

**MINUTES
CITY OF ST. CHARLES, IL
PLANNING AND DEVELOPMENT COMMITTEE
MONDAY, SEPTEMBER 11, 2023 7:00 P.M.**

Members Present: Silkaitis, Foulkes, Bongard, Muenz, Lencioni, Gehm, Pietryla, Wirball, Bessner, Weber

Members Absent: None

Others Present: Mayor Lora Vitek; Heather McGuire, City Administrator; Russell Colby, Director of Community Development; Derek Conley, Director of Economic Development; Bruce Sylvester, Assistant Director of Community Development-Planning & Engineering; Allen Fennell, Assistant Director of Community Development-Building Services; Ellen Johnson, City Planner; Simona Hawk, Development Engineer; Peter Suhr, Director of Public Works; Fire Chief Scott Swanson

1. CALL TO ORDER

The meeting was convened by Chair Lencioni at 7:00 p.m.

2. ROLL CALLED

Roll was called:

Present: Silkaitis, Foulkes, Bongard, Muenz, Lencioni, Gehm, Pietryla, Wirball, Bessner, Weber

Absent: None

3. OMNIBUS VOTE - None

4. COMMUNITY & ECONOMIC DEVELOPMENT

Ald. Bongard made a motion to move agenda items 4g and 4h to the top of the agenda. Seconded by Ald. Muenz.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0

- g. Recommendation to approve a Resolution Authorizing the Mayor to Demand Payment Under a Letter of Credit – The Reserve of St. Charles Subdivision Phase 2

Russell Colby, Director of Community Development, presented the Executive Summary and materials posted in the meeting packet.

Ald. Wirball asked about ownership of the streets in Phase 2. Mr. Colby said the improvements are on public streets right-of-way. With a subdivision, once the work is completed, the City

accepts a bill of sale from the developer stating the city is taking over ownership of these improvements. If the City were to pull this Letter of Credit, draw on it and declare the developer in default, the City would be essentially taking over ownership. Ald. Wirball expressed concern over this and asked if the developer provided a response to a letter that was sent to them in July seeking completion of the work. Mr. Colby said they have not provided any written response. Ald. Wirball felt the developer should be held accountable for finishing the project and he would like to see further effort made to get a written response. He asked if there was an option to complete as much work as possible using the Letter of Credit funds and then compel the developer to complete whatever is left at a later date, so that the City doesn't have to come up with the additional funding. Mr. Colby said they could review that option. Ald. Wirball felt this might set a precedent for other projects in similar situations.

Ms. McGuire said they cannot compel the developer to respond, but the City's method to get action from them would be to declare them in default. We are not letting them off the hook by pulling the Letter of Credit (LOC). Pulling the LOC is pulling the funds from the bank. The second step would be to declare them in default and then pursue action in court. That is holding them accountable. Ald. Wirball would like to see the City attorney contact the developer to compel them to respond. He is not willing to allocate unbudgeted funds to complete a developer's project.

Ald. Bessner expressed concern over the possibility of dealing with this developer in the future. He noted the City has spent the same amount of money doing other studies, and going after the developer to recoup the cost is also going to cost the city additional money. He doesn't want the residents waiting any longer.

Ald. Foulkes asked how they got to this point. Mr. Colby said the construction of the streets is a developer requirement imposed by the City when the subdivision is approved. A Land Improvement Agreement was entered into between the City and the developer. It states the improvements that are to be made and requires this financial guarantee to be on deposit with the City. This is done in order for the City to complete the work in the event the developer does not do it.

Ald. Weber asked if a short-term special assessment could be implemented to get the funding from the neighborhood. Mr. Colby said there is a tool called the Special Service Area that can be established for unique services to any given area, but that takes an extended period of time to establish. It also gives property owners the ability to object to this and can basically stop the process from going forward. Due to the timeline and complications of that, he felt this wasn't a reliable tool to fund this cost.

Ald. Bongard asked what the likelihood would be for a positive outcome for the City if they pursued the developer. Mr. Colby felt it was difficult to say. He noted bringing this before the Committee tonight is the City's opportunity to complete the project this year. Ald. Bongard asked if the City funds this, is staff comfortable going forward to make this work. Mr. Colby said we are.

Ald. Pietryla verified that the developer would still be able to do future work in the City. Mr. Colby said generally that is correct, the City must work with all property owners under the city code.

Chair Lencioni asked what the worst cost liability would be. Mr. Colby said the cost presented is sufficient to complete the work. Chair Lencioni asked if they took a position forcing the developer to do this, is there a chance it won't ever get done. Mr. Colby said the Letter of Credit that the City is holding would continue to be held as long as the Land Improvement Agreement is valid, unless for some reason it was challenged. The Letter of Credit is insured by the bank.

Chair Lencioni asked what the potential cost would be if they allowed this issue to continue over the winter and pursued legal action. Mr. Colby noted there would need to be some maintenance work done before the winter. There would be a cost for that, but the City would first direct the developer to do the maintenance work. There is no guarantee they would do that. The City would also need to get new quotes/bids for next spring and it's hard to predict what that cost will be.

Ald. Gehm noted waiting on this could really drive up the cost, especially if we have a bad winter.

Ald. Muenz asked if they waited, whose budget would this go into, and if they approved it now, how is that handled. Mr. Colby said it would be budgeted as a project under Community Development. If it is approved this year, the funds could come from the City's budget reserves, or from other unspent funds over the course of this fiscal year.

Ald. Wirball asked if they could approve just the bond amount to get the project underway while still pursuing getting a response from the developer. Mr. Colby said once they pull the LOC, their ability to negotiate with the developer would be diminished. Ald. Wirball wants to see the neighborhood taken care of, but he felt it sets a precedent by not making the developer take responsibility. Ms. McGuire stated the developer has verbally communicated with staff. They just haven't provided a written response. They have no objection to the City pulling the LOC, but they do not intend to provide the additional funds. Ald. Wirball expressed concern over how unbudgeted funds are prioritized.

Ald. Bongard asked for an explanation as to how they can use budget reserves for this unbudgeted project when other unbudgeted projects are not allowed to use reserves. Mr. Colby said this is an unforeseen expense and because of the timing issue and staff believes it needs to be addressed before the winter. Normally this would be reviewed during the budgeting process and all projects would get prioritized at that time.

Ald. Bongard made a motion to approve a Resolution Authorizing the Mayor to Demand Payment Under a Letter of Credit – The Reserve of St. Charles Subdivision Phase 2. Seconded by Ald. Bessner.

Roll was called on Motion:

Ayes: Gehm, Bessner, Weber, Bongard

Absent:

Nays: Pietryla, Wirball, Silkaitis, Foulkes, Muenz

Motion failed 5-4

Ald. Wirball said he would reconsider his position if more effort could be made to work with the developer. He also noted he would like to see all five of the bids that were received.

Ald. Weber asked if he could make a motion to approve using the Letter of Credit. Ms. McGuire said the motion that failed was to pull the Letter of Credit.

- h. Recommendation to Waive the Formal Bid Procedure and approve a Resolution to Authorize a Construction Contract with Geneva Construction for Street Pavement Work in The Reserve of St. Charles Subdivision Phase 2

No discussion/action was taken on this item due to failed motion in 4g.

- a. Presentation of a Concept Plan for Stuarts Crossing Lot 4

Ellen Johnson, City Planner, presented the Executive Summary and materials posted in the meeting packet.

Eddie Greco, applicant, reviewed highlights of the plan. They are hoping to create a destination area on the east side of town.

Ald. Bongard felt it's an exciting concept.

Ald. Weber asked if these were all going to be legacy properties. Mr. Greco said they are not going to sell any of these.

Ald. Pietryla liked the concept and appreciated that they were following the comprehensive plan.

Ald. Wirball asked about materials. Mr. Greco said they plan on using facial brick.

Ald. Muenz expressed excitement about the project and loved their openness to creating more walkability.

Ald. Bessner felt it was a beautiful project. He liked how their streetscaping mirrors the downtown area.

Ald. Foulkes said it was a wonderful design. He asked for ongoing updates once they get started.

Ald. Silkaitis asked if they have a deal for the access road to the mall. Ms. McGuire said they are still working through the details, but everyone involved is very interested in it.

- b. Recommendation to approve a Minor Change to PUD for 1023 W. Main St. PUD

Ellen Johnson, City Planner, presented the Executive Summary and materials posted in the meeting packet.

Ald. Pietryla asked why the transformer issue wasn't brought up before and why they aren't addressing the curb issue at this time. Ms. Johnson said the electric details had not been worked out at the preliminary engineering stage. The curb has been added to the plans.

Ald. Wirball noted he made a motion on this last time with the condition the dumpster was to be moved away from 11th Street right next to the building. It is now going back the other way. He

wanted to know why the transformer can't go underground. Ms. Johnson said there are access and separation requirements that would prevent it from being underground. Ald. Wirball would like to see the transformer put on the east side of the property and the dumpster go back adjacent to the building.

Ald. Pietryla asked for clarification as to where the curb is at. It was pointed out on the plans.

Ald. Foulkes asked why work didn't start when they originally received approval and will they be waiting again if this change is approved. He felt that property was an eyesore.

Eric Carlson, representative for the applicant, said they were working through the drawings, permitting and seeking additional funding.

Ald. Bongard asked what happens if this change is not approved. Mr. Carlson was not sure.

Ald. Wirball felt the space was too small for what they want to do.

Ald. Pietryla agreed with the space being too small. He felt it might not be a viable spot for this project and said he can't support it.

Ald. Bessner said the spot is an eyesore and wondered how long they could let it sit like that. He wasn't sure what other use could be there without cleaning it up with remediation. He noted the dumpster is being moved a few feet partly due to a city requirement with the placement of the utility box.

Mr. Carlson said the intent is to get the project started before winter and it would take approximately 9 to 12 months to complete.

Ald. Silkaitis also noted there is too much going into this small space. He suggested shrinking the building a bit.

Ald. Bessner made a motion to approve a Minor Change to PUD for 1023 W. Main St. PUD. Seconded by Ald. Gehm.

Roll was called on Motion:

Ayes: Gehm, Bessner, Bongard

Absent:

Nays: Pietryla, Wirball, Weber, Silkaitis, Foulkes, Muenz

Motion failed 6-3

- c. Recommendation to approve a Plat of Easement Vacation and Plat of Easement Grant for 2910 Glenbriar Dr.

Ellen Johnson, City Planner, presented the Executive Summary and materials posted in the meeting packet.

Ald. Wirball made a motion to approve a Plat of Easement Vacation and Plat of Easement Grant for 2910 Glenbriar Dr. Seconded by Ald. Pietryla.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0

- d. Recommendation to approve a Special Use for a Drive-Through for Chick-fil-A, 3795 E. Main St.

Bruce Sylvester, Assistant Director of Community Development-Planning & Engineering, presented the Executive Summary and materials posted in the meeting packet.

Ald. Wirball expressed excitement over the project. He asked that they comply with landscaping and lighting requirements.

Ald. Silkaitis asked about if they were also asking for a variance for signage. The current proposal complies with all the sign requirements. The fourth sign will be removed.

Ald. Pietryla asked if the hotel granted access to them. The developer is in conversations with the hotel so that the access easement can be modified to allow for a second driveway on the south side of the Chick-fil-A site.

Ald. Weber made a motion to approve a Special Use for a Drive-Through for Chick-fil-A, 3795 E. Main St. Seconded by Ald. Pietryla.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0

- e. Recommendation to approve a License Agreement with Northern Green Walnut St., LLC for a Concrete Walkway located within the City Property (309 Walnut Street-South Walnut/Parking Lot "R")

Russell Colby, Director of Community Development, presented the Executive Summary and materials posted in the meeting packet.

Ald. Wirball made a motion to approve a License Agreement with Northern Green Walnut St., LLC for a Concrete Walkway located within the City Property (309 Walnut Street-South Walnut/Parking Lot "R"). Seconded by Ald. Pietryla.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0

- f. **Recommendation to Approve a Resolution Authorizing the Release of a Request for Proposals for a Downtown Riverfront Property Feasibility Study (ED2023-41)**

Derek Conley, Director of Economic Development, presented the Executive Summary and materials posted in the meeting packet.

Ald. Wirball said it was a fine concept, but the public engagement piece was a bit premature because they would be asking questions they can't fulfill. He felt the studies need to be completed first to determine what can be done with the site.

Ald. Gehm agreed. He suggested asking the chosen consultant for their input as to how to handle this.

Ald. Muenz made a motion to approve a Resolution Authorizing the Release of a Request for Proposals for a Downtown Riverfront Property Feasibility Study (ED2023-41). Seconded by Ald. Gehm.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0

5. PUBLIC COMMENT

Linda Stuart provided feedback regarding a U.S. Army Corps of Engineers report that recommends removal of the dams along the Fox River. She asked for support and commitment to the stewardship of keeping what they have.

Ms. McGuire clarified that this is just an Army Corps study. It is not delegating the City to take any official action at this point. The dam outside City Hall is owned by the Department of Natural Resources. She noted the Army Corps did state they will not remove that dam unless the City consents to it. The Mayor and City Council are very aware of the economic development, ecological and cultural implications of the dam and what the Fox River means to this City.

Brian Springmeyer asked if the City put out a public notice regarding the rescheduling of the September 18th meeting. Mayor Vitek explained that is not a City meeting.

Tom Anderson said he was surprised by the new study being done on the old police station site. He noted the River Corridor Committee has been discussing being proactive as to what could happen with the old police station building. He said it should be green space all along the river.

Gail Johnson, resident of the Reserve, said she was disappointed in the LOC vote and that the public comments were not taken until after the vote.

Katherine Flynn, resident of the Reserve, felt the Committee did not have all the correct facts regarding The Reserve issue. She said the condition of the streets is terrible and expressed disappointment over the legal situation with the developer.

6. ADDITIONAL ITEMS FROM MAYOR AND CITY COUNCIL MEMBERS

Chair Lencioni suggested everyone educate themselves on the Army Corps of Engineers study regarding the Fox River.

7. EXECUTIVE SESSION – None

8. ADJOURNMENT

Ald. Gehm made a motion to adjourn at 8:42 p.m. Seconded by Ald. Foulkes.

Roll was called on Motion:

Ayes: Gehm, Pietryla, Wirball, Bessner, Weber, Silkaitis, Foulkes, Bongard, Muenz

Absent:

Nays:

Motion passed 9-0