

Minutes of the Community Redevelopment Agency Board Meeting
Held on Tuesday, April 11, 2023 at 6:00 PM
City Hall Chambers, 100 E. Ocean Avenue
and GoToWebinar Online Meeting

Present:

Chair Ty Penserga
Vice Chair Thomas Turkin
Board Member Angela Cruz
Board Member Woodrow Hay
Board Member Aimee Kelley

Thuy Shutt, Executive Director
Tim Tack, Assistant Director
Kathryn Rossmell, Board Counsel

1. Call to Order

Chair Penserga called the meeting to order at 6:01 P.M.

2. Invocation

The Invocation was given by Board Member Hay.

3. Pledge of Allegiance

Board Member Aimee Kelley led the Pledge of Allegiance to the Flag.

4. Roll Call

Tammy Stanzione, Deputy City Clerk, called the roll. A quorum was present.

5. Agenda Approval

- A. Additions, Deletions, Corrections to the Agenda
- B. Adoption of Agenda

Chair Penserga requested to have Item 14B removed from the Agenda.

Motion:

Board Member Angela Cruz moved to approve the agenda, as amended. Board Member Aimee Kelley seconded the motion. The motion passed unanimously.

6. Legal

Ms. Kathryn Rossmell, Board Counsel, gave an overview of the Live Local Act that just passed. She noted it has limited change for the CRA but will open the possibility of development in commercial or industrial areas. She highlighted the ability to take land currently held by the CRA to provide long-term leases for the development of affordable housing. Additionally, land for sale proceeds can also be utilized for mechanisms of affordable housing. She provided additional information about long-term land leases for affordable housing. Ms. Rossmell said she would work with City Staff on a joint workshop or memorandum.

7. Informational Items and Disclosures by Board Members and CRA Staff:

A. Disclosure of Conflicts, Contacts, and Relationships for Items Presented to the CRA Board on Agenda

Board Member Aimee Kelley disclosed she has received several emails regarding Ocean One project.

Chair Penserga disclosed he spoke with Bonnie Miskal regarding Item 12D. He also received a handful of emails for the item as well.

Vice Chair Turkin disclosed he spoke with his residents regarding Item 12D.

Board Member Cruz and Hay had no disclosures.

8. Announcements and Awards

A. Boynton Beach CRA FY 2021-2022 Financial & Annual Report

Ms. Renee Rosario, CRA Communications and Social Media Specialist, stated the CRA FY 2021-2022 Financial & Annual Report is posted on the Boynton Beach website. She noted 200 hard copies will also be printed and available as well.

9. Public Comments

The public comment section of the meeting is for public comment on items that are not on the agenda. For items on the agenda, the public will be given an opportunity to comment at the time each item is considered. Each speaker will be given a total of three (3) minutes to comment; however, the Board retains the right to reduce the number of minutes prior to the start of public comment. Persons making public comment may not assign or donate their public comment time to another individual to allow that other individual additional time to comment; however, any persons requiring assistance will be accommodated as required by the Americans with Disabilities Act. Prior to addressing the Board, please go to the podium or unmute your device when prompted, and state your name and address for the record.

Chair Penserga opened public comments. No one came forth to speak. No virtual comments. Chair Penserga closed public comments.

10. Consent Agenda

- A. CRA Financial Report Period Ending March 31, 2023**
- B. Approval of CRA Board Meeting Minutes - March 15, 2023**
- C. Approval of Commercial Rent Reimbursement Grant Program in the Amount of \$15,000 to AAR Fade, Inc. d/b/a Sir Cutz located in Sunshine Square at 558 E. Woolbright Road**
- D. Approval of a 60-day Extension for the Commercial Property Improvement Grant Program to Custom Truss LLC located at 510 Industrial Avenue**

- E.** Approval of a 60-day Extension for the Commercial Property Improvement Grant Program to JWS Investments Restaurant d/b/a Tropical Island Restaurant located at 126 W. Boynton Beach Boulevard

Motion:

Vice Chair Turkin moved to approve Consent Agenda. Board Member Kelley seconded the motion. The motion passed unanimously.

11. Pulled Consent Agenda Items

None.

12. Old Business

- A.** Quarterly Progress Report from BBQOZ, LLC for the 115 N. Federal Highway Mixed Use Project (aka The Pierce)

Ms. Kemissa Colins, Vice President of Development at Affiliated, provided a progress report on The Pierce. She said they will be submitting for permits in the summer.

- B.** Consideration of Approval of 500 Ocean Performance Audit for Year Ending December 31, 2022, for Compliance with the Direct Incentive Funding Agreement

Ms. Thuy Shutt, Executive Director, said under the agreement, the developer will receive \$578,087 for the past fiscal year. She noted they received proof of their audit and proof the taxes were paid.

Chair Penserga opened public comments. No one came forth to speak. No virtual comments. Chair Penserga closed public comments.

Motion:

Vice Chair Turkin moved to approve the 500 Ocean Performance Audit. Board Member Hay seconded the motion. The motion passed unanimously.

- C.** Discussion and Consideration a of Lease with the USPS to Remain at the CRA- owned Property Located at 217 N. Seacrest Boulevard

Ms. Shutt provided an overview of the lease with the USPS for the property located at 217 N. Seacrest Boulevard. She confirmed the lease agreement has been reviewed by the City Attorney. She said the term of the lease is one-year and the rent is \$180,125. The USPS can terminate within a 90-day written notice.

Board Member Hay asked about the square foot rate increase. Ms. Shutt said the increase was based on a market analysis conducted by staff.

Board Member Kelley inquired about the insurance on the property.

Ms. Shutt replied that the City is now responsible for the insurance on the property.

Chair Penserga opened public comments. No one came forth to speak. No virtual comments. Chair Penserga closed public comments.

Motion:

Board Member Cruz moved to approve one-year lease with the USPS for the property located at 217 N. Seacrest Boulevard. Board Member Kelley seconded the motion. The motion passed unanimously.

- D. Discussion and Consideration of a One Year Extension Request of the Construction of a Public Plaza per the Purchase and Development Agreement with Ocean One Boynton, LLC for the Ocean One Project

Motion:

Board Member Hay moved to remove item from the table. Board Member Cruz seconded the motion. The motion passed unanimously.

Ms. Shutt gave a brief history of the Ocean One Project and the request of a one-year extension. Bonnie Miskel stated that the Planning and Development Board approved the new site plan, and it will go before the City Commission at the next City Commission meeting. She said they are still obtaining building permits, which is why they are seeking the extension.

Chair Penserga opened public comments.

Eve Scarvone, 350 N. Federal Highway, said there should be penalties for continuing to request extensions. She asked if they have financing in place.

Vanessa Belmonte, 100 NE 6th Street, spoke against the extension request. She is also against the density increase of the Ocean One project. She requested a Community Workshop, so the community had a better sense of the project. She said the project will put a strain on parking in the neighborhood.

Linda Cross, 65 Casa Loma Boulevard, also spoke against the extension request. She stated that the area needs more parking. She asked the Board to reject the project.

Martin Clowber, Marina Village, stated that the public interest issue of the area is parking and traffic. He proposed a condition that the applicant enter into a transportation management agreement to determine how to mitigate traffic impact.

Eileen Bougalari, Marina Village Apartment 1101, stated that parking at the marina is a huge problem. She referenced the email she sent to the Board. She urged that the Board demand from the developer more parking. She submitted a picture [on file] to the City Clerk of pictures of 6th Court.

Harry Woodworth said the Planning and Development Board meeting was a smoke and mirror show. He said the parking is a sham, especially on Federal Highway. He said there is no parking over there. He said this project will generate thousands of daily trips.

Michael Minia, Marina Village, said he is there to represent the residents of Marina Village and parking is an ongoing issue. He asked the Board to do the right thing and deny the density the extension and density increase.

Rick Dunsten, Building Manager Marina Village, read from a study done by General Motors.

Terrence Cahill, 625 Casa Loma Boulevard, asked that the Board to protect the Community.

Maria Valousha, Marina Village, said the population is dramatically increasing. She said the area of the project is an area enjoyed by all of Boynton Beach with annual parades and celebrations.

Jason Moore, 625 Casa Loma Boulevard, stated that he agrees with everyone that has spoken.

Chair Penserga closed public comments.

Ms. Shutt read a letter into the record.

Ms. Miskel stated that she wants the public to understand that this is a new owner asking for the extension.

Ms. Rossmell, Board Counsel, reminded the Board that height and density is not to be discussed at this meeting.

Manny McIntyre, ITS, stated that the GoToWebinar was having sound issues.

Chair Penserga recessed the meeting at 7:13 PM.

Chair Penserga reconvened the meeting at 7:23 PM.

Board Member Cruz inquired about the legal options for the situation.

Ms. Rossmell explained that the provision of the agreement that the applicant is in default is failure to construct a public plaza. She noted that is why they are requesting the extension. She described the process to issue a notice for default and next steps.

Board Member Cruz inquired if there was legal protection on the land for the park.

Ms. Rossmell replied that agreement included a Right of First Refusal clause but nothing explicit concerning a reverter.

Board Member Cruz asked for clarification on Right of First Refusal.

Ms. Rossmell explained the Right of First Refusal.

Board Member Hay if about next steps if they approve the extension.

Ms. Miskel said the next steps would be to review the site plan next week as the City Commission. She stated that she is happy to meet with the residents of Marina Village prior to the City Commission meeting.

Board Member Hay inquired about communicating with the other residents who are not present.

Mr. Dunsten stated that he can send a mass email to the residents of Marina Village regarding meeting with the developer.

Board Member Kelley asked what the CRA will receive in return from the owner if they grant the one-year extension.

Ms. Miskel provided clarification that the goal was not for a plaza to be built, rather, a mixed-use project. She said her client immediately began the process for the project.

Ms. Rossmell acknowledged the plaza was put in as a motivational piece for the former owner.

Ms. Miskel said the City does not allow two site plans for the same property and to create the plaza, they would need to eradicate the old site plan.

Board Member Kelley asked what the developer is willing to do for the community.

Ms. Miskal requested that the developer join online to respond.

Mr. Jordan Thaler, Hyperion Development Group, said they are trying to build as quickly as possible but noted there is still work to be done with mechanical and civil engineers and permitting. He said the City process also takes time. He suggested a meeting with CRA staff every 2-3 months to provide updates.

Ms. Miskel said the current project is valued at double or triple of the original project and there is real revenue value for the CRA.

Board Member Kelley inquired about how the old site plan and the new site plan differ.

Ms. Miskel said the old plan had no public open space. Mr. Thaler said 39% of their site is usable open space for the public.

Board Member Kelley asked how the agreement occurred in the first place.

Ms. Shutt said she does not know the major motivation since she was not with the CRA then but was likely the downtown activation.

Vice Chair Turkin stated that he is concerned that they are discussing another site plan as there is no other site plan. He stated that he does not have pity for complacency. He stated that the land was designated and defaulted on.

Ms. Rossmell said there is no code contingency for site plan approval. She explained the steps to prosecute default under this agreement. She stated that the Board can direct staff for a legal

lawsuit, but reiterated there is no reverter clause in this agreement. She said they would have to do a full analysis to see whether getting the land back is a viable option under this contract.

Vice Chair Turkin said they provided the land to the previous owner for \$1,000 and is now appraised for \$1.76M. He said it is an opportunity to leverage the default to provide a public benefit. He said the Board could leave a good legacy. He said there is approximately \$8M of value for the developer. He said there needs to be a Community Workshop. He wants to see the developer provide parking. He also inquired about the financing. He does not think it is right to move forward with the extension without providing for a public use.

Chair Penserga stated that the residents are right and there is a parking issue in the downtown area. He said they need downtown parking to support the local economy. He said they cannot add conditions of approval until the City Commission reviews and discusses the site plan. He spoke about parking issues with the surrounding buildings.

Board Member Kelley asked what they are using to define public parking.

Ms. Rossmell said they are currently default of the agreement. She said in the past, the developer has paid for extensions. She said City staff can answer whether there is adequate parking to serve the development.

Board Member Hay stated that he agrees with the Chair and Vice Chair. He said that if the extension is not approved the site plan will not go before the Commission where the Commission can put conditions of approval on the development. She said asking for a change in parking will have an impact on the site plan and timeline.

Board Member Hay stated he agrees with the Chair and Vice Chair. He reiterated his recommendation for the developer to meet with residents prior to the City Commission meeting. He said they want to make sure they get the development right. He said they need to allow themselves to have that conversation at City Commission and maybe there is a happy medium with the developer. He said he wants to try to work with the new developer to make the project an asset for the City. He stated he is in favor of the extension.

Chair Penserga concurred with the recommendation for the developer to meet with the residents.

Vice Chair Turkin said there is an increase in density, and it is public record. He said there would not be a problem to build on the land. He said if need to take action to show their constituents they hear them. He said approving this is like spitting in the residents' faces. He said it is the most valuable piece of land they have. He said let's provide parking and not reflect our predecessors' mistakes.

Board Member Cruz stated that the Board must treat all the developers the same and not pick and choose. She questioned how many parking lots can fit in a half acre of land.

Ms. Shutt stated that she does not know, but a rough estimate is approximately 45 to 50 parking spaces.

Board Member Cruz said previous development have not provided enough parking, which is why there is an outcry in the community. She said parking is a necessity, but they cannot fix the issue

for all the buildings in the area. She agreed they need to leverage this opportunity for public benefits. She proposed the developer add 50 parking spaces in the development.

Ms. Miskel stated that she does not have an answer. She said they will consider the suggestion and have an answer by the City Commission meeting. She said part of the problem with the site is constructability and what could be built on the parcel. She said they could not put a parking structure on the property and meet the safety requirements.

Mr. Thaler stated that they are providing 128 parking spaces for the public to visit retail in the area, not just in their building.

Board Member Cruz asked again for public parking spaces.

Ms. Miskel said they are willing to get creative to accommodate sins of the past. She said there are opportunities for street level parking. She said they will look at all options. She said they have a lender for the project and lender pressures.

Vice Chair Turkin noted that the developer said they would meet with the residents, the CRA and the City. He said that he does not believe that the owner will not flip the property.

Ms. Miskel stated that the owner is not interested in flipping the property. She said they are trying to give the City the best project they can.

Vice Chair Turkin suggested tabling the item.

Ms. Miskel stated it could take up to a year to redesign the site plan.

Vice Chair Turkin commented he wants to legally bind the applicant to provide public parking.

Ms. Miskel said one option is to work with City staff and the neighbors to provide additional parking without having to redo the plan. She said another option is to redesign to get out of the default is to go forward with another site plan that shows a plaza area on the north sliver and orient the rest of the site to a higher building. She said the code allows them to go up to 150' in height. She said the contract does not include a reverter or remedies. She said curing the default will require a site plan for the exhibit in the document. She said they are willing to work collaboratively.

Chair Penserga asked about the image on the screen. Ms. Shutt said the proposed master plan on the screen is the approved one from 2017.

Board Member Hay agreed with the Vice Chair's suggestion of getting additional parking but does not want to stop the project at this point. He said they do not lose their power. He resents any suggestion his displays favoritism towards any developer.

Board Member Kelley inquired whether a condition can be placed on the extension to guarantee public parking.

Ms. Rossmell noted the types of conditions that could be placed on the extension.

Board Member Kelley said she wants to make sure they are holding the developer to ensure

maximization of parking spaces beyond code requirements. She would be comfortable moving forward with a condition.

Chair Penserga asked if there is a way to determine the City parking deficiency.

Ms. Rossmell outlined options for setting measurable metrics that are enforceable. She said they could also withhold default for a set amount of time to gather additional information. They could also determine a measurable penalty for failure to do something.

Discussion ensued about the extension and possible conditions.

Motion:

Board Member Hay moved to approve modification to the contract with the developer with the following conditions:

- Developer will submit for permits within six months of April 18, 2023
- Construction will commence no more than seven months after permit submittal
- Within 30 days of April 18, 2023, Developer will meet with City staff and CRA staff specifically to discuss maximizing public parking above and beyond what is required by code and implementing any measures that require only minor modifications
- Developer will host two public workshops to be held within 30 days of April 18, 2023

Failure to meet any of the conditions will require the applicant coming back to the Board.

Mr. Thaler expressed disappointment that they effectively must start over after so much collaboration.

Vice Chair Turkin said he will not vote for anything that is not in the public's best interest.

Mr. Thaler asked how this will affect their City Commission meeting.

Ms. Miskal described an example to Mr. Thaler of an administrative change to the site plan.

Ms. Rossmell read the conditions again.

Board Member Kelley seconded the motion. The motion passed 4-1. Vice Chair Turkin dissented.

E. Discussion and Consideration of Direction and Assignments for CRA Advisory Board

Ms. Shutt provided background on the item. She said in the past the Board has given CRA Advisory Board (CRAAB) the duty of looking at potential site acquisitions.

Board Member Kelley said when she was on CRAAB it just felt like busy work. She does not want to just give CRAAB work to do just because they are there. She noted two potential assignments. Ms. Shutt confirmed there are no other upcoming projects CRAAB could work on.

Chair Penserga recommended increasing communication with CRAAB and asking them to provide updates at the CRA Board meeting.

Vice Chair Turkin left the dais 9:40 p.m.

Vice Chair Turkin returned to the dais 9:45 p.m.

13. New Business

A. Discussion and Consideration of Purchase and Sale Agreement for 433 W. Boynton Beach Boulevard

Ms. Shutt provided an overview of the property located at 433 W. Boynton Beach Boulevard.

Board Member Cruz stated that she is favor of the purchase.

Board Member Hay noted that he lives three blocks from this location and would be happy to see the vacant property go.

Board Member Kelley stated that she is in favor of the acquisition of 433 W. Boynton Beach Boulevard.

Chair Penserga opened public comments. No one came forth to speak. No virtual comments. Chair Penserga closed public comments.

Motion:

Board Member Hay moved to approve the purchase of 433 W. Boynton Beach Boulevard and authorize the Chair to sign the agreement subject to final legal approval. Board Member Cruz seconded the motion. The motion passed unanimously.

B. Discussion and Consideration of Draft Scope to Amend the 2016 Community Redevelopment Plan

Ms. Shutt gave an overview of plan and what needs to be done. She stated that the cost of this project would be up to \$250,0000.

Board Member Kelley said she thinks it is important to continue to look at the CRA Plan. She wondered how Senate Bill 102 will affect everything.

Chair Penserga inquired about why the cost is so high.

Ms. Shutt explained the processes of amending the 2016 Community Redevelopment Plan and why the cost was so high.

Chair Penserga opened public comments.

Harry Woodworth, Boynton Beach, said this is long overdue. He asked how they redo the Plan without having a long-range City strategy. He said the City strategy hasn't been updated in years and everything needs direction.

Barbara Ready, Boynton Beach, reiterated the sentiments expressed by Mr. Woodworth. She

said it is a good idea to update the Plan. She recommended giving this project to CRAAB so they have something useful to do and bring back something helpful.

There were no virtual comments. Chair Penserga closed public comments.

Board Member Cruz commented that Mrs. Ready's recommendation to give this project to the CRAAB was a great idea.

Ms. Shutt asked for clarification on the assignment to be given to the CRAAB

Board Member Kelley replied that the CRAAB can review the Scope to provide suggestions and feedback to the Board.

Ms. Shutt commented that if directed by the Board the assignment can be given to the CRAAB at their May meeting.

Chair Penserga inquired about how would this affect the timeline of the bid process.

Ms. Shutt stated that the bid process would start until after the CRAAB has had the opportunity to review the Scope and provide the CRA Board with an in-person report.

Motion:

Board Member Hay moved to approve the Draft Scope to Amend the 2016 Community Redevelopment plan. Board Member Cruz seconded the motion. The motion passed unanimously.

14. CRA Projects in Progress

A. CRA Economic & Business Development Grant Program Update

Ms. Bonnie Nicklien, Grants and Project Manager, provided the monthly update on the program.

B. Social Media & Print Marketing Update

C. MLK Jr. Boulevard Corridor Mixed Use Project (d/b/a Heart of Boynton Village Apartments) Update

There was a consensus of the Board not to hear an update on Item 14C.

15. Future Agenda Items

A. Project Update on the Bride of Christ Daycare Center at NE 10th Avenue -May

B. Project Update of the Purchase and Development Agreement with 306 NE 6th Avenue LLC for the CRA Owned Property located at 211 E. Ocean Avenue - May

C. Discussion and Consideration of the Responses to the RFP/RFQ for the CRA-owned Property located at 401-411 E. Boynton Beach Boulevard -May

D. Discussion and Consideration of an Interlocal Agreement between the City of Boynton

Beach and CRA for the Neighborhood Officer Program Office Lease located in the Heart of Boynton Shops - May

- E. Discussion and Consideration of a Resolution for the Neighborhood Officer Program Lease - May
- F. Approval of the Second Amendment to the Development Agreement between the CRA and Centennial Management Corp./Wells Landing Apartments, LLC for the Commercial Component of the MLK Jr. Boulevard Corridor Mixed Use Project - May

Ms. Shutt noted that they have had conversation with USPS, and they stated the two proposals are not viable. She said the Board may not be seeing a presentation.

16. Adjournment

Motion:

Vice Chair Turkin moved to adjourn. Board Member Cruz seconded the motion. The motion passed unanimously.

There being no further business to discuss, the meeting was adjourned at 10:22 P.M.


Tammy Stanzione, CMC
Deputy City Clerk