

CITY OF NORWALK
MAYOR'S NEIGHBORHOOD PRESERVATION MEETING
MAY 2, 2007

ATTENDANCE: David Shockley, Chairman; Christine Abraham, West Main Street N.A.; Hal Alvord, DPW Director; Maribeth Becker, CNNA; Helen Bryan, West Main Street N.A.; Jim Clark, Golden Hill Association; Leigh Grant, NASH; Laurel Lindstrom, ENNA; Mayor Richard Moccia; Michael Mocciae, Recreation and Parks Director; Don Nelson, Norwalk Tree Alliance; Mark Pierce, Wilton Avenue N.A.; Lt. Paul Resnick, Norwalk Police; Adam Carsen, Zoning Department; Dorothy Romanelli, Harbor Shores N.A.; John Romanelli, Harbor Shores N.A.; Diane Lauricella, Village Creek Homeowners Association; John Lomba, Norwalk Fire Department; Marilyn Maitland, Health Department, Nancy Esposito, Attorney Frank Zullo, Tierney, Zullo, Flaherty and Murphy, PC (10:20 a.m.)

STAFF: Michelle Boccanfuso, Customer Service Center

CALL TO ORDER

Mr. Shockley called the meeting to order at 10:10 a.m.

WELCOMING REMARKS, AND APPROVAL OF THE APRIL 4, 2007 MINUTES

- ** MS. LINDSTROM MOVED TO APPROVE THE MINUTES OF APRIL 4, 2007 AS SUBMITTED.
- ** MR. CLARK SECONDED.
- ** THE MOTION PASSED UNANIMOUSLY.

CUSTOMER SERVICE CENTER UPDATE

Ms. Boccanfuso distributed copies of a street sweeping schedule, hazardous waste drop off dates, and a bulky waste pick up schedule to everyone present.

ANNOUNCEMENTS

City Staff

"Keep America Beautiful" progress to date.

Mr. Shockley said that there had been good progress with the program. There are 22 groups involved. *He the passed around digital photos of various clean ups that have already taken place around the City.* Mr. Shockley said that copies of the clean up photos will be sent to Keep America Beautiful.

Ms. Becker said that there would be a Wall Street Clean Up on May 12, from 8:30 a.m. to 12:00 noon.

Mr. Alvord asked that the Neighborhood Associations and other groups notify DPW where they intend to leave the garbage bags so that a pick up can be arranged and also so that DPW knows it is not illegal dumping.

"Norwalk Tree Festival"

Mr. Nelson reported that 7 or 8 tree companies will be present between 11 a.m. and 3 p.m. at Mathews Park on Saturday, May 2nd for the Tree Festival. Mr. Alvord commented that CL&P will

be there and will have an arborist there to help people learn to care for the trees and to talk about trimming concerns with trees near power lines.

Ms. Lauricella then stated that she was looking forward to resolving the matter about the number of trees cut at Mathews Park. She said she hoped to get various parties together to discuss the matter. The Mayor pointed out that this issue was not part of the agenda and the discussion was about the Norwalk Tree Festival.

Neighborhood Associations

Mayor Moccia then informed the group that he had spoken with Police Chief Rilling about the trailer trucks that are being parked in different parts of the City. In the future, these trailer trucks will be towed away under the Homeland Security Act. He suggested that people call the police non-emergency number to report tractor trailer trucks parked illegally in their neighborhood. A question was asked about a tractor trailer cab that is often parked in front of a private residence. Lt. Resnick stated that cabs may be parked for no longer than four hours.

Attorney Zullo arrived at 10:20 a.m.

Mr. Pierce said that a neighbor had recently had a car delivered to his home and the vehicle arrived on a tractor trailer after 11 p.m. The entire process was very noisy. Mr. Alvord reminded everyone that there was a noise ordinance in the City. Ms. Lauricella said that the Village Creek residents will be happy to hear about the tractor trailers being towed. She also commented that many people would like to have the noise ordinance explained.

Mr. Alvord then said that he was happy that the Bulky Waste Program was up and running. Bulky Waste will include gas stoves, old furniture and refrigerators, Mr. Alvord said. Now that there is a regular schedule, bulky waste will not be handled by the Neighborhood Clean Ups. When asked if the Bulky Waste will include gas stoves, old furniture and refrigerators, Mr. Alvord replied that refrigerators will be picked up, but they must have the doors off and the Freon must be removed from the unit. Lt. Resnick stated that the doors must be off the refrigerators. He stated that there are three screws on each hinge and this is a safety issue.

Mr. Clark commented that the revitalization of Cedar Street is progressing nicely. Mr. Alvord explained that this project was not driven by the City but by the Golden Hill Association working with Redevelopment. Mr. Clark said that the merchants are realizing that they have input into the project.

Ms. Becker stated that the City's Master Plan was now online and that there would be a hearing on May 9th at 7 p.m. She also said that CNNA would be having Mr. Greene as a guest speaker at the next meeting of CNNA on May 14th at 7:30 p.m. in Room A300. Ms. Lindstrom commented that there would be a second public hearing on the City's Master Plan is scheduled for May 30th.

Ms. Lauricella stated that the Village Creek was doing an study regarding the rules for public hearings and whether Village Creek's rights were suspended during a recent public hearing. She said that she would be reporting back to the meeting with her findings after working with the Corporation Council. Ms. Lauricella said that it was very important that the Neighborhood Associations know what their public rights are. Mayor Moccia commented that this was not the purpose of the Neighborhood Coalition meetings. He then said that Ms. Lauricella's issue was a legal issue and if the neighbors don't like a Zoning Board's decision, it is possible to appeal. Mayor Moccia then said that the Corporation Counsel was not involved in this issue other than to answering some of Ms. Lauricella's questions. The Corporation Counsel can not get involved nor can the Mayor or the Neighborhood Association with a dispute regarding a Zoning hearing. That will be for the courts to decide and that will be for the Zoning Board to decide. The Neighborhood Coalition meetings will not be turned into gripe secessions. These perimeters were determined when the agenda was created. The Village Creek residents have numerous courses of action open to them if they don't like the way the vote goes. Mayor Moccia then pointed out that it was

not known how the vote would go. Ms. Lauricella said that there would have to be a discussion on what is allowed and what is not allowed. The Mayor replied that there were rules and established procedures for the group in order to stay focused.

Ms. Bryant then stated that there was a problem in her neighborhood with kids playing basketball in the street. When asked if she had called Customer Service, she replied that she had and then been referred to the Police. The Police said that they could not help unless the kids were playing in the street. Mr. Shockley said that he would check into it, particularly if it was on the City right of way.

Mr. Pierce then asked what could be done about a shanty that is near the on ramp for Route 7 near Cross Street. Mr. Shockley said that they would have to determine whether it was on state land or not and that he would speak with Mr. Pierce after the meeting about this.

Ms. Grant then said that a report was being assembled on the flooding issues in Silvermine. She also mentioned that there was a city owned lot that was under water during the flooding. This parcel has been put up for auction several times. Ms. Grant stated that this parcel should not be put back up for auction; it should be given to the Land Trust.

She also said that part of the bank by the New Canaan Avenue bridge, which was referred to in the April minutes, has been washed away by the flooding because of the extensive cutting. She said that she felt was too extensive and said that the City should review what kind of cutting is done for these power lines and bike trails because there will be no riverbank left if this type of cutting is allowed to continue.

Ms. Grant also said that she was very upset about the Ethics hearing on May 1st and felt that it was unprofessional and unethical. She said that the Sunshine Law was not observed. She stated that she was ashamed of the City.

GUEST SPEAKER: ATTORNEY FRANK N. ZULLO TO REVIEW EMINENT DOMAIN AND ITS USES IN NORWALK

Mr. Shockley said that at the last meeting, the subject of eminent domain had come up and the Redevelopment Agency has been asked to prepare a presentation about eminent domain. Atty. Zullo is the best resource for information on eminent domain.

Atty. Zullo said that he was pleased to be able to address the group about redevelopment. In Atty. Zullo's opinion, the whole concept of redeveloping began with the former New Haven mayor, Dick Lee. Mayor Lee had a bright assistant called Frank Lo, who later became mayor of New Haven after Mayor Lee. Mayor Lee came up with the concept that it is important to rejuvenate and renew areas of cities that have become substandard, have deteriorated or injurious to health, welfare and safety. Mayor Lee was able to convince the Federal government to assist in that regard.

Atty. Zullo then gave a definition of rejuvenation by illustrating that if there was a 10 acre parcel that is substandard, needs attention and is only generating 200 or 300 thousand dollars worth of taxes, one would investigate redevelopment of that area in order to clean the area up and also generate more income for the community. Initially, the Federal government would supply two thirds of the cost of the redevelopment project. The State gave half of the non-Federal share in order to encourage communities to participate. The final third could be made up of in kind or in cash contributions by the municipality. A chief executive could then construct a capital budget that included the municipality's one third contribution by devoting it to the roadways, the sewers or other common elements. Most of the time, the City did not have to invest extra funding for these projects. However, the City did have to come up with approximately \$100,000 for the 50 Washington Street Plaza project.

Atty. Zullo then explained that the Federal government's contribution was actually two thirds of the loss. A developer could not go into a substandard area and pay two or three hundred dollars for a parcel of land, and then have to assemble several other parcels to acquire an acre. This would end up cost the developer three or four million dollars for the acre. This would make all the projects too prohibited for any private developer to acquire the property, renew it and make a profit. The Federal government would allow the cities to condemn properties because it was deteriorated, deteriorating, substandard or injurious to health, welfare and safety. Each parcel would have to go through the proper procedures, legislative, redevelopment, planning, neighborhood groups and the public hearings. The city would then buy the land and then look for a preferred developer to purchase the land. The city could not sell it for the 10 million the parcel might be worth, the city might sell it for five. The difference was the loss that the Federal government would cover two thirds, the State would pick up a third and the City would find the remaining third. This is how the redevelopment projects started.

In the South, the perception was that the Federal money was a way for the Federal government to become involved with the local government. This resulted in the southern states not applying for any of the Federal redevelopment funds for the first few years. Atty. Zullo said that he was elected in November of 1965. By January or February, he had plan before the Redevelopment Agency that covered the area from the Yankee Doodle bridge, down to the Norwalk Boat Club, around to Water Street and then back up. That vote was defeated 13-1. That was the concept behind redevelopment.

While developing South Norwalk, it became clear that it was not easy to relocate business or people who are living in their homes. Atty. Zullo said that if someone examined the capital budgets from the 1960's to the 1980's or even up to this day they would most likely find that a major portion of those budgets were dedicated to South Norwalk. The police station cost 25 million dollars; the parking garage cost 25 million dollars. Another 20 million went for the overpass at Reed Putnam. The Maritime Center cost 30 million dollars and the Maritime parking garage cost 12 million. These project require leadership on the part of the city and vision, in order to take the steps necessary to complete the project. The Maritime Center brings some 550 thousand people to Norwalk.

Atty. Zullo then addresses Chapter 130 and Chapter 132, which address eminent domain. These have been on the books for over 50 years. However, the Kelo case in New London brought these chapters to light in a way they had never been examined before. Chapter 132 was the section of law where the developer does not have to show deterioration or substandard or injurious to health, welfare and safety. If there is an area that is not generating taxes and the municipality wants to rejuvenate the area, the city needs to put together a package that will show that the benefits in the long run will far outweigh the benefits to any individual developer. The public interest there is to generate more funds that are needed in the community.

In Norwalk, the project that is under consideration is filed under Chapter 130. This required deteriorated, deteriorating or substandard conditions or injurious to health, welfare and safety. Blight is not mentioned in the statute, but it is implied with the verbiage. The Graham case made it very clear that all of the elements are not required in order to qualify for redevelopment projects. Any one of the classes is fine.

Before redevelopment can occur, the Redevelopment Agency must outline the area. The Planning Commission for the city must approve the outline. The legislative body must agree to all of that and public hearings must occur. Once that occurs, it is a redevelopment area. There will be some properties that will be slated for taking and others that won't. The properties that aren't slated for taking are those that would normally be able to fit into the project if they were improved slightly. The ones that are for the taking are the ones that tend to be contentious because people don't like have their property taken against their will. To a great degree, many of the properties are negotiated without having to go to court. There will always remain a few in a large project where there will have to be eminent domain.

In Norwalk, the City has taken extra care to protect the property owners, the business man and the tenant by coming up with additional safe guards. One of these was recently changed from when the Redevelopment Agency would present a list of properties to the Council that were slated for taking. This was presented as a package. Once approval was granted, the Redevelopment Agency would basically have everything it needed to proceed. In this administration, the Mayor deserves credit because now there is one additional step requiring that if and when someone's property is slated for taking, the Council will review it on a case by case basis. If negotiations in good faith are not successful and the point of eminent domain is reached, the Redevelopment Agency has to make a determination that there have been negotiations in good faith, secondly eminent domain is in order and present the case to the Common Council. If the Council members feel that there has been unfairness in the process, the right to condemn is withheld. This provides another layer of protection to the property owner and the home owner. When a business owner or property owner has his business condemned or there is a hostile situation. The law provides that the administrative costs of moving out be covered. This is usually decided by the courts. Many of the administrative costs also include the court actions. In terms of the individual home owners, Chapter 130 requires reasonable availability of other housing resources within the community to relocate the individuals involved. There are Federal and State programs to assist in that regard. The relocation costs are usually in the area of four or five thousand dollars. Atty. Zullo commented that the Norwalk Redevelopment Agency has instituted this program and that it was a decent program.

There is also a question about whether various businesses and property owners becoming part of the project. There was a case in Bridgeport where a marina did not want to be condemned and argued that they should be part of the new plan. This was substantially different from the Maritime Motors case, where the property was purchased after the area was declared a redevelopment area. Secondly, it was discovered that motor vehicles businesses were not allowed in that zone. Another issue came up with the Maritime Motors case was that by the time the case reached court, most of the deterioration had been demolished. They argued that the City would have to show deterioration or blight at that time. The court said no, as long as the Redevelopment Agency had established deteriorating conditions at the time of adopting the project, the Agency does not have to keep proving it until such time as they condemn a property.

Eminent domain is a very controversial topic, especially if someone happens to be in an area that has been determined that your area will require redevelopment. It is there for that purpose and it works fairly well. Baltimore would not appear as it is today or South Norwalk, New Haven or West Hartford. This would have been impossible without eminent domain and redevelopment.

The question is then how does a city get from a low tax return to a high tax return, from substandard to above standard without injuring your constituency or your businesses. In Norwalk, this administration saw fit to add another speed bump for the developer to have to negotiate before condemnation. Getting the individual approval of the Council on each parcel is going to require that they have acted in good faith and offered fair dollar value.

Atty. Zullo then gave an overview of how the process works. This involves the developer filing a statement of compensation with the court. Ninety days later, a certificate of taking is then issued. The amount of money on the statement of compensation is the last offer from the last appraiser. An action can then be instituted against the City by the property owner if property owner's appraisal said it was worth more. The argument in court is over the difference. In the 1960's the State and Federal governments had money, but they don't now. So, the municipalities have to find a preferred developer who is willing to fund all of the costs involved, but the city still have to affect the condemnations.

Prior to the Nixon administration, there were specific grants for individual types of projects. When Nixon came in, the various grants were then placed into block grants, which made it seem like the cities were getting more, but actually they were getting less. With the block grants, the senior citizens are now competing against the neighborhood youth group and the legal services, etc. for funding and there was not enough to go around. Atty. Zullo said that he had testified against

them, but the motion passed anyway. The money now comes from the developer but it is administered by the City. Atty. Zullo said that it is impossible to satisfy everyone, but chief executives have to do what is best for the total city.

Mr. Shockley said that some residents have expressed concern about keeping up their neighborhoods because of the threat of eminent domain. Atty. Zullo said that the redevelopment projects do not choose individual owners, but they choose an area, such as a whole neighborhood that would be covered by Chapter 130. He said that the chances of someone losing their property to eminent domain if they were not in an urban center was very slight in his opinion. The Mayor commented that there were four projects currently underway and he did not think that the Redevelopment would be taking on anything else for some time. The Mayor also pointed out that in the Master Plan, the focus was on preserving the neighborhoods and moving growth into the downtown urban areas to preserve the neighborhoods. This would also help concentrating economic development in key areas.

Atty. Zullo pointed out that Governor Rell has appointed the Inspector General to overview all redevelopment projects and the processes associated with them. This office is available to the public, to the developers and everyone else. Some things that are being proposed, Atty. Zullo does not agree with, but he pointed out that this does not make them wrong or right. He cautioned that by making a law that requires the developer to offer 125% of the property value, it may become the base and force the developers to offer 150% in the negotiation process. This could jeopardize projects.

Ms. Grant said that there was a film called "Survival of a Small City", which was made about the SoNo development. The film brings up many issues. Ms. Grant said that one issue that she was interested in was when redevelopment looked at SoNo originally, it was planned to raze everything. Mimi Finley came along and produced a paper on the iron front buildings and that started a process that identified the character of the neighborhood and lead redevelopment to reconsider their ideas. Ms. Grant asked how that process feeds into the process today. Secondly, she said there were many issues in the film, which were interviews of people who were displaced. Those issues are current today. There does not appear to be any real changes in what happens to those who are displaced.

Atty. Zullo agreed with Ms. Grant that Ms. Finley had a lot to do with the preservation of South Norwalk. The original plan did call for much more demolition than the original six iron fronted buildings. Most of Washington Street was rehabilitated that gave SoNo the flavor that it has today. It wouldn't have been the same if it had been all new construction. The sad part is that when SoNo first started there were artisans and trades people in the various buildings, some of which had been renovated and other buildings had not. As the value of the property increased and the attraction of the area increased, so did the rents. The artisans were forced out, but it has become preeminently restaurants and bars with very little retail.

Ms. Grant asked how Ms. Finley's paper changed the process. Atty. Zullo said that it basically gave the entire community a different way to look at the project and redevelopment. Norwalk was focused on demolition and rebuilding then. Former Mayor Collins deserves credit for pushing through many of the projects that has rehabilitation. The major problem that SoNo has is that the buildings were built before cars became as important as they are today and this makes all the buildings down there non-conforming uses relative to the required parking spaces. These are all pre-existing, but when someone changes a use, such as going from office to perhaps retail, the parking requirements become torturous. Atty. Zullo commented that if there is anything worse than having a traffic problem, it's having no traffic at all. So, SoNo is blessed with having too much traffic.

Ms. Esposito then asked about the condemnations where there is deterioration or substandard conditions. She said that she repeatedly heard the term "under utilized" during a walk through of the West Avenue redevelopment area. Ms. Esposito commented that even a parking lot was described as "under utilized" because there could be something built on the parking lot. Atty.

Zullo said that he did not think that "under utilized" would be found in any of the statutes, but to him it means that it would refer to one of the three elements. If a parking lot is not being used, when it was built, there was anticipating that there would be use for the parking lot by virtue of the activity within the area. The activity has deteriorated, so that it is no longer needed. Main, Wall and West Avenues have deteriorated since the 1960's. Mayor Moccia said that looking at the whole area, there are some buildings that are not blighted, but when a holistic approach is taken, individuals are affected. One of the concerns of the Redevelopment Agency is to insure that it does not become a sterile, big box area. The Redevelopment Agency, former mayor Knopp and Mayor Moccia want to have lifestyle community where people live and shop.

Atty. Zullo said that that it is not possible to get into a redevelopment program unless there is a public purpose that is being met. It becomes difficult when one is working with a private developer under Chapter 132. The West Avenue program is under Chapter 130.

Ms. Esposito said that it was in response to the Kelo case that the Federal government forbids any federal funding of eminent domain projects with private developers. She also noted that originally the West Avenue project was a 132 plan. When Kelo was pending, the Redevelopment Agency switched it to 130, which means they did not find deteriorating or substandard conditions until after they were faced with the fact that taking for development only was in jeopardy. Mr. Shockley said that next month Mr. Seligson's representative would be present to talk about the West Avenue project. Ms. Esposito also commented that there have been times when the zoning was changed to move businesses along because they were no longer in conformity. Mayor Moccia reiterated that when Maritime Motors bought the property, they knew that they were in the redevelopment area.

ADJOURNMENT

Mr. Shockley announced that the meeting was adjourned at 11:25 a.m.

Respectfully submitted,

Sharon L. Soltes
Telesco Secretarial Services