

CITY OF DERBY
REDEVELOPMENT AGENCY MEETING
JULY 12, 2005

FORMER DERBY CITY HALL – ALDERMANIC CHAMBERS – 6:30 P.M.
(35 Fifth Street)

Mayor Marc J. Garofalo called the meeting to order at 6:38 p.m. All rose and pledged allegiance to the flag.

Roll Call

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

Also Present: Alderwoman Sheri Pflugh
 Michael J. Joyce, P.E., Milone & MacBroom, Inc.
 Warren Holcomb, Esq.

ADDITIONS, DELETIONS, CORRECTIONS TO AGENDA

Mayor Garofalo said he would like to add an Executive Session to the agenda as some items relate to the update on the South Side of Main Street Revitalization Project. The Executive Session would be for discussion purposes only with no action to be taken.

A MOTION was made by Mr. Guardiano with a second by Mr. Stevens to adopt the agenda with the one addition. **Motion carried.**

PUBLIC PORTION

Dan Waleski, 21 Elm Street, Derby, CT – As you are well aware the project, the Greenway Project affecting downtown redevelopment area is well underway and there's been a few changes since its original inception and I'm concerned about this redevelopment taking place down there. I'm concerned that, and not only concerned I'm also hopeful, that this project down there will not interfere in any way at all with the Greenway Project. I am hoping that you will bear in mind that there's two different separate projects. While the Greenway Project affects all of Derby and is a benefit to all of Derby and I would like to ensure that that's preserved and expanded if at all possible. Thank you Mr. Chairman.

Carl Yacobacci, 10 Lombardi Drive, Derby, CT – I just want to ask a question. With all this eminent domain stuff going around and what's in the paper – the State of Connecticut going through this and they're asking all municipalities and stuff like that to put any eminent domain kind of things on hold. Is Derby going to do that – honor that –

until they make a decision? Or is Derby no matter what happens now still going to be going ahead with eminent domain in downtown?

Mayor Garofalo – Well it's not – I mean eminent domain is not – we're not even sure it's going to be used in this particular case.

Mr. Yacobacci – Because in all the previous meetings the attorney – eminent domain was always brought up and it concerned a lot of the citizens and people who own stuff down there and now with this we're just wondering what Derby's position on this was – this matter until its brought up through the State courts.

Mayor Garofalo – Well the State court ruled on it. The State of Connecticut Supreme Court – it was a Connecticut case that was through the Superior Court, through the Appellate Court of Connecticut to the Supreme Court of Connecticut, which ruled on it, and then to the Supreme Court of the United States. It was a Connecticut case – it's not like a case that was from a different jurisdiction. This is a Connecticut case so the relevant case law is directly a Connecticut case. The simple answer is we're not even sure if eminent domain is going to be utilized in this. And I would defer to the representatives of Ceruzzi Development to reiterate that point. It's our hope that's not even an issue here.

Mr. Yacobacci – Well did Derby get a letter from the State of Connecticut about the eminent domain? Because in the paper it said the State sent letters to the Chief Executives of all the cities – 169 municipalities urging them to place any eminent domain issues on hold until the legislature (inaudible.) I was just wondering...

Mayor Garofalo – Is that today's paper?

Mrs. Yacobacci – It's today's.

Mr. Yacobacci – Yes. So I was just wondering what Derby's position on that was? If they're going to abide by what the State has asked or if they just plan to use that as another tool for downtown redevelopment if they have to.

Mayor Garofalo – I'll defer to Mr. Skolnick from Ceruzzi Development.

Robert Skolnick, Ceruzzi Derby Development – I read with interest the article today myself. I happen to agree with the Mayor that we don't know yet if eminent domain will be a part of the redevelopment process. In fact we're very hopeful that it's not. And I would just like to add a distinguishing factor between say Derby's redevelopment and some of the others that we've read about. Many of instances there's no owner occupied residential tenants or owners of part of the downtown redevelopment plan. And that's a very important I think distinguishing factor from what you're reading. But the fact is we don't know if it's going to play a role at all in this development.

Mr. Waleski – I have a point of information. I wasn't quite sure I understood his description here on eminent domain. He said there was something there that was

extremely important about ownership – residential ownership of the property. Can you clarify that? I would like to have him clarify that for us please.

Mr. Skolnick – My point on that was that many of the cases, particularly New London that you read about, involved owners that are primary residential owners.

Mr. Waleski – We don't have that here.

Mr. Skolnick – Yes.

Mr. Waleski – Thank you Mr. Chairman.

Hearing no one else wishing to address the committee, without objection the public portion was closed.

APPROVE MINUTES OF JUNE 8, 2005 MEETING

A MOTION was made by Mr. Russo with a second by Mr. Stevens to approve the Minutes of the June 8, 2005 meeting as presented. **Mr. Oraziotti abstained as he was absent from that meeting. Motion carried.**

UPDATE ON SOUTH SIDE OF MAIN STREET REVITALIZATION PROJECT/ DISCUSSION OF TIMELINE FOR SOUTH SIDE OF MAIN STREET REVITALIZATION PROJECT

Mayor Garofalo noted that in the members' packages there is a copy of the resolution that was adopted by the Housing Authority regarding this project pursuant to 8-127 of the Connecticut General Statutes. He said we will then schedule a public hearing that will be duly noticed. The Mayor then called upon John Ceruzzi for an update and timeline on the project.

John Ceruzzi, Ceruzzi/Derby Development – Since Robert started tonight he would ask that he continue on with the presentation.

Mr. Skolnick – Okay by way of update to the timeline and our progress with regard to the timeline at the last meeting we talked about getting in and starting to do some of the due diligence items, specifically geotechnical and inspection to the properties. In previous discussions we talked to the City about perhaps starting that process and we made the decision to have Gary (?) do those or get those authorizations that are signed by the property owners. We delivered all of them to Gary – Gary was away last week and he started this week to reach out to the property owners and we're hopeful that all of the property owners involved read, review and execute or approve the authorizations so that we can start to do the work that amounts to the due diligence of the geotechnical and physical study necessary. So that process has begun – we're hopeful that in short order we have all of the approvals and authorizations that we need to get physical samples and results taken from the property. With regard to demolition beginning, which we're scheduled to begin – we have begun the demolition process already. I would like to point out that the demolition of any property is a complicated matter. Particularly when you are demolishing properties that have potential contaminants and require remediation prior to taking the buildings down as I

think the City already knows from the work that has been done. In addition to being complicated it's added some complications the fact that Standard Demolition is suing the City and in fact I think we're on the road to recovery in regard to that in as much as we've heard that the resolution or the agreement between Standard and the City is just about finalized. In specific regard to that we're thinking positively – we've set up a meeting this Thursday morning with the principal of Standard Demolition to meet at the site to review the physical issues relative to how we're going to start physically demolishing the properties. There are some – there is a building that's relatively clean or in fact clean. There's a building that has relatively minor remediation required. And then there's a building that supposedly has a fair amount of remediation required. However we're spending – we have been spending the time necessary to get proper opinions on just how, if any, contaminated the buildings are. And then a specific plan as to remediation and in fact from an outsider's perspective I can see how people might say the buildings that are clean should come right down, but it's not quite that easy. In addition we have begun to make sure that we have the proper utility shutoffs, the proper D.O.T. approval and that our permits with the City are, and we believe they are, still active. So more to follow on that and we expect that the actual physical demolition will begin shortly. And so as it relates to other items on the timeline we're so far out there's – other than – I'm sorry the survey as we reported at last meeting was virtually complete. In addition we've begun and in fact have received many title searches of the properties as part of our obligation under the Preferred Development Agreement as well. So frankly that process is well underway. The survey is complete, title work is being performed, demolition the process has begun, and authorization to do the actual testing of the site is also underway.

Mr. Guardiano – I'm just a little confused. So you're saying that you definitely have people at the buildings now analyzing the necessary remediation.

Mr. Skolnick – No I didn't say that.

Mr. Guardiano – Are they coming tomorrow? When is the timeline then we they are going to start doing this analysis?

Mr. Skolnick – What I had said we're spending the appropriate time studying, meeting, interviewing various companies and people in particular to help us assess exactly what contaminants, if any, are in the buildings.

Mr. Guardiano – (Inaudible.)

Mr. Skolnick – We've received reports...

Mayor Garofalo – The City has provided...

Mr. Skolnick – We received the reports that had previously been performed on the property from the City. We've analyzed those and we're calling in our own consultants to offer their opinion on the reports. Then we will be physically – what I said was Thursday we're meeting with Steven Goldblume, the principal of Standard Demolition,

to start negotiating from the City's negotiation point on the resolution of the lawsuit. And their proposal on the remediation, which is unbelievably costly, I mean hundreds of thousands of dollars and trying to negotiate a more fair remediation from them. As you know negotiations are oftentimes complicated and this one is complicated not just by the fact they have a contract but by the fact that they had kind of sold the exclusive rights within the buildings at some point and we just want to try to keep them honest and do the right job.

Mr. Guardiano – When did you get the copies of the City's reports?

Mr. Skolnick – We've had access to copies of our reports.

Mr. Guardiano – How long ago?

Mr. Skolnick – As recently as last week.

Mr. Guardiano – They weren't available well before that?

Mayor Garofalo – Well they had to deal with the contractor who did it. Who was...

Mr. Skolnick – Apex.

Mayor Garofalo – Apex Environmental they did it.

Mr. Guardiano – Didn't we have authority over those reports? Did we have possession of those reports?

Mayor Garofalo – I don't remember who physically had them to be honest with you.

Mr. Guardiano – My concern again is the timeline. Here we are with the understanding that I know you're doing some of the work that you said had to be done but I would have thought that the work that you're talking about that you're going to be doing in the next week or so should have been done by now. And that you would have people in here because in the PDA you have an agreement to start the demolition. So I would have thought there would have been some sort of physical activity on the property this week according to the PDA. And I know you're doing the due diligence – you're doing everything but I'm a little concerned about the timeline.

Mr. Skolnick – It's not just due diligence and don't underestimate the complication of the City's negotiation with the contractor that's obligating us to use them as well. It's very complicated. I wish I can stand up here and say well it's a matter of entering into an agreement with Standard Demolition and then next week the buildings come down. It's just not that simple. I would be lying to you if I told you that it was. We have been on it – we're going to be doing the right job. We're going to be bringing the correct professionals to the team and we're not going to get raked over the coals in an effort just to demolish the buildings next week. We've begun the demolition process – it's complicated. I can't tell you more than that – it is.

Mr. Guardiano – My questions – I agree with you. You've begun the process, okay. That's about the only concrete thing we have right now, okay? That you've begun the process.

Mr. Skolnick – As well as the City is in the final stages with their settlement with the contractor that we're obligated to use.

Mayor Garofalo – That part of the negotiation is – we can discuss that in executive session because it is a pending claim against the City.

Mr. Skolnick – In any negotiation as you all know the facts and the details of the negotiation can't really become public – it hurts the process. I can only tell you that we're well underway. In fact there may be physical activity next week is our desire. Again, you know we're all working towards that goal.

Mayor Garofalo – I think you might expand on the issue of the utility cutoffs and the question – there was a question that came up as it related to where the...

Mr. Skolnick – We were called into a meeting with the City's engineer to review specifically how the Riverwalk interface with our – the portion of the Riverwalk that is adjacent to our site and the complication of specifically an electric pole that is behind the Hubbell Building as well as a water shutoff that's behind the building that has to be gone before the Riverwalk is completed. We specifically requested that they stay active because in the next week or the next month or two we're going to be utilizing that with both regard to the remediation as well as the demolition. We're hopeful that this is not a timely process, a time consuming process. So again that has to do in part with the demolition – it's not a simple process.

Mr. Oraziotti – Regarding the utility disconnects at what point in time do you think that's going to start happening?

Mr. Skolnick – I believe – I'll know a little bit more on Thursday – two of the three buildings are already disconnected. So we're only talking about the one building behind Hubbell.

Mr. Oraziotti – Okay, so when do you think that's going to happen?

Mr. Skolnick – I think that...

Mr. Oraziotti – Why is that so difficult? That's what I don't understand. Why would that be so difficult?

Mr. Skolnick – I'm sorry it has to do with exactly how the remediation process has to unfold.

Mayor Garofalo – In a simple way the electricity is still on in the Hubbell Building. All the breakers are turned off. But the power from U.I. has not been turned off because they

have to go in there and remediate the building. Instead of putting in temporary service of electricity and everything like that it didn't make sense to add another expense to it. The water was not an issue and I think the gas – that could be brought in temporarily like a water tank truck but the electricity part of it because if they have to go in to remediate they have to have a ventilation system they need electricity in short. So the point was you know the other ones were turned off but there's a difference between turning it off and cutting it off, which we learned the last time. Turning it off is one thing – but cutting the service like say at the street for water or whatever – but then there's questions because some of them had double – they had water coming in from the front for the top floors and from the back for the lower floors.

Mr. Oraziotti – Is it necessary to shut this off or to turn it off completely?

Mayor Garofalo – Cut it off.

Mr. Skolnick – Both.

Mr. Oraziotti – You have to do both in order to continue this process?

Mr. Skolnick – Not necessarily that's why we may need power to do remediation.

Mayor Garofalo – But when you do the demolition you have to cut it off.

Mr. Oraziotti – But can you proceed by just turning it off?

Mr. Skolnick – Proceed with what? The remediation or the demolition?

Mr. Oraziotti – With the demolition.

Mr. Skolnick – No. We would have to cut it off.

Mr. Oraziotti – Regarding the asbestos has any discussions be held regarding the removal of the asbestos if there's any asbestos in these buildings.

Mr. Russo – Mr. Oraziotti we just discussed this.

Mr. Oraziotti – I know. But I need to know at what point in time – it's not very clear to me that this asbestos is going to be removed in a very relatively...

Mr. Skolnick – It's not very clear to us how much asbestos, if any, has to be removed. And so we're doing – the best I can tell you is we're wrapping our hands around by seeking advice of professionals available to our firm to offer their opinion on the best – first of all an assessment of what is in the building and second of all the method to remediate it.

Mayor Garofalo – Some of this is intricately part of the lawsuit. What I can say I think – previously one of the questions in the lawsuit was how much asbestos or how much

contaminated material is there, including asbestos, and then what would be the accepted or appropriate way to remediate that. The details of which we can discuss in executive session as it is a pending claim. But that is in the complaint itself the issue of the remediation and how to address that – that's an issue in dispute. That's part of a lawsuit. So we can discuss the specifics of that.

Mr. Oraziotti – Final question – July 19th is a day in my mind that you're going to start knocking down buildings. Is there going to be a crane there this week to start that function? Or right now it's not going to happen. Yes or no?

Mr. Skolnick – It's not a yes or no answer.

Mr. Oraziotti – There's a possibility that's going to happen? Or there's not a possibility it's going to happen?

Mr. Skolnick – In your mind – you said in your mind July 19th (inaudible.)

Mr. Oraziotti – That's what the PDA – that's the date of the PDA. That's the last date.

Mr. Skolnick – Demolition would begin...

Mr. Oraziotti – Right. Will the demolition begin on the 19th of July?

Mr. Skolnick – I believe the demolition process has already begun and will continue to (inaudible) some remediation – some which is shutting off services, and power and water. Some which is physically taking down the buildings. And so in your mind on the 19th things would come down...

Mr. Oraziotti – In my mind demolition to me means by the 19th those buildings would start to come down – that's in my mind.

Mr. Skolnick – And that's a goal of ours. But there are certain things that are beyond our control.

Mr. Guardiano – I would just like to add to that I know that the Greenway Project is a priority to a lot of people in town but I just think that the downtown project is much, much more important in my mind and I think probably to the majority to the citizens in this town. I just hope that the Board of Aldermen and you Mr. Mayor and you do everything in your power to make sure that the power stays on and everything works favorably for these guys so they can continue the process despite...

Mayor Garofalo – I think the short answer is they don't conflict and they won't conflict.

Mr. Oraziotti – So I have to get my sledgehammer and put it back in storage. Is that what you're saying?

Mr. Skolnick – (Inaudible).

Mr. Oraziotti – I just painted it – I cleaned it up – I've been waiting for four years. I bought a new sledgehammer four years ago – got rid of the old – so I had to redo it, I had to refurbish it again. Now you're telling me I may have to refurbish it again.

Mr. Skolnick – I think we're well underway and we're going to hopefully satisfy your (inaudible.)

Mr. Oraziotti – Okay.

SET PUBLIC HEARING FOR REDEVELOPMENT PLAN FOR SOUTH SIDE OF MAIN STREET REVITALIZATION PROJECT

Mayor Garofalo said we would hold the Public Hearing on August 10, 2005 for the Redevelopment Plan with the proper notices being sent out. That would also be the next regular meeting of this agency.

UPDATE AS IT RELATES TO THE PENDING CLAIMS AGAINST THE CITY (EXECUTIVE SESSION ONLY)

Mayor Garofalo said he would like to go into Executive Session, inviting representatives from Ceruzzi/Derby Development, Alderwoman Pflugh, City Engineer Michael J. Joyce, P.E., and Corporation Counsel. This would be for discussion purposes only with no action to be taken and subject to adjournment.

A MOTION was made by Mr. Stevens with a second by Mr. Russo to go into Executive Session at 7:05 p.m. for an update as it relates to the pending claims against the City, inviting representatives from Ceruzzi/Derby Development, Alderwoman Pflugh, City Engineer Michael J. Joyce, P.E., and Corporation Counsel. This would be for discussion purposes only with no action to be taken and subject to adjournment. **Motion carried.**

The meeting adjourned at 7:56 p.m.

Respectfully submitted,

Patricia Finn
Recording Secretary

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