

MINUTES
ECONOMIC DEVELOPMENT AUTHORITY
Special Meeting
June 27, 2011

1. CALL TO ORDER

The meeting was called to order by Chair Bartholomay at 6:17 p.m.

Members Present: Bartholomay, Donnelly, Fogarty, Larson, May

Members Absent: None

Also Present: Andrea Poehler, City Attorney; Tina Hansmeier, Economic Development Specialist; Cynthia Muller, Executive Assistant

2. PLEDGE OF ALLEGIANCE

3. APPROVE AGENDA

MOTION by Larson, second by Fogarty to approve the Agenda. **APIF, MOTION CARRIED.**

4. CITIZEN COMMENTS/PRESENTATIONS

5. CONSENT AGENDA

6. PUBLIC HEARINGS

7. CONTINUED BUSINESS

a) Approve Various Contracts for the Sale of the McVicker Lot

The purpose of the Third Amendment to the Contract for Private Development for the McVicker lot was to amend the closing date and construction timeline. The original contract had a closing date of June 23, 2011 and to break ground on June 30, 2011. The obligations with the excess TIF funds have been extended out a year, so the developer does not need to break ground by June 30, 2011. This has allowed for time to work out the issue with the staircase used to access the upper level of the Gossips building. Staff recommended reducing the purchase price by \$3,000 to allow construction to proceed. The stairway is on the EDA property. Where the stairway is located in relation to the construction of Dr. Dungy's building is very close. This creates a challenge with the construction activity. Once the stairway is taken down, it has to be rebuilt according to code which is estimated to cost \$9,000. The EDA would participate in the replacement of the stairway by \$3,000. Other options would be to flip the building, reduce the width of the sidewalk, but this would involve survey and legal fees to be paid by the EDA. The footings of the building will be 12 inches from the stairway. They need to dig down 8 ft because of the compacted soil. This would cause the stairway to come down. This was not known at the time plans were prepared.

Member May asked if they could build the stairs in the back of the Gossips building. City Attorney Poehler explained the issue is that because the stairway has been located on the side of the building for so many years, Mr. LaBeau could make a claim for adverse possession and he would own that property. Member May stated it would be nice if we have to pay a portion to replace the stairs that they be moved to the back. Member Fogarty wanted to look into what it would

cost to move the entrance of the upper level of the Gossips building to the back. Then there would no longer be an easement. It would then be Mr. LaBeau's staircase and he could get to his building on his property. She wanted a permanent fix to the problem. City Attorney Poehler stated the EDA will not have a cost associated with this in the future. The stairway would be an issue between the two property owners. Members May and Fogarty wanted to look at options for the stairway to go in the back. City Attorney Poehler stated Dr. Dungy will have to deal with the easement and reducing the price is a cleaner option than not dealing with it. The parties will not move forward without making this claim. Even if we move the stairway to the back, there is still an adverse possession interest against the property being conveyed to Dr. Dungy. Dr. Dungy will own the land, but Mr. LaBeau will have a permanent easement.

Mr. Bruce Rydeen, Cerron Properties, representing Dr. Dungy, thanked Tina Hansmeier and City Attorney Poehler for the enormous amount of work they have done to make this happen. The deal was that the EDA was to deliver an easement for the stairway. Mr. LaBeau would not sign it. Dr. Dungy wanted the easement to help clear up the adverse possession issue and to put in language relative to insurance and liability. Without that in place, Dr. Dungy does not have the easement and has the issue with the adverse possession. Dr. Dungy is prepared to move forward with his plans. Without executing the easement, this is the best solution.

City Attorney Poehler clarified there will not be an easement for the stairway. The stairway for Gossips upper level is on Dr. Dungy's property. Member May asked about liability if the stairway needs to be replaced again. Mr. Rydeen stated Dr. Dungy will assume that liability. City Attorney Poehler stated in the future, Dr. Dungy will make the point that any repair or maintenance will be up to the abutting property owner because from his perspective they are on the abutting property owner's property by adverse possession. This has become an issue because of the construction.

Member Donnelly asked about the bottom line. Staff explained the EDA will still net enough money to cover the walkway with the pavers and sidewalk option. Depending on what comes from the estimate, will dictate whether we can do the paver option or have to do fewer amenities. **MOTION** by Larson, second by May to approve the Third Amendment to the Contract for Private Development. **APIF, MOTION CARRIED.** The closing is scheduled for June 29, 2011, and construction will start in July.

8. NEW BUSINESS

9. CITY STAFF REPORTS

The Big Sombrero will hold a ribbon cutting on July 5, 2011. The ice cream shop is planning on a soft opening June 30, 2011. The ribbon cutting for Savers Choice is June 30, 2011.

Chair Bartholomay suggested holding EDA meetings prior to a Council Meeting at 6:00 p.m. to free up a Monday. He also asked about televising EDA meetings. Member

Fogarty noted this has been discussed in the past and the EDA has decided against it. It is a public meeting, but some parties are not always ready to announce their plans and people prefer a smaller forum to speak. Members agreed on moving the regular EDA meetings to the third Monday of the month at 6:00 p.m.

10. ADJOURN

MOTION by Fogarty, second by Donnelly to adjourn at 6:41 p.m. **APIF, MOTION CARRIED.**

Respectfully submitted,

Cynthia Muller
Executive Assistant