

**BOARD OF MAYOR AND COMMISSIONERS
PUBLIC HEARING**

February 9, 2009
6:00 p.m.

MINUTES

Members Present: Ed Rieker, Mayor
Sandra Varian, Mayor Pro tem
David Milliron, Commissioner
Michael Payne, Commissioner
Lyda Steadman, Commissioner

Staff Present: Clai Brown, City Manager
Juliette Sims, City Clerk

Item No. 1 Meeting called to order at 6:00 p.m. by Mayor Rieker.

Item No. 2 Adoption of Agenda

A motion to adopt the agenda as presented was made by Commissioner Steadman, seconded by Mayor Pro tem Varian; passed with all ayes (5-0).

Item No. 3 Receive Public Comment on Proposed Zoning Ordinance & Map

Mayor Rieker noted that the City has been working on the zoning ordinance for a couple of years. Mayor Rieker stated that it started with a committee, went back to the board and then back to the committee and then stayed with the board. Mayor Rieker noted that the board has spent a lot of time and money working with consultants and lawyers regarding the zoning ordinance. Mayor Rieker stated that it revamps the entire zoning for the entire City which is different from the last one which was kind of piece mill. Mayor Rieker stated that the intent tonight is to get through the public hearing, and then the board will have a Special Called Meeting on Wednesday, February 11th at 5:30 p.m., where the zoning will be adopted and it will be law after that. Mayor Rieker stated that the board is here tonight to hear any kind of comment the audience may have regarding the zoning ordinance.

Sasha Webb, 9 Coventry Close and Laura Leckband, 5 Exeter Road distributed a letter to the board regarding the zoning of the MARTA property at Wells/Hobbs/Laredo. Ms. Webb noted that they were here

tonight as Co-Chairs of the Avondale Charter School Initiative. Ms. Webb stated that they are pursuing a number of options for potential facilities and sites for their school. Ms. Webb stated that in that process they have identified a property that is North of the MARTA tracks on N. Clarendon which may eventually be a very nice site to purchase a facility. Ms. Webb noted that in reviewing the zoning for that property the Charter School Committee feels it would be very difficult to build a school there without a number of zoning changes which is outlined in their letter. Ms. Webb stated that the basic intent of their request to the board is that they consider changing that parcel of land to O-I zoning which would allow schools

Mayor Rieker asked if they had purchased or had an option on the property yet?

Ms. Webb stated no.

Mayor Rieker stated that currently now the property is CBD which is new zoning that was put into place when the master plan came and there is a chart in the zoning ordinance on page 48 that shows what is allowed in certain areas of the City and what is not allowed. Mayor Rieker noted that is done to organize and protect the City. Mayor Rieker noted that O-I is where they have schools permitted and that is probably why Ms. Webb would like it located there. Mayor Rieker noted that if they owned the property or were under some type of agreement it would be easy for the board to do this but since it is not owned by the school yet, and he does not know what is coming down for that piece of property, it is difficult from the City prospective to assume that property is going to be purchased by the Charter School. Mayor Rieker noted that if they did own it, had an option on it or in deep discussions on it, he would do everything he could to zone it whatever use would be best for the school as quickly as possible. Mayor Rieker noted that it is not that they don't want to do something for the school it is the way that if the school changes its mind or if they go somewhere else, he is not sure what else might go in there so it is better to keep it the way it is.

Ms. Webb noted that the school has begun some discussion regarding the property.

Ms. Leckband spoke about the property and the location. Ms. Leckband noted that the property in its current state is unzoned and what they are asking is that instead of zoning it CBD that the board change the zoning to O-I from its currently unzoned state. Ms. Leckband noted that the reason

they are asking is this is that the CBD has a number of restrictions on it from the standpoint of how the board wants to control the Central Business Development. Ms. Leckband stated that the school agrees with that but the problem is that since the school is not a permitted use it adds several more layers of complexity to their ability to build. Ms. Leckband noted the timelines for legal notices and public hearings and their concern as they approach the bond market to the get money is that they would have to tell them that they were looking at land that in fact could not have a school legally built on it with the current zoning and a school is not permitted use on that zoning. Ms. Leckband noted that they would have to go through a 6-8 month zoning process just to get to the point of being able to present their potential financiers a piece of land that was in fact able to have a school built on it. Ms. Leckband noted that they are aware that the City has a current option on the MARTA land and that there was a resolution for the north end of the property to possibly build a fire station. Ms. Leckband noted that they would be very happy to keep a fire station in Avondale and they would be just as happy to take the south half of the land but MARTA would like to sell all the land together. Ms. Leckband noted that in concern for that to happen, they would like to look at all the property and figure out how it best can be utilized.

Commissioner Steadman asked how many acres are they talking about.

Ms. Leckband stated just under 3 acres including the path land which the City already owns the right of way on, total of five parcels.

Commissioner Steadman stated that for the zoning process she thinks it can be done a lot quicker than 6-8 months.

Mayor Rieker noted they will need a conditional use permit.

Ms. Leckband spoke about the process.

Mayor Rieker stated why don't they come to the City and do a development agreement as Publix did and they can make it law and they won't have to go through all that.

Ms. Leckband stated that getting a development agreement is not a 30 day process and in order to get a development agreement they would have to have full construction documents ready to show the board. Ms. Leckband

noted that the problem is that they have to ask for the money far in advance of knowing whether or not they can build and what they can build.

Mayor Rieker asked when they are planning on building the school.

Ms. Leckband stated that based on the projections they did not long ago, they believe they will max out in 4 years at the temporary property.

Mayor Rieker asked when they were planning on buying the property.

Ms. Leckband stated she would like to get it under contract as soon as they could. Ms. Leckband spoke about the bond process.

Mayor Rieker asked how much were they talking about to build it out.

Ms. Leckband stated about \$9.4 million.

Commissioner Steadman stated that she is very supportive of the school but she does share Mayor Rieker's concern that we are rezoning on a possibility and what if things don't happen and what are we opening ourselves up to. Commissioner Steadman stated that this is something the board is going to have think through. Commissioner Steadman noted that the rezoning could be done pretty quickly, with the public hearings and the legal notices it could be done probably in two months.

Ms Webb noted that they have the same concerns as the board, that the board that is front of them now which is very supportive of the charter school but if at the time things are moving forward with their plans there may be different people on the board who feel very differently about the charter school.

Mayor Pro tem Varian stated she is a big supporter of the charter school but she has concerns about not knowing if they change the zoning if they don't buy the property.

Mayor Rieker noted that the City is looking at commercial areas for annexation that are not in the City to bring them in the City and just before the City does that they have to do a rezoning to match our zoning to their zoning and the Mayor noted that the City is contemplating that in the March

a time frame. Mayor Rieker noted that he would feel more comfortable about doing this for the charter school if he knew more about their financials and how they are going to get \$9.4 million for this and \$1 million to renovate the church and then bring this back to the table.

Ms. Leckband noted they would be able to nail down more financials if they were able to know what they would need as to what is available to them and right now they are not able to do that because the land they would like to use is not something they can negotiate right now. Ms. Leckband noted to the board it would be great if they had a discussion with the fire station as to what they plan to do and if they still want that land so they can determine if it is still a possibility for them.

Mayor Rieker gave the background on the fire station, which was done by a previous board.

Ms. Leckband noted again that MARTA wants to sell all the parcels together; they don't want to do a deal with them and then a deal with the City they want to do all of them together which is to their advantage and an advantage to the City to have it all.

Mayor Rieker noted that his personal opinion is you don't need to know where you are going to build a school 4 years from now to start the school today and have your financials in place to understand the dynamics of the business to start that business.

Ms. Leckband noted that if they were able to secure this land now they would be securing it at the bottom of the market which would greatly increase their ability to spend money on the school as opposed to the land later down the line and even MARTA understands they would be doing an appraisal at the bottom of the market but because of the school they are willing to undertake that process.

Commissioner Payne stated that he is supportive of the charter school but he does agree with Commissioner Steadman and Mayor Rieker. Commissioner Payne noted that as far as the conditional use permit, the board could turn that around and that would be the smallest part of the process. Commissioner Payne also noted that they have the majority of the board for three years.

Ms. Leckband stated that they are not sure why schools are conditional to begin with from their point of view. Ms. Leckband noted that it is not just about the conditional zoning it is also about the numerous processes that are associated with CBD zoning. Ms. Leckband noted that with the O-I zoning it is not everything goes either, there are certain restrictions on O-I zoning but they are not as extensive as they are in CBD so it cuts down the amount of time they need to spend on that process.

Commissioner Payne noted the board will work with them but they have to guard against the worse scenario.

Mayor Rieker asked Ms. Webb and Ms. Leckband to consider the development agreement or some type of agreement which will shortcut a lot of the processes that they are talking about.

Commissioner Steadman stated that it sounds to her that a rezoning would probably be the quickest based on what she is seeing here. Commissioner Steadman noted the City could run the advertisement together and the board would have to have their first public hearing after they have gotten a response from planning and zoning board. Commissioner Steadman noted that all this could be done in 1 to 2 months and that would give them more of what they are looking for than a conditional use permit.

Mayor Rieker noted they would put all this in an agreement so it would incorporate all their needs into getting that facility built as opposed to trying to move it around the zoning.

Ms. Leckband noted that with the development agreement it then adds one more layer and it acts as the development authority as the beginning of the process.

Mayor Rieker noted that they don't need the development authority to do a deal with the City.

Commissioner Milliron noted that the development authority has no real authority in a development agreement with this board.

Ms. Leckband noted that the State law specifically lays out the development authority as....

Commissioner Milliron noted that the development authority cannot create law for the City.

Ms. Leckband noted that in negotiation of development agreements it is part of the Downtown Development Authority responsibility. Ms. Leckband noted that she thought if they did that they would start there and then move forward through the other processes.

Mayor Rieker noted that this board passes the law and not the Downtown Development Authority.

Ms. Webb thanked the board for their support. Ms. Webb noted that they will be coming to board as they move forward in this process.

Mayor Rieker thanked Ms. Webb and Ms. Leckband for coming.

Item No. 4

Adjournment

There being no further business, a motion to adjourn at 6:37 p.m. was made by Commissioner Steadman, seconded by Mayor Pro tem Varian; passed with all ayes (5-0).