

MARCH 3, 2016
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 7:31 pm Mrs. Baruh indicated the location of the fire exits.

Roll Call

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| Present | Mrs. Baruh, Ms. McDonald, Ms. Levinson, Mr. Solomon, Mr. Fechter, Mr. de Villa arrived at 7:37 p.m. |
| Absent | Mr. Perlman |
| Agency Professionals | Mr. Baumann, Agency Counsel |
| Council Liaison | Mr. Phil George, Council Liaison |

Approval of minutes of previous meetings

February 4, 2016

It was MOVED by LEVINSON and seconded by SOLOMON to approve the February 4, 2016 minutes.

Mrs. Baruh asked that the motion be tabled and asked Ms. Levinson if she could edit the minutes for clarity and reconsider at the next meeting.

All members present were in favor.

Chairperson and Committee Reports

- Consideration of Proposals from Environmental and Planning Consultants

Mrs. Baruh

- Report on Presentation of Popov Amendment to Planning Board

Mrs. Baruh indicated that the Popov Amendment pertained to the International Foods Market property, Mr. Popov is the conditional redeveloper/owner. He has made a proposal for a project that would cover 100% of the property, so certain modifications to the Redevelopment Plan were necessary for the project to conform; part of it had to do with setbacks which was not controversial and the other part had to do with the parking. If Mr. Popov were to build as intended there would be no room for on-site parking. A proposal was presented to the Borough Council for an amendment; Borough Council set it to the Planning Board for review and recommendation. The Redevelopment Agency went before the Planning Board to explain why we were seeking the change to the plan. Parking is a very big consideration in town and the Borough Council has asked Councilman George to set up something to review and study the parking. Mrs. Baruh said that the Agency would be looking for a solution for this specific property and Planning Board was concerned that that solution would be inconsistent with the

parking solution for the Borough as a whole and there is a concern that even if a solution was formed it might only be good for this project and what if the owner sold the building what would happen then. In the interest in time and trying to come up with a solution, the Chairperson of the Planning Board named some of the members of the Planning Board to a sub-committee to meet with the Agency's sub-committee: Mrs. Baruh, Mr. Perlman, and Mr. Solomon. Mrs. Baruh and Mr. Solomon met with the sub-committee: Mr. Nolan, Mr. Lanaris, and Mr. Kluger and presented some suggested some language that was provided by the Borough Council, which was the idea of requiring Mr. Popov to enter into a written agreement to find one parking spot per apartment within a 1,000 ft. of the building. Since then additional comments were received from the Planning Board Sub-Committee that were provided to the Agency Attorney to address. Mrs. Baruh indicated that the Attorney's comments were as follows: as principal uses the zoning restrictions on fast food establishments, comments from Steve Nolan a Planning Board member indicating that the restrictions on fast food establishments was abolished about five (5) years ago, the reference should be updated since carry-out fast food is now permitted in the Central Business District, same comments on prohibited uses drive thru; principal uses makes reference to residential to second floor and above but the bulk requirements says two story limit; he suggested that off street and loading spaces would be permitted and not to give the configuration on curb cuts. Mrs. Baruh indicated that Mr. Nolan was addressing the issue of loading spaces, which is an issue that all of the Central Business District merchants have to consider because there is not loading space for much of the properties.

Mrs. Baruh said that the Borough Council is putting together a re-draft responding to the comments from the Planning Board sub-committee; the Planning Board Chair has asked her Counsel if it would be possible for the Redevelopment Agency to get on the March 11, 2016 agenda.

– Report on Borough Square Meeting

Mrs. Baruh said that Borough Square is the project that is now called the Farmers Market parking lot; it is the parking lot behind the Reform Church, going from Raritan to Magnolia. She indicated that the parking lot itself is owned by the Borough but if the project moves forward it would take up more than the Borough property, it would take other properties as well that are in the redevelopment area and possibly some that are not. Mrs. Baruh said that what they are trying to do now is approach the State of New Jersey because the State of New Jersey supports Main Street projects through its State Main Street office. A meeting took place with a representative with Speak Music, the music school on South 3rd, and they would very much like to be a tenant. Mrs. Baruh said that the next step on the Borough Square meeting is that she will be meeting with Main Street and try to fill a form that the Mayor needs to submit. Mrs. Baruh said that this was an application for Jeff Bueler the head of Main Street in Trenton to assign to Highland Park some of his planning people. Mrs. Baruh indicated that the project needs to have a lot more revenue producing square footage.

– Status of other projects

Mrs. Baruh said that she would like to discuss the proposal from LRK. She said that that are offices throughout New Jersey. She said that the proposal is from Jim Constantine

She said that Mr. Constantine had been approached regarding the Tantleff project, sometimes called the Gun Shop project. The conditional redeveloper Tantleff, the project is on the north side of the avenue between North 2nd and South 1st. The properties involved are Joe's Garage, Ubry's, the two garages side by side, the dry cleaner and then the gun shop as well as some open property. The conditional redeveloper has approached the five owners, one was very interested, one we thought was interested and is not so interested, and one of the owners is really unsure. She indicated that she would like to elevate this project in such a way to help the individuals who own the properties better understand their opportunities here.

Mrs. Baruh said that Jim Constantine and Mr. Baumann are working on a project in Hightstown, NJ. She said that Hightstown is not that different from Highland Park and Jim Constantine went into Hightstown and helped people understand what the project was about and how it would affect them.

Mr. Fechter asked what interest would the property owners have other than to sell their property.

Mr. Solomon indicated that the dry cleaner has apartments on top and a successful business, he does not want to give up his business and he also has rental income from the apartment. The owner likes the idea of an on-going income instead of a lump sum payment.

Mr. Fechter asked if they could have a deferred interest or contingent interest in this project.

Mr. Baumann indicated that the redeveloper expressed that she was not interested in partnering.

Mrs. Baruh said that she may be open to different structures once we have gotten to that point.

Mr. Fechter said that there are five properties and the project needs all five properties to be released and asked if this was too ambitious of a project and suggested that the projects be scaled back some.

Mrs. Baruh indicated that it is very difficult to get a developer to do a small project, she said that the International Foods project, the redeveloper is the owner of the project, the project is very modest and one of the challenges is helping him to understand what the project should look like. She said that they did not want to give up on the Tantleff project just yet because the vision that this particular redeveloper has, brings with it some real opportunity for the Borough. The redeveloper offers a tremendous amount of parking because she has that parcel, and it had been suggested that she might divide it up and build around anyone who doesn't want to sell.

Mr. Solomon said that the developer is initiating the project and if developers were interested in smaller projects they would have initiated them already. He said that if you take a look at the parcels they have significant parking issues already and if you put them all together you could make one curb cut serving a lot of them with parking in the rear, if each one of the parcels had to have their own curb cut which cuts into your buildable square footage, you will have really little project. He said that parcels individually are not very attractive and small to build on and to do something larger you have to deal with the assemblage problem and as an agency to deal with

the assemblage problem we are under tooled and under resourced. The Agency cannot do acquisitions; a lot of towns would have just bought these properties very cheaply over time, assembled them and sold them at a nice gain.

Mr. Fechter said that the agency is in the middle of something and we are going to pursue it and the risk of putting this together in two or three years and it collapses whereas if smaller projects were taken on we would be more successful.

Mr. Solomon said that there were not options in taking on smaller projects.

Mr. Baumann said that the Tantleff project is a nice project and the thought was that would come in and convince the property owners to go along and has not succeeded yet but hiring Jim Constantine hired by the Agency and paid for by the developer leaving two choices to either scale the project down and work with the property owners that she can work with or pack up and walk.

Mrs. Baruh said that the project that the developer has proposed has fairly significant frontage, including both retail space, a potential new home for the library, 65 public parking spots, approximately 120 private parking spots, including a building with amenities attractive to empty nesters, and professionals working at the local hospitals and the university. She said that if they bring on Mr. Constantine and his very experienced team we will see once and for all if this can be done.

Mrs. Baruh said that Mr. Constantine quoted \$30,000 for his services, and the developer had agreed to pay for his services. She asked Mr. Baumann if the agency would need to approve the agreement.

Mr. Baumann said that they Agency should approve the agreement by Resolution and suggested monitoring what is actually being done and monitor the developer's escrow account as well.

Mrs. Baruh said that the developer posted a \$20,000 escrow and it has been drawn down on a little, of the \$20,000, approximately \$5,000 has been spent and the Popov project approximately \$5,000 of the \$7,500 available on professionals for the amendment.

Mr. Baumann suggested having Mr. Constantine come and speak with the developer and get a budget.

Mrs. Baruh said that the developer put together offers to the business based on her office's assessment of the market and taxes and she approached the property owners herself. Mr. Baumann said that his thought was that Mr. Constantine was going to sit down with the property owners and negotiate and the goal is that he will be more successful than the developer has been thus far.

Mr. Solomon said that there is a specific set of needs and a specific set of tasks for Mr. Constantine for this property which is to help the developer and think through what this project

might look like and provide information from a more mutual source and coming up with creative strategies to do redevelopment. He said that once Mr. Constantine is under contract they could ask him to do a parking study or other projects to serve as expert professional staff to make some recommendations on the many good ideas that the agency has had over the years. He said that this does not authorize him to do any of that but if he is under contract and directed he could do it.

Mrs. Baruh said that first and foremost he is needed to provide services for the Tantleff project covered by Tantleff escrow and that mean specifically negotiating with the property owner.

Mr. Fetcher said that what Mr. Solomon was stating was that Mr. Constantine first project would be the Tantleff project but there would be other matters that he could work on that would be separate from the Tantleff project.

Mr. Baumann indicated that Mr. Constantine's first job would be the Tantleff project as described and funds would need to be generated for the other projects.

Ms. McDonald indicated that when she first came on board with the Agency in 2009, there was a procedure on how to move forward with certain things and ask how the Agency could get people to come in and help them so that when it goes before Planning and Zoning it won't get stopped, she referenced the 7-11 project as an example. She said that the Agency seen things that the Planning Board did not see.

Mrs. Baruh indicated that that was a very good point and thinks that one of the things that Mr. Constantine could do for the Agency is that communication effort to help the Agency and the Planning Board to move in the right direction. The Agency is doing the will of the Borough Council but the Borough Council also listens to the Planning Board on an advisory basis and this is a very challenging dynamic and is hoping that someone like Mr. Constantine can help cut through that so that we don't continue to go back and forth.

Mrs. Baruh said that the next step would be to bring the developer and Mr. Constantine together so they could discuss the developers buy in for Mr. Constantine's services and narrow down their scope.

Mr. de Villa asked what the Agency's responsibility in approving the contract.

Mr. Baumann said that the Agency was responsible for Mr. Constantine's bills, if we run up a bill for \$20,000 that is not escrow the Agency is responsible for that bill, he is not getting paid just because the Agency is not going to get paid it needs to be managed.

Mr. Fetcher suggested that there be a not to exceed amount stipulated.

Mrs. Baruh asked Mr. Fetcher if he would sit in on the meeting between Mr. Constantine and the Developer. Mr. Fetcher agreed.

Mrs. Baruh asked for a motion to approve the agreement with Mr. Constantine with the stipulation that no work is to be done until approved by the Redevelopment Chairperson. She said that she would like Mr. Constantine to come in and meet with the developer to discuss what has been stopping this project from moving forward, what the developer needs to get the project moving forward and to understand where the opportunities might be.

Mrs. Baruh indicated that the other proposal that came in was from Excel Environmental at \$32,000 to investigate the parcel to get an idea of what the remediation costs would be. She said that the investigation has to do with going onto the property, drilling holes down into the property so that the substance can be reached and see if that land is contaminated, and with what chemicals and in what way.

Mr. Baumann said that the problem is that the property owners do not have to let you on site and generally speaking their lawyers will advise them not to allow it.

Mr. Solomon said that the property owner is already aware that the property is contaminated and has two years to investigate and another two years to remediate but they do not know to what extent the contamination is. Mr. Baumann indicated that they have applied for a grant that would pay for that cost.

Mrs. Baruh said that when the grant was first applied for the grant the deadlines were in December and were advised that we would hear something sometime in April 2016 whether or not the County would be awarded any money from the federal EPA and that money would become available in October. She indicated that the developer would be willing to move forward if she knew that if she put out the money she would be reimbursed later. She said that the property owners do not understand that this has an impact on the value of their property.

Mr. Solomon said that the laws have changed and it is no longer a don't ask don't tell does not apply anymore, if the grounds are contaminated they have to be cleaned up and this property owner might be in a situation where they have a liability and there may not be a developer that wants to come in and take that liability off their hands especially if it is built up on both sides of this property and the Borough is no longer interested in offering them help and in five or six years he may have a big brownfields on his hands that no one is going to want to buy.

Mrs. Baruh said that she is hoping that Mr. Constantine will be able to help people understand. Mr. Baumann suggested a motion to approve the contract but are not authorized to move forward until presented with a scope of work and a budget for the project and the Developer has agreed to such stimulation.

It was MOVED by Mr. Solomon and seconded by Ms. McDonald to approve the contract with Mr. Constantine but not authorize any work to begin until presented with a scope of work and a budget and the Developer has agreed to such.

Roll Call: Ayes - Ms. McDonald, Ms. Levinson, Mr. Solomon, Mr. Fetcher, Mr. de Villa,
Mrs. Baruh

Nays – None

There being six (6) ayes and no nays, motion was approved.

Mrs. Baruh said that the next step would be to set up a meeting with Mr. Baumann, Mr. Constantine, Mr. Fetcher, the Developer Deb Tantleff, Mr. Solomon and herself. She asked Mr. Baumann if his office could coordinate that meeting. Mr. Baumann agreed.

Public Comment – None

Hearing of New Agenda Items

R2016-05 Resolution of the Highland Park Redevelopment Agency Authorizing an Extension of the Conditional Redeveloper's Agreement with Highland Park Development Partners LLC

Mr. Baumann said that there is a Conditional Redevelopment Agreement which is a funding mechanism by which the escrow is established and in exchange for that the Agency agrees to have them the exclusive redeveloper and the term is coming up and this is why this item is listed on the agenda this evening. The extension of this Agreement would go to October 1, 2016.

It was MOVED by Ms. Levinson and seconded by Mr. Solomon to approve Resolution R2016-05.

Roll Call: Ayes - Ms. McDonald, Ms. Levinson, Mr. Solomon, Mr. Fetcher, Mr. de Villa,
Mrs. Baruh
Nays – None

There being six (6) ayes and no nays, Resolution R2016-05 was approved.

• R2016-06 Bills List

Mrs. Baruh said that she has reviewed all of the bills that have come and they are consistent to what has occurred.

It was MOVED by Mr. Solomon and seconded by Mr. de Villa to approve the bills for payment.

Roll Call: Ayes - Ms. McDonald, Ms. Levinson, Mr. Solomon, Mr. Fetcher, Mr. de Villa,
Mrs. Baruh
Nays – None

There being six (6) ayes and no nays, the bills were approved for payment.

Action on any other business

Mr. Baumann indicated that he is to prepare a letter to the governing body regarding the area of rehabilitation, the pros and cons and the process for them to designate.

Mrs. Baruh welcomed Mr. Fetcher and Mr. de Villa to the Agency; she said that the Agency was very grateful to them for volunteering their services. She said that when Mr. Fetcher asked what the Agencies exposure to liability as Commissioners was on the Redevelopment Agency. She said that she had received an answer from the Agency Counsel and said answer was forwarded to everyone. Mr. Baumann said that as long as you are acting within your official duties and not committing fraud or a crime.

Mrs. Baruh said that the person in charge of the insurance policy is away and therefore the insurance policy cannot be located. Mr. Baumann said that JIF almost always ensures coverage of every entity of the Borough.

Mrs. Baruh indicated to the Mayor that the Agency would like to see a copy and would like to see the wording themselves.

Mr. Solomon indicated that the Agency was formed out of a section of State law which essentially authorized Redevelopment Agencies to work and authorized Governing Bodies to declare an area in need of redevelopment which gives the Agency powers. Among the powers are some of the nitty gritty zoning, the power to approve developments that the Planning Board does not have, it permits the Agency to enter into pilots or in lieu of taxes agreements. He said that because of that condemnation powers, people were unhappy and it has been challenged in court and it has to be proved and it was thought that a lot of the work of the Redevelopment Agency, so another category which is an area in need of rehabilitation and needs to be old. Housing stock has to be over 50 years, the infrastructure has to be over 50 years then you can be declared an area in need of rehabilitation which would give you most of the powers that the Agency currently has in the redevelopment sites without condemnation. The proposal is to take the entire downtown area, which is currently a patch work, and let's make it all under the Agencies control, and are areas that are not in need of redevelopment and make them areas of rehabilitation so that the entire area is under the Agencies purview so that a developer that wants to build three adjacent parcels does not need to go to the Planning Board.

Mrs. Baruh pointed out that the Agency at this time does not have the power of condemnation because of the age of the plan.

Mr. Baumann indicated that the Agency has the power but the property owners could challenge it as opposed to going to the condemnation study where they would have to challenge it when you're doing the study, so if you were to condemn a property they could still challenge it.

Mr. Fetcher asked if the Borough had properties that would qualify. Mrs. Baruh said that the only property would be the Sunoco.

Mr. Solomon said that all the properties currently under the Agencies purview that were studied but the question is whether it would hold up in court.

Mr. Baumann said that the procedure is driven by notices; you would have to give the property owners notice in those areas.

Mr. Solomon asked which properties would qualify. Mr. Baumann said that several of the properties that Tantleff was looking at would.

Mr. Fetcher asked if that was something that the Agency would pursue. Mr. Baumann said that there were a few things that the Agency has struggled with, one being that there is virtually no money barely enough money to cover postage and the audit and condemnation is a power that the Borough would not prefer not be used, it is a tool that is not available to the Agency.

Mr. George indicated that it is the feeling of the Borough Council and Administration to stay away from condemnation.

Mr. Baumann said that the Borough Council and Administration said that they would consider pilots in the right case but there are no current pilots in the Borough available because there is no Ordinance in place.

Mrs. Baruh said that it was presented that the Tantleff project would involve a pilot, but the idea is that the revenue from that parcel is for example \$100.00 in tax revenue, Tantleff rebuilds the parcel and it is now a \$1,000.00 but we would say no because under the pilot they would pay \$250.00 so the idea is that they would pay less. The one commitment that is that the Borough come out on a net positive basis so even if a tax relief is given the amount going to the Borough is better than it was.

Mr. Baumann said that a pilot can only be done if it is demonstrated through the application the financial plan, performance and go through the process that you require it to be a pilot. The pilot is used to influence development of a property. He said to properly run a pilot the developer presents their development costs, the rent, debt services, equity and prove that the developer cannot make it work unless given relief on the taxes and the town could say no and the developer could say that they are not doing their project. The struggle with pilots is that people say they are losing money but if the choice is nothing or half of something, half of something is better than nothing at all.

Mr. Solomon said that another advantage to a pilot is that the property taxes that are paid to the Borough go to the municipality, schools, and county and when you enter into a pilot program its payment in lieu of taxes the entire payment goes to the municipality.

Mr. Fetcher asked how that worked. Mr. Baumann said that right now for example 60% of the taxes you pay go the Board of Education, 20% goes to the County and 20% goes to the municipality and in a pilot program whatever the new number is 95% goes to the town, the school gets nothing and the County get 5%. He said that the Board of Education cares and

doesn't really know why, because whatever they set their tax rate at the municipality is obligated to give that amount to the Board of Education even if those taxes are not collected and many people do not pay their real estate taxes as an example let's say 90% of residents pay their real estate taxes but the Borough is still obligated to pay the Board of Education at 100% so the municipality takes the hit and the Board of Education never gets less than they need. He said that all municipalities have to budget a reserve for uncollected taxes to deal with people who do not pay their taxes.

Mr. Solomon said that there are advantages to entering into a pilot program. Mr. Baumann said that in this scenario let's say the Borough enters into a pilot program, they are balanced, the taxes on this project are not going to impact the fiscal impact on the Board of Education but will change downtown forever, this is a temporary problem but jobs have been created and the center of downtown has been changed and that to me is as important to me then building a road but there are many municipalities that have made a conscience decision that they understand that this project may not produce as much rateables as they would like but the project is still important to the health of the municipality just like a business that buys products or a town who builds roads without revenue this is just another way to fix the infrastructure. He said that he did a project in Bloomfield, they did a pilot and 100% of its going into parking and will change that town for the better.

Mrs. Baruh asked if a property is in an area in need of rehabilitation does the redevelopment plan become over zoning on that. Mr. Baumann said that one of the reasons to expand the area is the properties are all over the place, so if a property owner happens to buy a property in the redevelopment area next to a property that is not in anything, they will be governed by the plan for one property and the zoning ordinance for the other property even if they are the same building. He said that one of the important things that the plan does allow is spot zoning.

Mrs. Baruh said that Mr. Baumann would put together the rehabilitation plan and setting up the meeting with Tantleff and Constantine. Mr. Baumann agreed.

It was moved by Mr. Solomon and seconded by Ms. McDonald with voice vote the meeting was adjourned at 9:08 p.m.

Respectfully Submitted,

Jennifer Santiago
Agency Clerk