American Dream. Now the Derby Aldermen is trying to suggest that he give that up and be a good citizen. That is bull. Every single one of those property owners should be getting a substantial amount of money for their businesses. The woman with the little pink cottage in New London got close to a half a million dollars for that. That makes sound like a lot to you, but that's 450 million dollars over a ten year period. She is asking to think carefully about using eminent domain. If you use it here, if you give power to Ms. O'Malley she's got it. It could be your home or your business. Don't think that it can't happen. Once the ball starts rolling, it's rolling. New London has lost 21 million dollars in taxes. They don't have one building to show for it. They have the same promises expanded that started on a frigid snowy night. New London was presented with six plans, one doing nothing, six demolishing the entire neighborhood. They never really had a say. She is afraid that is what will happen here. They really never had a say. It was decided on another level and said that Fort Trumbull with all the generational families had to be demolished, had to go. What do we have now? Exactly now, we have brown fields and the promise that after the elections of rental property. Please think carefully if you want to give a tool of such strength to people to take what belongs to somebody else. Sit down and reason with these people. They have said they are willing to do that. They're your residents, take them at their word. Please sit down and negotiate with them. Something can be worked out and you don't have to make enemies amongst the town people.

Arlene Yaccobucci– 10 Lombardi Drive. She would like again to say that the City officials have not negotiated with the property owners in the redevelopment zone; which is contrary to what Mayor Staffieri keeps telling the public. They have continually asked that they be a part of the project which the developer still has not proven since he has still has not gone to Planning and Zoning with any real plans. They have also asked for help to keep them still in business and to make them whole. Why should they accept an insulting offer when that offer would not nearly replace what we are losing? To date, the only offer that the developer has given them is \$185,000.00 for four parcels which includes a sturdy two story building, a warehouse, a lot with a foundation with utility connections, and a parking lot. The City's offer for five parcels was \$394,000.00; this is approximately \$120,000.00 less than we are being taxed on. So, no, we are not being treated fairly. We are being asked to sacrifice our livelihood. As Attorney Coppola stated, in July 2006, "We are a society of sacrifices of a few for the good of all. I mean look at what is happening over seas, we sacrifice young men for all of us". We shouldn't have to sacrifice our financial futures for this developer. We are being blamed by this administration as being held out and greedy, when we have not even been encountered with an offer with a number. The developer will not deal fairly with the business and property owners. Two years ago the property owners were tricked by the developer's representatives into coming into a meeting to discuss relocation. Mr. Skolnick opened the meeting saying he was motivated by greed, which he then repeated. Relocation was never going to be discussed in this meeting. She asks this agency to give careful consideration before voting to ask the Board of Aldermen to approve the use of eminent domain. She also asks the agency about the special taxing district. It allows for 45 million dollars of bonding. The public is continually told that there is only 15 million dollars available. Are there any safeguards put in place by the City to prevent the developer from encumbering the City with 30 million dollars in debt beyond the source of a fund to close the funding gap? The special taxing district also allows the district to collect tax and fees, rent, benefit assessment and other charges. After payment of the bonding interest and principal will any and all of the revenues collected be turned over to the City to cover the cost of providing municipal services within the district? Has the City run the numbers to see what the additional costs for City services will be for the development being proposed? The new project just approved for Orange will be using sewer services from Derby. Are the agreed upon revenue from the Orange project going to pay for any upgrades to the sewer treatment plant. The plan for redevelopment states that the sewage treatment plant is adequate for redevelopment. The developer's lobbyists is seeking funding from the Department of Environmental Protection. Is this in response to any contamination found at the site? Is this for any upgrades in the municipal sewage treatment plant? Is the developer seeking funding from the DEP in the form of grants and bonding? Has the City updated its Redevelopment Plan documents to conform with the current State legislation that was approved in the last legislative session? How much fund balance and/or money have already been put aside for the purchase of properties and relocation of businesses in the redevelopment zone? How much does the City need to keep in the fund balance to maintain its bond rating? How much has been budgeted for the contingency account as specified in the relocation plan?

Anthony Szczewyk – 6 Mount Pleasant Street. He keeps hearing Board of Aldermen regarding the topic of eminent domain. The Board of Aldermen have not said anything one way or another about eminent domain. The Board of Aldermen did not vote or mention eminent domain. The papers have been saying the administration is one big enormous blob. He reserves comment unless he is personally involved in these discussions. He requests when people refer to the administration that they be a little clearer. When you say administration it means the Mayor, the Aldermen and other people within the City.

Kathleen Mitchells said she is not clear of the political structure here. It is different than it is in New London. She said she was angry at the Mayor for being quoted as before.

Mr. Waleski said that he omitted from his earlier comments that there was public assessment that there has been some goings on about the folks here. He wants to go on record that the publicity so far specifically to the people holding up the project was unfair, inaccurate and not just. He hopes the agency makes some effort to clarify that position.

Mr. Calvert said Mr. Dunne neglected to tell Mr. Szczewyk there will be a statutory recommendation to the Board of Aldermen in the adoption of the powers of eminent domain.

Mr. Dunne said as the meeting goes on it will become clearer what we are asking for and what we are saying and what we are pursuing.

Carl Yacobacci – 10 Lombardi Drive. As a taxpayer of Derby, he has a question. If this does go to eminent domain is the developer responsible to pay back the cost of years of litigation and thousands of dollars of legal expenses? If the judge awards the property owners more money for the property, would that money have to be reimbursed by the developer or would that be taken upon the taxpayers of the City? It has been falsely reported by the papers that all the money that will be paid to the property owners now will clearly be reimbursable. But what about anything future for properties that may or may not be taken in this development, would that be included or will that be on the burden of the City?

Public Portion closed at 7:12 p.m.

Mr. Dunne said the redevelopment plan was adopted by this agency and the predecessor of the Board of Aldermen in 2003. When that plan was adopted it was a conscious decision made not to displace homeowners. That is not what we are talking about here. This agency has an obligation not to negotiate in public and will not. We won't comment on anybody's assertion of what they were or weren't offered. With the exception of one property owner (Mr. Auerbach) the City has initiated negotiations with every property owner. In regard to the gap; the City and taxpayers have no obligation to fill the gap in this project, they never have and they never will. Elections occur, people change office. Sometimes they tell you something, read something out of an election, sometimes you

can't. This particular one, Mr. Dunne took away a couple of lessons. A mandate out of this election, that the people of the City of Derby endorsed the redevelopment process and what it to go forward. There is also a message here, they want this done, moving and over. This agency has its orders to conclude an agreement and move this project forward in the near future. We intend to do so. We intend to come up with an amended agreement with the developer, move the project forward, develop a road map as to how it will be carried out and come up with specific targets and deadlines. We will try to attempt to make sure the developer and the City equally control this deal. In regard to the current agreement, the developer is required to pay any future costs assessed by a court in connection with any settlement of litigation regarding property or relocation. In 2003 the plan was publicly heard. It was commented upon, the legislative body voted on it and a map of all the parcels potentially to be taken was published. Everyone was given notice. Mr. Dunne would disagree with the philosophical components of the right of a community to exercise its best judgment as to how it should best be developed. What matters is what the law is and what the agency's obligation is to the taxpayers, in using the powers that we are granted under the law to ensure their best financial interests are covered. It is the agency's intention to advance this project to the next step, whatever that step is. In terms of taking the powers of eminent domain, we are asking for a discussion and possible action of the recommendation regarding eminent domain. Mr. Dunne said he will recommend to the Board of Aldermen that they adopt the power.

Weed & Seed Program Sheila O'Malley had a few comments first. The City of Derby and the residents all warmly welcomed her here, which include the four property owners in that. She has not spoken to the property owners with the exception of Mr. Calvert. A decision was made for her to not negotiate at this time. There was communication from an attorney of one of the property owners not to communicate unless the communication was between the City's legal council and their legal council. She continues to have an open door policy and welcome anyone to come speak with her.

The police department has provided pages of statistics of level 1 crime statistics per the US States Attorneys office request. They will be looked at and give the City a game plan for going forward. She will continue the process to apply for the weed and seed designation.

Mr. Kelleher had a question regarding Hawkins Street being eliminated for the HALO project. Mr. Dunne said there is the redevelopment zone which was adopted by this agency. The second is within the redevelopment zone; an application for an area targeted for the weed and seed program.

Downtown Redevelopment Project Update Mr. Dunne will skip over as he has made earlier comments pertaining to this item. The agency is in the process of moving this project forward in a way that is meaningful to the City. At the last meeting the Agency met with the developer's team and asked them to explore other options in looking at the concept plan for this zone that would result in a reduction of a gap and different scale and magnitude of impact to the community.

Presentation of updated Concept plan Mr. Robert Skolnick (principal in Stoneridge Partners and partner in Ceruzzi-Derby Redevelopment) They earlier plan yielded a gap of 45 million dollars. The gap is the difference between an economically viable project and the developers' contribution and the costs of infrastructure within the redevelopment district. The agency felt before phase 1, with a 45 million dollar gap, and spent additional time and money confirming that gap and agreeing to those numbers, the agency challenged the developer to go and spend more time thinking outside the box. Some but not all of the elements focused on were the overall cost of the infrastructure that Street Work plan yielded and the resulting gap that produced. The density, number of housing units and resulting traffic impact along RT 34 was a concern. They looked at other planning firms to take a fresh look and ultimately selected a company named Greenberg Farrow. John Clifford of Greenberg Farrow showed conceptual plans, with lower density. The focus is on an integration plan which will spin off further development in the rest of downtown Derby. He showed an aerial view of 20 acres; 20% public open space, 5-7% new public streets. It includes three residential buildings along the Housatonic River, the largest of which would be four stories and would include small retail spaces on the bottom floor.

Mr. Skolnick is asking the agency to expand the development footprint today to include phase 1 and phase 2. That may bring other owners and businesses into play. The developer has reached out to Housatonic Lumber who has expressed a willingness to consider relocation. This new plan will yield closer to a 35 million dollar gap. Mr. Skolnick said the previous Streets Work plan called for a 1600 car parking structure. The gap is determined by the cost of the infrastructure spread over the value one could pay for the land. Putting a lot more parking on surface reduces that cost. Mr. Gilmore said the previous plan the streets were unstructured. Anything structured is extremely expensive.

Mr. Dunne thanked the developers for presenting a reasonable plan and the agency will get back to the development team sometime after this meeting. Mr. Dunne asked if Mr. Skolnick can identify State or Federal resources to close the gap. Mr. Skolnick said they have contacted Pat Sullivan and his team and it is an on-going process. There will not be one pocket, they've been also talking with our Federal lobbyists Nick Pinuzzio and David Giordano. They are working in conjunction with Pat Sullivan's group on certain items and they are meeting weekly. Pat feels there is a very receptive audience at the State level.

Mr. Dunne said a typical public development project in Connecticut has an investment between three and six private dollars for every dollar of public investment. Adrian's Landing was five dollars for every one dollar of private investment. Steel Point will be about one dollar of public money for every five dollars of private money.

Status of gap analysis Mr. Dunne said the agency had agreed with the developer at the last meeting that the current timeline was mutually extended. Attorney Coppola gave an update. The developer provided Tom Corso with lots of numbers for construction, for street work and so on. The numbers have slightly changed based on the board's direction

of the final plan. There will be another list of items that Mr. Corso will require from the developer. The contract has been signed with him and the money set aside for it.

Discussion and possible action – Statutory recommendation to Board of Aldermen: adoption of powers of eminent domain

Mr. Dunne said this item is for the agency to advance this portion of the project, as its duty and obligation if we are going to proceed with a redevelopment project. We have to adopt the redevelopment statute as they are restated and revised by the Connecticut General Assembly in the last legislative session. The power of eminent domain has always existed for this redevelopment zone. Attorney Coppola addressed the board with what is involved. The Redevelopment Agency had accepted the Redevelopment plan in 2003. In the plan there is language that followed the status of the eminent domain statute at that time. There was a finding which was recorded, then isolated a certain parcel of land in the downtown. The powers of eminent domain were drafted in the language in the plan and if it was to be used, there was direction the agency has to take. They then make a package to the Aldermen with an outline of what the agency has done. That has now changed. Back in 2006, the Mayors office and this agency directed that Attorney Coppola do two appraisals. The Mayor took the two appraisals and a number of property owners were offered the higher appraisal. At that time a relocation agent was commissioned. A package was put together for some of these owners. Two of the owners did accept. Then, the Mayors office decided to take two appraisals and take the higher number and make that an offer to a number of the owners. Now that the law has changed, we have to re-tool what was done back then and present a package to the Board of Aldermen. Attorney Coppola drafted a motion and went over it; if this board decides that they are at a stalemate and they need to move forward, either we end it or put the package together for discussion as to whether or not eminent domain is needed. The package needs the appraisals updated, and get one more appraisal for each property. Then Attorney Coppola needs to get the money encumbered, and then go forward and get more appraisals. There is language regarding notice and public hearing. There needs to be a document drafted that complies with the CT General Statute 48-57. The Chairman asked Attorney Coppola to prepare this program; it does not mean we are taking any action for eminent domain. If the time comes when this board votes, he needs to have this package ready to go. The City will get a third appraisal for that Attorney Coppola needs to encumber some money. The new appraisal with the higher of the two previous appraisals will be in the offer. The higher of the two will be the offer. Mr. Dunne noted that the law suggests giving an average of the two. Mr. Dunne then read out loud the motion as follows:

To direct the Corporation Counsel to take the necessary steps to prepare for the possible action of eminent domain regarding the property located in the City of Derby Downtown Redevelopment Zone including the following actions:

1. To act to comply with the revised Connecticut General Statutes regarding Eminent Domain;
2. To act to update the appraisals, in conformity with the Connecticut General Statutes at the appropriate time(s);

3. To prepare the notice language pursuant to Connecticut General Statutes 48-57 regarding the State of Connecticut Ombudsman for property rights;
4. To prepare language for the holding of a public hearing regarding the possible actions of eminent domain;
5. To prepare a resolution for recommendation of action to the Board of Aldermen and the Redevelopment Agency.

Motion by Mr. Glen Stevens, second by Mr. Greg Russo, all in favor, motion passes.

Mr. Dunne thanked Mr. Yacobacci for copies of the book he handed out to the board and will have any leftover copies placed in the libraries.

Review of City's previous project expenses

Prior developer fees paid to City

Municipal costs – Project to date

Mr. Dunne identified fees paid to the City by the Developer. There was 3 \$100,000.00 development fees to the City to cover the expenses for reviews, legal costs etc. There was 2 \$100,000.00 placed in escrow. There was an original \$100,000.00 paid and expended through the General Fund.

Executive Session

Corporation Counsel Update re : negotiations & property acquisitions

Developer negotiations re: PDA

Motion to go into Executive Session and invite Corporation Counsel, Board of Aldermen members, Ms. O'Malley, subject to adjournment with no further action by Mr. Stevens, second by Mr. Russo, all in favor, motion passes. Executive Session starts at 8:59

Adjournment

Respectfully submitted

*Denise Cesaroni
Recording Secretary*