

**MINUTES OF THE REGULAR MEETING OF THE
MICHIGAN CITY REDEVELOPMENT COMMISSION
FEBRUARY 9, 2009**

The Michigan City Redevelopment Commission met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Monday, February 9, 2009, at 5:00 p.m. local time; the date, hour and place duly established for the holding of said meeting.

CALL TO ORDER

Chairman Ken Behrendt called the meeting to order at 5:00 p.m.

ROLL CALL

The following members were noted present for the record: Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz and Michael Kniola. James Kintzele was absent. (5 present, 1 absent) Staff in attendance: Executive Director John Pugh, Attorney Michael Bergerson and Secretary Debbie Wilson.

Public in attendance: Ken Fryar, Bob Bailey, Dan Radtke, Bill & Carol Bailey, John Sheets, Ron Miller of WE-FM and Laurie Wink of the News Dispatch.

APPROVAL OF MINUTES

The Chair entertained a motion for approval of the minutes of the regular meeting of January 12, 2009.

A motion to approve the minutes was made by Ms. Kaser – seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz, Michael Kniola (NAYS): None

With a vote of 5 ayes and 0 nays, the motion was UNANIMOUSLY APPROVED.

CLAIMS

Mr. Pugh distributed and reviewed the claims list for February:

Payroll

Staff Salaries	01/14/09	2,325.74
	01/30/09	<u>2,345.42</u>
		4,671.16

Claims (Regular)

Lenore Gregory	Acctg services - Dec 2008	400.00
Michael Bergerson	Legal retainer - Feb 2009	<u>300.00</u>
		700.00

Claims (N TIF)

Michael Bergerson	Legal services N TIF	3,490.00
Stress Analysis	Blocksom relocation	525.00
Environmental Inc	Grant mgement - Erincraft, N&W RR	16,315.63
IDEM	VRP - Benz property	4,533.75
Cavolick Consulting	Blocksom relocation	3,875.00
American Structurepoint	Michigan Blvd rehab	<u>63,210.00</u>
		91,949.38

Claims (S TIF)

Beam Longest & Neff	Engineering - 400 N	11,269.34
Rieth-Riley	Construction - 400 N	<u>49,186.81</u>
		60,456.15

Mr. Pugh noted the increase in accounting services for December was due preparation of year end reports.

The Chair entertained a motion for approval of the claims as presented.

A motion to approve was made by Mr. Bigda – seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz, Michael Kniola (NAYS): None

With a vote of 5 ayes and 0 nays, the motion was UNANIMOUSLY APPROVED.

FINANCIAL REPORT

Mr. Pugh reviewed the financial report ended 12/31/08.

The Chair entertained a motion for approval of the financial report as presented.

A motion to approve was made by Mr. Kniola – seconded by Ms. Kaser, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz, Michael Kniola (NAYS): None

With a vote of 5 ayes and 0 nays, the motion was UNANIMOUSLY APPROVED.

REPORT BY LEGAL COUNSEL

Attorney Bergerson reported that he received the official report of the appraisers regarding ongoing litigation with the Sobkowiak's and Weber's. The report indicates the value of the Sobkowiak property (not including remediation costs) at \$300,000 and the Weber property (not including remediation costs) at \$150,000. Both numbers are significantly less than what was offered to them almost six years ago. It has been determined by the appraisers that when factoring in the remediation costs, the Sobkowiak property is valued under \$100,000 and the remediation costs exceed the value of the Weber property.

Attorney Bergerson stated that the trial is scheduled for March 5th and 6th. By statute, between now and then, the Commission, as well as the Sobkowiak's and Weber's, are entitled to file objections to the appraisers reports. Attorney Bergerson suggested filing an objection on the reports based on the fact that the numbers do not take into consideration the remediation costs; putting the fair market value in issue with respect to actually valuing the properties with the remediation costs included.

In addition, Attorney Bergerson explained that statute authorizes the parties to make an offer of settlement. Pursuant to discussion in Executive Session, Attorney Bergerson asked that the Commission authorize him to file with the Clerk of the Court, an offer of settlement. By making an offer of settlement, as opposed to not making an offer, it would save the Commission \$25,000 per property in legal fees if the jury award was not in excess of that offer. The reason being is that the court reversed itself on including the remediation costs in the valuation to be filed by the appraisers. The court knows full well that the remediation costs can be recovered; the reason for count 2 of the Commission's complaint.

Further, Attorney Bergerson stated that the appraisers filed their request for payment and pursuant to statute; the judge has ordered the Commission to pay the cost of the appraisals. Attorney Bergerson indicated that the total cost for the appraisals (both properties – 2 appraisals each) is \$10,500. Attorney Bergerson asked that the Commission authorize staff to take the necessary steps to bring about payment for their services.

The Chair entertained a motion.

Ms. Kaser made a motion authorizing Attorney Bergerson to file objections to the remediation costs not being included in the appraisals, as well as filing an offer of settlement – seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz, Michael Kniola (NAYS): None

With a vote of 5 ayes and 0 nays, the motion was UNANIMOUSLY APPROVED.

Mr. Bigda made a motion approving the payment of the appraisers in the amount of \$10,500 to the Clerk of the Court – seconded by Ms. Kaser, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Neil Kienitz, Michael Kniola (NAYS): None

With a vote of 5 ayes and 0 nays, the motion was UNANIMOUSLY APPROVED.

Attorney Bergerson made note that if this case has not been settled before the trial date, a jury will make a determination of what the value of the property is. By the Commission's next meeting, the cost should be determined so it can be paid to the Clerk and the property acquired so the Lafayette/Barker storm sewer project can move forward.

Attorney Bergerson reported that they continue to analyze requests made by Blocksom for the relocation of their equipment. Another negotiating committee meeting will be held between now and the Commission's next meeting.

Attorney Bergerson certified that an Executive Session was held prior to this meeting and discussion was limited to the items on the agenda, no votes were taken and there was no discussion of any other item.

REPORT BY DIRECTOR

Mr. Pugh stated that he has been contacted by the consulting firm of Hunden Strategic Partners in regards to the master developer process. They are a group that conducts developer selection, negotiates and prepares RFPs. He said he would invite them to a future Commission meeting to give a presentation as an option to proceed with the master developer selection process.

Mr. Behrendt asked about Franklin Square maintenance this year.

Mr. Pugh replied that he will put it on the next agenda for discussion. He noted that there will be an America in Bloom meeting on February 12th. The intent is to include Franklin Square in the American in Bloom program by working with various groups to maintain the planters and blocks within the Square. The objective would be to not go

out for a landscaper and try to include it with the other uses. He added that we need to see what shape the plants are in when spring gets here.

Mr. Bigda commented that it would be a good idea to work with America in Bloom as the Commission has not been successful with the planters in the past.

Mr. Kienitz asked if the frontage road off of 400 N leading to Culver's and the Antique Market will be repaired as it is in bad shape.

Mr. Pugh replied that the road is not within city limits. During the Kieffer Road project the right-of-way was repaved and fixed; but the city is not responsible for the entire length of the road.

PUBLIC COMMENT

Bob Bailey, 311 Kenwood Place, came forward to address the Commission. He stated that he reviewed the Tracy Cross report and prepared a response in writing which he distributed to the Commission. He said he would make himself available to discuss his response with the Commission and provide suggestions and alternatives.

Chairman Behrendt stated that as the Commission gets further along into the selection of a master developer, public workshops will be held and input heard and analyzed.

Dan Radtke, Pioneer Pier, questioned the status of the ice cream parlor and temporary sales office for the condo/hotel on N Franklin Street.

Mr. Pugh responded that it is his intent to contact the permit holder and get a progress report. He noted that permits have been issued for the ice cream parlor. He will urge them to move forward or at least clean up the site.

ADJOURNMENT

The Chair entertained a motion to adjourn.

A motion was made by Mr. Bigda – seconded by Mr. Kniola and unanimously approved.

The Chair declared the meeting adjourned at 5:25 p.m.

/s/ Lynne Kaser, Secretary