

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY REDEVELOPMENT COMMISSION  
SEPTEMBER 14, 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, September 14, 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. (5 present – 0 absent) Staff in attendance: Executive Director John Pugh, Attorney Michael Bergerson, and Zoning Administrator/Rehab Officer Joseph Siegel.

**APPROVAL OF MINUTES**

The Chair entertained a motion for approval of the minutes of the regular meeting of August 17, 2009.

***A motion to approve the minutes as written was made by Ms. Kaser. The motion was seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (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 September:

**Payroll**

Staff Salaries	08/28/09	<u>3,574.72</u>
		<b>3,574.72</b>

**Claims (Regular)**

Lenore Gregory	Acct services - July 2009	250.00
Michael Bergerson	Legal retainer - September 2009	<u>300.00</u>
		<b>550.00</b>

**Claims (N TIF)**

Michael Bergerson	Legal services N TIF	5,770.00
Haas & Assoc	Franklin Sq streetscape repairs	17,767.50
Environmental Inc	Grant mgement - Josam	30,346.61
Environmental Inc	Grant mgement - Erircraft	3,012.18
Environmental Inc	Grant mgement - N&W RR	3,015.26
Baker & Daniels	Legal services - Sobkowiak	35,190.93
News Dispatch	Beachway Plan	<u>69.38</u>
		<b>95,171.86</b>

**Claims (S TIF)**

Beam, Longest & Neff	Engineering - 400 N	1,045.71
Beam, Longest & Neff	Engineering - Towne Center Drive	<u>1,634.33</u>
		<b>2,680.04</b>

The Chair entertained a motion for approval of the claims.

***A motion to approve the claims was made by Mr. Bigda. The motion was seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (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 July 31, 2009.

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

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

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

### **BID AWARD – FRANKLIN STREET REPAIRS**

Tim Haas and Sedrick Green of Haas & Associates came forward to address the Commission. Mr. Haas indicated that bids were received and opened on September 9, 2009. Six bids were submitted. They reviewed the bids and found mathematical errors on four of them, which reduced their submitted bid amounts. The two lowest bidders were Woodruff & Sons in the amount of \$213,882.00 and Rieth Riley Construction Co. in the amount of \$208,713.80. They found the bids to be complete and compliant with bidding requirements. It was their recommendation to accept the bid of Rieth Riley for Award of Contract contingent upon a satisfactory review of the EEO package.

The Chair entertained a motion.

***A motion to Award the Contract to Rieth Riley Construction Co. in the amount of \$208,713.80 was made by Mr. Bigda. The motion was seconded by Ms. Kaser, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

### **HARBOR GRILLE AGREEMENT**

Attorney Bergerson stated that he is in receipt of an agreement from Harbor Grille (12 on the Lake) and has prepared rules and compliance to include minimum dates to be open for business. Harbor Grille has agreed to comply. Review of local and state rules will be conducted yearly.

The Chair entertained a motion.

***A motion to approve the agreement for the issuance of a municipal riverfront license was made by Ms. Kaser. The motion was seconded by Mr. Kienitz, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

### **PUBLIC HEARING – RESOLUTION AS AMENDED BY COMMON COUNCIL**

Attorney Bergerson submitted proof of publication and explained that this public hearing is in regard to adoption of a resolution by the Redevelopment Commission, which was forwarded and passed by the Plan Commission, then sent onto the Council. The

Council made amendments to the resolution and it is now back before the Redevelopment Commission to either accept, reject, or amend it.

Attorney Bergerson indicated that the Council has overstepped their legal boundaries. The Beachway Plan should not be directly tied to the acquisition of the News Dispatch. The Council has dictated the role of the Redevelopment Commission in the acquisition of properties. The language from the Council takes away the authority of the Redevelopment Commission and Plan Commission.

Attorney Bergerson advised that the Redevelopment Commission should proceed with the acquisition but not agree to the amendments made by the Council. Attorney Bergerson read Resolution 2-09 Confirmatory Resolution of the Redevelopment Commission Authorizing the Acquisition of Certain Real Estate within the Boundaries of the Urban Renewal Area as Amended.

The hearing was opened for public comments.

Tom Stevenson, Environmental, Inc., reported on the environmental status of the News Dispatch site. The Phase I analysis has indicated several environmental issues. Not much was found inside the building. A Phase II analysis needs to be conducted.

Councilman Robert McKee explained the Council's approach on this and why they took the position they did. He stated that they are not against the acquisition of the News Dispatch, but it is their concern to protect the use of the site.

There were no other comments; therefore the public portion of the hearing was closed.

The Chair entertained a motion on the resolution.

***A motion to approve Confirmatory Resolution 2-09 was made by Mr. Bigda. The motion was seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Michael Kniola, Neil Kienitz (NAYS): Lynne Kaser***

***With a vote of 4 ayes and 1 nay, the motion was APPROVED.***

### **DISCUSSION OF BEACHWAY PLAN**

Mr. Pugh explained the history of the Beachway Plan. He stated that the R-46 (redevelopment area) was created. The Beachway Plan relates directly to that. Urban renewal funds were received from HUD. The Beachway Plan was developed in 1970 and adopted in 1971. It was a contract between the City and HUD to set development standards in the R-46 area. The Plan will expire on 12/31/2014, but the deed restrictions on the property will continue. He stated that a consultant is already in place

for a Master Developer, and that consultant could look at the Beachway Plan. Mr. Pugh stated he thinks that sometime between now and 2014, the Commission should look at developing something for themselves as HUD will be out of the picture.

Mr. Kienitz suggested a workshop with members from each of the Board's – Common Council, Plan Commission, Redevelopment Commission, as well as including the Mayor.

Councilman McKee suggested that Hunden Partners also meet with the joint committee.

Councilman Murphy agreed with Councilman McKee on bringing in Hunden Partners into the discussions with the joint committee.

Tim Bietry, Chamber of Commerce, discussed deed restrictions for all redevelopment properties and what needs to happen with those deed restrictions to fit into the new plan. He said those restrictions need to be looked at to see if they will interfere with what is planned.

Ms. Kaser asked Mr. Pugh and Attorney Bergerson to review the deed restrictions in the R-46.

***A motion was made by Mr. Kienitz to schedule a workshop regarding the Beachway Plan to include the Mayor, members of the Joint Committee and Redevelopment Commission, and Hunden Partners. The motion was seconded by Ms. Kaser, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

### **APPROVAL OF ACQUISITION**

Attorney Bergerson reported that the Commission is in the process of demolitions on the Sixth Street corridor; specifically 408, 410, and 412 E 6<sup>th</sup>. Attorney Bergerson is making an offer to purchase 404 E 6<sup>th</sup> Street as well. The intent would be to demolish all four at the same time. The Commission could get one bid instead of four individualized bids, resulting in a substantial savings. By staying at one site, the contractor would not have to mobilize equipment.

The Chair entertained a motion.

***A motion was made by Ms. Kaser authorizing Mr. Pugh and Attorney Bergerson to proceed with the acquisition process of 404 E 6<sup>th</sup> Street. The motion was seconded by Mr. Kienitz, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

***Another motion was made by Ms. Kaser to include 404 E 6<sup>th</sup> Street in with the demolition process of 408, 410, and 412 E 6<sup>th</sup> Street. The motion was seconded by Mr. Kniola, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

### **REPORT BY LEGAL COUNSEL**

Attorney Bergerson reported that the Redevelopment Commission has the right to file an appeal on the Sobkowiak litigation. The attorney's for this litigation matter, Baker & Daniels, have indicated that the time to prepare an appeal would take too long and their suggestion would be to make a settlement with the Sobkowiak's and Weber's.

The Chair entertained a motion.

***A motion was made by Mr. Kniola to forego the judgment appeal and have the attorney's make a global settlement. The motion was seconded by Mr. Bigda, with the vote as follows: (AYES): Ken Behrendt, Ed Bigda, Lynne Kaser, Michael Kniola, Neil Kienitz (NAYS): None***

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

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**

Tom Stevenson, Environmental Inc., announced that he is currently preparing three EPA clean up grant proposals – former Bensch, Norfolk & Western, and Erincraft properties. This is for cleanup of ground water. The soil cleanup has already been addressed for the former Bensch property and is currently being addressed for the the former Erincraft and Norfolk & Western properties. The City has a potential of receiving \$200,000 for each of these properties. The draft proposals will be available for public comment from 10/2/09 thru 10/9/09 and proposals are due to the EPA by 10/16/09. A public meeting must be held to present these proposals.

A special Redevelopment Commission meeting to present the proposals was scheduled for October 5<sup>th</sup> at 6:00 p.m.

Mr. Stevenson also announced that he is preparing an RFP for the cleanup of soils for the former Norfolk & Western, Weber, and Erincraft properties. The RFP will be available in the Planning Department by 9/25/09. A pre-bid meeting will be held at the sites on 10/2/09 and proposals will be due from contractors on 10/16/09 to be opened and awarded at the 10/19/09 Redevelopment Commission meeting. Mr. Stevenson indicated soil cleanup will be completed by the end of the year for the entire area, then the ground water issues will be addressed. He will attempt to acquire funding for ground water cleanup through the EPA as well.

### **PUBLIC COMMENT**

Councilwoman Angie Nelson stated some concerns by business owners regarding the guidelines for a riverfront license. She also questioned if there was not a signed agreement in place for a year.

Attorney Bergerson replied that until the construction was completed, there was no need for a formal agreement requiring them to stay open for a certain amount of days. Final construction was at the end of March.

Councilwoman Nelson asked the time period to monitor it now – from the end of the construction or from this signed agreement?

Attorney Bergerson replied that it would be monitored from the end of construction.

Councilwoman Nelson stated that another issue was brought to her attention in regard to transferability. She stated that the license cannot be given to another person, but noted that they did do a function at the LaPorte County fairgrounds. She questioned if it is feasible to use a license to sell alcohol at another location and asked that the attorney check into it

Councilwoman Nelson asked if the Commission will conduct a yearly evaluation or if Harbor Grille will generate a report to the Commission. She questioned how it will be monitored to see that they are following the terms of the agreement.

Mr. Behrendt stated that the idea was to go on a calendar basis once the construction phase was complete.

In response to Councilwoman Nelson's question about selling alcohol at another location, Attorney Bergerson stated that it was not addressed in the local rules or guidelines, but it doesn't necessarily mean that the ATC would allow them to use their license off site. He said he would check into it and indicated that it might be something to address in the process.

Dan Radtke, Pioneer Pier, asked if the public could have copies of the agreement.

Attorney Bergerson stated that they could.

Mr. Radtke wanted to make note of a conflict of meetings going on at the same – Redevelopment and Port Authority. He hopes that will be corrected in case someone would want to attend both meetings.

Mr. Radtke stated that a big kudos needs to go to everyone involved with development in Michigan City via the announcement of the Canterbury Theatre being purchased and remodeled by private entrepreneurs.

Also, Mr. Radtke asked for an update on the Lake Avenue extension.

Mr. Pugh replied that internally, the City is working with the Railroad and property owners and seeking approval and agreements with those individuals before going forward to the City Council. He pointed out that it takes time to get agreements in place.

With regard to the Canterbury, Ms. Kaser commented that this is extraordinarily exciting to see this happen. The developer is making sure that this is not only a viable but beautiful building. She said it will be a good anchor downtown and thanked Mr. Pearle Mort for his efforts.

### **NEXT MEETING DATE**

The next regular meeting will be on October 19, 2009.

### **ADJOURNMENT**

The Chair declared the meeting adjourned at 6:22 p.m.

/s/ Lynne Kaser, Secretary