

BUFFALO URBAN RENEWAL AGENCY
October 9, 2008
ROOM 209

MEMBERS AND

OFFICERS PRESENT:

Mayor Brown, Chairman
Alisa Lukasiewicz, Corporation Counsel
Council Member LoCurto
Council President Franczyk
Commissioner Reilly
Commissioner Penksa
Council Member Kearns
Andrew Eszak

MEMBERS ABSENT:

Virginia Oehler

SECRETARY:

Scott C. Billman

OTHERS PRESENT:

Carla Kosmerl, OSP
Darryl McPherson, Division of Audit
Jim Folan, City of Buffalo
Holly D, Lindstrom, WNY Law Center
Joy McDuffie, WNY Law Center
Kathleen Lynch, WNY Law Center
Paul Gregory, EDC
Marlies Wesoloski, Lt. Col. Matt Urban
Joyelle Tedescher, Lt. Col. Matt Urban
Karen Carmen, Lt. Col. Matt Urban
Dale Zuchlewski, OSP
Melanie Gregg, OSP
Bill Okell, Homeless Alliance
Francisco Guzman, OSP/BURA
Carl C. Paladino, Ellicott Development

Mayor Brown called the meeting to order at 9:41 a.m. Andrew Eszak made the motion to waive the reading of the minutes of the **September 25, 2008** meeting, and that they are accepted; seconded by Council President Franczyk and carried unanimously.

COMMUNITY DEVELOPMENT BLOCK GRANT

Agenda Item 3a – Western New York Law Center (Anti-Flipping)

Submitted to Agency members for approval, is a request to contract with Western New York Law Center (Anti-Flipping) for \$30,000 to provide education to consumers on the practice of flipping – the buying and reselling or refinancing of real property for a falsely inflated value where neither the improvements made nor the market conditions that exist justify the sale price or loan amount. This program will operate from May 1, 2008 to April 30, 2009.

Buffalo Urban Renewal Agency
October 22, 2008

Council President Franczyk inquired who the Western New York Law Center was primarily protecting against the Anti-Flipping. Kathleen Lynch from the Western New York Law Center replied that they are targeting the major companies that are practicing Anti-Flipping.

Council Member LoCurto made the motion to approve the item contingent on certification of funds by the Agency's Office of Administration and Finance and Agency Counsel approval of all Agreements; seconded by Commissioner Reilly and carried unanimously.

OTHER BUSINESS

Agenda Item 12a – Amendment to Agreement between Agency and Ellicott Development for 50 Court Street

Submitted for the Boards approval is a request to amend the LDA with Ellicott Development Company to amend the description of the project and timeframes originally stated in the May 2006 LDA to take into account that the prolonged litigation that named the City of Buffalo, City of Buffalo Urban Renewal Agency and Ellicott Development Company as defendants.

On May 3, 2006, BURA entered into a Land Disposition Agreement (LDA) with Ellicott Development Company for construction of an office building to be located on a BURA owned parcel situated at 50 Court Street. Approximately six (6) months after execution of the LDA, a lawsuit was commenced against the City of Buffalo, the City of Buffalo Urban Renewal Agency and Ellicott Development alleging, amongst other things, that the process of the selection of the redeveloper was improper and requesting the Court to find that another developer should have been awarded development of the parcel. Litigation ensued over the course of the next two years, which concluded with the Appellate Division upholding the Supreme Court Judge's dismissal of the case brought by the plaintiff. Pursuant to the agreement, the deadlines for the project were "tolled" or otherwise placed on hold until the litigation was finished.

Upon completion and resolution of the litigation on or about May 1, 2008, Ellicott Development Company communicated with BURA regarding the changed circumstances that resulted during the long delay caused by the litigation. Among these changed circumstances are that they have lost one, and possibly two, tenants since the execution of the LDA and require additional time to reorganize and reconfigure the Project.

The LDA will also be amended to reduce the overall size of the project from an eleven (11) story, 335,000 sq. ft. building as originally proposed to an eight (8) story, 241,000 sq. ft building.

Buffalo Urban Renewal Agency
October 22, 2008

Ellicott Development Company has requested that the timeframes be adjusted as follows:

- Submission of schematic plans: 180 days from the execution date of the LDA Amendment;
- Evidence of Capital Financing: 240 days from the execution date of the LDA Amendment;
- Application for Building Permit: 240 days from the execution date of the LDA Amendment;
- Delivery of Deed and commencement of construction: 60 days from issuance date of Building Permit; and
- Completion of construction: 2 years after commencement of construction.

With the above timeline and assuming that the LDA Amendment would be fully executed by or before November 1, 2008, the anticipated commencement of construction would occur sometime in September 2009 and completion two (2) years thereafter (September 2011).

With the current LDA deadlines in place, the commencement of construction of the project would occur sometime in March 2009, with completion of construction in March 2011. Therefore, this Amendment has the practical effect of pushing the completion date forward approximately six (6) months.

In addition, the project, as originally proposed, was thoroughly reviewed by BURA as per the requirements of the New York State Environmental Quality Review Act (SEQR). An amended Negative Declaration (determination of no significant impact on the environment) was previously filed by BURA for the project on May 28, 2004. In accordance with the provisions of SEQR, BURA staff has reviewed the proposed change to the design of the building. It has been determined that the action as currently proposed will not result in substantive changes to the project which would have significant adverse effects on the environment, and that further environmental assessment of the action, and issuance of an another amended Negative Declaration (determination of significance on the environment), is not warranted.

Mayor Brown inquired what the cost of litigation is against the City thus far. Corporation Counsel Lukasiewicz stated since the litigation was handled internally there has been no cost to the City. Carla Kosmerl may have an approximate cost for outside counsel that BURA has incurred. However, the local Supreme Court found the case against the City of Buffalo and the developer had no merit and dismissed it. The Appellate Division also dismissed the case and the Court of Appeals rejected addressing the case. Therefore, all litigation have been address and found in favor of the City of Buffalo, BURA and the developer.

Mr. Paladino stated that the core tenancy that was originally set to occupy three floors of the 50 Court Street Development had other lease obligations and therefore resulted in reduction the 11 story building to 8 stories due to the tolling of the project.

Corporation Council Lukasiewicz made the motion to approve the item contingent on certification of funds by the Agency's Office of Administration and Finance and Agency Counsel approval of all Agreements; seconded by Council Member Kearns and carried unanimously.

Andrew Eszak made the motion to accept Late File Items 3b and 11a; seconded by Corporation Counsel Lukasiewicz and carried unanimously.

Late File Agenda Item 3b – New Windows Lt. Matt Urban Center

Submitted to Agency member for approval, is a request for funding in the amount of \$10,000.00 for the furnishing and installation of twelve (12) Marvin Windows by Big L. Distributors at the Lt. Matt Urban Center located at 1081 Broadway. The architect on the job was Stiglitz Snyder who recommended the Marvin windows because of the non-standard dimensions of the windows. Bids were requested by the center's Executive Director Marlies Wesolowski from 8 different window providers. All stated that the sole provider in WNY for wooden framed Marvin windows was Big L. Distributors. The Marvin Windows have insulating low EII glass with argon gas that meets ENERGY STAR requirements in all four zones.

The "Matt Urban Center" is a multi-purposed citizen center located on the East Side of Buffalo, which serves population of over 83% of low-moderate income residents. The Matt Urban Center's Mission is to provide programs that enhance the quality of life, preserve neighborhoods and encourage economic development. For over 31 years, the Matt Urban Center has provided activities and programs for all ages: preschool through senior citizen.

Council President Franczyk made the motion to approve the item contingent on certification of funds by the Agency's Office of Administration and Finance and Agency Counsel approval of all Agreements; seconded by Council Member LoCurto and carried unanimously.

Late File Agenda Item 11a – Lt. Col. Matt Urban Human Services Center of WNY Homeless Outreach

Submitted to Agency members for approval, is a request to contract with the Lt. Col. Matt Urban Center for start up funds for a Homeless Outreach program in the Broadway-Fillmore neighborhood in the amount of \$48,500.00 using recaptured Emergency Shelter Grant funds from 2007 and 2008.

Council Member Kearns requested Ms. Marlies Wesolowski review the budget for the Board. Ms. Wesolowski responded that the money will be used to prepare a room that will support the technology and the salaries for a full time and part time case manager. They will be utilizing the technology to determine what benefits are available to the homeless and for application process. This will then assist in finding a better quality of life

Buffalo Urban Renewal Agency
October 22, 2008

along with housing for the homeless. The monies will also be used to upgrade the electricity and cover utility costs for the building.

Council President Franczyk made the motion to approve the item contingent on certification of funds by the Agency's Office of Administration and Finance and Agency Counsel approval of all Agreements; seconded by Andrew Eszak and carried unanimously.

Presentation by Kathleen Lynch from the Western New York Law Center

Ms. Lynch presented a brief overview of the foreclosure issues that Buffalo, as well the rest of Western New York is dealing with. A PowerPoint presentation was presented to the Board that provided additional information, facts, figures and data.

There being no further business to discuss, Alisa Lukasiewicz made a motion to adjourn the meeting; seconded by Council Member LoCurto and carried unanimously.

The meeting was adjourned at 11:14 a.m.

The next regularly scheduled meeting will be held at **9:30 a.m., November 6, 2008**, in Room 209 City Hall, Buffalo, New York.

Respectfully submitted,

Scott C. Billman
Secretary

Reported by:
Tracy A. Lasker