MINUTES OF A SPECIAL MEETING OF THE
MICHIGAN CITY REDEVELOPMENT COMMISSION
FEBRUARY 19, 2019

The Michigan City Redevelopment Commission met in a special meeting in the EOC Room, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Tuesday, February 19, 2019, at 5:00 p.m. local time; the date, hour, and place duly established for the holding of said meeting.

CALL TO ORDER

President Babcock called the meeting to order at approximately 5:00 p.m.

ROLL CALL

Commissioners present:
Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets

Commissioners absent:
Non-voting Commissioner Theresa Edwards

Staff present:
Executive Director Craig Phillips, Attorney Alan Sirinek, Administrative Assistant Debbie Wilson

Staff absent:
None

It was noted that no Executive Session was held prior to this meeting.

BLUE CHIP CASINO PROJECT

Attorney Sirinek recalled that at the last meeting no bids were received by the deadline for the exterior work, so the Redevelopment Commission voted to extend the deadline to 1:00 p.m. today. Two bids were received today. Mr. Sirinek deferred to Jim Dyer, Berglund Construction, to talk about the bids.

Mr. Dyer stated that one bid was received from J.P. Phillips in the amount of $469,000. He advised that upon review of the bid they found many inconsistencies including not acknowledging the addendum, not signing the bid form, not filling out the experience questionnaire, and not including a mandatory financial statement. Mr. Dyer stated that they found the bid to be unresponsive and therefore could not recommend it.
Mr. Dyer stated that the other bid was received from Skyline Plastering in the amount of $580,560. All documents were complete. Mr. Dyer stated that after discussions with Boyd Gaming and based on the results, they recommend awarding the bid to Skyline Plastering.

Mr. Phillips asked what this would bring the total to for the portion of the project the Redevelopment Commission approved funding for.

Attorney Sirinek explained that the unresponsive bid was over $100,000 less than Skyline’s bid. With the low bid being non-responsive it raised the question of what it would do in terms of the overall amount of money ($976,683) approved by the Redevelopment Commission for this project. Mr. Sirinek stated that after discussions with Blue Chip’s attorney, it was determined that a modification could be made to the economic development agreement indicating that Blue Chip/Boyd Gaming will be responsible for all costs in excess of $976,683, which is approximately $60,000 with this bid for exterior finishes. This also means that the Redevelopment Commission will not be involved in the landscaping portion of the project. Mr. Sirinek advised that the Commission will want to act tonight on the addendum to the agreement.

Attorney Sirinek continued explaining that the addendum to the agreement where Blue Chip would be responsible for any costs above the $976,683 could be negotiated a couple different ways with Skyline Plastering. One being the Redevelopment Commission would have a contract with Skyline Plastering up to the remaining total of their commitment of $976,683, and then Boyd Gaming would negotiate the second part of the contract. The other option would be to negotiate with Skyline Plastering to see if they would lower their total package bringing it in line with the Commission’s total remaining commitment. Mr. Sirinek advised that since the answer is not known to either of those options tonight, he would recommend that the Commission approve and award the bid from Skyline Plastering for $580,560 and approve and authorize Don Babcock to sign the addendum to the economic development agreement which indicates Boyd Gaming is responsible for anything above $976,683. Mr. Sirinek stated that once he and Mr. Dyer conclude negotiations with Skyline Plastering, they will bring the final document back to the Commission to enter into the agreement for one of the two possible different dollar amounts.

Mr. Dyer said it is Blue Chip’s understanding that they should be able to write a separate contract for the difference of the work described within the remaining $523,000 Commission’s budget, with the idea being that the Commission would have contracted totals up to $976,683.

Assuming Blue Chip picks up the difference of approximately $60,000, Commissioner Babcock asked Mr. Dyer if they would continue with the exterior renovations to match what was in the plans.
Mr. Dyer replied affirmatively assuring they would match what was in the plans.

Commissioner Babcock summarized that the Commission’s commitment is still for the $976,683, the Commission will still get the quality project they want, and Blue Chip will pick up the approximate $60,000 excess unless a lower amount can be negotiated with Skyline Plastering.

Attorney Sirinek and Mr. Dyer confirmed that was an accurate summation.

Mr. Phillips asked if Blue Chip would be responsible for landscaping.

Attorney Sirinek replied that was correct that Blue Chip would be responsible for the landscaping. He added that when the Commission originally entered into this agreement the thought was that the four different aspects of the project would total close to the $976,683, but with the dollar amount for the exterior finishes, that amount will be surpassed.

For the benefit of new Commissioners, Mr. Babcock explained that originally the Commission authorized $761,000 for the expansion project, but the actual budget came back requiring a significant larger amount ($200,000+) to accommodate exterior changes that the City wanted. Blue Chip agreed, and the Commission increased their commitment from $761,000 to $976,683. To get to the $976,683, the Commission by law could only invest in certain components of the project. Mr. Babcock felt that overall the City is getting what they want, and Blue Chip is getting what they want by adding a little more to their investment relative to accommodating the development agreement, resulting in a quality $12 million project.

Attorney Sirinek asked Mr. Dyer what the anticipated completion date of the project is.

Mr. Dyer replied that the completion date is expected to be the end of July 2019.

The chair entertained a motion.

Motion by Commissioner Oberlie – seconded by Commissioner Kowalski accepting the bid from Skyline Plastering for the Blue Chip expansion project exterior finishes in the amount of $580,586. Voice vote was as follows: (Ayes) Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets – 5; (Nays) None – 0. With a vote of 5 ayes and 0 nays, the MOTION CARRIED.

Motion by Commissioner Meer – seconded by Commissioner Kowalski authorizing Don Babcock’s execution of the economic development agreement in the event it is needed for any costs Blue Chip would be responsible for exceeding the Commission’s commitment of $976,683. Voice vote was as follows: (Ayes)
Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets – 5; (Nays) None – 0. With a vote of 5 ayes and 0 nays, the MOTION CARRIED.

VAPOR INTRUSION TESTING – ROUND 2
Attorney Sirinek explained that there are two different things being requested tonight regarding August Mack. The Commission has two different projects/contracts with them.

On behalf of the new Commissioners, Attorney Sirinek explained what the Trail Creek litigation case is stating that it originally had to do with contamination and clean-up efforts that were found in the Trail Creek basin (northeast side Michigan Boulevard/8th Street). Expert witness testimony was needed. August Mack was recommended by the Commission’s lead attorney (Plews Shadley Racher & Braun LLP) for the case. The original contract was approved for $34,000. When the original testing was done, gaps were found in the plume initially discovered. Subsequent testing was done resulting in two different change orders totaling about $102,000. During the subsequent testing it was discovered that there was a plume of contaminants under residences in that general area on the east side of Michigan Boulevard which necessitated a mandatory responsibility to report that to IDEM. Then through the Mayor’s direction on behalf of the City, it led to public meetings and subsequent vapor intrusion testing of these homes. It requires two rounds of testing with the first occurring in warmer weather when windows are opened and the second occurring during colder months when windows are closed. The first round of testing produced no results in all but two of the homes, and those were well below IDEM and EPA standards for a hazardous situation.

Attorney Sirinek referred to a request before the Redevelopment Commission from August Mack dated February 11, 2019 for supplemental vapor intrusion sampling in the amount of $101,825. He pointed out that originally the Commission approved $170,280, but the total expended for the first round was only $119,508.50, leaving a balance of $50,771.50. The Commission would be accepting the proposal for the supplemental vapor intrusion sampling in the amount of $101,825, minus the remaining balance of $50,771.50, for approval of $51,053.50.

The chair entertained a motion.

Motion by Commissioner Sheets – seconded by Commissioner Kowalski to accept the proposal from August Mack for supplemental vapor intrusion testing in the amount of $101,825 by approving an expenditure of $51,053.50 plus the remaining balance of $50,771.50 to equal $101,825. Voice vote was as follows: (Ayes) Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets – 5; (Nays) None – 0. With a vote of 5 ayes and 0 nays, the MOTION CARRIED.
Commissioner Meer pointed out that when the City conducted the public sector meeting and addressed the issue in that neighborhood, IDEM officials were very complimentary of the way the City handled it and said it was an example to be used throughout the state. They indicated they might ask our officials to go to other communities to talk about how we handled this environmental issue.

Regarding the expert witness contract with August Mack for the Trail Creek case, Attorney Sirinek explained that the Redevelopment Commission originally approved $34,000, but because of the gap discovered in the plume it resulted in subsequent change orders for $21,000 and $81,365, bringing the contract total to $136,365. Then because of the discoveries, it became necessary for them to complete a subsequent Expert Witness Report. The Commission was invoiced, and they approved payments above the $136,365 totaling $17,114.03 even though they had not yet officially approved this additional expenditure. As a result, August Mack has submitted Change Order 3 for the additional costs of $17,114.03, plus a request for an additional $5,000 for expected additional tasks, bringing the contract total to $158,479.03. Attorney Sirinek recommended the Commission rectify the overage of $17,114.03 but not approve the additional $5,000 at this time and wait to approve it in the future when those costs become necessary and there is a better understanding of what is being approved.

For the benefit of new Commissioners and to remind existing Commissioners, Attorney Sirinek recalled that the Commission’s contract with Plews Shadley Racher & Braun is for a combination of direct costs up to $50,000 (already paid), and anything after that is contingency based on the total award through the trial verdict. The damages will include these costs as well as clean-up costs.

The chair entertained a motion.

*Motion by Commissioner Sheets – seconded by Commissioner Kowalski approving Change Order 3 as amended to approve already expended appropriations to August Mack for expert witness testimony in the amount of $17,114.03 but exclude their request for an additional $5,000. Voice vote was as follows: (Ayes) Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets – 5; (Nays) None – 0. With a vote of 5 ayes and 0 nays, the MOTION CARRIED.*

**709 FRANKLIN STREET**

Mr. Phillips referred to Change Order 1 from Amereco, Inc. for demolition of 709 Franklin Street explaining that this change order is a result of costs associated with delays in the timing of the project because of the need for additional approvals through the Historic Review Board. He asked Steven Travis from Amereco to explain it more in detail.
Mr. Travis explained that the change order was a result of putting together a second bid specification and bidding out the demolition which is usually done all together, but it was split because it was decided to go forward with just the asbestos initially. The change order is in the amount of $1,820, bringing the total contract from $28,500 to $30,320.

Commissioner Babcock confirmed that this is separate from the actual cost of the demolition.

Mr. Phillips replied that was correct adding that there are anticipated costs for the demolition, but those costs won't be known until the bids come back. Demolition is intended to take place this spring.

The chair entertained a motion.

*Motion by Commissioner Oberlie – seconded by Commissioner Meer approving Change Order 1 in the amount of $1,820 to Ameresco, Inc. for consulting and engineering services for demolition of 709 Franklin Street, bringing the contract sum from $28,500 to $30,320. Voice vote was as follows: (Ayes) Don Babcock, Pat Kowalski, Mayor Ron Meer, Charles Oberlie, John Sheets -- 5; (Nays) None – 0. With a vote of 5 ayes and 0 nays, the MOTION CARRIED.*

**REPORT BY LEGAL COUNSEL**
Attorney Sirinek had nothing further to report.

**REPORT BY DIRECTOR**
Mr. Phillips stated that he was recently notified that the County was conducting a Commissioners tax sale of properties. Many of the City departments, including Redevelopment, created a list of properties to be requested from the County Commissioners. There were several properties identified. If the Commissioners grant those properties to the City and deeds can be secured, the Redevelopment Commission will have to go through a similar process of acquisition like what was done before with the last County Commissioner’s sale.

Mr. Phillips described where the properties are located stating that there are a couple of "sets" of properties in the Peru Street and Union Street area adjacent to the old railroad right-of-way (extension of Peanut Bridge coming back up toward Highway 12), a couple of parcels adjacent to property already owned by the Redevelopment Commission on the west side of Michigan Boulevard between 7th and 8th Street, and a parcel in the vicinity of Lighthouse Place on 8th Street; a total of 4 sets of parcels potentially for the Redevelopment Commission. He commented that these parcels already went through the tax sale but were not sold and now are available to not-for-profits and government entities.
He said he would be attending the Board of Commissioner’s meeting tomorrow evening to find out if they will grant the deeds to the properties to begin the process.

Commissioner Babcock added that some of the properties received from the last tax sale include property by the cooling tower, the former Chrysler dealership property, and property at 6th and Michigan. The effort is to try and repurpose the parcels and get them back on the tax roll.

Mr. Phillips stated that a resolution will be forthcoming to the Redevelopment Commission at a future meeting for approval. He also noted that there is a redemption period of approximately one year.

PUBLIC COMMENTS
(None)

COMMISSIONER COMMENTS
(None)

ADJOURNMENT
The chair entertained a motion to adjourn.

Motion to adjourn by Commissioner Meer – seconded by Commissioner Kowalski and unanimously approved. The chair declared the meeting adjourned at approximately 5:45 p.m.

John Sheets, Secretary