

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY REDEVELOPMENT COMMISSION  
JANUARY 14, 2008**

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, January 14, 2008, 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. He welcomed new member Cranston Harris to the Commission. He thanked Joie Winski, an outgoing member, for her service with the Commission over the last few years. He also recognized the Commission's Council liaison, Richard Murphy.

**ROLL CALL**

The following Commission members were noted present: Ken Behrendt, Ed Bigda, Cranston Harris, and Lynne Kaser. (4 present, 1 unappointed yet) Staff in attendance: Executive Director John Pugh, Attorney Michael Bergerson, Zoning Administrator/Rehab Officer Joseph Siegel and Secretary Debbie Wilson.

**APPROVAL OF THE MINUTES**

The Chair entertained a motion for approval of the minutes of the regular meeting of December 10, 2007.

***A motion to approve was made by Ms. Kaser – seconded by Mr. Bigda and unanimously approved.***

**ELECTION OF OFFICERS**

Chairman Ken Behrendt, turned the meeting over to the Executive Director John Pugh.

Mr. Pugh opened the floor for nominations for President.

Mr. Bigda nominated Ken Behrendt for President and it was seconded by Ms. Kaser.

There were no other nominations. Nominations were closed and the vote called.

Upon voice vote the nomination of Ken Behrendt for President was unanimously approved.

Mr. Pugh turned the meeting back over to Chairman Behrendt to finish elections.

Chairman Behrendt opened the floor for nominations for Vice-President.

Ms. Kaser nominated Ed Bigda for Vice-President and it was seconded by Mr. Harris.

There were no other nominations. Nominations were closed and the vote called.

Upon voice vote the nomination of Ed Bigda for Vice-President was unanimously approved.

Chairman Behrendt opened the floor for nominations for Secretary.

Mr. Bigda nominated Lynne Kaser for Secretary and it was seconded by Mr. Harris.

There were no other nominations. Nominations were closed and the vote called.

Upon voice vote the nomination of Lynne Kaser for Secretary was unanimously approved.

Mr. Bigda nominated John Pugh for Acting Secretary and it was seconded by Ms. Kaser.

There were no other nominations. Nominations were closed and the vote called.

Upon voice vote the nomination of John Pugh for Acting Secretary was unanimously approved.

**CLAIMS**

Mr. Pugh submitted and reviewed the claims list:

**Payroll**

Staff Salaries	12/21/07	2,252.29
	01/04/08	<u>2,314.62</u>
		<b>4,566.91</b>

**Claims (Regular)**

Marquiss Elec	Service - Franklin Sq	1,349.18
Oposo Landscaping	Phase C contract Oct/Nov	3,000.00

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Lenore Gregory	Acctg services 11/07	250.00
Michael Bergerson	Legal retainer 1/08	<u>300.00</u>
		<b>4,899.18</b>

**Claims (N TIF)**

Kolasa & Sons Excav	Demo 531 E Michigan	10,500.00
Michael Bergerson	Legal services N TIF	<u>3,005.00</u>
		<b>13,505.00</b>

**Claims (S TIF)**

Rieth Riley	Reconstruction 400 N	259,027.73
US Bank	Bond payment - 400 N	181,449.58
Beam Longest Neff	Eng - Towne Center Dr	221.92
Beam Longest Neff	Eng - 400 N	<u>12,029.04</u>
		<b>452,728.27</b>

The Chair entertained a motion for approval of the claims.

***A motion to approve was made by Mr. Bigda – seconded by Ms. Kaser and unanimously approved.***

**FINANCIAL REPORT**

Mr. Pugh submitted and reviewed the financial report ended 11/30/07.

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

***A motion to approve was made by Mr. Bigda – seconded by Ms. Kaser and unanimously approved.***

**TIF STATUS REPORT (UMBAUGH & ASSOCIATES)**

Mr. Pugh introduced Jason Semler from Umbaugh. For the record, Mr. Pugh noted that Richard Treptow has retired from Umbaugh.

Mr. Semler distributed the Annual TIF Update and reviewed same with the Commission which briefly highlights the revenue streams and debt service that is outstanding for each area.

For the North TIF area, Mr. Semler explained that the TIF database at the Auditor's Office has a net assessed value of \$340,530,260. The Blue Chip Casino is currently under appeal, so that assessed value (\$214,567,200) has been taken out from the increase due to the new construction. If that entire parcel is appealed, the incremental assessed value for the TIF area would be \$125,963,060. Taking the base value from that leaves a captured amount of \$73,377,250. Taking that times the current tax rate for Michigan City of \$2.2073, generates \$1,619,640 in TIF. That is the amount the City should receive for their 2007 distribution. Mr. Semler commented that he has not included the construction of the hotel in this amount. The Assessor indicated it could be partially assessed in March 1, 2008 for taxes paid 2009. He also mentioned that the Auditor's Office is currently updating their parcel lists, maps, and legal descriptions of the area. Once we receive their finalized map, Mr. Semler and Mr. Pugh will review and compare them to make sure we agree with what they have.

Attorney Bergerson noted that the Blue Chip assessment of \$214,567,200 has been taken out as the worst case scenario. He asked what the difference would be using the \$340,530,200 as the scenario.

Mr. Semler replied that if the appeal was in favor of the City and it was not reduced, the \$1,619,640 would increase by about \$4.7 million.

Attorney Bergerson acknowledged that the amount would be \$6.3 million as opposed to \$1.5 million.

Mr. Semler stated that was correct.

Mr. Semler continued stating that a maximum lease rental of \$825,000 has already been approved for the 8<sup>th</sup> Street/LafayetteStreet storm sewer project. Based on that maximum lease rental, \$9,665,000 could be borrowed. Taking out issuance costs, the reserve, capitalized interest and engineering costs, leaves \$7,050,000 available for the project. If bids for the project come in higher, there is the option of using cash on hand.

Mr. Semler continued reviewing the report and explained how the \$9,665,000 would be paid back. The annual debt service payment, principal and interest paid, would be approximately \$820,000-\$825,000 per year.

Mr. Semler compared the repayment schedule with the estimated tax increment (assuming the worse case scenario) at \$1,619,640. Once the 2007 distribution is collected, for the next two years the money can continue to be deposited in the allocation fund, and 2010 is when principal and interest has to be paid with the annual distribution. At this point, there is \$800,000 surplus TIF that can be used for additional projects.

Mr. Semler stated that the North TIF is a very healthy TIF area and is in very good shape to go forward with the sewer project.

Mr. Semler reviewed the South TIF area stating that the current net assessed value from the TIF database in the Auditor's Office is \$97,842,160, less the base (\$46,733,170), gives an increment of \$51,108,990, times the current tax rate of \$2.2101, generating \$1,129,550 of TIF each year. He noted that the Super Wal-Mart currently under construction should be first assessed March 1, 2009 for taxes in 2010. In 2010 they anticipate receiving \$1,315,200 in TIF.

Mr. Semler compared that TIF stream with the current outstanding debt on the Southside. There currently are the lease rental bonds of 1999 that mature in 2021 and the 2007 bonds issued last year. The combined debt service is about \$500,000 this year and gradually increases to about \$700,000 in 2012, and once the 1999 bonds retire, about \$370,000 of debt service. The combined debt service compares the estimated TIF revenue at about \$600,000 of surplus generated each year for other projects with about 200% coverage.

Mr. Semler mentioned that Mr. Treptow had been monitoring the 1999 bonds for the Commission. Those bonds have an interest rate of 5.3%-6.25%, which is high in today's market. They could go out today and refund those bonds and get a much lower rate and reduce the principal and interest being paid now. They have been hesitant to do it the past couple years because of the legislation. But, on February 1, 2008 these bonds become current refunding bonds, which means they can be called without any penalty.

Mr. Semler explained that if the bonds are refunded in March, \$2,889,306.67 would be needed to pay the outstanding principal plus the interest due. A new debt reserve would be funded in the amount of \$269,500, plus the underwriter's discount and issuance costs, a new bond issue would be needed in the amount of \$3,263,832.12. The debt reserve fund has a balance of \$387,351.98, operation reserve fund has \$95,588.75, and the sinking fund balance (after taking away payment due February 1, 2008) would be \$85,891.39. If the money from the bank is included (the money that cannot be used for anything but to pay these bonds off) they would need to issue bonds in the amount of \$2,695,000.

Mr. Semler explained how those bonds would be paid back. Assuming they are paid off in the same amount of time (February 2021), the total debt service is \$280,000-\$290,000. He stated that he used assumed interest rates 50 bases points higher because he wants to be conservative. He does anticipate better interest rates and a lower amount due each year. By refunding the bonds, about \$40,000 of interest would be saved. Over the time period there would be about \$560,000 of gross savings; part of that is cash on hand. If you take that out, there still is a savings of \$260,000, and if it is discounted back it would be about \$114,000-\$115,000 net value savings. He said it is a

good time to refund them if the Commission would like to proceed. He explained that if the Commission would start the process today, it wouldn't get done until the legislative session got over and by that time he would know if it would need to be adjusted. He stated that he could work with Baker & Daniels and get the process started, then hold off until the legislation is passed to see how it would impact TIF, then go forward with the refunding at that point.

Chairman Behrendt stated that it would be something the Commission would like to pursue and felt the sooner the Commission gets started, the better. He therefore entertained a motion.

***Mr. Bigda made a motion for the Commission to proceed with analyzing the refunding of the bonds and grant Umbaugh & Associates the authority to do so – seconded by Mr. Harris and unanimously approved.***

### **REPORT BY LEGAL COUNSEL**

Attorney Bergerson reported that on January 3<sup>rd</sup> the Commission filed a complaint in LaPorte Superior Court 3 against the owners at 8<sup>th</sup> & Michigan (Weber's and Sobkowiak's). It was a two count complaint filed. Count 1 was eminent domain to acquire the property to enable the construction of the 8<sup>th</sup> Street and Lafayette Street storm sewers as well as remediation of the ground water and soil that has been contaminated on those sites. Count 2 was for the recovery of the monies spent on behalf of the City to remediate those two sites. At this point service is being defected on the defendants. The Court set a date of February 15, 2008 at 11:00 a.m. for a hearing on the first step of the lawsuit for the purpose of determining the appropriateness of the taking. Assuming the Court approves the appropriateness of the taking, the Courts' next step would be to appoint three disinterested appraisers for the purposes of appraising the property. The appraisers would be given approximately 30 days to file a report with the Court. At that point either party could appeal the findings of the appraisers. However, as long as the City Redevelopment Commission wants to fund the purchase of the property pursuant to the appraisers report, the issue would no longer be the reasonableness of the taking; it would just be the payment of the funds in the Clerk's Office. Possession would then be awarded to the City and they would be in the position to move forward with the construction. There would be a hearing at some point in the future for damages, if any, to the current property owners. At that same point in time we would know what the damages to the City are for the recovery of remediation costs for environmental contamination. Attorney Bergerson should have more information to report on or after February 15<sup>th</sup>.

Attorney Bergerson stated that additional property under private control (residential owners between 5<sup>th</sup> and 6<sup>th</sup> Street east of Pine) were sent a letter last week introducing the Redevelopment Commission to them and inquiring as to whether or not they have

any interest in selling the property to the Redevelopment Commission. Attorney Bergerson will follow-up when he receives responses.

Attorney Bergerson reported on property located at 8<sup>th</sup>/Michigan (Crown Liquors). The complete structure has been consumed by the fire. In response to inquiries, Attorney Bergerson's investigation indicated that the property is zoned R4. This real estate was utilized in the commercial way under a non-conforming use exception, and that non-conforming use exception terminated with the fire. Therefore, the zoning on this property will revert back to the current zoning of R4 Residential. This Commission has expressed their interest in purchasing this property. He had some discussions with the owner as well as the other person interested in purchasing it prior to the fire. Attorney Bergerson suggested that the Commission continue to authorize him to pursue with the acquisition.

The Chair entertained a motion.

***Mr. Bigda made a motion authorizing Attorney Bergerson to proceed with the acquisition of the property at 8<sup>th</sup>/Michigan (Crown Liquors) – seconded by Ms. Kaser and unanimously approved.***

Attorney Bergerson stated that he expects another meeting with Blocksom before the end of the month as they were waiting for information regarding equipment replacement. He should have more information by the February Commission meeting.

As a reminder, Attorney Bergerson stated that the Plan Commission is meeting on January 22<sup>nd</sup> and will be considering the adoption of the Lohan Anderson Plan for the Trail Creek corridor. The Redevelopment Commission adopted the same Plan at their last meeting for redevelopment of property between 5<sup>th</sup> & 6<sup>th</sup> east of Pine Street and along Trail Creek, Michigan Boulevard between the "E" Street Bridge and the Second Street Bridge. Attorney Bergerson drafted the resolution and will be attending the meeting to reflect the Commission's desire for the Plan to move forward.

Attorney Bergerson noted that at the Redevelopment Commission Executive Session held prior to this meeting, the discussion was limited to the items on the agenda, no votes were taken and no discussion on any other item was had.

### **REPORT BY DIRECTOR**

Mr. Pugh stated he received a communication from Lohan Anderson for additional services. They indicated they are pleased to continue their consulting relationship with the Michigan City Redevelopment Commission with the primary objective of helping to start the project implementation process. They outlined additional services including attending meetings and presentation at meetings regarding the Trail Creek Plan, communications with potential developers, review of the Andrew's University Plan, and

research and analysis related to the project. They would continue on with their standard hourly fees as in the original proposal with a limit of \$10,000. Mr. Pugh recommended approval.

Mr. Bigda asked if it would include a search for a master developer.

Mr. Pugh responded that it would include communications with potential developers. They will continue to work on the Plan and market it. By statute, a master developer is a process this Commission would have to undertake. Lohan Anderson would help guide the Commission through the process.

The Chair entertained a motion.

***Mr. Bigda made a motion to continue the Commission's relationship with Lohan Anderson based on the hourly fees and reimbursables as presently in place, not to exceed \$10,000 – seconded by Ms. Kaser and unanimously approved.***

Mr. Pugh added that the second charge of the Commission is to undertake a market assessment. In the coming months, in addition to reviewing statutes on the master developer, the Commission should proceed to either do a market assessment or have the master developer do that.

Chairman Behrendt advised that it would be beneficial to keep it moving along and asked that Attorney Bergerson get the statutes relating to a preferred developer.

Attorney Bergerson stated that he would have it for the next meeting.

Regarding the Trail Creek guidelines, Attorney Bergerson asked Mr. Pugh if it is essentially the report from the Abonmarche study.

Mr. Pugh stated that it is. It is the report the Commission requested sometime ago. Abonmarche completed it for the Port Authority and Mr. Pugh stated that he distributed it to the Commission for them to review it in terms of any impacts it might have on the Commission's efforts to develop the creek.

Attorney Bergerson asked if the Port Authority has considered it.

Mr. Pugh stated that he thinks they have considered it but does not know their action on it.

For the record, Attorney Bergerson asked that the minutes reflect that the Redevelopment Commission has received a copy of this study today. He stated that the Commission's plans include property under the jurisdiction of the Port Authority, so the Commission will need to discuss their plans with them.

Ms. Kaser asked if Lohan Anderson will receive a copy of this plan.

Mr. Pugh acknowledged that he would distribute a copy to them.

### **PUBLIC COMMENT**

John Vail, questioned the logic of the sewer project and how it impacts the \$10 million of assets and what percentage will the sewer take out of that amount.

Mr. Pugh explained that this is the first phase of the Lafayette/Barker storm sewer separation project. Separating the sewers (sanitary from storm water) is a positive thing and will impact this part of the city as well as Elston Grove. The idea is to eliminate flooding from basements and streets to improve the area. It will tie into the redevelopment area by going down 8<sup>th</sup> Street with an outfall of the storm water into the creek. That is an element that will assist the Commission in their development efforts as well as improving general conditions. Good infrastructure is always positive and the Commission hopes it will achieve development and attract developers. The Commission can pay for the first phase with TIF.

Mr. Vail asked if the Sanitary District is sharing in this.

Mr. Pugh explained that the Sanitary District's total plan is around \$30 million. The first phase (the Commission's share) is about \$5.5 million. The Sanitary District had it designed, will do the bidding and choose the contractor. The Commission will pay for the first phase and the Sanitary District will be responsible for the other phases.

Mr. Vail asked if the problem with the Michigan Boulevard sewer collapse will be phased in with this project.

Mr. Pugh stated that it will not. That would be a separate discussion with INDOT.

Mr. Vail asked if this project will come out of the \$10 million on hand.

Mr. Pugh stated that the Commission just did a bond issue for the Southside project which was \$4.5-\$5 million. That money is in the bank and is being used for construction of the 400 N project. There is a remaining \$5 million on hand which is operating. If the sewer project comes in high, the Commission would have the option of dipping into the operating funds and buy it down with some cash. The Commission is also committed to improvements in the Elston Grove district and at some point when the Commission settles with Blocksom, they are committed to some movement on the Blocksom property. Cash on hand may be used or the Commission might try to float another bond issue – it is uncertain right now.

**NEXT MEETING DATE**

February 11, 2008

**ADJOURNMENT**

The meeting adjourned at 5:50 p.m.

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