

Economic Development Authority of the City of Portsmouth

July 16, 2019

6th Floor Conference Room, City Hall
801 Crawford, Portsmouth, VA

COMMISSIONERS PRESENT:

Kyle J. Kovachik – Treasurer
Theresa J. Saunders-Smith
Don L. Scott – Chairman
Ray A. Smith, Sr.

ALSO PRESENT:

Robert D. Moore – Secretary
Brian Donahue – Assistant Secretary
Dr. Patton – City Manager
Jeff Miller – Deputy City Attorney
Kelsey Swieringa – Assistant City Attorney
William E. Moody, Jr. – City Councilman
Elizabeth Psimas – City Councilwoman
Alisa Winston – PRHA
Cheryl Spivey – CFO
Wendy Hu – Assistant CFO

ABSENT:

Anthony Hinds
Tracy Link
Malcom Mitchell

GUESTS:

Jim Bento – Ocean Marine
Jason Dalli – Suntex
Ray King – Suntex, Legal Counsel

The Chairman called the meeting to order at 8:03 a.m.

The June 26, 2019 minutes were reviewed.

ACTION: On a motion by Mr. Scott and seconded by Mr. Kovachik, the Commissioners approved the June 26, 2019 meeting minutes as presented. **Roll Call Vote:** Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott – yes; Mr. Smith – yes.

Ms. Hu reviewed the June 2019 financial statements. It was agreed that the June 2019 statements would be filed for audit.

Mr. Hinds and Mr. Mitchell were both absent from this meeting so the ad hoc nominating committee will present a recommendation for a new Vice Chairman at the August meeting.

Mr. King, legal Counsel for Suntex/Ocean Yacht SMI, LLC, discussed the various easement and lease agreements his client has with the EDA. Due to an upcoming sale of one of the properties affected by the easement, Mr. King described how the agreements should be restructured to account for multiple owners.

ACTION: At 8:18 a.m. on a motion by Mr. Kovachik and seconded by Mr. Smith, the Authority entered a closed meeting pursuant to Virginia Code subsection 2.2-3711 A.3 for the purpose of discussing the acquisition and/or disposition of publicly held real property interests where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, specifically regarding Victory Village, 409 McLean Street and Ocean Marine. **Roll Call Vote:** Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott –yes; Mr. Smith – yes.

City Councilman Moody and City Councilwoman Psimas remained for the Closed Meeting.

ACTION: At 8:45 a.m., on a motion by Mr. Kovachik and seconded by Ms. Saunders-Smith, the Authority entered an open meeting whereby only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting just concluded. **Roll Call Vote:** Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott –yes; Mr. Smith – yes.

ACTION: On a motion by Mr. Smith and seconded by Mr. Kovachik, the Commissioners approved the following resolution:

**(Ocean Marine)
(Easement and Parking Rights)**

WHEREAS, in 2001 the EDA entered into a long-term lease and various easement and related agreements with Ocean Marine, LLC for the development of marina and yacht repair facilities on certain property described as 1 Crawford Circle (Tax Parcel 0003-0012) (the “Marina Property”) and 0 Gosport (Tax Parcel 0011-1331) and 176 Lincoln Street (Tax Parcel 0011-1330) (collectively, the “Repair Property”); and

WHEREAS, the marina and yacht repair facilities were subsequently developed and have been operating and providing tax revenue to the City for over a decade; and

WHEREAS, Ocean Yacht SMI, LLC (“Ocean Yacht”), the successor in interest to Ocean Marine, LLC has received a proposal to purchase the Repair Property; and

WHEREAS, Ocean Yacht desires to sell the Repair Property to a new operator while maintaining Ocean Yacht’s right to operate the marina on the Marina Property; and

WHEREAS, the proposed purchaser of the Repair Property intends to continue performing marine repairs on the Repair Property; and

WHEREAS, the conveyance of the Repair Property by Ocean Yacht to a third party necessitates the reconfiguration of certain agreements, including those relating to parking and berthing, that were executed in 2001 as part of the original development; and

WHEREAS, Ocean Yacht has requested that EDA consent to the reconfiguration of the agreements so as to permit the sale of the Repair Property; and

WHEREAS, the proposed reconfigurations do not expand the scope of the existing rights that were previously granted by EDA and therefore do not prejudice the interests of EDA; and

WHEREAS, it is the directive of City Council and a goal of EDA to establish an environment in Portsmouth that is conducive to the development and success of both new and existing businesses;

NOW, THEREFORE, it is hereby RESOLVED that:

1. The amendment of various existing agreements and documents related to the Marina Property and the Repair Property, to include an amended and restated marina and parking lease, an amended and restated memorandum of lease, an amended and restated parking easement, a declaration vacating berthing and access easements, and such other related documents as are necessary or desirable, is hereby authorized and approved.
2. The Chair and Vice Chair are each authorized to execute the aforementioned agreements and documents in accordance with the intent of this Resolution.
3. This Resolution expressly does not authorize amendment of that certain instrument titled "Restrictive Covenants on the Project" dated August 1, 2001 and recorded in the Portsmouth Circuit Court Clerk's Office as Instrument Number 011176.
4. This Resolution shall be effective immediately upon its adoption.

Roll Call Vote: Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott –yes; Mr. Smith – yes.

ACTION: On a motion by Mr. Kovachik and seconded by Mr. Smith, the Commissioners approved the following resolution:

**(409 McLean)
(Extension of Feasibility Period)**

WHEREAS, pursuant to a resolution adopted on October 15, 2018 the EDA entered into a Purchase and Sale Agreement with The Miller Group of Virginia, Inc. (the “Developer”) for the residential development of 409 McLean Street (the “Agreement”); and

WHEREAS, by Resolution adopted on May 21, 2019 the Board of Commissioners authorized the extension of the Feasibility Period under the Agreement through August 1, 2019; and

WHEREAS, it is in the interest of all parties to extend the Feasibility Period through September 18, 2019;

NOW, THEREFORE, it is hereby RESOLVED that:

2. The amendment of the Agreement to extend the Feasibility Period through September 18, 2019 is hereby approved.
2. The Chair and Vice Chair are each authorized to execute an amendment to the Agreement in accordance with the intent of this Resolution.
3. This Resolution shall be effective immediately upon its adoption.

Roll Call Vote: Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott –yes; Mr. Smith – yes.

ACTION: On a motion by Ms. Saunders-Smith and seconded by Mr. Kovachik, the Commissioners approved the following resolution:

(Victory)
(Development of Entertainment District including Casino Gaming)

WHEREAS, in December 2018 and April 2019 the Economic Development Authority acquired property that was formerly intended to be developed as the Victory Village mixed use project; and

WHEREAS, as a result EDA now owns an approximately 50 acre site with direct interstate access and highway visibility (the “Victory Site”); and

WHEREAS, because of its size and proximity to Interstate 264 the Victory Site represents a unique development opportunity; and

WHEREAS, at the direction of the Board of Commissioners staff has evaluated four potential uses for the site, including as a commerce park; as a single user “big box” industrial site; as a multiple user “medium box” industrial site; and as an entertainment district including casino gaming; and

WHEREAS, upon review of the alternatives, it has been determined that the optimal use of the Victory Site would be for the development of a centrally-located entertainment district to include casino gaming;

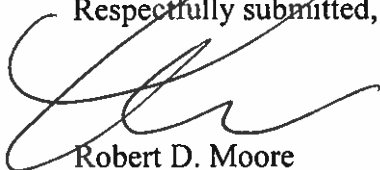
NOW, THEREFORE, it is hereby RESOLVED that:

1. Staff is hereby authorized and directed to market the Victory Site for development of an entertainment district to include casino gaming.
2. This Resolution shall be effective immediately upon its adoption.

Roll Call Vote: Mr. Hinds – absent; Mr. Kovachik – yes; Ms. Link – absent; Mr. Mitchell – absent; Ms. Saunders-Smith – yes; Mr. Scott –yes; Mr. Smith – yes.

With no other business before the Board the meeting was adjourned at 8:48 a.m.

Respectfully submitted,



Robert D. Moore
Secretary