

**CITY OF NORWALK
ORDINANCE COMMITTEE
MARCH 17, 2009**

ATTENDANCE: Amanda Brown, Chair; Kelly Straniti, Andrew Conroy, William Krummel, Fred Bondi; Carvin Hilliard; Doug Hempstead;

STAFF: Robert Maslan, Jr., Corporation Counsel; Diane Beltz-Jacobson, Assistant Corporation Counsel; Thomas Hamilton, Finance Director

OTHERS: Frank Baker, Special Counsel, Robinson & Cole; Douglas Adams, Vice President, Seligson Development

CALL TO ORDER

Ms. Brown called the Public Hearing to order at 7:10 p.m.

PUBLIC HEARING

**THE WAYPOINTE SPECIAL SERVICES DISTRICT ORDINANCE
AND THE PROPOSED AMENDMENTS TO OUTDOOR DINING AND
PARKING AUTHORITY ORDINANCES.**

Public Participation

Ms. Brown reviewed the ground rules for public participation with those present.

Public Comments

1. Mr. Christopher Potts, Nursery Street, Norwalk, said that he was not against commercial development, and he sees many positives in the project, such as outdoor dining; but he has specific concerns on the wording contained in the ordinance. He questioned (on page 5) the powers of the SSD for non-municipal use of services, and said that this project was creating a city within a city with its own rules. The SSD would consist of the mayor, Council leaders and representatives of the developer, but not tenants, or the people who are affected. He questioned who gets to vote and referred to definition of Real Estate as listed on page 4.

2. Mr. John Louizos, of Curtis, Brinckerhoff & Barrett, P.C., representing Norwalk Currie Tire, Company, Inc. of Norwalk, submitted a letter on behalf of his client, and read the following written objections to the proposed ordinances:

1. The Use of Eminent Domain in the West Avenue Corridor Redevelopment Plan would be illegal.
2. The Proposed Special Services District Ordinance is incomplete and may not be voted upon at this time.
 - The proposed ordinance indicates that one of the purposes to be served is the elimination of blight, however “blight” is not defined in § 102.
3. The legal notices published on 2/26/09 and 3/9/09 are defective and misleading to the public resulting in a violation of due process.

3. Ms. Galen Wells, West Norwalk Road, Norwalk, said that has reservations about this project. The bond is enormous and complicated. She referred to the Madoff situation and how the many agencies did not identify this as fraud. The public has not had time to understand and digest this complicated bond resolution and ordinance that places the City in a huge debt situation. Ms. Wells also mentioned that Governor Rell has warned cities not enter transactions like this hastily.

4. Mr. Douglas Adams, Vice President, Seligson Development said he has dedicated five years of his life to this project, with well over 100 meetings, resident information sessions, and public hearings. He addressed Mr. Louiso’s objections by stating that the city has no obligation to fund any monies until several pre-conditions are met including the successful completion of the public improvements. The structure of this is that they will have to lease 75% occupancy in order to finance with the City. The project will be financed by special taxes; it is a most thorough, well-structured project, designed to protect and promote the best interests for the City of Norwalk. The documents are over 300 pages that contain many, many provisions that have been openly evaluated by Corporation Counsel. He added that he would be available to answer further questions at the close of the public hearing portion of the meeting.

5. Mr. Richard Fuller, Stuart Avenue, Norwalk, said that he supports this as a revitalization project that will improve the urban core of Norwalk. He thanked the Redevelopment Agency for many the meetings with the neighbors to get their feedback. He said that at this point in the approval stage it is about trusting people with roots in the community. He has been through many city projects and this is one that has followed all the rules at each and every step of the process, and this is not a grass roots movement. He added that it has been said that this project will bring the city to an entire new level, and he encouraged the committee to allow the Waypointe project to inspire the future economic growth of Norwalk.

The public comments session ended at 7:35 p.m.

REGULAR MEETING

CALL TO ORDER

Ms. Brown called the Regular Meeting to order at 8:05 p.m. with a roll call. The following committee members were in attendance:

ATTENDANCE: Amanda Brown, Chair; Kelly Straniti, Andrew Conroy, William Krummel, Fred Bondi; Carvin Hilliard

Ms. Brown asked to suspend the rules in order to address the public comments. All members were in agreement.

COMMENTS ON PUBLIC PARTICIPATION

Ms. Brown asked Mr. Baker to answer the objections, address the public comments, and provide an overview of the sequence of events to move this ordinance on to the Common Counsel. Mr. Baker submitted Chapter 105a* Municipal Special Services Districts Statutes, which provides a list of powers and exclusions for this ordinance. He summarized that this is a document of public policy which is decided and governed by State Legislature, that sets the rules and represents the underlying basis for the ordinance, the MDA and the SSD and the bond resolution.

In response to the public comment regarding the current financial climate of the country, Mr. Baker stated that the state of the economy is not relative as there are significant pre-conditions where the developer is required to finance and construct all of the public improvements at his own initial expense; the City does not purchase the public improvements from the developer until the public and private improvements are fully constructed.

In the actual definition of terms “blight” is not defined. The Redevelopment Agency would have to define it as directly appropriate.

Mr. Maslan submitted the Waypointe MDA Provisions Paper to address the raised concerns as follows:

1. Pre-conditions to any Public improvements closing and the city’s issuing of bonds: See Section 8.3 of the MDA:

- Lapse of at least 36-months since MDA signing.
- Full completion of all public improvements being purchased by the city.
- 75% occupancy of the rentable square footage of the private improvements, except for residential and garages themselves
- Under Section 3.1(e) the Special Services District for Waypointee will be paying \$3,974,185 in SSD levies to the City for bond debt service (this is in addition to the parking garage income for the same purpose.)

NOTE: If none of these things happen, (i.e. the private developer's Project is not a success) the City is not obligated to purchase the public improvements nor issue bonds to do so. The City's purchase payment obligation if the private developer's project is a success is capped at \$103 million in section 5.2 of the MDA. The City will of course own the garages and other public improvements after the closing.

2. MDA Section 22.3 addresses Affordable Housing in detail.
3. MDA Article VII addresses Disadvantaged Business Enterprises in detail.
4. MDA Section 14.4 addresses Prevailing Wage Statute obligations on the Redeveloper in detail. The Redeveloper is responsible for complying with all applicable contractor and other laws and regulations.
5. MDA Section 16.9 addresses LEED (Green Building Standards).

Mr. Krummel stated that this is a most critical document, and he is reassured that the public notice in the newspaper did contain the full text as required. He is concerned that there are critical elements missing relative to the boundaries of SSD, which has changed. The original included the entire project, now there is a revised map of two parts within the district between Orchard and Butler and the Loehman's Plaza. With this enhanced district, ownership of the property but not ownership of voting results in complications. Why is this not included in the enhanced district, and he is not sure why it is done this way, when the referendum refers to a majority?

Mr. Baker summarized that the MDA is a single document unit with a set of exhibits through "JJ" in terms of executing authority. The Bond Resolution ordinance is a seamless package that serves the framework as everything comes to play within the MDA, as addressed by the state statutes.

Mr. Krummel would like to see affordable housing removed from the SSD. Mr. Baker answered that that would be getting into affordable housing definition, which is in the city's best interest to protect the City's revenue stream and to retire debt. Mr. Krummel added that this is a template for a framework that can be confusing. Is the city responsible as state statutes for the annual grant to reimburse them if money is raised?

Mr. Conroy added that the relationship as articulated in the MDA for improvements such as tree-scaping is only logical if the city contract for services allowed is subject to reimbursement or subtracted to create a tax rate. He added that it gives too much authority to the property owners, and would like to see this put into a different framework such as an automatic referendum limited to property owners of the district.

Ms. Brown asked for an example of this, and Mr. Krummel stated that with any city ordinance there is voluntary action on the part of the land owners. Mr. Conroy asked to cross reference the article with the entire ordinance, as page 18-1.8 contradicts the parameters. He suggested to remove section I completely, and Mr. Krummel agreed. Mr. Maslan said Corporation Counsel needs to take a closer look. He indicated that it does not appear to be contradictory in wording, and only applies if it is dissolved; however, they would closely examine it. Mr. Bondi suggested that an alternative amendment be drafted to address this issue if it becomes required by the Common Counsel.

**** MR. BONDI MOVED TO FORWARD FOR APPROVAL TO THE
COMMON COUNSEL THE WAYPOINTE SPECIAL SERVICES
DISTRICT ORDINANCE AND THE PROPOSED AMENDMENTS TO
OUTDOOR DINING AND PARKING AUTHORITY ORDINANCES FOR
THE MARCH 24 COUNSEL MEETING. (R&C DRAFT 2/11/09)
** THE MOTION PASSED UNANIMOUSLY.**

Ms. Brown asked to suspend the rules to amend the motion. All members were in agreement.

ACCEPTANCE OF MINUTES

Approval of the minutes from the December 16, 2008 and January 20, 2009 meetings was tabled to next month's regular meeting. All were in agreement.

OLD BUSINESS

Waypoint Special Services District ordinance, and the proposed amendments to Outdoor Dining and Parking Authority ordinances.

**** MR. BONDI MOVED TO FORWARD FOR APPROVAL TO THE
COMMON COUNCIL THE PROPOSED ADDENDUM FOR THE
APPOINTMENT OF ALTERNATIVES REMOVING SECTION I FROM
THE WAYPOINTE SPECIAL SERVICES DISTRICT ORDINANCE.
** THE MOTION PASSED UNANIMOUSLY.**

NEW BUSINESS

Schedule a Public Hearing

- ** MS. STRANITI MOVED TO SCHEDULE A PUBLIC HEARING BASED UPON AVAILABILITY OF THE COMMITTEE AS NOTED TO PASS ALONG FOR APPROVAL TO THE COMMON COUNCIL THE PROPOSED ADDENDUM FOR WAYPOINTE SPECIAL SERVICES DISTRICT ORDINANCE AND THE PROPOSED AMENDMENTS TO OUTDOOR DINING AND PARKING AUTHORITY ORDINANCES AND APPOINTMENT OF ALTERNATIVES.**
- ** THE MOTION PASSED UNANIMOUSLY.**

ADJOURNMENT

- ** MR. CONROY MOVED TO ADJOURN.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Marilyn Knox
Telesco Services