

City of Chelsea
Economic Development Board
City Hall – Room 101
Chelsea, MA 02150
(617)889-8233

MEETING MINUTES

July 8, 2008

The meeting convened at 6:05p in the City Manager's Conference Room. In attendance were Chairman Richard Pantano, Members Timothy Fraser and Jackie Ruiz.

MINTUES

MOTION: To adopt the minutes of the previous meeting.

Offered by Mr. Fraser and seconded by Ms. Ruiz. On the motion, the Board voted 3-0 to adopt the minutes.

PUBLIC SPEAKING

Chairman Pantano opened the meeting up for public speaking, asking if any member of the public wished to address the Board. Hearing none, he closed public speaking.

URBAN RENEWAL – Chelsea Gateway LDA Review

Chrm Pantano asked Mgr Ash for a presentation regarding the DMG LDA. Mgr Ash presented the LDA, based upon the summary prepared for and provided the Board dated July 1, 2008, as follows:

DMG LDA HIGHLIGHTS
Prepared by City Manager Jay Ash
July 1, 2008

The following reviews the major points of the LDA.

Recitals

1. Lists out the adoption of the Urban Renewal Plan and subsequent amendments.
3. Will be deleted as it has nothing to do with the DMG development (Area D may be included at a later time. It is the industrial building being used as a church on the corner of Beech and Carter).
7. Discusses the land included in this LDA.

Agreement

101. Purchase price, of which \$1,000,000 goes into escrow until such time as the AUL is secured for the Lawrence site to allow for parking on it. The \$1,865,000 is the appraised value of the property.

102. Routine deed discussion which notes that the terms of Board's Urban Renewal Plan is incorporated. This insures the conformance of the development with the Urban Renewal Plan.

103. (a) Requires Redeveloper to buy the property by September 1, 2009, assuming preconditions are met.

(b) Section 401 is about us demolishing the property, which will be done this summer, so it will not be a problem. So, with that demolition, the property is being sold in an "as-is" condition.

(c) Routine language regarding the Closing, including allowing us extra time, if necessary to resolve any problems in title. If we fail to resolve the problems and the Redeveloper wishes to terminate the deal, they get their deposit back.

(d) Routine language regarding the Closing, allowing the Redeveloper extra time to resolve preconditions. If they fail to resolve, then either party can terminate the agreement and we keep the deposit.

106. The deposit here is only \$10,000, which is a minimal amount. We have agreed to a minimal amount because the Redeveloper is doing much of the work regarding the environmental situation, which is an out-of-pocket expense for them which is not recoverable in the event that the agreement does not happen.

107. Due diligence is a period for the Redeveloper to investigate matters important to it before they close. Due diligence periods are typical in agreements, and provide a timeline for the investigation and satisfaction that the matter is sufficient to move on with the acquisition on a number of matters, including, in this case, that the title correctly identifies the area of the parcels to be acquired and that there are no other owners of record, and that the Redeveloper is aware of the environmental conditions and has had an opportunity to do its own tests, and if those tests come back with anything not reported, the Redeveloper could terminate the agreement. These represent a minimal amount of due diligence issues, as many of the due diligence issues have been settled during the tentative designation the Board provided and do not now need to be raised.

108. This is kind of another due diligence matter, in that the Redeveloper does not need to go forward until it has secured the necessary permits to build its project. It is typical that a Redeveloper will not buy land if it cannot secure the permits to build on that land. In the unlikely event that the project is held up by a legal challenge, this allows for the acquisition to be suspended indefinitely until the legal challenge is resolved.

201. Establishes what the Redeveloper needs to do in order to close on the property. If these preconditions are not met, then the Redeveloper can terminate and receive its deposit back. This is routine and the preconditions are minimal.

(c) In addition to receiving local permitting, this states the Redeveloper must secure any and all other entities necessary. As it stands now, only DHCD has an approval role.

(d) The Council and the State must adopt a tax relief plan. The City extended a tax relief plan to the Wyndham, and 26 others to expanding businesses. This project, because of its complexity regarding the environmental issues and uncertainty economic times, merits tax relief. The Board has no formal role in securing tax relief. I propose it to the Council, and inform the Council of the positive economic benefits of providing the tax relief, including getting something developed on parcels that have been otherwise vacant for years.

202. Our Preconditions are straight forward and few, because we have many other controls on the development elsewhere.

301. While the development schedule will be discussed as part of the exhibits at the end of the LDA, this is meant to insure that regular communication takes place regarding the project.

303. This allows the Board to approve the construction contractor to further assure the Board that a quality project will be done. This also allows the Board to request a bond if the Board is not satisfied with the construction loan so that the Board can be assured that the construction can be paid for.

304. Ensures that a development will take place by require construction to begin once the closing takes place or the permits are in place.

307. Requires local job and vendor fairs.

401. At our expense, we need to raze the Prattville building. This should be done during the summer.

402. So, the sale of all the property happens, but the Redeveloper does not take title until the remediation activities occur on the Lawrence property. However, after 5 years, the Redeveloper must 1. take title to property no matter what condition it is in, 2. assign the property rights to a Board approved third party, or 3. give up the rights to the property. No matter which of the previous 3, the Board keeps the \$1,000,000 that has been placed in escrow. This section really puts it on the Redeveloper to get the environmental situation squared away. We will provide every assistance to do so.

602. The Redeveloper has 18 months from the start to complete the project, unless there is a Force Majeure Delay, which relates to unforeseeable causes beyond the parties' control. Section 1006 describes those circumstance more.

603. The Redeveloper getting a Certificate of Completion is a big deal, especially to its lender. The Certificate Of Completion says the Redeveloper has done everything it said it would, and it is usually prepared by the Inspectional Services Department and confirmed by the Board.

(b) If we don't think they have done everything, we have to notify them in writing.

701. States that the Redeveloper will use the property for the use for which we sold the property, and that they will not discriminate.

702. The use must remain in place which the Urban Renewal Plan remains in effect, which is 40 years or 2038. The anti-discrimination clause remains in effect for 100 years. This is typical language.

703. The Redeveloper needs the Board approval to change anything until 2038.

705. It's suspenders over the belt time, as the lawyers want to make doubly sure that everything that has been said once gets restated again!

706. This says we have the rights to enforce the agreement.

801. Introduces the concept that we are selling for them to build, not land bank, and that they need to come to us if the ownership is going to change.

802. Sets out that the Board must approve changes in ownership beyond 10% under certain circumstances.

803. Makes sure there are no side agreements for which we are unaware and that those financing the project are credible.

804. Further lets us know with whom we are dealing.

901. Prohibits the use of the property during construction to be used as collateral for anything else. This helps to ensure that our project does not become a financial casualty of another project.

902. This is important language for the Redeveloper in terms of securing financing. This means that those who are financing the project are not responsible for constructing the project if the Redeveloper fails. This is standard language.

903-906. These sections, all standard language, provide opportunities for the parties to rescue a failing project.

1001-1003. Standard language sitting out the remedies we have available should there be a breach of contract or a default.

1004. Establishes how proceeds from our reacquiring and reselling the property get distributed.

1006. Sets out the unforeseeable causes under which time periods can be extended.

1109. The agreement is binding on successors, which we would reaffirm if we were required to approve a transaction.

Exhibit A. The plan of the property will be developed by the Redeveloper and inserted in the document.

Exhibit B. The project summary will be developed by the Redeveloper and inserted in the document.

Exhibit C. The City will develop and the Board will be asked to approve an access agreement that allows the Redeveloper on the property prior to taking ownership.

Exhibit D. The permit and construction schedule will be developed by the Redeveloper and inserted in the document.

Exhibit E. The City will develop out the information regarding tax relief.

Exhibit F. To be completed by the Redeveloper.

In response to the presentation, Chrm Pantano asked if there were any funds remaining in escrow from the Lawrence Metals transaction. Mgr Ash noted that there were still funds available, perhaps in the \$300k range, and that money would offset the environmental costs associated with the likely cleanup of the Lawrence property. The parties were still working out the details of ownership of that party, which was dependent on the successful negotiation with EPA and DEP over the environment response plan for the site. Chrm Pantano asked how long those negotiations would last, to which Mgr Ash said it was impossible to say, but that the City was focused on wrapping up something soon.

Mr. Fraser asked about the ability to draw down on the funds for the cleanup. Mgr Ash said that either the City or the proposed redeveloper could be the entity drawing down on the funding. It might be more convenient for the redeveloper to undertake the remedial activity, and that was one of the matters that would be determined through the negotiations.

Chrm Pantano questioned whether a portion of Lawrence could be built upon now, which Mgr Ash answered yes, but the environmental disposition of the rest of the parcel could yield a more significant and profitable development for all involved. That, however, was likely to be in the future. The current plan is to creating parking on the site for hotel patrons and, maybe, to support a large function room. If all the environmental issues get worked out, it is possible that a future development could take place.

Chrm Pantano questioned how much has been spent to date by the redeveloper. Mgr Ash said he did not know for sure, but there have been marketing, engineering and architectural services rendered, perhaps in the upper range of \$250k to \$500k.

Chrm Pantano, noting that the last development agreement with Choice collapse upon the due diligence review, questioned if the same could happen again and was the ninety days window enough to allow for the due diligence review. Mgr Ash said that the due diligence was largely completed as a result of the tentative designation review Choice was engaged in as a precondition of lifting the tentative designation, and that review was positive on the project.

Mr. Fraser, upon reviewing a potential motion to allow the Chairman to sign the final document, asked what material changes are likely to take place. Mgr Ash noted that the points reviewed seemed to be the extent of the agreement, but pieces might still be moving. Chrm Pantano would review the agreement and would certainly come back to the Board if there is a material change in the agreement.

MOTION: To authorize the Chairman to sign the final LDA for DMG that is substantially consistent with the version present and reviewed at the July 8, 2008 Board meeting.

Offered by Mr. Fraser and seconded by Ms. Ruiz. On the motion, the Board voted 3-0 to adopt the motion.

OTHER

Chrm Pantano asked for Mgr Ash to update the Board on any other pressing matters. Mgr Ash said he had a disappointing meeting with ACS Development and the Mystic Mall people. He had hoped to bring the sides together and instead lost his cool as well. Chelsea Station in the urban renewal district is proceeding fine. All other projects were status quo.

MOTION: To adjourn.

Offered by Mr. Fraser and seconded by Ms. Ruiz. On the motion, the Board voted 3-0 to adjourn.

The meeting concluded at 7:05.

Offered by



Timothy Fraser
Secretary