

**MINUTES OF THE COMMUNITY REDEVELOPMENT AGENCY  
HELD IN COMMISSION CHAMBERS, CITY HALL, BOYNTON BEACH, FLORIDA,  
ON TUESDAY, APRIL 11, 2006 AT 6:30 P.M.**

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**Present:**

Henderson Tillman, Chairman  
Stormet Norem, Vice Chair  
Jeanne Heavilin  
Alexander DeMarco  
Marie Horenburger  
Steve Myott

Ken Spillias, Board Attorney  
Lisa Bright, CRA Director

**Absent:**

James Barretta

**I. Call to Order**

Chairman Tillman called the meeting to order at 6:33 p.m.

**II. Roll Call**

The Recording Secretary called the roll and declared a quorum was present.

**III. Agenda Approval**

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

Chairman Tillman requested hearing Item IX. A. New Business - CRA Policy Discussions first.

**Motion**

A motion was made by Mr. Myott, seconded by Mr. DeMarco to approve the agenda. A vote was taken and unanimously carried.

Attorney Spillias suggested adopting the agenda, hearing the consent agenda and then hearing Item IX. A.

**Motion**

A motion was made by Ms. Heavilin to approve the agenda as amended. Mr. Myott seconded the motion that unanimously carried.

**IV. Consent Agenda**

- A. Approval of Minutes City/CRA Housing Workshop - February 22, 2006
- B. Approval of Minutes CRA - March 14, 2006
- C. Approval of a Commercial Façade Grant to McDonald's - \$15,000

This item was pulled for discussion at the request of Mr. Myott.

- D. Approval of a Commercial Façade Grant to Main Street Car Wash - \$5,550

Chairman Tillman announced Item D is withdrawn from the agenda as it was not ready to move forward.

- E. Approval of 2006 C of C Compson Golf Tournament CRA 4-Some-\$400
- F. Approval of FY05

This item was pulled for discussion at the request of Mr. Myott.

- G. Approval of Monthly Financial Results - March 31, 2006

This item was pulled for discussion at the request of Mr. Myott.

- H. Approval of Change to CRA Policy Manual-Benefits Waiting Period 30 days.
- I. Land Use and Zoning Amendment Update

This item was pulled for discussion at the request of Mr. Myott.

- J. HOB Feasibility Analysis Update
- K. Housing Analysis Update
- L. Approval of Boynton Beach Blvd. Corridor Plan
- M. Consideration of CRA Office Lease - 915 S. Federal Hwy (Sailfish Realty)

Attorney Spillias recommended pulling this item since the draft in the board's backup had changed.

- N. Approval of AMBIT Marketing contract

This item was pulled for discussion at the request of Mr. Myott.

- O. HOB Phase I Self-Assembly Update

This item was pulled for discussion at the request of Mr. Myott.

**Motion**

A motion was made by Vice Chair Norem to adopt Consent Agenda Items A, B, E, H, J, K, L. Mr. DeMarco seconded the motion, which unanimously carried.

Item IX. A. New Business - CRA Policy discussions (heard out of order)

Attorney Spillias explained he was requested to review policies from other local municipalities regarding governance between the CRA Board and the staff, which he modeled. Attorney Spillias presented several documents to the board, one of them being the Boynton Beach Community Redevelopment Agency Rules of Governance.

Attorney Spillias explained the following:

- This was a rough draft of proposed policies based on his research.
- Areas such as spending policies were included.
- The manner in which board members would interact with staff was reviewed.
- The document was submitted to the board members for comments with the request that each member's comments not be submitted to other board members.
- The comments were not incorporated into the documents because the comments did not have a clear common theme from the majority of the board members.

Attorney Spillias thought the board member's comments should be discussed, and he recommended some measure of the proposed Rules of Governance be adopted as an interim measure. Individual comments of the board could be incorporated into the document provided the majority of the board agreed.

Attorney Spillias also noted a set of bylaws should be developed containing the normal provisions for board operations and the bylaws would contain the Rules of Governance. In light of the public not having the information, Attorney Spillias recommended reviewing the document by sections.

Section One dealt with the CRA Board, its duties as set out in Florida Statute 163, Part 3 and incorporated by reference, which establishes the meeting procedures, conflict of interest provisions as established by Florida Statutes 163 and 112, in addition to other applicable state laws and City Ordinances.

Subsection D dealt with CRA expenditures and establishes that CRA funds can only be used in furtherance of the CRA's goals as contained in state statutes. This section contained specific provisions pertaining to the board's requirement to enact a budget showing expenditures and revenues. Expenditures are not proper until approved by the board. Also, there is a provision for reimbursement of expenses and all CRA offices, equipment, phones and such are to be used only for public purposes. Any utilization of such equipment for private purposes would require reimbursement.

Subsection E was left blank and intended to be a catchall provision.

Attorney Spillias explained the second major section provides for the administration of the CRA and sets forth the Executive Director will be reviewed annually, and the duties of an Assistant

Director, if established.

The second subsection outlines the duties of the Executive Director listing specific areas of responsibility, such as seeing that the policies and directives of the CRA are enforced, overseeing the day-to-day operations, preparing budgets, making recommendations to the board, attending meetings, etc. There is also a catchall phrase of "other duties as assigned." It was noted, the job description and the contract provides for those types of duties.

Subsection C provides that no member of the board may dictate to the Executive Director who to hire or fire, in terms of the staff under the Directors purview, and sets the Executive Director as the head of the CRA. This section has a Non-Interference Clause.

The Non-Interference Clause, shows the Executive Director as the head of the CRA and specifically sets forth "except for the purpose of inquiries and investigations, neither the CRA Board nor its members shall deal with CRA employees who are subject to the direction and supervision of the Executive Director or with contractors, suppliers or vendors of the CRA except through the Executive Director and the CRA Board members shall not give orders to any such employees, contractors, suppliers or vendors either publicly or privately. Except as specifically directed by the CRA Board as a whole, and is otherwise reflected and officially adopted and enacted by Board Resolutions, Policies and Procedures, the Executive Director shall have the sole authority and responsibility to direct the actions and tasks of CRA staff. Nothing in the foregoing is to be construed to prohibit the CRA Board from closely scrutinizing, by questions and personal observations, all aspects of CRA operations, so as to obtain independent information to assist them in the formation of sound policies to be considered by the CRA Board."

The purpose of the provision is to make it clear that it is the Executive Director, in the line of communication and authority, who answers directly to the board and the staff answers directly to the director. Attorney Spillias commented when seven board members are individually speaking to individual staff members, it makes it difficult for the director, it fractures the line of authority and it becomes more difficult to hold the Executive Director accountable for the performance of the staff, if she is not the one who has the ability to direct what they do. Board members' questions would go directly to the Executive Director.

Subsection E suggests office visits be held via appointment, and with the knowledge of the director. It is not appropriate to seek information from staff members; rather, requests should go through the Executive Director.

Subsection F recognizes that the board meets once a month, and if something happens in the interim, the Executive Director will keep the board reasonably informed. The Executive Director will work through the first line of communication through the board chairman, and to the extent possible, to the other members of the board.

Ms. Heavilin inquired how the policy would be enforced. Attorney Spillias explained there is nothing in the CRA statutes or in the City's enabling ordinances that gives the CRA Board the specific ability to enforce policies or impose consequences against another board member. The City Ordinance does have a provision, because the board members are elected for four-year

terms, and can be removed for cause, which would be for inefficiency, misfeasance and malfeasance in office.

Attorney Spillias explained if this is a process that will be utilized by the City Commission, it requires notice to the board member and a hearing. Three options were discussed:

1. Once the board policies are promulgated, if there are board member violations in the future, there would be a provision that the CRA Board could utilize a notification process to that member that repeat violations would be conveyed to the City for action.
2. Leave the matter to be addressed by the City Ordinance regarding inefficiency, malfeasance and misfeasance.
3. Ask the City Commission to amend the Ordinance to provide for a particular procedure to allow for some action to be taken by the City Commission if a board member has violated policies adopted by the CRA a certain number of times, as determined by the CRA.

Attorney Spillias was not certain whether the CRA Board could develop consequences that would infringe upon the authority of the City Commission.

Ms. Heavilin thought there should be some steps taken to address the situation. Her other concern was about communication, specifically when a CRA Board member may have issues with another board member. She thought those issues should be brought before the board for resolution. Ms. Heavilin referenced her memo for her other comments.

Mr. Myott agreed with Ms. Heavilin's comments and believed that rules, consequences and warnings would be appropriate. His thoughts were when an issue arises; the board member should bring it to the Director. This would allow for an early warning and an opportunity to avoid an overblown issue. He suggested developing definitions of malfeasance and misfeasance, and providing an avenue to the Executive Director.

Mr. DeMarco recommended printing a manual to be given to prospective board members as well as requiring a signature acknowledging receipt of the manual.

Ms. Horenburger agreed the drafted policies were very good. She requested clarification of Item C.A. on page five which was missing a word, and congratulated Chairman Tillman on his elevation from Vice Chairman to Chairman. She indicated the state has rules governing conflicts of interest. She indicated the board operates under state statute, but the CRA hires their own auditors. She agreed with Mr. Myott's comments regarding consequences and requested further definition of the word "violations" and if "any violations" included state violations. She also explained it was common practice if there are three consecutive absences by a member; the member is automatically removed from the board. She asked if that action was accomplished via an adopted policy or by Ordinance or Resolution, and how that interfaces with the state statutes spelling out about the only ways to remove an individual.

Attorney Spillias explained special districts that do not answer or are not appointed by another board in their enabling legislation are often given the authority to set their own rules, including rules as to what constitutes inefficiency, misfeasance and malfeasance. This board was created by City Ordinance and the City Ordinance, as it exists today, does not have any specific

provision like those for special districts. He indicated if the CRA would like the City Ordinance to have provisions that would justify causes for removal, then the definition of misfeasance and malfeasance is needed and the Ordinance would need to be amended. He explained misfeasance and malfeasance is not defined by statute; rather the definitions would need to be defined to comply with the court's analysis of misfeasance and malfeasance. He agreed developing a manual would be helpful, with the addition of a legal section so members would have the governing statutes available to them. The regulations regarding Public Records Law, the Sunshine Law, and the Ethics Laws would be included. He suggested having a workshop to discuss the reaches of the applicable laws.

Ms. Horenburger recommended, Administration Item 2. A. read, "the board shall annually review the Executive Director's performance *on the anniversary or contract date.*" or any date set by the board for review. She requested clarification of Item 6 reading "to employ and remove all employees of the CRA provided however that independent contractors shall be appointed and removed in the sole discretion". Attorney Spillias clarified it was meant to read at the sole discretion of the CRA. The purpose was to distinguish it from the discretion of the CRA Director.

Vice Chair Norem agreed with the comments the members provided to Attorney Spillias. He commented that even the appearance of impropriety should be noticed and he conveyed his belief the members need to conduct themselves accordingly.

Chairman Tillman explained if you have a culture that rewards behavior that is negative, people will behave that way but the CRA will not tolerate it. He indicated policies have been overlooked for a long time and now have come back to haunt the CRA. The CRA is addressing the issues and he emphasized the CRA must hold the public's trust and its credibility must be maintained. Policies should have clear distinctions about what the board members can and cannot do while they sit on the board. Moreover, in the most expedient time, the City Commission needs to develop enabling legislation that will support a defined mechanism to remove a board member under malfeasance or any other issue it deems within its own rules under its Ordinances. The CRA should enter into an interlocal agreement with the City to provide Human Resource services which would provide a procedure for employee grievances within administration. He suggested a mechanism be provided on the board level to respond to complaints brought by the CRA Director, Board Attorney or board member. He stressed these policies need to be put in place in order for the CRA to remain a viable entity. He emphasized for the immediate moment, the CRA needs to fix what is broken. He indicated he would support a motion from the CRA to ask the City Commission to remove Mr. Barretta from the Boynton Beach CRA Board.

Attorney Spillias addressed the comments put forward by the board members. He suggested he meet with the City Attorney to discuss what process could be put in place to address consequences. He explained there are certain levels of consequences already in place, such as violation of Conflict of Interest Laws for which there are potential state consequences. The Sunshine Law has criminal and civil consequences, and the Public Records Law could result in an agency being sued and liable for legal fees of the suit. He explained there are no existing State or City remedies for violations regarding the internal operating procedures the board is considering enacting. He will meet with the City Attorney to craft a recommendation. He suggested the Executive Director meet with the City Manager to determine if it would be possible to enter into an interlocal agreement with the City for Human Resource services. Attorney Spillias would need more information about the CRA employee who has a grievance.

Pertaining to Mr. Barretta, the City Ordinance has a provision for removal and there would need to be a determination made by the City Commission that there is a probable cause that the board member has acted in a manner that would fall within one of those categories, which would call for removal.

**Motion**

Upon Attorney Spillias' verbiage, Ms. Horenburger moved the City Commission conduct an inquiry to determine whether or not a board member has violated the conduct requirements in the City Ordinance and if it is determined that he has, to begin the process of removal as set out in the Ordinance. Mr. Myott seconded the motion, which unanimously passed.

**Motion**

Attorney Spillias requested a motion to approve the Rules of Governance as an interim measure and to direct the CRA Attorney and Executive Director to meet with the City Attorney, the City Manager and, if appropriate, with the HR Director of the City, to pursue the recommendations of the board with respect to consequences and HR services. Vice Chair Norem made a motion to the above, seconded by Mr. Myott.

Ms. Horenburger asked if the motion could include having an agreement with the City subject to the CRA Attorney and Executive Director's authority. Attorney Spillias thought both boards would have to vote on specific proposals.

It was noted, Attorney Spillias would take the considerations of the board into account in framing the documents.

Ms. Horenburger asked when communicating problems on the board to the Director whether the issues had to be in writing or could be conveyed verbally. She expressed her concern the board may put the Executive Director in an awkward position having to approach a member regarding a complaint or issue.

Attorney Spillias recommended setting up a reporting process and thought it would be better to do it through him because he has no direct reports, whereas the Executive Director could be caught in the middle, especially if it has to do with a staff member. It was thought a conversation would be held first.

**Vote**

A vote was taken and unanimously carried.

Ms. Bright requested clarification of the current outstanding complaint. She explained their administrative policy requires promptness to action, and if the matter continues to drag and the attorney and she are not permitted to select an HR firm to investigate or perform an inquiry into the current complaint, the board would be exposed. Without the interlocal agreement, the matter could take some time.

**Motion**

A motion was made by Mr. Myott that Ms. Bright and Attorney Spillias are allowed to select an HR firm immediately to conduct an inquiry and prepare a report for the board. Ms. Heavilin seconded the motion.

Ms. Horenburger indicated the Board Attorney works for the board, the staff works for the Executive Director, and the Executive Director works for the board. There would be a conflict.

Attorney Spillias recommended not using an HR firm, rather retaining an attorney with a background in employment law and HR issues. A maximum dollar amount should be established and budgeted. Attorney Spillias indicated this situation is unique. Usually HR complaints are based on certain laws or internal policies being violated and are generally between one staff member and another, or with outside consultants, contractors or customers. In those instances, the matters would be entirely within the purview of the HR department or executive director. This complaint involves a board member and Attorney Spillias represents the board, not individually but collectively. There is a potential conflict, not legal, but public impact that is involved. He expressed it would not be inappropriate for him to participate with the Executive Director in the selection of an individual, but the subsequent written report would come back to the board and not to the Director. He emphasized the person would be hired to conduct a factual inquiry.

Ms. Horenburger expressed Ms. Bright has been given the authority to spend up to \$10,000 to conduct the office business and hire expert advice for her and the staff.

Attorney Spillias expressed his concern that it would appear that the Executive Director would have the authority to investigate the board, which is beyond the authority she has or would want to have.

Mr. DeMarco recommended having the CRA and City Attorney, as a first step; develop the proper direction to proceed. Chairman Tillman explained they are trying to put together some action now while the mechanism kicks in. Ms. Horenburger felt strongly the Executive Director should make the selection.

**Motion**

Ms. Horenburger moved that the Executive Director seek temporary HR services until things can be worked out with the City on HR services.

It was noted there was already a motion on the floor.

**Motion**

Mr. Myott amended his motion to allow the CRA Board Attorney to work with the Executive Director to seek other legal counsel to look into the HR Complaint that exists at the present time for the purpose of an investigation and ultimate resolution. The amount allocated for the services shall not exceed \$15,000. Ms. Heavilin seconded the motion. A vote was taken and unanimously carried.

The board members commented the CRA has accomplished a great deal over the past six years.

**V. Public Comments.**

Chairman Tillman opened the floor for public comments. There being none, the floor was closed to comments.

**VI. Public Hearing:**

Old Business

None

New Business

Attorney Spillias put all individuals who would be testifying under oath and explained the procedure.

**A. Hemmingway Square**

Land Use Amendment/Rezoning

1. PROJECT: Hemingway Square (LUAR)  
AGENT: Garcia Stromberg Architecture, Inc.  
OWNER: Robert Vitale  
LOCATION: 2319 South Federal Highway, NW corner of SE 23rd Avenue and Federal Highway  
DESCRIPTION: Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Special High Density Residential (SHDR); and Request to rezone from Community Commercial (C-3) and Neighborhood Commercial (C-2) to Infill Planned Unit Development (PUD)

This item was postponed to no date certain.

New Site Plan

2. PROJECT: Hemingway Square (NWSP 06-007)  
AGENT: Garcia Stromberg Architecture, Inc.  
OWNER: Robert Vitale  
LOCATION: 2319 South Federal Highway, NW corner of SE 23rd Avenue and Federal Highway  
DESCRIPTION: Request for New Site Plan approval for the construction of 21 town homes, and recreational amenities and related site improvements on 1.285 acres zoned IPUD.

This item was postponed to no date certain.

Height Exception

3. PROJECT: Hemingway Square (HTEX 06-006)
- AGENT: Garcia Vitale
- LOCATION: 2319 South Federal Highway, NW Corner of SE 23rd Avenue and Federal Highway
- DESCRIPTION: Request for height exception of four (4) ' to allow chimneys to exceed the maximum building height of 34 ', for a total of 49 '.

This item was postponed to no date certain.

**Motion**

A motion was made by Ms. Horenburger, seconded by Vice Chair Norem to table the items. A vote was taken and the motion unanimously carried.

B. Hathaway Park Industrial Zone

Land Use Amendment/Rezoning

1. PROJECT: Hathaway Park Industrial Zone (LUAR 06-007)
- AGENT: Thomas F. Carney, Jr., Esq., The Carney Legal Group, P.A.
- OWNER: Robert Richardson, Jr., and Mark C. Daly
- LOCATION: East Side of Florida East Coast Railroad right-of Way, north and south of SE 10th Avenue
- DESCRIPTION: Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Industrial (1); and
- Request to rezone from Community Commercial (C-3) to Industrial (M-1).

Hanna Matras, Economic Development Planner presented the request and recommended approval.

Ms. Vivian Brooks, CRA Planner supported the request.

Attorney Thomas Carney appeared on behalf of the property owners.

Attorney Spillias asked if any of the members had ex-parte communications on the item or any of the public hearing items.

Ms. Horenburger declared she had met with Mr. Carney, Ms. Brooks and Ms. Bright to determine whether the area would be appropriate.

There were no comments from the board or the general public.

**Motion**

Ms. Heavilin made a motion to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Industrial (I). Vice Chair Norem seconded the motion that unanimously carried.

**Motion**

A motion was made by Ms. Heavilin to approve the request to rezone from Community Commercial (C-3) to Industrial (M-1). Mr. Myott seconded the motion that unanimously carried.

C. Harbor Cay

Land Use Amendment/Rezoning

1. PROJECT: Harbor Cay (LUAR 06-009)  
AGENT: Richard K. Brooks, Jr., RKB Architects Planners, Inc.  
OWNER: Harbor Cay, LLC  
DESCRIPTION: Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) and Low Density Residential (LDR) to Special High Density Residential (SHDR); and  
  
Request to rezoning from Community Commercial (C-3) and Single-Family Residential (R-1-AA) to Infill Planned Unit Development (IPUD)  
  
Proposed use: 23 fee-simple townhouse units.

New Site Plan

2. PROJECT: Harbor Cay (LUAR 06-011)  
AGENT: Richard K. Brooks, Jr., RKB Architects Planners, Inc.  
OWNER: Harbor Cay, LLC  
DESCRIPTION: Request new site plan approval to construct 23 fee-simple townhouse units, swimming pool and related site improvements on a 1.429-acre parcel in the IPUD zoning

district.

Mr. Eric Johnson, City Planner, presented the request and recommended approval subject to all the conditions of approval in Exhibit C. Mr. Johnson explained the applicant requested a waiver to reduce the width of the right-of-way from 40' to 35'. Staff reviewed the waiver request and agreed with it. In the CRA area, you need 24' of back-up distance behind a parking stall. He noted on the plan, the parking area shows 23' so there were some areas that could not be counted as parking areas. He emphasized that was a condition of approval. He also stressed the adjacent property is vacant and will have a 10' setback, and the rear setback area should be 20'. He noted if the project is approved with anything less than 20' for the setback area, then as a condition of approval, the building must be moved 20' or a variance applied for. The site plan shows that area as 10' and a variance has not been applied for. Additionally, compatibility is an issue. The project is a three-story town home with adjacent residential structures. Staff initially made a recommendation to reduce the height of Building 5 from three-stories to two stories. He explained building massing could be a compatibility issue. Consequently, the applicant revised the plan. Staff reviewed the drainage plan and a more detailed plan would occur at the permit stage. Staff recommended approval of the site plan subject to the applicant meeting all the conditions of approval in Exhibit C.

Ms. Brooks reviewed the plan with the applicant and suggested the height of Building 5 on the southern end of the property be dropped to two stories to be compatible with the adjacent property having R-1A zoning. She recommended approval of the land use zoning change and site plan with the conditions in Exhibit C. It was noted the comments in question were condition numbers 64 and 65.

The applicant, Mr. Sid von Rospeunt, CEO of Grupo Tango, the parent company and owner of the property, was present. He indicated when he purchased the property it was his intent to improve the area. In reference to Building 5, he wanted to keep the appearance of the community and could move the building back giving a 15' rear setback. He requested the City Commission grant a compromise for the 15' setback area because it would not affect the overall appearance of the community. He explained they planned too much parking. The City's requirement was 46 parking spots with guest parking. Their plans showed over 60 parking spaces and will remove the excess spaces when they file their permit application giving only 10 extra parking spaces. Some of the areas, such as Building 1, are missing one inch. On the other eastern side of Building 5 there is 23' and they will work something out there. They will meet the City's concerns and remove the parking from the site plan.

The height of Building 5 was discussed. The applicant decided to keep the roof as a flat roof. The intention was to purchase more land in that area, in order to continue building. At that point they would remove the height restriction. He explained Building 5 has two town houses, two center and two corner units. He explained dropping the height to two stories would cause the homes to become one bedroom, which are unsellable. He hoped that having a 15' compromise would be acceptable. He requested the board recommend moving forward with the project and becoming a good corporate citizen.

Mr. Myott had some concerns regarding the elevations of the dwellings in the back of the project and thought they were completely unacceptable because the lack of the tile roof elements gave the appearance the roof was taken off. He indicated he could support the project with the flat roof buildings, but the elevation of Building 5 was unacceptable. Mr. Myott did not see a way to

resolve the issue by keeping Building 5 in the plan. He also had questions regarding the wall and signage.

Ms. Heavilin expressed concern about a variance and the parking spaces being eliminated. She expressed she thought the plan looked incomplete with the changes. She agreed with Mr. Myott that Building 5 should be put in Phase II.

Ms. Horenburger asked if the CRA area had a Constrained Roadway at Lower Level of Service (CRALLS) designation. Mr. Johnson explained they have a Traffic Concurrency Exception Area (TCEA) in the CRA area. She concurred with the concerns raised by Mr. Myott and Ms. Heavilin. It was noted to date there have been no variances granted for setbacks in the IPUD areas. She requested clarification about reducing the width of the right-of-way on the internal street on the south side to 23'. Ms. Horenburger expressed she would like to see as much parking as possible and agreed the height needed to be adjusted for Building 5 or it should be put in Phase II.

Mr. DeMarco asked if the developer agreed with all 83 conditions of approval. He responded there are only about 80 conditions that are affected at the permitting stage. He indicated he would address them and agree to them. He explained taking Building 5 out is a financial issue.

Mr. Johnson explained comments numbers 64 and 65 pertain to Building 5. He was concerned about the 5' setback on US 1.

Vice Chair Norem indicated he thought it might be difficult to obtain a variance under the criteria. He expressed he would like to see the developers come in and meet the requirements up front.

Mr. Von Rospeunt expressed there are certain times when exceptions need to be made. He responded they can work on Building 5 and suggested perhaps they can design a different roof for Building 5 because it will be a certain distance from the next property line back.

Chairman Tillman questioned how emergency service access would be affected by over parking. He saw the project as in motion but not ready for the board.

Chairman Tillman opened the floor for public comments.

Ms. Bonnie Jones, a resident of Lakeside Harbor Drive indicated she would be impacted. Her concern was regarding the parking. She indicated the property was never intended for 23 town homes. When gates were installed at her community there was a turnaround easement issued by the previous owner for the occupants of Lakeside Harbor Drive. After the hurricane, the gate was slightly damaged but operational. After demolition of the property, the gate was totally damaged. They approached Mr. von Rospeunt about moving the gate back. He indicated they could not because they would not be compliant. She indicated the community paid \$20,000 for the gate. She requested clarification about the future of the property and she noted Phase II was still conceptual. She had an issue how the project would look from the back. She indicated she did not see drainage ponds and there was no storm water drainage. There was only the pitch from Federal Highway to the Intracoastal Waterway for run-off and there is low-lying land that will flood.

Chairman Tillman closed the floor for public comments.

Attorney Spillias clarified his previous request regarding ex-parte communication pertained to all items on the agenda. The board members responded they did not have any communications regarding the agenda except as noted earlier by Ms. Horenburger.

Mr. Richard Brooks, the Architect for the project, was present. He indicated Lakeside Drive bisects the property. He explained the project was designed to have a plaza in the center and that is why the street passes through it. He explained it is very different than other areas and the villa or older estate type of building was appealing. He took exception with the existing zoning. He explained normally any project with a PUD connotation usually has flexibility. He explained they have created a dense, but exciting project with many restrictions. He indicated the entrance trellis was incorporated because Lakeview Harbor Drive tends to divide the property. The trellis tends to pull it together.

There was a recommendation for approval subject to all the comments.

The developer indicated they would work on Building 5 when they get to the permitting stage. They would temporarily take the corner unit to the south to a two-story unit and create a roofline.

Ms. Horenburger asked about the setbacks and a variance.

Attorney Spillias clarified the request can be approved subject to approval of a variance. If the variance were not approved, the site plan would be invalid. It was noted the Land Use Amendment could not be approved without the site plan.

Mr. Johnson read Site Plan Condition 65 for the record: The City is not obligated to automatically approve the level of development intensity request for the IPUD. Instead, it is expected to approve only such level of intensity that is appropriate for a particular location in terms of land use compatibilities (Chapter 2, Section 5.L.1.c.). Therefore, staff strongly recommends limiting Building 5 to two-stories rather than three-stories, eliminating the eastern portion of the third story of Building 5, or increasing the width of the east landscape buffer so that the setback of Building 5 is equivalent to Building 3, Units 16 through 19.

### **Motion**

Ms. Horenburger moved for approval of staff comments.

Mr. Johnson explained the applicant is required to submit a drainage plan which is preliminary. The review showed a legal positive outfall. A more detailed review is always conducted at the time of permitting. Staff had no comments regarding the gate. There was no plan by the applicant to relocate the gate anywhere on site, and relocation off-site would have to be reviewed by staff.

Laurinda Logan, Sr. Engineer conducted a preliminary review and indicated the applicants addressed Engineering's concern. There was one condition of approval, noted as Comment 11 regarding the neighborhood's concerns with drainage and the additional ground elevation information so they can evaluate historic flows. This could be done during the permitting stage. She was approached about relocating the gate and the ability to make turnarounds. The homeowners need to work with the developer regarding a cross-access agreement for turn-around movements.

Mr. Myott thought a comment should be added that all buildings have like roof designs.

Mr. Mike Rumpf, Planning and Zoning Director, explained the roof was modified on Building 5 to minimize the height, which allowed the applicant to have smaller setback requirements. He elaborated Comment 64 had been addressed by both the board and the applicant. Comment 65 recommends the eastern half of Building 5 be reduced to two stories. He noted Comment 65 is not a new comment by staff. The same comment was used on the Seaview project, which influenced them to provide patios on the upper units. He explained they are meeting the minimum requirements of the IPUD. Staff is recommending above and beyond the Code to increase compatibility.

**Motion**

Mr. Myott moved to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) and Low Density Residential (LDR) to Special High Density Residential (SHDR) subject to all staff comments. Ms. Horenburger seconded the motion that unanimously carried.

**Motion**

Mr. Myott moved to approve the request to rezone from Community Commercial (C-3) and Single-Family Residential (R-1-AA) to Infill Planned Unit Development (IPUD) subject to all staff comments. Ms. Heavilin seconded the motion that unanimously carried.

**Motion**

Mr. Myott moved to approve the request for new site plan approval to construct 23 fee-simple townhouse units, swimming pool and related site improvements on a 1.429-acre parcel in the IPUD zoning district subject to all staff comments and the additional comment that all buildings shall have a similar roof design. Ms. Heavilin seconded the motion that unanimously carried.

D. Seacrest Boulevard

Land Use Amendment/Rezoning

1. PROJECT: Seacrest Low Density Residential (LUAR 06-014)  
OWNER: City Initiated  
LOCATION: West Side of Seacrest Boulevard from NW 3rd Avenue to north of NW 6th Avenue  
DESCRIPTION: Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Low Density Residential (LDR); and  
Request to rezone from C-2 Neighborhood Commercial to R-1 Single Family Residential  
Proposed use: No change proposed.

2. PROJECT: Seacrest High Density Residential (LUAR 06-015)
- OWNER: City Initiated
- LOCATION: West Side of Seacrest Boulevard from NW 3rd Avenue to north of NW 6th Avenue
- DESCRIPTION: Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to High Density Residential (HDR); and,  
  
Request to rezone from C-2 Neighborhood Commercial to R-3 Multi-Family Residential.
- Proposed use: No change proposed.

Ms. Matras, Economic Development Planner reviewed the request and recommended approval of both zoning amendments. The requests are consistent with the cited policies in the Comprehensive Plan, exceed the criteria outlined in the Land Development Regulations, and are in keeping with the Heart of Boynton Plan.

It was noted the high-density residential change was to accommodate the Ocean Breeze project. The land purchase that would be part of the single-family zone project should occur before April 19.

Ms. Heavilin had an issue with the first request up to NW 6th. She would prefer to see it zoned R-3. She explained it would afford the opportunity to put in a few additional units.

**Motion**

A motion was made by Vice Chair Norem to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Low Density Residential (LDR). Mr. DeMarco seconded the motion that passed by vote of 5 to 1. (*Ms. Heavilin dissenting*).

**Motion**

A motion was made by Vice Chair Norem to approve the request to rezone from C-2 Neighborhood Commercial to R-1 Single Family Residential. Ms. Horenburger seconded the motion that unanimously passed.

**Motion**

Vice Chair Norem moved to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to High Density Residential (HDR). Ms. Horenburger seconded the motion that unanimously passed

**Motion**

Vice Chair Norem moved to approve the request to rezone from C-2 Neighborhood Commercial to R-3 Multi-Family Residential. Ms. Horenburger seconded the motion that unanimously passed.

E. Monnin Alley

Abandonment

1. PROJECT: Monnin Alley (ABAN 06-006)  
AGENT: Mary Ann Monnin  
OWNER: N/A  
LOCATION: Alley located between NE 5th and NE 6th Avenues, extending approximately 150' west from NE 3rd Street.  
DESCRIPTION: Request to abandon a portion of an unimproved alley located between NE 5th and NE 6th Avenues, extending approximately 150' west of NE 3rd Street.

Mr. Ed Breese, Principal Planner, presented the request and recommended approval subject to the conversion of a 10' right-of-way to a 10' easement. Mr. Breese showed the location of the applicant's property and indicated the surrounding property owners are in agreement with the abandonment. The current zoning is C-4.

There were no comments received from the public.

**Motion**

A motion was made by Ms. Horenburger to approve the request to abandon a portion of an unimproved alley located between NE 5th and NE 6th Avenues, extending approximately 150' west of NE 3rd Street. Vice Chair Norem seconded the motion that unanimously passed.

Ms. Horenburger left the meeting at 9:00 p.m.

F. Deliverance by Faith Church

Conditional Use

1. PROJECT: Deliverance by Faith Church (COUS 06-006)  
AGENT: Michael E. Sipula, JMS Architecture Design, Inc.  
OWNER: Glenn Lyons  
LOCATION: South side of NE 10th Avenue, approximately 50' west of Railroad Avenue  
DESCRIPTION: Request for conditional use/new site plan approval for the construction of a 3,538 square foot church and a 1,712 square foot daycare center within a single structure, and related site improvements on a 0.666-acre parcel zoned C-2

Mr. Breese presented the request and recommended approval subject to the conditions in Exhibit C of the Conditions of Approval. The church is presently located on MLK and the yard will be fenced in. Daycare requirements mandate the play yard be enclosed.

Ms. Brooks explained the Heart of Boynton Redevelopment Plan calls for a node of commercial development on the east and west ends of MLK; one at Seacrest Boulevard and one at Federal Highway. The recently conducted retail demand analysis indicated having a lot of retail within

the Heart of Boynton would most likely be unsuccessful. This project is not sitting in the Heart of Boynton Plan but is within the Code. There presently is a small commercial building on one side of the project and vacant property on the west side.

Quintus Greene, Development Director for the City, clarified the reason the church is located at this site is because the current location and the property that was formerly owned by the church is on the north side of MLK within the Phase 1 Heart of Boynton Implementation Area. The City was able to work out an arrangement with the church for a land swap. The property the church is locating on was formerly owned by the City, and the City now owns the property within the Phase I area of the Heart of Boynton Plan.

Chairman Tillman opened the floor for public comments.

Mr. Lloyd Powell, on behalf of the property owner on 1112 North Federal Highway, the Alpine 7 Company, Inc., a/k/a Alpine Florist, was present. He expressed his thoughts it was in the best interest of the City to agree with the conditional use, and thought it was a shame the vacant building immediately to the south, formerly a pub, could not be included.

Chair Tillman closed the floor for public comments.

Mr. Myott had some questions.

Mike Sipula, Architect with JMS Architectural Design was present and responded to Mr. Myott's concerns as follows:

The structures over the windows are lean-to eyebrow roofs made of pickled wood, cedar exposed and tongue and groove underside plank.

They will use asphalt shingles. To use other materials, such as cement tiles would be a cost factor, probably twice as much, or more.

Mr. Myott suggested using bahama shutters as an option to the eyebrow roof.

**Motion**

A motion was made by Mr. DeMarco to approve the application.

Mr. Sipula requested confirmation about Condition 9, which was using a 35" sight triangle. Mr. Breese indicated there could be some flexibility on this request and suggested the board approve the condition subject to the condition meeting approval by the Engineering Department.

**Motion**

Mr. DeMarco amended his motion to approve the staff's approval of #9 and all the other conditions. Vice Chair Norem seconded the motion that unanimously carried.

It was noted Mr. Sipula was agreeable to using bahama shutters.

**VII. Pulled Consent Agenda Items**

C. Approval of Commercial façade grant to McDonalds - \$15,000

Mr. Myott questioned why a façade grant is being used for paving. He felt paving was maintenance. Ms. Heavilin explained they have approved façade grants in the past and a precedent has been set. The board could rewrite that portion of the policy for future façade grant requests to exclude paving.

**Motion**

A motion was made by Vice Chair Norem to approve the request. Ms. Heavilin seconded the motion. A vote was taken and the motion carried by vote of 4-1. (*Mr. Myott dissenting*)

F. Approval of FY05

Mr. Myott requested clarification on the Budget Amendment General Fund. He indicated funds are being moved. Mr. Robert Reardon, CRA Interim Assistant Director, responded there are some accounts that are no longer being used. Those funds could be transferred to balance other line items.

**Motion**

A motion was made by Mr. Myott and seconded by Vice Chair Norem to approve the FY05 Budget Amendment General Fund. A vote was taken and unanimously carried.

Ms. Heavilin suggested having a one-sentence explanation for these items for informational and audit purposes. Mr. Reardon will provide the information going forward.

G. Approval of Monthly Financial Results - March 31, 2006

Mr. Myott indicated the monthly financial results showed the expenditures at 21% and the receipts reflect 78%. He questioned whether this is normal at this point in the fiscal year. Mr. Reardon explained it was.

**Motion**

A motion was made by Vice Chair Norem to receive Item G and file for audit. Ms. Heavilin seconded the motion that unanimously carried.

I. Land Use and Zoning Amendment Update

Mr. Myott indicated the amendment is being submitted to the Department of Community Affairs (DCA) as a do not review application and asked what it meant.

Ms. Brooks responded not all the different agencies would review the amendment. It shortens process by about 30 days. She added the change is not a significant change and the request is consistent with state policy.

**Motion**

A motion was made by Mr. Myott and seconded by Vice Chair Norem to approve the request to submit the update as indicated. A vote was taken and unanimously carried.

M. Consideration of CRA Office Lease - 915 S. Federal Hwy (Sailfish Realty)

Attorney Amy Dukes explained this item was pulled because the board's back up was different.

She reviewed the changes in Article 2 regarding security deposits. The change was the landlord agreed to refund to the tenant the security deposit plus 3% interest and if the tenant terminates the lease, the tenant forfeits the refund unless something else could be worked out.

The other change was the landlord is being lenient in allowing the CRA to make any improvements whatsoever to the building, as long as they are notified in writing, and the landlord will repair anything over \$75.

It was requested the changes be reflected in redlining. Ms. Dukes explained the comments to the lease were received back from the landlord after the CRA packet was distributed to the board members.

**Motion**

A motion was made by Ms. Heavilin to approve the lease. Vice Chair Norem seconded the motion that unanimously passed.

N. Approval of AMBIT Marketing Contract

Mr. Myott indicated this is a significant contract and requested further information.

Margie Adelsperger, Marketing Communications Manager indicated after the RFQ, there were six different companies that responded. This company was the most qualified and the funds were available. Ms. Bright explained the original request came in at over \$200,000. Staff did a great job and tweaked the proposal down to get the basic marketing, public relations and collateral needs met until at least the end of the budget year (September 30th).

**Motion**

A motion was made by Mr. Myott and seconded by Vice Chair Norem to approve the contract. A vote was taken and the motion unanimously carried.

O. HOB Phase I Self-Assembly Update

Mr. Myott inquired whether Mr. Finkelstein and his partners signed the Letter of Intent. Ms. Bright responded they had.

**Motion**

Mr. Myott moved to approve Item O. Ms. Heavilin seconded the motion that unanimously carried.

**VIII. Old Business**

A. Consideration of Staff Job Task Analysis - Linsey Willis, LJ Craig & Associates

Dr. Linsey Willis was present and indicated she conducted over 18 hours of interviews spending time with each employee and developing job descriptions for the agency. She included a table of data and a report giving recommendations concerning staffing changes, and financial considerations. Ms. Bright indicated the comprehensive document is in the CRA office and is voluminous. It is available for inspection or copying. Action on this item will take place next month. Ms. Bright will send out a condensed memo for the board's review.

B. Updated of Old High School Charrettes and Consideration of RFP Solicitation

Corey O'Gorman, CRA consultant provided an update on this item and indicated he conducted Open House Sessions. Those who attended the sessions supported renovation, reuse, and adaptive reuse of the building and preferred uses whether public or private, that gave public access to and use of the building. The 52 people who attended the Open House Sessions agreed that well maintained grounds could be used for public entertainment and events and supported public funding of the project. The public input has been incorporated into the solicitation and the CRA is preparing to issue the solicitation which requests statements of qualifications and conceptual proposals from firms that are qualified to renovate and occupy the old high school. The firms also need to have a proven record of providing the financing necessary for the renovations as well as long-term operation and maintenance. The requirements of the solicitation are demonstrated financial capabilities; conceptual renovation plan, description of proposed uses and a business plan for long-term operation. There is a mandatory pre-proposal meeting scheduled for May 12, and proposals will be due on June 21, 2006.

There were no comments from the board on this item. Ms. Bright indicated legal staff has approved the draft solicitation.

C. Consideration of CRA Land Trust - Tim McKenzie, Burlington Associates

Ms. Bright indicated this item was a continuation of an idea from the former director to create a land trust. Currently the CRA staff did not have a mechanism for implementation. In January, she spoke with Burlington Associates who helped Delray implement their program. Mr. McKenzie indicated to her that there are policy issues involved.

Mr. McKenzie indicated for a Community Land Trust Program (CLT) to meet its full potential, the community needs to know and understand there is a big difference between an affordable ownership housing program and an affordable ownership payments program. The distinction has to do with outcome. He explained he has been involved with the start up of 80 Community Land Trust Programs and there are now close to 200 modeled after the ones from Burlington, Vermont.

To aid the board members in policy decisions, he explained in 2004 the Department of Housing and Urban Development (HUD) performed a retrospective report on the first 10 years of the H.O.M.E. program. As an entitlement community, Boynton Beach received a check from HUD each year since 1992. HUD assisted 270,000 individuals nationwide purchase a home. With the exception of the 3,000 homes that are CLT homes, each one of those homes sold to the initial homebuyer at an unaffordable price, and each home has either already sold or will soon sell at an unaffordable price to the next buyer. The policy question is what possible outcome could be expected from a program that is designed to assist income qualified, credit worthy, mortgage ready households purchase unaffordable homes, other than the homes are unaffordable.

Burlington created an alternative to the program and not an adjunct and:

- The program does not require more money be spent, just that the funds be spent wisely.
- For the same dollars, the policy shift for consideration is the difference between providing subsidy to a buyer to purchase a home that is unaffordable and will continue to be unaffordable, or subsidizing the property itself so the property can sell at a price the public can afford, in exchange for an agreement which was to pass the deal on to the next buyer.
- Each buyer earns equity.
- Each CLT comes up with a formula that allows each homebuyer to earn some percentage of the increased value of the property.
- He explained his study of communities that run both programs side by side, is the CLT program withers.

He elaborated the non-CLT program favors the homebuyer, but the public's benefit for those dollars invested is nearly zero. Within the period of time the average homebuyer will sell their home, when they sell, in that year any subsidies that are being provided to replace that unit are replacing a unit that was already paid for once. His thought was to keep adding to the system until you have as many units as you need. It will never get larger than it needs to be because people would prefer to purchase a home without restrictions. He explained an appraiser cannot use a restricted transaction as a comparable for an unrestricted transaction because they are two separate markets. He encouraged Boynton Beach take the same approach as Delray Beach. He applauded the CRA's resolve in securing funds to begin the program.

Mr. Myott requested confirmation that if you have a CLT, that program should be the only program available. Mr. McKenzie responded you achieve the same outcome without using a ground lease, which is the core legal mechanism that allows for enforcement and monitoring of the resale restrictions and affordability covenants that would normally be imposed via a deed and a second mortgage on the homebuyer. It can be done with a deed. He suggested the entity to receive the funds be charged with the task of managing the resales. He explained there are very subscribed governance models for a CLT. There are classic model bylaws, model ground leases and much of the detail has been worked out. It will require the communities collaborate on the idea.

Ms. Bright explained Boca Raton and Palm Beach County have approached Boynton Beach to consider a land trust. She explained she would like the board to consider starting a discussion with the City of Delray Beach to determine whether they could discuss a partnership opportunity

or contract for services since they are already involved. She requested clear guidance and if the board is not interested in this avenue, to alert her and she will take it off the agenda.

Chairman Tillman explained this item should be workshopped. He indicated he thought the board would like to consider it, but could not to make the determination right now.

Ms. Heavilin explained she would like more information. She indicated the materials she reviewed made sense to her but it would require a shift in affordable housing thinking. She would like to have a workshop, but it was noted by Ms. Bright the fallback dates are already booked and she would have to work with the members.

**D. Approval of Urban Design Guidelines for CRA**

Ms. Brooks explained the document contained a great deal of input from the board. There was an issue with Chapter 11 of the document, pertaining to streetscapes. It was suggested hiring outside help to rewrite the chapter. Ms. Brooks did not recommend that avenue. She explained the issues have not been with the contractor (RPF) or the content, as it is with the assistance and technical side of the issue. RPK was put under contract for a park design and has a good reputation regarding landscaping. She believed she ameliorated the board members concerns by taking out exact names of street trees and saying "where there are adopted streetscape plans, developers will follow those" or if there is existing streetscape, the developer will follow that. She indicated she believed the issue was addressed by leaving the process dependent on which district in the CRA area one lives in, and allowing the development to follow the particular designs that are already approved.

Mr. DeMarco would like to see the figures for the consulting fees and a list of the consultants, who the consultants are, how much was spent and what benefit was gained.

Ms. Brooks explained, if you pay the consultant fees and do not implement the recommendations, the fees spent would be wasted. The benefit is that hopefully the projects will be better designed and more fitting to what they would like to see. She also added this particular issue was started in 2004.

**Motion**

Mr. Myott moved to approve the Urban Design Guidelines. Ms. Heavilin seconded the motion.

Ms. Heavilin asked if any developers reviewed the document.

Ms. Brooks responded when developers meet with her, most of what she advises them is out of the manual. She explained they are guidelines and there is some flexibility, but most architects are familiar with urban design guidelines.

**Vote**

A vote was taken on the motion that unanimously passed.

**IX. New Business**

**A. CRA Board Policy Discussion**

**X. Comments by Board Members**

Mr. Myott inquired about correspondence received from PomCor, Inc., It was explained it was mail that was copied to the members for informational purposes only.

Ms. Heavilin indicated she would like to resume discussions with the City to revisit the Heart of Boynton Plan. Ms. Bright explained the CRA is waiting on a feasibility study. To date, some preliminary information was received. Treasure Coast should be making a presentation to the CRA at the next meeting. From there, the CRA can decide whether to meet with the City Commission.

Vice Chair Norem suggested reviewing the Façade Grant Program as it pertained to paving. He recognized paving is, to some extent, an aesthetic issue but was also a maintenance issue. He suggested the grant should come with some expense to the owner. Ms. Brooks explained the grant is a match program.

Ms. Robin Murray, Economic Development Planner, explained what is helpful to board members and the public is to have clear definitions.

Chairman Tillman commented he was happy to be Chairman and glad to have Vice Chair Norem as Vice Chairman. He believed that with support, they would become more effective. He expressed he intends to be successful with this endeavor. He expected the members to do their best and was glad to be in with a group of individuals that has the ability to continue to rise to higher heights.

**XI. Comments by Board Attorney**

**XII. Comments by Staff**

Ms. Bright expressed her excitement with the new leadership. She reminded the members the State of the City Luncheon will be held on April 12th. She announced the Visioning Workshop will move forward and the City Commission has appropriated funds for that process.

**XIII. Future CRA Workshops:**

April 20, 2006 - City/CRA Development Project Presentations - Senior Center: 6:00 to 8:00 p.m.

**XIV. Adjournment**

There being no further business, the meeting adjourned by consensus at 10:13 p.m.

Respectfully submitted,

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Catherine Cherry-Guberman  
Recording Secretary  
041206

