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Minutes of the **Meeting of the Board of Directors of the Redevelopment Agency of Riverdale City** held Tuesday, **April 16, 2013** at 8:45 p.m. at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Bruce Burrows, Chairman  
Don Hunt  
Norm Searle  
Braden Mitchell  
Michael Staten  
Alan Arnold

Others Present: Larry Hansen, Executive Director, Michael Eggett, RDA Deputy Executive Director, Ember Herrick, City Recorder and no members of the public.

### **Welcome and Roll Call**

Chairman Bruce Burrows called the meeting to order and welcomed all those present including all Board Members.

### **Open Communications**

None.

### **Consent Items**

- 1. Consideration of December 18, 2012 Redevelopment Agency Meeting minutes**
- 2. Consideration of Meeting Schedule for 2013**

Chairman Burrows asked the Board if they had any corrections to the meeting minutes and none were noted.

**Motion:** Mr. Arnold moved to approve the consent items. Mr. Staten seconded the motion.

There was no discussion on the motion.

**Call the Question:** The motion passed unanimously.

### **Reports and Presentations**

- 1. Report on Condition of the Treasury for the months ending December 31, 2012; January 31, 2013; February 28, 2013; and March 31, 2013**
- 2. Report of annual tax increment payments per RDA Agreements with Developers**

Executive Director Larry Hansen said according to the March 2013 Treasury Report there is a surplus in the RDA General Fund and the Riverdale Road Fund also has a healthy balance that

can be used for city image branding and efforts to encourage more traffic to RDA development areas. He said the city's bond balance on the Senior Center is under \$900,000 with all of the 1050 West RDA Area money committed to retiring that bond. He said Riverdale's Senior Center is operating well and will be a nice legacy for the city. Mr. Hansen said the 550 West Project Area where JC Penney's and the storage sheds are located has a balance and that fund not obligated. According to Mr. Hansen, Riverdale's 1050 West Project Area where Target, Best Buy, and Gordmans are located is thriving. He said the city has invested some money into creating the West Bench Project Area which currently shows a deficit and those professional and legal expenses will be reimbursed when Riverdale begins to collect increment payments on this project area. He said there is also money in the RDA fund to incentivize a developer interested in the 550 West Project Area to help relocate the remaining homes on that stub street that are primarily inhabited by renters. Mr. Hansen said there is also a healthy balance in the RDA Housing Fund.

Mr. Hansen said Riverdale is contractually obligated to make annual performance payments which the Board budgeted \$390,000 for in fiscal year 2013 and ended up totaling \$329,000, \$61,000 under budget. Mr. Hansen said as RDA Deputy Executive Director, Michael Eggett will assist him in making these payments this year to help Riverdale's RDA transition smoothly in the future.

Mr. Hansen reviewed detailed summary payments to different entities including payment 21 of 25 to ShopKo and Unity which owns the former Macys building. He said there is no scheduled annual payment to H & P Investments this year which will be discussed further during tonight's meeting. Mr. Hansen said Riverdale's RDA has some land acquisition payment obligations to the Boyer Company for the street connecting Pacific Avenue and Riverdale Road and the RDA also has obligations for \$3.3 million in maximum property tax money rebates associated with the 550 West Project Area. He asked if there were any questions and there were none.

### **Action Items**

#### **1. Discussion and Board direction on matters relating to H & P Investments performance requirements per Agreement for Development of Land (ADL) April 18, 2007 as amended**

Mr. Hansen said Riverdale's history of agreements with H & P Investments were documented in the RDA meeting packet. According to Mr. Hansen, H & P Investments has defaulted on their 2007 Agreement to Develop Land (ADL) performance requirements with Riverdale City and is currently in breach of contract. He said Riverdale City gave H & P Investments 4450 South valued at \$590,000 allowing the developer to connect 900 West to 700 West to help develop "The Crossing" and Riverdale has also amended the ADL on more than one occasion in H & P Investments' favor and at their request. According to Mr. Hansen, the 2007 ADL was designed to benefit both parties and by December 31, 2012 H & P Investments committed to develop "The Crossing" according to the site plan and the townhomes on 4400 South so that the combined total value would be worth \$8 million. Mr. Hansen said Weber County currently assesses the development at \$3.7 million.

Chairman Burrows asked if Buffalo Wild Wings owns their building and Mr. Hansen said the restaurant leases the land from H & P Investments and the building is expected to raise the value of the property by \$300,000 to \$400,000 in 2013. Mr. Hansen said in May 2010 H & P Investments appealed to the RDA Board and was granted forbearance allowing them to

temporarily rent their townhomes until the economy improved agreeing to have them sold and owner occupied by May 31, 2013. Mr. Hansen said it is now just one month before that deadline and Weber County records show all of the townhomes still owned by H & P Investments. According to Mr. Hansen, the RDA Board also amended the ADL in H & P Investments' favor at their request to allow them to build a bank and later anything allowed in a C-3 Zone on their two restaurant pads in 2011 and 2012. He said as of Dec 31 2012 H & P Investments has failed to perform and meet the terms of their ADL obligations and now the RDA Board needs to give them official notice they must meet their obligations or remit payment to Riverdale's RDA for the \$590,000 cost of 4450 South and to reimburse the RDA for the \$21,119 tax increment payments they were advanced.

Chairman Burrows said reviewing the history of agreements it is clear that Riverdale's RDA Board has accommodated almost every request of H & P Investments. He said although the Cutrubus dealerships have made an economic contribution to Riverdale through sales tax over the last 50 years, they should not be held to a different standard than any other developer in default of an agreement with Riverdale's RDA. City Attorney Steve Brooks said the RDA Board is within its legal rights to require this developer meet the terms of their ADL with Riverdale. Mr. Hansen said the RDA signed a similar ADL with the Larry H. Miller Dealership and conveyed a Riverdale City right-of-way to facilitate that development and in exchange Miller fulfilled all of the obligations of their contract with Riverdale.

Mr. Staten said H & P Investment's timing on their project was poor coinciding with the recession. Mr. Searle asked if the \$8 million value H & P Investments agreed to have their development worth by the end of 2012 should have been amended during the recession and Mr. Hansen said that was the only request H & P Investments made to the RDA that the Board refused to grant. Mr. Hansen said H & P Investments is a prosperous company able to fund their own projects without borrowing from commercial lenders and they are deliberate in making financial decisions that benefit their company. Mr. Staten said he is still trying to understand what the role of Riverdale's RDA is in partnering with developers to facilitate RDA area land development and Mr. Hansen said the RDA Board's role is to act in the best interest of Riverdale's 8,500 residents and to enforce agreements where developers have benefited from taxpayer dollars. Mr. Hansen said RDAs allow cities to stimulate growth and development in low performing areas and have allowed Riverdale to create a perpetual housing fund to assist low income individuals and build a Senior Center and housing facility that is a \$5 to \$6 million asset for the city. Chairman Burrows said if a development's property value is not increasing planned increment payments cannot be made. He said if a developer promises something to the RDA and fails to keep its commitments the RDA has legal recourse through binding ADLs with developers.

Mr. Searle said the Board should enforce the agreement on behalf of taxpayers because the developer willingly committed to the RDA that their townhomes would be owner occupied and "The Crossing" would be built out and have an assessed value of \$8 million by the end of 2012. Mr. Brooks said on the advice of land use expert Attorney Jody Burnett Riverdale's RDA negotiated with H & P Investments that their townhomes would be owner occupied as part of the 2007 ADL. Mr. Hunt asked why none of these townhomes are owner occupied and Mr. Hansen said the developer refuses to sell them for less than \$250,000 to \$300,000. Mr. Hunt said the RDA Board needs to be consistent and enforce the terms of their contracts with all developers equally not making special considerations for certain developers. Mr. Hansen said other developers like Boyer and Larry H. Miller have met the terms of their agreements

with Riverdale and have not asked for special concessions like H & P Investments. Mr. Mitchell said H & P Investments is a prosperous developer with successful business ventures that expects the other parties they contract with to meet the terms of their agreements and so should understand they are legally obligated to fulfill their obligations to Riverdale too. Chairman Burrows said over the years the RDA Board has given H & P Investments considerable concessions despite the fact that when Riverdale City or another business in Riverdale has approached H & P Investments with proposals or requests they consistently refuse to negotiate.

Mr. Hansen said the ADL is a legally binding document and staff is recommending notice be sent to H & P Investments to advise them they are in default of their obligations to the RDA. He said if the Board agrees to additional concessions they must be mutually beneficial to both parties. Chairman Burrows asked for the Board's support to authorize the RDA Executive Director, with the advice of Mr. Brook's legal counsel, to prepare a notice to be sent immediately to H & P Investments.

**Motion:** Mr. Arnold moved to have the RDA Board Administration move forward with a notice to H & P Investments regarding their delinquency in meeting performance requirements per Agreement for Development of Land (ADL) April 18, 2007 as amended. Mr. Searle seconded the motion.

There was no discussion on the motion.

**Call the Question:** The motion passed unanimously.

**G. Other Agency Business**

Chairman Burrows asked the Board for any discretionary items and there were none.

**H. Adjournment**

With no further business to come before the Board at this time, Mr. Arnold moved to adjourn the meeting. Mr. Mitchell seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 9:36 p.m.

Approved: May 7, 2013

Attest:

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Bruce Burrows, Chairman

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Larry Hansen, Executive Director