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STATE OF NEW YORK
CITY OF YONKERS

-----X
Yonkers Industrial Development Agency
Board Meeting
November 28, 2017, 9:08 A.M.
City Hall
40 South Broadway
Yonkers, New York 10701
-----X

P R E S E N T:

MAYOR MIKE SPANO - CHAIRMAN
WILSON KIMBALL - SECRETARY
MELISSA NACERINO - TREASURER (absent)
CECILE SINGER - BOARD MEMBER
PETER KISCHAK - VICE CHAIRMAN

IDA STAFF

JAIME MCGILL - IDA EXECUTIVE DIRECTOR
MARY LYRAS - IDA/YEDC CHIEF FISCAL OFFICER

A L S O P R E S E N T:

DAVID ROTHMAN, ESQ. - HARRIS BEACH, PLLC
SHAWN GRIFFIN, ESQ. - HARRIS BEACH, PLLC
ALAN FOX, ESQ.
PATRICK SERENSON, IDA ACCOUNTANT

1 PROCEEDINGS

2 MAYOR SPANO: Good morning,
3 everybody. Happy Thanksgiving,
4 belated Thanksgiving, and Mary, roll
5 call.

6 MS. LYRAS: Mayor Spano.

7 MAYOR SPANO: Here.

8 MS. LYRAS: Peter Kischak.

9 MR. KISCHAK: Here.

10 MS. LYRAS: Cecile Singer.

11 MS. SINGER: Here.

12 MR. LYRAS: Wilson Kimball.

13 MS. KIMBALL: Here.

14 MS. LYRAS: We have a quorum.

15 MAYOR SPANO: Okay. We have
16 the minutes for the October 24th
17 meeting in front of all of you, and I
18 ask that you peruse it and are there
19 any questions?

20 MS. KIMBALL: I'll make a
21 motion.

22 MAYOR SPANO: A motion from
23 Wilson to accept the minutes, second
24 by Pete. All in favor?

25 (Chorus of Ayes.)

1 PROCEEDINGS

2 MAYOR SPANO: Any negatives?

3 The minutes are passed.

4 Item 3, Mary.

5 MS. LYRAS: For the month of
6 October we received 66,000 in agency
7 fees on two refinances. Our cash on
8 hand is \$3.5 million, and we have our
9 accountant, Pat Serenson, should
10 anybody have any questions.

11 MS. SINGER: So, what's in the
12 pipeline as far as fees are
13 concerned?

14 MS. MCGILL: For agency fees,
15 our revenues?

16 MS. SINGER: Yes.

17 MS. MCGILL: We are expected to
18 close the year at just under a
19 million.

20 MS. SINGER: Thank you.

21 MAYOR SPANO: Would you like to
22 make a motion? Pete?

23 MR. KISCHAK: I'll make a
24 motion.

25 MAYOR SPANO: Second by Cecile.

1 PROCEEDINGS

2 All in favor.

3 (Chorus of Ayes.)

4 MAYOR SPANO: The item is
5 passed.

6 Jamie?

7 MS. MCGILL: The first
8 resolution for consideration is the
9 final resolution for 411 Bronx River
10 Development LLC, Harris Beach.

11 MR. ROTHMAN: Good morning.
12 David Rothman.

13 This is a project that the
14 board may remember earlier this year.
15 The agency approved the resolution at
16 the public hearing. That hearing was
17 held for 411 in June of this year.
18 This would authorize -- This
19 resolution would authorize a straight lease
20 transaction, provision of a mortgage
21 recording tax, sales tax and a tax
22 agreement consistent with IDA policy.

23 MAYOR SPANO: Any questions?

24 No questions. Does anyone want to
25 make a motion?

1 PROCEEDINGS

2 Cecile made a motion. Second
3 by Pete. All in favor?

4 (Chorus of Ayes.)

5 MAYOR SPANO: Any negatives?

6 The item is passed. Item 2.

7 MS. MCGILL: The next item up
8 for consideration is the final
9 resolution for CPG Phase III Limited
10 Partnership, Harris Beach.

11 MR. ROTHMAN: CPG Phase III
12 goes back to 2014. This is a housing
13 project. They are anticipating
14 closing in December of this year.
15 This resolution is ratifying prior
16 resolutions approved by this board
17 and authorizing the final resolution
18 and again execution of mortgage
19 recording tax exemption documents,
20 sales tax and the tax agreement.

21 MAYOR SPANO: Any questions?

22 MR. KISCHAK: It's a great
23 project considering what it was.

24 MAYOR SPANO: Definitely. A
25 great upgrade.

1 PROCEEDINGS

2 MR. KISCHAK: Yes.

3 MAYOR SPANO: Make a motion?

4 MR. KISCHAK: I'll make a
5 motion.

6 MAYOR SPANO: Second by Wilson.
7 All in favor?

8 (Chorus of Ayes.)

9 MAYOR SPANO: The item is
10 passed.

11 Item number III.

12 MS. MCGILL: Item number III is
13 authorizing resolution for AvalonBay
14 Communities, Inc., Avalon Yonkers Sun
15 Sites, LLC Phase II, Harris Beach.

16 MR. ROTHMAN: Again a project
17 that this board has previously heard
18 about. There was a Phase I. Phase I
19 closed. The company is ready to move
20 forward with Phase II, this authorizing
21 resolution allows for some assistance with
22 respect to Phase II.

23 MAYOR SPANO: Any questions?

24 MS. KIMBALL: I'll make a
25 motion.

1 PROCEEDINGS

2 MAYOR SPANO: Wilson made a
3 motion. Second by Cecile.

4 All in favor?

5 (Chorus of Ayes.)

6 MAYOR SPANO: The item is
7 passed. Item IV.

8 MS. MCGILL: Item IV has five
9 resolutions that are extending only
10 sales tax benefits.

11 Can we take them up as a whole
12 or do we have to take them up
13 individually?

14 MR. ROTHMAN: I think normally
15 the board has done them individually.

16 MS. MCGILL: Individually.
17 Okay.

18 So, the first item is Oz Moving
19 & Storage Inc., to extend sales tax
20 and exemption benefits through
21 12/31/18.

22 No dollars. It's just an
23 extension of time to utilize the
24 benefits that have already been
25 granted

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PROCEEDINGS

MAYOR SPANO: Okay. Let's go with Item A first. Does anybody want to make a motion? Wilson and second by Pete.

All in favor?

(Chorus of Ayes.)

MAYOR SPANO: Any negatives?

The item is passed.

Let's go to Item B.

MS. MCGILL: Item B is Sessantacinque LLC (Leggiardo).

MS. KIMBALL: I make a motion.

MAYOR SPANO: Wilson made a motion. Second by Cecile.

All in favor?

(Chorus of Ayes.)

MAYOR SPANO: Any negatives?

Let's go to Item C. Does anyone want to make a motion?

Cecile made a motion. Second by Pete.

All in favor?

(Chorus of Ayes.)

MAYOR SPANO: Any negatives?

1 PROCEEDINGS

2 The item is passed. Let's go
3 to D.

4 MR. KISCHAK: I'll make a
5 motion.

6 MAYOR SPANO: Pete made a
7 second. Second by Cecile. All in
8 favor.

9 (Chorus of Ayes.)

10 MAYOR SPANO: Let's go to Item
11 E, Water Grant Street, LLC.

12 MS. KIMBALL: I'll make a
13 motion.

14 MAYOR SPANO: Wilson made a
15 motion. Second by Pete.

16 All in favor?

17 (Chorus of Ayes.)

18 MAYOR SPANO: The item is
19 passed. Let's go to Item F.

20 MS. MCGILL: Item F is Cintas
21 Corporation. They're extending
22 through 3/30/2018 and represented by
23 Alan Fox.

24 MR. FOX: Good morning,
25 everyone. This is the same

1 PROCEEDINGS

2 situation, just an extension of the
3 term of the sales tax exemption no
4 increase in the amount to be taken.
5 I understand they expect to finish
6 their construction by the end of
7 March which is the term of the
8 extension.

9 MAYOR SPANO: Okay. What's the
10 plan in March?

11 MR. FOX: They are planning to
12 finish up in March.

13 MS. KISCHAK: Mr. Mayor, I
14 think it's a great cause, but I have
15 to abstain because I used to do
16 business with them. I don't any
17 more, but I just want to abstain.

18 MAYOR SPANO: Do we have a
19 quorum?

20 MS. SINGER: I make a motion.

21 MAYOR SPANO: Cecile made a
22 motion. Second by Wilson. All in
23 favor?

24 MS. SINGER: Aye.

25 MS. KIMBALL: Aye.

1 PROCEEDINGS

2 MAYOR SPANO: Aye. The Item is
3 passed with Pete Kischak's
4 abstention.

5 Item 5.

6 MS. MCGILL: Item 5 is
7 authorizing resolution for Yonkers
8 Waterfront Properties LLC, which is
9 an increase and extension for sales
10 tax benefits a/k/a/ Collins III.

11 MR. ROTHMAN: So, the board has
12 previously approved the Collins III
13 transaction. This is an extension as
14 well as an increase. The increase
15 translates to about \$4 million in
16 additional purchases which translates
17 into about \$383,000 in additions, but
18 the project has already been vetted,
19 approved by this board.

20 MAYOR SPANO: Additional?

21 MR. ROTHMAN: Additional,
22 correct. That's the amount of the
23 increase.

24 MAYOR SPANO: Any questions?

25 MS. KIMBALL: I'll make a

1 PROCEEDINGS

2 motion.

3 MAYOR SPANO: Wilson made a
4 motion; second by Cecile.

5 All in favor?

6 (Chorus of Ayes.)

7 MAYOR SPANO: Any negatives?

8 Fair enough. The item is passed.

9 Item VI.

10 MS. MCGILL: The next item up
11 is resolution for Ravine/Point Street
12 Acquisition, SEQRA, Shawn Griffin
13 from Harris Beach.

14 MR. GRIFFIN: Good morning.
15 This will take a few minutes longer
16 than we normally have on these
17 resolutions because we are going to
18 talk about SEQRA and determination of
19 what's going on. We have prepared
20 packets for you. I know you have
21 them electronically. They were sent
22 to you, but given the nature of them,
23 I wanted to get the one set in front
24 of each of you. We are going to
25 start with Ravine now.

1 PROCEEDINGS

2 Ravine, just while you're
3 getting the material, just a reminder
4 we talked about this some time ago.

5 There are several other parcels
6 nearby or adjacent in that block that
7 the city desires to control through
8 its agencies or directly so they can
9 redevelop that block.

10 These are three parcels owned
11 by the entities. Controlled by Ron Shemesh
12 They are 1.21 acres total.

13 We are at a point now and in
14 the process or at some point we will
15 make an appraisal available. It's in
16 your packet. It's tab 4.

17 The appraisal was \$1,310,000.
18 We were in negotiations trying to
19 acquire this a while back for a
20 certain amount down. We had a grant
21 plus a percentage of the profits.
22 They have since then been certified
23 so they may show higher evaluations
24 than that. If they do have a
25 purchaser, we'll deal with that as we

1 PROCEEDINGS

2 get into it.

3 Today's discussion is about
4 thinking through about SEQRA, the
5 sight, sound, smell of traffic. What
6 we are doing is taking the land. We
7 don't have a specific use other than
8 we know there is a public purpose
9 here. We want to have this whole
10 block controlled and redeveloped.

11 There is a lot of concerns up
12 there about ideas from the City
13 property. Without these parcels the
14 balance of City parcels can't be
15 developed. So, we're comfortable we
16 have a public purpose to proceed.

17 So, when we start there's two
18 resolutions for you to consider.

19 The first one is it's a SEQRA
20 resolution that we used to do from
21 time to time. We have not done one
22 in a while, but just as a reminder,
23 there's a Part 1. Part 1 asks a lot
24 of questions about sight, sound,
25 smell, traffic, zoning.

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PROCEEDINGS

The project itself is just to acquire and hold with the other parcels until we figure out what to do. So, that is a very low impact.

I had our SEQRA counsel at Harris Beach go through these. He checked Part 1.

Part 2 then asks some probing questions that you, as the determining body, would think through. We didn't find anything or significant impacts of this of the taking. You know, if we later decide we'll get back to it what to do with the land, and we'll have a different SEQRA analysis to think about when it comes time, sight, sound, smell, et cetera.

So, we didn't find anything of substance based on the Part 1 analysis. Part 2 was filled out for you and sent to you last week. You could see that there is no significant impacts identified.

1 PROCEEDINGS

2 So, we're recommending as
3 counsel and therefore there's no
4 reason to do it.

5 You find something significant
6 when you fill out Part 3. Well,
7 because we didn't find anything of a
8 moderate or significant impact, we
9 have nothing to talk about in Part 3.
10 Part 2 said we thought all about the
11 right things.

12 So, with that, we recommend
13 that the board pass a resolution
14 based on the counsel preparation of
15 it and counsel advice of a SEQRA
16 resolution for what's called a
17 negative declaration saying that
18 effectively we can't think of
19 anything that needs more substantive
20 thought at this time under the SEQRA
21 regulations.

22 If you do have what's called
23 positive declaration, that means you
24 found something. You're worried
25 about traffic or something like that.

1 PROCEEDINGS

2 If we are forever talking about
3 a building, new occupants and people
4 driving, you would want to think
5 about that, and I would have to have
6 more evidence to present to you to
7 get a negative declaration.

8 This is normally done by the
9 planning department, but there is no
10 plans yet. So, therefore, it needs
11 to be done by your board.

12 With that I recommend the
13 passage of the negative declaration
14 SEQRA resolution Acquisition 3 parcel
15 6 on Point Street and Ravine Avenue.
16 Any questions?

17 MS. KIMBALL: This is all
18 listed under resolution 6, those
19 three parcels?

20 MR. GRIFFIN: Correct.

21 MR. KISCHAK: This is the bus
22 garages?

23 MR. GRIFFIN: No. This is up
24 on the hill across from the tracks up
25 near Ravine Avenue.

1 PROCEEDINGS

2 Years ago we looked very
3 seriously of rebuilding an affordable
4 housing facility just as a transition
5 to the current administration and
6 then we decided not to proceed with
7 that and then there was a developer
8 who was kind of knee deep in some of
9 those parcels. So, those parcels
10 were somewhere acquired by the City
11 and we are now aggregating them back
12 so the City can figure out and
13 execute a plan as to what the City
14 wants for that parcel.

15 MAYOR SPANO: Any other
16 questions?

17 MR. KISCHAK: So, what's
18 actually there right now?

19 MR. GRIFFIN: There's a parking
20 area that was actually used for
21 temporary parking for a period of
22 time on the site. You remember the
23 three --

24 MS. KIMBALL: Parking lot by
25 the public parking that the community

1 PROCEEDINGS

2 would very much like parking returned
3 to that site even as a temporary
4 matter until the City moves forward
5 with the plans, and I think there was
6 just some vacant lot.

7 MAYOR SPANO: It's important to
8 note too that the property, most of
9 those parcels we acquired through tax
10 law closure. It's been a rough spot.

11 MR. KISCHAK: Right.

12 MAYOR SPANO: By taking all
13 these pieces and putting them
14 together, I think that there is a
15 real value to doing something very
16 positive for a community as a whole
17 by having those parcels together.

18 MS. SINGER: If you put the
19 parcels together, what would be the
20 total? How many feet?

21 MR. GRIFFIN: 1.21 acres is the
22 combination of the three parcels and
23 that would then -- we had the map
24 when we originally discussed this.
25 In that block there is a significant

1 PROCEEDINGS

2 amount of acreage that the City
3 already has.

4 This would round out the
5 ability to develop the site.

6 Again a lot of that would be
7 done in planning. So, we are waiting
8 to hear what they come back with, if
9 they come back with a government
10 project, probably not us
11 if it's a private project
12 that the IDA would like to get
13 involved with. If it's a school
14 project the IDA would be involved.
15 So, all of those we are going to
16 consider once we acquire the
17 property, but there's no particular
18 end use at this point.

19 MAYOR SPANO: It could actually
20 be a combination of school and
21 private project because we are the
22 only City outside of New York City
23 that can do that because we've never
24 utilized that law and we could and
25 that seems to be kind of a prime
piece for that.

1 PROCEEDINGS

2 MS. SINGER: And what other
3 legal aspect will there be in this
4 undertaking?

5 MR. GRIFFIN: Passing SEQRA is
6 just a preliminary step and then we do
7 a second resolution. Maybe we should do each
8 of the SEQRA so you're comfortable and then
9 we'll come back and do the actual
10 condemnation action of agreeing to go
11 forward to take the property. That
12 determination which is your second
13 resolution for each parcel is where
14 you've taken an affirmative step and
15 said, okay, it's time for IDA to act
16 and take this property. There is
17 then under the EDPL, Eminent Domain
18 Procedural Law, the property owners,
19 if they make comments at a public
20 hearing, and each of them did, they
21 have a right to sue us on process and
22 procedure. That's why we are so
23 strict about making sure you got it
24 in advance and going through the
25 whole book with you and then Pauline
takes it from here if there's

1 PROCEEDINGS

2 litigation.

3 If they don't sue on process,
4 we then go to Court and get a taking
5 map approved by a Judge and at that
6 point we make an offer based on
7 appraisal. We'll probably freshen up
8 the appraisal and talk to the people,
9 but we can't condition our taking on
10 a particular price. We just give
11 them what we have for appraisal and
12 then they have years where they can
13 sue us over value.

14 One of the things we are going
15 to talk about with SEQRA is the City
16 has already proposed a funding
17 agreement much like we had in Forest
18 City when we took the property up at
19 Con Ed where the City will fund cost
20 that the agency incurs. So, it's
21 either through a City funding
22 agreement or depending on the type of
23 development on these other parcels,
24 we'll have funding sources beyond the
25 general cash, and the IDA is probably

1 PROCEEDINGS

2 the healthiest it's been since I've
3 worked with you guys. So, we are in
4 a good position to proceed either
5 alone or with the City funding or
6 with the private funding.

7 MAYOR SPANO: How does it work?
8 Are we doing a determination of
9 findings and not SEQRA?

10 MR. GRIFFIN: I think if we
11 could just go to SEQRA on the second
12 taking and we'll bring in the book
13 and then we'll come back and do the
14 determinations on each because then
15 the questions will be similar.

16 MS. MCGILL: So, we are going
17 to skip to Item VIII. We are going
18 to do all the SEQRAs.

19 MR. GRIFFIN: Yes.

20 MS. MCGILL: So, we need to
21 take a vote on VI on the SEQRA.

22 MR. GRIFFIN: The SEQRA on
23 Ravine and what the proposal is
24 before you.

25 MAYOR SPANO: Item 7.

1 PROCEEDINGS

2 MR. GRIFFIN: Why don't we just
3 stay with your plans.

4 MS. MCGILL: We should be doing
5 SEQRA first and then determination
6 and findings.

7 MR. GRIFFIN: Right. Why don't
8 we just stick with your list. We'll
9 do SEQRA and then determination.

10 MAYOR SPANO: We are going to
11 go out of order.

12 MR. GRIFFIN: Right.

13 MAYOR SPANO: We are going to
14 take Item 7, and we'll do that one
15 first. Any questions on the
16 Ravine/Point Street Acquisition
17 SEQRA?

18 MS. KIMBALL: I'll make a
19 motion.

20 MAYOR SPANO: Motion. Second
21 by Pete. All in favor.

22 (Chorus of Ayes.)

23 MAYOR SPANO: Any negatives?
24 The Item is passed.

25 MR. GRIFFIN: Now, we'll go

1 PROCEEDINGS

2 into the determinations.

3 MAYOR SPANO: Item 6.

4 MR. GRIFFIN: Item 6. Let's
5 just go parcel to parcel. The
6 determination, this is a significant
7 step in the process where the taking
8 body of the board, IDA board, says we
9 thought about it for SEQRA. That's
10 behind us.

11 There's a similar concept.
12 EDPL is also covered by that. And
13 then you're saying go ahead and
14 proceed as counsel and staff to take
15 these parcels. We wait to see if
16 they sue us on process which they
17 generally do. We fight that out not
18 at a lower Court but at an Appeals
19 Court. That will take us into the
20 spring if there is a lawsuit.

21 Pauline Galvin has been
22 retained. She's done that on Main
23 Street. She takes all that stuff
24 into Court and comes back with an
25 answer for us. If we pass that

1 PROCEEDINGS

2 process, which we typically -- I've
3 never lost one. If you pass that
4 process, then you make an offer to
5 the party based on your appraisal.
6 And I will probably freshen up the
7 appraisals once the process is over
8 with and then make an offer based on
9 that, show them then the appraised
10 amount.

11 If they want to sue us on that,
12 they'll do that. They have years to
13 do that. That will take money, but
14 they still have the right to sue us
15 for more. That's the normal process.

16 MS. SINGER: So, we make the
17 offer based upon the appraisal, on
18 the appraised value of the property.

19 MR. GRIFFIN: Yes. After we
20 see if they sue us on this, on the
21 process.

22 MS. SINGER: Then they can
23 exhaust their legal remedies.

24 MR. GRIFFIN: Correct. With
25 your administrative remedy, you're

1 PROCEEDINGS

2 right on point was to come to the
3 hearing and say I don't want you to
4 take it because we've got other
5 purchasers. We are aware of that.
6 Sometimes that is actually happening.
7 Sometimes that's what incidentally
8 happens. It's really not for us to
9 figure out at this point. We know we
10 want to take these properties.

11 MS. SINGER: The question is
12 the appraisal. Do we give an amount
13 in addition to the appraised value?

14 MR. GRIFFIN: We give an exact
15 appraised value.

16 MS. KIMBALL: The City as the purchaser
17 isn't allowed to pay above fair market value so
18 Pauline helped us get on New Main
19 Street is we got the appraisal. In
20 four out of five cases the seller
21 took the appraised value because they
22 had our appraisal, and we had our
23 appraisal and we kind of agreed
24 basically.

25 The last person had, you know,

1 PROCEEDINGS

2 the gentleman on the corner though his property
3 was a million five. Our appraisal
4 said \$350,000. The Court said it was
5 about 500,000. Because the Court
6 dictated that value to us and we were
7 able to pay that, but we're generally
8 not allowed to pay an exorbitant
9 amounts of money.

10 MS. SINGER: I understand that,
11 but if the situation goes to a legal
12 procedure --

13 MS. KIMBALL: Then the Judge
14 will determine based on that. So,
15 that's what will happen.

16 MAYOR SPANO: Any questions?
17 Anybody going to make a motion?

18 Cecile; second by Pete.

19 All in favor.

20 (Chorus of Ayes.)

21 MAYOR SPANO: The item is
22 passed. Let's go on to Yonkers
23 Avenue.

24 MR. GRIFFIN: On Yonkers Avenue
25 again you have before you the set of

1 PROCEEDINGS

2 documents.

3 For Yonkers Avenue we'll go
4 through the same process. There's a
5 discussion about SEQRA and then a
6 discussion about second resolution
7 about determination.

8 Again, if you think about
9 Yonkers Avenue, as you're leaving
10 City Hall, it's up on your right, and
11 we looked at that on the maps when we
12 originally talked about this.

13 We had a public hearing. The
14 owner did materialize. He did make
15 statements at the public hearing.
16 He's represented by a Jim Veneruso.
17 We've heard from them. We've
18 actually redid the public hearing and
19 they again made --

20 It's very important for them to
21 say something at the public hearing
22 by letter or showing up because that
23 then gives them the right to sue us
24 on process later on. We don't shy
25 away from that. That's their due

1 PROCEEDINGS

2 process.

3 Cecile was generous enough to
4 be our hearing officer for these
5 different hearings we've had.

6 Now that we've gone through the
7 hearing, let's think about sight,
8 sound, smell, traffic, things like
9 that. None of that changes yet
10 because we don't have a proposal for
11 this site.

12 We think this is a nice area
13 for overflow parking or something we
14 want to control as a City and a
15 community. That's probably our
16 primary use for now. I don't see a
17 lot of impact issues with that.

18 The real question before you is
19 Part 1 was filled out by people who
20 understand this process and present
21 it to you.

22 Part 2 was then filled out by
23 us as counsel for you saying we don't
24 see a moderate to large impact
25 because of just this step and again

1 PROCEEDINGS

2 it's not that hard to come to that
3 conclusion given we are not ready to
4 build a ten story building there.

5 And then Part 3 because I
6 didn't find a moderate impact or
7 large impact, there's nothing really
8 to fill out in Part 3.

9 So, that's all been prepared
10 for you. It was sent to you last
11 week. It's before you now. We are
12 recommending that you pass what's
13 called a negative declaration and
14 there's not anything further about
15 and that you go ahead and proceed
16 with the actions. So, do you want to
17 present that for --

18 MAYOR SPANO: One thing to
19 remember, too. We are building four
20 thousand units of housing right up here.
21 There's two ways, two arteries into
22 this community on Yonkers Avenue and
23 Ashburton Avenue. We just put about
24 roughly I think 15 or 17 million
25 dollars into Ashburton Avenue. They

1 PROCEEDINGS

2 will pave it in the spring and that's
3 the final touch on it, but all of the
4 -- most of the real infrastructure
5 work is done. Yonkers Avenue is a
6 monumental challenge for us. So,
7 this could be a very important piece
8 in the comprehensive plan to deal
9 with what is potentially I think a
10 challenge for us when it comes to
11 traffic at the top of Yonkers. So,
12 we'll try to stay ahead of the curve
13 a little bit and I think this will
14 accomplish that.

15 MR. GRIFFIN: 116 Yonkers
16 Avenue is .42 acres. We have an
17 appraisal on it for \$800,000. Before
18 you is a SEQRA resolution to
19 recommend a negative declaration.
20 There's also attached a copy of the
21 transcript from the hearing and a
22 copy of the appraisal. We can have a
23 motion for the SEQRA.

24 MAYOR SPANO: We are going to
25 take the SEQRA first.

1 PROCEEDINGS

2 Item 9, does anyone want to
3 make a motion? Cecile and second by
4 Pete. All in favor?

5 (Chorus of Ayes.)

6 MAYOR SPANO: Any negatives?

7 The item is passed.

8 MR. GRIFFIN: In your minutes
9 next month we'll show that's
10 reflected that each time you did
11 SEQRA first. That's why we have the
12 formal minutes next month for you to
13 review.

14 The second item is the
15 determination just like the other
16 property you are trying to decide
17 that first big step. You've done the
18 public hearing. You've heard
19 comments. The property owner
20 materialized. He said he had some
21 kind concept for retail there. I've heard
22 that through Venarusso. We haven't
23 heard much further than that.

24 Our current appraisal is about
25 \$800,000 on the property. The vacant

1 PROCEEDINGS

2 lot it's not used too much at all at
3 this point. So, again, we are
4 acquiring it. We are going to try to
5 figure out on our own what we're
6 going to do with it from the City's
7 perspective, but it's currently
8 unutilized lots just like the other
9 one.

10 So, we'd like to have you
11 determine to go ahead and take that
12 property or authorize us to proceed
13 with the taking.

14 Again, that then is the
15 preparatory step. They are going to
16 have to sue us on the process. If
17 they don't sue us on process, we go
18 to Court and ask for a map to be
19 approved by a Judge. The Judge
20 approves the map. That's the actual
21 taking. At that point I will offer
22 the appraised amount. We have a
23 funding agreement from the City for
24 five million. Between now and then
25 we may come up with a development

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PROCEEDINGS

plan to have the private parties to participate just like Forest City. So, that will all be done at a later date.

MS. SINGER: In this kind of situation so it's a vacant lot so that the owner can say highest and best use of that property. So, do they go to highest and best use? I mean, how does that work?

MR. GRIFFIN: It's a good question. It's got a lot of rhetoric around it. Because the state, the condemning body of Empire State Development and they have their own statutes. That's really been modified over time for a lot of different reasons.

You also saw that Connecticut case a little few years ago, can a taking body take a piece of land from one private party and give it to another. And even the Supreme Court said yes, as long as you follow due

1 PROCEEDINGS

2 process. That's the constitutional
3 issue.

4 Here the due process is we told
5 you about it, you came and made a
6 comment at the hearing so you get the
7 first challenge as on due process. You
8 don't do it at the Supreme Court
9 level. You do it at the Appellate
10 Division. That's an Article 2 action
11 and when that's all done you have the
12 taking map and the only thing left to
13 do is hand you money for our
14 appraisal and if you want to sue us
15 for more money, you got a couple of
16 years to do that.

17 That's the due process. If we
18 stay on that path, these takings
19 normally go quite smooth.

20 MR. KISCHAK: What was that
21 vacant lot before?

22 MR. GRIFFIN: I'm not sure.
23 It's been vacant the entire time I've
24 worked for you guys since 1997.

25 MAYOR SPANO: I thought it was

1 PROCEEDINGS

2 I guess parking for the funeral home
3 that's across the street.

4 MR. GRIFFIN: And then the
5 funeral home moved.

6 MAYOR SPANO: Duchynski,
7 something like that.

8 MR. GRIFFIN: The one that
9 moved. They put a moved sign up. I
10 think that's what it was.

11 MAYOR SPANO: Obviously it just
12 stays vacant.

13 MR. GRIFFIN: I've been here
14 since '97.

15 MR. KISCHAK: Are they paying
16 taxes on it?

17 MR. GRIFFIN: Yes. They pay
18 taxes. We think we need it either
19 for the road discussion, parking
20 discussion or temporary discussion.

21 MR. KISCHAK: So, we used the
22 school buses to pick up kids.

23 MAYOR SPANO: We took all of
24 the school buses that were picking up
25 kids up the ramp, and when I say the

1 PROCEEDINGS

2 ramp, it's Yonkers Avenue. We had
3 about 600 kids picked up at that
4 location. We did some improvements
5 to the road behind 221 and actually
6 had buses rolling into Nodine park and
7 that's where they picked up the kids.
8 We took all those buses off of
9 Yonkers Avenue. That is really
10 significant. It had a great impact,
11 a positive impact on Yonkers Avenue,
12 but we have a lot more to do to get
13 the buses off of Yonkers Avenue.
14 That's the ballpark kids coming from
15 that location, not just 221. So, we
16 pushed everyone up Nodine into the park and
17 the parents. It's one of those
18 things that everybody was happy. The
19 parents were thrilled with it.

20 We want to see if we can do
21 more of that moving forward and at
22 the end of the day it might end up
23 being that or it might be another
24 place to just park cars so we can get
25 cars off of Yonkers Avenue. We have

1 PROCEEDINGS

2 a lot to look at at traffic.

3 MR. GRIFFIN: With all the
4 activity that this agency induces
5 down through that corridor, we know
6 that's a critical issue.

7 We've been talking about it.
8 So, this one you got a clear public
9 purpose to acquire and figure out
10 what we are going to. We know we are
11 going to need it for some public
12 purpose or maybe even a private
13 purpose.

14 So, with that we recommend a
15 determination of finding of that
16 parcel and that's the second
17 resolution.

18 MAYOR SPANO: That's Item 8.
19 Are there any other questions?

20 MS. KIMBALL: I'll make a
21 motion.

22 MAYOR SPANO: Wilson made a
23 motion. Second by Cecile. All in
24 favor?

25 (Chorus of Ayes.)

1 PROCEEDINGS

2 MAYOR SPANO: Any negatives?

3 Okay. Let's go on to Item 11.

4 MR. GRIFFIN: The last parcel
5 is a single parcel, 59 Babcock Place.
6 This is 3.64 acres. This one is
7 probably the most interesting of all
8 the parcels. It's the notch that
9 we've talked about on Alexander
10 Street. This is probably the late
11 '90s.

12 A quick bit of history is the
13 property is where there is supposed
14 to be a bus maintenance shed, long
15 term, just maintenance and storage
16 and parking for the evening. It's
17 gotten to be a real traffic concern
18 for us. It's also we've worked --
19 I've been with three administrations
20 with meetings with MTA trying to get
21 them to sit with us. This was the
22 first one to really, really bring it
23 to a head.

24 We talked about this option.

25 City Council if you remember a couple

1 PROCEEDINGS

2 of years ago even passed a resolution
3 the last time we talked about it. It
4 kind of got out ahead of us and then
5 it flared out.

6 The property is owned by New
7 York City. Normally you can't
8 condemn another body that has a
9 public purpose. So, what we are
10 looking at is asking you to make a
11 determination to take all ownership
12 rights. So, the fee title, that's
13 owned by the City and they lease to
14 MTA. They subsidize to MTA. So,
15 it's an interesting lease. That
16 lease, Mike Curti has a copy of that.
17 We are looking at -- We want the
18 board to make a determination to take everything
19 them out of there. We may come back
20 and talk to you about modifying that
21 and leaving the lease holders state
22 to the MTA if we can work something
23 out with MTA.

24 They should not be up on our
25 property especially it being waterfront

1 PROCEEDINGS

2 property.

3 There's been talk for years of
4 straightening out that road.

5 Lou Kurvin actually when he was
6 around had a plan that went right
7 through the middle that's been modified.

8 It still kind of
9 hooks around to the west of it.

10 MS. KIMBALL: Actually it goes
11 straight through the property.

12 MR. GRIFFIN: It depends on if
13 we can get rid of the MTA, actual
14 drill down operations. It's supposed
15 to just be maintenance. It's not
16 supposed to be parking. They call it
17 a maintenance garage. It's not
18 supposed to be where they park all
19 the buses.

20 MAYOR SPANO: Maintain a hundred
21 at a time

22 MR. GRIFFIN: Well, the Deputy
23 Mayor hosted a meeting with New York
24 City. We've been in direct contact
25 with them. We got a lot of the same
feedback we've had before. It's

1 PROCEEDINGS

2 of other things to get to something
3 like this. So, even when we get a
4 meeting, it's not very productive.

5 There were at least a dozen
6 representatives from New York City
7 and the MTA. The Mayor is asking for
8 this information. Why can't we never
9 get it from them. This is what we
10 are left with. Take it, clear it
11 out. That road is going to rise
12 significantly in the new plan.

13 MS. KIMBALL: Up nine feet.

14 MR. GRIFFIN: Up nine feet.

15 They are currently coming off their
16 property. It's not a proper spot for
17 them. It never has been. This is
18 all developed -- somebody on the
19 board --

20 MS. SINGER: It impairs
21 development.

22 MR. GRIFFIN: Correct.

23 MS. SINGER: It really does.

24 MAYOR SPANO: It's all waterfront
25 for the sole benefit of New York

1 PROCEEDINGS

2 City. There's no benefit whatsoever
3 to Yonkers' residents.

4 MS. SINGER: We have this.
5 It's right like this.

6 MR. GRIFFIN: This effectively
7 is the north end of the line for
8 these buses and they are picking up a
9 few Yonkers' residents. It's really
10 going through the rest of the city.

11 MS. SINGER: So, really --

12 MAYOR SPANO: I don't think
13 they pick up anybody.

14 MS. SINGER: It closes off
15 development there. What it does is
16 it caps it so you can't go forward
17 and also because of what's housed
18 there, it's undesirable.

19 MAYOR SPANO: Plus they don't
20 pay us one penny in property taxes.

21 MR. GRIFFIN: Correct. You've
22 got Avalon going on down there.
23 You've got other development going on
24 there. We need to get this out of
25 the way.

1 PROCEEDINGS

2 MAYOR SPANO: I've spoke to the
3 Mayor of New York City about this.
4 He told me that it's something that
5 they take very seriously. They want to
6 resolve the matter. I told him
7 that they are asking for ransom for it of \$45
8 million dollars.

9 It's not going to happen. They have
10 to grant them and take that structure
11 off the Yonkers waterfront and put it
12 where it belongs, and the people who
13 benefit from it should have it. The
14 people of Yonkers who are basically
15 just taking, getting all the bad
16 without any of the good. It
17 certainly does block our new
18 development plans from going any
19 further north. It has to go if we
20 want development to continue.

21 MS. SINGER: It's such a
22 visible barrier to going forward.

23 MR. GRIFFIN: True.

24 MS. SINGER: We can certainly
25 argue that.

MR. GRIFFIN: Just to be clear.

1 PROCEEDINGS

2 City and then right next to the
3 railroad tracks there's a parcel
4 owned by CSX.

5 We did a hearing on that and we
6 haven't done a second one. We are
7 not required to do a second one. If
8 we don't act with 90 days -- so, we
9 may still do a hearing.

10 If we take this parcel, that is start the
11 discussion because CSX has
12 been leasing that other parcel to New
13 York for bus parking and employee
14 parking. It's really not a proper
15 size parcel form given the density of
16 buses they have.

17 We've asked them very nicely.
18 I think it was 2000, whenever the
19 Bloomberg administration decided to
20 acquire all the Liberty Bus Lines. I
21 think it was 2000, 2004 range and
22 this was the first one they bought
23 really fast. They bought it for \$10
24 million or \$10.3 million or something
25 like that. They were buying a

1 PROCEEDINGS

2 business.

3 You may even recall a time we
4 went down and tried to work out an
5 option from them, maybe we could help
6 them find a spot and they still
7 wanted us to pay the \$10 million.
8 Well, more recently they wanted us to
9 pay 40 something million dollars.

10 MAYOR SPANO: We've gotten less
11 and less. We've gotten nowhere with
12 them. I mean Ron Shemesh had Chuck
13 Schumer up to Yonkers. We still --
14 you know, it was just an echo out of
15 New York City. We heard nothing
16 until we did this. We decided we
17 were going to condemn it and all of a
18 sudden they decided they were going
19 to pay attention to us.

20 MR. KISCHAK: If you think
21 about the shortcomings of the MTA and
22 what it costs them to drive a bus,
23 15, 20 minutes each direction plus
24 pay a bus driver, he's working but
25 he's not picking up people.

1 PROCEEDINGS

2 MR. GRIFFIN: Good point.

3 MR. KISCHAK: And wear and tear
4 on the buses and wear and tear on the
5 streets and no taxes. You would
6 think that they would jump on the
7 idea that the buses would be close to
8 where the destination where they are
9 going to pick up people.

10 MAYOR SPANO: Where are they
11 going to find space to put a hundred
12 buses -- about storing those buses up
13 here and not storing them down in the
14 ridership. That should not be a
15 burden placed on taxpayer dollars.

16 MS. SINGER: Find something for
17 them.

18 MR. GRIFFIN: We offered.

19 MR. KISCHAK: Van Cortlandt
20 Park.

21 MR. GRIFFIN: We offered to
22 break them up into different parcels.

23 MAYOR SPANO: They are looking
24 for a ransom and that's just
25 unacceptable. That's why this

1 PROCEEDINGS

2 approach works. If we win this, then
3 we control the property and we can
4 build and negotiate with them.

5 MS. SINGER: (Inaudible.)

6 MR. GRIFFIN: Right. This is
7 serious stuff, but the SEQRA again is
8 before you filled out by your
9 counsel. We don't see a lot of
10 impact on sight, sound, smell,
11 height, view, except when you're
12 dealing with just to acquire. No one
13 is going to figure out what to do
14 with the parcel later.

15 We've got a lot of ideas about
16 the road once they are gone or if
17 maintenance is still there.

18 MS. SINGER: This one is a big
19 deal because we really -- It impairs
20 our ability. It impairs our
21 development ability. It impairs the
22 citizens' access to the waterfront.
23 You know, there's
24 a whole list. So, it's an
25 interesting one.

MR. GRIFFIN: We've got at
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1 PROCEEDINGS

2 least a 15 year history to try to
3 work this out with the City of New
4 York. This Mayor is saying take a
5 line from the TV show, move the bus,
6 move the bus so we can open up until
7 the rest of the development is ready
8 to go.

9 MAYOR SPANO: Paying taxes, didn't have
10 loop hole. Law says (inaudible).

11 We probably would have
12 recovered in the ten years --

13 MR. GRIFFIN: Up to billions.

14 MAYOR SPANO: I don't remember
15 the exact number, but I think I heard
16 that something like \$12 million in
17 total. So, it's you know, that's a
18 big chunk of money for us.

19 MR. GRIFFIN: I draw your
20 attention -- on this particular one
21 we have an appraisal of \$5,350,000.
22 Again this is a preliminary number.
23 We don't really need it today. We'll
24 freshen it up once it's time to do
25 the taking.

1 PROCEEDINGS

2 We expect there will be a suit.
3 Pauline will take it from here after
4 today. After they take it into
5 Court, she'll take it into Court like
6 she did with New Main Street.

7 MR. KISCHAK: Pauline is going
8 to be busy.

9 MAYOR SPANO: (Inaudible.)

10 MR. KISCHAK: So, we're going
11 on the SEQRA here, right?

12 MAYOR SPANO: Yes. So, Cecile
13 made a motion. Second by Pete. All
14 in favor?

15 (Chorus of Ayes.)

16 MAYOR SPANO: The item is
17 passed. Any negatives?

18 Let's go on to 10.

19 MR. GRIFFIN: Then the final
20 action is the determination and the
21 taking of the property itself. This
22 again just like the other one. This
23 is where you decide. We've had the
24 hearing. We thought about SEQRA.
25 So, that's behind us. It's a similar

1 PROCEEDINGS

2 process like EDPL. You're saying go
3 ahead and go take this property.
4 That would be up to staff and your
5 counsel to do.

6 Again our role fades. Pauline
7 really takes front stage with the two
8 types of litigation; the one Article
9 2 process and then I think Article 7
10 challenges the valuation. That will
11 be ongoing. We expect to be back
12 here. If they do an Article 2
13 challenge probably in the spring and
14 by the time we get a decision in the
15 summer and then do the actual taking,
16 then the valuation can occur any time
17 years after that.

18 MAYOR SPANO: Any questions?
19 Cecile made a motion. Second by
20 Pete. All in favor?

21 (Chorus of Ayes.)

22 MAYOR SPANO: Any negatives?
23 The item is passed.

24 Let's go up to -- There's no
25 legal updates. Is there any other

1 PROCEEDINGS

2 business?

3 MR. GRIFFIN: We are going to
4 reflect in the minutes with a former
5 resolution that the City has offered
6 but they are going to get City
7 Council approval on that, a funding
8 agreement. The funding agreement
9 will be shown in your minutes that
10 you review next month to say that
11 it's been offered. The Corp.
12 Counsel drafted it. It's very
13 similar to what we've used for other
14 funding agreements and it basically
15 says that we incurred costs as part the
16 taking. They had to do a budgetary
17 line up to \$5 million. Mike Curti is
18 handling the final approvals on that.
19 So, we are relying on that plus our
20 own resources plus any resources
21 we've identified in private
22 development, and we don't have an
23 obligation to write a check until
24 later, after we get through this
25 Article 2 process.

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PROCEEDINGS

We'll be back to talk to you in
the spring about that. Thank you.

MS. MCGILL: No business.

MAYOR SPANO: Anyone make a
motion to adjourn? Pete, second by
Wilson. All in favor?

(Chorus of Ayes.)

MAYOR SPANO: No negatives.
Thank you. We are adjourned.

(Whereupon, the proceedings
concluded at 9:54 A.M.)

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PROCEEDINGS

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF PUTNAM)

I, MADELINE IOVINO, a Notary Public
for and within the State of New York, do
hereby certify:

That the above is a correct
transcription of my stenographic notes.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of December 2017.

Madelaine Iovino

MADELINE IOVINO

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