

RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION

MEETING OF DIRECTORS

EXECUTIVE SESSION

SEPTEMBER 26, 2005

The Board of Directors of the Rhode Island Economic Development Corporation (the "Corporation") met on Monday, September 26, 2005, in Executive Session, at 4:25 p.m., at the offices of the Rhode Island Economic Development Corporation located at One West Exchange Street, Providence, Rhode Island, pursuant to notice of the meeting to all Directors, and public notice of the meeting, a copy of which is attached hereto, as required by the By-Laws of the Corporation and applicable Rhode Island law.

The following Directors were present and participated throughout the meeting as indicated: Governor Donald L. Carcieri, Mr. Joshua Miller, Mr. George Shuster, Ms. Alma Green and Ms. Cheryl Merchant.

Directors absent: Mr. Frank Montanaro, Mr. Keith Stokes, and Ms. Barbara Jackson.

Also present were: Executive Director Michael McMahon, members of the Corporation's staff and Attorney Robert I. Stolzman.

Governor Carcieri presided over the meeting and Attorney Robert I. Stolzman acted as Secretary.

Prior to adjournment to executive session, upon motion of Mr. Shuster and seconded by Ms. Green, it was voted that the Board adjourn to Executive Session to consider and possibly take appropriate action on such matters as permitted by subsection (5) (acquisition, disposition or lease of real property) and subsection (6) (location of prospective businesses) of the Rhode Island General Laws, §42-46-5 (a), the Open Meetings Law.

1. DISCUSSION OF EMINENT DOMAIN ISSUES

Director McMahon stated that Governor Carcieri has charged the EDC with looking at eminent domain, particularly in light of the recent ruling by the United States Supreme Court in the matter of Kelo v. City of New London ("Kelo"). Kelo raised many issues regarding definitions of "public purpose" in the matters of eminent domain and the rights of the displaced in such actions. He cited examples such as economic development and preservation of wetlands as falling under the definition of "public purpose".

Director McMahon noted that there also are procedural issues to be clarified, such as how to take property, how to compensate for property taken and who takes ownership, and stated that the EDC is looking at all sides of these issues.

Governor Carcieri stated that many people were taken aback by the Kelo decision, in which eminent domain was used to take over private property for what was ultimately commercial use, which is not a “public use”. He stated that Rhode Island should be careful not to do this.

Governor Carcieri noted that the EDC has only been involved in three condemnations, with the Mollo case being the most controversial and having gone on for years. He stated that there is a need to distinguish between public use/purpose versus taking private property for commercial development, and noted that Attorney Stolzman has done some research on this matter.

Attorney Stolzman noted that the EDC has reviewed how dozens of jurisdictions define the scope of their economic development takings powers. The range is wide, with some jurisdictions prohibiting it outright and others allowing it. He counseled that the EDC should be careful in stating its policy in order to provide for quality economic development while protecting property rights. He stated that he has been working with both the EDC staff and legislative staff on this matter, particularly since there is a new matter to come before the Board regarding these issues.

Mr. Gerry Williams, Executive Director of Administration, presented an overview of the current search for a new location for the Rhode Island State Police Headquarters (“SPHQ”). He noted that there is a strong desire to utilize public land, as private land is beyond the financial ability of the State at the present time.

The site presently being considered for a new SPHQ is on land, most of which the State owns and leases. The location is at the corner of Howard Avenue and Route 2 in Cranston, near the Adult Correctional Institution (“ACI”) facilities. Approximately 15 acres of that site is presently leased to Golfing Partners, which owns and operates Mulligan’s Island, a family recreation center which includes a pitch & putt, batting cages and a 9 hole golf course. A small portion of the site, approximately 2 to 3 acres, has actually been sold to Golfing Partners. In order to obtain this property for the SPHQ, the State would have to condemn/take part of the lease back.

Director McMahon noted that this particular property, due to its close proximity to the ACI, has a lot of restrictions on its use.

Mr. Williams presented a map to the Board and Attorney Stolzman pointed out the exact location of the property in question. Attorney Stolzman explained that the legislature had conveyed the property and the adjoining land, consisting of over 30 acres, to the EDC, for economic development, in the 1980’s. He noted that the property was part of the former Howard Development Company, which went defunct, at which time the property reverted back to the State, and that it had been difficult to find anyone who wanted to use the land, due to the many restrictions on its use.

Mr. Earl Queenan stated that the property was sold/leased to Golfing Partners in the late 1990’s for the creation of a family recreation center. He explained further that

the front part of the property, the part closest to Route 2, was leased, rather than sold, because the ACI required a "Clear Zone", where no buildings would be built.

Attorney Stolzman explained that the SPHQ needs the approximately 10 acres where the pitch and putt is located.

Mr. Shuster stated that, from what he has heard, this use of eminent domain does not offend him, since no homes are being taken and the purpose is clearly for economic development. He also noted, however, that the Fifth Amendment was created to protect the rights of the public, and that he believes there is a need for limits to be clearly set for the public's knowledge on what will or will not be allowed for eminent domain to take place. Mr. Shuster stated that the Kelo ruling is so illogical and outrageous on its face, and he commended Governor Carcieri for addressing this issue.

Mr. Miller stated that decisions regarding condemnation of private property have been the most difficult decisions he has had to make while serving on any Board, and that these issues put the EDC in a negative light to the public. He stated that he agrees that a good policy is necessary.

Director McMahon explained that the purpose of this discussion was to introduce the issue of the SPHQ to the Board members in private session.

Ms. Green asked, as a Cranston resident, if the tax ramifications of this matter have been determined, to which Attorney Stolzman responded that the municipal tax issues have not yet been studied.

In response to a question of Mr. Miller, Mr. Williams stated that negotiations have already begun with Golfing Partners, and the parties are still talking.

Upon motion duly made by Mr. Shuster and seconded by Ms. Green, the following vote was adopted:

VOTED: Pursuant to §42-46-4 and §42-46-5 of the General Laws, the Minutes of the closed session shall not be made available to the public at the next regularly scheduled meeting of the Corporation, except as to the portions of such minutes as the Board of Directors ratifies and reports in Public Session of this meeting.

There being no further business to come before the Board in closed session, upon motion duly made by Mr. Shuster and seconded by Ms. Merchant, the executive session of the meeting was adjourned at 4:45 p.m.

Robert I. Stolzman, Secretary