East Providence Waterfront Special Development District Commission

Meeting Minutes of June 15, 2009

Attendees: William Fazioli, Vice Chairman
John Gregory
Bruce Chick
Steven Hardcastle
John Pesce
Jonathan Killian
Jacob Harpootian

Ex Officio Richard Brown, City Manager

Staff: Jeanne Boyle, Executive Director
Robin Main, Counsel
Roberta Groch, AICP- Planner

The meeting was called to order at 6:30PM.

1. Vice Chairman's Opening Remarks
Mr. Fazioli stated the Commission's appreciation to Stephanie Camille, the Commission's Administrative Assistant, who will be retiring in two weeks. He requested that a formal expression of thanks be sent to Ms. Camille from the entire Commission.

2. Approval of Minutes
VOTE**:** A motion was made to approve the minutes of the April 8, 2009. The motion was seconded and unanimously approved without discussion.

3. New Business
A. Tax Increment Financing (TIF) Fees
Mr. Fazioli recused himself from the discussion. Mr. Gregory was asked to chair this portion of the meeting.

Ms. Boyle stated that Village on the Waterfront LLC (VOTW) has requested that the Commission's required one percent application fee be staggered and/or capped due to the significant up-front costs for a Waterfront Commission application fee. Mr. Gregory reviewed the staff memo dated May 18, 2009 that proposed two options for phasing the fee. He stated that, for perspective, one percent of $1 million is $10,000. There are currently no TIF requests before the Commission.

Either the City or the developer will issue the TIF bond, depending on the type of TIF that is requested: the City Council will be the ultimate decision-makers on this issue. The City and Waterfront Commission has a stated preference in the *Tax Increment Finance Plan* for Pay-As-You-Go ("Pay-Go") TIFS, which would be issued by the developer and backed by the City.

Mr. Kevin Hively of Ninigret Partners, the Commission's TIF consultant, stated that the Commission needed to have a fee structure that was applicable to all future TIF requests and that was not punitive. The structure should not be revisited for each new application. Ms. Main agreed

that the Commission must avoid disparate treatment. There should be only one fee structure for all applicants.

The memorandum proposes two options for phasing the TIF fees: the Commission needs to ensure that 1) the developer is not unduly burdened upfront by fees and 2) the Commission is adequately funded. The Commission will need to pay for consultant costs such as legal, bond closing, engineering, fiscal review, and other fees, especially if the TIF is not approved by the City Council. There are two levels of consultant costs: those that will be incurred up front, before being sent to the City Council; and those that will be generated after approval and related to the bond closing. Ms. Engustian restated that her client VOTW is trying to minimize their up-front costs: they want to pay consultant fees throughout the process rather than at the beginning.

The merits of the two options were discussed, including a hybrid tier structure. Ms. Boyle said that a retainer could be added to the first option, in order to cover up front legal fees (which were not anticipated in Option 1). Mr. Hively stressed that a TIF agreement can go through many iterations before it is signed: the fees should reflect this. Mr. Hively suggested that one solution would be to amend Option 1 to include any legal (and other) fees incurred *prior* to approval by the Waterfront Commission.

Ms. Main suggested that the Commission make a motion to approve Option 1 with an amendment stating that the developer pay consultant costs up to $50,000. Mr. Gregory requested a ten-minute recess in order to give staff and counsel the opportunity to frame the appropriate motion.

VOTE: A motion to take a ten-minute recess was made. The motion was seconded and approved without discussion.

After the recess, the following motion was presented:

> To move to adopt Option 1 for a developer-backed TIF with two amendments: 1) that the developer shall pay $10,000 into a retainer account to pay for legal and consultant costs as incurred and the developer shall remain responsible for on-going legal and consultant costs as incurred up to a maximum of $50,000, inclusive of the initial $10,000 fee; 2) that the words “reimbursement to applicant” shall be stricken from Item 4 of Option 1.

Ms. Main stated that the Commission is not precluded by the motion set forth from paying for additional legal fees from the monies paid at closing by the developer.
VOTE: The motion as read was moved by Mr. Pesce and seconded by Mr. Hardcastle. Ms. Engustian stated that her client objected to the $2,500 initial up front fee in addition to the $10,000 retainer. In answer to Mr. Chick’s question, Ms. Boyle stated that the both the initial $2,500 and second $2,500 fee are included in the one percent fee. Ms. Engustian withdrew her client’s objection to the motion.

The motion was unanimously approved via a roll call vote:

Chick	AYE
Killian	AYE
Pesce	AYE

Hardcastle	AYE
Harpootian	AYE
Gregory	AYE

Mr. Gregory returned the meeting chairmanship back to Ms. Fazioli.

4. Executive Session
The Executive Session regarding potential administrative hearings on solid waste permit application for TLA/Pond View Recycling, Inc. was moved to the end of the meeting agenda.

5. Correspondence
There was no correspondence.

6. Continued Business
There was no continued business.

7. **Reports from Subcommittees**
Mr. Gregory stated that the Design Review Committee (DRC) met on April 30, 2009 for a Completeness Review of the Village on the Waterfront plans. A package from the developer was received earlier in the week that filled in many of the gaps pointed out at the meeting. Ms. Boyle stated that a Certificate of Completeness (COC) will most likely be issued for VOTW within the coming week. Any Commission member who has completeness comments on the plans should forward them to staff as soon as possible. As soon as the COC is issued, staff will begin to schedule meetings in order to complete review of the project within sixty days.

8. Miscellaneous Other Business
Mr. Fazioli stated that the only way a City-backed TIF could occur would be through voter approval of a referendum.

9. Staff Reports

A. General Counsel's Report
Ms. Main stated that her report would be in Executive Session.

B. Executives Director's Report

1. Village on the Waterfront
Ms. Boyle stated that the next Waterfront Commission meeting will be sometime in August rather than September, due to the need to vote on the Village on the Waterfront project within sixty days. The Tockwotton Home is still working out details of their financing but are expected to start construction this year. They have already filed for their building permits. Baer Supply has fulfilled all Conditions of Approval issued by the Commission and will begin construction this summer. A consultant from Phillipsdale Landing contacted Ms. Boyle regarding the project and a potential TIF application. The next piece of Waterfront Drive will be bid by the Rhode Island Department of Transportation sometime this fall.

10. Communications
The letter from Arcadis, a consulting company that works for Chevron, was reviewed: there was oil sheen on the Providence River adjacent to the Chevron property, which has been dealt with.

11. Announcements
There were no announcements.

12. Executive Session- Litigation
Mr. Gregory recused himself from the session.

VOTE: A motion was made to enter into Executive Session: the motion was seconded and unanimously approved, without discussion. The Commission entered Executive Session at 8:20PM.

At 8:35PM the meeting was re-opened to the public. Mr. Fazioli reported that there was a discussion with no motions made.

VOTE: A motion was made to adjourn the meeting. The motion was seconded and unanimously approved without discussion. The meeting was adjourned at 8:40PM.

The next regularly-scheduled meeting will be held on **September 21, 2009** at 6:30PM.

Respectfully submitted,

JEANNE M. BOYLE
Executive Director

JMB/RG