

Special Village Board Meeting
Tuesday, February 12, 2015 - 1:00 p.m.

A special Village Board meeting was held on the above date at 1:00 p.m. with the following members present:

PRESENT: Mayor Patricia Abato
Trustee Frank Hagen, Trustee Matthew Byrne,
Trustee Ed Markunas

ALSO PRESENT: Virginia Menschner, Village Clerk
Robert Magrino, Deputy Village Attorney

ABSENT: Trustee Robert Morris

The Mayor said this is a special Village Board meeting and we are here for the Board to discuss Orange Avenue and the Chestnut Street Zone Change. The applicant has asked for this meeting to update the Board on where they are with the project. For informational purposes only. There will be no votes taken today. No decisions made. It is strictly for Orange Avenue Associates to come to the Board with information and for the Board to ask questions as they deem appropriate.

Josh Goldstein thanked everybody for coming today and for making the time. He said just a little bit of an update on the progress of this project. He said since we all met only about a week and a half ago he has had very productive and almost to a final conclusion with the Shen family on their property on Orange Avenue. David and his wife Joy have worked very fair with him on trying to bring the project to fruition and he met with her today and he thinks that probably by the end of today or tomorrow we should have resolution with the Shen family. Mr. Goldstein said the reason why he asked for this meeting today is because he still has one property owner left to consolidate the four parcels that make up the project. The Mayor said the Blauvelt property is all - Mr. Goldstein said yes, he doesn't know Patricia's new name but Patricia Blauvelt and her family and the estate - they have been wonderful through this process. Probably more than anyone. The Village of Suffern has been great too. But out of all of the landowners, other than the Village, they have understood how valuable the project is to this Village and have really wanted to see it happen since 2007 when you originally proposed that urban renewal. Mr. Goldstein said he really is not the type of person to air - he said he doesn't want to call it dirty laundry - but the situation that currently has arose with the last landowner needs to be brought to the attention of us as the Board because

he really does feel that this is an important project to not only just him as an investment opportunity but also to us for the economic benefits of what he really does feel this project will do to our Village.

Mr. Goldstein said he has been in contract with the gentleman who occupies 130 Orange Avenue for about a year. And basically to cut straight to the chase he was notified by a cancellation notice of that contract at 7:37 p.m. last Wednesday. And now he can pretty much guarantee he knows where everybody was up on this stage at 7:37 p.m. last Wednesday. He said they were all here discussing the future of this project and where it was going to go. Mr. Goldstein said again that contract could have been cancelled at any time prior to 7:37 p.m. It could have been a month before. It could have been six months before. It could have been the morning of. It wasn't. It was done purposely at a very, very un-opportune time because he thinks certain individuals thought that this Village would have acted in favor of the project and then would have put him in a very interesting situation. He said that is a good way to put it. He said so he needs to make us all aware of this because frankly without that one piece of property there is no project. It is a crucial corner. Can't build around him. Can't build over him. And he can't build under him. So he needs to discuss other options with this Board to try to bring this project to fruition. He said now it has to be perfectly clear that Orange Avenue Associates, himself, his family and his partners and he weren't paying this individual nothing. This was a very, very, very lucrative deal for this individual and he was really hoping to have him come along as both the Shen family has done, the Blauvelt family has done and we have done as one of the landowners as well. He said he made multiple attempts on trying to meet without attorney's face to face as he has done with the Shen family in their personal residence on multiple occasions to explain to them the financial benefits of what this project is going to do. And David and Joy got it. And so did Patricia. And as far as this other landowner it just went on deaf ears. He said he never got return phone calls. And as far as legal responses nothing. Other than at 7:37 p.m. last Wednesday was the cancellation of the contract. The Mayor said to Mr. Goldstein that he has not gotten any, had any correspondence with him since the date of cancellation notice that he received. Mr. Goldstein said no, he has not. The Mayor said and you have reached out to them? Mr. Goldstein said yes.

Ira Emmanuel said the e-mail was sent to him. It had the date timestamp of 7:37 p.m. At 7:37 p.m. of course we were here preparing for it. He said he didn't see that e-mail until after the meeting was over. So it wasn't as if we proceeded with it

knowing that there was this cancellation. He said he just wanted to make sure the Board understands that. They cancelled and they didn't find out about it until after the meeting was concluded. The Mayor thanked him.

Mr. Goldstein said this is the current status of where this all sits. He said he is looking to this Board for help at this point frankly because Mr. Emmanuel and he don't know how to proceed. He said he is wondering whether or not - he said all of you know that this has been a very long - and he doesn't want to use the word battle - but it has been a long process on trying to get all of the - he said he does feel that the majority of them know the economic value of what this project will do to this Village and he doesn't think there is any argument about that at this point. But we are sort of at the 99 yard line and he particularly would like to not pass. He said he would rather run and he would rather win. And he is looking for our help to possibly get this over the hump and see what other options we can discuss.

The Mayor asked for questions from the Board. Trustee Hagen asked what would other options be. He said he is curious. What are the options. Mr. Magrino said one option is that since it is part of the renewal that came up back in 2009 for this area and the blight with respect to the contamination on the properties that the Village could undergo an eminent domain procedure which he can discuss and explain a little bit if the Board were so inclined. It would be up to the Board and there would have to be certain findings and it is a bit of a process as he discussed with Mr. Emmanuel - the cost and everything would be borne by his client. We would probably have to get counsel to represent the Board and to reach an agreement with the applicant and it would be a bit of a process but it is something that could be done if the Board were interested in the entirety of the project going forward by exercising eminent domain on this one piece.

The Mayor asked if anybody else had any other questions. She said she thinks that since she is sure that most of the Board probably with the exception of Matt, who is going to be abstaining from any participation in this whole process, are very unfamiliar with eminent domain, condemnation, so on and so forth so she thinks that at this point now that they have given the information to the Board on where the project stands and that we know what our options are we are going to as a Board have to discuss and have Rob counsel us and give us the information on what exactly the options would entail and then the Board will have to come to some conclusion if in fact they would be considering any other options given light of the situation. Mr. Goldstein said and he completely understands that. He said he just wanted to make sure

that everybody knows all of the facts, exactly where he stands on this project. Also he has had multiple conversations with Bill Port from the D.E.C. about where he stands regarding the NYS Brownfields Program. And he just wants this Board also to be aware of something. He said as of right now the Governor has not actually set out whether or not that program will carry into 2016. There is a sunset on it as of December 2015. So what does that mean for the property on Orange Avenue? He said right now he has the acceptance on the clean up on the parcel that makes up of our property and also what makes up of David's property. There is an estimated clean up of between the two properties of approximately \$350,000 to \$400,000. He said again this is an estimated number because they still need to do further investigations to make sure there is no contamination in the bedrock. This one property at 130 Orange Avenue does have identified petroleum contamination because it was a gas station. And it was a gas station for many, many years - longer than probably he has been alive. And his property is not in the Brownfields Program because he was not allowed to include it, was not allowed to take any test samples on his property but he did take test samples around his property and it does seem to show low levels of petroleum which means there is something on his. Mr. Goldstein said his intention was that if everybody was going along with everything and if this Board did make the decision to go forward on the zone change he was to act extremely quickly. December 2015 is going to be here before we all know it. Bill Port at the D.E.C. said look, listen if you have your test wells in by late February - between late February and mid-March, yeah, we could probably get it all done. But if it starts rolling into March, April it's really, with all the 45 day wait periods and the testing that needs to be done, it is going to be extremely tight. Again this is only if the Governor's office doesn't extend the program. This also needs to be - he said he just wants to make all of us aware of that as well. So that is the full, complete update of where he stands. So he really appreciates everybody coming today. He thanked them.

The Mayor thanked Mr. Goldstein. She asked if there were any other questions from the Board.

Jim Giannettino of 2 Memorial Drive asked if Mr. Goldstein approached the people at the lower end of Orange about selling their property. He said below 120. Going towards the park. The Greek restaurant and the other building. He said he doesn't remember the numbers off the top of his head. Mr. Goldstein said no. Mr. Giannettino asked if that would be an option. Mr. Goldstein said if you walk in the back of their building you have no room. Mr. Giannettino said yes, he knows what it looks like in

the back. Mr. Goldstein said there is no room. Mr. Emmanuel said the site plan won't allow it. Mr. Giannettino asked what is the acreage that you lose if you go that way. He said you would still have the option of still going in through Blauvelt. He said he is not an engineer. But these are just questions in his mind and he thought it might be an option so that his property wouldn't be as valuable as he thinks it is.

Jeff Genser of First Street said he had a few questions. He said he thought this was a dead deal. It's not any more? The Mayor said that is a comment. If you have a question direct it to the Board. Mr. Genser said his question - is this deal still alive? Is the PILOT still in force? The Mayor said we are talking about the zone change. Do you have anything with regards to the zone change. Any questions. No comments. Questions. Mr. Genser said a question is why do you think the property owner served you with that cancellation notice at the same time the meeting was being heard here. Why did you come here to ask - what specifically did you come to ask the Board to do. Mr. Emmanuel said Mr. Goldstein asked the Board to help him to find other options that would help him. Mr. Genser asked if they knew that there would be only one option. The Mayor said to Mr. Genser - he said that is a fair question - she said that she thinks they blanket stated that they came here to ask what options were available and if in fact the Board would be interested in looking into them. She said we have gotten past that. They have answered those questions already. Mr. Genser said so now you have to consider how to move forward based on the information you just heard from the developer. The Mayor said she thinks that we have to get information on what the options are and look into those options and see if it is something that this Village Board would consider to proceed with or not to proceed with. Mr. Genser said he just had one last question. The Mayor said sure. He said can't you just call the Governor and ask him to extend the Brownfield thing? You are his buddy. He said my God, you are in bed with him. What the heck is going on here.

Deborah Tapp of Oakdale Manor said when Lou's Superior was selling the property to the current owner - that was her mechanic - and he often said that the property was only being sold as a temporary measure and that there was a contingency in the sale that it has to be available for the future - he called it condo's at the time - but that there was already a plan back when it was originally sold so maybe there is something in that original paperwork. Just an avenue to dig. The Mayor thanked her.

Michael Curley of 84 Orange Avenue said the question is that there was a second buyer after that buyer. Does anyone know if

there was a second buyer after that buyer. The first buyer was the doctor and the other builder from Chestnut Street and then Mr. Meehan was the next buyer after that. Now is it a fair question to ask what was the offer made on that property that was there. Are you allowed to divulge - Mr. Emmanuel said they are not disclosing that at this time. Mr. Curley asked if it was a fair question if they knew what that person paid for that property at that time? He said he knows it was - Mr. Emmanuel said he doesn't want to get into that. Mr. Curley said okay. He said is the number you are offering a substantial amount more than what the person paid for it a few years prior? Mr. Emmanuel said he doesn't want to answer that. Mr. Curley said okay, that is fine.

A motion to adjourn the meeting at 1:26 p.m. was made by Trustee Markunas, seconded by Trustee Hagen. Upon vote, the motion was carried.