

Rahway Redevelopment Agency

MINUTES Regular Meeting May 4, 2011 6:30 P.M.

CALL TO ORDER

The meeting was called to order at 6:34 P.M. in the Council Chambers

OPEN PUBLIC MEETINGS ACT

This meeting has been advertised and posted in accordance with the Open Public Meetings Act of the State of New Jersey

PLEDGE OF ALLEGIANCE

Commissioners, officials, and public attendees then saluted the flag

ROLL CALL

On a call of the roll the following officials were present:

*Commissioner Nash
Commissioner Saliga
Vice Chairman Clarke
Chairman Rack*

The following officials were absent:

Commissioners Ferrell, Deige, Dobrowolski

APPROVAL OF MINUTES

A motion was made by Commissioner Clarke, seconded by Commissioner Nash to accept and approve the minutes listed below:

April 6, 2011 Regular Meeting

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowolski*

CORRESPONDENCE

- 1. Letter dated March 31, 2011 from Richard Kulman, MAI, ASA, to Peter Pelissier, Executive Director, regarding 332-6 Hamilton Street.*
 - 2. Letter dated March 31, 2011 from Richard Kulman, MAI, ASA, to Peter Pelissier, Executive Director, regarding 318-320 Hamilton Street.*
 - 3. Letter dated March 31, 2011 from Richard Kulman, MAI, ASA, to Peter Pelissier, Executive Director, regarding 342-4 Hamilton Street.*
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COMMENTS FROM THE PUBLIC

This portion of the meeting shall be opened to the public for comments (two minute maximum per person).

TREASURER'S REPORT

A motion was made by Commissioner Clarke, seconded by Commissioner Nash to accept and approve the Treasurer's Report

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowolski*

EXECUTIVE DIRECTOR'S REPORT

The Executive Director reported that the designation of George Capodagli, as redeveloper of the property behind city hall, would allow the RRA to negotiate the specifics of the proposed project, including the size and number of units and parking requirements.

He also reported that the appraisals were completed for the houses on Hamilton Street. He asked for direction from the commissioners on recommending the purchase of these properties. There was a consensus that the RRA would not recommend the purchase of these properties at the present time.

A motion was made by Commissioner Clarke, seconded by Commissioner Nash to accept and approve the Executive Director's Report

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowski*

LEGAL REPORT - None

UNFINISHED BUSINESS

NEW BUSINESS

Presentation: Landmark Project

Joel Schwartz gave an update on Park Place. He stated that the retail space was being leased and the new residential phase would be occupied by fall. He reiterated Landmark's commitment to the City of Rahway and its redevelopment efforts.

20-11: RESOLUTION CONDITIONALLY DESIGNATING CAPODAGLI PROPERTY COMPANY, LLC AS REDEVELOPER FOR PROPERTY KNOWN AS TAX BLOCK 305, LOT 5.04 IN THE LOWER MAIN STREET URBAN RENEWAL AREA FOR THE REDEVELOPMENT OF THE PROPERTY FOR A MARKET-RATE RESIDENTIAL DEVELOPMENT

WHEREAS, the Municipal Council of the City of Rahway designated Block 305/ Lot 5.04 (the "Property") as part of a larger urban renewal area (the "Lower Main Street Urban Renewal Area") and adopted the Lower Main Street Urban Renewal Plan on May 9, 1961 (the "Plan"), which Plan was last amended on August 13, 2001; and

WHEREAS, the City of Rahway (the "City") and the Rahway Redevelopment Agency (the "Agency") have undertaken various projects (with and without private redevelopers) within the Lower Main Street Urban Renewal Area; and

WHEREAS, the Property is owned by the Agency and consists of approximately .75 acres of vacant land; and

WHEREAS, the Agency has previously considered proposals for the redevelopment of the Property and the Agency is desirous of selling the Property for redevelopment; and

WHEREAS, Capodagli Property Company, LLC recently and successfully completed a market rate residential rental project in a redevelopment area on East Grand Avenue in Rahway; and

WHEREAS, Capodagli Property Company, LLC contacted the Agency regarding other development opportunities in Rahway; and

WHEREAS, Capodagli Property Company, LLC made a presentation to the Board of Commissioners of the Agency on April 6, 2011 regarding its proposal to develop a residential project comprised of approximately one hundred and sixteen (116) market rate rental units on the Property; and

WHEREAS, the proposal has been reviewed and found consistent with the City's and Agency's goals for redeveloping the area.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that Capodagli Property Company, LLC, 142 Route 23 North, Pompton Plains, New Jersey 07444, is hereby conditionally designated as redeveloper for the development of Tax Block 305/ Lot 5.04, located in the Lower Main Street Urban Renewal Area, for a residential project comprised of approximately 116 market rate rental units for the reasons set forth herein.

BE IT FURTHER RESOLVED, that said conditional designation is subject to the following conditions:

1. That the conditional designation is limited to a period of one hundred and twenty (120) days from the date of this Resolution at which time it will automatically expire and be of no further force and effect, and the parties will no longer have any obligation to the other, except as to final payment of any Agency costs under the Escrow Agreement required herein. The Agency may, in its sole discretion, extend and re-extend the conditional designation provided sufficient progress is being in negotiation of

a redevelopment agreement, which determination is at the sole discretion of the Agency and which extension must be in the form of a duly adopted resolution of the Board of Commissioners of the Agency.

2. That Capodagli Property Company, LLC and the Agency shall negotiate and agree upon the terms and conditions of a redevelopment agreement within the period of the conditional designation, as such period may be extended by the Agency in its sole discretion.
3. That Capodagli Property Company, LLC agrees to pay any and all costs incurred by the Agency from the date of the conditional designation to execution of a redevelopment agreement or termination of the redeveloper designation, as set forth herein.
4. Within fourteen (14) days of the adoption of this resolution, Capodagli Property Company, LLC and the Agency enter into an escrow agreement, the form of which is attached hereto and made part of this resolution.

BE IT FURTHER RESOLVED, that upon completion of negotiations on a redevelopment agreement, the Board of Commissioners of the Agency shall be required to review and authorize execution of any and all related documents in order to effectuate the completion and implementation of this project.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Certified to be a true copy of a Resolution of the Board of Commissioners of the Rahway Redevelopment Agency, Rahway, New Jersey adopted at a regular meeting held on May 4, 2011.

A motion was made by Commissioner Nash and seconded by Commissioner Clarke to approve the Resolution 20-11.

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowski*

21-11: A RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO WHITESTONE ASSOCIATES, INC. FOR CONSTRUCTION PHASE TESTING AND INSPECTION SERVICES RELATIVE TO THE CONSTRUCTION OF THE ARTS STUDIO SPACE AT THE FORMER HAMILTON LAUNDRY SITE, 370 HAMILTON STREET, LOCATED IN THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT AREA

WHEREAS, there exists for the Rahway Redevelopment Agency, a need for the services of a firm specializing in construction phase testing and inspection services relative to the construction of the Arts Studio Space at the former Hamilton Laundry located, 370 Hamilton Street (the "Property"); and

WHEREAS, the Agency contacted three (3) companies requesting proposals for independent testing agencies to conduct construction phase testing and inspection services relative to the construction of the Arts Studio Space at the Property and received two (2) proposals in response thereto; and

WHEREAS, Whitestone Associates, Inc. submitted a proposal, dated March 31, 2011 to provide the services described above for the Property, a copy of which is attached hereto and made part of this Resolution; and

WHEREAS, the General Counsel has reviewed the certification of the Treasurer and is satisfied that said certification is in proper form; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that resolutions authorizing the award of contracts for "Professional Services" without competitive bids must be publicly advertised; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioner of the Rahway Redevelopment Agency as follows:

1. The Chairman and Executive Director are hereby authorized and directed to execute for the Agency, subject to the availability of funds, a professional services contract with Whitestone Associates, Inc., 35 Technology Drive, Warren, New Jersey 07059 to provide services in accordance with its proposal which shall remain on file in the Agency's office and available for public inspection.
2. That this contract shall be in an estimated amount \$25,220.00 payable upon completion of each task as outlined in the proposal.
3. This agreement is awarded without competitive bidding as a "Professional Service" under the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5) because it is a recognized profession, licensed and regulated by law and is not possible to obtain competitive bids.
4. A notice of this action shall be printed in the Legal Newspaper of the Agency as required by law within ten (10) days of its passage.
5. The vendor shall supply the Agency with the Federal Affirmative Action Plan Approval or State Certificate of Employee Information Report within the time period specified by N.J.A.C. 17:27. The contract shall contain the mandatory affirmative language for professional services contracts required by N.J.A.C.17:27, a copy of which shall be attached to and incorporated in the professional services contract authorized herein.
6. The vendor shall agree to comply with the requirements of Title II of the Americans with Disabilities Act of 1990 and indemnify, protect and save harmless the Agency from all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of alleged violations of the

Act. A copy of the Act shall be attached to and incorporated in the professional services agreement authorized herein.

Certified to be a true copy of a Resolution adopted by the Board of Commissioners of the Rahway Redevelopment Agency, Rahway, New Jersey at a regular meeting held on May 4, 2011.

A motion was made by Commissioner Clarke and seconded by Commissioner Nash to approve the Resolution 21-11.

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowolski*

22-11: RESOLUTION APPROVING AND AUTHORIZING THE PAYMENT OF CHANGE ORDER #4 FOR THE RENOVATION OF THE RAHWAY ARTS DISTRICT STUDIO SPACE ON THE FORMER BELL BUILDING SITE AT THE FORMER HAMILTON LAUNDRY PROPERTY

WHEREAS, on January 5, 2011, the Board of Commissioners of the Rahway Redevelopment Agency awarded a bid and authorized the execution of a contract with Gingerelli Bros., Inc. for the renovation of the Rahway Arts District Studio Space on the former Hamilton Laundry Property (the "Project"); and,

WHEREAS, the original contract amount was not to exceed \$5,825,746.00; and,

WHEREAS, a change order to the original contract is required to undertake additional site work for handicap parking in accordance with the proposal attached hereto ("Change Order No. 4"); and

WHEREAS, Change Order No. 4 was reviewed and approved by Bohler Engineering, Inc., engineering consultant for the Rahway Redevelopment Agency; and

WHEREAS, the cost for the additional work as reflected on Change Order No.4 is \$1,071.00 and will increase the Project cost and contract amount to \$6,170,114.00; and

WHEREAS, the payment of Change Order No.4 is contingent on the availability of funding to be provided by the City of Rahway through a bond ordinance for the Project.

NOW, THEREFORE BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency hereby finds the approval of Change Order No.4 necessary to complete the construction of the Project; and

BE IT FURTHER RESOLVED that the Board of Commissioners of the Rahway Redevelopment Agency authorizes the payment of Change Order No.4 for the Project which is in the amount of \$1,071.00 and is detailed on the attachment hereto and made part of this resolution.

BE IT FURTHER RESOLVED that the payment of Change Order No.4 is contingent on and subject to the availability of funding to be provided by the City of Rahway through the adoption of a bond ordinance.

BE IT FURTHER RESOLVED that the total contract amount for the construction of the Project with Change Order No.4 will be \$6,170,114.00.

Certified to be a true copy of a Resolution adopted by the Board of Commissioners of the Rahway Redevelopment Agency, Rahway, New Jersey adopted at a regular meeting held on May 4, 2011.

A motion was made by Commissioner Clarke and seconded by Commissioner Nash to approve the Resolution 22-11.

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowolski*

23-11: RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RAHWAY REDEVELOPMENT AGENCY DETERMINING THAT THE TOLLING PERIOD IN THE MEMORANDUM OF UNDERSTANDING AMONG THE RAHWAY REDEVELOPMENT AGENCY, THE RAHWAY PARKING AUTHORITY, DORNOCH RAHWAY, LLC, DORNOCH-RAHWAY II, LLC AND DORNOCH RAHWAY II V, LLC, DATED SEPTEMBER 29, 2009 HAS TERMINATED AND THAT AN EVENT OF DEFAULT HAS OCCURRED PURSUANT TO THE REDEVELOPMENT AGREEMENT BETWEEN THE RAHWAY REDEVELOPMENT AGENCY AND DORNOCH RAHWAY, LLC, DATED SEPTEMBER 27, 2005, AND PURSUANT TO THE REDEVELOPMENT AGREEMENT BETWEEN THE RAHWAY REDEVELOPMENT AGENCY AND DORNOCH RAHWAY II, LLC, DATED MARCH 16, 2006 FOR REDEVELOPMENT PROJECTS LOCATED IN THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT AREA

WHEREAS, on September 27, 2005, the Rahway Redevelopment Agency (the "Agency") and Dornoch Rahway, LLC ("Dornoch I") entered into a Redevelopment Agreement for the redevelopment of Block 320, Lots 1, 2, 3 & 4 located in the Central Business District Redevelopment Area for a mixed use residential/commercial project to include 36 condominium units; and

WHEREAS, on March 16, 2006, the Agency and Dornoch-Rahway II, LLC (Dornoch II") entered a Redevelopment Agreement for the redevelopment of Block 318, Lots 1 through 11, 18 & 23 located in the

Central Business District Redevelopment Area for a mixed use residential/commercial project to include 140 condominium units and approximately 40,000 square feet of commercial space with a parking structure; and

WHEREAS, on September 21, 2006, Dornoch II V, LLC ("Dornoch II V") was designated as redeveloper of Block 317, Lot 15 and Block 318, Lots 21, 21,22 and Block 320 Lot 10 and on April 11, 2007, Dornoch II V was re-designated as redeveloper for the same properties; and

WHEREAS, the Rahway Parking Authority (the "RPA") and Dornoch II entered into a Purchase and Sale Agreement on September 24, 2006 for Dornoch II to acquire the surface parking Lot B from the RPA (the "Parking Agreement"); and

WHEREAS, on September 29, 2009, the Agency, the RPA and Dornoch I, Dornoch II and Dornoch II V (collectively the "Parties") entered into a Memorandum of Understanding (the "MOU") to address the amendment and restatement of the relevant redevelopment agreements described hereinbefore, in the future, to reflect certain intentions, which MOU, in part, provided for tolling the various agreements between the Parties described hereinbefore for a period of eighteen (18) months unless the Parties enter into new agreements which supersede the current agreements; and

WHEREAS, the Parties have not entered into new agreements as contemplated in the MOU, other than the RPA enter into a lease with Dornoch II for temporary use of Dornoch II owned properties for parking and the eighteen (18) month tolling period expired on March 29, 2011; and

WHEREAS, Dornoch I has suspended construction on its redevelopment project, failed to pay the Agency Development Fees, failed to complete construction within 36 months of commencement, failed to pay Impositions and the redevelopment project is subject to a foreclosure action by Wachovia Bank, National Association for Dornoch I's failure to repay construction financing, all of which are Events of Default under the applicable Redevelopment Agreement; and

WHEREAS, Dornoch II has suspended construction on its redevelopment project, failed to pay the Agency Development Fees, failed to complete construction within 24 months of commencement and failed to pay Impositions, all of which are Events of Default under the applicable Redevelopment Agreement; and

WHEREAS, Dornoch II V has failed to enter into a redevelopment agreement with the Agency, which is a condition of its redeveloper designation, whose time period has expired.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that it hereby determines that the tolling period in the MOU has expired and no new redevelopment agreements, which would supersede the current redevelopment agreements, have been entered into by the Agency.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that it hereby determines that Events of Default have occurred by Dornoch I pursuant to the relevant Redevelopment Agreement as state hereinbefore and notice of such Events of Default shall be made by the Agency to Dornoch I.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that it hereby determines that Events of Default have occurred by Dornoch II pursuant to the relevant Redevelopment Agreement as stated hereinbefore and notice of such Event of Default shall be made by the Agency to Dornoch II.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that the conditional designation as redeveloper of Dornoch II V has expired.

BE IT FURTHER RESOLVED, that the Chairman and the Secretary are hereby authorized to execute any and all documents necessary to effectuate a notice of default and any subsequent actions if the Redeveloper fails to cure the defaults, including but not limited to, termination of the respective Redevelopment Agreements and filing a complaint in Superior Court to enforce the Agency's legal rights and remedies, subject to final review by general counsel as to legal form and content.

Certified to be a true copy of a Resolution adopted by the Board of Commissioners of the Rahway Redevelopment Agency, Rahway, New Jersey adopted at a regular meeting held on May 4, 2011.

A motion was made by Commissioner Nash and seconded by Commissioner Nash to approve the Resolution 23-11.

*Yes: Commissioners Nash, Saliga, Clarke, Rack
Absent: Commissioners Ferrell, Deige, Dobrowski*

COMMISSIONER'S COMMENTS

Any Commissioner who wishes to provide comments shall do at this time

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:20 PM