

REDEVELOPMENT AGENCY BOARD

MINUTES

FEBRUARY 24, 2009

PETE CONSTANT
ASH KALRA
SAM T. LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3 CHUCK REED – CHAIR
DISTRICT 4
DISTRICT 5

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Call to Order and Roll Call

4:00 p.m. - Regular Session, Council Chambers, City Hall

Absent: Chirco.

- Open Forum
- Closed Session Report
- Orders of the Day

The Orders of the Day were approved. (10-0-1)

1 CEREMONIAL ITEMS

None

2 CONSENT CALENDAR

2.1 Approval of Board Meeting Minutes.

Recommendation: Approval of Redevelopment Agency Minutes for:

- (a) Regular meeting of January 27, 2009.

Documents Filed: Regular minutes of January 27, 2009.

Action: The Redevelopment Agency minutes of January 27, 2009, were approved. (9-0-2) Absent: Constant, Chirco.

2.2 Report of the Rules and Open Government Committee – January 28, 2009.

Chair Reed, Chairperson

- (a) Review February 3, 2009, Final Agenda: Meeting cancelled.
(b) Review February 10, 2009, Draft Agenda.
(c) Assign “Time Certain” for convening Redevelopment Agency Agenda.

Documents Filed: Report of the Rules and Open Government Committee of January 28, 2009.

Action: The Rules and Open Government Committee report and actions of January 28, 2009, were approved. (9-0-2) Absent: Constant, Chirco.

2 CONSENT CALENDAR

2.3 Report of the Rules and Open Government Committee – February 4, 2009. Chair Reed, Chairperson

4.1 Review February 10, 2009, Final Agenda.

4.2 Review February 17, 2009, Draft Agenda: Meeting cancelled.

10.4 Required Disclosure of Property Interests: Property Disclosure within the San Antonio Plaza Redevelopment Project Area by Mark DeCastro, Senior Deputy City Attorney.

Documents Filed: Report of the Rules and Open Government Committee of February 4, 2009.

Action: The Rules and Open Government Committee report and actions of February 4, 2009, were approved. (9-0-2) Absent: Constant, Chirco.

3 GENERAL

None

4 NEIGHBORHOOD IMPROVEMENT STRATEGIES

None

5 HOUSING

None

6 PUBLIC FACILITIES AND SPACES

None

7 PRIVATE DEVELOPMENT

7.1 Owner Participation Agreement with Black Sea Gallery Development, LLC, related to the building at 27 South First Street.

Recommendation: Adoption of a resolution authorizing the Executive Director to negotiate and execute an Owner Participation Agreement with Black Sea Gallery Development, LLC, to facilitate the occupancy of a Ross Dress For Less at 27 South First Street, and such other documents as necessary to facilitate the transaction. CEQA: Resolution No. 72767, Use of San Jose Downtown Strategy 2000 FEIR, File No. PP09-025. **[PUEBLO UNO]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated February 12, 2009, recommending adoption of a resolution authorizing the Executive Director to negotiate and execute an Owner Participation Agreement with Black Sea Gallery Development, LLC.

Action: Agency Resolution No. 5884 adopted. (9-0-2) Absent: Constant, Chirco.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

No Redevelopment-related actions were discussed on the City Council agenda today.

The City Council convened at 4:04 p.m. to consider Items 8.1 – 8.4 in a Joint Session.

8.1 Actions related to an Amended and Restated Disposition and Development Agreement with Block 3 Development Partners, LLC, for the development of Block 3.

Recommendation: Public Hearing followed by City Council and Redevelopment Agency actions:

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the development of Block 3, including additional Agency assistance for improvements to the ground floor commercial space and the public garage of Block 3, Phase I – The 88.

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.1 (b) Approval by the Redevelopment Agency Board of the Amended and Restated Disposition and Development Agreement with Block 3 Development Partners, LLC, for the development of Block 3 (Phase I - The 88 and Phase II) to increase Agency assistance to the Phase I project by \$1,850,000 to attract a new grocery store and an additional \$841,075 to address payment of other items arising out of the DDA for a total increase of \$2,691,075; to revise the project description; and to modify the schedule of performance.
- (c) Adoption of resolutions by the Redevelopment Agency Board:
- (1) Authorizing the Executive Director to negotiate and execute an Agreement with Block 3 Development Partners to define procedures and protocols to correct water infiltration issues in the Central Place public parking garage after garage conveyance to the Agency; and,
 - (2) Approving an adjustment to the FY 2008-09 Adopted Capital Budget to reallocate \$160,000 from the Downtown Business Improvements & Loan project line to the Downtown Mixed Use Projects line in the Merged Redevelopment Area, and amending the FY 2008-2009 Agency appropriations resolution.

CEQA: Resolution No. 71039.1, Use of Mixed Use Project and Century Center Plan Amendment EIR and addenda thereto, File No. H04-038. [SAN ANTONIO PLAZA]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated February 10, 2009, recommending a public hearing and a) adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the development of Block 3; b) approval by the Redevelopment Agency Board of the Amended and Restated Disposition and Development Agreement with Block 3 Development Partners, LLC, for the development of Block 3 (Phase I - The 88 and Phase II); c) adoption of resolutions by the Redevelopment Agency Board: authorizing the Executive Director to negotiate and execute an Agreement with Block 3 Development Partners and approving an adjustment to the FY 2008-09 Adopted Capital Budget to reallocate \$160,000 from the Downtown Business Improvements & Loan project line to the Downtown Mixed Use Projects line in the Merged Redevelopment Area, and amending the FY 2008-2009 Agency

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.1 appropriations resolution. Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated February 24, 2009, recommending adoption of a resolution by the Redevelopment Agency Board: authorizing the Executive Director to execute the Amended and Restated Disposition and Development Agreement with Block 3 Development Partners, LLC.

Action: Council Resolution No. 74805 adopted. Agency Resolution No. 5885, No. 5886 and No. 5890 adopted. (9-0-2) Absent: Constant, Chirco.

- 8.2 **Approval of a Cooperation Agreement between the City and Agency and related actions for a proposed Spartan Keyes Neighborhood Action Center.**

Recommendations:

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of construction of improvements for the proposed Spartan Keyes Neighborhood Action Center, which will be located in space proposed to be subleased for that purpose in the Spartan Keyes SNI area.
- (b) City Council and Redevelopment Agency Board approval of a Cooperation Agreement providing for:
- (1) The Agency to fund the initial security deposit of \$5,000 of the proposed sublease for the Center;
 - (2) The Agency to fund rent payments for the 5-year term of the proposed sublease for the Center in an amount not to exceed \$136,961;
 - (3) The Agency to fund certain tenant improvements and fixtures, furniture and equipment (FF&E) for the proposed Center in an amount not to exceed \$80,000; and,
 - (4) The City to maintain and operate the Spartan Keyes Neighborhood Action Center pursuant to the proposed sublease.
- (c) City Council approval of a five-year sublease agreement with ROEM Development Corporation for 2,256 square feet of commercial space on the ground floor of a building located at 570 Keyes Street, at a rental rate of \$2,256 per month for nine months of the first year of the sublease with the first three months free and annual increases of 3% for a total amount not to exceed \$136,961 for the five-year sublease period.

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.2 (d) Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute any further ancillary agreements, sublease amendments or other documents necessary to complete the transaction.
- (e) Adoption by the City Council of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund in the amount of \$105,304 for FY 2008-2009:
- (1) Increase the appropriation to the Department of Public Works for Non-Personal/Equipment by \$25,304;
 - (2) Establish a City-Wide appropriation to the General Services Department for the Spartan Keyes Neighborhood Action Center Tenant Improvements in the amount of \$80,000; and,
 - (3) Increase the estimate for Earned Revenue by \$105,304.

CEQA: Mitigated Negative Declaration and Addenda Thereto, File No. PD04-065.
[SPARTAN KEYES SNI]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated February 12, 2009, recommending a) adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of construction of improvements for the proposed Spartan Keyes Neighborhood Action Center; b) City Council and Redevelopment Agency Board approval of a Cooperation Agreement; c) City Council approval of a five-year sublease agreement with ROEM Development Corporation for 2,256 square feet of commercial space on the ground floor of a building located at 570 Keyes Street; d) adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute any further ancillary agreements, sublease amendments or other documents necessary to complete the transaction; and e) adoption by the City Council of an Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund in the amount of \$105,304 for FY 2008-2009: (1) Increase the appropriation to the Department of Public Works for Non-Personal/Equipment by \$25,304; (2) Establish a City-Wide appropriation to the General Services Department for the Spartan Keyes Neighborhood Action Center Tenant Improvements in the amount of \$80,000; and (3) Increase the estimate for Earned Revenue by \$105,304.

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.2 Public Comments: Rita Torres spoke in support of the proposed Spartan Keyes Neighborhood Action Center.

Action: Council Resolution No. 74806 adopted. The City Council and Redevelopment Agency Board approved the Cooperation Agreement. The City Council approved a five-year sublease agreement with ROEM Development Corporation for 2,256 square feet of commercial space on the ground floor of a building located at 570 Keyes Street. Council Resolution No. 74807 adopted. Ordinance No. 28477 adopted. Council Resolution No. 74808 adopted. (10-0-1)
Absent: Chirco.

- 8.4 **Approval of an Amended and Restated DDA with Green Valley Corporation for development of property on the northwest corner of N. Second St. and E. Saint James St.**

Recommendations:

- (a) Adoption of a resolution by the City Council accepting the 33433 Summary Report and Re-Use Valuation pursuant to the California Health and Safety Code Section 33433 for the sale and development of Agency-owned property on the northwest corner of North Second Street and East Saint James Street (APN 467-01-118).
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the Amended and Restated Disposition and Development Agreement (DDA) with Green Valley Corporation and authorizing the Executive Director to execute ancillary documents as contemplated by the Amended DDA to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

CEQA: Administrative EIR Findings For Final Supplemental Environmental Impact Report for Park View Towers Project Adopted by Director of PBCE on 6/4/08 in connection with File Nos. H05-029, HP05-002 and HP05-003.

[MERGED]

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.4 Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated February 12, 2009, recommending a) adoption of a resolution by the City Council accepting the 33433 Summary Report and Re-Use Valuation pursuant to the California Health and Safety Code Section 33433 for the sale and development of Agency-owned property on the northwest corner of North Second Street and East Saint James Street; b) adoption of a resolution by the Redevelopment Agency Board approving the Amended and Restated Disposition and Development Agreement with Green Valley Corporation and authorizing the Executive Director to execute ancillary documents as contemplated by the Amended DDA to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

Public Comments: Bob Carlson spoke in support of the proposed DDA.

Action: Council Resolution No. 74809 adopted. Agency Resolution No. 5887 adopted. (10-0-1) Absent: Chirco.

The City Council and Redevelopment Agency Board recessed at 4:14 p.m.

The City Council and Redevelopment Agency Board reconvened at 7:32 p.m. to consider Item 8.3 in a Joint Session.

Absent: Chirco (excused)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

8.3 Approval of a Building Rehabilitation and Loan Agreement with Urban Markets, LLC, for improvements related to the San Pedro Square Urban Market.

Recommendations: It is recommended that:

- (a) The Redevelopment Agency Board adopt a resolution approving a Building Rehabilitation and Loan Agreement with Urban Markets, LLC (Developer), in an amount not to exceed \$5,000,000 for private improvements and \$1,000,000 for off-site public improvements related to the San Pedro Square Urban Market generally located in the vicinity of 87 North San Pedro and 196 West Saint John Street and authorize the Executive Director to negotiate and execute all documents necessary to implement the transaction described in the Agreement.
- (b) The Agency Board adopt a resolution approving a shift of \$4,000,000 from the adopted FY 2009-2010 Two-Year Spending Plan to the FY 2008-2009 Adopted Capital Budget for the San Pedro Square Urban Market project line in the Merged Redevelopment Area, and amending the FY 2008-2009 Agency appropriations resolution.
- (c) The City Council direct the City Attorney and City Administration to draft appropriate ordinances and/or documents for Phase 1 of the Project to allow:
 - (1) Revocable license to use City streets and rights of way for kiosks and carts for the Project;
 - (2) Master vendor permit for multiple vendor sites within the Project;
 - (3) Renaming of the Market Street Garage to reflect the new project; and,
 - (4) Joint use of the Peralta Adobe and Fallon House properties by History San Jose and Developer.
- (d) Direction by the Agency Board and City Council to staff to discuss with the Developer the alternatives for the future acquisition and/or use of the parking lot located directly west of the Fallon House (West Parking Lot) and the property referred to as the North Garage Space.

CEQA: Resolution No. 72767, Downtown Strategy 2000 Final EIR, File No. PP09-024. [SNI]

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.3 Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated February 10, 2009, recommending: a) adoption of a resolution by the Redevelopment Agency Board approving a Building Rehabilitation and Loan Agreement with Urban Markets, LLC for private improvements and off-site public improvements related to the San Pedro Square Urban Market; b) adoption of a resolution by the Redevelopment Agency Board approving a shift of \$4,000,000 from the adopted FY 2009-2010 Two-Year Spending Plan to the FY 2008-2009 Adopted Capital Budget for the San Pedro Square Urban Market project line in the Merged Redevelopment Area, and amending the FY 2008-2009 Agency appropriations resolution; c) The City Council direct the City Attorney and City Administration to draft appropriate ordinances and/or documents for Phase 1 of the Project to allow: (1) Revocable license to use City streets and rights of way for kiosks and carts for the Project; (2) Master vendor permit for multiple vendor sites within the Project; (3) Renaming of the Market Street Garage to reflect the new project; and, (4) Joint use of the Peralta Adobe and Fallon House properties by History San Jose and Developer; d) the Agency Board and City Council provide direction to staff to discuss with the Developer the alternatives for the future acquisition and/or use of the parking lot located directly west of the Fallon House and the property referred to as the North Garage Space. Memorandum from Councilmembers Rose Herrera, Sam Liccardo and Nancy Pyle, dated February 20, 2009, recommending approval of the staff recommendations on the Building Rehabilitation and Loan Agreement with Urban Markets, LLC, for improvements related to the San Pedro Square Urban Market.

Public Comments: Anthony Martino, Joshua DeVincenzi Melander, Frank Penrose, Paul Higgins, Veronica Roberson, Scott Knies and Steve Borkenhagen spoke in support of the proposed agreement. Bell Delte spoke in opposition to the proposed agreement.

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

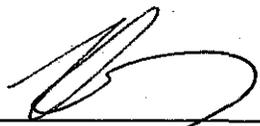
(Cont'd)

8.3 Action: Agency Resolution No. 5888 and No. 5889 adopted. City Attorney/City Administration were directed to return to the Council with appropriate actions and Agency and City staff were directed to discuss alternatives with the Developer. City Attorney was directed to provide a memorandum to the Council outlining the City Attorney's determination that no Brown Act violation occurred in the 2008 discussions on this subject. (10-0-1) Absent: Chirco.

- **Adjournment**

The Redevelopment Agency Board adjourned at 8:23 p.m.

ATTEST:



HARRY S. MAVROGENES, SECRETARY