

MINUTES

Lakefront Development Advisory Commission
Wednesday, October 23, 2014, 4:45pm
Gordon Park Pavilion
2828 N. Humboldt Blvd.
Milwaukee, WI

Members present:

William Lynch, Chairman
Gerry Broderick
John Dargle Jr.
Henry Hamilton III
Cheryl Wankowski representing Patricia Jursik
Nik Kovac
Fernando Moreno representing Carl Kreuger of Brown Deer
Rocky Marcoux
Eric A. Nitschke, ex officio
Steve Scaffidi
Paul Vornholt representing Timothy K. Hoelter
Teig Whaley-Smith
Rep. Jon Richards, ex officio

Members Absent:

Lauri J. Gorton, P.E.
CoreyAnn St. Marie-Carls
Kurt Mihelich
David Radtke, AWB

Agenda

1. The authority and competence of the Lakefront Development Advisory Commission ("LDAC" or the "Commission"), to formulate a recommendation on the proposed sale by the County of the transit center site (at 909 E. Michigan St.)
2. Depending on the Commission's action on the agenda item above, hold a public hearing on the request for review submitted by the proponents of sale of the transit center site.

3. Discuss future meeting dates and possible agendas.

Proceedings

Chairman Lynch called the meeting to order at 5:00pm. Reviewed the purpose of the commission. It was established by resolutions and applies criteria.

Item #1. The authority and competence of LDAC to formulate a recommendation on the proposed sale by the County of the transit center site (at 909 E. Michigan St.)

Lynch: The Commission has been asked to advise and present information to Milwaukee County. Our advice would be information to the County Board's Economic and Community Development Committee. We've received a number of documents, including an Oct 13, 2014 memorandum. We've posted additional documents to the website as we received them.

Hamilton: I renew the objections I made at last meeting. This matter is premature. The public should have two weeks before a public meeting is held. Many documents were just posted this week.

Lynch: The request was posted on Oct 16. (One week before the meeting.)

Whaley-Smith: We received the request two weeks ago and discussed it at the last meeting. We took a week to post it.

Lynch: I'm ruling as chair that the public hearing is not before this body.

Marcoux: We voted as a group that we would have this hearing today. And we withdrew motions based on that understanding.

Lynch: Point of order. Our procedures are not being followed. It is a public meeting, but the formal public hearing may be held later.

Kovac: We talked about this at last week's meeting. I make a motion to proceed.

Hamilton: How does the public have the information when the commissioners don't have it? The persons in attendance are not the universe of the public.

Whaley-Smith: Seconded. Information was submitted to the Commission. There is a serious issue with providing and posting information in a timely manner.

Lynch: Did you submit the request for review based on behalf of the county exec., Northwestern Mutual or both? Is this item proposed by the county executive?

Whaley-Smith: The county executive is sponsoring this item.

Hamilton: Setting aside a rule does indeed take a 2/3 vote.

Kovac: I came because I was invited to a public hearing. Our rules are subject to discussion. We decided that at the last meeting. We can choose to suspend the rules now. Why are we overruling our own decisions and public announcements?

Hamilton: Everyone must go through the process if they want to develop on the lakefront. It's important and we owe it to the public.

Discussion of Robert's Rules of Order. Lynch explained that he had reviewed Robert's Rules after the Commission's last meeting and a motion to suspend the rules requires a 2/3 vote. He had not known this previously.

Call the question.

On Item #1, Marcoux moved to proceed with item 2. Scaffidi seconded. Ayes prevailed.

Item #2. Depending on the Commission's action on the agenda item above, hold a public hearing on the request for review submitted by the proponents of sale of the transit center site.

Marcoux: The city would like to present after the proposer's presentation.

Rick Barrett, on behalf of the developers: This project will push the City of Milwaukee forward and enhance its national reputation. \$122 million, 44 stories. 26% dedicated to public use. 302 market rate apartments. 54,000 sf. of retail and restaurant. Private and public parking. 2,074 jobs including disadvantaged business enterprises and city residents. Project puts property on tax rolls.

\$68 million of tax revenues. 600 new residents. Over 1,000,000 visitors to the building. Designed to be a Lakefront Gateway. Replaces an underutilized bus barn.

Matt Rinka, architect for the developer: This project has everything an architect would want to see for the site and the community. It's integral to the downtown and lakefront. The plinth (multi-story base) enhances the public experience.

The multi-modal transportation concourse serves bus, streetcar, and pedestrian modes. Softens the northeast corner. Pedestrian walkways to the north, south, and east. Parking is tucked to the west. Escalators to second level. Retail and civic attractions. Provides access to lakefront.

Simple forms driven by ellipses. Increased depth of public realm between Michigan St. and building. Restaurant and retail will bring people to the lakefront. Top of the plinth recreates the park with a restaurant pavilion.

Barrett: LDAC's Criteria and principles are met. Respect plans? "Milwaukee's Lakefront Plan." Consistent with zoning, yes. Public trust, yes. DNR, yes.

#2 Encourages active and passive uses.

#3 Preserve and protect the scenic beauty. Yes, provides views of lakefront and complements other buildings.

#4 Provide access to all: Does a really good job. Project is expressly designed to do that.

#5 Put things at the lakefront that need to be there. Yes.

Lots of support in media. Example: Urban Milwaukee blog headline, "The Couture could wow the nation."

Broderick: There is a Public Trust Doctrine issue on this site. The opposing parties need to negotiate the matter. The state legislature addressed a constitutional issue concerning the 1913 line with a law. A legal challenge could delay project for a length of time. The Milwaukee County attorney represented the county executive and not the County Board. I represent 52,000 constituents and the concerns that they raise. They are not dead set opposed. We can argue all night long. The issue will not proceed unencumbered.

Marcoux: The lakefront is our picture postcard to the world. Milwaukee County, the City of Milwaukee, and the State of Wisconsin have all done the Lakefront Gateway Plan. Cooperation resulted in a plan that is workable. The Lake Interchange was a leftover of

the planned Lake Freeway. Hat's off to the people who stopped it. The side slopes of the ramps on berms are not usable space. Plan calls for moving ramps rather than eliminating them. They will run under the freeway. \$34 million to fix this. It looks like a loading dock now. City purchased the riparian rights from the C&NW railroad in 1913. There is a lack of connection to the lake caused by a major grade change. Stairs are not ideal, especially for families with young children, anybody with a mobility challenge.

The plan extends Lincoln Memorial Dr. to Chicago Ave. Clybourn Ave. becomes a beautiful boulevard to Discovery World. Tax base increases. Complements NML's new building. The bridge through the Couture to the lakefront is for everyone to use, including people arriving by buses and people on bikes.

Lynch: What is the relationship of the building proposed today and the bridges?

Marcoux: The 833 building (Irgens) is under construction. NML is under construction; it provides \$18 million in tax-incremental finance. Couture's concourse makes the bridges possible. The bridges go through the building, but they are paid for mostly out of the other budgets. The city investment is justified because it's all public.

A request for information has been issued to design the bridge from Couture to the park. All the buildable area is on the land side of the 1913 line.

Broderick: I was one of the authors of LDAC. We were commissioned to dispassionately review development proposals. The Commission's mission as a watchdog has changed to a proponent for development due to changed membership. I am looking for objectivity, not advocacy for development. I question whether we're serving the very purpose that this Commission was created to serve.

This project is going to get slowed down, why can't you work it out?

Public comments:

Charles Kamps: Preserve our Parks (POP) would like to see the Couture built, but not on land that must be preserved in the public trust. Kamps referred to the opinion that counsel to POP had provided. He had submitted the opinion to the Commission prior to the meeting.

(See file/website for a letter of opinion from an attorney on the matter. Not the Commission's attorney.)

The County Board sought to resolve the matter of the lakeshore line. The county executive went to the state legislature and it passed Act 140. The railroad was a public use and filled in additional land for public use. Historical maps show this. 1835 survey meander line. Increase Lapham, 1856. Two-thirds of the transit center is on lake bed.

Regarding the 1913 Division Line between City of Milwaukee and CW Railway: the RR didn't have a deed, just permission. There is a gap between the real shore line and the fictitious shore line.

Novak: How much of developed land north and south is on the wrong side of the line?

Kamp: None that I know of. The front part of the new development site south of Clybourn is on lake bed.

Lynch: The site is being sold for \$500,000?

Whaley-Smith: The financial analysis is beyond this Commission. Proposed purchase price will come to the County or to pay the litigation costs. The current law is clear. Is LDAC going to declare a state law unconstitutional?

Lynch: How do you resolve the conflict?

Marcoux: Question for Kamp. What if the filling was not done correctly. Could owners get riparian rights?

Kamp: The RR did own the western third. I think the city would have those rights, but I don't know about the whole stretch.

Audience member: This project will provide tremendous work for workers in the city. The construction building industry has not recovered.

Gregory Bird: This is the 2nd busiest waterfront on the Great Lakes. Has there been a letter committing title insurance? If not, don't take action. There is no obligation to build on this site. Let's get a land lease and act more like a business. Leverage the site to offset taxes. This is a world class site that needs more than what we've seen. The building street has been moved back to the street front since earlier drawings. This is an aspiration, not a development process. It does not overcome the obstacle of Lincoln Memorial Drive.

Jorge Franco, CEO, Spanish Chamber of Commerce: In favor. Where is our gratitude? This will have tremendous impact. I also live nearby.

Whaley-Smith: I move to suspend the rules that provide for a two week period for post hearing public comment before the Commission deliberates on its recommendation.

Scaffidi: Seconded.

Lynch: That requires a 2/3 vote.

Whaley-Smith: We have some work to do on these procedures.

Marcoux: I don't see any harm.

Hamilton: Not providing the public information is harmful. Others want to comment and they have a right.

Marcoux: Remember this is an advisory commission. The County Board has taken the advice into consideration. The city has made an investment in this project. We're just asking for advice. There are many different public forums for the public to comment.

Whaley-Smith: The Economic Development Committee meets Dec 8, 2014. These rules have consistently been suspended.

Kovac: Chairman can call a meeting subject to challenge by the majority of the members. That's not our concern. Are we going to hear something in the next couple of weeks that is likely to change our minds?

Call the question.

Ayes: Motion carries.

Lynch: Commission is now to apply the criteria relevant to all the information gathered, whether or not they have been addressed in the testimony at the public hearing.

Whaley-Smith: I move the following resolution:

Couture Resolution

WHEREAS, the Long Range Lakefront Committee Plan ("Lakefront Plan") was endorsed by LDAC on August 24, 2011; and

WHEREAS, the Lakefront Plan (p5) recommends that the “Downtown Transit Center site be redeveloped with a high-value, multi-story use housing amenities more appropriate to its lakefront location; and

WHEREAS, the State of Wisconsin, pursuant to Wis. Stats 30.2038, has confirmed that Couture proposal is entirely west of the land that is subject to lake bed grant restrictions; and

WHEREAS, whether a State action was proper is beyond the scope of LDAC review; and

WHEREAS, the Couture proposal conforms with “Principle 1: Conform with current laws and regulations and respect adopted plans” for the following reasons:

- a) The proposal includes a “high-value, multi-story use housing amenities more appropriate to its lakefront location,” as called for by the Lakefront Plan,
- b) The proposal is contingent upon receiving appropriate zoning. Thus once the sale is complete it will comply with all current laws and regulations; and

WHEREAS, the Couture proposal conforms with “Principle 2: Encourage active and passive recreation, consistent with, but not limited to, existing uses” for the following reasons:

- a) Through its network of pedestrian and transit connections, the proposal includes better access to all residents to enjoy the lakefront’s passive and recreation opportunities;
- b) The proposal includes more passive recreation space than the existing use; and

WHEREAS, the Couture proposal conforms with “Principle 3: Preserve and protect the scenic and natural beauty of the lakefront” for the following reasons:

- a) Through its network of pedestrian and transit connections, the proposal includes better access to all residents to enjoy the lakefront’s scenic and natural beauty;
- b) The proposal includes areas on site for the public to enjoy the scenic beauty of the lakefront; and

WHEREAS, the Couture proposal conforms with “Principle 4: Provide access throughout the lakefront and especially to the water’s edge by all Milwaukee County residents and visitors” for the following reasons:

- a) Through its network of pedestrian and transit connections, the proposal includes better access to all residents and visitors to the lakefront; and

WHEREAS, the Couture proposal conforms with “Principle 5: Recognize the unique opportunities of different parts of the lakefront and allow only projects that must be at the lakefront” for the following reasons:

- a) Through its network of pedestrian and transit connections, the proposal provides a unique opportunity to connect all residents and visitors to the lakefront, which necessitates the property being at this location;
- b) The proposal includes a “high-value, multi-story use housing amenities more appropriate to its lakefront location,” as called for by the Lakefront Plan; now therefore

BE IT RESOLVED, that LDAC has reviewed the Couture proposal to redevelop the Downtown Transit Center and has determined that the proposal conforms with LDAC’s principals and recommends approval of the proposal.

Scaffidi: Seconded.

Broderick: This resolution was pre-arranged and the committee is stacked. It's just a matter of increasing tax base.

Richards: I haven't heard the opposition. I've heard support for the lakefront plan. Lakeshore state park was the result of creative thinking and I look at the Couture the same way. It will be safer, livelier, and will enhance the lakefront. I'm in favor.

Hamilton: I can't get past principle one. The legislature cannot amend the state constitution. Let's negotiate. Otherwise it's a good project.

Lynch: Did you mean to get into the impact of the state law on the public trust issue?

Whaley-Smith: I don't want to see the committee get divided over a state issue that is beyond our scope.

Marcoux: Put in the report that we're governed by the laws that the legislature passed.

Lynch: I just don't feel it's appropriate to give the impression that the Public Trust is not an issue, that the proposed sale complies with that legal requirement.

Scaffidi: The motion is clear. We've listened to both sides.

Nietschke: I'll be abstaining; the DNR will be taking a position on this question.

Lynch: According to the resolution establishing the Commission, Nietschke is ex officio, not a voting member. The same is true for Representative Richards.

Kovac: We punted on the legal issue. Include it in the report. I wouldn't object either.

Lynch: Call the question.

Cheryl Wankowski for Jursik - Excused

Broderick - N

Kovac – Here - Y

Scaffidi - Y

Lynch – Here - N

Whaley-Smith – Here - Y

Moreno for Kreuger - Y

Dargle - Y

Marcoux – Here - Y
Hamilton – Here - N
Vornholt for Hoelter - Y
Richards - Here, non voting
Nitschke – Here, non voting

7 in favor, 3 opposed.

Item #3. Discuss future meeting dates and possible agendas.

Lynch: Should we schedule regular meetings?

Kovac: In another board I serve on, we schedule regular meetings and cancel when there is no agenda.

Whaley-Smith: This item has shown some holes in our process. Let's meet and come back to the committee. Assign a sub-committee.

Lynch: Yes. We have obligations to the proposers and the public. We can move forward with that idea.

Marcoux: Go for it.

Scaffidi: Chair has that authority.

Lynch closed the meeting at 7:36p.m.

Note: 21 people signed in as attending the meeting (other than commissioners). Of those who filled out a comment card, 6 were in favor of Item #2, 10 were opposed, and 1 gave no indication.