

To: Mayor Joseph H. Sauer and Members of the Common Council.

Re: Minutes of the Special Common Council Meeting held on February 22, 1989

The meeting was called to order at 8:05 P.M. by Mayor Joseph H. Sauer who led the assembly in the Pledge of Allegiance. The Prayer was offered by Councilman John Esposito.

The following members were recorded as present: Bourne, Connell Gallo, Moran, Renz, Esposito, Farah, Flanagan, Zotos, Cresci, Nimmons, Fazi Cassano, Charles, Bundy, Danise, DaSilva, Eriquez, Regan. Absent - Shaw, Butera. 19 Members Present - 2 Members Absent.

Mr. Shaw was out of town on business.
Mrs. Butera was ill.

NOTICE OF THE SPECIAL MEETING - To be held on the 21st day of February, 1989 at 8:00 P.M. in the Common Council Chambers in City Hall, for the purpose of acting upon the following:

1. REPORT - Acceptance of Landfill Material by the Department of Public Works.
2. REPORT - Downtown Redevelopment Project.

Mr. Connell made a motion that the call be accepted. Seconded by Mr. Moran. Motion carried unanimously.

1 - REPORT - Acceptance of Landfill Material by the Department of Public Works.

Mrs. Danise submitted the following report:

The Common Council Committee appointed to review the request to review acceptance of landfill material by the Department of Public Works met on February 14, 1989 at 7:30 P.M. in Room 432 in City Hall. In attendance were Committee Members Danise and Cresci. Also attending were Director of Public Works Dan Minahan and Solid Waste Manager Michael Cech as well as Council Members Roger Bundy and Barry Connell, ex-officio.

Mr. Cech submitted a procedure for evaluating the quality of cover material that is donated to the City. After some discussion, Mr. Cresci made a motion that Director of Public Works Daniel Minahan be given the authority to accept fill and/or soil to be used at the City landfill in accordance with the quality control checklist attached hereto. Seconded by Mrs. Danise. Motion carried unanimously.

Mr. Charles made a motion that the report be accepted. Seconded by Mr. Moran.

Mr. Flanagan asked the Corporation Counsel if this proposal was in anyway similar to the two proposals acted on previously by the Common Council. Mr. Gottschalk replied that they were similar and that there is always risk when Department Heads are authorized to accept gifts.

Mr. Charles moved to suspend the rules to allow Mr. Minahan to speak. Seconded by Mr. Connell. Motion carried unanimously.

Mr. Charles asked Mr. Minahan to explain the procedure regarding acceptance of donations. Mr. Minahan explained in detail. Mrs. Bourne asked how long it would take to complete the checklist. Mr. Minahan stated that it could take from 1 to 3 days. Mrs. Danise stated that the checklist to be used is very comprehensive and the Council will get a report on each donation.

Mayor Sauer stated that there is no one more competent to decide what is acceptable than Mr. Minahan and that the Council should extend faith and credibility to the Department Heads. Mr. Cresci stated that he agreed with the Mayor.

Mr. Charles made a motion to move the question. Seconded by Mr. Moran. Motion carried unanimously.

Motion carried with 15 affirmative 4 negative, as follows:

Yes - Connell, Gallo, Moran, Esposito, Farah, Zotos, Cresci, Nimmons, Cassano, Charles, Bundy, Butera, Danise, DaSilva, Eriquez, Regan.

No - Bourne, Renz, Flanagan, Fazio.

2 - REPORT - Downtown Redevelopment Project.

Mr. Bundy submitted the following report:

The Common Council Committee appointed to review the Downtown Redevelopment Project met on Tuesday, February 14, 1989 at 8:00 P.M. in Room 432 in City Hall. In attendance were committee Members Bundy, Connell, Renz, Flanagan and DaSilva. Also in attendance were Robert T. Resha, Esq., Comptroller Dominic Setaro, Scott Ziegler and Robert Murano of Errichetti Associates, Attorney Ward Mazzucco and Council Members Art Cresci, Mary Ann Danise and Bernard Gallo, ex-officio.

Mr. Bundy distributed a letter addressed to him from Mr. Setaro dated February 7, 1989. In addition to the letter there was a letter from the Bank of Boston to Mr. John Errichetti outlining general collateral requirements for a Letter of Credit. A vigorous discussion ensued concerning collateral requirements for a Letter of Credit as described in the Master Agreement of the Downtown Redevelopment Project. After considerable dialogue, it was determined that Mr. Errichetti has yet to apply for a Letter of Credit nor does he plan to in the future. Mr. Ziegler and Mr. Mazzucco made it quite clear that the Bond offered to the Redevelopment Agency by Mr. Errichetti would be the only form of security made available regarding this project. This Bond (in order to be accepted) necessitates a change in the Master Agreement which must be approved by the Common Council.

Mr. Renz made the following motion:

The committee recommends that the Common Council look at the proposed bond presented by Errichetti Associates to the Redevelopment Agency, as it meets the approval of the Corporation Counsel in that the bond meets the objective and, amend the Master Agreement in order to accept this bond at a Special Meeting of the Common Council to be convened as soon as possible. Motion seconded by Mr. DaSilva and carried with a vote of three to two with Messrs. Renz, DaSilva and Flanagan voting in the affirmative and Messrs. Bundy and Connell voting in the negative.

Mr. Gallo made a motion that the report be accepted and the change be granted. Seconded by Mrs. Danise.

Mr. Bundy read a prepared statement.

Mr. Farah gave some background about the project and offered an amendment whereby the bond must be produced within 2-3 weeks and the purchase agreement shall be signed within 2 weeks after that. If this does not happen, then Mr. Errichetti will be in default and the City will take him to Court.

Mayor Sauer stated that the Phase I Agreement has time constraints and that after the agreement is signed there shall be 18 months to completion. He stated that he had, today, received a letter from Attorney Neil Marcus stating that the agreement should be signed the first week in March. Mr. Resha stated that this is a bi-lateral agreement and that the Council could attach the amendment but the developer would have to agree as well. The Common Council has the ability to say what it will accept in whatever period of time. Mr. Farah asked Mr. Resha if his amendment was in order. Mr. Resha stated that it was.

Mr. Renz seconded Mr. Farah's motion regarding the amendment. He also read a statement from Council Member William Shaw stating that Mr. Shaw would vote in the affirmative if he was able to be present.

Mrs. Bourne made a motion to suspend the rules to allow Attorney Neil Marcus to address the Common Council. Seconded by Mr. Charles. Motion carried unanimously.

Mr. Marcus stated that due to the shortness of time, could the date in the amendment be March 15th. Mr. Farah agreed to this. The amendment was restated as follows:

That approval be contingent upon executing the phase I agreement on or before March 15, 1989.

Mr. Nimmons asked Mr. Sullivan to comment on the paragraph in Forest Palmer's letter regarding the housing committee. Mr. Sullivan stated that the RDA would certainly meet with this group.

Mr. Nimmons asked Mrs. Clarice Osiecki to comment. Mrs. Osiecki spoke regarding the Housing Partnership Act by which they are charged with finding solutions to the housing problem for all groups of people.

Mrs. Bourne asked if Mr. Errichetti does not meet the March 15th deadline, then what would happen. Mayor Sauer stated that the Common Council could then withdraw its approval.

Mr. DaSilva directed two questions to the Corporation Counsel regarding arbitration. Mr. Gottschalk explained what could happen in detail.

Mrs. Danise stated that this project was inherited by this Council. She stated that the developer now has bonding from a reliable company and the City has nothing to lose by granting this amendment at this time.

Mr. Bundy asked if Mr. Farah's amendment would constitute changing the agreement. Mr. Resha stated that the question of change does not correlate with breach and that neither party can unilaterally amend. Mr. Bundy asked if we are requesting the change. Mr. Resha replied that we were not.

Mr. Nimmons asked what part the "contaminated" soil had to do with the amendment. Mr. Resha stated that this was not contemplated by the agreement.

Mr. Flanagan made a motion to move the question. Seconded by Mr. Cresci. Motion carried unanimously.

The members were recorded as voting as follows: (Vote is on the amendment to the main motion)

Yes - Gallo, Renz, Esposito, Farah, Nimmons, Cassano, Charles, Danise, DaSilva.

No - Bourne, Connell, Moran, Flanagan, Cresci, Fazio, Bundy, Eriquez, Regan.

Abstention - Zotos.

9 Yes - 9 No - 1 abstention. Mayor Sauer cast the tie-breaking vote in the affirmative. Motion carried.

Mr. Flanagan explained his committee vote and gave a statement regarding his feelings on the project.

Mr. Gallo made a motion to move the question. Seconded by Mr. Eriquez. Motion carried unanimously. The question before the Council is the main motion, as amended, which states: To accept the committee report, contingent upon the execution of the Phase I Agreement on or before March 15, 1989.

The members were recorded as voting as follows: (Vote is on main motion as amended).

Yes - Gallo, Renz, Esposito, Farah, Nimmons, Cassano, Charles, Danise, DaSilva.

No - Bourne, Connell, Moran, Flanagan, Cresci, Fazio, Bundy, Eriquez, Regan.

Abstention - Zotos.

9 Yes - 9 No - 1 Abstention.

Mayor Sauer cast the tie-breaking vote in the affirmative. Main Motion, as amended, carried.

Mr. Sauer gave a statement as to his feelings about the project, but that in the best interest of the City, he felt he must vote in the affirmative.

Mrs. Bourne asked if this question could ever come before the Common Council in the future. Mr. Resha stated that it should not.

Mayor Sauer offered condolences on behalf of the Common Council to Councilman Cresci on the death of his grandfather who passed away today at the age of 96 and to Assistant Corporation Counsel George Sakallares on the death of his father.

Public Speaking Session

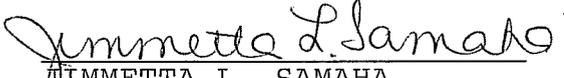
Dave Coelho - Disappointed in vote. Developer better comply with the March 15th deadline.

Dr. Fand - bond has to be presented before Phase I Agreement is signed.

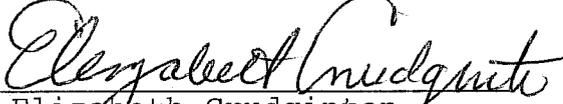
Jack Sullivan - Thank the Common Council and the Mayor for the vote. Appreciates the time and concern put into this issue and the RDA will do everything in its power to insure that Mr. Errichetti complies with the deadline.

There being no further business to come before the Common Council a motion was made by Mr. Moran for the meeting to be adjourned at 9:55 P.M.

Respectfully submitted,


JIMMETTA L. SAMAHA
Assistant City Clerk

ATTEST:


Elizabeth Crudginton
City Clerk