

TO: Gene Eriquez and Members of the Common Council

RE: Minutes of the Special Meeting held April 4, 2001

The meeting was called to order at 7:00 P.M. The Pledge of Allegiance and Prayer were recited. The members were recorded as:

PRESENT – Levy, Scalzo, McAllister, Smith, Saadi, Buzaid, Dean Esposito, Machado, Shuler, David Furtado, Arconti, John Esposito, Abrantes, Basso, Manny Furtado, Gallagher, Gogliettino, Michael Moore, Martin Moore, Saracino

19 Present – 2 Absent

Mr. Pascuzzi had a previous commitment and Martin Moore was working

NOTICE OF THE SPECIAL MEETING – There will be a Special Meeting of the Common Council of the City of Danbury in the Common Council Chambers in City Hall to act upon the items listed below. Mr. Levy made a motion to accept the call and return of service. Seconded by Mr. Gogliettino. Motion carried unanimously.

No members of the public came forward during the public speaking session.

1 – COMMUNICATON – Contract of Sale and Transfer of Ice Rink Property to DSR Holdings, Inc. a wholly owned subsidiary of Triarc Companies, Inc.

Mr. Arconti made a motion to approve the Contract of Sale and transfer of Ice Rink Property to DSR Holdings, Inc. Seconded by Ms. Abrantes. Mr. Arconti asked the Corporation Counsel for highlights of the contract. Attorney Casagrande did so.

Mr. McAllister made a motion to go into Executive Session to discuss the contract. Seconded by Mr. Saadi. Mayor Eriquez refused to recognize the second. He said Executive Session is unnecessary. Mr. McAllister stated that under FOI the Common Council has the authority to enter into Executive Session. Mayor Eriquez refused. Discussion continued with Common Council Members asking questions regarding the skywalk, imminent domain, etc.

Mr. Gogliettino moved the question. Seconded by Mrs. Saracino. The motion failed to carry with the members voting as follows:

Yes – Buzaid, Machado, Shuler, Abrantes, Manny Furtado, Gallagher, Gogliettino, Saracino

No – Levy, Scalzo, McAllister, Smith, Saadi, Dean Esposito, David Furtado, Arconti, John Esposito, Basso, Michael Moore

8 Yes – 11 No

Mr. Arconti moved to amend his original motion, to include adoption of a Resolution distributed by Mr. Casagrande. Seconded by Mrs. Abrantes. Motion carried unanimously.

WHEREAS, in furtherance of the objectives of Chapter 130 of the Connecticut General Statutes, the Redevelopment Agency of the City of Danbury (“Agency”), has undertaken a program for the clearance, reconstruction and/or rehabilitation of a deteriorated area in the City of Danbury, Connecticut, and in this connection is engaged in carrying out a downtown redevelopment project (hereinafter called “Project”) in a 7.7 acre area (hereinafter called “Project Area”) located in the center of the City; and

WHEREAS, the Agency has prepared and approved an urban renewal plan for the Project, entitled “Downtown Danbury Redevelopment Plan” dated August 1, 1990 as amended (hereafter called the “Redevelopment Plan”); and

WHEREAS, the Redevelopment Plan has identified certain parcels of land in the Project Area for sale and redevelopment as hereinafter set forth; and

WHEREAS, Parcels 5 and 5A in the Project Area are shown and described on a certain map entitled, “Perimeter Survey Showing Properties of City of Danbury and Redevelopment Agency of the City of Danbury to be Conveyed to “Arc Danbury, Inc.’

Patriot Drive, Liberty Street, Delay Street and Independence Way Scale: 1" = 20' Area: 1.6957 Acres (Total) Zone: C-CBD Date: November 10, 1997 Prepared by Surveying Associates, P.C." (the "Map") which map is to be filed in the Office of the Town Clerk of the City of Danbury; and

WHEREAS, on or about April 22, 1998 the City transferred Parcels 5 and 5A (hereafter referred to as the "Property") to ARC Danbury, Inc. ("ARC") pursuant to a Contract for Sale of Land for Private Redevelopment dated on or about November 10, 1997 (the "Contract");

WHEREAS, the Contract called for ARC to construct a twin-ice rink facility on the Property (the "Ice Rink Facility");

WHEREAS, on June 6, 2000, the Agency declared a reverter of all of ARC's right, title and interest in and to the Property for ARC's material breaches of the Contract, including ARC's failure to complete the Facility within the Contract's deadlines;

WHEREAS, the Contract calls for the City to use its best efforts to resell the Property;

WHEREAS, the Common Council and Agency have determined that it is in the City's best interest to complete the Facility and sell the completed Facility and Property to a qualified purchaser;

WHEREAS, the Common Council and Agency have determined that it is in the City's best interest to complete the Facility and sell the completed Facility and Property to a qualified purchaser;

WHEREAS, the City has expended substantial time and effort in completing the Facility and in attracting qualified purchasers, including but not limited to the issuance in December 2000 of a Request for Proposals which was advertised in local, regional and national newspapers;

WHEREAS, DSR Holdings, Inc. (the "Purchaser"), a wholly owned subsidiary of Triarc Companies, Inc. is desirous of purchasing the Property and the Facility from the City and Agency;

WHEREAS, the Mayor, the Corporation Counsel and the Director of Finance have negotiated a proposed Contract of Sale of the Facility to the Purchaser for a price of five million, five hundred thousand dollars (\$5,500,000.00) ("Contract of Sale");

WHEREAS, the Common Council finds that the sale of the Property and the Facility to the Purchaser, in accordance with the terms and conditions of the Contract of Sale is in the best interests of the City of Danbury;

WHEREAS, at a special meeting on April 4, 2001, the Agency approved the Contract of Sale and the transfer of the Property and Facility to the Purchaser, which approval was made conditional on approval by the Common Council;

WHEREAS, at a special meeting on April 4, 2001, the Planning Commission of the City of Danbury voted a positive recommendation on the proposed transfer of the Property and Facility to the Purchaser pursuant to 8-24 of the Connecticut General Statutes;

NOW, THEREFORE, BE IT RESOLVED:

1. The Common Council hereby approves the Contract of Sale and the transfer of the Facility and Property (the description of which will be finalized upon completion of an as-built survey), to the Purchaser pursuant to the terms and conditions of the Contract of Sale.

2. Pursuant to 2-133 of the Code of Ordinances, the Common Council hereby declares the Property as surplus property and authorizes its sale to the Purchaser as in the best interests of the City.

3. The Mayor is authorized and directed to execute the Contract of Sale and all other documents necessary to effectuate the transfer of the Property and Facility to the Purchaser in accordance with the terms of the Contract of Sale.

4. The Corporation Counsel is authorized and directed to make such minor revisions to the Contract of Sale prior to execution by the Mayor, as the Corporation Counsel deems necessary and in the best interests of the City.

The main motion, as amended, carried unanimously.

2 – COMMUNICATION – Approval of Agreement between GMAC Commercial Credit and City of Danbury – Release of Mortgage on Ice Rink Property

Request from Assistant Corporation Counsel Dan Casagrande requesting the approval of an agreement between GMAC Commercial Credit and City of Danbury regarding the Release of Mortgage on the ice rink property. GMAC has agreed to release the lien of its mortgage on the property provided that it receives \$3.875 million from the proceeds of the sale.

Mr. Levy made a motion to receive the communication and approve the agreement and its recommendations. Seconded by Mrs. Basso. Motion carried unanimously.

3 – COMMUNICATION – Indemnity Agreement with Title Insurance Company
Re: Title Insurance Policy for Ice Rink Property

Request from Assistant Corporation Counsel Daniel E. Casagrande for approval of an indemnity agreement holding the company harmless from any claims against it arising out of the presence of the mechanic's liens that currently exist on the property.

Mr. Gogliettino made a motion to receive the communication and approve the indemnity agreement. Seconded by Mrs. Abrantes. Motion carried with Mr. McAllister voting in the negative.

4 – RESOLUTION – Indemnity Agreement with Travelers re: Bonding
of Mechanic's Liens on Ice Rink Property

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury is materially interested in the issuance of Bonds to discharge certain mechanic liens that have been filed on the premises known as the Ice Skating Rink located at One Independence Way, Danbury, Connecticut recorded in the Land Records of the Town of Danbury in the name of ARC IceSports Danbury, Inc., f/k/a ARC Danbury, Inc. in Volume 1214, Page 1003.

WHEREAS, the City of Danbury has applied to the Travelers Casualty And Surety Company of America, Hartford, Connecticut for a surety bond or bonds to discharge the liens filed on the above mentioned location.

WHEREAS, the Travelers has executed or is willing to execute such bond or bonds upon being furnished with the written indemnity of the City.

THEREFORE BE IT RESOLVED, that Gene F. Eriquez, Mayor of the City of Danbury is authorized to execute on behalf of the City an Indemnity Agreement as required by Travelers as consideration for the execution by Travelers of such surety bond.

Mr. Levy made a motion to receive the communication and adopt the Resolution. Seconded by Mr. Scalzo. Motion carried with Mr. McAllister voting in the negative.

5 – COMMUNICATION – Appropriation of Proceeds from Sale of Ice Rink Property

Request from Director of Finance Dominic Setaro that of the \$5.5 million sale price, \$4,271,827 be appropriated. The balance of \$1,228,173 will be returned to the City's Fund Balance and current year revenue from which those funds were initially used to complete the ice rink. A breakdown of this appropriation was attached.

Mr. Levy made a motion to receive the communication and authorize the appropriation of the proceeds from the sale of the ice rink and interest as described. Seconded by Dean Esposito. Motion carried unanimously.

6 – COMMUNICATION – Reappropriation of Insurance Proceeds

Letter from Director of Finance Dominic Setaro requesting authorization of the reappropriation of \$50,367 to a new Capital line item entitled "Airport Tie Down Area" from damages paid as a result of Hurricane Floyd.

Mrs. Abrantes made a motion to receive the communication and reappropriate the funds. Seconded by Manny Furtado. Motion carried unanimously.

7 – RESOLUTION – AIDS Prevention Program (Amended)

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Public Health Services, through its AIDS Prevention Program, has made grant funds available to full-time health departments to provide HIV health education information and expanded services for a period of July 1, 2000 through June 30, 2002; and

WHEREAS, the State of Connecticut Department of Public Health Services has increased the total amount of grant funds available pursuant to this program; and

WHEREAS, grant funds are now available in an amount not to exceed \$504,825.00 requiring no local match, will be made available to the Danbury Health and Housing Department for its AIDs Risk Reduction Outreach Education Program, HIV Counseling and Testing Services, its Needle Exchange Program and its Ryan White Title II Case Management Program, upon approval of a grant application therefore; and

WHEREAS, the Danbury Health and Housing Department will provide these services to the general public with particular attention given to individuals concerned about possible exposure to HIV, serving both residents and non-residents with no restrictions on who may be served.

NOW, THEREFORE, BE IT RESOLVED THAT Gene F. Eriquez is hereby authorized to make, execute and approve on behalf of the City of Danbury all contracts/agreements or amendments thereof, which do not require expenditure of City funds, with the State of Connecticut Department of Public Health Services regarding said grant and to take all actions necessary to accomplish the purposes of these programs.

Mr. Arconti made a motion to receive the communication and adopt the amended Resolution. Seconded by Mrs. Abrantes. Motion carried with Mrs. Basso voting in the negative.

Mayor Eriquez extended all committees.

There being no further business to come before the Common Council a motion to adjourn was made by Mr. Gogliettino at 8:45 P.M. for the meeting to be adjourned.

Respectfully submitted,

JIMMETTA L. SAMAHA
Assistant City Clerk