

**MINUTES OF THE REGULAR MEETING OF THE
MICHIGAN CITY REDEVELOPMENT COMMISSION
MARCH 17, 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, March 17, 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 5:05 p.m.

ROLL CALL

A full Board was noted present: Ken Behrendt, Ed Bigda, Cranston Harris, Lynne Kaser, and Michael Kniola. Staff in attendance: Executive Director John Pugh, Attorney Michael Bergerson, CDBG Director Judy Pinkston and Secretary Debbie Wilson.

Public in attendance: Mayor Charles Oberlie, Neil Kienitz, Councilman Richard Murphy, Councilman Bob McKee, and John Vail.

APPROVAL OF MINUTES

The Chair entertained a motion for approval of the minutes of the regular meeting of February 11, 2008.

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

CLAIMS

Mr. Pugh submitted and reviewed the claims list:

Payroll

Staff salaries	02/15/08	2,314.49
	02/29/08	2,334.16
	03/14/08	<u>2,314.48</u>
		6,963.13

Claims (Regular)

Lenore Gregory	Accounting services Jan 08	250.00
Michael Bergerson	Legal retainer Mar 08	<u>300.00</u>
		550.00

Claims (N TIF)

News Dispatch	Notice- riverfront district	13.80
Lohan Anderson	Re-use Plan	2,266.77
Michael Bergerson	Legal services N TIF	<u>3,637.50</u>
		5,918.07

Claims (S TIF)

Beam Longest Neff	Eng – Towne Center Dr	2,836.12
Beam Longest Neff	Eng – 400 N	<u>39,528.60</u>
		42,364.72

The Chair entertained a motion for approval of the claims.

A motion to approve was made by Mr. Bigda – seconded by Ms. Kaser and upon voice vote, unanimously approved.

FINANCIAL REPORT

Mr. Pugh submitted and reviewed the financial report ended January 31, 2008.

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 upon voice vote, unanimously approved.

CDBG UPDATE

CDBG Director Judy Pinkston addressed the Commission and distributed reports. Ms. Pinkston reviewed the report with Board members and explained how the funds were allocated in 2007. The grant year runs from October 1, 2007 to September 30, 2008. All programs are underway with the exception of two. One is the public facility project for the rehabilitation of the homeless facility. It is still going through the environmental process as is the renovation of the playground area for public housing residents. The allocation for 2008 has been received. Instead of \$739,937 it has been reduced to \$712,947 (almost \$27,000). CDBG funds have been reduced nationwide. In the next

few months, programs to be funded will be identified as well as the areas to be concentrated on. The Lincoln Avenue sidewalk project from 2006 was completed in 2007. Over \$100,000 was spent on that particular project. Positive compliance reports have been received from HUD.

Ms. Kaser asked if the committee will get together to look at cutting some of the programs.

Ms. Pinkston replied that some of the programs will be renewed for another year and some will not, so the committee will be looking at what can be cut in order to get it down to the \$712,000.

Ms. Kaser asked if Ms. Pinkston had any idea of which ones would be cut.

Ms. Pinkston stated that the public service programs probably will be cut because there is a restriction that only 15% of the CDBG program can be used for public services. In all likelihood one or more of those programs will be cut as there will not be the funding for it.

As a point of information to Ms. Kaser, Chairman Behrendt advised that the funds are not allocated to serve as operating expenses. Every year it is a new process and new applications are submitted.

RESOLUTION 1-08 FOR THE CREATION OF A MUNICIPAL RIVERFRONT DISTRICT

Attorney Bergerson pointed out that the Redevelopment Commission held a public hearing on March 10th regarding the resolution to create the municipal riverfront district. There was one correspondence read into the record from the County Tourism Bureau supporting the Commission's efforts in creating the riverfront district. A copy of the proposed resolution was delivered to members of the Common Council along with proposed rules governing the establishment of the district and the allocation of any licenses acquired. He stated that Councilman McKee is present to discuss a recommendation relating to the local rules. Attorney Bergerson recommended the Commission adopt the resolution as previously read for the creation of a municipal riverfront district, and then discuss the proposed local rules.

The Chair entertained a motion for approval of Resolution 1-08.

Mr. Bigda made a motion to approve Resolution 1-08 of the Michigan City Redevelopment Commission Recommending the Creation of a Municipal Riverfront District – seconded by Ms. Kaser.

Attorney Bergerson reiterated the fact that the Commission is recommending to the Common Council the creation of this district. Ultimately, the Council will be in a position to create the district. After the legislative body of the City has made that decision, the recommendation would then go to the Alcohol and Tobacco Commission for purposes of allocating additional licenses over quota that is currently in existence. The Council (by resolution) is prepared to consider the Commission's recommendation at their meeting tomorrow night.

With a motion and second on the floor, the motion was unanimously approved.

Attorney Bergerson explained that the next part of the recommendation related to the creation of the riverfront district revolves around the implementation of local rules. Based on a model received from Valparaiso, Attorney Bergerson adapted it to a use that would see positive growth in this area from restaurants and taverns in the riverfront district. The rules would go a long way towards getting family oriented year round type of establishments and provide local control over the issuance of licenses if any are allocated. The Commission could monitor the use of these licenses by virtue of days being open, type and style of menu to a certain extent, and making sure they comply with all other local rules and ordinances to get renewals on a yearly basis. The rules also provide that these licenses cannot be transferred to a third party without the Commission's consent, the licenses cannot be used as collateral, and the licenses cannot be used as a part of any property settlement agreement. The intent of the rules is to make sure the establishment is open year round as opposed to only six to eight months.

Ms. Kaser noted her concern with the 330 days and asked if it could be changed to being open 12 months but have a certain amount of days each week that they would be open. That way it would address the Commission's concern about being open year round and the Council's concern with the 330 days.

Attorney Bergerson stated that there is no magic to the 330 days; the intent is to be open as much as possible during the year.

Councilman McKee addressed the Commission with his proposal. He stated that he understands the Commission's intent for a year round type of business. In his opinion, the 330 days does not allow restaurants to do what they normally would – that would be to close down on Mondays for upkeep, and it does not account for holidays. His thought is to have the language so it would allow them to be closed one day per week and holidays, and to further state that they cannot be closed more than 35 or 45 consecutive days.

Board members voiced their concerns with the language and days opened/closed and presented their ideas and suggestions.

Councilman Richard Murphy suggested that the rules state the Commission's goal which is year round establishments with a recommended daily operation.

After lengthy discussion back and forth between Board members, the Mayor interjected that perhaps it could be addressed through an intent clause rather than trying to tie it down with a rule. He said it seems to be the intent of the Commission that they are looking for a daily operation on a year round basis which may, because of seasonal operations, have some fluctuation to that. His suggestion would be that the Commission provide for an exception which would allow the restaurateur to come directly to the Commission. The Commission might want to specify they would be allowed to have one extended closure a year for more than a day, not to exceed 45 days without the Commission's approval of intent in advance. This would allow it to be done through intent and not locked down as rule of law.

Board members concurred with the Mayor's recommendation of intent.

Ms. Kaser made a motion to approve the local rules and amend "Additional Conditions and Requirements of Restaurants" by replacing #3 with "It is the intent of the Redevelopment Commission that the restaurateur applicant permittee be required to remain open year round; however the applicant may petition the Redevelopment Commission for permission to close not more than 45 days in any calendar year on one occasion." The motion was seconded by Mr. Bigda. Upon voice vote the motion was unanimously approved and the rules were approved as amended.

Attorney Bergerson noted that he would formalize the language by tomorrow's Council meeting.

REPORT BY LEGAL COUNSEL

Attorney Bergerson reported that acquisition of property is moving along. He recommended the acquisition of 316 E. 6th Street. The assessed valuation is \$78,000 and the owner's appraisal came in at \$58,000. The owners indicated a willingness to sell the property at \$58,000. The owners need 65-70 days to move out. Attorney Bergerson recommended the Commission authorize him to execute a contract with the owners for the purchase of 326 E. 6th Street in the amount of \$58,000.

The Chair entertained a motion.

Mr. Harris made a motion authorizing Attorney Bergerson to execute a contract for purchase of 316 E. 6th Street in the amount of \$58,000. The motion was seconded by Mr. Kniola and upon voice vote unanimously approved.

Attorney Bergerson is waiting for appraisals on other properties in the area. Those should be available by the next meeting.

A meeting has been scheduled with representatives of Blocksom for either March 26th or 28th to continue negotiations for the relocation of their facility.

The Sobkowiak/Weber litigation is ongoing. Attorney Bergerson hopes to have a hearing scheduled soon regarding appointment of appraisers and a response to the Commission's request to have further environmental inspections done. If he does not get a response soon, he will attempt to get a court order issued in that regard. The appointment of the special judge has not been resolved yet.

Regarding litigation involving Lakeside Station filed by Mr. Bailey, there is a hearing scheduled on April 29th. Attorney Bergerson filed a motion to dismiss the case for the plaintiff's failure to prosecute the case in a timely manner. Judge King has agreed to hear the motion.

The creation of the riverfront district will be on the Common Council agenda tomorrow at 6:30 p.m. as well as the resolution recommending the adoption of the Lohan Anderson Plan. Representatives of Lohan Anderson will be present along with representatives of MCNEAT speaking in support of the Plan and creation of the district.

Attorney Bergerson noted for the record that an Executive Session was held prior to this meeting at 4:30 p.m. No votes were taken and the only items discussed were items on the agenda relating to litigation and property acquisition.

REPORT BY DIRECTOR

Mr. Pugh reported that on March 13th he, along with Mr. Behrendt, visited the City of Mishawaka and met with City officials. They looked at their downtown development and discussed their process for a master developer. The City has also created a riverfront district. Currently, they have one restaurant underway and expect another. They anticipate creating at least two additional liquor licenses for that district. Currently there are two condo projects underway as well as the restaurant/office building project. Similarities were noted between the two cities.

Attorney Bergerson will review the specs for the master developer and report back to the Commission next month.

NEW BUSINESS

Mr. Pugh reported that he received a call from Mike Conner asking to be removed from the agenda tonight as he is not ready to make a presentation. He will advise if he is ready in April.

PUBLIC COMMENT

Mr. Bigda mentioned that at the last meeting a representative of Umbaugh spoke to the Commission about paying off the bond issue. He asked if it can be put on next months agenda to discuss, as the longer the Commission waits to pay it off, the less money is saved.

Mr. Pugh agreed that paying it off now would save more money, but the Commission decided it could actually be paid off this time next year. There currently is a project underway – 400 N. At this time there are no new projects.

Mr. Behrendt advised that the Commission is not in the position to pay the bonds off at this time because they do not have the funds. The Commission will continue to monitor it and when they are in the position – either late this year or early next year, they can look at it again.

Councilman McKee thanked the Commission for working through the rule and felt they arrived at a very good resolution to it. He questioned what process would take place if one of the rules is not followed.

Attorney Bergerson replied that the permit is renewable through the Alcohol and Tobacco Commission and will be subject to the Commission's renewal as well. It is an annual renewal process for any permittee.

ADJOURNMENT

The meeting adjourned at 6:05 p.m.

/s/ Lynne Kaser, Secretary