LOWELL HOUSING AUTHORITY

SPECIAL MEETING OF THE BOARD OF COMMISSIONERS WEDNESDAY, AUGUST 30, 2023

Mercier House 21 Salem Street

Lowell, Massachusetts

---- Reported by: Lori Willis ----

**Board of Commissioners**: Phillip L. Shea, Chairman Mony Var, Vice Chairman

Joanie L. Bernes, Commissioner Matthew Marr, Commissioner (Absent) Rodney Elliott, Commissioner

**Lowell Housing Committee:**

Tha Chhan, Executive Director Sherry Giblin, Chief Financial Officer Kevin J. Murphy, General Counsel

P-R-O-C-E-E-D-I-N-G-S

Thank you. The hour is 5:05 p.m. on Wednesday, August 30th. Welcome to the Special Meeting of the Board of Commissioners at the Mercier Center of the Lowell Housing Authority. Thank you to our Lowell Housing Authority general counsel, legal counsel Kevin Murphy, for attending the special meeting this evening and our Board of Commissioners for attending on such a short notice. I will ask the clerk for the roll call please.

Mr. Chhan: Chairman Shea. Mr. Shea: Present.

Mr. Chhan: Vice Chairman, Mony Var Mr. Var: Here.

Mr. Chhan: Commissioner Bernes Ms. Bernes: Here.

Mr. Chhan: Commissioner Elliott. Mr. Elliott: Here.

Mr. Chhan: Commissioner Marr (Not Present)

Four present.

Mr. Shea: Thank you.

Item Number 1 is Resident Correspondence. Mr. Clerk, do we have any Resident Correspondence?

Mr. Chhan: We do not have any resident Correspondence.

Mr. Shea: Thank you. Item Number 2 on the agenda is Resident Organization.

Do we have any Resident Organization?

Mr. Chhan: No, Mr. Chairman, we do not have any Resident Organization.

 Mr. Shea: And Item Number 3 is the Report of the Chair, and I am going to hold

 that in advance, because I want to hear what our Director, Chief Financial

 Officer, and Attorney Murphy has to say, pertaining to the item before us, which

 as everybody knows is to review Chapter 97 THE ACTS of 2002, which basically

 established the legal founding, as I understand it, for the units up on Grim Street,

 which I refer to as Rivers Edge. Therefore, I hold number 3 in abeyance. Now with

 that being the case, I know that our General Counsel, Attorney Murphey has a report

 and I think it is going to be publicly informative. There is some good to it and some

 disappointment to it. Nonetheless, we have to just deal with what the facts are, and

 and not the way we’d like to see the facts, but the way they are. And so, with that

 being the case, I would appreciate it if Attorney Murphy made this presentation as

 to what you have done what the director has done, and explain to us not only the

 past, but the present, and more importantly, I think it is important to give us some

 direction so the Board of Commissioners understand the direction that we are going

 in. And, as you said at the private meeting, we are really running against the clock

 right now. So, with that being the case, the chair recognizes Kevin Murphy.

Attorney Murphy

(Report of the General Counsel) Item Number 4:

 Thank you, Mr. Chairman and Fellow Commissioners. For some time now, the

 Administration and I have been working to try and finish the Rivers Edge

 Development, and we have run into a number of obstacles relative to that.

 First of all, we certainly can’t complete the Rivers Edge Project right now with only

 28 units. The Administration, especially Ms. Giblin, has run the figures and the key

 amount of units that we need to construct is 32 units and if we construct 32 units, it’s

 the opinion of the financial arm of the Lowell Housing Authority that we will be

 able to finish the Rivers Edge Project, with that said, we then turn to the

 Department of Housing and Community Development who oversees the Rivers

 Edge Development through the legislation that was passed 21 years ago by the

 Legislature. And what we were saying to the DHCD, is that we needed to change

 the legislative. We needed to get their help to allow us to increase the number to 32,

 and decrease the amount of units that had to be set aside for very low income

 residents and DHCD told us that they could not help us out, that the only

 way that we could realize the issues that we wanted to address. So, we could finalize

 the Rivers Edge Development was to go back to the legislature and file legislature to

 amend the existing development plan at Rivers Edge to reflect what we want to do.

 So, what we have done is myself working with our consultant, have communicated

 with House Counsel and Senate Counsel relative to the language that’s

 necessary to reflect what we want to do. We’ve also contacted DHCD through

 the Executive Director, and they have approved the language that we wish to do.

 And so now, we just have to do it. Let me briefly explain what it is we have

 to do. Number one, we have to vote to increase the number of units that we want to

 construct from 28 to 32. Second is, we need to vote to petition the legislature to

 amend the existing legislation so that we can finish this project in an economically

 feasible fashion, and the only way we can finish it in an economically feasible

 fashion is right now. The legislation that oversees the Rivers Edge Development

 is called Article 90, Chapter 97 of the ACTS and Resolves of 2002. So, what that

 does, that sets out the parameters of the type of units that we have to build and set

 aside in this development and specifically Chapter 97 states that we will construct

 180 units, but we need to change that 180 figure to 187 units and second, the

 legislation says that 45% of the units must be set aside for very low income

 families. Well, with the increased cost of construction 21 years later. There’s

 absolutely no way that we can construct a unit for the sales price call for 45% for

 low-income people, it just cannot be done. So, here is what we need to do, we

 need to petition the legislature to change the number of units from 180n to 187,

 and we need to petition the legislature to decrease the amount of units that have to

 be set aside for very low-income people from 45% to 40%. Quite honestly,

 without those changes, the project is dead, and we cannot move forward. However, if we do get those changes, the project is alive, and we will be able to move forward. Now let me briefly explain what the process is to succeed on those terms:

1. We need the Board of Commissioners to vote this evening to change the plan

from 28 units to 32 units.

1. We need to Board of Commissioners to vote to authorize the Administration to

Petition the Lowell City Council to file a Home Rule Petition to make those changes to the existing legislation.

Now I will tell you why we need a Home Rule Petition, first of all, the Legislature can’t act as to one community alone and this is an opinion that I have known for years is that the legislature passes laws that affect 351 communities across the Commonwealth of Massachusetts, but if you’re specifically talking about one community it should come via a Home Rule Petition. Secondly, the Home Rule Petition is really the quickest and most efficient way to file legislation with the legislature. So, what we need to do is file a petition with the City Clerk of Lowell. I have already talked to him, and he told me exactly what we have to do, file that petition with the City Clerk. The City Clerk will then put it on the next City Council Agenda. They will refer it to the Law Department who will come up with a Home Rule Petition that will work. So, we have to make sure that the language we send down is exactly what we need to have this accomplished, and I will work closely with the City of Lowell Law Department to make sure that they have the proper language. Once the Home Rule Petition is approved by the Lowell City Council, It will then be sent down to our State House delegation, who will then file the Home Rule Petition with the appropriate clerks of their branch and then we will do and they will do their everything in their power to make sure that it is done as quickly as possible and then we’ll be able to get started with the Rivers Edge Project all over again. It is kind of confusing, you know, I was in the legislature for 17 years, so I did this on a daily basis and understand it. Therefore, any questions you may have, I would certainly be willing to address them. However, rest assured, after the vote you make, we already have the information and the ability to advance this Home Rule Petition and this legislation as quickly as possible. I hope I was clear enough on what has to be done. Are there any questions?

 Commissioner Elliott: Thank you. Can you tell me of the other four phases? I appreciate the work Sherry has done to, to work numbers. Why is the housing authority doing it?

 Shouldn’t it be the Residents First Development Corporation that I thought we were just the technical advisor on this?

 Attorney Murphy: Yeah, it is an excellent question, and one that comes up every time, because, quite

 honestly, they do not have the money or the institutional knowledge to do such a thing. Only the housing authority has that knowledge, experience, and wherewithal to carry this out and that is why we are doing it. So, I agree with you, it is it, it’s Residents First Developer, sure, but they just don’t have the ability to do it.

 Commissioner Elliott: So, has the developer weighed in on this the construction person or the construction person or the construction company, meaning.

 Attorney Murphy: Well, the construction company isn’t really doing a lot of conversing with us. We did meet with Diane Silva who we wanted to brief on what had to be done. At first, she blocked what had to be done, because of the legislative interaction and she did not have good dealings with that the last time I did this, but I assured her that, in my opinion, based upon my personal familiarity with the fiscal delegation that this will be accomplished as we want this to be a compression.

 Commissioner Elliott: Look, I appreciate the work that you did and the time you have spent on this, so reducing it from 40 to 45 DHCD and I am fine with that. I am just trying to process the 180 to 187. Yet we are only increasing the number of units from 28, 32.

 Attorney Murphy: That is correct.

 Commissioner Elliott: That is 117 units, and the increase is 7 units for the legislation. But we are only increasing the number of units to be developed by 4. I was just trying to prepare you for when you go to the City Council meeting.

 Attorney Murphy: So, the reason for that, is they are not really hung up on how many we built. We could build 200, when it bothered them, even if the legislation states 180, that’s still a target, but why were we concerned, I think,

Commissioner Elliott: Correct me if I am wrong, wasn’t the 180 part of the replication plan to ensure that number one, we were going to tear down and replace, was that the minimum?

Attorney Murphy: Yes. Exactly the minimum, 180. The reason we want the 187 in there is because

 in the legislation 75% of the 45% have to be reserved for very low-income residents,

 and that means that we have to have more of these. Of those 187 reserve, but if we

 reduce it for 40, we don’t have to have more of those reserved for very low income.

Commissioner Elliott: Do we know how many are low income now?

 Attorney Murphy: How many very low incomes have we built?

 Mr. Chhan: We have 58 right now.

Commissioner Elliott: What percentage of 58 is that?

 Mr. Chhan: 58 of 81 Units.

Commissioner Elliott: Of the 180 we need to construct 45% of that for low income

 Mr. Chhan: 45% of 180 must be sold between 15 to 80% of median income among 45 to 75

 of those, 45 must be sold to people less than 55.

Commissioner Elliott: So, by increasing from 28 to 32, 32 of that, how many of those units will be low

 low income?

 Attorney Murphy: None.

Commissioner Elliott: Oh none.

 Attorney Murphy: We just cannot do it, because of the cost of the construction. Let me give your rounding up thing, if it costs 200,000 to construct it, we can only sell it for $150,000 the delta just is not there to do it.

 Commissioner Elliott: What if we built more units, not that we want to crowd the place.

 Mr. Chhan: It’s not extremely low income, but it’s still low income, because it’s still being

 sold at 80%. We have low income in there, but not extremely low income. We

 don’t have anyone that would be sold at 50% of median income, but we have that

 that at 80% of median income, which is low income.

 Attorney Murphy: It’s more money that allows us to construct and sell it for the amount that it costs to

 construct the unit.

Commissioner Elliott: Okay, I personally think that it is an important point, especially, because if we do not

 clarify in front of the Council that there is, it’s not extremely low income but in

 order to make the numbers be, there is still, it’s either workforce or it’s still 80% of

 median income. So, I think that’s important. That look when at this last phase is not

 market rate housing it’s still, it’s still there. You’re still going to be affordable

 housing, that’s just not extremely low or whatever the 50% of median. Okay, I feel

 better about it. Thank you. Were the first two amendments Home Rule? I mean,

 excuse me, the enabling legislation?

 Attorney Murphy: They were all Home Rule.

 Commissioner Elliott: Okay, that makes sense, and I think that answers my question. So, thank you.

 Thank you very much. I appreciate this. It is important we move on this, and

 hopefully, it will go through the legislature, and we can get this done.

 Once it’s done at the Legislature, it Home Rules. So, it does not rule.

 Rule 12 does not apply.

 Attorney Murphy: You can file it with the clerk’s office, and it can be referred directly to the

 Committee on Housing.

 Commissioner Elliott: Then the Chair is local?

 Attorney Murphy: Yes. The Chair is local and then we can have the hearing, they can report out,

 and then hopefully go to the House or the Senate, whatever.

 Commissioner Elliott: Thank you. There goes the turn it.

 Mr. Shea: Kept just for the record. Did you have a discussion with the clerk of the House?

 Attorney Murphy: I myself, did not have a discussion with the clerk of the House. The consultant

 that I am working with spoke with the Chairman of Housing who had a conversation with the clerk of the House.

 Mr. Shea: So, you did not participate in that discussion?

 Attorney Murphy: No.

 Mr. Shea: Because I asked the question, it was just a question that I really had no idea what

 the answer was. Do we really have to do this?

 Attorney Murphy: Yes

 Mr. Shea: So, if we had to do it today, that really meant two years, five months ago, when

 the subject was first brought up in May of 2021.

 Attorney Murphy: Yes

 Mr. Shea: You remember that night, don’t you? So, they wanted to move forward with the program then, is there something different in the law then compared to now, that they would have found the stumble block back in May of 2021, right?

 Attorney Murphy: Yes.

 Mr. Shea: So, if for two years we’ve been asking the Rivers Edge, this is all elementary,

 but I just want to put it on the record, but for two years you may remember we asked Rivers Edge to show us to show us that, Sherry you remember that, to show us the backup for the 1.7 million dollars and for two years, but the

 Lowell Housing Authority got nothing until September last year. Then all of a

 sudden we got 397 pages for us to analyze. And so now it’s up to the Board of

 Commissioners find themselves in this position, which we didn’t know anything

 about until you focused until you broke the news to us, but you broke the news to

 me and Tha. So, the difference in the legislature today on bills that are files and I meant to say this, it’s my understanding, when a Bill is filed and carried over, right when I was in the legislature 82 years ago, a Bill got filed and it died and in December you would have to refile it, but it’s a little different.

 Attorney Murphy: Right, it’s carried over.

 Mr. Shea: The whole petition will help expedite this, if you can get the Board of Commissioners to agree tonight, get the Council to agree and the City Solicitor there is just a lot of spade work.

 Attorney Murphy: Right.

 Mr. Shea: Early in your comments, you made a comment about hiring a consultant, can you tell the board what that means?

 Attorney Murphy: Well, I just think it was advisable that we hire an individual who had experience in the legislative process, because the delegation has a hundred bills that they have to try and monitor on a daily basis, but we’re only concerned with this one bill. So, therefore, I felt it was better if we had hired a consultant that would work with me to help me with the language, drafting, which he has and having talked to the House Clerk and the Senate Clerk as what the language should be who is also going to be able to monitor this legislation on a daily basis as it winds though the house.

 Mr. Shea: You haven’t talked to Chairman Cyril yourself?

 Attorney Murphy: No, I haven’t talked to Chairman Cyril.

 Mr. Shea: Much to my chagrin we never talked to State Representative Rodney D. Elliott,

 who happens to be a member of the Board of Commissioners.

 Attorney Murphy: I talked about, I talked to Commissioner Elliott.

 Mr. Shea: Oh, you did? Okay, I didn’t know. I thought I urged you to do that, as a matter of

 courtesy, correct? Not that he doesn’t know the subject matter, because he’s lived

 with it for seven years, or maybe six and a half years, maybe even longer than seven years. So as a matter of courtesy, I urge you to get a hold of the State Representative, even though he is a supported Commissioner, he is entitled to a courtesy, correct?

 Attorney Murphy: Correct. So, also have the other two members.

 Mr. Shea: That’s right.

 Attorney Murphy: House Delegation been involved.

 Mr. Shea: Exactly.

 Attorney Murphy: I’ve asked Executive Director, Tha Chhan to call the State Senator’s office and inform him of the proposal.

 Mr. Shea: Well, they will comment later on. The chances are you know. Well, okay, no comment there, but the bottom line is, is that has been the process and is.

 There are no secrets. It’s just a lot of hard work, but as the Director said to me, this is a big disappointment and as the vice chairman said to me, this is a very big disappointment. It is a big disappointment. We have to go forward at this stage and a lot of this could have been done two years ago. And then with that being the case, I just want to make sure that all the members of the Board of Commissioners understand and if they have any questions. Commissioner Elliott’s in a sensitive spot, he’s a Commissioner, but he’s also a member of the Delegation and we will be asking him to move this thing forward and so as a Commissioner, keep them informed, but more importantly, as a State Representative he’s entitled to be informed particularly if you want his support in the House floor and all the Delegation signing it, which will be important too, including the State Senator you know, I don’t even know where he is.

 Attorney Murphy: Why we need Commissioner Elliott’s help is, as we always said, as legislators, its always easier to kill the Bill while than pass one.

 Mr. Shea: It’s a process that did Commissioner Elliott has an advantage. He was down there as a little boy and was going to college, so he has an advantage being in that atmosphere. But even he’ll tell you it’s altogether different between now and 1982, which incidentally that it’s 40b years ago. So, with that being the case, I just want to amplify and thank you for your work and support in the way you want to go about it, it seems to be right on the money, and I like to get the Executive Director to comment. Do you have any comments?

 Mr. Chhan: No.

 Mr. Shea: It’s complicated you know. Rodney understands that I understand it, but the

 average guy in the street is lost. I mean, it’s very complicated. Even to talk about

 Rivers Edge two years ago, it’s so complicated, but Rodney understands that too.

 With that being the case, Vice Chair Mony Var do you have any words?

 Mr. Var: Yeah, I mean we are very lucky to have Attorney Murphy as Counsel. He knows

 the knowledge with this project. We are very lucky.

 Mr. Shea: Joannie or Tha do you want to say anything before we close this up?

 Ms. Bernes: No

 Mr. Chhan: No

 Mr. Elliott: Before we vote as the Chairman mentioned, just for the record, I want to disclose that I am a member of legislature and there is no financial benefit, but it is important that I disclose in this public body before we vote, and I remember legislature.

 Mr. Shea: Thank you.

 Mr. Shea: Report of the General Counsel: Chapter 97 of the ACTS of 2002, we will have a

 roll call with motion to accept the report of the General Counsel: Chapter 97 of

 the ACTS of 2002 by Commissioner Rodney Elliott and seconded by Vice

 Chairperson Mony Var. Item Number 4, and the clerk will call the roll.

Mr. Chhan Chairman, Shea

Mr. Shea Yes

Mr. Chhan: Vice Chairman, Mony Var

Mr. Var: Yes

Mr. Chhan: Commissioner Bernes

Ms. Bernes: Yes

Mr. Chhan: Commissioner Elliott

Mr. Elliott: Yes

Mr. Chhan: Commissioner Marr. (Absent)

Four yeas. (Motion carried)

Mr. Shea: With that being the case, we will move onto Item Number 5, Report of the Executive Director concerning the RFD Development Plan. Is this something

 you want to add to the meeting?

Mr. Chhan: Technically, Mr. Chairman, part of the report had been previously presented

 to the Board by General Counsel. So, I do not have anything to report at this time.

 Mr. Shea: Thank you.

 Mr. Shea: Okay. So, therefore, they reported the Executive Director concerning the RFDC Development Plan is a motion made by Commissioner Mony Var and seconded by Commissioner Joanie Bernes to accept the Report of the Executive Director. The clerk will call the roll.

 Mr. Chhan: Chairman, Shae

 Mr. Shea: Yes

Mr. Chhan: Vice Chairman, Mony Var

Mr. Var: Yes

Mr. Chhan: Commissioner Bernes

Ms. Bernes: Yes

Mr. Chhan: Commissioner Elliott

Mr. Elliott: Yes

Mr. Chhan: Commissioner Marr. (Absent)

Four yeas. (Motion carried)

Mr. Shea: The next item on the agenda is Item Number 4.1.1, Motion to

 amend the Rivers Edge Development Plan from 28 units to 32 units.

 Mr. Shea: Any questions with respect to Item Number 4.1.1? Motion to amend the Rivers Edge Development Plan from 28 units to 32 units. Item Number 4.1.1. I have a motion by Commissioner Rodney Elliott, seconded by Commissioner Joanie Bernes with that being the case, the clerk will call the roll.

Mr. Chhan: Chairman Shea. Mr. Shea: Yes

Mr. Chhan: Vice Chairman, Mony Var Mr. Var: Yes

Mr. Chhan: Commissioner Bernes Ms. Bernes: Yes

Mr. Chhan: Commissioner Elliott Mr. Elliott: Yes

Mr. Chhan: Commissioner Marr. (Absent)

Four yeas. (Motion carried)

Mr. Shae: The next item on the agenda is 4.1.2 Motion to request approval from the City of Lowell Council for the Home Rule Petition.

Mr. Shea: Item Number 4.1.2. Once again, with that being the case, Commissioner Rodney Elliott, and seconded by Vice Chairperson Mony Var motion to accept 4.1.2. The clerk will call the roll call.

Mr. Chhan: Chairman Shea. Mr. Shea: Yes

Mr. Chhan: Vice Chairman, Mony Var Mr. Var: Yes

Mr. Chhan: Commissioner Bernes Ms. Bernes: Yes

Mr. Chhan: Commissioner Elliott Mr. Elliott: Yes

Mr. Chhan: Commissioner Marr. (Absent)

Four yeas. (Motion carried)

Mr. Shea: The next item on the agenda is Item Number 5 Old Business.

Do we have any old business?

Mr. Chhan: Mr. Chairman, there is no old business to report.

Mr. Shea: The next item on the agenda is Item Number 6 New Business. Do we have any new business?

Mr. Chhan: No new business.

Mr. Shea: The next item on the agenda is Item Number 7(a) Motions of the Board. Members. Do we have Motions of the Board Members?

Mr. Chhan: We do not have any.

Mr. Shea: We will move onto the next agenda Item Number 7(b) Executive Director Announcements. Do we have any Executive Director Announcements?

Mr. Chhan: No Executive Director Announcements.

Mr. Shea: The next item on the agenda is Item Number 8, Motion to Adjourn. Before we adjourn, I want the record to indicate our next regularly scheduled meeting will be on Wednesday, September 20, 2023, at 5:00pm. That is the regular scheduled meeting of the Lowell Housing Authority Board of Commissioners and other than that, Commissioner Mony Var, seconded by Commissioner Joanie Bernes move to adjourn, and the clerk will call the roll.

Mr. Chhan: Chairman Shea. Mr. Shea: Yes

Mr. Chhan: Vice Chairman, Mony Var Mr. Var: Yes

Mr. Chhan: Commissioner Bernes Ms. Bernes: Yes

Mr. Chhan: Commissioner Elliott Mr. Elliott: Yes

Mr. Chhan: Commissioner Marr. (Absent)

Four yeas. (Motion carried)

Whereupon the Board of Commissioner’s meeting concluded at 5:45pm.