

Minutes

Administrative Services Committee

Monday, May 16, 2016, 5:00 pm, Room 331

Gerace Office Building, Mayville, NY

Members Present: Scudder, Vanstrom, Whitford, Muldowney

Members Absent: Starks

Others: Gould, Tampio, Gustafson, Caflisch, Horrigan, Nazzaro, Himelein, Huckno, O'Hagan, Servoss, Lampard, Marsh, Rankin, Martello, Duckworth, Cady

Chairman Scudder called the meeting to order at 5:00 p.m.

Approval of Minutes (04/18/16)

MOVED by Legislator Muldowney, SECONDED by Legislator Vanstrom

Unanimously Carried

Chairman Scudder: Our second Resolution is authorizing the sale of the Sheldon House property and we have a resolution before that. So, we are going to allow everyone a chance to speak that wants to. But, what I would like to do is get the first Resolution done and then we will have you speak on that Resolution before we discuss it. It seems to make a little more sense that way.

Privilege of the Floor

There was no one to speak.

Proposed Resolution-Adjust Real Property Tax Office Petty Cash Fund

Mr. Caflisch: To begin with, our cash fund has been set at this number for a long time and for many years and what we are finding is to make change downstairs when people come in with larger amounts of cash, we are having to get into the deposit from the day before and that is not a good practice. So, I am just asking that we raise the fund so that we can cover ourselves when we need cash to make change.

Chairman Scudder: Are there any questions or comments? All those in favor say aye.

Unanimously Carried

Proposed Resolution-Authorizing Sale of the Sheldon House Property at JCC

Chairman Scudder: If there is anyone that would like to speak to this, we welcome you at this time. All that I ask is that you come up to the table and if there is a group of you representing a group you can all come up at one. So, we welcome anyone.

Mr. O'Hagan: My name is John O'Hagan and I live at 416 Lakeview Avenue.

Ms. Servoss: I am Dr. Ann Servoss and I also am a resident there. I live across the street from the Sheldon House for 30 years.

Ms. Lampard: My name is Marijka Lampard and I live at 524 Lakeview Avenue and I am the head of the neighborhood group.

Mr. O'Hagan: I guess I will be speaking first for the three of us. I have some or first of all, I am not here to tell you not to pass this Resolution. That is not why any of us are here. But, we do have some concerns and my particular concern is actually in the legality of the Jamestown Zoning boards granting of this variance. I have passed out to you information that I have downloaded about guidelines for applicants to the Zoning Board of Appeals. The type of variance that was asked for I guess jointly by the college and by the proposed buyers of the Sheldon House is a hardship variance. In looking over these guidelines, I have to say that I find the bar to get a hardship variance quite high. I don't think the actions of the Zoning Board really measured up to the standards that are set in these guidelines for these applications. I have also and I didn't make copies but I have the complete transcript of where this came from and I will leave it with you if you care to share it or not. I also have applicable sections of Jamestown's Zoning Board of which I might be referencing as well. As you can see, when requesting the standards set forth by the Law and the courts of the State cannot be modified by the Zoning Board of Appeals. The standards are listed below. What must be proven and I think proven is operable an important word here. What must be proven in order to be granted a variance? If requesting a use variance that is permission to establish a use of property not otherwise permitted in the zoning district, the applicant must prove unnecessary hardship.

There are four categories of unnecessary hardship and the Law state clearly that each and every one of the four categories of hardship must be satisfied in order to be granted a hardship. Each and every one and not just one of them or a couple of them but every single one of them have to be proven. The first one is that the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district. Actual dollars and cents proof must be submitted. There is also from a State Law City Law Section 81-B a further category of this as demonstrated by competent financial evidence. I am not sure that the bar was met in any way shape or form in the presentations to the Board of Appeals. Secondly, the property is being affected by unique or at least highly uncommon circumstances. I don't see that either and the hardship created here was actually created by JCC itself in the fact that there were other bids on the property. The Lynn Corporation bid \$240,000 and the competing bid was from an individual for \$200,000 and \$200,000 for a property in Jamestown is a substantial bid for any piece of property in that city. As far as JCC is concerned, the difference in the two bids is \$40,000. That amounts to one tenth of one percent of the last JCC budget that I could find on line which was 2013. That is a miniscule or less than a miniscule amount for JCC to dispute over a

property that comes with them getting a variance before they will buy it when they had another buyer that would have bought the property for a good price and use it as a family home which it is zoned for. There will be no need for going through this Zoning Board of Appeals. The dollars and cents tell me that the zoning variance is really something that was self-created. The hardship was actually created by JCC and it may be their new accounting systems where they do it line by line and every line has to I guess come out looking good for them. So, their buildings and grounds maybe wasn't looking good so they had to get \$40,000 more in there. I don't know and that is conjecture but I think it plays into that. Thirdly, the variance if granted will not alter essential character of the neighborhood. This is something that I don't know and it doesn't seem possible to me that the Zoning Board would overlook petitions by 53 people in the neighborhood and 6 of whom who live 100 feet within of the Sheldon House and 12 of whom live within 100 feet or 150 feet of the Sheldon House. They signed a petition not to hold up the sale and not to side with one of the bidders or the other but to say we are worried that the city is going to change the zoning of our neighborhood. They are worried that in the future other commercial entities will want to come in and point to what happened with the Sheldon House as an example of something that has already been decided and bring in more commercialization on the Lakeview Avenue where in fact it is not needed and it is not wanted by the people that live on Lakeview Avenue.

The other point is and I think it is very important and I went around and collected signatures and a number of people brought this up. The fact of variance is it goes with the property and it does not go with the person that was granted the variance. So, it was granted to a property developer. What do property developers do? They buy up a property for a good price in their mind and they maybe make improvements in it and they keep it for a while and then they sell it at a profit. So, I think when you talk about the character of the neighborhood the people on Lakeview are worried. The current person who is in line to buy the property can do what he wants with it. They were granted a commercial 1 variance. If you look at what you can do with Commercial 1, this is what people are worried about and what is permitted there. It could be medical or professional office buildings and barbers and telephone exchanges and travel bureaus and non-retail computer and hospitals and New York State licensed massage therapists. All of these things are permitted with this C1 variance. When you give it out, this is what you are opening our neighborhood to. So, I think we have every right to be concerned about that when in fact the property could have been very easily transferred to a homeowner who wants to have a family there. There is no need for this and this is why I am saying this hardship is self-inflicted by basically JCC. That is the fourth point here that the hardship here is not self-created. If any one or more of the above factors is not proven, State Law requires the Zoning Board to deny the variance. I think you know from my perspective, what they did was illegal. Illegal and not just unwise and it was unwise but it was illegal. It does not follow New York State Law. So, this is what we came to ask you. I told you we weren't going to ask you to vote it down and we are not. We would like you to table this Resolution at this time for a maximum of 30 days so that we can sit down and gather as much factual information as we can from the transcript and other sources and give us a chance and give the neighborhood a chance to move ahead as a neighborhood and get to the bottom of what is right here and not what is expedient but what is right. Thank you for your time.

Ms. Servoss: I also have concerns about the legality of the C1 variance that was granted a week or so ago for the Sheldon House. Converting a center piece home zoned R1 single family

residents only to a commercial business certainly changes the fundamental character of the neighborhood. It is a neighborhood that has been moving in the opposite direction converting prior professional offices back to single family dwellings and that is what has been happening on Lakeview Avenue. Also, as John said, it opens the door for further commercial development in a historic residential only neighborhood. With the variance, the property will remain commercial forever no matter who owns it once the zoning is changed. At the Zoning Board Meeting JCC said they had only one offer during the 5 months that the Sheldon House has been on the market. They ignored the offer from a local man wishing to buy the property for a family home because it required a home inspection as do 95% of residential home offers. I mean who buys a home without a home inspection? So, essentially that would seem to automatically eliminate any offer to buy the Sheldon House as a home if JCC won't accept a home inspection attached. The only offer JCC considered was from a corporation. The Sheldon House was listed late November in 2015 a couple of days before Thanksgiving I think and it received two offers within a few weeks. Within 6 weeks, on January 8th, 2016, JCC made public headline announcement in the local newspaper about selling the Sheldon House to Lynn Development Corporation. The house remains on the market but no further offers have been received. JCC may have received other bids including for single family home purchase if they hadn't announced their intention to sell to Lynn Corporation after 6 weeks on the market and making clear that a home inspection could not be part of the deal. The point is there is still a serious bid to buy the Sheldon House for its permitted use as a family home for cash at a fair market value with no variance needed and no commercializing of our neighborhood.

Any hardship in selling the Sheldon House for its R1 zone purpose has been created by JCC itself. In its reporting, the local paper has implied that only one neighborhood resident is opposed to the commercial variance for the Sheldon House. Actually, at the Zoning Board Meeting on May 4th, six neighbors gave written or oral presentations supporting the commercial variance. There were 54 neighbors gave written or oral presentations opposing the variance. So, there is significant resistance in the neighborhood to this commercial variance. These some 54 residents are supportive of our on-going attempts to stop this process. It is not just the three of us that are here tonight and Paul Leone who goes to the Jamestown City Council Meetings and he is there tonight and it is not just us that are opposing this. We speak for a large number of neighborhood residents who oppose the commercialization of the Sheldon House in our neighborhood. Indeed, JCC paid the word is \$50,000 and I am not clear on exactly how much but they paid a significantly large sum of money for a survey prior to listing the Sheldon House on the market to determine the best use for the property and JCC's own study listed single family home as the best use of the Sheldon House. This is what we would like to see happen, we would like for you to table your decision tonight about supporting the sale until we have had a chance to work out more about the zoning variance. Thank you.

Ms. Lampard: It is not much to ask for 30 days to give us the opportunity to work on things. We are the taxpayers and we are the property taxpayers on Lakeview Avenue and it is our home. It is our neighborhood. It is not JCC's neighborhood. JCC owned the property and they had an R1 variance and they had some extra privileges with that because they are a school. A School is allowed to be in an R1 as you know. But, jumping from R1 past R2 and past R3 and past R-C all the way to commercial 1 which allows even small manufacturing and public swimming pools and public facilities that is a big deal to us. We are making headway on Lakeview Avenue and we just want the opportunity to settle this matter in a neighborly fashion

and in a respectful classy way. We don't want to fight Government. Jamestown is our home and it is our city but Lakeview is probably the only beautiful avenue left in the city with mansions that are just magnificent. These are the last ones and the ones on third are gone and Fourth and Fifth. They have bought up by corporations and commercial and businesses. We are fighting to keep ours. So, we ask for a deferral on the vote for 30 days please. Thank you.

Legislator Vanstrom: Okay, in those 30 days, what kind of recourse are you looking at because local zoning issues are decided at that municipality's level? Typically, challenges are pursued through the courts. I mean you are asking for 30 days to act out in a classy fashion but I am feeling the only recourse is through the courts.

Ms. Servoss: We have 30 days to file with the Supreme Court.

Legislator Vanstrom: Is that why you are asking us for 30 days?

Ms. Servoss: Yes, we want to think about it.

Mr. O'Hagan: We need to talk to all of our members and we haven't had an organizational meeting since the Zoning Board action. Quite frankly, I think it caught a lot of us by surprise because some of us were at other Zoning Board Meetings and saw things handled very differently. So, we are not committing to anything beyond asking for 30 days and making a decision on whether to go with this. We need time to and I think it is only fair to give us time to organize what we want to do and decide if we want to proceed.

Legislator Whitford: I just have one question. Now, during the whole process, from the bidding and everything that you brought forward, you had your neighborhood meeting and did you ever approach JCC or Lynn Group to join a meeting and have an open discussion about it? I mean who better than them?

Ms. Servoss: We have spoken individually to several members of the JCC Board of Trustees and we have also talked to members in the city and the Mayor and members of the City Council and our representative here. Lynn had public meetings about what they planned to do with the property but they really had no interest in approaching any of us neighbors about what they were doing.

Legislator Whitford: They had an open meeting and certainly you could have gone.

Mr. O'Hagan: The crux of the matter here is not and the Lynn Corporation has a very good reputation in Jamestown and deservedly so. But, the problem is the way that the variance sticks with the property. The long-term prognosis for Lakeview Avenue is not good. If that variance is given to that property, regardless if it is the Lynn Corporation or somebody else, they can sell it anytime that they want to and to anybody that they want to sell it to. That is what developers do. They don't hang onto things forever. So, we are trying to protect the future of the neighborhood and our investments in the neighborhood and actually part of the tax base because there is too much and if people start commercializing Lakeview Avenue, we are all going to run down to the tax assessors and say you better start lowering our tax assessments because our

properties are dropping like a rock. So, this isn't and you bring up the Lynn Corporation and they are great guys.

Legislator Whitford: It was just a question.

Mr. O'Hagan: I know but this is our feeling. They are fine people and they have done a lot of good but that variance is going to stick forever.

Ms. Lampard: Frankly, when we tried to get information, we were told we can't talk about it and this is JCC's information. The Board of Trustee Meetings and what goes on is private. That is information that is not available to the public. When I asked, do you have in writing exactly what he is going to do with the property and do you have it in writing a commitment because he can do anything with a C1. He can put in retail stores and they said that they did not and that there was a plan and it was discussed in the neighborhood meeting by the Lynn Group. But, it was very general and there were no commitments.

Legislator Whitford: I understand all of that and everything that you said. As you said, a lot of it is conjecture so I think we need to have an opportunity to listen to JCC and the Lynn Group to give fair weight on this issue.

Mr. O'Hagan: There is one other point that Marijka made and I would like to reinforce that other or there is other wording in the Law that allows a Zoning Board to restrict the variance. If they do give a variance, they can give it with restrictions. You can see from what Marijka said, they not only did not put any restrictions on the variance and they gave them the widest possible variance that they could. I don't think that follows the Law.

Ms. Lampard: Once JCC signs off and you sign off, we are left with it for the rest of our lives living on Lakeview Avenue. Everyone else can walk away. My family was not the only one that put in the residential bid but we learned there were others willing to jump in and make a residential bid. But, they were discouraged. So, there you have it and please give us consideration and it is not much to ask for 30 days please.

Chairman Scudder: Is there anyone else here that would like to speak to us?

Mr. Martello: I am Mike Martello and I am with the Jamestown Community College.

Mr. Duckworth: I am Corey Duckworth and I am with Jamestown Community College and I am the President.

Mr. Huckno: I am Wally Huckno and I am also the Legislatures representative at JCC and I am Chairman of the Board at JCC.

Mr. Duckworth: Well, first of all, thank you very much for the opportunity to share our story basically. I think that you are probably more than well aware that JCC has three sponsors and so we are required no matter where the property is situated if we are going to do any kind of real estate transaction that we have to have the approval of all three of those sponsors. So, we are

here today because Chautauqua County is one of those sponsors. We also will be visiting with the Jamestown City Council as a second sponsor and then also with Cattaraugus County which I think has already approved the sale. We can't move forward until we have all of that and then we have to take it from here to the SUNY Board of Trustees and they ultimately are the final approval that we need to proceed. So, I have been here in Jamestown for almost three years now and it is hard to imagine it has been that long. But, when I came three years ago, Dr. De Cinque who was the prior president, we sat down and spent some time together and he said that one of the things that need to be addressed is the sale of the Sheldon House. He said I probably should have done it by now but I haven't. So, you get to inherit that opportunity. The Sheldon House has been a vendorable institution here in the community and it has blessed a lot of lives. It has been a public institution for some back into the 1970's where a lot of people from the community were able to be there to participate in seeing its value and its beauty and majesty and all of those kinds of things. The home was actually something that was given to JCC and it wasn't a purchase by JCC and it was given as a gift to JCC and JCC used it for a number of years for several reasons. One, to do some light conferencing convention type things and receptions and those kinds of things but I think primarily it was there in order to help house guests that were coming to the college because at the time, there wasn't a lot of hotel space in the area that was appropriate to that undertaking.

What has happened over time, are a couple of things. One is that the property has become increasingly difficult to maintain. The costs associated with maintaining it are significant and the need that JCC had to use it for a place for people to spend the night basically with the new hotels that have come into the area was diminished. People were not really interested in staying there anymore and traveling public is much more comfortable in environments like the hotels and things that are here. So, the ability to use it for that function really didn't work. So, the decision was made even before I got here that the house was no longer meeting the mission of the college and that the time had come when we needed to look at moving that property on to its next life whatever that might be. The Board of Trustees was very concerned about doing that in an appropriate way. So, it wasn't just put it on the market and take the first dollars that come in and that is it.

So, yes in fact they made a decision to hire an outside firm to come in and to spend some time studying what the best possible uses of that facility might be keeping in mind all of the context of that home and its historical value and the contribution to the community. So, after a comprehensive study and the consultant talked to many people in the neighborhood and found that there was in fact people in the neighborhood that would prefer to see that be a residence and there were also an equal and I don't know what the numbers exactly were but he reported that there was also equal sentiment on the other side of that issue that as long as there was a good owner that would come into the home who would keep it up and maintain it and protect and preserve it as a community asset that they would be very supportive of that. I think that was said out the other night in Jamestown. So, we are here to ask for your approval to sell that property and in fact the offer that we have is from the Lynn Group and the offer was as was stated earlier for \$240,000 without any contingencies at all and that is a significant thing. You might think it is not significant but because of the property and the nature of the repairs and things that will be needed there, they are significant and it will take somebody that is willing to invest and to bring that property back up to its pristine condition not just anybody will have the where with all to do that. So, our board was very concerned about that and wanted to make sure that whoever bought that property would have the ability to do that and to maintain it for many years. So, we in fact

did receive two proposals and those proposals were studied by the Board of Trustees in detail and then the decision was reached to pursue the offer and the proposal that was put on the table by the Lynn Group. The primary reason was that the cost was indeed either \$50,000 or \$40,000 more it was if the furnishings went with it, it was \$250,000 proposal and without the furnishings it was a \$240,000 proposal. So, it was indeed \$50,000 more with no contingencies. The other offer was a \$200,000 offer with inspection contingencies and of course once and individual inspects and they see the challenges that are there, who knows what happens to the price at that point in time. So, the reason that the board chose that offer was pricing for one thing and the ability to have basically a clear sale so that we could move this process forward because in order to get through all of those sponsors and the SUNY Board Trustees, it is just very difficult to make all of that happen. It is very bureaucratic to say the least and in order to get it where it needs to go, having any kind of contingencies associated with it was not a good idea. So, they accepted that particular piece of property or that particular proposal.

The other reason that they chose that proposal was that there were representations by the Lynn Group that their intention was to continue to make the property available to the public particularly for non-profits and things that might want to hold meetings or receptions or things there and their plan was to continue to make it available. So, the board selected that in part because they wanted to make sure that the particular structure that has become a community asset would continue to maintain that character as a community available. So, that decision was made and so here we are today looking for the support that we need in order to move that forward. Now, we did not come prepared to reargue the zoning variance issues. Our understanding would be that is the prevue of the local government there and that the decision was reached and the vote there was 5 to 1 and in our minds that concluded that issue and we are moving forward now to sell the property. We can touch on those issues if you would like us to touch on those issues related to the variance.

But, Steve Abdella represented us there and we touched on all of those issues related to the variance and presented our case and that case was fully considered and vetted in that environment and the decision was reached by the board there to allow the variance and to move forward. I would say that in relationship to the Lynn proposal they have a very strong commitment to this property and there is not an intention in any way to flip this property. Their intention is to create for themselves a corporate home that will be generationally in their family and that is exactly the reason they are looking for this kind of a property because they want it to be some place where they can be there for really forever into the future as they pass their company down from generation to generation. So, I think our board did not feel like there was any intent that the property would be just turned around and sold for other purposes and those kinds of things. If they did, then they would not have selected that property. So, having said that, I think and I am not sure if I need to say anything more. Mike is there anything that you feel like we need to add?

Mr. Martello: I am the Vice President of Administration and so I am probably just going to share with you the numbers side of this. But, for years the house has lost money. We did rent it out for events and a few over nights. But, we were putting much more money into it than we were ever getting in revenues. So, we continue to have an operating deficit and as Dr. Duckworth mentioned, the house is in need of significant repair and the repairs will be in the 6 digits. Right now, as you may know, our enrollment is declining and so we are looking to be able to place our resources where they are most valuable for what we serve in our mission which is our

educational purposes. So, to have a drain on resources, from a house that isn't serving our mission, didn't seem to be appropriate. We would have to take those resources then from something else that was part of our mission. That is at least part of the financial reason that we are looking to move the house.

Mr. Duckworth: Part of the reason why time is of the essence here for us is that first of all, buyers don't stay on board forever and they have limits on what they can endure in terms of moving their programs forward. Secondly, we need to get our approvals to the SUNY Board of Trustees before the middle of June I believe and if we don't then it is going to get pushed off into the fall. Every month that we continue to hold that property is costing dollars and being diverted away from JCC's primary mission. If we were to lose the buyer and their offer, I think it would be significant to try to replace that quality and level of offer for the college. So, we are here to do what we think is in the best interest of not only JCC but of the community and I think our Board of Trustees has been very energetic trying to do the right thing to make sure that this was in fact in the interest of the entire community. That is probably unless you have questions about what we had to say. Do you want to add anything?

Mr. Huckno: I appointed that committee as we began. I directed the committee and I said let's find a buyer that will preserve the integrity of this building. My own family used that building many times for social events. I have three daughters. I felt it was extremely important to find the right buyer. When I heard things like offices and those kinds of things, they didn't strike you as fitting the Sheldon House. That is a unique structure. The \$200,000 and the \$250,000, that is way low for a structure like that. That is way low. However, the amount of monies that you will put into that we know is some place between \$300,000 and \$500,000 and it may exceed that. Every window is specially built. Try to draw a glass of water and you get black material coming out. You had to bring the water in. That building needs an occupier willing to spend monies. Daniel Lynn is one of the greatest people that we have in Chautauqua County that has developed properties. He spoke and I have never heard him speak and he spoke from his heart and said we want that as a place that we can have our offices upstairs and we are not going to gut the place by any means. We are going to leave it intact. We are going to beautify it and do the painting and take care of it and allow people to come in and use it. It will also be returned to the tax rolls. To imply that building has been a house, a residential house, is absolutely false. It hasn't been a residential house it has sat there in the neighborhood. JCC has tried to keep up the outside to beautify it but we are well into monies that we can't afford. I know because I sit on the Board of Trustees. We have sat and Corey told us last week we will be cutting the budget again over 2 million dollars. Now, he didn't mention that and I probably shouldn't have mentioned that. But, the fact is, we do have a need to get rid of that property to the right person and not to anybody. The Daniel Lynn Corporation is a group of people that will take care of that property and they will beautify it and it will have no effect on the neighborhood except a long-term effect of keeping that property something that all of us can be proud of in Jamestown. So, I hope that you are able to listen to us and move this on. If I were next door to them, I would have no fear with the Lynn Corporation coming in. Maybe somebody from out of town that might want to buy it and sell it. However, if you sell it to an individual what happens if the individual goes in and says holy cow we can't afford this and we are going to sell the place. You never are guaranteed that. The Lynn's have been very open and they have had meetings and they have invited people

in. So, nothing has been behind closed doors. Thank you. I sat on Administrative Services for many years and you don't have an easy job.

Legislator Vanstrom: What is the deadline that you were talking about and referring to in June that needs to be met or there will be some actions that will push us into the fall?

Mr. Duckworth: It is their final meeting and so they go on summer recess and that is what pushes it into the fall. I think it is probably and do you have the exact date?

Mr. Martello: This is SUNY the State University of New York and they have a board meeting on June 22nd and they need to have the information prior to that. The information that they need is all of our sponsor's approvals. So, that needs to get up there. There are a couple of other critical deadlines that Steve had mentioned for early June.

Mr. Duckworth: It is getting the information into them so that we can get on their agenda and be able to have it considered.

Mr. Martello: Either way, if we don't and this has been something that we have worked at over the last few months to be able to time this so that we could meet SUNY's Board Meeting in June so that we can move this along. Short of that, they don't meet over the summer and then it is going to go into September.

Chairman Scudder: Does the SUNY Board of Trustees do you have to build a case for this? I mean what is their concern about you selling real estate that you don't want anymore? I am a little confused there.

Mr. Martello: Typically, you know they get involved because a lot of times they may fund some capital money and they may put capital money into some of your properties. So, if they have a substantial amount of capital money in our properties, then they are going to want to be sure that it is being disposed of appropriately. If it hasn't been depreciated, if you will, fully, then they are going to have an expectation of some return back to them for the money that they have put into it. Sometimes they can put in 1 million or 2 million dollars into a particular property. So, in this particular case, it was a donated piece of property and there hasn't been a substantial amount over the years of monies that have been put in that have been State funded that wouldn't have had its useful life gone by now. So, odds are they are not going to look at this with as a critical eye from the financial side as they might if this was....

Mr. Duckworth: If we had bought the property. Since we didn't put our money into the property they would be concerned about making sure that the State University System is not being divested if its property without proper care.

Mr. Martello: Then, obviously, anything that is taxpayer property has to go through the proper steps to be sure that it is being disposed of appropriately.

Chairman Scudder: Are there any other questions or comments for these gentlemen?

Legislator Muldowney: Just on your last point, once the SUNY Board approves it, then it goes on to the Comptroller's Office?

Mr. Martello: IT may.

Mr. Duckworth: I don't think so and I think SUNY is the final one.

Mr. Martello: I think you are right that SUNY has the final say.

Chairman Scudder: I will start by saying this was a lot easier sitting in my living room reading it. I think I read through it 7 times and I thought I had it down. I really appreciate the passion from the folks of the neighborhood. I think I would feel exactly the same way. My personal concern is like they stated, I am sure the Lynn Corporation and their intentions are great and it sounds like it would be a great headquarters for a corporation or whatever especially if you are into development. But, to have that forever zoning variance I mean who knows what happens. They decide to move to Phoenix Arizona in 2 years and let's be honest, I have sold houses and I would like to think that I tried to sell them to the people that I wanted to sell them to but basically it was the person that had the most money and didn't have the contingencies. So, I appreciate that too. I appreciate everything that I heard tonight and like Wally said, we don't get a whole lot of these and I do appreciate them and I don't avoid them but boy most of our Resolutions are pretty cut and dry and we move on. Kurt, if you can just come up, if anyone has any comments then please say so but I just want to ask a question. Like I said, I read through this I think 7 times. There are three entities that approve this?

Mr. Gustafson: Correct.

Chairman Scudder: We are one of them?

Mr. Gustafson: Correct.

Chairman Scudder: So, is it all three or nothing?

Mr. Gustafson: It is all three or nothing. If one is against it, then it is not approved because we are all sponsors of the agreement.

Legislator Whitford: Excuse Mr. Chair, Does the City Council vote this month on this?

Legislator Whitford: I have a lot of faith in the Zoning Board and I have worked with them before and it is a good group. So, I kind of feel bad that this group doesn't feel that they did their job. But, the City Council votes when?

Mr. Gustafson: I believe they vote before the full Legislature Meeting.

Chairman Scudder: I wish this home was in Cattaraugus County because I would have no problem voting for it.

Legislator Vanstrom: I believe everybody deserves a voice and I know that JCC has worked really hard with this and I know that Wally is very dedicated to what he is doing as well. So, I have full confidence in the integrity of the Lynn Corporation however, these zoning issues are developed at a very local municipal level and I think that C1 variance really opens the flood gates wildly. I don't know why or how that it got put forward in such a manner instead of having a few restrictions right out of the get go because they can do these kinds of variances with more restrictions. But, if it is true, the C1 and it covers all these other gametes of possibilities, the future will be unclear as far as that goes. I would feel comfortable myself personally, just to allow the taxpayers their time to pursue whatever legal options are available. I don't mean to hinder anybody's growth in this matter but I would feel better if the taxpayers could pursue options that are available to them or they may decide not to and feel there would be more of a fair way to go about it. We don't have any jurisdiction on zoning and basically we are just supposed to be asked to agree to the sale or not agree to the sale by the deal that is presented to us. So, we are in a very tough spot I feel.

Mr. Gustafson: If I may offer one thought I guess, again, I am not taking a position on this at all. But, this is a committee meeting and you might ask yourselves whether it is the County's position to kind of vote substantially on the City of Jamestown issue. So, that is one thing. So, what the members can do tonight if you are not sure about which way to go on this is you could just say that I am voting yes for the purpose of not holding it up and then see what Jamestown does and then the reality is if Jamestown votes it down then you don't have to do anything because it is a dead issue. So, you are in the position right now of either holding it off completely or allowing Jamestown to see what Jamestown does and then come back on Wednesday and kind of as a body decide what is going to happen with it. So, that is just a thought.

Legislator Whitford: That was my thought. If we don't vote it up, Jamestown does their vote and then it comes to the full Legislature Wednesday and then obviously we all have opportunity between now and then to establish our arguments one way or the other as Legislators on how we are going to vote on this. But, to hold it up here in committee, when it hasn't been voted on in Jamestown and it is a municipality issue. The County is in to it because they are part of the sponsorship is all. We are not in the process of the zoning board or planning commission or anything to do with the city.

Mr. Gustafson: That is correct.

Legislator Muldowney: As a former City Councilman in the City of Dunkirk for 10 years and previously being on the planning and zoning board previous to my 10 years on City Council and also working in the City of Jamestown for 20 years and going back and forth to Dunkirk and Jamestown down Lakeview Avenue, I got to admit to you neighbors that I always viewed that property as a commercial property and not living in the neighborhood, I always admired the way the building looked and how JCC took care of it. So, I was kind of surprised when this came to us that it wasn't already a commercial building even though it had such nice curb appeal and structure to it. I also have many experiences with the Lynn Corporation and what Wally had mentioned made a lot of sense to me. Part of me feels like and it is a Jamestown City issue and part of me if the Zoning Board and the City Council haven't really and the Zoning Board has

already approved it but the City Council hasn't approved it. I guess I am in the agreement too that I don't want to let this or I don't want to kill this without really knowing a lot about it and I really feel like it belongs back in the City of Jamestown to decide which way that they want to go with it so that we don't stop it. I would support that.

Chairman Scudder: Is there anything else? Thank you to everyone and we appreciate your input. With all of that being said, all those in favor say aye.

Unanimously Carried

Other

Mr. Caflisch: I have Mr. Gustafson here too and he can help me share this. What I bring before you here under other is an issue of a sale of a property. It is a property that is in the Village of Silver Creek. It is a former convenience store and gas station. Because of its unique nature, it has underground storage tanks or storage fuel tanks I should say and it is just commercial. I was hoping to be able to sell this property to what I call a qualified buyer. So, what I did was I put signs up on the property and I advertised in the paper for sealed bids and I listed it on Craigslist and I also solicited two convenience store operations to see what their interest was. It was out there for a little over a month and we only received one bid back on the property. So, one of the terms and conditions was it was subject to the confirmation of the County Legislature. It is 351 Central Avenue. It is this one right here on the corner. Now, this picture is four years old. This house had burned down and the owner of this property ended up buying this property a couple years ago and put it into a parking lot and it has been in bankruptcy. So, this is right on top of the hill there. So, this is where there is an additional parking lot and it was in bankruptcy and it is owned by a separate owner and so it looks like it is all together but it is actually split. So, it is just this parcel right here and it is 84 by 155. So, we received the one bid on the property and you have that before you. Here are the taxes on the property and another property too. The taxes owing on this one are \$102,968.62. So, we have a bid for \$31,000.

Legislator Vanstrom: What is it assessed at?

Mr. Caflisch: It is assessed at \$166,000.

Legislator Whitford: Is that close even I mean to an appraised value?

Mr. Caflisch: You know, I am not going to.....

Legislator Whitford: I am just drove over there.

Mr. Caflisch: I am not going to second guess the assessment on it because I don't know the valuations that were used to compare it to. But, the number is what it is and now we are faced with this one bid. I can tell you that there is about \$49,000 in interest against the property and the rest and there is about \$51,000 of what I call taxes that are guaranteed.

Legislator Whitford: It is kind of a 50/50.

Mr. Caflisch: It is a 50/50 deal. Now, we have the opportunity to put this property into the real property tax auction in June or sell it now. So, I am coming to you for your recommendation of what you want to do. At this point in time, I feel that the offer is not as much as I would like to see. So, I wouldn't really recommend the sale but that is again your call not mine.

Legislator Vanstrom: Has it ever been in the auction?

Mr. Caflisch: No, it has never been in the auction. It has been in bankruptcy. That is why the liabilities would become so great against it. This has been one of the most Kurt will say complicated bankruptcy deals.

Mr. Gustafson: Yes, those protractive bankruptcy proceedings and we had an agreement with the former owner and it strung us out for a while and then eventually we had to go back to court to bankruptcy court to allow it to finally foreclose on it.

Legislator Whitford: So, you did make an agreement with them?

Mr. Caflisch: We did. We worked with the court and tried to communicate and he was making payments and then he stopped making payments. So, it has come to the point we can't.

Chairman Scudder: I don't know if this means anything but I am going to ask it anyhow. It is a bid?

Mr. Caflisch: It was a sealed bid process.

Chairman Scudder: That was the offering and you are going to take bids on it?

Legislator Whitford: That was the only bid on it.

Mr. Caflisch: That was the only way of the bid process.

Chairman Scudder: That wasn't an RFP but a bid.

Mr. Caflisch: It was a sealed bid. We wanted a sealed bid and we wanted someone to give earnest money up front.

Chairman Scudder: So, it was a certain date sealed bid and here is your chance.

Mr. Caflisch: It was last Friday.

Legislator Vanstrom: There is a chance to go to auction and not even have as much of a bid.

Mr. Caflisch: That is a possibility and again it will be advertised a little more and it will be on the market a little longer.

Legislator Whitford: I believe it is worth more than that.

Legislator Vanstrom: It is only worth what someone is willing to pay.

Chairman Scudder: If I was this person, I would be happy to get it for that.

Legislator Muldowney: Do you have a recommendation?

Mr. Caflisch: My recommendation is to take it to the auction and see if we can't get some more activity on it. We will return the deposit that was sent in.

Chairman Scudder: Sort of bottom line and forgive me for this is we don't have to accept the bid from the auction either.

Mr. Caflisch: No, you are the last one here.

Chairman Scudder: Or the auction could happen and we could say (*Cross Talk*) I am surprised that Crosby Mart or someone didn't bid.

Mr. Caflisch: Well, they were one that were very interested and the issue came up with the parking lot behind the store and I asked them to contact the owner and apparently they couldn't come to terms.

Mr. Gustafson: Mr. Caflisch did market it to a lot of those convenience store operators of course.

Chairman Scudder: I am confident that he did.

Mr. Gustafson: So, he got pictures taken of it and descriptions and this is what we got.

Legislator Vanstrom: They weren't interested?

Mr. Caflisch: Well, they were interested. It was the parking issue because this lot behind the store this here this house burnt. So, the owner purchased this two years ago and blacktopped it and it is a nice parking lot. This is a relatively tight location for this store. So, one of the interested parties said that they would like to have more room to expand this facility and that was the additional parking that looked like it was part of it. So, that is why I think they said no.

Legislator Muldowney: How long has that been vacant?

Mr. Caflisch: The store closed actually last fall. The owners did take all of their personal property out and the pumps were removed and they took all what I call their personal property from the store.

Legislator Muldowney: It is kind of turn-key for someone in that business.

Mr. Caflisch: Right, one of the problems to evaluation is there is no operation on-going so it is hard for someone to judge what the value of the business is. You are not going to get the information.

Chairman Scudder: I am going to say that I would like to not accept the bid.

Legislator Whitford: I would like to move and concur with Jim's recommendation.

Mr. Caflisch: Okay.

Chairman Scudder: Do we need to do anything or just talking about it?

Mr. Caflisch: No, you are just here to give me guidance and I am bringing it before you.

Legislator Whitford: She certainly has opportunity after that auction.

Mr. Caflisch: Well, we have another problem or situation here. This property owner has another property just up the road on Routes 5 & 20 it is 1267 Route 5 & 20 and it is this parcel right here. On that parcel, you have \$373,611 owing for that parcel.

Legislator Muldowney: Does that parcel include this one?

Mr. Caflisch: No, there is a car wash there. The car wash building is right here and I didn't go inside that and I had a little bit of what I call a brief tour. I walked around this area right here. This is an older picture but I don't think much has changed. My last count, I had 43 tractor trailers there and there are a lot of railroad ties and there is a lot of personal property inside these buildings. The fuel tanks have been removed out here. I confirmed that with the DEC. But, it is a real big problem with all of the personal property there and what makes it a little more complicated is the owner's house is back here on another parcel which his taxes are paid but his driveway goes through here.

Chairman Scudder: Does it in fact go through this building?

Mr. Caflisch: I am not going to make any but it could. I mean our tax maps are unofficial and we try to represent them as accurately as possible but I make no guarantees.

Mr. Gustafson: It is definitely an irregular shaped parcel.

Chairman Scudder: Well, that makes sense.

Mr. Caflisch: So, I was hoping to be able to work something out to see if we could get this personal property taken care of because if this property goes to auction, which it could, will be certainly a buyer would take into consideration all the issues of eviction and the stuff that goes with that.

Chairman Scudder: Does this property belong to this property and is it the same owner?

Mr. Caflisch: It is the same owner.

Chairman Scudder: Could we slice that out and sell them or would you give them a right-of-way?

Mr. Caflisch: This property line goes all the way back to here. It is deep and the property owner's attorney has expressed an interest in us granting a right-of-way through that property. I would have to say that I am not real anxious to get into that part of it.

Chairman Scudder: If I am a buyer of that property, I am not interested in a right-of-way.

Mr. Caflisch: That is what I believe too. However, the property becomes a little bit of a landlocked issue because of his access. But, again, there is other land around him that he could probably seek a right-of-way to. But, this is another property that now I am seriously wanting to add to this year's auction.

Chairman Scudder: I know you answered this, but, is this property owner the former owner of this property?

Mr. Caflisch: Well, he is the current owner yes.

Chairman Scudder: That is just not somebody back there that happened to be back there.

Mr. Gustafson: That was one of the houses that were paid off on the agreement. So, the redeemed that house first and then that and the convenience store were not redeemed.

Mr. Caflisch: He had several parcels that he was paying on and then he quit and things kind of fell apart.

Mr. Gustafson: Well, again one option is to actually have Hanover inquire of this owner here to gain access through there to the house. Your problem is there is a crick in there. So, they would probably have to build some type of culvert or something. There is no good option. You want to stop the bleeding.

Chairman Scudder: That is the problem. This problem causes this problem.

Mr. Caflisch: Yes it does. So, it is something that I have struggled with for some time trying to figure out the best way.

Chairman Scudder: So, what do you have for us?

Mr. Caflisch: My sense is I want to take this to the auction this year and put it in the auction. We can't continue to guarantee taxes forever on it and leaving it in limbo like this the

owner hasn't acted in what I call in good faith to do anything that would help us help him work through this in any kind of way that makes sense.

Chairman Scudder: I like that option.

Legislator Whitford: Yes, I do too. It has been hanging on too long.

Legislator Muldowney: Yes, send it auction.

Legislator Vanstrom: Yes, send it to auction.

Chairman Scudder: Yes, auction them off. The auction is June 18th.

MOVED to adjourn by Legislator Vanstrom, SECONDED by Legislator Muldowney

Unanimously Carried

The meeting was adjourned at 6:15 P.M.

Respectfully Submitted and Transcribed,
Becky Cady, Committee Secretary