

A quorum of the Administration Committee, Board of Public Works, Park Board, and/or Common Council may attend this meeting; (Although it is not expected that any official action of any of those bodies will be taken).

**CITY OF MENASHA
REDEVELOPMENT AUTHORITY**

**Menasha City Center
100 Main Street, Menasha
Room 133**

November 16, 2017

5:00 PM

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. Minutes of the September 25, 2017 Redevelopment Authority Meeting
- D. PUBLIC COMMENTS ON ANY MATTER OF CONCERN ON THIS AGENDA
(five (5) minute time limit for each person)
- E. DISCUSSION / ACTION ITEMS
 - 1. Second Amendment to the Development Agreement Between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction
 - 2. RR Donnelley / LSC Communications Land Purchase
- F. ADJOURNMENT

If you have questions, please call the Community Development Department at (920) 967-3650 between 8:00 AM – 4:00 PM, Monday through Friday.

**CITY OF MENASHA
Redevelopment Authority
100 Main Street-Room 207
September 25, 2017
DRAFT MINUTES**

A. CALL TO ORDER

The meeting was called to order at 5:06 pm by Chairmen Kim Vanderhyden.

B. ROLL CALL/EXCUSED ABSENCES

REDEVELOPMENT AUTHORITY MEMBERS PRESENT: Kim Vanderhyden, Ald. Rebecca Nichols, Linda Kennedy, Gail Propp, and Bob Stevens.

REDEVELOPMENT AUTHORITY MEMBERS EXCUSED: Kip Golden and Matt Vanderlinden

OTHERS PRESENT: CDD Buck, PP Schroeder, ASD Jacobs, Mayor Merkes, Alderman Sevenich, Alderman Taylor, Alderman Zelinski, Alderman Grade, and Tom Fisk (Newmark Grubb Pfefferle)

C. MINUTES TO APPROVE

1. Minutes of the August 31, 2017 Redevelopment Authority Meeting

Motion to approve the August 31, 2017 Redevelopment Authority meeting minutes as presented made by Gail Propp, seconded by Kim Vanderhyden. Motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

Alderman Sevenich explained to the Redevelopment Authority the reasoning behind his no vote on the RDA's August 31, 2017 recommendation to move forward with the acquisition of the R.R, Donnelley and Sons/LSC Communications property at 460 Ahnaip Street forwarded to the Common Council at their September 5, 2017 meeting. Reasons included: 1) if the State of Wisconsin Department of Transportation wants to move forward with the reconstruction of the Racine Street Bridge, they would be in a better position to and should purchase the property, clean the site and then have discussions with the City to take ownership of the property; 2) the City could have sufficient control over any potential redevelopment of the site through regular zoning regulation and we don't need to acquire it; and 3) taking ownership of this property is a major risk that does not need to fall on the City's shoulders. While the environmental study was more positive than anticipated there are still a lot of unknowns. The City does not have unlimited funds and using them to purchasing this property could jeopardize potential alternative future projects.

Alderman Taylor thanked the committee members for volunteering their time to sit on the RDA. He explained that he had recently toured the facility and found the building to be a great potential for redevelopment. He expressed his opinion that redevelopment could take place on the western end of the building as the State Department of Transportation would only need to remove the eastern building and that there was potential for it to be used for upper end loft style housing, which is what a lot of people are looking for. He encouraged

the City to look at potential developers that have done this type of redevelopment. Lastly, Alderman Taylor stated that he also voted no because he feels that if the State wants a new bridge, they should purchase the property.

E. ACTION ITEMS

1. Lake Park Square Listing Agreement with Newmark Grubb Pfefferle

PP Schroeder gave a brief explanation of a draft listing agreement with Newmark Grubb Pfefferle noting highlights such as a reasonable 6% commission rate and that there was no suggested changes in the existing asking prices. Similar to the agreement made with Community First Credit Union with Lots 7, 8, and 9 in Lake Park Square, staff also suggested "Addendum B" be added that would restrict the permitted uses by-right for these properties and give the RDA an opportunity to review uses that may not be compatible with existing and anticipated surrounding uses. Lastly, PP Schroeder introduced Tom Fisk, one of the two joint listing agents with Newmark Grubb Pfefferle.

The RDA members asked Mr. Fisk a multitude of questions to try and find out what Newmark Grubb Pfefferle will provide, how the properties will be marketed, how the company has changed over the years, what the current market is like, and how he fits in with the listings. Mr. Fisk explained that Newmark is growing company that continues to expand and learn as the commercial real estate market changes. He is a joint listing agent with Elizabeth Ringgold. They work together on many projects to ensure better customer service and availability. As noted on the listing agreement, there is a wide variety of marketing tools used including on-site signage, internet marketing, direct mailings, and postings on national networks such as *Loopnet*, *InWisconsin*, *Xcelligent* and *CoStar*. As for the market, Mr. Fisk stated that while construction cost are high, the supply of vacant commercial buildings has gone down which has the effect that more people are looking at construction and vacant lots such as the listings here.

Bob Stevens arrived at 5:28 PM

Motion to approve the listing agreement for a one year contract with Newmark Grubb Pfefferle with the addition of Addendum B limiting the allowable land uses by-right within Lake Park Square was made by Ald. Rebecca Nichols, seconded by Gail Propp. Motion carried unanimously.

2. Real Estate Purchase – 460 Ahnaip Street (RR Donnelley/LSC Communications)

CDD Buck gave a brief background of the Real Estate Purchase and Sales Agreement for the property located at 460 Ahnaip Street, in addition to the environmental assessment, and where we are today with the potential real estate purchase. As explained at the RDA meeting on August 31, 2017, per the agreement RR Donnelley supplied the City with a Phase I Environmental review as well as a Limited Site Investigation (LSI) report done by Terracon on August 14, 2017. This environmental review or Limited Site Investigation (LSI) report described the work/testing that had taken place, results of said testing, provided a proposed site investigation work plan, which included preparation of a site investigation/remediation action plan exclusively for vacant industrial use of the property. Per the Purchase and Sales Agreement (PSA) the RDA and the City were allotted 30 days to review and determine how they would like to proceed with the purchase of the Ahnaip Street property. Over that next 30 days the City forwarded the LSI report to our consultants Omni Associates, received a summary of the

report, brought an action item to the RDA on August 31, 2017 and an action item to the Common Council on September 4, 2017.

At the August 31st RDA meeting, a motion was approved to move forward with the acquisition of the RR Donnelley and Sons property at 460 Ahnaip Street with the following conditions:

1. The site investigation work plan proposed by Terracon, environmental consultant for RR Donnelley and Sons, must not be limited to only industrial future uses.
2. Wisconsin Department of Natural Resources approval/acceptance of an environmental remediation plan resulting from further site investigation.

The City Common Council, at their September 4, 2017 meeting approved the RDA motion to move forward with the property acquisition with the listed conditions. It was a heavily discussed item that ultimately ended in a 4 to 4 vote with the Mayor ultimately breaking the tie in favor of moving forward with the property acquisition,.

For multiple reasons following the motion to approve, RR Donnelley and Sons/LSC Communications did not accept the conditions placed on the purchase/sale. City staff feels that because there are different remediation standards moving a contaminated site forward depending on the future use of residential, commercial or mixed-use versus industrial, it would to a large degree be pointless testing as proposed. Furthermore, any testing and remediation plan that could be drafted without a proposal for site redevelopment would end up being based on a worst case scenario. In addition to being somewhat irrelevant without a specific redevelopment plan, per the Purchase and Sales Agreement, parent 6(d) on page 5, the City would be required to fully perform the activities required in the Limited Site Investigation (LSI) report regardless of the Limited Government Unit (LGU) exemption status afforded the City. At this time, staff is recommending moving forward with the Real Estate Purchase and Sales Agreement with the condition that the requirements of Section 6(d) be removed from the PSA.

CDD Buck further touched on the public comments regarding the risk of taking ownership of the property and that the State should be the ones purchasing the property, consuming the risk and clean up. CDD Buck explained that he has had conversations with the Wisconsin Department of Transportation Racine Street Bridge Project Manager Bill Bertrand. He informed staff that the Wisconsin DOT would neither have to nor necessarily want to take ownership of this property. In similar circumstances, the DOT has been able to acquire temporary limited easement(s) allowing them to remove the entire or a portion of the affected structure while leaving underlying land ownership with the original property owner.

The members of the RDA discussed a wide range of options and the pros and cons of each. Ultimately, if the City/RDA does not take ownership of the property and the State does not take ownership of this property, RR Donnelley and Sons/LSC Communications could likely sell the industrial zoned property to potentially be reused for not the highest and best use such as an industrial type business including but not limited to warehousing. The City's cost to acquire the property at a later date could therefore greatly increase and may not end up being feasible. The RDA agreed that while there are risks in acquiring the property, it is a risk worth taking to ensure Menasha continues on the path of revitalization, to support the desirability and redevelopment Gilbert site, to protect the residential character of the neighborhood, to protect and control the future

use of the waterfront and allow the shoreline to be available for potential public use such as trails/Riverwalk.

Kim Vanderhyden motioned to recommend that the Redevelopment Authority move forward with the acquisition of the property located at 460 Ahnaip Street with the condition that Section 6(d) noted on page 5 of the Real Estate Purchase and Sale Agreement between R.R. Donnelly & Sons Company and the Redevelopment Authority of the City of Menasha be removed. Motion was seconded by Linda Kennedy. Motion carried unanimously.

F. Discussion

No Discussion.

G. Adjournment

Kim Vanderhyden motioned to adjourn the meeting at 6:11 pm. Motion was seconded by Ald. Rebecca Nichols. Motion carried unanimously.

Minutes respectfully submitted by PP Schroeder.

SECOND AMENDMENT TO LAND PURCHASE AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE
REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY AND
CONSTRUCTION OF APPLETON, INC., DATED September 14, 2016, AS AMENDED

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT, executed in Menasha, Wisconsin on this ____ day of November, 2017, is made effective between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction of Appleton, Inc. The Development Agreement by and between the parties dated as of September 14, 2016, as amended, is further amended as follows:

As to ARTICLE II, SECTION 2.02, add: "Consistent with the terms of the FIRST AMENDMENT TO DEVELOPMENT AGREEMENT, Vans shall be required to pay the outstanding balance of each Promissory Note issued on each of the first five lots purchased by Vans on November 15, 2016, in full for each lot sold or transferred, prior to or at the time of each closing between Vans and its immediate successor in interest to the Lot using first proceeds for said payment or November 15, 2018, whichever comes first."

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA

By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.

By: Jason C. Haen, President

LAND PURCHASE AND DEVELOPMENT AGREEMENT

This Land Purchase and Development Agreement (hereinafter AGREEMENT) is made and entered into as of the 14th day of September, 2016, by and between the Redevelopment Authority of the City of Menasha, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "RDA"), and Van's Realty and Construction of Appleton, Inc., a Wisconsin corporation with its principal offices located 2525 Oneida St., Appleton, WI 54915 (hereinafter "Vans").

RECITALS

Whereas: Vans submitted a Letter of Intent to the RDA for the acquisition of certain rights in and to 10 lots within the Lake Park Villas Phase II Subdivision (LPVP2) listed as follows: 81, 70, 4CSM3511, 19R, 108, 124, 125, 91, 21R, 123, hereinafter referred to individually "Lot" or collectively "Lots"; and

Whereas: Vans has requested certain incentives from the Redevelopment Authority of the City of Menasha (RDA) to facilitate the purchase of said Lots, development of homes and to market the developed properties within LPVP2; and

Whereas: The RDA has obligations under its development agreement with the City of Menasha to promote the development of the LPVP2 and to market and sell properties contributed from the city to the RDA; and

Whereas: The RDA has determined that the provision of incentives to Vans is necessary to stimulate the sale of Lots and construction of homes in LPVP2.

ARTICLE I PURPOSE

SECTION 1.01. PURPOSE OF AGREEMENT. The purpose of this Agreement is to facilitate the sale, development and marketing of certain properties within LPVP2 by Vans. The recitals are incorporated herein by reference.

ARTICLE II OBLIGATIONS

SECTION 2.01. PURCHASE RIGHTS AND OBLIGATIONS.

SECTION 2.01.1. Purchase. On or before December 31, 2016, Vans agrees to purchase five of the Lots, specifically: 91, 108, 19R, 124, and 21R from the RDA for the purchase price of \$35,000 for each Lot (less the Builder Credit).

SECTION 2.01.2. Option to Purchase. Vans shall have the Option to Purchase the additional five Lots, specifically: 70, 81, 4CSM3511, 123 and 125 (hereinafter referred to individually an "Option Lot" and collectively the "Option Lots") until December 31, 2018 for the purchase price of \$35,000 for each lot. Vans' Option to Purchase shall be

exercisable by written communication and delivered by mail, personally, or electronic means to RDA.

SECTION 2.01.3. Right of First Refusal. If RDA receives an offer to purchase any of the Option Lots from a third party prior to Vans having exercised its Option to Purchase, Vans shall have a Right of First Refusal to purchase any such Option Lot, provided that the conveyance shall be subject to the terms of the third party offer and at the purchase price offered by the third party. Vans Right of First Refusal shall be exercisable by written communication within 72 hours after Vans receives written notice of the third party offer from RDA and shall be delivered by mail, personally, or electronic means to RDA or the Right of First Refusal shall be deemed waived with respect to the third party offer. If the third party offer does not close, then Vans shall retain its Option to Purchase and Right of First Refusal on the Option Lot.

SECTION 2.01.4. Substitute Option Lot. If Vans elects not to exercise its Option to Purchase or Right of First Purchase and the RDA transfers an Option Lot to a third party, then Vans shall have the right to identify and substitute a replacement Option Lot within the LPVPII which shall then be subject to the terms and conditions of this Agreement, including Vans' Option to Purchase and Right of First Purchase as if it was specifically identified herein.

SECTION 2.01.5. Conveyance. All transfers to Vans hereunder shall be by Warranty Deed from RDA conveying title free of all liens and encumbrances (except easements and restrictions of record, including but not limited to the Lake Park Villas Home Owners Association covenants and restrictions), and RDA and Vans shall assume customary rights and obligations of buyers and sellers up to and including closing.

SECTION 2.02. PAYMENT; SECURITY. For each Lot purchased, Vans shall either pay cash at closing or Vans shall execute a Promissory Note in favor of the RDA in the amount of the Purchase Price. The terms of the Promissory Note shall be 0% interest per annum until paid in full except in the case of a default, then interest shall be 5% per annum from the date of execution until paid in full. Vans shall be required to pay the outstanding balance of each Promissory Note in full for each lot sold or transferred, prior to or at the time of each closing between Vans and its immediate successor in interest to the Lot using first proceeds for said payment or 1 year from the date of execution of the Promissory Note, whichever comes first. As security for said Promissory Note(s), Vans shall give RDA a first mortgage position.

SECTION 2.03. CONSTRUCTION. Vans agrees to construct homes on each Lot purchased within the LPVPII from the RDA within one year of closing:

SECTION 2.03.1. Construction of homes on each of the first five lots purchased shall be completed no later than December 31, 2017, and shall be demonstrated by receipt of a certificate of occupancy for each home.

SECTION 2.03.2. Each home shall be at least 1,400 square feet exclusive of garage and basement floor space. Two of the homes shall meet or exceed 1600 square feet exclusive of garage and basement floor space.

SECTION 2.03.3. Each home shall be constructed in accordance with the LPVP II Home Construction Standards.

SECTION 2.04. TAXES. It is understood that the land and improvements resulting from the acquisition and subsequent construction of homes on the Lots shall be subject to property taxes. Vans shall pay when due all federal, state and local taxes in connection with the Lots and homes thereon constructed.

SECTION 2.05. CONDITION. Except as provided herein, the Lots shall be conveyed in "as is" physical condition. The RDA is not responsible for any subsequent remediation, demolition, underground debris, or other clean-up costs after conveyance.

SECTION 2.06. RECORDING. This Agreement may not be recorded with the register of deeds. A memorandum of this Agreement shall be executed by both parties and recorded with the register of deeds to provide record notice of Vans' interest in the Lots in the form attached hereto; Van's shall bear the recording fee.

ARTICLE III BUILDER CREDIT

SECTION 3.01. BUILDER CREDIT. As long as Vans is not in default of its obligations under this Agreement or any terms of the Promissory Note(s), RDA agrees to provide Vans a "Builder Credit" against any amount owed to RDA under a Promissory Note which applies to a respective Lot based on the sale price of such respective Lot and improvements thereon from Vans to a third party. The Builder Credit shall be calculated as follows:

- \$10,500 credit if the sale price meets or exceeds \$200,000.
- There shall be no credit applied if the sale price is below \$200,000.

SECTION 3.02. CONDITIONS TO CREDIT. There is no cash value of the Builders Credit. It is only available to Vans, and it is only available as a credit against the amounts due on the Promissory Note which applies to the respective Lot improved and for which a credit is due under Section 3.01, above. The credit available to Vans under this section shall terminate upon the sale and transfer of the last Lot from Vans to a third party or on December 31, 2020, whichever occurs first.

ARTICLE IV MISCELLANEOUS PROVISIONS

SECTION 4.01. NO ASSIGNMENT. The rights, duties and obligations of the any of the parties hereunder may not be assigned without the written consent of both parties to the assignment.

SECTION 4.02. SURVIVAL. The terms of this Agreement shall survive closing on the Lots. Any provision of this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 4.03. NO SUBORDINATION. The RDA shall not subordinate any interest it has in this Agreement for any reasons, unless it is determined to be in the best interests of the RDA.


SECTION 4.04. SEVERABILITY. If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 4.05. CERTIFICATE OF COMPLETION. Upon completion of the improvements by Vans and review of the improvements by RDA, the RDA will provide Vans with an appropriate instrument certifying that the improvements have been made in accordance with this Agreement.

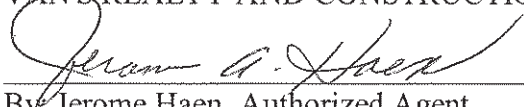
SECTION 4.06. TERMINATION. This agreement shall terminate upon the sale and transfer of last Lot from Vans to a third party or on December 31, 2020, whichever comes first.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the 14th day of September, 2016.

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA


By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.



By: Jerome Haen, Authorized Agent

FIRST AMENDMENT TO LAND PURCHASE AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY
AND CONSTRUCTION OF APPLETON, INC
DATED AS OF SEPTEMBER 14, 2016


THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT, executed in Menasha, Wisconsin on this 5th day of August, 2017, is made effective between the City of Menasha and Van's Realty and Construction of Appleton, Inc. The Development Agreement by and between the parties dated as of September 14, 2016 is amended as follows:

1. As to ARTICLE II, SECTION 2.03, after the sentence "Vans agrees to construct homes on each Lot purchased within the LPVPII from the RDA within one year of closing" add the following: This requirement does not apply to the first five lots purchased by Vans on November 15, 2016.
2. As to ARTICLE II, SECTION 2.03.1, change the sentence "Construction of homes on each of the first five lots purchased shall be completed no later than December 31, 2017, and shall be demonstrated by receipt of a certificate of occupancy for each home." to "Construction of homes on each of the first five lots purchase shall be completed no later than December 31, 2018, and shall be demonstrated by receipt of a certificate of occupancy for each home."
3. All other terms and conditions set forth in the Development Agreement dated September 14, 2016 shall remain the same.

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA


By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.


By: Jerome Haen, Authorized Agent