



**HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD
City of Chattanooga, Tennessee
SPECIAL MONTHLY MEETING MINUTES**

**John P. Franklin City Council Building
Council Assembly Room
1000 Lindsay Street
Chattanooga, TN 37402
for
November 29, 2021
2:00 p.m.**

Present were Board Members: Hicks Armor (Chair), Gregg Gentry (Vice-Chair), Richard Johnson (Secretary), Charles D. Paty, Alexa LeBoeuf, and Johnika Everhart. Absent was Dr. John W. Schaerer.

Also present were Phillip Noblett (Counsel to the Board); Taylor Brooks (Adams and Reese LLP); Timothy L. Mickel (Evans, Harrison, Hackett, PLLC); Ethan Collier; Joshua Haston (LDG Multifamily, LLC); Martina Guilfoil, Justin Tensun and Grece Moralls (CNE); Sandra Gober and Jermaine Freeman (Economic Development); and Steve Barrett (Husch Blackwell).

Mr. Armor called the meeting to order, confirmed the meeting advertisement, and established that a quorum was present to conduct business with six members present.

MINUTES APPROVAL FOR THE SEPTEMBER 20, 2021, MEETING

On motion of Mr. Johnson, seconded by Mr. Paty, the minutes of the September 20, 2021, meeting, were unanimously approved as submitted.

There was no person present wishing to address the Board.

1. Mr. Armor presented the next order of business: **“A RESOLUTION AUTHORIZING AND APPROVING ALL DOCUMENTS, INSTRUMENTS, ACTIONS, AND MATTERS NECESSARY OR APPROPRIATE FOR, OR PERTAINING TO, THE ISSUANCE, SALE, AND DELIVERY BY THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, OF ITS MULTIFAMILY HOUSING REVENUE BONDS (THE RESERVE AT MOUNTAIN PASS APARTMENTS PROJECT) SERIES 2021A IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED THIRTY-TWO MILLION TWO HUNDRED EIGHTY-NINE THOUSAND DOLLARS (\$32,289,000) AND TAXABLE SERIES 2021B IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED FOURTEEN MILLION DOLLARS (\$14,000,000).” (HEB2021-11)**

Mr. Joshua Haston (LDG Multifamily, LLC) spoke on this resolution. This is a property off of Central Avenue, 240 apartments units, geared towards families earning no more than 80% AMI. They worked for a long time with the community, as well as the Housing Authority and the Economic Development office.

Mr. Armor asked how many are going to be at what rate? Are all of them at 80% of the AMI? Mr. Haston stated the entire property is 100% affordable, meaning all units are up to 80% AMI. Specifically, there are 126 units that are set aside at 60% AMI, 54 units set aside at 80% AMI, and the remaining 60 units are set aside at 30% AMI. That was made possible by the partnership with the Housing Authority. They awarded a project based under the contract of this property and providing extremely low income units. The whole property is mixed of two and three bedrooms. The two bedroom units are at 1,072 sq. ft. The three bedroom units are at 1,185 sq. ft.

Mr. Noblett stated there is a one-page summary in the packet which talks about The Reserve at Mountain Pass, and how many of the units will be two bedrooms, and how many will be three bedrooms. There are 122 beds and 123 beds.

Mr. Gentry asked if these were on-line. Mr. Haston stated that they will start construction site work assuming next month with the first units coming on-line at 14-15 months after that. It would be in Spring of 2021 with construction completion around this time in 2022.

Mr. Johnson asked what is there currently? Mr. Haston stated it is currently a vacant land and was formerly the Trotter Elementary School. The address is 4905 Central Avenue. It is just across the street from the Vesicol Plant past the railroad tracks almost in Alton Park.

Mr. Paty asked if it will be on the public transportation lines? Mr. Haston stated yes, there is a line that runs directly from the site and will be also providing additional bus shelters. There are sidewalks. The sidewalks are nice and that street was repaved about a year ago. They will be repairing the back side which is Kirkman Street from the rear entrance of the property.

Mr. Johnson asked if this was their first project of this nature? Mr. Haston stated no, that they are one of the largest developers in this side of the country. They have over 19,000 apartment units of this nature. In Nashville, there is close to 800 units. This will be the first one in Chattanooga.

Ms. Everhart asked if it takes Section 8 vouchers? Mr. Haston stated that they will accept Section 8 vouchers. They are not allowed to turn away anyone. There are also two trenches as well. The Housing Authority will have some sections as well.

Mr. Noblett thought the Board would be asking more about the question of a \$32 million bond issuance and another Series B which is for \$14 million. Mr. Haston stated that the first trench is a tax-exempt bond amount which was awarded by the Tennessee Housing Development Agency. The second trench is a taxable bond amount. They needed that to cover all the construction costs. The \$32 million was not enough to cover the construction costs. The taxable amount is not THDA.

Mr. Armor asked why they are doing the taxable part? Mr. Haston stated the THDA only allocated a certain percentage which determines how much they will allocate. The \$32 million is the maximum based upon credit due to construction costs and inflation. Ms. Barnett's associate is here today and can talk about taxable and non-taxable if the Board needs to hear that part.

Mr. Paty would like to know whether there is a property tax deferment or will they be paying the property taxes on this property? Mr. Haston stated that at some point they will have a deferment and will be paying 100% of the property taxes going towards schools but have a plan to abate. That will be for the first 13 years. Beyond that it goes up to 20% per year. By year 17, it is at 100% ad valorem property taxes. Mr. Armor stated it is basically like a normal PILOT where they take whatever it is, cap it for 10 years, and phase-in on the next.

Mr. Gentry asked what about the common areas for residents at the complex? Mr. Haston stated that they will renovate a community clubhouse that will house the leasing office. In addition to that, there is a community room about 1,200 sq. ft. that is open to residents. They also opened it up to communities in the past. Also in the clubhouse is a business center and fitness center.

Mr. Armor asked if there have been any community meetings of what is going to occur? Mr. Haston stated yes. This property was rezoned back in 2018 and will have additional community meetings as well.

Mr. Johnson stated that this would be in Councilwoman Dotley's district? Mr. Haston stated yes. The City Council approved this project. This is the largest amount that the Board has ever approved. Mr. Noblett stated that there were none this large. Mr. Armor stated that is why the taxable amount exceeds \$32 million.

Mr. Noblett asked why they were coming to this Board for a bond issuance. Mr. Haston stated that by law the IRS are required to issue at least 50% of the construction cost on the tax-exempt bonds. Those bonds are usually issued due to local entities such as this Board. In Nashville, they also have bonds. Other bond issuers that could issue the bonds could have been the Industrial Development Board. They are typically issued through a non-profit such as the Board.

Mr. Johnson asked if the current lenders were in place, is it contingent upon the Board's approval? Mr. Haston stated yes. Mr. Noblett stated R-4 Capital Funding LLC is the purchaser of the bonds, and Regions Bank will be serving as the Bond Trustee. Mr. Haston stated that is correct. Mr. Noblett asked if this rate is favorable through this Board? Mr. Haston stated yes.

Mr. Johnson asked what is the down side? Mr. Noblett stated you would not have 240 affordable housing units here in the community, and it is a flat piece of ground. Mr. Armor stated the City is not carrying the debt responsibility for it. The Board has the authority for affordable housing. That is the reason they are coming to this Board.

Ms. Everhart asked if it is zoned for Calvin Donaldson Elementary School? Mr. Haston did not know. Ms. Gober stated that it is Trotter Elementary School on Central Avenue. Ms. Everhart thinks the surrounding housing is the Village and Willard Housing. Ms. Everhart asked Mr. Haston if he has a compare and contrast as to what the Village is for and what the Willard Homes offers to residents. They will be the same residents that need the housing. Mr. Haston would say that he does not know. It is market rate Class A housing.

Mr. Noblett stated that according to the Bylaws, any time that you have a resolution authorizing the issuance of bonds, there has to be a roll call vote. After further discussion, the resolution to approve the bond issuance was unanimously approved by roll call vote 6-0.

DISCUSSION ITEM ON THE CNE APPLICATION WITHDRAWAL FOR AFFORDABLE HOUSING FUNDS

Ms. Martina Guilfoil stated that she does not have any more to say and that they really needed to move forward with the project. Sellers do not wait four months for a body like this to debate the benefits for using affordable housing funds to buy the project. CNE went ahead and closed but did confirm with Ethan Collier. Ms. Guilfoil thought it was really important because of the conversation that the Board understand what is going on in Mill Town and why he has used the city ordinance to eradicate dilapidated, vacant properties in the neighborhood. This Board was very influential and thinks it is important that the methodology that gets perpetrated in the community that there is real information that happens. Ms. Guilfoil invited Mr. Collier, and his attorney is going to do a presentation.

Mr. Armor asked about a clarification. The HEB did not meet for a four-month period or there was a time – Ms. Guilfoil stated that it was going to be a long time and needed to close. When CNE came to the Board, they were in a time crunch and wanted to take the properties down right away because vagrants were in there and disrupting the properties. The sellers wanted to close. Mr. Armor stated the reason he asked is that we have a regularly scheduled monthly meeting and then just like this special meeting, the Board meets that way. Mr. Armor was a little bit disturbed about it not being critical, but the comment that it could not wait. Mr. Armor is concerned because as a community body we volunteer, but we try to meet monthly. The only reason we do not meet monthly is that his decision is when the secretary comes and says we have no business. Mr. Armor is always trying to meet people's needs like this meeting is a special called meeting. If we did not do something, Mr. Armor would like to be appraised of it.

Mr. Paty stated that Mr. Armor was not able to be at the meeting when they came before this body last. What happened was there was some question about whether or not there was a conflict of interest with Mr. Collier and the way this process came about. There was a motion made and seconded and approved 3-2 to defer action on the request. Because of that deferred action on the request, CNE went ahead and withdrew their request and moved forward because of their time constraints. Ms. Guilfoil stated yes, there were time constraints, as well as there seemed to be some concern that there was a conflict of interest because Mr. Collier had sued this property owner, and CNE negotiated with the property owner to buy the property. Also they were talking with Collier using them to bulldoze the four dilapidated properties and was that a conflict. Based upon all of the conversation, it was just easier for CNE to close on the properties and use a different

contractor to take the properties down so there would not be an appearance of impropriety regardless of how ultimately the conversation goes. CNE went ahead and did it. CNE wants to come back to this body for the affordable housing fund once they know what they are going to build there. CNE will come back then and ask for subsidy instead on the front end will come in after they figure out what they are going to build.

Mr. Johnson agrees with everything Mr. Paty said. This was not a reflection at least from his perspective on CNE's creditability. Mr. Johnson thinks that CNE does wonderful work, is a great community partner, and is truly an asset. Our Chairman indicated that it was an issue of timing. We just really wanted a little more information. That is why the Board deferred it instead of just turning it down. The Board really does not have any questions about CNE and respects what CNE does and hopes that CNE does come back to the Board. Ms. Guilfoil stated it was fine. It just worked out time wise. The conversation about the concerns of using a lawsuit as a way to eradicate vacant and blighted housing, she thought really merited having the principal come and talk about why he used that as a tool because he is in the neighborhood working to create affordable housing within his development and working with residents. Ms. Guilfoil thought it was important, and he was willing to provide real information about the lawsuits and why they use that as a tool. Mr. Armor wants to make sure and was not criticizing.

COMMENTS BY ETHAN COLLIER'S ATTORNEY, TIM MICKEL:

Mr. Armor asked for the comments to be limited to nine minutes. Most of our guidelines do that. Attorney Tim Mickel wants this to be a conversation and understanding. As Ms. Guilfoil said, they got the call to perhaps come and explain to the Board, from a legal basis, what it is they have been doing in Mill Town to help eradicate some of the blight issues and some of the abandoned properties with an understanding of being transparent with the Board and community about what is going on.

Mr. Ethan Collier asked Mr. Mickel if he could do this more from the legal perspective of what they are trying to do. Mr. Mickel talked about the Tennessee Neighborhood Protection Act and how we have come to use it over in the Oak Grove area to try to assist in some revitalization and some blight in that area. Mr. Mickel gave a presentation:

Background:

From around 2017-2019, Ethan Collier began approaching various community organizations with the concept of funding construction of affordable housing units through the concurrent sale and construction market rate housing. This is part of the concept that underlines this. Both of the types of properties being constructed solely at the same time. In 2019, he formed C.B. Collier for the purpose of acquiring land in and around the Standard Coosa Thatcher Mill Site in the Oak Grove community as part of the Mill Town concept that he had developed with certain under-community partners. The three major community partners in this particular development are Collier Construction (Ethan), CNE, and Benwood. All three of these entities have played a pivotal role in rolling out this idea. This is a labor of love of Mr. Collier, and he has put his heart and soul into it.

Mr. Mickel presented the Oak Grove community off of google earth. It is a pretty defined area. It centers largely around the Standard Coosa Thatcher Mill area which is what we see in the photograph. One thing he will point out is Ethan Collier, because he knew he was going to be so involved in this project, wanted to be a part of the revitalization. He has actually bought and acquired the property where he has moved his permanent office. He is a member of this community as well. Moving forward, a few things to understand about Oak Grove (this information was obtained off of the internet and the data site there) (it is only as accurate as the internet) (some of it appeared on numerous sites or approximately). Approximately 2,200 residents live within the Oak Grove community. Approximately .79 square miles comprise that area. The median age is 27, 33% of the folks who live there are married, and 27% have at least one child. There is a high turnover of the occupants there. It is a transient community which is consistent with a community that is full of both affordable housing but also families. The community is culturally diverse. It is roughly an equal mix of African American, Hispanic, and Caucasian. It is one of the most diverse communities in town in terms of the numbers. We look at them side-by-side it is like 33, 33, 33. Very interesting community. We get to the issue of what brings us to that particular community. The answer is the Standard Coosa Thatcher Mill Site.

History:

In the 1920s, Standard Coosa Thatcher was a thriving local cotton facility that made cotton into yarn. After some major investments in 1912 and 1925, there were three mills there running side-by-side that became the Standard Coosa Thatcher. It thrived largely because of the availability of electrical power in the region. The mills up north were using water, and we could use electricity so we can do it cheaper and better, and the industry moved south. You can see the way the mill thrived with generations of Chattanoogans working there. It became something in the community center with its own restaurants and things that the mill workers would go to showed a bit of a Mill Town surrounding directly the mill.

The mill prospered in the 1960s. You can see the mill there being very vibrant, active, and a lot of things happening. Generations of Chattanoogans making work there. Standard Coosa Thatcher was notorious for the great benefits that it offered its employees. Moving forward, we get to the 1980s. The 1980s saw a recession and also a major down turn again of the textile industry. Here we are in 1997, this a few years before Standard Coosa Thatcher files bankruptcy. You can begin to see some of the areas surrounding the mill beginning to look less vibrant already in 1997.

In 2017, when they first became involved in this site, this is the condition that we saw the mill in when C.B. Collier was formed in order to try to revitalize this site in this neighborhood. Coming forward, here are the artist renderings of the concept of Mill Town. The idea that the three community partnerships came up with is that the Mill Town will combine new construction, revitalize existing construction, and the mill building itself created diverse, equitable, sustainable community in Oak Grove. That is the vision.

You can see as exhibited in the particular artist rendering that truly there are all sides of housing, different types of development, stand-alone housing, townhomes, and smaller apartment size housing that overall the concept is to build 450 units by design in this particular area. C.B. Collier, along with its community partners, have committed that 20% of these units will be affordable housing. By its definition of affordable housing, it is affordable to households whose income is no more than 50% to 80% of the AMI as defined by HUD. You are looking at 450 doors, 20% of that being guaranteed affordable housing, at 90 affordable housing units being scattered throughout this revitalized community. As part of its agreements, Collier is to make lots available to CNE for purchases needed at a rate comparable with CNE's business model, and then it is to facilitate the construction and development of affordable housing on behalf of CNE. Collier is to work with CNE throughout the process to construct through Collier Construction housing units that meet CNE's affordable housing initiatives.

Right now there are 80 doors/units under construction. You can see compare and contrast this to the earlier photo of the mill that we have in the area. You can see that Collier has already begun to clear lots, demolition, exit portions of the mill, and begin work now. This photograph is actually a little behind times, but if you went there now, you would see about 70-80 units being started. Currently, there is about a \$20 million investment in this development. We anticipate by its end \$180 million development in the revitalization of this area.

As we heard from the last speaker, there is a recognized, dire need for affordable housing in this community and in particularly in the Oak Grove community. Something that is interesting is a 2019 (inaudible) found that 58% of future Tennessee buyers (people 9-24), prefer a diverse community compared 12% now who prefer a (inaudible) community. Gen-Z's commitment to diversity is real. What we are going to see out of new home buyers you may say to yourself, I wouldn't live in this community, my parents wouldn't live in this community, my friends wouldn't, but your kids would. That is the difference. You are looking at building a community that is much more in keeping with societal requirements right now than they were 10-15 years ago. That is the concept here and ultimately this is what we are shooting for.

Issues:

What are our problems? What are our risks? What are our hazards? The first thing is we begin to see issues with the surrounding neighborhood itself. In 2013, Chattanooga Times-Free Press article, Rachel Collins, who at the time was the President of the Oak Grove Neighborhood Association says, the Oak Grove neighborhood is full of prostitutes, abandoned homes, and boarded up houses that attract drug dealers, gang activity, and crime. We see that. We begin to get on-site and we begin to think about there are city codes that address these types of things.

Here we have Section 21-126, it addresses vacant structures and land and says basically that all vacant structures and land shall be maintained in a clean, safe, secure, and sanitary condition, so as not to cause blighting problems. There is Chattanooga City Code that says when you board up a house, you cannot board it up for longer than a year without work starting and proceeding in a timely manner to bring the property into compliance and return it to a habitable condition. The owner shall be required to do that.

If the owner does not do it, then the City might do it. The City might take a lien against the property for doing it. We get there and we begin to see it is not so clear. What we begin to see is like this particular property, boarded up windows and doors, and condemnation signs on one property. Two other properties are boarded up windows and doors, and condemnation signs. We begin to watch these. Again, on two properties – boarded up windows and doors, condemnation. We begin to watch these, and we are out there. We see that nothing is happening to these properties. They continue to sit in this condition for long periods of time approaching now well over a year. Probably well over two years from when we first started. Then we look and see that there are other city codes that essentially restrict the ability to repair or store automobiles outside of garages on community property. We encounter this site which are actually adjoining properties at one of the properties there on 18th Street. That is the same property just two different shots but two different lots. We see those things, and we wonder why is the City not doing anything about it. We ask, we go to the City, inspector's office, codes enforcement and they say well, we really don't do anything about these particular properties and these particular neighborhoods (paraphrased). That is the answer they get. We begin to look at why and get answers like well, lack of municipal funds and manpower. We just don't have the people to do it.

There are different demographics at those particular locations. We all know that property does not exist in Riverview. It does not go a week in Riverview without the City getting some kind of complaint. That is one of the things too is the proliferation of citizen complaints play a role in this. How many people are complaining and calling their City Council person about these properties?

Mr. Mickel does not want to make the City out to be a bad actor in all of this. That is not the intent here. What we understand is there are also legitimate concerns about misplacement of the tenants and on occupants in these properties. Nobody wants to displace a family from a home that is their only chance of survival. But we also realize is that there are certain equities that come out of this non-enforcement which include that we begin to see more and more blighted areas with vacant condemned homes. We begin to see the complaints about problems with vacant homes that we saw in the 2013 article, and you begin to see criminal activity in those vacant properties. What you begin to see, and this is the thing that has struck Mr. Mickel, that is most problematic, is a continued reliance of passive investors on historical non-enforcement because what he is hearing more and more is feedback. Members of the community are not coming to us or Mr. Collier and saying what are you doing here, why are you doing this? What he is hearing are investors' attorneys calling him up and saying they bought this property because we knew that the City was not going to enforce these codes, now you are making us try to enforce, and this is not right. The sort of logic that goes into that the person who is trying to get the codes enforced is doing something wrong in this paradigm.

Mr. Collier came to Mr. Mickel's firm and asked if there was some way in the world because the City actually suggested to him you can do this. A private landowner can do this now. Mr. Collier came to his firm and said how can we do it? We did the research. What we found out is that there is something that is called the Neighborhood Preservation Act. It is an exciting tool for someone who is trying to revitalize a neighborhood like we are in Oak Grove. What we found was it was originally enacted in 2012 primarily to deal with Memphis and Memphis' blight problems. But it addresses hardships that are encountered by a community when certain

community standards and municipal ordinances are going unenforced. What it does is it provides a private person or entity with an opportunity to step in where the municipality can't or refuses to enforce its own codes.

It changed in 2018 and that is significant because in 2018, the legislature changed it so that the action itself, the lawsuit was against the property, not the owner. That is significant because now you are actually going against the property not a person and with the prior act that we were having some problems with stagnation because they could not get all of the owners sued or noticed.

Now, however, you can give notice through publication and other methods which allows these lawsuits to move forward in the courts. In either case, the changes by the legislature exhibit a public policy that the legislature wants these cases brought, and it wants them moving through the system at a pretty diligent pace. It only applies to certain communities, so not everybody can use it, but Chattanooga certainly falls within the parameters of it, and allows an acceptable petitioner to file a petition for public nuisance against a property naming the property as a defendant and seeking an order that the property is a public nuisance and requiring abatement of the nuisance. An acceptable petitioner is defined as to include the owner or legal occupant of the property that is adversely impacted or any other interested person.

City's Role:

What is the City's role in the lawsuit? The City has a very limited role in the lawsuit. The act requires the City be given notice of the lawsuit. The City is not technically a named defendant in the action. The action is not brought against the City. The City's role is limited to inspecting the property within a designated time period and reporting back to the Court as to its condition. Is the property compliant or is it not? The Court then is called upon to hold a hearing, takes all of the evidence into consideration, and determines whether the property is a public nuisance as defined by the act.

A public nuisance under the act has specific statutory definitions. The one that we find ourselves most interested in is the 5th one which essentially says anything that is a violation of any local building, housing, air pollution, sanitation, health, fire, zoning or safety code ordinance or regulation applicable to any subject parcel. Thinking back about the City Code provisions that was referenced earlier, all of these properties that they have moved against are well out of compliance with the City Code. What we are arguing to the Court is their failure to adhere to the City Code over a long period of time which makes them a private nuisance under the act. The Court then looks at all of the evidence and determines if it is a public nuisance. If it is a nuisance, then the Court asks the owner of the property to come forward with a schedule for remediation of the property. The owner has the first cut at saying this is what I will do to make this property compliant. The Court has the opportunity to look at that and say that is fine. That is good enough.

If the owner shows no willingness to do that or if the owner does not do anything, then what the Court can do is appoint a Receiver. What the Receiver then does, has a super lien over the property, and the Receiver can go out and essentially decide what to do with the property – sell it at auction, remediate, demolish the property, whatever is in the best interest of the property is what the Receiver can do.

When Mr. Collier came to Mr. Mickel and asked them to get involved, he gave them two directives: (1) we are displaced, no tenants, no property owners – that is the primary directive; and the two lower directives are that we decided that we would only move against vacant properties that have been condemned and are otherwise in longstanding violation of city ordinances; and (2) Mr. Mickel showed the photograph of the property that had all of the cars surrounding it, they decided in that one particular instance that they would sue to enforce the automobile ordinances with the eye toward the fact that would not necessarily displace or cause the landowner to have to vacate the property. He would only need to comply with the ordinances.

Outcomes:

What are the outcomes? We file 12 lawsuits against offending properties in the general area of Mill Town. Of those, eight lawsuits have been dismissed with prejudice by C.B. Collier as the owners have taken some action to bring the property into compliance with city ordinances. Three lawsuits have been dismissed without prejudice as the owners have shown proof that the properties are under contract with new purchasers who are on notice of the fact that we have the property sued, that we have removed the suit. If you do not do something to improve the property, the suits are coming back. In each of those 11 to be clear, C.B. Collier has born its own attorneys' fees and out of the 12 that we have one reluctant owner has refused to do anything to bring the property into compliance with city ordinances. We are about to have to start addressing that. Mr. Noblett's office is about to get a call from Mr. Mickel on that.

Mr. Mickel wants this to be clear. The one property that is holding out is not an individual owner occupant of the property. It is another investment company who does not like that we are calling its hand. It has been condemned. It is a condemned property that the investment company does not want to do anything about right now. This is what they are looking for: We want to make clear, we are not asking that these things be rebuilt, revitalize anything. We are more than satisfied as are the other community members with this outcome right here. A vacant lot that is seen in distraught. What have we gotten out of it? Buying from community members who appreciate the remediation of the blighted properties. We have buy-in for city commission members. This is committed by Councilwoman Coonrod's district. She loves the fact that this is happening. We see an increase in the quality of life, an increase of property values, and the last slide which is a Fourth of July community celebration that took place on the property attended by numerous community members and luminaries who are from that particular community, and who all have voiced their appreciation for what is being done. Mr. Mickel hopes that gives a little more positive and thorough understanding of what is happening in Oak Grove.

Questions from the Board:

Ms. Everhart appreciates the explanation. Her concern is still the same as what it was which is that what was deferred from the beginning was we just wanted more information because there is so many lawsuits filed that somebody is getting the same thing that they want in a different way. When you are suing, you are asking for these owners, whoever they are, to be compliant under the city ordinance. But the ones that are dismissed are the ones that was being asked about at the time, it was dismissed from the lawsuit, if she is correct, but asking the City for money to knock it down for the same result. The question was, is that a conflict of interest? Ms. Everhart

thinks that is okay, and we have the right as a board to review before making a decision. If there are this many lawsuits filed, it is dismissed on the discretion of we are going to ask for money to remedy the situation in the same way that you are going to remedy it by a lawsuit. That was the question. It is not that we do not think the work is being done or that Mr. Collier does a great job, he has a phenomenal business, but just wanted to look more into the throws of it to make sure that there is no conflict that arises from that. Ms. Everhart does not know if this shows that there is still no conflict.

Mr. Mickel was not really asked to come to address a conflict or legal issue of whether there is a conflict or not. The reason he understands that Ms. Guilfoil asked him to come is that she just wanted the counsel of the Board to have some understanding of what was happening. With respect to the conflict issue, there are a lot of issues that go in determining whether it is a conflict or not as Mr. Noblett knows and anyone else knows that has looked at it. At the point in time that CNE was making that application, that lawsuit had been dismissed and that property had actually been sold to CNE at that particular time it was under contract. Mr. Mickel does not see there is a conflict, but he does not want to stand in Mr. Noblett's view to try to make that determination.

Mr. Johnson stated that the question may be is the Receiver. Who would be the Receiver? Do you see that as being like the Wrecker Board having certain wrecker companies? Mr. Mickel stated that the Receiver is essentially is anybody the Court wants to appoint. It varies from a lot of compliance statutes because a lot of times the Receiver is the person who has to have an official duty. In the case of the Neighborhood Protection Act, they do not. It could be essentially anyone that the Court determines is an appropriate person. To avoid those sorts of conflicts, obviously the Receiver need not be a city official. In his mind, he never thought about the Receiver being a city official. He does not know who the Court would appoint. That would be up to the Court. His guess would be some sort of real estate professional who knows what is best to do to address the problems with the property.

Mr. Johnson stated also what he thought was a little unusual was longstanding. We probably need to have some parameters in there - over 12 months, over whatever. Mr. Mickel stated they are in the City Code. When he says longstanding, the City Code requires that a property once it is properly boarded up that within 12 months it be made habitable. What they are seeing is that properties are being boarded up and left for years and then when you go to the landowner and say your property is not compliant, you do not get a response. That is the issue we are running into and of course there is some gamesmanship involved because there are certain things that you can do to bring you compliant with this particular part of the code. Then once it becomes compliant with the boarding statute, how it has to be boarded, they then say now we got a year to do anything. It may have been improperly boarded for 12 months. Now we start the clock, and now we get 12 more months to make it habitable. You do see a little bit of gamesmanship with respect to those properties.

Mr. Armor thanked Mr. Collier for being here and appreciates all of the development he has done. Mr. Armor lives near some it. Mr. Armor has seen what he has done on South Broad Street and over on North Market Street. Mr. Armor has been watching his dredging of the waterway. Mr. Armor wants to see what he is going to do with that. Mr. Collier is going to build some homes around it.

There being no further business, a motion was made by Mr. Johnson, seconded by Mr. Paty to adjourn the meeting at 3:00 p.m.

Respectfully submitted,



Richard A. Johnson, Secretary

APPROVED:



Hicks Armor, Chair