

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON LANDMARKS, SITING, & MARITIME USES

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April 30, 2009
Start: 11:40 am
Recess: 12:01 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
JESSICA S. LAPPIN
Chairperson

COUNCIL MEMBERS:
Charles Barron
Leroy G. Comrie, Jr.
John C. Liu
Miguel Martinez
Maria del Carmen Arroyo
Elizabeth Crowley

A P P E A R A N C E S (CONTINUED)

Gregory Shaw
Attorney
School Construction Authority

Tami Rachelson
Deputy Director
Division of School Facilities
Board of Education

Anna Churchursker
Manager
Industrial and Environmental Hygiene Department
School Construction Authority

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2 CHAIRPERSON LAPPIN: Are we ready
3 back there?

4 MALE VOICE 1: We're ready.

5 CHAIRPERSON LAPPIN: All right.

6 [off mic] I think it's on. I know.

7 Good morning. Welcome to the Land
8 Use Subcommittee on Landmarks, Public Siting,
9 Maritime Uses. I am Jessica Lappin, the Chair,
10 joined today by Council Member Charles Barron,
11 Council Member Miguel Martinez, Councilwoman Maria
12 del Carmen Arroyo, Council Member Leroy Comrie,
13 and I believe I saw Council Member John Liu
14 somewhere as well.

15 So we have one item on the agenda
16 today, which is a school Preconsidered Land Use
17 P.S. 69-K Annex in Brooklyn. And I saw Mr. Shaw,
18 if you'd come up please and bring whomever else
19 you'd like, Tammy Rachaelson [phonetic], and
20 Chacharsaka [phonetic]?

21 MS. CHACHARSAKA: Yes.

22 [Off mic]

23 MR. GREGORY SHAW: Somebody left
24 that on the chair.

25 MALE VOICE 2: Okay. Is this

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2 yours? Was this--

3 [Off mic]

4 MR. SHAW: Yeah, it was left on

5 the--

6 [Off mic]

7 FEMALE VOICE: It's another.

8 MR. SHAW: I'm sorry, I thought

9 there--

10 [Off mic]

11 MR. SHAW: No, no.

12 CHAIRPERSON LAPPIN: Yeah, this is

13 different.

14 MR. SHAW: Hello?

15 [Off mic]

16 MR. SHAW: It's on? Okay.

17 CHAIRPERSON LAPPIN: She's from

18 SCA.

19 MR. SHAW: No, it's not--oh, yes,

20 it is, oh sorry.

21 CHAIRPERSON LAPPIN: Please begin.

22 MR. SHAW: Good morning,

23 Chairperson Lappin and Council Members. My name

24 is Gregory Shaw, I'm principle attorney for real

25 estate for the School Construction Authority. To

1
2 my immediate left is Tami Rachelson, Deputy
3 Director for the Division of School Facilities for
4 the Board of Education, and to her left is Anna
5 Churchursker [phonetic], who is Manager for the
6 Industrial and Environmental Hygiene Department
7 for the School Construction Authority. Thanks for
8 having us today.

9 The New York City School
10 Construction Authority has undertaken the site
11 selection process for the proposed 327-seat
12 primary school facility that will be located on
13 tax block 5729--excuse me, 24 located on the block
14 bounded by 62nd Street, 63rd Street, Fort Hamilton
15 Parkway, 51st Street, and 9th Avenue in the Dyker
16 Heights section of Brooklyn. The proposed school
17 site is also located in Community School District
18 number 20 and Brooklyn Community Board number 10.

19 The project site contains
20 approximately 11,186 square feet of lot area. The
21 site consists of a properly owned vacant, former
22 automotive repair facility.

23 Under the proposed plan, the SCA
24 would acquire the privately owned structure and
25 construct a new 327-seat primary school facility

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2 serving the students in pre-kindergarten through
3 fifth grade in Community School District number
4 20.

5 I will note for the record that our
6 initial submission at the notice of filing was for
7 a 415-seat primary school. That was done pursuant
8 to initial analysis of what the site could accept.
9 As design progressed, we determined that a more
10 appropriate sized school was 327 seats to maintain
11 the kind of program that we'd like to place within
12 the structures and so the site was changed to a
13 327-seat primary school facility.

14 The new facility would provide
15 relief from overcrowding at other primary schools
16 in the district, specifically P.S. 69. The
17 proposed school would contain approximately 51,570
18 gross square feet and an approximately 4,600
19 square foot play area would be provided on the
20 third floor roof at the south side of the proposed
21 new school building. The main entrance to the
22 school would be located on 62nd Street. The
23 design for the school facility includes
24 classrooms, a library, a gym, multipurpose room,
25 cafeteria and kitchen, art room, office space, and

1 storage rooms.

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3 The notice of filing for the site
4 plan was published in the New York Post and City
5 Record on November 7th, 2008, Brooklyn Community
6 Board number 10 was also notified of the site plan
7 on that date and was asked to hold a public
8 hearing. The Community Board held its public
9 hearing on the site plan on November 7th and
10 submitted written comments, and recommending in
11 favor of the site plan.

12 The City Planning Commission was
13 also notified of the site plan on November 7th and
14 it also recommended in favor of the site.

15 The SCA has considered all comments
16 received on the proposed plan and affirms it,
17 pursuant to Section 1731 of the Public Authorities
18 Law, the SCA submitted the proposed site plan to
19 the Mayor and Council on April 24th, 2009.

20 We now look forward to your
21 subcommittee's favorable consideration of the
22 proposed plan. And we're prepared to answer any
23 questions that you might have. Thank you.

24 CHAIRPERSON LAPPIN: I do have a
25 couple of questions, but before I did, I wanted

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2 for my colleagues benefit to read three sentences
3 from Council Member Gentile regarding this
4 application.

5 The severe overcrowding that CEC 20
6 in the 43rd Council district has been experiencing
7 is quite significant. And I believe that the
8 addition of this new school in the community would
9 help to alleviate that problem greatly. It's for
10 that reason that I wholeheartedly support this new
11 school site.

12 And I know that overcrowding in
13 District 20 is quite severe. How far away from
14 the main school will be annex be?

15 MS. TAMI RACHELSON: It's a block
16 and a half.

17 CHAIRPERSON LAPPIN: If you could
18 just introduce yourself for the record.

19 MS. RACHELSON: Sure. Hi my name
20 is Tammie Rachelson, Deputy Director of Real
21 Estate for the New York City Department of
22 Education, Division of School Facilities.

23 The proposed site is a block and a
24 half away from the existing P.S. 69.

25 CHAIRPERSON LAPPIN: So

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logistically, how is that going to work?

MS. RACHELSON: Well this will be constructed, the current design, is for standalone small 327-seat primary school, pre-kindergarten through fifth grade. It can serve as a standalone school building, it can serve as an Annex building. It will be totally a self-sufficient building, if that's the way--when it's ready to open, that's the decision, but it could serve as--no decision has been made, 69, the early grades could be in this building and then once they hit third grade, they'll go over to the main building, the decision hasn't been made yet.

CHAIRPERSON LAPPIN: So you haven't decided if it will be its own school with its own principal, or if it will be a part of the existing school.

MS. RACHELSON: Right, the Department of Education has not made that decision yet, but it will not be--whatever the decision is, it will not be that kids are running back and forth between the two buildings during the course of the day. Maybe for a special assembly, you might have something like that, but mainly they'd

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2 be in that building.

3 CHAIRPERSON LAPPIN: And they would
4 draw children from the P.S. 69 zone regardless?

5 MS. RACHELSON: Given its
6 proximity, we would assume that it would, but the
7 zones have not been set yet, they wouldn't be set
8 until closer to school opening, which would be
9 several years away, which would be in September
10 2013.

11 CHAIRPERSON LAPPIN: Okay.
12 Councilman Arroyo?

13 COUNCIL MEMBER ARROYO: Thank you,
14 Madam Chair. Good morning.

15 According to the document before us
16 there were 17 sites considered. Just out of
17 curiosity, what does the site review entail? How
18 much does it cost? Seventeen sites is a lot of
19 sites, and how much work goes into it?

20 MS. RACHELSON: Okay. Typically
21 for a site and not all of these 17 sites reach the
22 level of scrutiny that this site that we've put
23 forward had reached, but sometimes for a site to
24 be seriously considered as a school site,
25 generally, an in-house test fit or a feasibility

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2 study would be done by SCA architects. At the
3 same time, we would also have an environmental
4 Phase 1 would be performed--

5 COUNCIL MEMBER ARROYO: On all 17
6 sites?

7 MS. RACHELSON: No, no, no, no, no,
8 no, not on all 17, just on something that seems
9 likely that it would work. There are some sites
10 that you would look at, and if we're not sure that
11 if the site would work, we would just do an
12 internal test fit before we would ask our
13 environmental consultants to even look at the
14 property.

15 COUNCIL MEMBER ARROYO: And what
16 goes into this test fit?

17 MS. RACHELSON: The test fit, it's
18 a look at zoning and it's a look at some of our
19 standard programs for--in this case, this would be
20 a small primary school, could the site accommodate
21 what our standard would be. So, for the internal
22 architectural review, it's all done internally and
23 I couldn't tell you how much that costs for a
24 Phase 1, I'll ask Anna to tell you, it's a few
25 thousand dollars for the review, but she can tell

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you more definitely--

[Crosstalk]

COUNCIL MEMBER ARROYO: And the Phase 1 is not done on all 17 sites.

MS. RACHELSON: Absolutely not, because if something doesn't fit, if it couldn't accommodate the program or we couldn't build a school there or it's not in a--we don't feel it's an appropriate location for a school, we wouldn't go any further in terms of spending money on additional studies.

COUNCIL MEMBER ARROYO: So of the 17 sites examined, how many got to the Phase 1?

MS. RACHELSON: First, I would have to go through each site. I'm happy to do that with--

[Crosstalk]

COUNCIL MEMBER ARROYO: You mean you don't know this document by heart and all the details that go along with it? No, okay.

MS. RACHELSON: Well, for example, the first site, we did look at, and it did get full review, and the site was developed by the owner and we felt that it would have been too

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2 expensive, and there was opposition, so I would
3 say--

4 COUNCIL MEMBER ARROYO: Okay. So I
5 don't want you to go through every single one,
6 but--

7 MS. RACHAELSON: I would say
8 probably if there is 17, there's probably,
9 offhand, I'd probably say half a dozen of them
10 went through a full review, but I would have to go
11 through each one and tell you.

12 COUNCIL MEMBER ARROYO: So roughly
13 24,000 was spent on doing the Phase 1 on 12 of
14 those properties.

15 MS. RACHELSON: I probably have--I
16 would say about half a dozen of them--

17 COUNCIL MEMBER ARROYO: Half a
18 dozen, okay.

19 MS. RACHELSON: --were studied.

20 COUNCIL MEMBER ARROYO: Twelve
21 thousand, okay.

22 MR. SHAW: Yeah, but--

23 MS. RACHELSON: But this was not
24 just for this site, this was for other School
25 District 20 sites, like the P.S. 160 Annex and the

1
2 P.S. 264 that had come before you a few weeks ago.
3 So these are all for in the District 20 area--Bay
4 Ridge, Dyker Heights, etc.

5 COUNCIL MEMBER ARROYO: How many
6 have you set aside for potential future
7 development for a school?

8 MS. RACHELSON: Out of these?

9 COUNCIL MEMBER ARROYO: Yeah.

10 MS. RACHELSON: At this point, none
11 of them, because, for whatever reason, they did
12 not pan out--they weren't appropriate, they were
13 too small, there were other issues.

14 COUNCIL MEMBER ARROYO: Okay.
15 Thank you, Madam Chair.

16 CHAIRPERSON LAPPIN: Council Member
17 Barron.

18 COUNCIL MEMBER BARRON: Thank you
19 very much, Madam Chair. When we passed these
20 laws, bills, are you legally bound to put into
21 those facilities the schools that you--the type of
22 school that you're bringing before us, now like an
23 elementary school?

24 MR. SHAW: Well we really can't
25 answer that question for you, we endeavor whatever

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2 we present to the Council to maintain that,
3 sometimes circumstances do change.

4 COUNCIL MEMBER BARRON: Yeah, but
5 are you allowed to do that legally? I know you
6 endeavor, and I know circumstances change.

7 MR. SHAW: Well, that's--

8 COUNCIL MEMBER BARRON: Are you
9 legally--

10 MR. SHAW: Well that's--

11 COUNCIL MEMBER BARRON: Let me just
12 ask the Chair for a second. Madame chair, we're
13 passing a bill, a law here when we do this?

14 [Off mic]

15 COUNCIL MEMBER BARRON: A
16 resolution? Is it a legally binding resolution?

17 CHAIRPERSON LAPPIN: Yes.

18 COUNCIL MEMBER BARRON: Right, so
19 you can't just change it because the Department of
20 Ed decides after you come before our committee
21 that you want an elementary school and then next
22 thing you know, you decide you want to put
23 something else in there, is that legal?

24 MR. SHAW: I couldn't answer that
25 for you, Councilman, that would be something that

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2 you really should check with your legal staff it's
3 in terms of what are you voting on. We're
4 submitting to you, as required by our statute, the
5 site plan.

6 COUNCIL MEMBER BARRON: Right--

7 [Crosstalk]

8 MR. SHAW: What encompasses the
9 site plan is really for the Council to determine,
10 what it is that they're approving.

11 COUNCIL MEMBER BARRON: No, we are
12 approving an elementary school in a building,
13 that's what we're approving. We know what the
14 plan is, I know what I'm voting on, I'm not
15 confused on that part. And I certainly don't mean
16 to put you on the spot, it's just that I want some
17 clarity on the record. I want some clarity on the
18 record, that's why I'm approaching this because
19 often times in many of the situations, we pass one
20 thing and then the Department of Education changes
21 the plan, and that's not the plan that we passed
22 here in this Council. So it's almost like you
23 could just get us to pass something to have a
24 building and say you're going to put whatever
25 you're putting in it and we pass on that, and then

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2 when it gets down the road, you decide you want to
3 change it up and you don't have to come back and
4 have it legally changed.

5 MR. SHAW: I understand your
6 question, but I really can't give you an answer.
7 It really would determine--it would have to be
8 from checking with your legal counsel as to what
9 you approved on a particular plan or a site plan
10 that we put for to you what it is that you
11 actually voted on and approved.

12 COUNCIL MEMBER BARRON: Okay.
13 Well, Madam Chair, I would like for us to get some
14 clarity on that because often times they come
15 before us saying it's going to be one thing and
16 then months later they come into our communities
17 with something totally different and I just want
18 to make sure that when they come before us and say
19 it's an elementary school, then don't come
20 bringing in a high school.

21 CHAIRPERSON LAPPIN: I think that's
22 a very good point and we were just discussing that
23 with counsel and I think at the next meeting it
24 would be helpful if counsel could give us, and
25 after looking at the statute, an explanation as to

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2 what legally they're bound to do because it's a
3 very fair point.

4 When the Community Board issues a
5 ruling or a Council Member decides to support a
6 project and it's one thing, you want to know that
7 down the line it's going to be the same thing.
8 It's a very good point.

9 COUNCIL MEMBER BARRON: Thank you.

10 CHAIRPERSON LAPPIN: I mean, it
11 does seem to me that this project is a little less
12 specific than usual.

13 I mean, as opposed to, for example,
14 the annex we did at the last meeting where the
15 principal was here and you knew exactly who the
16 kids would be and what the curriculum would be and
17 what kinds of kids, where they would be coming
18 from, etc. and this seems to be a little more in
19 the initial planning stages.

20 MR. SHAW: I don't disagree, but
21 sometimes that will occur where we're not sure
22 what the program will be or what the arrangement
23 will be, you have to allow for some flexibility.
24 And I think it's a little different than what
25 Council Member Barron was bringing up because

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2 we're not discussing changing this from an
3 elementary school to anything else, all we're
4 saying is that we're not sure if it's going to be
5 directly an Annex to 69, whether it's going to be
6 a standalone, since it is a separate building, not
7 within the contiguous nature of the existing
8 school. 160 was little different because it was
9 right next to the existing school and, therefore,
10 it made much sense to specify and say this is the
11 Annex for 160. This is going to be a block away,
12 I think you have to give the department some
13 flexibility in this regard, 'cause this is a
14 somewhat different situation.

15 I believe that what Council Member
16 Barron is concerned with is when you approve
17 something, saying it's going to be an elementary
18 school or saying it's going to be a high school,
19 and then the department changes or you perceive
20 that it has changed what it submitted to you, he's
21 questioning that, I believe that's what he was
22 questioning. And I think in this particular
23 instance, I don't believe that his concern is
24 brought up for this particular site, I may be
25 incorrect.

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[Crosstalk]

CHAIRPERSON LAPPIN: Sure, sure.

COUNCIL MEMBER BARRON: Yeah, it's not like--if you're saying you are going to do an elementary school and whether it's K to 5, K to 6 or flexibility there, I understand. But when an elementary school turns into a high school, that's a big difference, because that's not what we passed on here.

CHAIRPERSON LAPPIN: Right, and when you read the application, it says very clearly primary school facility. So--

COUNCIL MEMBER BARRON: Right.

MR. SHAW: Right.

CHAIRPERSON LAPPIN: --that's... Okay. Any other questions? Okay.

Counsel, would you like--that's the end of the hearing, there's nobody else here signed up to testify.

[Off mic]

FEMALE VOICE: Council Member Crowley is on her way, just--

[Off mic]

CHAIRPERSON LAPPIN: Okay. We'll

hold the vote open for her for a few minutes.

Okay. This hearing is closed.

MR. SHAW: Thank you very much.

CHAIRPERSON LAPPIN: And I would ask for Counsel to call for a vote.

MR. CHRISTIAN HYLTON: Christian Hylton, Counsel to the Committee.

Chair Lappin.

CHAIRPERSON LAPPIN: Aye.

MR. HYLTON: Council Member Barron.

COUNCIL MEMBER BARRON: Aye.

MR. HYLTON: Council Member Comrie.

COUNCIL MEMBER COMRIE: Aye.

MR. HYLTON: Council Member Liu.

COUNCIL MEMBER LIU: Yes.

MR. HYLTON: Council Member Martinez.

COUNCIL MEMBER MARTINEZ: Aye.

MR. HYLTON: Council Member Arroyo.

COUNCIL MEMBER ARROYO: Yes.

MR. HYLTON: By a vote of six in the affirmative, none in the negative, and no abstentions, Preconsidered LU 20095202SCK is approved and referred to the full Land Use

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Committee.

CHAIRPERSON LAPPIN: I hope she's within--is that Councilwoman Crowley's staff? Is she within 10, 15 minutes?

FEMALE VOICE: Yeah, she should be here--

[Off mic]

CHAIRPERSON LAPPIN: Okay. We'll hold the vote open for 15 minutes and then meeting is adjourned.

[Off mic]

MALE VOICE: Are you ready?

[Off mic]

MR. HYLTON: Council Member Crowley?

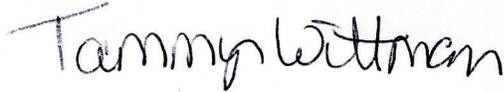
COUNCIL MEMBER CROWLEY: I vote aye on all.

MR. HYLTON: By a vote of seven in the affirmative, none in the negative, no abstentions, item is approved and referred to the full Land Use Committee.

COUNCIL MEMBER CROWLEY: The meeting of the Subcommittee of Land Use is now adjourned.

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in black ink that reads "Tammy Wittman". The signature is written in a cursive style with a large initial 'T'.

Signature_____

Date May 22, 2009_____