

SPECIAL MEETING OF THE COUNCIL
OF THE
CITY OF DEARBORN

May 10, 2011

The Council convened the Special Meeting at 5:35 P.M., President of the Council Thomas P. Tafelski presiding. Present at roll call were Councilmembers Abraham, Bazy, Hubbard, O'Donnell, Shooshanian and President of the Council Tafelski. Absent: Councilmember Sareini. A quorum being present, the Council was declared in session.

DATE : May 9, 2011
TO : City Clerk
FROM : Mayor John B. O'Reilly, Jr.
SUBJECT : Special Council Meeting

You are hereby requested to call a Special Meeting of the City Council to be held on Tuesday, May 10, 2011 at 5:35 P.M. in the Mayor's Conference Room of the City Hall. The Special Meeting shall be a "closed session" of the City Council in accord with the provisions of Act No. 267, P.A. of 1976, as amended (Open Meetings Act) Section 8(e) "to consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body."

Minutes of the closed session shall be kept in accord with the provisions of Act No. 267, P.A. of 1976, as amended, Section 7 requiring: "A separate set of minutes shall be taken by the Clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the City of the public body, shall not be available to the public, and shall only be disclosed if required by civil action filed under Section 10, 11 or 13."

To insure technical compliance with the provisions of the Open Meetings Act -- Section 7(1) -- the City Council shall formally convene at 5:35 P.M. on Tuesday, May 10, 2011 in the Mayor's Conference Room for purposes of authorizing the "closed session."

S/John B. O'Reilly, Jr.
Mayor

By Abraham supported by Hubbard.

5-226-11. RESOLVED: That this Council enter into a closed session at 5:36 P.M.

The resolution was adopted as follows: Yeas: Abraham, Bazzy, Hubbard, O'Donnell, Shooshanian and Tafelski (6). Nays: None. Absent: Sareini (1).

By O'Donnell supported by Bazzy.

5-227-11. RESOLVED: That City Council shall recess the Special Meeting and the Special Closed Meeting until after the Briefing Session.

The resolution was adopted as follows: Yeas: Abraham, Bazzy, Hubbard, O'Donnell, Shooshanian and Tafelski (6). Nays: None. Absent: Sareini (1).

The Council reconvened the Special Meeting at 8:06 P.M – Councilmembers present: Bazzy, Hubbard, O'Donnell, Shooshanian and Tafelski (5). Absent: Abraham and Sareini (2).

Discussion among the City Councilmembers and Dearborn Village Partners (DVP) was held with Hakim Fakhoury and Ahmed Boomrod concerning DVP's request to use its \$30,000 escrow toward payment of the MEDC administrative fee that is due on May 13, 2011.

City Council re-entered the Special Closed Meeting at 8:41 P.M. – Councilmembers present: Bazzy, Hubbard, O'Donnell, Shooshanian and Tafelski (5). Absent: Abraham and Sareini (2).

By Bazzy supported by O'Donnell.

5-228-11. RESOLVED: That this Council withdraw from the Special Closed Meeting at 9:02 P.M and continue the Special Meeting.

The resolution was adopted as follows: Yeas: Bazzy, Hubbard, O'Donnell, Shooshanian and Tafelski (5). Nays: None. Absent: Abraham and Sareini (2).

Further discussion was held regarding the DVP's request to use its \$30,000 escrow to pay the MEDC fee.

By Bazy supported by Hubbard.

5-229-11. WHEREAS: Dearborn Village Partners ("DVP") has requested that the City of Dearborn ("City") grant permission to continue its Preferred Developer status for a City-owned parking lot, commonly known as Parking Lot A; grant permission for an Option to Purchase Parking Lot A; and advance \$30,000 to the Michigan Economic Development Corporation ("MEDC"), which is the amount that was previously paid by DVP to the City pursuant to previously executed Preferred Development Agreements, in order to defray the cost of one-half of the administrative fee owed to MEDC by May 13, 2011, to secure tax credits that were obtained by DVP with substantial assistance from the City in 2007, and

WHEREAS: Since the initial proposal was submitted by DVP and approved by the City in 2005, the City has acted in good faith toward DVP to support a mixed-use project that would result in a positive economic impact on the West Dearborn business district, and

WHEREAS: DVP controls three (3) vacant commercial properties, known as 22190, 22236, and 22324 Michigan Avenue, in the project area that were deemed dangerous and unsafe buildings by the Demolition Board of Appeals on January 6, 2011, in accordance with MCL 125.538 *et seq*, and DVP has appealed those demolition orders and also made other allegations contained in a lawsuit *Dearborn Village Partners, LLC, et al v. City of Dearborn, et al*, Case No. 11-10634 ("Lawsuit"), which is currently pending in Federal Court, and

WHEREAS: DVP and the City have reached an agreement to resolve these issues under certain terms and conditions; now therefore be it

RESOLVED: That the Finance Director is hereby authorized to appropriate \$30,000 and recognize revenue in the same amount in the General Capital Improvement Fund and to pay \$30,000 to MEDC by May 13, 2011, to defray the cost of the MEDC administrative fee for the tax credits previously approved for the DVP project. The payment will be funded from the amount previously paid by DVP under previously executed Preferred Developer Agreements. However, the funds shall not be released by the City until a Promissory Note is executed by Hakim Fakhoury, personally and on behalf of DVP, for the repayment of \$30,000 and until Mr. Fakhoury produces an executed demolition contract for each of the three (3) buildings described above that were ordered to be demolished by the Demolition Board of Appeals on January 6, 2011. The repayment agreement must require minimum payments of

\$2,000/month, beginning November 16, 2011 and terminating when \$30,000 is repaid. The demolition contract must contain specific, detailed information as to the demolition of each property, including, but not limited to, the removal of each building's foundation, except for along the frontage of Michigan Avenue as is determined by the City Engineer to be necessary to maintain the integrity of the road, sidewalk, or other structures; be it further

RESOLVED: That within certain time periods specified below, DVP must do all of the following or the Preferred Developer Agreement, if executed, shall terminate and all other authority granted herein will also be terminated:

WITHIN 30 DAYS:

1. Dismiss the Lawsuit with prejudice, and
2. Present credible evidence to the City that the demolition contractor has been paid the greater of \$50,000 or 20% of the entire cost of demolishing all three (3) buildings, and
3. Apply for demolition permits from the City for all three (3) buildings.

WITHIN 7 MONTHS:

1. The demolition of all three (3) buildings must be completed and the sites must be graded and aesthetically pleasing, as determined by the City.

WITHIN 9 MONTHS:

1. Detailed plans for the project, which may be modified from the plan that was originally submitted in 2005, must be submitted to the City and to MEDC; be it further

RESOLVED: That DVP and Hakim Fakhoury will not request the City to advance or to pay any further administrative fees required by the MEDC; be it further

RESOLVED: That all time periods referenced above shall begin on May 16, 2011, unless otherwise stated; be it further

RESOLVED: That this resolution be given immediate effect.

The resolution was adopted as follows: Yeas: Bazy, Hubbard, O'Donnell, Shooshanian and Tafelski (5). Nays: None. Absent: Abraham and Sareini (2).

There being no further business, upon a motion duly made, seconded, and adopted, the Council then adjourned the Special Meeting at 9:12 P.M.

APPROVED:

THOMAS P. TAFELSKI
President of the Council

ATTESTED:

KATHLEEN BUDA
City Clerk