

**CITY OF NORWALK
PLANNING COMMITTEE
REGULAR MEETING
MAY 5, 2016**

ATTENDANCE: John Kydes, Chair; John Igneri; Travis Simms; Douglas Hempstead; Faye Bowman (7:17 PM)

STAFF: Timothy Sheehan, Redevelopment Director; Tami Strauss, Community Development Planning Director; Hunter Arton, Community Outreach Administrator

PUBLIC HEARING - NEIGHBORHOOD ASSISTANCE ACT TAX CREDIT PROGRAM

The Chair called the public hearing to order at 7:00 PM.

Gerry Stuhlman of Broad River Homes spoke in support of Broad River Homes and their AA program.

Larry Kleutsch of Open Door Shelter also spoke.

CALL TO ORDER

The Chair called the meeting to order at 7:07 PM. A quorum was present.

PUBLIC PARTICIPATION

No members of the public wished to speak.

APPROVAL OF MINUTES

April 7, 2016 Regular Meeting

**** MR. SIMMS MOVED TO APPROVE THE MINUTES OF THE APRIL 7, 2016 REGULAR MEETING WITH THE FOLLOWING CORRECTION:**

- 1. PAGE 2: IN MS. LAURICELLA'S REMARKS IN THE LAST PARAGRAPH, THE DESIGNATION 'THE CHAIR'S PREDECESSOR' SHOULD BE CHANGED TO 'THE DPW DIRECTOR'S PREDECESSOR'.**

**** MOTION PASSED UNANIMOUSLY.**

BUSINESS

A. NEIGHBORHOOD ASSISTANCE ACT TAX CREDIT PROGRAM FOR 2016

- 1. Advance the 2016 NAA tax credit program applications to the Common Council**

**** MR.IGNERI MOVED TO APPROVE ITEM AI: ADVANCE THE 2016 NAA TAX CREDIT PROGRAM APPLICATIONS TO THE COMMON COUNCIL.**

Ms. Arton stated that this item is something the state runs and supports, and is used to ensure that the credits are legitimate. She stated that, with the City's approval, this item will go to the Council and will then go to the State's Revenue Office, and they will decide if they work for the tax credit program. She summarized that this is basically a legitimization process.

**** MOTION PASSED UNANIMOUSLY.**

B. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

- 1. Approve modification of the Open Door Shelter's PY42 CDBG project scope to read: "The Open Door Shelter will perform asbestos and lead-based paint abatement, as well as install clean utility corridors, geo venting and vapor barriers to remediate contaminants at 2 Merritt Place."**

**** MR.IGNERI MOVED TO APPROVE ITEM B1: APPROVE MODIFICATION OF THE OPEN DOOR SHELTER'S PY42 CDBG PROJECT SCOPE TO READ: "THE OPEN DOOR SHELTER WILL PERFORM ASBESTOS AND LEAD-BASED PAINT ABATEMENT, AS WELL AS INSTALL CLEAN UTILITY CORRIDORS, GEO VENTING AND VAPOR BARRIERS TO REMEDIATE CONTAMINANTS AT 2 MERRITT PLACE."**

The Chair stated, after speaking to individuals at Open Door Shelter, that the shelter intends to perform lead abatement and remediate contamination. Ms. Strauss stated that the ODS requested \$150,000 for part of the construction, and since the recommendation was for \$100,000, the shelter asked if they could move the amount from the construction envisioned to an environmental assessment and remediation at the site. Mr. Sheehan stated that if the monitoring is done by HUD, it is best for them to have legislative body of approval reflecting the decision.

Larry Kleutsch, ODS Consultant, stated that foreseeably, the money for construction will come about from other sources.

The Chair asked if the item has gone out to bid yet. Mr. Kleutsch stated that they are in the preliminary stages, and that the next step is bid specification, and that they will work with Eagle Environmental and then the committee.

**** MOTION PASSED UNANIMOUSLY.**

2. Approve a Public Hearing on PY41 CAPER for the August 4, 2016 Planning Committee meeting.

**** MR. SIMMS MOVED TO APPROVE ITEM B2: APPROVE A PUBLIC HEARING ON PY41 CAPER FOR THE AUGUST 4, 2016 PLANNING COMMITTEE MEETING.**

Mr. Sheehan asked Ms. Strauss to provide some background for the newer committee members. Ms. Strauss stated that they are in the midst of the CDBG program, and that the CAPER is a year end report that provides information on performance and impact over the course of the year. She stated that the CAPER will start in July and finish in August, then go out for public comment and a public hearing before a final report is submitted to the committee for approval, that they will then refer it to the Common Council. The final report must be submitted by September 15th. Mr. Sheehan stated that there are 2 public hearings held on an annual basis for the CDBG program, and this gives the public an opportunity to comment on the City's performance regarding CDBG, administration and management.

**** MOTION PASSED UNANIMOUSLY.**

3. Advance the Citizen Participation Plan to the Common Council for approval.

**** MR. HEMPSTEAD MOVED TO APPROVE ITEM B3: ADVANCE THE CITIZEN PARTICIPATION PLAN TO THE COMMON COUNCIL FOR APPROVAL.**

Ms. Strauss stated that this relates to an amendment of the Citizen Participation Plan as it relates to the assessment of fair housing. She stated that it will not come into play for another 4 years, but that it still reads as required in the Citizen Plan.

**** MOTION PASSED UNANIMOUSLY.**

C. GLOBE THEATER

1. Approve the Norwalk Redevelopment Agency as the borrower of the Section 108 loan funds for the purpose of the Globe Theater Redevelopment Project.

**** MR. IGNERI MOVED TO APPROVE ITEM C1: APPROVE THE NORWALK REDEVELOPMENT AGENCY AS THE BORROWER OF THE SECTION 108 LOAN FUNDS FOR THE PURPOSE OF THE GLOBE THEATER REDEVELOPMENT PROJECT.**

Mr. Sheehan stated that HUD made a modification to the initial item, as they could to lend directly to the Globe Theater LLC. HUD required that the Redevelopment Agency step in as the borrower, and that it is in fact a better situation from a City standpoint. He stated that they would then re-lend the money out to the Globe Theater and underwrite with a provision on the resolution that once work is completed with the Agency's underwriting and review of the loan, the Globe has the ability to undertake the loan as the City structured it once the resolution is approved by the committee.

The Chair asked if the Globe will receive the funds all at once, and Ms. Strauss answered in the affirmative. Ms. Strauss stated that they will be acquiring a completed building, and Mr. Sheehan stated that they will ultimately be taking out the Patriot Bank loan that is currently financing construction costs. Mr. Sheehan stated that the resolution was structured per the committee's request, so that they weren't advancing the Globe money.

The Chair asked for confirmation that, as the loan is secured and guaranteed by the City, the City would have right of first refusal should the Globe default. Mr. Sheehan stated that the Globe wouldn't default to the City, but the Redevelopment Agency and that the sense of a borrower relationship is with the Agency and not a private party. Mr. Sheehan stated that HUD ultimately required that the 108 transactions don't have the City putting the CDBG funding at risk unnecessarily, so they mandate that there be another source of repayment, and that this would be the financial capacity of the Redevelopment Agency. Mr. Sheehan stated that they are comfortable with the City's position at this point, which is for a fully rehabilitated Globe Theater and in first position to foreclose on and take control of the property in the event of non-payment. Mr. Sheehan stated the total payment cost on the project is \$16 million, and that the City is in for \$1.6 million.

Ms. Bowman arrived at 7:17 PM.

The Chair asked if the Globe could feasibly take out another loan. Mr. Sheehan stated that this would be a positive if they decided to make early payments, but that the Globe cannot take out any additional debt, and that the City is in first, thus they would have to approve another loan. The Chair asked if the City could resell the property and change the use should the Globe go into default, and Mr. Sheehan stated that the City would like to keep the property's use as something related to arts development.

Mr. Hempstead stated that, ultimately, the City is still at risk in this scenario, as they are borrowing against allocation and at the end of the day, the City is on the hook if the property defaults. Mr. Sheehan stated if the Redevelopment Agency defaults on their obligation to the City, then the CDBG money would be at risk, but that the level of risk is once more removed from that scenario with the Redevelopment Agency as the borrower. Mr. Sheehan stated that if they did default, to repay the loan HUD would call upon entitlement. Mr. Hempstead stated that the pockets are still connected. Mr. Sheehan stated that he assumes, if the agency did default, they would receive no capital budget appropriations that year and that the City would have recourse.

Mr. Hempstead stated that there are pieces of information that were requested during the initial discussion of the item that were never provided. Ms. Strauss stated that the desired information will be part of the underwriting package, and Mr. Sheehan stated that this is in fact a required component of said underwriting package.

Ms. Strauss stated that the City's blight funding is capped at 3x the entitlement to elimination of slum and blight, and that \$1.6 million allotted to the Globe effectively maxes out the City's capacity on slum and blight for the next two years, after which it will reset.

Mr. Hempstead asked if the Globe has posted money to cover legal and liability issues. Mr. Sheehan stated that they have not, but that the Redevelopment Agency hasn't assumed any legal obligations as of yet.

Mr. Hempstead asked if a market study has been recently conducted, and Mr. Sheehan stated that based on what was submitted, a fresh analysis will be required. Mr. Hempstead requested that an appraisal inclusive of financial feasibility be resubmitted, and Mr. Sheehan stated that they will make sure they will ensure these things are included, though the marketing and business aspects of the plan are standard form in the underwriting. Mr. Sheehan stated that it is amazing how much the Globe has been able to secure in terms of tax credits.

Mr. Hempstead asked if there was a way to put together a more concise packet with updated information on the project. Ms. Strauss stated that the Globe projects that they will be open in the winter, and that the construction has been moving along expeditiously ever since their environmental issues with HUD were resolved. Ms. Strauss stated that they submitted the application for the 108 prior to the completion of an environmental assessment, which held them up for about 2 years as they had to apply for a waiver and do an assessment. Ms. Strauss stated that there was some imminent danger of bricks falling out, and thus they had to secure another waiver for the owner to fix the brick situation while the other waiver was pending. Mr. Sheehan

stated that the issue from HUD's perspective was that the private developer purchased the property.

Mr. Hempstead asked why there haven't been periodic updates on the project, as they have been getting money from other sources. Mr. Sheehan stated that the committee read about the commitments of funding, and that the project had no ability to draw on funds until Patriot Bank ultimately closed on a construction law that would allow this. Mr. Sheehan stated that the sources the committee has read about are ultimately all component pieces of the takeout of the construction loan.

Mr. Hempstead stated that the project still has uncompleted obligations to the City regarding information, and Mr. Sheehan agreed. Mr. Hempstead asked for clarification that if the Council passes the item, it will still have to come back to the committee. Mr. Sheehan stated that they have no authority to close on the loan prior to it coming back to the committee. Mr. Hempstead expressed concern that it is May and no one has a business or financial plan. Mr. Sheehan stated that the loan has not yet been underwritten. Mr. Sheehan stated that once the resolution is approved at Council level, an authorized loan will need to be filed with HUD, and that then the indicated materials associated with the loan will be provided to the City prior to the closing of the 108 loan.

Mr. Kimmel stated that this appears to be where they left off several years ago, and Ms. Strauss concurred, except for the fact that Frank is no longer the borrower.

Ms. Bowman asked for some background information regarding why the Redevelopment Agency is taking out the loan and who is paying it back. Ms. Strauss stated that they originally intended for the owner of the theatre to be the borrower, and that HUD then informed them that they could only issue a loan to a government agency. Ms. Strauss stated, with the Common Council's approval, that they will underwrite the loan providing the committee approves and lend the \$1.6 million lease hold on the property. Ms. Strauss stated that there is a 20 year pay schedule that the Globe will payback, with a variable interest rate 2 basis points above LIBOR. Ms. Strauss stated that the Redevelopment Agency will make the payments on loan to HUD. Ms. Strauss stated that, in the event of a default, the Agency will make the loan payment, and if the Agency should default, the City will make the payment. Mr. Sheehan stated that these are the sort of risks associated with this kind of development, and that it is the Council's purview whether or not to take this kind of risk, as the government is ultimately in first position. Mr. Sheehan stated that the market value will be greater than their investment.

Mr. Hempstead stated that there is a 20 year payment schedule, and that every year the City receives money from the CDBG federal grant. He stated, if they default, they will have to take

money out of the grant and hand it to the federal government. Mr. Sheehan stated that the annual payment would be deducted out.

The Chair asked if the property has been recently appraised, and Mr. Sheehan stated that, given the condition of the property, they have not. Mr. Sheehan stated that the potential of the property to contribute to the redevelopment of the Wall Street area, and the potential of the property to provide a positive impact, be successful and dynamic, this looks to be a secure loan. Mr. Sheehan stated that they will retain a first position in the property and has no additional debt associated with that position until it is discharged.

Mr. Hempstead asked if the project has received the maximum amount of tax credits possible, and Ms. Strauss answered in the affirmative. Mr. Sheehan stated that the progress the project has made in regards to funding is amazing, and that while there are still some things owed to the Redevelopment Agency, the underwriting process that will happen before the item comes back to the committee will be fairly aggressive and the information will be obtained. Mr. Sheehan stated that the commissioners won't sign onto this until they understand their performances, and there is responsibility associated with this debt. Mr. Hempstead stated that it has been helpful for the developer to have friends in high places through this process.

Mr. Hempstead asked if the Chair would be amenable to requesting that the committee receive periodic updates.

The Chair asked that Mr. Sheehan update the committee on the progress of the project every meeting.

**** MOTION PASSED WITH ONE (1) ABSTENTION (HEMPSTEAD).**

- 2. Approve the attached 2013, 2014 and 2015 certified financial statements of the Norwalk Redevelopment Agency as evidence of the NRA's financial capacity to repay the Section 108 loan and as additional security for the guaranteed loan as required by HUD.**
- 3. Approve as to form the attached Common Council Consent Resolution to be approved by the Common Council prior to the Redevelopment Agency closing on a loan with the Globe Theater Limited Partnership which will not be unreasonable withheld.**

**** MR. SIMMS MOVED TO COMBINE AND APPROVE ITEM C2:APPROVE THE ATTACHED 2013, 2014 AND 2015 CERTIFIED FINANCIAL STATEMENTS OF THE NORWALK REDEVELOPMENT AGENCY AS EVIDENCE OF THE NRA'S**

**FINANCIAL CAPACITY TO REPAY THE SECTION 108 LOAN AND AS
ADDITIONAL SECURITY FOR THE GUARANTEED LOAN AS REQUIRED BY HUD
& C3: APPROVE AS TO FORM THE ATTACHED COMMON COUNCIL CONSENT
RESOLUTION TO BE APPROVED BY THE COMMON COUNCIL PRIOR TO THE
REDEVELOPMENT AGENCY CLOSING ON A LOAN WITH THE GLOBE THEATER
LIMITED PARTNERSHIP WHICH WILL NOT BE UNREASONABLE WITHHELD.**

Mr. Hempstead asked if the items should technically be approved or accepted. Mr. Sheehan stated that the items can be approved as evidencing their capacity.

**** MOTION PASSED UNANIMOUSLY.**

Ms. Strauss stated that the previous items should address the Wall Street Theatre rather than the Globe Theater.

OLD BUSINESS

No old business was discussed.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

**** MR.IGNERI MOVED TO ADJOURN.**

**** MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 7:45 PM.

Respectfully submitted,

Catherine Ramos
Telesco Secretarial Services