

February 2, 2017
Council Chambers-Borough Hall
221 South 5th Ave.
Highland Park, NJ 08904
The Highland Park Redevelopment Agency
Board of Commissioners Regular Meeting

Call to Order

The Regular Meeting of the Highland Park Redevelopment Agency was called to order in accordance with the Open Public Meetings Act by Chairperson Baruh at 7:41 pm Mrs. Baruh indicated the location of the fire exits.

Roll call

Present	Mrs. Baruh, Ms. Levinson, Mr. Solomon, Mr. de Villa arrived at 8:01pm, Mr. Fechter, Ms. Welkovits, Council Liaison
Absent	Mr. Perlman
Agency Professionals	Mr. Baumann, Agency Counsel

Approval of minutes of previous meetings

December 1, 2016

There was a motion by Mr. Solomon and seconded by Ms. Levinson with a voice vote by all present the December 1, 2016 minutes were approved.

Presentation of Audit – Hodulik and Morrison

Ronald Gardner, Auditor presented the audit to the Agency.

Memorialization of Resolutions:

HPRA R2017-05 Approval of Bills List

It was MOVED by Mr. Solomon and seconded by Ms. Levinson that Resolution R2017-05 be approved.

ROLL CALL: Ayes – Mr. de Villa, Mr. Fechter, Ms. Levinson, Mr. Solomon, Mrs. Baruh
Nays – None

There being five (5) ayes and no nays, Resolution R2017-05 was approved.

Chairperson and Committee Reports

--Popov Project

Mrs. Baruh said that the Popov project otherwise known as International Foods, and on an informal basis there have been a number of conversations with the property owners who proposes to redevelopment the property himself and he was named conditional redeveloper however she believes that agreement may have lapsed. She said that they meet, herself, Mr.

Solomon, Mr. Perlman and Jim Nichols a local architect and on the design committee in town and worked with Mr. Popov to try to move to a design that would be acceptable. She said that the original design was like a box and did not reflect any kind of improvements. Mr. Popov was very open to suggestions and ideas and bit by bit incorporated those ideas into a design. The main issue was that the owner proposed a building that would essentially cover the entire property so he needed to have some relief from the provisions of the redevelopment plan. She said that they approached the Borough Council, which is the legislative body in town to say we would like to have certain parts of the plan amended. The Council took in under advisement and sent it to the Planning Board, the Planning Board was concerned about the provisions related to the parking because the property would be virtually covered by the building there was no room for on-site parking and the owner proposed to have residential units. The Planning Board suggested that members of the Planning Board sit with members of the Highland Park Redevelopment Agency and that was done. A solution for the parking was proposed, the proposed amendment to the plan was then sent back to the Planning Board and on March 10, 2016 the Planning Board approved the amendment to the Plan as modified. The basic modification was that the owner of the property would be required to secure parking, one spot for every residential unit within a 1,000' of his property subject to a written agreement that would run with the property. The Planning Board made a formal recommendation that this be referred back to the Borough Council for favorable action. What seems to have happened was when it left Planning Board it did not arrive at Borough Council and so now we are in situation where we still need to wait for Borough Council to actually amend the plan to give effect to the amendment.

Mr. Solomon said that Mr. Popov was proceeding in good faith with the understanding that this had been approved.

Mrs. Baruh said that what they would like at this point, she would ask that the Agency Lawyer reach out to Roger Thomas, Esq., Counsel for Planning Board for the actual language for the amendment as it was provided to Planning Board on March 10, 2016. It would have incorporated the changes that were recited. She said that it would have not only the relief that was originally requested which included from the back property line, side property line, clearance but also this business about the parking spots, and there was also a requirement to prohibit a curb cut on Raritan Avenue.

Mr. Fechter asked how the parking agreement worked. Mr. Baumann said he thinks what the Planning Board had in mind, and it was not the amendment that was sent to them, at the Planning Board he argued against the concept of a written agreement with regards to parking, the presumably we will give Popov a deed restriction to record in favor of the municipality that says at all times you must have an agreement to park five cars within 1000' of the property. He said that only remedy would be to go to court and enforce our rights under that restriction.

Mr. Baumann said that there is some benefit to the Governing Body not having adopted the Ordinance, because the Governing Body has the power to we got your recommendation back we appreciate your recommendation but think deed restriction is not enforceable and we think

there are other benefits and we are not going to make that change and adopt the plan without it. He said that he would not mind trying to convince the Governing Body to think about that approach because he does think when that discussion was made that decision we were careful and thoughtful and with good reasons.

Mr. Solomon asked what the best is to transfer their opinion to the Borough Council. Mrs. Baruh said that the best way to do that would be in person and suggested that it would be helpful if Mr. Baumann reached out to Mr. Thomas, Esq., and suggested Mr. Solomon, herself and Mr. Perlman would attend the Council meeting.

Ms. Welkovits said that it is already on the agenda for first reading, which is next Tuesday and will check with the Mayor to provide you with a good time to come in.

Mr. Baumann said he would do an e-mail instead of a formal letter and send the Ordinance. He said that he would do two (2) ordinances, and the Borough Council can choose which one they would prefer to act on.

Mrs. Baruh said she wanted to give everyone an update, the property owner Anton Popov came to the construction office and sought and received a permit to do interior demolition, he then embarked on exterior, which was not permitted, and part of the issue he was proposing to take down trees. She said that she had a conversation with Scott Brescher, there were some substantial value to the trees he was taking down, and he will have to propose to replace those trees, which is not likely and will need to make a payment into the tree replacement fund. She said that there was concern that Mr. Popov is engaging in activities when he has not in fact presented a site plan to anyone.

--Tantleff Project

Mrs. Baruh said that she had the Hazardous Discharge Site Remediation fund application if anyone was interested in looking at it. This is the one that went to the State to seek funding to allow us to pay for environmental investigation.

Mr. Solomon gave kudo's to Rosie Baruh in her diligence in responding to all of Denise's questions. He said that he seen that Mrs. Baruh was in contact with Jane Hammerman from seeclear who is the Federal Government contractor to provide brownfields technical assistance to entities like the agency.

Mrs. Baruh indicated that she was going to reach out to Joyce Paul, Chief of Staff for the Commissioner of the Department of Community Affairs; she offered to help with the grant. The Borough went down to Trenton to talk to the NJDCA, and some of things that we were interested in doing they could not help, but thought that this was something that they could assist with.

Mr. Baumann indicated that once the monies is received we need to get site access, which will be a challenge.

Mr. Solomon said that he would reach out to Bill Witner, and Alan Miller at the NJDEP.

Mrs. Baruh indicated that there was also a grant filed with the EPA but it is not expected that the EPA will act on any grant applications in the near future.

--Borough Square Project

Mrs. Baruh said that the Borough Square project was currently on hold, they have reached out again to the NJDCA folks to get some with this and were advised that until we have site control and there is not a lot they can do for the Agency. The Agency is working with the Borough to see if there is way to start to get site control, so as property come up for sale the hope is that the Borough can purchase them.

Mr. Baumann said that if you do an Ordinance to acquire property you have to identify the block and lots.

Mr. Fechter said that they have met with the State a couple of times, and asked what their position was now. Mrs. Baruh indicated that their position has not changed, and there cannot be a project without site control.

Mrs. Baruh said one of the approaches could be if they take this plan, which is online, and simply transfer into the Bond the listing that is easy to find in the plan, every block and lot by this plan is listed and they should just list them all.

Mr. Baumann said it is not a bad thing to list the property you want to buy and let the other people know you listed it; it is not a big deal, it is mostly that they do not know exactly what you are willing to pay.

Mr. Solomon said once we get to the point where we are actually acquiring property and this project is real and suggested at that point utilizing Jim Constantine to lead our efforts engaging the community, the planning and not use NJDCA.

Mrs. Baruh said that the one they need to ensure is that when we buy something we do not buy a problem.

Mrs. Baruh asked Mr. Baumann to speak about something. She said that the Agency's concerns are, for example, if a piece of property were to come up there is concerns that there are environmental contaminations, what obligation does the Agency or the Borough to investigate, if we but the and we don't investigate what happens.

Mr. Baumann said that whenever property is purchased we are going to ensure you get an innocent person exemption, which is doing a phase 1 study, looking at records to look at what the property was used before, there is no drilling, it is for redevelopment and if you do that you are protected from third party lawsuits if there is contamination.

Mr. Solomon asked what if the phase 1 suggests that there is contaminates. Mr. Baumann said you can still move forward and buy it you the benefit of the innocent purchaser but that just prevents a third party from suing you if the contamination harms somebody somewhere else. The bigger issue is, the property is bought, the first thing is to indemnify you for the cleanup or set aside some of the purchase price as an escrow towards the cleanup. Short of those things if you buy it and it is contaminated you are going to have to clean it up cause who else is going to pay for it.

Mr. Solomon asked how many phases we have to do before we have enough information to feel comfortable on a purchase price. Mr. Baumann said that you would delineate the contamination vertically and horizontally, you are going to figure out what needs to do clean it up and then you get someone to tell you what it will cost; you either have to remove it or cap it.

Mrs. Baruh said that there are three (3) things, preliminary investigation, site investigation and remediation. The State is good for the first thing, which is a five-figure thing, after that there, really is no knowing how much money you are going to get from the State. Remediation itself, to get money for the remediation requires the property owner to be able to talk about what that property is going to be used for in order to get money from the State. One of things she spoke to the State about was the fact that we expect to put a public library on this property. Normally the State is looking for you to create greenspace and recreational property, and she pitched that a public library is a public space and could be classified as a recreational space. She said that they started down that line and really did not go very far and is something that they may have to approach the NJ Legislature to get.

Mr. Baumann said that the problem is generally, the State does not like to pay to clean up property for which there is a responsible party who can pay for his own clean up. New Jersey is not going to give us money to elevate the dry cleaners contaminated property when he there and he can pay for it.

Mr. Solomon said what we need to do is get to a point where we understand the cost of the remediation and then we can decide if the property is worth purchasing. We can purchase it with contamination because if the contamination is less than then the value of the property then we can sell it to a redeveloper.

Mr. Solomon said the property he was referring to the small \$40,000 parcel adjacent to Mr. Lee's parcel that was purchased. He said that Deb Tanleff actually made an offer on that property and did not make an offer to Mr. Lee because she could not agree on a price because she did not know the extent of the contamination.

Mrs. Baruh indicated that her offer on that property was contingent for understanding what environmental contamination costs would be associated with that lot and that was for all of the lots. She said that is why they are so urgent about getting this hazardous discharge grant and getting some investigation done because she cannot refine her bid, she will buy the property even subject to as long as she knows what the cost of the cleanup is.

Mr. Solomon said it was also his understanding that the real issue was that Deb Tantleff wanted an option on the property and did not want to buy it outright and it was not necessarily about the brownfields it was she was not going to purchase this property and own it unless she is going to have a project and she is not going to have a project unless she gets everyone to sell and the property owner did not want to tie up the property like that, so someone else swooped in and grabbed it and we should have been the ones to swoop in and grabbed it. He said if we are saying that we need to have done an investigation and whether it is a phase 1 investigation or a phase 2 investigation and it seems to get to that point. There is a good chance that we would still be in a position even if it is contaminated; Deb Tantleff still does not want to purchase it if she does not get her full option even if it is known, and she can fix the price she still might not want to purchase it until she can get her full option exercise in which case there would still be role for the Agency move in and grab it.

Mrs. Baruh said that in order to do that we would have to first approach the property owner and would like access to your property to test it.

--Other Borough Initiatives: None

Public Comment


Mrs. Baruh opened the floor to the public, there being no one public comment was closed.

Hearing on New Agenda Items: None

Action of any other business: None

There being no further business, it was moved by Mr. Solomon and seconded by Ms. Levinson with voice vote the meeting was adjourned at 9:03 pm.

Respectfully Submitted,


Jennifer Santiago
Agency Clerk