

Rahway Redevelopment Agency

MINUTES

November 13, 2013

6:30 P.M.

CALL TO ORDER

The meeting shall be called to order at 6:30 P.M. at the Hamilton Stage.

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 shall then salute to the flag

ROLL CALL

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

*Timothy Nash, Commissioner
Paul Sefranka, Commissioner
Michael Staryak, Commissioner
William Rack, Chairman*

Absent: Anthony Deige, Commissioner

APPROVAL OF MINUTES

A motion was made by Commissioner Nash and Seconded by Commissioner Sefranka to approve the October 2, 2013 Regular Meeting Minutes

*Yes: Commissioners Nash, Sefranka, Rack
Abstain: Commissioner Staryak
Absent: Commissioner Deige*

CORRESPONDENCE

- 1. Letter dated October 17, 2013 from Francis X. Regan to Frank Gingerelli regarding the construction of the Hamilton Stage for the Performing Arts.*
 - 2. Letter dated October 17, 2013 from Jeffrey T. Bauer to Peter Pelissier regarding site remediation.*
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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 Sefranka and Seconded by Commissioner Nash to approve the Treasurer's Report.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

EXECUTIVE DIRECTOR'S REPORT

- 1. Actors Fund Housing: The status report reflects the activity since the teams presentation at the September 4, 2013 Redevelopment meeting. Securing site control continues to be the critical milestone. The team is optimistic that the terms of the agreement between AGL and the RRA as well as the Redeveloper can be finalized the week of September 30, 2013 with the possibility as early as October 1, 2013. As soon as the agreement is executed the redevelopment team will start to commence soil samples and environmental testing at the site. This work is a necessary part of the due diligence.*

Should the agreement be executed by next week the pre development timetable would commence as follows.

- Execute of Sale, October 1, 2013
- Soils testing, October 2, 2013
- Soils testing completed, November 15, 2013
- Civil engineering begins, November 15, 2013
- Civil engineering completed, January 15, 2014
- Preliminary and Final site approval, February 15, 2014
- DEP Water and Sewer Permits, April 15, 2014
- Architecture begins, November 15, 2013
- NJHMFA Board meeting, March 15, 2014
- Architecture finish, March 15, 2014
- Building permits, May 1, 2014
- Close on construction financing, May 30, 2014

The Redeveloper anticipates being able to obtain approvals from NJHMFA in March of 2014 enabling the project to commence construction in May of 2015.

2. Waters Edge: Construction is nearing completion. Temporary certificate of occupancy for the first floor is expected the beginning of October, 2013 with the balance of the building by mid November, 2013. Land closing for the additional 18 spaces of parking is expected the first week of October, 2013. Received final approval from the Planning Board in August for the relocated entrance and other plan changes. Water and Sewer permits from NJDEP have just been received.
3. Lafayette Village: Received preliminary Zoning Board approval in July with conditions. The NJDEP/TWA permit has been issued as well as the NJDEP Water Permit. The NJDEP application for the WFD/FHA portion of the property was submitted in August, 2012. At that time, the flood hazard portion of the application was simply a line verification as the State study indicated this property was outside the regulated flood zone. After hurricane Sandy, "emergency rules" were put in place in January 2013, which NJDEP is enforcing on this project. These rules claim that the regulated flood plain can be the FEMA maps, even though there is a State study for this site. Since FEMA maps basically disregard the effectiveness of the levee, they have listed this site within a flood zone. Thus, NJDEP now can enforce the flood hazard rules.

The lowest floor elevation is designed at elevation 5.5. The regulated elevation of the lowest floor is 13.0. Obviously the redeveloper cannot meet these criteria. NJDEP has advised that a special hardship waiver may be filed for this rule change. MCB Engineering has prepared a letter in this regard which is now being reviewed by NJDEP. The decision to approve/disapprove the waiver request is basically a risk assessment. It appears that flood dry proofing must be demonstrated to show that flooding would be mitigated, thus a waiver request which proposes flood proofing is approvable. Should the NJDEP approve the waiver with conditions hydraulic and hydrostatic studies must be undertaken to show that no water will be in the lower parking area.

4. Brownstones: George Bean is questioning the ability of the designated Redeveloper to develop the property. He is reviewing the matter with his attorney. A meeting has been set up with American Home Properties to discuss this matter.
5. Rahway Main Street: A meeting has been set up for October 2, 2013 at 3pm with Shane Soranno and his attorney to discuss the Center Circle property redevelopment project. As you are aware the Rahway Redevelopment Agency approved a conditional designation for Rahway Main Street, LLC at the September 4, 2013 meeting. The Redeveloper has been working on engineering, specifically integrating the project into the existing municipal complex road structure. Initial layouts should be prepared within the next two weeks.
6. A&M litigation: A mediation submission has been scheduled for October 30, 2013. Frank Regan, Esq will discuss in closed session.
7. Main and Monroe Redevelopment: A resolution is on the Agenda for the October meeting to award a professional contract to Whitestone Associates, Inc. for environmental consulting services relative to the properties located on Block 318 in the Central Business District. The purpose of the contract is to have the property included in the BDA and apply for grant and loan funding for the redevelopment of the Properties, certain NJDEP regulatory compliance and reporting services required. The Redeveloper would like to make a follow up presentation to the Rahway Redevelopment Agency at the November 2013 meeting.

Others items pertinent to the site.

 - Draft redevelopment agreement being prepared by Frank Regan, Esq.
 - Investigating option on RRA leading environmental matters for grant purposes
 - Finalizing Parking Authority Agreement
 - Issues with Amtrak, file in for reconsideration.
8. Fulton Street Project: A meeting is been scheduled for October 1, 2013 at 11:00 am Hamilton Stage to review a presentation to be made to the RRA at the Wednesday October 2, 2013 regular meeting. This meeting will be attended by Rich Radici and Joel Schwartz who will present a further-refined plan for the project.

Rahway River Condo Association: Proposed tenant on second floor US Healthworks, plans for improvements require extensive plumbing piping in the Library ceiling that covers a large footprint. Construction Official will not approve the zoning or take any action on the application until there is a review and approval by the Condominium Board. A meeting will be scheduled this week to review the matter.

The Executive Director will be meeting with the new Mayor on various matters and have invited him to all of the meetings to review and discuss issues that will need Administration/Council approval that involve Redevelopment projects.

He also communicated with Frank Regan, Esq. as well as Cindy Solomon, Director of Community Development when necessary regarding all of the various matters that the Redevelopment Agency considers through email, telephone calls and meeting with Redevelopers.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Executive Director's Report.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

LEGAL REPORT

General Counsel Frank Regan explained the correspondence regarding Gingerelli Brothers and Resolution 46-13. The majority of his report involved litigation and would be discussed during closed session.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Legal Report.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

ENGINEERING REPORT

1. Rahway Arts District Expansion Project – Hamilton Stage (Bell Bldg.)
 - a. Regarding the final building inspection and completion of punch list work, Gingerelli Brothers, Inc. (GBI), has completed all punch list items except the lighting issues. GBI's subcontractor, A.J. Maglio, has just agreed to complete the punch list work by 11/22/13.
 - b. Chiller Sound Wall – the contract with K&D Contractors has been executed, the building permit is being applied for and the work is being scheduled ASAP.

2. Meridia – Water's Edge

- a. The developer continues with the building and site construction, including the Levee repair

3. Meridia's Lafayette Village

The redeveloper has received the NJDEP Waterfront Development Permit and has submitted a Revised Preliminary & Final Site Plan application to the Zoning Board for a hearing on 11/18/13.

4. Station Place at Rahway

Station Place at Rahway continues with construction.

5. AST Development Corp.

AST continues to prepare their site plans for submission.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Engineer's Report.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

UNFINISHED BUSINESS

It was announced that the December 2013 meeting was cancelled and the Agency would meet on January 8, 2014, at which time the 2014 Calendar would be approved.

NEW BUSINESS

Resolutions:

45-13: RESOLUTION CONDITIONALLY DESIGNATING 1321 FULTON STREET, LLC, AN AFFILIATE ENTITY OF DMR CONSTRUCTION SERVICES, INC. AS REDEVELOPER FOR PROPERTY KNOWN AS

TAX BLOCK 312, LOTS 4.04, 23 AND A PORTION OF LOT 5 IN THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT AREA FOR THE REDEVELOPMENT OF THE PROPERTIES FOR A MIXED USE DEVELOPMENT

WHEREAS, the Municipal Council of the City of Rahway designated Block 312/ Lots 4.04, 23 and a portion of Lot 5 (the "Properties") located on Fulton Street, as part of the Central Business District Redevelopment Area (the "CBD Redevelopment Area") and recently adopted the Amended and Restated Central Business District Redevelopment Plan adopted on February 13, 2013 (the "Plan"); 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 CBD Redevelopment Area; and

WHEREAS, the Properties are privately owned and include two existing buildings and surface parking; and

WHEREAS, 1321 Fulton Street, LLC, an affiliate of DMR Construction Services, Inc. (the "Redeveloper") has contracted and is negotiating the acquisition of the Properties; and

WHEREAS, the Redeveloper made a presentation to the Board of Commissioners of the Agency in September and October 2013 regarding its proposal to develop a mixed use residential and commercial project comprised of approximately eighty-four (84) market rate rental units and 3,000 square feet of commercial space on the ground floor on the Properties; 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 1321 Fulton Street, LLC, an affiliate of DMR Construction Services, Inc., 160 Hopper Avenue, Waldwick, New Jersey 07463, is hereby conditionally designated as redeveloper for the development of Tax Block 312/ Lots 4.04, 23 and a portion of Lot 5, located in the Central Business District Redevelopment Area, for a mixed use project comprised of approximately 84 market rate rental units and 3,000 square feet of commercial space 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 1321 Fulton Street, 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 1321 Fulton Street, 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, 1321 Fulton Street, LLC and the Agency enter into an escrow agreement, the form of which is attached hereto and made part of this resolution.
5. That 1321 Fulton Street, LLC acquires the Properties for redevelopment.

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 November 13, 2013.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Resolution

Yes: Commissioners Nash, Sefranka, Staryak, Rack

Absent: Commissioner Deige

46-13: RESOLUTION AFFIRMING THE CONDITIONAL CONSENT OF BY THE RAHWAY REDEVELOPMENT AGENCY AS A MEMBER OF THE RAHWAY RIVER CONDOMINIUM ASSOCIATION FOR RAHWAY OFFICE CENTER, LLC'S PROSPECTIVE TENANT TO UNDERTAKE MAJOR ALTERATIONS IN THE 2ND FLOOR OFFICE UNIT

WHEREAS, the Rahway Redevelopment Agency (the "Agency") and Rahway Office Center, LLC ("Rahway Office") are members and 50% owners of the Rahway River Condominium Association, Inc. ("Condominium Association") and the Rahway Library and Office Building on Block 305, Lot 8.03; and

WHEREAS, Rahway Office has owned the office unit for a number of years and has experienced difficulty in leasing the space and has recently entered into leases with a number of tenants and continues to negotiate leases with other potential tenants;; and

WHEREAS, on potential tenant that Rahway Office has been negotiating with would require major alterations to the building in the 2nd floor office unit, including installation of sinks and bathrooms requiring boring/cutting through the floor of the unit and ceiling of the library unit; and

WHEREAS, the master deed and by-laws of the Condominium Association require the consent of unit owners to any major alterations to the building; and

WHEREAS, Rahway Office has requested the consent of the Agency to such major alterations recognizing the potential issues raised by such work and the impact on the library unit has agreed to certain conditions; and

WHEREAS, any such consent by the Agency would be subject to Rahway Office and/or its potential tenant obtaining the required permit approvals from the City for such work and for satisfactory arrangements being made with the Rahway Library to accommodate such work.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that it hereby affirms the conditional consent it granted at its October 2, 2013 meeting as a member of the Condominium Association for Rahway Office's prospective tenant to undertake major alterations for the 2nd floor office unit subject to obtaining all necessary City permit approvals for such work and satisfactory arrangements with the Rahway Library to accommodate such work.

BE IT RESOLVED, that the Executive Director and General Counsel are authorized to ensure compliance by Rahway Office to the terms of this conditional consent.

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 November 13, 2013.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Resolution.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

47-13: RESOLUTION AUTHORIZING THE BOARD OF COMMISSIONERS OF THE RAHWAY REDEVELOPMENT AGENCY TO HOLD A PORTION OF ITS REGULAR MEETING IN CLOSED SESSION FOR PURPOSES OF DISCUSSING PERSONELL, POTENTIAL LITIGATION AND/OR CONTRACT NEGOTIATIONS

WHEREAS, pursuant to N.J.S.A.10:4-12, the Open Public Meetings Act permits the exclusion of the public from portions of a meeting at which the Board of Commissioners of the Rahway Redevelopment Agency will discuss potential litigation and contract negotiations relative to properties located in the Central Business District Redevelopment Area; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that a portion of its meeting held on November 12, 2013, shall be held in closed session, thus excluding the public from portions of a meeting at which the Board of Commissioners of the Rahway Redevelopment Agency will discuss potential litigation and contract negotiations relative to properties located in the Central Business District Redevelopment Area; and

BE IT FURTHER RESOLVED, that the Rahway Redevelopment Agency may take action on any matters discussed in this closed session provided it discloses to the public the content of the discussions to be held in closed session at this or any future meeting at which it takes action.

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 November 13, 2013.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Resolution.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

48-13: RESOLUTION TO INTRODUCE CY 2014 RAHWAY REDEVELOPMENT AGENCY BUDGET

WHEREAS, the Annual Budget and Capital Budget for the Rahway Redevelopment Agency for the Transitional Year beginning, January 1, 2014 and ending, December 31, 2014 has been presented before the governing body of the Rahway Redevelopment Agency at its open public meeting of November 13, 2014; and

WHEREAS, the Annual Budget as introduced reflects Total Revenues of \$1,450,000.00, Total Appropriations, including any Accumulated Deficit if any, of \$1,225,724.00 and Total Unrestricted Net Assets utilized of \$224,276.00; and

WHEREAS, the Capital Budget as introduced reflects Total Capital Appropriations of \$0, and Total Unrestricted Net Assets planned to be utilized as funding thereof, of \$0; and

WHEREAS, the schedule of rates, fees and other charges in effect will produce sufficient revenues, together with all other anticipated revenues to satisfy all obligations to the holders of bonds of the Authority, to meet operating expenses, capital outlays, debt service requirements, and to provide for such reserves, all as may be required by law, regulation or terms of contracts and agreements; and

WHEREAS, the Capital Budget/Program, pursuant to N.J.A.C. 5:31-2, does not confer any authorization to raise or expend funds; rather it is a document to be used as part of the said Authority's planning and management objectives. Specific authorization to expend funds for the purposes described in this section of the budget, must be granted elsewhere; by bond resolution, by a project financing agreement, by resolution appropriating funds from the Renewal and Replacement Reserve or other means provided by law.

NOW, THEREFORE BE IT RESOLVED, by the governing body of the Rahway Redevelopment Agency, at an open public meeting held on November 13, 2013 that the Annual Budget, including appended Supplemental Schedules, and the Capital Budget/Program of the Rahway Redevelopment Agency for the fiscal year beginning, January 1, 2014 and ending, December 31, 2014, is hereby approved; and

BE IT FURTHER RESOLVED, that the anticipated revenues as reflected in the Annual Budget are of sufficient amount to meet all proposed expenditures/expenses and all covenants, terms and provisions as stipulated in the said Authority's outstanding debt obligations, capital lease arrangements, service contracts, and other pledged agreements; and

BE IT FURTHER RESOLVED, that the governing body of the Rahway Redevelopment Agency will consider the Annual Budget and Capital Budget/Program for adoption on January 8, 2014.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Resolution.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

49-13: RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RAHWAY REDEVELOPMENT AGENCY AUTHORIZING A SETTLEMENT OF THE LITIGATION ENTITLED ARNOLD YOUNG, INDIVIDUALLY, T/A ARNOLD YOUNG COMPANY, AND A&M WHOLESALE HARDWARE CO., T/A A&M INDUSTRIAL SUPPLY CO. V. RAHWAY REDEVELOPMENT AGENCY; DOCKET NO. UNN-L-3903-12

WHEREAS, on or about November 26, 2012, a Complaint was filed against the Rahway Redevelopment Agency entitled: Arnold Young, Individually, t/a Arnold Young Company, and A&M Wholesale Hardware Co. t/a A&M Industrial Supply Co. v. Rahway Redevelopment Agency; in the Superior Court of New Jersey, Law Division, Union County, under Docket No. UNN-L-3903-12 (the "Litigation"); and

WHEREAS, the parties to the Litigation have served and answered interrogatories and served and produced documents in responses to Notices to Produce, but have not commenced depositions and other discovery; and

WHEREAS, the Litigation involves an alleged promise by the Executive Director to pay relocation assistance to A&M Industrial relating to its sale of property to Heartstone Development, LLC regarding the proposed redevelopment of the A&M Industrial property for a residential development; and

WHEREAS, on August 12, 2013, the Court issued an Order of Mediation in the Litigation, which mediation occurred on October 30, 2013 before mediator Milton S. Bunis, Esq. of the law firm of Sills, Cummis & Gross; and

WHEREAS, as a result of the mediation, the Parties in the Litigation reached an agreement on settlement terms subject to the approval of such settlement by the Board of Commissioners of the Rahway Redevelopment Agency (the "Settlement"); and

WHEREAS, the terms of the Settlement include (i) a payment of \$215,000 by the Rahway Redevelopment Agency to Arnold Young/A&M Industrial no later than December 31, 2013; (ii) an agreement that the Settlement is not an admission of liability by the Rahway Development Agency; and (iii) dismissal with prejudice of Arnold Young, Individually, t/a Arnold Young Company, and A&M Wholesale Hardware Co. t/a A&M Industrial Supply Co.'s Complaint against the Rahway Development Agency;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Rahway Redevelopment Agency that it hereby approves the Settlement and authorizes counsel to agree To the settlement and demand and execute appropriate documents to effectuate and complete that Settlement;

BE IT FURTHER RESOLVED, that the Chairman and the Secretary are hereby authorized to execute any and

all documents necessary to effectuate the Settlement, 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 November 13, 2013.

A motion was made by Commissioner Sefranka and Seconded by Commissioner Nash to approve the Resolution.

*Yes: Commissioners Nash, Sefranka, Staryak, Rack
Absent: Commissioner Deige*

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 7:30 PM.