

BOROUGH OF WOODCLIFF LAKE
Special
MAYOR AND COUNCIL MINUTES
November 9, 2010
7:30 p.m.

CALL TO ORDER.

This special meeting, in accordance with the Open Public Meetings Law, P. L. 1975, C. 231, has been posted and advertised in The Record on November 1, 2010.

ROLL CALL.

Mayor LaPaglia called for the Roll. Council members Bader, Baum, Camella, Glaser and Hoffman were present. Council member Rosenblatt was absent due to personal business. Attorney Madaio arrived at approximately 7:45 p.m. Administrator Sandve and Borough Clerk Sciara were present.

PLEDGE OF ALLEGIANCE.

All present recited the Pledge of Allegiance led by Council President Camella.

NEW BUSINESS

Attorney Madaio stated that Powder Hill Developers has been in foreclosure. TD bank is the owner of the property and rights to the development and is desirous of transferring deed and rights to another developer. All outstanding fees and escrow monies will be paid in full before the transfer. Attorney Madaio stated the Borough cannot investigate a developer's credit. All agreed that this is the good for the Borough. This development has sat for too long.

Motion to open the meeting to the public was made by Mr. Bader, second by Mr. Camella.

Jeff Adler, is the broker to TD Bank. Principals are two Wall Street gentlemen who the bank has deemed very well funded. TD Bank is prepared to move forward. Mr. Adler stated that he does not know if any of the new principals have an association to Powder Hill Developers. The bank will transfer rights to the Pioneer Developers for the sum of \$750,000.00. The amount owed on the property is \$1.1 million dollars. TD Bank has been working on this deal for over 10 months and are very anxious to transfer title.

Motion to close the meeting to the public was made by Mr. Bader, second by Mr. Glaser and approved unanimously by voice call vote.

Resolution Authorizing Assignment and Assumption of Developer's Agreement

Entered upon this day of _____, 2010, by and between **PIONEER DEVELOPERS**, maintaining offices at 160 Hopper Avenue, Waldwick, New Jersey (hereinafter, "Pioneer"); the **BOROUGH OF WOODCLIFF LAKE**, maintaining offices at

188 Pascack Road, Woodcliff Lake, New Jersey (hereinafter, "WCL"); the **PLANNING BOARD OF THE BOROUGH OF WOODCLIFF LAKE**, maintaining offices at 188 Pascack Road, Woodcliff Lake, New Jersey (hereinafter, "WCLPB"); **TD BANK**, One Portland Square, Portland, Maine 04112 (hereinafter, "TD BANK")

WHEREAS, WM Realty, LLC, (hereinafter, "WM") obtained Major Subdivision Approval for the creation of a six-lot subdivision upon property formerly known as Block 1905; Lots 1 and 2 and more commonly known as 205, 201 and 219 Pascack Road, Woodcliff Lake, New Jersey (hereinafter, the "Property"); and

WHEREAS, WM entered into a Developers Agreement with WCL and WCLPB for the development of the Property consistent with the aforesaid Major Subdivision, effective March 28, 2005 (hereinafter, the "Developers Agreement"); and

WHEREAS, WM assigned the Developers Agreement to Powder Hill Developers, Inc. (hereinafter, "Powder Hill") on, or about, September 3, 2004, and Powder Hill completed development and construction of three of the six homes within the aforesaid Major Subdivision; and

WHEREAS, owing to a Foreclosure Action, the Property is presently owned by TD Bank and is no longer in title to Powder Hill; and

WHEREAS, TD Bank is desirous to transferring the Property to Pioneer for the purposes of completing the work contemplated in the Developers Agreement and the Major Subdivision Approval of the Property and Pioneer is desirous of accepting the property for that purpose; and

WHEREAS, all parties seek to confirm the Assignment and Assumption of the Developers Agreement and to otherwise set forth their respective obligations.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. By virtue of their signature hereon, all parties consent to the Assignment of the Developer's Agreement from TD Bank to Pioneer.

2. Pioneer agrees to assume, and fully perform, all of the terms and conditions of the Developers Agreement, previous engineering reports prepared for the Planning Board hearings, resolutions of memorialization and complete the project in accordance therewith.
3. Upon signature of this Agreement, Pioneer shall forward to the Borough, for immediate release, all necessary escrows and professional fees as are due and owing to WCL and which have not been paid by any prior party to the Developers Agreement. The aforesaid amounts are set forth on Exhibit A.
4. Upon signature of this Agreement, Pioneer shall post with the Borough all necessary escrows, professional fees and performance bond requirements as are necessary for the completion of the Project. The aforesaid amounts are set forth on Exhibits B and C.
5. Upon signature of this Agreement, Pioneer shall post with the Borough Performance Guarantee and Cash Bonds not currently posted by prior owners in the amount set forth on Exhibit C. In the event that Woodcliff Lake applies any funds of Powder Hill Developers, the predecessors in title, to defray Pioneer's costs as herein provided and it is subsequently determined that title to the said funds belongs to said predecessor in title or its estate, if bankrupt, then Pioneer shall indemnify the Borough of Woodcliff Lake if it is ordered to release or return said funds to the predecessor in title.
6. Subsequent to the time of release of performance bonds, Pioneer shall be required to post a maintenance bond for a period of two years, date of commencement to be determined by the Borough Engineer, in accordance with the amount shown on Exhibit C.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be signed by their proper officers and their corporate seals to be affixed the date and year first written above.

ROLL CALL:

Introduce:	Mr. Bader
Second:	Mr. Hoffman
Ayes:	Mr. Baum, Mr. Camella, Mr. Glaser, Mr. Hoffman, Mr. Bader
Nays:	None
Abstain:	None
Absent:	Mr. Rosenblatt

Resolution to Authorize Entering into Executive Closed Session

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss: BMW COAH Litigation currently pending in Bergen County; and

WHEREAS, this session is anticipated to last approximately one hour; and

WHEREAS, these Minutes will be kept and once the matter involving the confidentiality of the aforementioned no longer requires that confidentiality, then the minutes can be made public. The Borough may or may not take action.

NOW, THEREFORE, BE IT RESOLVED that the public be excluded from this portion of the meeting.

ROLL CALL:

Introduce:	Mr. Camella
Second:	Mr. Bader
Ayes:	Mr. Baum, Mr. Glaser, Mr. Hoffman, Mr. Bader, Mr. Camella
Nays:	None
Abstain:	None
Absent:	Mr. Rosenblatt

EXECUTIVE CLOSED SESSION

BMW COAH Litigation - Closed Session Item 10-09

Motion to re-open the meeting to the public was made by Mr. Bader, second Mr. Camella and approved unanimously by voice call vote.

Motion to accept the offer of judgment offer put forth by BMW dated October 5, 2010 and authorizing special counsel to file the necessary paperwork

ROLL CALL:

Introduce: Mr. Bader
Second: Mr. Glaser
Ayes: Mr. Baum, Mr. Camella, Mr. Hoffman, Mr. Glaser, Mr. Bader
Nays: None
Abstain: None
Absent: Mr. Rosenblatt

Hearing no comments from the public, a motion to close the meeting to the public was made Mr. Bader, second by Mr. Camella and approved unanimously by voice call vote.

Motion to adjourn was made by Mr. Bader, second by Mr. Camella and approved unanimously by voice call vote. The time is 9:15 p.m.

For Camella, etc, CTC