

**RENAISSANCE ZONE AUTHORITY  
MEETING MINUTES  
April 13, 2011**

The Bismarck Renaissance Zone Authority met on April 13, 2011 in the 2<sup>nd</sup> Floor Conference Room in the City-County Office Building at 221 North 5<sup>th</sup> Street.

Authority members present were Dave Blackstead, Chuck Huber, Kevin Magstadt and Brenda Smith.

Authority members George Keiser and Curt Walth were absent.

Technical Advisors Jeff Ubl and Bruce Whittey were present.

Staff members present were Jason Tomanek, Kimberley Gaffrey, Carl Hokenstad, Kim Lee, Brenda Johnson, Charlie Whitman and Bill Wocken.

Guests present were Jim Christianson – 414 East Main Avenue, Chris Bjorke – Bismarck Tribune, Leilani Schatz and Bob Shannon – 5964 Lariat Loop, Brian Peterson – 119 North 4<sup>th</sup> Street, Loran Galpin – 501 East Main Avenue, Neil Eslinger – 1301 East Front Avenue, LeRoy Walker – 118 North 5<sup>th</sup> Street, Mike Frohlich – 1201 Crestview Lane, Ken Hoff – 314 East Main Avenue and Kate Herzog & Dawn Kopp (Downtowners).

**CALL TO ORDER**

Chairman Blackstead called the meeting to order at 4:00 p.m.

**MINUTES**

The minutes of the March 9, 2011 meeting were distributed with the agenda packet.

**MOTION:** A motion was made by Mr. Huber and seconded by Ms. Smith to approve the minutes of the March 9, 2011 meeting as received. The motion passed unanimously with members Blackstead, Huber, Magstadt and Smith voting in favor.

**RENAISSANCE ZONE PROJECT APPLICATIONS**

**A. 123 North 4<sup>th</sup> Street – Loran Galpin – Purchase with Improvements**

Mr. Tomanek gave an overview of the purchase with improvements project by Loran Galpin for the building at 124 North 4<sup>th</sup> Street. He said the applicant is proposing to purchase and rehabilitate the building at 123 North 4<sup>th</sup> Street. Proposed uses include commercial space on the first floor; professional office space on the second floor; and 15 apartments on the third, fourth and fifth floors. The proposed demolition and rehabilitation would be conducted in stages. Mr. Tomanek went on to say that Stage 1 would include asbestos abatement in the lower level and on floors 2-5. Stage 2 would include the removal of all interior walls and fixtures. Stage 3 would include new plumbing, roof repairs, new roof drains and a new utility core for each floor. Stage

4 would include main floor and fifth floor improvements including, retail restoration, a new elevator, new ADA restrooms for the commercial spaces and four apartments on the fifth floor. He stated that the applicant has indicated that floors 2-4 would be developed one floor at a time with a 3-5 year project completion timeline. It is likely the rehabilitation project would be closed out prior to the building's full completion. This same scenario was used with the Civic Square rehabilitation. Mr. Tomanek concluded by saying the building floor area of the building is 17,432 square feet and with an estimated property tax exemption of \$41,000 over five years and an estimated state income tax exemption of \$6000 over five years. The total project investment is approximately \$1,100,000 and the estimated value with the investment is \$1,200,000.

Mr. Tomanek then listed the following findings for the proposed Renaissance Zone Project:

1. The proposed use is consistent with the City's Renaissance Zone Development Plan.
2. The proposed exterior rehabilitation would be sufficient to eliminate any and all deteriorated conditions on the exterior of the building.
3. Using the 2010 assessed value of the building (\$96,300) and the proposed investment of \$1,100,000, the level of re-investment is approximately 1140 percent. The minimum level of investment for rehabilitation projects is 50 percent of the assessed building value made through capital improvements. The proposed investment would be equivalent to a per square foot cost of \$63.10.
4. The applicant anticipates that the staged rehabilitation of the building would require 3-5 years for completion.
5. The proposed project was reviewed by the Downtown Design Review Committee on March 23, 2011 for compliance with the DC-Downtown Core zoning regulations. The Committee approved the proposed rehabilitation project noting that the project would fulfill the requirements of the zoning district by reflecting the original architectural style of the building, the replacement windows generally conform to the style of the original windows used in the building and by having materials and colors that would be compatible with or complementary to those used on adjoining parcels.

Mr. Tomanek then provided the following additional information:

1. Currently a basement vault exists below the sidewalk/right-of-way along the north side of the building adjacent to Broadway Avenue. Within the public right-of-way there is a raised, concrete planter containing shrubs that was installed with the Chancellor's Square project in the late 1970s. The applicant has been working with City staff to find a resolution for the vault, planters, sidewalk replacement and potential for short-term, on-street parking along the south side of Broadway Avenue. The applicant has indicated that he would prefer to have the vault area filled with the understanding that a wall would need to be constructed along the property line to eliminate the privately-owned space below the sidewalk. The vault would need to be filled in and the sidewalk replaced. The applicant has provided a site plan that demonstrates how the area could look with parking along the south side of Broadway Avenue and new, raised concrete planters.

Mr. Tomanek said based on the above findings, staff recommends approval of the designation of the purchase with major improvements to the building at 123 North 4<sup>th</sup> Street by Loran Galpin as a Renaissance Zone project, a 100% property tax exemption on the building and improvements for five years beginning with the date of completion, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of completion with the following condition:

1. The project generally conforms to the site plan, building elevations and project description submitted with the application.

Loran Galpin presented the proposed Four-2-Five on Broadway project requesting approval of the Renaissance Zone project, future CORE Incentive Program project reimbursement and the possibility of utilizing the Tax Increment Financing funds.

Bob Shannon read a letter of on behalf the owner of Broadway Floral of Hearts, Leilani Schatz, attached as Exhibit A.

Mr. Huber commented that the lease dispute between Ms. Schatz and Mr. Galpin is a private matter and is not appropriate to be reviewed by the Renaissance Zone Authority.

Mr. Galpin stated that he would never do anything to violate state law and agrees it is not a matter for the Renaissance Zone Authority to review.

Mr. Galpin asked for support for the use of CORE incentives and tax increment financing. The issue was discussed, with it being mentioned that the Renaissance Zone Authority cannot act on this request because of the pending lawsuit.

**MOTION:** Based on the findings included in the staff report, a motion was made by Mr. Huber and seconded by Ms. Smith to recommend approval of the request for designation of the purchase with major improvements to the building at 123 North 4<sup>th</sup> Street by Loran Galpin as a Renaissance Zone project, a 100% property tax exemption on the building and improvements for five years beginning with the date of completion, and an exemption from state tax on income derived from the business/investment location for five years beginning with the date of completion with the following condition: 1) The project generally conforms to the site plan, building elevations and project description submitted with the application. The motion passed unanimously with members Blackstead, Huber, Magstadt and Smith voting in favor.

## **RENAISSANCE ZONE DEVELOPMENT PLAN MODIFICATION DISCUSSION**

Mr. Tomanek said that staff has been working on updating the Development Plan for the Renaissance Zone and would like to revamp the Plan and format so that in the future updates can be easily made to the plan along with making it more user friendly. He said that staff will make all the proposed changes and distribute it to the Renaissance Zone Authority before it is presented to the Board of City Commissioners and the State.

### **STATUS OF APPROVED RENAISSANCE ZONE PROJECTS**

Mr. Tomanek said that there are only a few Renaissance Zone projects that are currently open.

### **STATUS OF APPROVED CORE INCENTIVE PROJECTS**

Mr. Tomanek said that no CORE Incentive Program Projects have been closed out since the last Renaissance Zone Authority meeting.

### **OTHER BUSINESS**

There was no other business.

### **ADJOURNMENT**

There being no further business, Chair Blackstead adjourned the meeting of the Bismarck Renaissance Zone Authority at 5:21 p.m.

Respectfully Submitted,

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Kimberley Gaffrey  
Recording Secretary

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David Blackstead  
Chair

April 13, 2011

Bismarck Renaissance Zone Authority

221 N. 5<sup>th</sup> Street

Bismarck, ND 58501

RE: RENAISSANCE ZONE FUNDING APPLICATION FOR 123 N. 4<sup>TH</sup> STREET (COWEN BUILDING)

Renaissance Zone Authority:

I am the owner of a business (Broadway Floral of Hearts) that has been operating for nearly two years in the Cowen Building (123 N. 4<sup>th</sup> Street), and I wish to express my comments regarding Loren Galpin's application for a Renaissance Zone Project to remodel the building.

Item 3A Staff Report in your committee's agenda packet indicates under Project Review Guidelines that Item #4 "Relocation (vs. New or Expanded Businesses)" one of the application criteria is "Maintaining business in the downtown area or expanding business" and has been awarded the maximum score of 15 points. I would like to bring to the attention of the Renaissance Zone Authority and the Bismarck City Commission that my existing business is proposed to be eliminated with Mr. Galpin's building plan, and in my opinion, the elimination of an existing downtown business does not warrant the maximum score on the application.

Note that in the applicant's additional information (page 6 of your agenda packet) the applicant states under I.A Detailed Description, first bullet, second sentence: "Main floor will have selective gutting of space as we work with new tenants for this floor." I currently occupy a portion of the main floor.

What this application does NOT tell you is that my business currently has a 5 year lease for our existing space through 2014. Over the last several months, Mr. Galpin approached me and asked me if I would be interested in signing a five year lease with the rent, utilities and fees being significantly higher than my existing lease agreement. I informed him that I had already executed a term lease with the existing owner, and that lease does not expire until 2014. Even so, Mr. Galpin is choosing to ignore the existing lease, and has told me that if I do not sign a new lease, he will find another tenant to occupy our current space.

I have discussed this matter with legal counsel, and I was informed that Section 47-16-08 of the North Dakota Century Code, titled quiet possession of leased property, provides: "An agreement to lease real property binds the lessor to secure the lessee the quiet possession of such property during the term of the lease against all persons lawfully claiming the same." In addition, Section 47-16-29 of the North Dakota Century Code provides that whatever remedies a lessee has against the immediate lessor for

RENAISSANCE ZONE FUNDING APPLICATION FOR 123 N. 4<sup>TH</sup> STREET (COWEN BUILDING)

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breach of any agreement in the lease, the lessee may have against the assigns of the lessor. Further, it is highly likely that the Purchase and Sale Agreement between the current owners and Mr. Galpin will contain a provision indicating that Mr. Galpin is purchasing the real estate at issue subject to any existing leases. However, even if such provision is not in the Purchase and Sale Agreement, as explained above, per state law, Mr. Galpin has a legal obligation to honor the lease that I entered into with his predecessor in interest.

Despite these facts, Mr. Galpin has indicated to me, and he has indicated in his application for the Renaissance Zone Project that he has no intent of honoring the state laws noted above.

I am in support of the efforts by many to improve our downtown, and in particular am in support of the concept of improving the building that I currently occupy. However, I cannot support Mr. Galpin's request for a Renaissance Zone Project when moving forward with the project, as proposed by Mr. Galpin, will violate state law. In addition, I cannot support a project that will force my business to either cease operating or to incur unwarranted expense for relocation to another location. I also cannot support the Bismarck City Commission or your committee approving such a project that has the consequence of destroying an existing downtown business. If Mr. Galpin, the current building owners, and/or other parties are willing to abide by the laws of our state that protect renters such as I, I may then reconsider my support for the project. Until then, I am adamantly opposed to any involvement by the City of Bismarck with such a project.

Sincerely:



Leilani Schatz, Owner

Broadway Floral of Hearts

411 East Broadway

Bismarck, ND 58501

C: Bismarck City Commission