

Economic Development Authority of the City of Portsmouth

January 21, 2020

**6th Floor Conference Room, City Hall
801 Crawford, Portsmouth, VA**

COMMISSIONERS PRESENT:

Neal J. Barber
Bette “Cathy” Drewry
Kyle J. Kovachik – Treasurer
Malcom Mitchell – Vice Chairman
Theresa J. Saunders-Smith
Barbara B. Smith (arrived 8:06)
Ray A. Smith, Sr. – Chairman

ALSO PRESENT:

Robert D. Moore – Secretary
Brian Donahue – Assistant Secretary
Jeff Miller – Deputy City Attorney
Kelsey Swieringa – Assistant City Attorney
Bob Baldwin – Deputy City Manager
Elizabeth Psimas – City Councilwoman
Patti Phillips – Interim CFO
Alisa Winston – PRHA

GUESTS:

Jim Bento – Fairlead
Fred Pasquine – Fairlead
Randy Royal – Kimley-Horn

The Chairman called the meeting to order at 8:01 a.m.

The minutes from the December 17, 2019 meeting were reviewed.

ACTION: On a motion by Mrs. Saunders-Smith and seconded by Mr. Kovachik, the Commissioners approved the minutes from the December 17, 2019 meeting as presented.

Roll Call Vote: Mr. Barber – yes; Ms. Drewry – yes; Mr. Kovachik – yes; Mr. Mitchell – yes; Ms. Saunders-Smith – yes; Ms. Smith – absent; Mr. Smith – yes.

The December 2019 financial statements. It was agreed that the December 2019 statements would be filed for audit.

Mr. Moore reported that the 2021 Budget Ad Hoc Committee members will be Mr. Kovachik and Mr. Mitchell; they will meet with Staff to begin working on the FY21 Budget.

Mr. Moore provided an update on Economic Development projects; Year-end numbers; and the Smart Start Business Guide.

Mr. Donahue presented an update on the status of all current Local Incentive Grants that have been approved.

Mr. Moore reported that the Portsmouth State of the City address will take place at Noon on Friday, May 1, 2020 at the Renaissance Hotel. As in the past, the EDA will purchase a table at this event.

Due to conflicts, Mr. Moore asked the Commissioners to consider holding a joint retreat with the Portsmouth Port and Industrial Commission on Thursday, March 19, 2020 from 8:00 – 3:00; location to be determined. Mr. Moore requested that Commissioners email Ms. Lee Ogelby with topics they would like to see addressed at the Retreat.

Mr. Bento and Mr. Pasquine from Fairlead provided a presentation on the Fairlead waterfront project and asked for a third amendment to the restrictive covenants currently in place.

ACTION: At 8:53 a.m. on a motion by Mr. Mitchell and seconded by Mr. Kovachik, the Authority entered a closed meeting to pursuant to Virginia Code subsection 2.2-3711 A.3 for the purpose of discussing acquisition or disposition of publicly held real property interests where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, specifically regarding 176 Lincoln Street, 700 Crawford Street, and tax sale properties. **Roll Call Vote:** Mr. Barber – yes; Ms. Drewry – yes; Mr. Kovachik – yes; Mr. Mitchell – yes; Ms. Saunders-Smith – yes; Ms. Barbara Smith – yes; Mr. Smith – yes.

City Councilwoman Psimas remained for the Closed Meeting.

ACTION: At 9:29 a.m., on a motion by Mr. Mitchell and seconded by Mr. Kovachik, the Authority entered an open meeting whereby only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting just concluded. **Roll Call Vote:** Mr. Barber – yes; Ms. Drewry – yes; Mr. Kovachik – yes; Mr. Mitchell – yes; Ms. Saunders-Smith – yes; Ms. Smith – yes; Mr. Smith – yes.

ACTION: On a motion by Mr. Kovachik and seconded by Mr. Mitchell, the Commissioners approved the following resolution:

RESOLUTION
(Fairlead/Ocean Marine Covenants)

WHEREAS, in 2001 the Economic Development Authority conveyed certain property located at 176 Lincoln Street and certain adjacent addresses to Ocean Marine LLC for the development and operation of a multi-purpose yachting and yacht repair facility (the “Facility”); and

WHEREAS, the conveyance was subject to certain Restrictive Covenants recorded in the Portsmouth Circuit Court Clerk's Office as Instrument Number 011176 (as subsequently modified by that certain Amended Deed of Restrictive Covenants and Second Amendment to Restrictive Covenants, the "Covenants"); and

WHEREAS, the Covenants were established to ensure that the Facility operations did not impair the reasonable operation of nearby uses, including the Atlantic Union Bank Pavilion; and

WHEREAS, Waterfront Acquisition, LLC has acquired the Facility and desires to use the Facility for substantially similar purposes as before, except that the Facility will not be used solely for yachts, but instead will be used for naval and other different types of ships; and

WHEREAS, Waterfront Acquisition, LLC filed an application to rezone the Facility to allow for the repair of different types of ships (the "Rezoning") and on January 14, 2020 City Council approved the Rezoning on first reading; and

WHEREAS, final approval of the Rezoning requires City Council approval on a second reading, which is anticipated to be held on January 28, 2020; and

WHEREAS, even if the Rezoning is approved, Waterfront Acquisition, LLC will not be able to work on naval or other non-recreational ships in the Facility unless EDA agrees to amend the Covenants; and

WHEREAS, Waterfront Acquisition, LLC has requested that EDA agree to amend the Covenants by deleting existing paragraph 4(c), which limits the use of the Facility to recreational passenger vessels (the "Third Amendment"); and

WHEREAS, the proposed Third Amendment will not modify other provisions of the Covenants, including that the operation of the Facility is not to impair operation of the Pavilion, that the Facility is required to be kept in a good state of repair and appearance, that no environmental laws are to be violated, and that EDA shall have a right of approval of exterior materials and finishes for any subsequent redesign, revision, addition, alteration or reconstruction of the Facility; and

WHEREAS, the proposed Third Amendment does not materially impact the protections for the Pavilion and the surrounding area;

NOW, THEREFORE, it is hereby RESOLVED that:

1. The proposed Third Amendment is conditionally approved, subject to City Council approval of the Rezoning on second reading.
2. Subject to City Council approval of the Rezoning on second reading, the Chair and Vice Chair of the EDA are each hereby authorized to execute and deliver the Third Amendment.
3. The Chair, Vice Chair, and Secretary of the EDA and their designees are each hereby authorized to take such further actions and execute such documents as are necessary or desirable in furtherance of the purpose of this Resolution.
4. This Resolution shall be effective immediately upon its adoption.

Roll Call Vote: Mr. Barber – yes; Ms. Drewry – yes; Mr. Kovachik – yes; Mr. Mitchell – yes; Ms. Saunders-Smith – yes; Ms. Barbara Smith – yes; Mr. Smith – yes.

With no other business before the Board the meeting was adjourned at 9:33 a.m.

Respectfully submitted,



Robert D. Moore
Secretary