Approved 11/1/05

October 18, 2005
Keyport, New Jersey

Minutes of a Special Meeting of the Mayor and Council, held on the above date in the Council Chambers, Municipal Complex, 70 W. Front Street, Keyport, N.J. pursuant to being called by Mayor John Merla, notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent, the Newark Star Ledger and Two River Times and posted on the Bulletin Boards in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Mayor Merla called the meeting to order at 6:00 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bergen, Wedick, Walling, Hassmiller. Absent: Councilmembers Atkins, Doyle. Others present were Mr. Ebner, Borough Attorney's office, Gordon N. Litwin, Special Redevelopment Counsel, Kenneth Bowers, Phillips, Preiss & Shapiro, Planner and Mr. Antonucci, Administrator.

HEARING ON ORDINANCE

1. Ordinance No. 14-05, Adoption of Redevelopment Plan, Aeromarine Site

The Borough Clerk reports that the Ordinance was published in the Courier, issue of September 22, 2005, that the Affidavit of Publication is on file in her office, that a copy was posted on the Bulletin Board and made available to the public.

The Clerk read the Ordinance by Title:

ORDINANCE ADOPTING A REDEVELOPMENT PLAN PURSUANT TO N.J.S.A. 40A:12A-7 FOR THE AEROMARINE SITE LOCATED IN THE BOROUGH OF KEYPORT

PUBLIC HEARING

The Hearing was continued from October 4, 2005. The Hearing was opened to the public for comments or questions at 6:04 pm. Mayor Merla advised that each person would be given 5 minutes, those within 200 feet of the site, those who haven't spoken before and then those who have spoken before then speakers will be given another opportunity to speak. Councilman Wedick advised that he has listened to the recording of the meeting. It was asked if Thomas Thomas, Planning Board Planner was to attend the meeting. Mr. Wedick said he thought he would. Councilman Doyle arrived at 6:02 pm. Mr. Litwin advised that the Plan was revised and questions should be addressed to Kenneth Bowers. The normal procedures are being followed. Mayor Merla said a letter was received from Union Beach regarding this matter and asked if Mr. Litwin had reviewed it; Mr. Litwin said no as it was only received today. Mayor Merla advised that this meeting is only for the Hearing for adoption of the plan. Jack Jeandron, 80 Main Street said the plan states that it is consistent with the Master Plan and that is not true. When the Master Plan was adopted in 1989, he circulated a petition to eliminate multiple family housing. Councilwoman Atkins arrived at 6:06 pm. The Aeromarine should be planned development, not houses willy nilly. There should not be any more multiple housing.

A grid of roads should be laid out and also gas, electric and water and sewer. He referred to page 5 of the Redevelopment Plan: There was a Waterfront development process and there were meetings of the Smart Growth Committee and the consensus was no high density. He referred to page 9 of the plan: it says the maximum number of units will be 310 and this is not correct (310 divided by 5 = 62 acres), there is only 60m acres or less. He asked about the roads and that building should not be allowed in the roads; also you cannot build on streams. He said 10-12 acres have go be allowed for roads and that reduces the units down to 250 He referred to sub paragraph 9; minimum 10%-maximum 50% age restricted units, saying that a developer will not want restrictions and how can it be determined who is who and keep track of the percentage. Thomas Thomas, Planning Board Planner arrived at 6:12 pm. Mr. Jeandron referred to page 14: access road to complex. He asked if it would be considered to put in a bridge (like Holmdel did) over the creek questioning if you are going to put in a road off of First Street, why not a bridge over the creek. He asked if the water plant would be able to handle the capacity. He referred to page 29: it says the plan is consistent with the Master Plan and it is not. He questioned it saying privately owned lots within the area are subject to Borough acquisition and this smacks of eminent domain. Mr. Bowers responded regarding the Master Plan consistency, the text of the statement does not have language on multi family use. The Master Plan recommends a Planned Development District and there is no inconsistency. It restricts density. The 62 acres comprises one parcel of 60.5 acres and one small parcel of 1.5 acres. 310 comes to 5 units per acre (each 7500 sqft per lot)or approximate4ly 4.94 units per acre. Mr. Litwin said age restriction can be handled by deed restriction. What is being done is something like a zoning ordinance and all issues will be addressed; there will be a Developer's Agreement, Planning Board approval will be required, water/sewer and traffic issues will be addressed. The Borough will have experts (i.e. environmental) to advise the Mayor and Council. Condemnation is standard in a redevelopment plan and it only pertains to the Aeromarine site. The Borough has to have the ability to condemn (Long Branch Court Case). Councilman Bergen said that Mr. Jeandron's concern is the language and advised that only two sites can be taken by eminent domain (Aeromarine). If a portion is preserved as under developed, the developer could cluster housing by the water and reserve part as open space. Mr. Bowers said single family detached housing could be clustered. Mr. Jeandron said there is inconsistency with the Master Plan and that his interpretation is not the same as Mr. Bowers. The Mayor was sitting on the Council at the time and the Aeromarine site was for planned development. Mr. Jeandron objects to the language in the plan and questioned if the Borough does not have the ability to supply water why consider the plan. Councilman Bergen said the development on site could be different and there are no high rises in the plan. Michael Lane, 51 First Street distributed handouts. In relation to the Master Plan and the density, 310 units should be capped down from 569. He questioned it being said if more money is needed to remediate the dump then the 310 units could be exceeded. Mr. Litwin said there is no increase in the units due to remediation and the plan is feasible. Mr. Lane asked if the Planning Board could grant a zoning variance. Mr. Litwin said if there are any changes it would be done by an amendment to the plan and the cap is firm. Councilman Bergen asked Mr. Lane who said that and Mr. Lane said Councilman Bergen said it. Mr. Lane said the plan could be inconsistent with the Master Plan and he is concerned. The 1989 Master Plan says eliminate all multi family and the Zoning Officer has denied this in all zones this year. Mr. Lane said both Mr. Bowers and Mr. Thomas have stated only single family allowed and this was used as a political platform. Mr. Litwin said it is not in context of the redevelopment plan, if the residential number was adjusted it could be consistent. There is a distinction between the zoning ordinance and the Master Plan. Both Mr. Bowers and Mr. Thomas said there is consistency with the Master Plan; the zoning ordinances say not. Councilman Bergen said he has read the Master Plan and looked at the language. He said Mr. Lane's handout is different from before. Mr. Lane said this is dealing with mid rise and high rises. Paul Schneider, Attorney representing Century Land Group urged the Council not to adopt the ordinance, that it is not a viable plan, and no studies have been done. He said the Council knows there will be more than 310 units. Remediation of the site will cost $120 million and they can not recover the cost with 310 units. The developer will build to use up as much space as possible. He said he did not believe age restricted units can be done. There is 61 acres, 51 are above water, there is no tideland grant for 10. The Borough's plan requires 31 acres of open space, there are 15 acres of wetlands and there are steep slopes which leave 16 acres to develop (more units, more height and more bedrooms). He said the Council can't adopt in good faith. The number of units, the height and number of bedrooms will be increased. Mr. Litwin said the developer would like to see 567 units and they haven't discussed with with him or Mayor and Council. Amy Handlin, Monmouth County Freeholder said she received a call from Keyport and Union Beach and she said there was consistency that the people fear condemnation and the disturbance of the landfill. She asked Senator Kyrillos for research. Remediation is needed and the Department of Environmental Protection will need to be involved. According to information, the DEP encourages the party to redevelop and be pro active. There is a Voluntary Clean Up Program and anyone can work with the DEP and enter into a non binding agreement. There could be an assessment or site investigation. The Borough could apply for grants and loans up to $2 million and private parties up to $1 million. There is preliminary planning; final planning investigation and site remediation and the DEP will work with you. Ms. Handlin said she and Senator Kyrillos will help in any way. Ms. Handlin said she will share the information with the Mayor and Council, Mr. Litwin and Mr. Bowers. Mayor Merla said in the past the Borough wrote letters regarding the leaching and did not receive answers. If the Borough has no plan, than the Borough will not have a say. The Borough has applied for a Brownfield Grant. Roland Seckinger, Environmental Commission submitted a letter to the Mayor and Council. The Planning Board, the Environmental Commission and the public comments will be taken in account. The plan is different than what the public wants. Mr. Litwin said when it says "shall" then it is mandatory. The ratio of housing to mixed use: 310 is the maximum. Who is the party responsible for clean up? What is the open space ratio: if it is exceeded the Borough would welcome it. Demolition and clearing site?: readaptive use would be acceptable. Alternative are addressed in the comments. Mayor Merla said he would refer the questions asked to Mr. Litwin and Councilmembers Wedick and Doyle. Mr. Seckinger advised the Beach Park Clean Up is scheduled for Saturday. Councilman Frank Wells of Union Beach advised they have sent in a letter and Mr. Litwin said Century Land Group is asking for 567 units and the Borough plan is for 310 units. Michael Lane distributed another hand out and discussed reassessment, what houses are selling for, net values, assessment at fair market value (Keyport is at about ½), the increase (9%) of residential units that would be generated by the Aeromarine, 2007 tax projections, life of quality issues. Councilman Bergen said all properties will be assessed at the same ratio. Ms. Cooney of Union Beach questioned the Mayor saying that the Borough knew the landfill was leaching and why didn't the Borough apply for grants. Mayor Merla said the Borough does not own the property, that chemicals have been removed from the site, that leaching happens sometimes and that the DEP is aware and has been monitoring the site. Nancy Phillip of Union Beach asked if the site was leaching why were signs not posted as it could affect fishing, crabbing and swimming. Mayor Merla said there has been speculation on dumping and the bays and creeks are monitored by the State and Federal agencies. Councilman Wedick said the Borough will deal with all of those agencies with the redevelopment plan. Mayor Merla said the Aeromarine site has been fined by State agencies and the owners have also won tax appeals by not cleaning up the site. Mayor Merla mentioned the Ballard (plastic manufacturer) on First Street. Leaching is one issue of the site and the landfill was capped. A question was asked about the site being toxic; the State would oversee. Councilman Bergen said if the site is to be cleaned up, the developer must have resources to handle. Mayor Merla said what Century Land Group has done so far, they have been addressing the environmental issues. Councilman Bergen said the State does the testing of the water (bay) and it has been getting cleaner. Mr. Angel Matos said you have to be pro active regarding remediation and asked if the plan could result in eminent domain. Mr. Litwin said just the two lots. Councilman Bergen said if more lots were added, then they would have to start at the beginning. Robert Ludwig, Beers Street said the Council made a commitment to have Mr. Thomas at the meeting and that there is inconsistency with the Master Plan. He mentioned the document of Mr. Thomas and said Mr. Litwin ignores adjectives and a sound plan is needed. He said words have to be put in the Resolution (deviates) and vote on it. Regarding eminent domain, Mr. Ludwig said 5-6 properties could be used for the roadway. He asked about ingress and egress and Locust Street not being used. He said the resolution, which he received indirectly, should be corrected for errors, spelling and punctuation. It says analysis is attached, but it wasn't. Mr. Litwin said the resolution and analysis was a draft for the Mayor and Council. Councilman Walling said he received the analysis. Mr. Ludwig asked if the Council reviewed the analysis; yes. He recommended that the document be cleaned up. Mr. Litwin said tonight the Council will act on the resolution and requested that Mr. Ludwig's information/concerns (nothing substantive) be forwarded to Mr. Bowers. Mr. Ludwig said it should be made grammatically correct, that there are errors in the document. Councilman Bergen asked if Mr. Ludwig was qualified to say this, that the Borough has retained excellent staff. Thomas Thomas, Planning Board Planner discussed inconsistency with reports and said that the application of Century Land before the Planning Board is in accord with current zoning (single family) but is not consistent with the zoning ordinances and Master Plan. There are two elements in the Master Plan: 1. residential zone districts, and 2. planned residential open space. He recommended that it be re-zoned. He said that the Council is conforming with the 1989 Master Plan to rezone. Mr. Thomas said there are no inconsistencies in his reports and no inconsistencies with what the Planning Board said or what Council is doing. Councilman Wedick said there was a statement alleged to have been made by Mr. Litwin that I handed out the plan to a resident and he asked Mr. Litwin who told him that. Mr. Litwin said he did not recall, that there were two copies of the document and he does not know how that copies got out, that it was an incorrect copy and was not given out by the Borough Clerk. Mr. Litwin advised that Councilwoman Atkins has also listened to the recording of the last meeting. He said there will be a detailed analysis by the public and cited Mr. Thomas clarification on the Master Plan. He said Century Land Group was to provide experts and didn't do it. He said the units could go for $750,000 and there could be a 20% contribution. Questions raised have been or will be addressed and he recommended the Council act on the Resolution. The Hearing was closed at 7:45 pm. Mr. Litwin read the Resolution.

RESOLUTION

1. Resolution #319-05, Response to Planning Board Recommendations for Aeromarine Site

WHEREAS, the Mayor and Council of the Borough of Keyport ("Mayor and Council") are considering the adoption of a redevelopment plan entitled "Aeromarine Area Redevelopment, Borough of Keyport, New Jersey" ("Redevelopment Plan");

WHEREAS, the Mayor and Council have reviewed the report of the Keyport Unified Planning Board ("the Planning Board") set forth in a resolution #05-22 dated August 15, 2005, containing their recommendations concerning the Redevelopment Plan;

WHEREAS, N.J.S.A. 40A:12A-7(e) requires the Mayor and Council to approve, disapprove or change each of the recommendations of the Planning Board by a vote of majority of its full authorized membership, and to record in its minutes the reasons for not following the recommendations.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Mayor and Council does not disapprove of any of the recommendations of the Planning Board and hereby approves of its recommendations described in Items 1(a), 1(b), 1(c) 2, 3(b), 3(c), 3(e), 5, 9(a), 9(b) and 10, of the attached analysis;

2. The Mayor and Council also approves of the Planning Board recommendation described in Item 6, and in furtherance of said recommendation, and by way of clarification, hereby makes the following insubstantial change to the second sentence on page 14 of the Redevelopment Plan:

   The specific facilities to be provided will be **subject to public input, and** detailed in a Redeveloper's Agreement between the redeveloper and the Borough.

3. Regarding the recommendation to set maximum floor area ratios (described in Item 3(d) of the attached analysis, the Mayor and Council find that in order to

regulate commercial intensity and residential density, the Redevelopment Plan appropriately establishes a floor area cap in commercial use (50,000 SF) and a cap on the number of residential units (310), and that building sizes are further restricted by various bulk restrictions set forth in the Plan.

4. Regarding the recommendation that age-restricted housing comprise about 10% of the housing units (described in Item 4 of the attached analysis), the Mayor and Council find that at least 10% (and not more than 50%) of the housing units should be age-restricted. The allowance for up to 50%, which was recommended by the County Planning Board to encourage an appropriate mix of housing types, permits a redeveloper latitude to produce an economically viable and marketable project consistent with the Redevelopment Plan.

5. Regarding the recommendation that the redeveloper be responsible for any affordable housing obligation (described in Item 7 of the attached analysis), the Mayor and Council find that development within the redevelopment area should be subject to such provisions at the time the Borough addresses is COAH obligation, which it to be done on a Borough-wide basis.

6. Regarding the recommendation that Mayor and Council adopt an off-tract Traffic Infrastructure Improvement Ordinance/Infrastructure Improvement and Upgrade Ordinance (described Item 8 of the attached analysis), the Mayor and Council find that in order to determine what off-tract improvements may be necessary, the redeveloper should be required to proved traffic, infrastructure and fiscal impact studies. At the direction of the Borough and its professional consultants, the developer should further be required to make all necessary off-tract improvements.

7. All of the above findings are reflected in the Redevelopment Plan presently being considered by Mayor and Council.

8. The Borough Clerk shall ensure that the minutes of the meeting at which this resolution is adopted shall contain the above responses to the recommendations of the Planning Board.

9. To the extent it is inconsistent with this resolution, Borough Resolution 273-05 is hereby repealed.

Offered for adoption by Mr. Wedick, seconded by Mrs. Atkins

Roll Call Vote: Ayes: Councilmembers Atkins, Doyle, Bergen
Wedick, Walling,
Hassmiller

Motion to accept Planning Board Recommendations, moved by Mr. Bergen, seconded by Mr. Hassmiller. Roll Call Vote: Ayes: Councilmembers Atkins, Doyle, Bergen, Wedick, Walling, Hassmiller.

ADOPTION OF ORDINANCE NO. 14-05

Offered for adoption by Mr. Bergen, seconded by Mr. Hassmiller

Roll Call Vote: Ayes: Councilmembers Atkins, Doyle, Bergen, Wedick, Walling, Hassmiller

Mr. Bergen said this has been a long process, that the Borough received a Smart Growth Grant, that all committees participated and that the Planning Board considered all comments.

Mr. Wedick said enough area is provided for public input and access to information.

Mr. Walling said there will be input from the residents.

Mayor Merla thanked the Councilmembers and the pubic for their thoughts and concerns, the Planning Board, the Smart Growth Committees, Councilmembers Wedick and Doyle and Councilman Hassmiller, Planning Board member.

1a. Motion authorizing the Borough Clerk to publish the Ordinance, as finally adopted according to law, in the Courier, issue of October 20, 2005, moved by Mr. Bergen, seconded by Mr. Wedick. Roll Call Vote: Ayes: Councilmembers Atkins, Doyle, Bergen, Wedick, Walling, Hassmiller, Nays: None.

ADJOURNMENT

Motion to Adjourn moved by Mr. Walling, seconded by Mr. Wedick, with Ayes by all present.

Time of Adjournment: 7:58 P.M.

Respectfully submitted,

Judith L. Poling

Judith L. Poling, RMC
Borough Clerk