



South Bend
Redevelopment Commission
 227 West Jefferson Boulevard, Room 1308, South Bend, IN

**SOUTH BEND REDEVELOPMENT COMMISSION
 REGULAR MEETING**

June 9, 2022 – 9:30 am

<https://tinyurl.com/RDC6922> or BPW Conference Room 13th Floor

Presiding: Marcia Jones, President

The meeting was called to order at 9:30 a.m.

1. ROLL CALL

Members Present:	Marcia Jones, President - IP Don Inks, Vice-President – IP Troy Warner, Secretary – IP Vivian Sallie, Commissioner – IP Eli Wax, Commissioner - V	IP = In Person V = Virtual
Members Absent:	Leslie Wesley, Commissioner	
Legal Counsel:	Sandra Kennedy, Esq. Danielle Campbell-Weiss, Esq.	
Redevelopment Staff:	Mary Brazinsky, Board Secretary Joseph Molnar, Property Manager DCI	
Others Present:	Caleb Bauer Tim Corcoran Zach Hurst Charlotte Brach Laura Althoff James Biden Matt Barrett Andrew Netter Anne Kennedy	DCI IP DCI V Engineering IP Engineering V DCI V Fire Station #9 IP Resident 110 S Niles Res. DCI IP Legal IP

2. Approval of Minutes

- **Approval of Minutes of the Regular Meeting of Thursday, May 26, 2022**

Upon a motion by Vice-President Inks, seconded by Commissioner Sallie, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, May 26, 2022.

3. Approval of Claims

- **Claims Submitted for May 23, 2022**

Upon a motion by Vice-President Inks, seconded by Secretary Warner, the motion carried unanimously, the Commission approved the claim for May 23, 2022, submitted on Thursday, June 9, 2022.

4. Old Business

A. River West Development Area

1. Memorandum of Assignment of Lease (LaSalle)

Ms. Kennedy Presented Memorandum of Assignment of Lease (LaSalle). At our last meeting on May 26, 2022, we approved an assignment and assumption of agreements for the LaSalle apartments related to the parking lot and we also approved a memorandum of Right of First Refusal which was one of those agreements' plural. The other agreements plural was the lease agreement, and we also need a memorandum of lease agreement. This will be recorded with the Records office, and it'll put everyone on notice that the lease was transferred. This will then be given to the Michael's organization for recording. This was not presented to you inadvertently at the last meeting. Commission approval is requested.

Upon a motion by Secretary Warner, seconded by Vice-President Inks, the motion carried unanimously, the Commission approved Memorandum of Assignment of Lease (LaSalle) submitted on Thursday, June 9, 2022.

5. New Business

A. River West Development Area

1. Resolution No. 3553 Transferring Property from RDC to BPW (Oliver Plow Memorial)

Mr. Molnar Presented Transferring Property from RDC to BPW (Oliver Plow Memorial). Oliver Plow Memorial at Oliver Plow Industrial Park contains the very large smoke sack remnant. Also, there's a pergola and a walk with some history about the Oliver Plow Company. It's in the RDC name and it was originally envisioned to be part of an HOA that the property owners surrounding it would pay for, but that idea has become a little difficult to execute over time. The History Museum has provided ideas to maintain the property. We don't think we're going to transfer ownership anymore to them, but we think the best idea is to get into

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BPW's hands. The Board of Public Works can sign a long-term access agreement with History Museum so they can come and maintain the property. They provide tours to those visiting the property. They want to make sure it is properly landscaped for the tours. This is the transfer to BPW and then hopefully long-term the History Museum will do most of the small maintenance of the site. Commission approval is requested.

Secretary Warner asked how large the parcel is.

Mr. Molnar pulled the property up on google maps and noted that this site would not be buildable by today's zoning standards due to how small the plot is.

Upon a motion by Secretary Warner, seconded by Vice-President Inks, the motion carried unanimously, the Commission approved Resolution No. 3553 Transferring Property from RDC to BPW (Oliver Plow Memorial) submitted on Thursday, June 9, 2022.

2. First Amendment to Development Agreement (Bakery Group)

Mr. Hurst Presented First Amendment to Development Agreement (Bakery Group). This proposed first amendment to the development agreement with Bakery Group will allow them use \$10k of their remaining dollars from their original \$300k of their allotment. Work was put to bid through BPW in accordance with state code for approximately \$280k of the \$300k. There have been some unforeseen conditions that we had to pay for which left about \$10k over. We have also identified about \$25k worth of work that would continue the next phase north along the Portage façade. The bakery group would reimburse the city \$15k which will give us the money to extend the contract. Commission approval is requested.

Secretary Warner asked if this is continued façade work.

Mr. Hurst replied there are bays, and this will allow for one more bay and using the last amount for them.

Ms. Jones asked if we are just making use of every dollar.

Mr. Hurst replied yes, this will fill the city's obligations for the \$300k then they will be investing their private dollars. Everything is going well; this is just one last piece.

Commissioner Sallie asked what the timeline for the project is.

Mr. Hurst replied they are facing the same project challenges everyone is unfortunately but are making visible progress so there is no completion date yet.

Mr. Bauer noted the Bakery Group received an IRF loan that will help them to secure private financing from Northwest Bank. There are two pieces of financing that can now help the project to continue forward. We are optimistic about their timeline.

Secretary Warner states that this is a great project that has gone through Council and now RDC which is taking a building and bringing new life to that neighborhood. He believes the partnership agreements have given them significant funding and other assistance. He is excited to see the project as it continues to develop.

Upon a motion by Vice-President Inks, seconded by Secretary Warner, the motion carried unanimously, the Commission First Amendment to Development Agreement (Bakery Group) submitted on Thursday, June 9, 2022.

B. River East Development Area

1. Real Estate Purchase Agreement (Connemara Holdings)

Mr. Molnar Presented Real Estate Purchase Agreement (Connemara Holdings). This agreement is for the sale of former firehouse #9 on Mishawaka Avenue. This firehouse became vacant in 2019 when the new firehouse number nine, was opened just down the street a couple blocks to the West. This firehouse was vacant in 2019, but the firehouse dates to 1926. It went through the disposition process in 2020, and we received one bid that the Redevelopment Commission rejected. Today we have a Real Estate Purchase Agreement from Connemara Holdings to purchase the building. The agreement is to purchase the building at \$40k with a commitment to renovate the space for offices and community space. Connemara Holdings has pledged a minimum investment of \$250k in the property within the next 24 months. Commission Approval is requested.

Mr. Biden notes that he is excited to bring a civic asset back to life and have it for the community, which will also participate in the momentum that is occurring along Mishawaka Avenue in the River Park neighborhood. He states he lives near the property. This is a place for small and growing businesses that may have outgrown their home businesses that are looking to expand into a large space with employees.

Commissioner Wax asked what the terms are.

Mr. Molnar states purchase of \$40k and an investment by the purchaser of \$250k and completed in 24 months with clear terms if that does not happen the commission can re-take the property.

Upon a motion by Secretary Warner, seconded by Vice-President Inks, the motion carried unanimously, the Commission approved Real Estate Purchase Agreement (Connemara Holdings) submitted on Thursday, June 9, 2022.

C. South Side Development Area

1. Budget Request (Fire Station 8 Schematic Design)

Mr. Hurst Presented Budget Request (Fire Station 8 Schematic Design). This budget request in the amount of \$62,341 would cover schematic design and programming for the proposed replacement of Fire Station 8. This is in a residential area. It is essentially the size of a single-family home built in the 1950s for male firefighters. This request will help us work towards a more ideal solution while staying within some budget constraints. This would provide a site plan, a floor plan, and a construction cost estimate. There would be future budget requests to help move the project forward. Commission Approval is requested.

Commissioner Wax asked for the timeline on the report.

Mr. Hurst states six to eight weeks.

Upon a motion by Commissioner Wax, seconded by Secretary Warner, the motion carried unanimously, the Commission approved Budget Request (Fire Station 8 Schematic Design) submitted on Thursday, June 9, 2022.

6. Progress Reports

- A. Tax Abatement
- B. Common Council
- C. Other

1. Mr. Molnar Presented 10 years history of RDC Development Agreements. January 1, 2012, through April 1, 2022. There were sixty-five development agreements that were projects during this period. Twenty-seven that are completed never received a completion certificate. We just presented the LaSalle Apartments with their certificate last month. Five projects were mutually dismissed where the private investor and RDC neither committed the resources that had been pledged for a variety of reasons. The agreements were nullified over time. Five of the projects were out of compliance with the investment or return that were in the contract. Approximately three-fourths of the projects were either fully finished and the board issued a certificate of completion. There are another twelve percent in progress and are still in their time frame of the agreement. The final eight percent are out of compliance. We are eighty-five percent completed or in progress.

Of the forty-seven finished, there was a minimum of \$277.2 million in private investment based on the agreement terms. Public investment is at \$36.8M. Nineteen properties were sold with six-hundred seventy-two permanent jobs created and eight-hundred thirty-three housing units created. We have also saved historic buildings such as the JC Lauber, LangLab, Firehouse #6 and several housing units. We have eight ongoing agreements, Miami Hills Apartments, tree nurseries, Five Corners LLC, Western grocery store, Greenleaf, Gemini apartments, Wharf site and Career Academy. The Bakery Group is just outside the timeline. The five projects mutually dismissed included the Emporium, Nello, 228 Sycamore, SB Heritage Homes was contingent on tax credits that didn't happen and the VA Clinic did not build on the site. Five projects out of compliance included AEP Franklin Street, Masterbilt which we are asking to be returned back to the city. Barehand Brewery we are in talks with them. Southold LLC Hall of

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Fame was to occupy the site and they have not and the Commerce Center which we are working with. We have learned what is working with the agreements. The development agreements are useful tools for positive outcome; however, we need to certify commitments with strong language to protect the city investment. With the way the construction timelines, the project timelines need to be realistic. We are looking to set-up a system to get updated reports from developers.

Vice-President Inks really appreciated the information given in the report.

Secretary Warner thanks staff for pulling the information together. The accountability is important when we are stewards of city tax dollars. We consider the RDC a partnership with the developers and taxpayers. These are very important partnerships. If someone is not completing their end, we need to take action on it. We get a yearly tax abatement report and would like a report like this in the same manner.

Commissioner Sallie asked about the property listed as Career Academy isn't that Success Academy.

Mr. Molnar stated that it is.

Secretary Warner requested if staff can come back with progress on the five that are not in compliance.

Mr. Molnar states that information will most likely come from our City Attorney.

Mr. Bauer notes that over time it became standard practice for the development agreements to include the certificate of completion language. Some of the agreements in the past did not include that language, so, no certificates were issued.

Mr. Molnar notes that language was almost always added when there was a TIF agreement.

Matt Barrett, 110 S. Niles (Resident) expressed his concerns as a taxpayer. The issue raised is with the Commerce Center grocery store. That project was to be completed April 30, 2021. In the contract at section 4.5 provided a common time from for completion based upon the agreement. The RDA agreement extended it to April 30, 2021. It is not completed. Mr. Barrett read the agreement portion where the developer agrees to complete the project and any other obligations the developer may have under the agreement by the completion date established in the contract or otherwise agreed to between the developer and the RDA. I close apparent, notwithstanding any provision of this agreement to the contrary, the developer's failure to complete the project or any other obligation the developer may have under this agreement by the mandatory project completion date will constitute a default under this agreement without any requirement of notice or an opportunity to cure such failure. Section 4.7 has a reporting obligation that

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requires reports each June 30th and December 31st. Mr. Barrett filed a public records request and there were no such reports. Section 4.9 cost and expenses of construction of project. I am told by a different member of Council not present that this project has an unpaid water bill in excess of a quarter of \$1M. I would ask that be investigated. Section 4.9 says costs and expenses of construction of project, the developer hereby agrees to pay or cause to be paid, paid all costs and expenses associated with the construction. And occupancy of the project parent, including all regulatory, legal, architectural, and engineering fees, close parent exclusive of cost to construct the local public improvements which shall be paid for by the Commission subject to the terms of this agreement, if there is a \$250,000 plus outstanding water bill or any outstanding water bill, I asked that that will be collected.

The entire agreement, no representation, promise or inducement not included in this agreement will be binding upon the parties. Here, too, this agreement cannot be modified except by mutual agreement of the parties set forth in a written instrument signed by the parties authorized representatives. Section 9.15 states time is of the essence of this agreement, so I'm here to ask this body, the Redevelopment Commission, to enforce this agreement. I will also note that there is a claw back provision that calls for the repayment of 150% of the amounts advanced \$5M, that's \$7.5M and I urge this board to start the process to enforce these agreements.

I might offer one disagreement that the project on 228 Sycamore has been completed. That was extended in connection with the construction of the east bank flats. That was in connection with the construction of the east Bank flats, which is a one-story shell which really is vegetation. I would ask for an investigation of that agreement. I would also note that when we talk about expenditure of public dollars, it's not including the vacation of alleyways and there was a vacation of an alleyway in connection with that project.

I live right next to the corner of Jefferson and South Niles. This is the river race town homes development. That agreement was of 2011, so it doesn't appear on this report. There was a notice of default issued by this Commission on September 22, 2021. I'd like to know what the status of that notice of default is. I'll pause. This is an unpaved project. Now unpaved undrained parking lot, which at the time the development agreement was signed, and we had proof of this at the May 2, 2022 Board of Zoning Appeals hearing, was a paved parking lot on most of that property. So that agreement has actually undeveloped the property. And I would note that that property at 122 S Niles is now.

I will pause because there been anything, any action taken on the notice of default.

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Ms. Kennedy, City Attorney notes that the right the right to public comment does not necessitate that the commissioning answer open questions.

Mr. Barrett continues in terms of process and access; I think this report is a great step. If I could offer some other suggestions, it would be that on the website that we have now a section that tracks each development agreement by number. So that didn't conclude the contract. Any modifications to the contract, any required reports, and any certificate of completions.

OK, so that in one spot, the public has access to this information. I've been reading minutes of City Council meetings where there was concern about lack of public input into the Redevelopment Commission matters and I applaud that you asked for public comment. There was a question at that particular point in time about the timing of this meetings, but for the fact that I am now retired, I could not attend.

These meetings, because they meet at 9:30 in the morning and if you want public access, obviously the virtual addition because of the pandemic is a huge improvement. But these are really not accessible meetings to the public. I think the agenda should be posted sooner. I think reports should be posted. So, I think we're making progress, but I don't think that we are there. I and I think there are issues with old agreements as well and we have one particular developer who is a serial violator. I do not understand why the city does business with this individual absent personal guarantees. I think we should be looking at financial statements to make sure that there is an ability to complete projects that are started.

7. Next Commission Meeting:

Thursday, June 23, 2022

8. Adjournment

Thursday, June 9, 2022, 10:29 a.m.

Troy Warner, Secretary

Marcia Jones, President