

**MINUTES OF THE COMMUNITY REDEVELOPMENT AGENCY  
HELD IN COMMISSION CHAMBERS, CITY HALL, BOYNTON BEACH, FLORIDA  
ON TUESDAY, JUNE 13, 2006 AT 6:30 P.M.**

**Present:**

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

Ken Spillias, Board Attorney  
Lisa Bright, CRA Director

**I. Call to Order**

Chair Tillman called the meeting to order at 6:30 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

Ms. Bright made an addition to New Business, IX-1.A, Consideration of Off-Duty Police Detail Contract for Marina Roadway Construction. She also added under New Business 2.A, an InTown Development Presentation – HOB Phase 1 Project Area, and B., Lamar Realty Development Presentation – HOB Phase 2 Project Area. Mr. Finkelstein of Lamar Realty was under medical restrictions requiring reasonable accommodation, i.e. he could not sit in the audience and had to be notified forty-five minutes ahead of his presentation. Chair Tillman thought it might be late when New Business was discussed, and asked if the board wanted to have a second meeting for the presentations. Ms. Heavilin suggested waiting until 9:00 p.m. or 9:30 p.m. to make that determination. Ms. Horenburger felt a discussion of the Board Attorney's memorandum on CRA Redevelopment Requirements for the Acquisition and Disposition of Real Property might lead to not hearing presentations at this meeting. One of the options in the memorandum was to go out for Requests for Proposals, for example. The board agreed to make a decision on the presentations later in the meeting.

B. Adoption of Agenda

**Motion**

Ms. Heavilin moved to approve the agenda as amended. Ms. Horenburger seconded the motion that passed 7-0.

**IV. Consent Agenda**

- A. Approval of the Minutes – CRA Meeting May 9, 2006
- B. Approval of Financial Results – May 31, 2006 (*Pulled by Steve Myott*)
- C. Approval of McDonald's Façade Grant Reimbursement - \$15,000
- D. Approval of a Residential Façade Grant – Volarich - \$4,162.50 (*Pulled Before Meeting by Director*)
- E. Reimbursement of the Boynton Beach Boulevard Self Assembly and Redevelopment Incentive Grant - \$6,060.00
- F. Rescind Old High School Inter-local Agreement & Replace with an Interlocal Agreement without Financial Consideration (*Pulled by Marie Horenburger*)
- G. Approval of Short-Term Lease Agreement with Current Builders - \$800.00
- H. Approval of CRA Classification & Pay Program (*Pulled by Guarn Sims*)
- I. Approval of Resolution No. 05-16 – Prohibition of Former Employees (*Pulled by Jeanne Heavilin*)

**Motion**

Mr. DeMarco moved to approve the Consent Agenda as amended. Vice Chair Norem seconded the motion that passed 7-0.

**V. Public Comments**

Chair Tillman opened the floor for public comment on any item not on the agenda.

**Lee Wische, 1302 S.W. 18<sup>th</sup> Street**, asked Chair Tillman whether Vice Chair Norem making most of the major motions at the past couple of meetings was by design or coincidence. It did not look right to him. Chair Tillman responded that motions were made at the will of the board members who wished to make them.

**Jerry Taylor, Mayor of Boynton Beach, 1086 S.W. 26<sup>th</sup> Avenue**, thanked the members for serving on one of the most important boards in the City. The CRA had a lot of control over what was going to happen in the City. The entire community counted on the actions of this board. He felt there were two major items coming before the board that required action: 1) the redevelopment of the Heart of Boynton and 2) the Ocean One project. He expressed concern that it was a matter of waiting for something to happen in those areas. The people in the Heart of Boynton often came to him and asked, "When is something going to be done?" Making something happen was a tremendous responsibility and it lay with the CRA. He felt the Ocean One project was a major link in the downtown redevelopment. He realized the CRA had not liked every aspect of Ocean One's project, and that was fine. He hoped the board could form a consensus of what it wanted to see, give that to the developer and this would allow the

developer to come back and offer a counter proposal. A decision could be made fairly quickly. In business, time was money. If the people interested in developing the HOB area were delayed too long, they could "pack their bags and leave town." It was not possible to please everyone. Mayor Taylor recalled the decision to take down the Boynton Terrace Apartments, which did not please everyone. It seemed they had heard enough input from the citizens and it was time for the CRA to form a consensus of what it wanted to see in a project, and make something happen in the Heart of Boynton.

**Willie Aikens, 726 N.E. 1<sup>st</sup> Street**, said the Heart of Boynton residents had done a lot of waiting and did not know what was necessary to see some action in the area. He wanted to see everyone come together with one accord. People had spent money and were waiting to see what was going to happen. He asked what the CRA was actually looking for and why action had been delayed for so long. The citizens were frustrated.

**Rod Silverio, 10 Velaire Drive**, echoed Mr. Aikens comments. He brought a client interested in the Heart of Boynton to a CRA meeting, but that scared the client away – the process was too long, he felt. He sought the guidance of the CRA in what it wanted so he could transmit that information to his client, who was still interested. There were many people interested in working with the Heart of Boynton, not just the big developers, but independents, and individuals. He thought T.I.F. money was available and asked if it could be used for the Heart of Boynton.

**Doris Jackson, President of Poinciana Heights Neighborhood Association, 531 N.W. 10<sup>th</sup> Avenue**, declared community residents had been meeting and were waiting for something to happen in the Heart of Boynton. They were working on such issues as speed control, lighting and other issues. They had a lot of young children and elderly in their neighborhood and something needed to be done. Also, they did not want to look at grass growing in vacant lots for long periods of time. They hoped something could get started in the Heart of Boynton and were definitely waiting for the Wilson Center. They really wanted that because this summer, their children were trying to find places to go.

Hearing no further requests to speak, Chair Tillman closed the floor to public comment.

Lisa Bright clarified that Ocean One had not come in with a request to be on this agenda. They came in with a request for staff to prepare some parking analyses for the board and she planned to bring that to the July meeting.

Mr. Sims was in agreement that something needed to happen. It would be devastating from a public relations standpoint if, three to five years from now, things remained just the same. There was still too much fragmentation. A lot of residents had comments, but there did not seem to be any unification. He was especially concerned since he recently attended Heart of Boynton group meetings where the representation had been poor. Such a lack of representation was problematical. In the May meeting the need for unification was stressed. They needed to be of one accord. They needed to develop one unified concept of what they wanted to see in the Heart of Boynton. Contrary to what some believe, a group representing the Heart of Boynton was coming together to develop a unified concept. He contended the developers had to involve the residents and incorporate what they wanted to see in these contract proposals and to date, that had not taken place. He challenged residents to attend the next Heart of Boynton meeting. He encouraged the residents to participate and become part of this

opportunity to develop strategy and form a unified idea of what they wanted to see incorporated in the Heart of Boynton Plan. Their ideas could then be presented to developers.

## **VI. Public Hearing**

➤ Old Business: - None

➤ New Business:

A. Comprehensive Plan Policies 1.9.5 and 1.16.1 Cycle 2 – 2006 Amendments - Comprehensive Plan Text Amendment

1.	Project:	<b>Comprehensive Plan Policies 1.9.5 and 1.16.1 (CPTA 06-001)</b>
	Owner:	City-initiated
	Description:	Request to amend Future Land Use Element policies 1.9.5 and 1.16.1 of the City of Boynton Beach Comprehensive Plan.

Attorney Spillias declared the quasi-judicial board procedures were available at the rear of the Chamber for interested parties. He then asked the Board members to reveal any ex-parte communications they might have had with anyone appearing before the Board at this meeting. Vice Chair Norem and Mr. Myott had both met with Bonnie Miskel on Sunshine Square and Casa Del Mar.

Board Attorney Spillias then swore in all who planned to speak during the Public Hearing portion of the meeting.

Dick Hudson, contract employee, made a presentation on behalf of Planning & Zoning Department staff. He explained that two recommendations had arisen from City and CRA workshops regarding updates to the various redevelopment plans. Text and land use amendments were before the board for consideration. They were meant to encourage mixed-use land use on the Woolbright Corridor from the Florida East Coast Railroad to I-95 and create workforce-housing opportunities throughout the City. Staff recommended approval of the proposed text amendments by the CRA, the Planning and Development Board, and the City Commission. Staff found the amendments consistent with the City's adopted Comprehensive Plan. If approved by the City Commission, they would be transmitted to the Florida Department of Community Affairs (DCA) for their review.

The first text amendment was to allow the City to substitute a section of Woolbright Road between the Florida East Coast Railroad right-of-way and I-95 as one of the primary target area overlays, so they could do a corridor study there. The second amendment was a delineation of the future land use categories on the future land use map. They felt Special High Density Residential was an ideal mechanism to use in Area 1 and Area 5 and elsewhere in the City if it provided the City with some affordable housing.

Ms. Horenburger spoke to some property owners along Woolbright Road, especially the Farm Store people. She wondered when the change was made from Golf Road to Woolbright. Mr. Hudson responded there was very little that could be redeveloped along Golf Road. Ms.

Horenburger asked with eminent domain gone, what expectation could they have for these kinds of properties to turn over if the property owners did not want them to. Mr. Hudson said they had not seen eminent domain used in any of the categories. Ms. Horenburger was curious because there was a single-family neighborhood to the north of this. This was a neighborhood where younger people were moving in and she wondered what impact a mixed use development would have on that single family neighborhood. Mr. Hudson did not think this would affect them any more than the changes they were proposing on Boynton Beach Boulevard. He acknowledged the property was very narrow, saying there would be a lesser height immediately adjacent to the single family homes.

Mr. Sims asked if there were similar plans for any other areas in the CRA and Mr. Hudson indicated there were no plans at the moment.

Chair Tillman asked if the Corridor Study would include information showing the impact of development to the west of the Florida East Coast Railroad tracks. Mr. Hudson mentioned the revisions to the Federal Highway Corridor Plan would give consideration to this.

**Motion**

Ms. Heavilin moved to approve the request to amend the Future Land Use Element policies 1.9.5 and 1.16.1 of the City of Boynton Beach Comprehensive Plan as presented by staff. Vice Chair Norem seconded the motion.

Chair Tillman opened the floor for public comment.

**Flynn Holland, resident of Boynton Beach**, knew Woolbright was not in the CRA area, but she had yet to see a traffic study for any of the development going on. She had not found information on any traffic study. She asked how they could develop Woolbright Road without taking the big development at Woolbright and Federal Highway into account. Mr. Hudson responded each development that came in was required to present the City with a traffic study, which could be accessed in the files of the Planning and Zoning Department. She mentioned there was no way for the kids from the single-family residential area across the street from Little League Park to get across Woolbright safely.

Hearing no further requests to speak, Chair Tillman closed the floor for public comment.

The motion passed 7-0.

**B. Sunshine Square Land Use Amendment/Rezoning**

- |    |              |   |
|----|--------------|---|
| 1. | Project:     | <b>Sunshine Square (LUAR 06-016)</b>  |
|    | Agent:       | Ruden McClosky, Bonnie Miskel, Esq., and Kim Glas-Castro, AICP  |
|    | Owner:       | Sunshine Square CRP, LLC  |
|    | Location:    | Southwest corner of Woolbright Road and South Federal Highway   |
|    | Description: | Request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Mixed Use (MX); and |

Proposed Use:

Request to rezone from Community  
Commercial C-3 to Mixed Use Low (MU-L).  
Mixed use development

Mr. Dick Hudson spoke on behalf of Planning & Zoning Department staff. He declared this was a large scale amendment to the Comprehensive Plan to allow a mixed use development containing 57 residential units for an overall density of 39.94 dwelling units per acre (du/ac), 150,602 square feet of commercial retail use and 11,050 square feet of office use for a Floor Area Ratio (FAR) of 1.71 in the area now known as Sunshine Square Shopping Center at the corner of Woolbright Road and Federal Highway. The Valero gas station was not included in the amendment.

Staff recommended approval of the requested land use amendment for transmittal to the Florida Department of Community Affairs. Staff declared the changes were consistent with the policies of the City's adopted Comprehensive Plan, particularly the portions of policy 1.16.1 defining the *Mixed Use* land use category and the implementation of the *Boynton Beach 20/20 Primary Target Area Overlays*. The requested land use amendment and rezoning met or exceeded the criteria for review, as required in the Land Development Regulations. The proposed redevelopment plan is consistent with the proposed amendments to the, but should only receive final approval if a Federal Highway Corridor Community Redevelopment Plan site plan for the development is approved concurrently, and if proposed changes to the Federal Highway Community Redevelopment Plan and the Mixed Use zoning districts are adopted.

Mr. Hudson gave a condensed report on the conceptual site plan provided by the developer. The full site plan would come back before the board and had to be approved before these changes were finally adopted.

**Bonnie Miskel, Esq., of Ruden McClosky**, spoke on behalf of the applicant, Sunshine Square CRP, LLC. The applicant wanted to redevelop the site as soon as possible. The existing Sunshine Square was not well planned to take growth into consideration. There were several long-term tenants with leases and the site plan was geared to accommodate them, including Publix. It was hoped the improvements would help to generate more profits for the lessees.

**Mike Hammond, Managing Partner with RAM Development**, a Florida developer, gave a brief overview presentation about RAM Development. Mr. Hammond explained they did a lot of mixed use developments in Florida and gave examples of ones that might be familiar to the audience. One was Midtown, which was on PGA Boulevard between the Turnpike and I-95, a truly mixed use project, with 225 condominiums, a 500-seat cultural center and church, and about 100K sq. ft. of retail including restaurants – no big boxes. They also completed Pineapple Grove Village in downtown Delray Beach in the CRA area. They own and manage luxury rental apartments in Florida, Michigan, and North Carolina.

**Hugo Pacanins, Development Manager for RAM Development**, showed some slides that gave an overview of the project. The proposed project included 576 residential units for a density of about 40 du/acre. It also included 11K sq. ft. of office space and 150K sq. ft. of retail space, including the new Publix space. They planned to relocate the traffic signal currently close to the railroad tracks to half-way between Federal Highway and the railroad tracks. There would be ground floor retail with residential on top, and the project would be phased to accommodate existing tenants. Tenants would be moved to new retail space as it became available to avoid

disruption of their businesses. Phase 1 would be on the east side of the property and construction could begin September 2007 if approvals were received by the end of this year. The second phase was the creation of a new Publix because the existing Publix wanted to stay in operation during construction. They had created a demolition schedule for the project.

Bonnie Miskel declared if the board recommended approval to the City Commission and the City Commission approved as well, the amendments would go to the DCA. The applicant was working with City staff on the site plan requirements and would bring a full site plan presentation before the board for comments and questions at that time.

Ms. Horenburger indicated she was a frequent shopper at Sunshine Square and wanted assurance that the Boynton Diner and the Music Center, both integral parts of the community, would be allowed to stay. Ms. Miskel responded some tenants with long-term leases were staying and others had been bought out. They would be accommodating the ones that wished to stay.

Mr. DeMarco asked what would happen to the gas station. Ms. Miskel commented they had declined on the price offered, but could come in later if they wished. Mr. DeMarco asked how many stories would be involved, and Ms. Miskel responded, seven stories and 80 feet. Mr. DeMarco asked what kind of parking they would have. Ms. Miskel responded the majority of the parking was structured parking, but there would be some driveway parking on the street. This would be presented at a later date in depth.

Mr. Myott felt it was only a matter of time before commuter rail was on the FEC tracks. He encouraged the Commission and DCA to look for inclusion of a rail transportation node on this site. While he did support the rezoning to mixed use, all parking would need to be compliant with the residents and the businesses and have convenient parking for the retail to succeed. He also encouraged working towards incorporating the gas station into the site and making it a more attractive gas station that could somehow represent the rest of the project.

Ms. Heavilin was pleased they were finally establishing Woolbright and Federal Highway as one of the city's major intersections or mixed use nodes.

Mr. Sims hoped other developments would keep to the standards in the proposed project. It seemed they planned to maintain some of the existing culture. He was a frequent shopper at that mall as well.

Chair Tillman opened the floor to comment from the public.

**Rod Silverio, resident of Boynton Beach** commended RAM for suggesting phases for the proposed development, since many of the bigger developments had stood empty and blighted for a long time. He also commended them for accommodating the existing businesses who wished to stay. This was a main corridor for the City and the residents wanted to look at something nice while development was going on. He hoped the developer would keep the phased approach.

**Betty Patterson, owner of a small strip of land on the south side of Woolbright**, said she had lived in the area since 1947. They developed their little plaza and kept it up well. She was worried about the additional apartments, but understood about the stores. Ms. Patterson

emphasized there were so many apartments and condos in Boynton Beach now, wherever she went. She cautioned that the water could become scarce and this should be taken into consideration. Also, at one time the City had tried to have buildings that were lower in height and now the City had gone out of sight with building heights. She spoke of the results of overdevelopment, saying the home of wild things like alligators had been usurped by development and the alligators were forced to come onto residential properties, where they had killed people. This never happened before all the development started. She agreed with a need to beautify, but asked the City and the board to think about what it was doing in terms of development, and consider that it might really be too much.

**Flynn Holland** asked if all the residential was for sale and the response was affirmative. She anticipated this project would bring another 1,000 people to Boynton Beach and questioned where they would park at the beach. Boynton had been a small beach community and now they were putting in thousands of people and changing the landscape of the residential areas. She expressed concern the City was putting thousands of people in an area that was in a known flood zone. There were accidents on Golf Road, Boynton Beach Boulevard, and Seacrest Boulevard all the time. Traffic was intense. She did not think the streets could take this amount of development. She asked what happened to the sewer plan? She asked if they were moving faster than the infrastructure plan. She asked to have answers to her questions.

Hearing no other people wishing to speak, Chair Tillman closed the floor to public comment.

Vice Chair Norem mentioned that in their staff summary reports, this plan showed a potential reduction of 2,000 trips from the current trip count for the property.

### **Motion**

Ms. Horenburger moved to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial (LRC) to Mixed Use (MX); and the request to rezone from Community Commercial C-3 to Mixed Use Low Density (MU-L) in order to redevelop the shopping plaza as a mixed use development. The mixed use development would contain 576 residential units for an overall density of 39.94 du/acre, 150,602 sq. ft. of commercial retail use, and 11,050 sq. ft. of office space for a Floor Area Ratio of 1.71, subject to all comments in the Executive Summary Review and Analysis. Vice Chair Norem seconded the motion.

Ms. Heaviln asked if it was appropriate to include the specifics for the project instead of the land use. Mr. Hudson indicated DCA would not see the rezoning at all. They only cared about the Future Land Use amendment. They went hand-in-hand, though, because the City believed a land use amendment had to have a companion rezoning.

The motion passed 7-0.

### C. Inlet Cove Association (INCA) Land Use Amendment/Rezoning

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|----|-----------|--|
| 1. | Project:  | <b>Inlet Cove Association (INCA) (LUAR<br/>06-019)</b> |
|    | Agent:    | City of Boynton Beach                                  |
|    | Location: | North Federal Highway and the Intracoastal             |

Description:	Waterway; between the C-16 Canal and Mariners Way, and between Martin Luther King, Jr. Boulevard and Northeast 6 <sup>th</sup> Court Request to amend the Comprehensive Plan Future Plan Use Map from Mixed Use to Low Density Residential
Proposed use:	No change

Hanna Matras, Economic Planner, presented the City-initiated request to amend the Comprehensive Plan Future Land Use Map for the INCA area from Mixed Use to Low Density Residential. Ms. Matras explained this action was being suggested to reverse a decision made in 1989 to allow mixed use in this area. At that time, there were a lot of single family homes there that were not in good repair. Staff recommended that the land use amendment and rezoning be approved. The residents of the INCA area support the change.

Mr. Sims asked if commercial would be allowed and if so, in what areas. There were some businesses to the north of this area he was concerned about. Mr. Breese commented the proposed amendment would be applied only to the residential area behind the commercial, which was not changing.

The board did not have any questions or comments.

Chair Tillman opened the floor for public comment.

**Louise DiCamara, 836 East Drive, Harbor Estates**, resident of the subdivision in the north section of the south side of the C-16 canal, indicated it was zoned R-1-AA Single Family Residential. It had been that way ever since zoning came into effect. The Mangrove Walk area was from Martin Luther King Boulevard to N.E. 6<sup>th</sup> Court and zoned R-1-A. Both of the areas were in the INCA land use amendment area. She applauded the City staff for initiating this amendment, which would change the future land use from mixed use to low density residential and bring the Comprehensive Plan into compatibility with the existing properties.

**Stan Nitkowski, President of INCA Neighborhood Association**, declared he understood the Federal Highway Corridor would remain the same, so those commercial properties directly on Federal Highway would retain their commercial privilege. The discussion was of the neighborhoods directly behind them that are residential neighborhoods. The entire area along the east side of Federal Highway was being redeveloped as residential and INCA was very supportive of this.

Chair Tillman closed the floor to public comment when no one else came forward.

### **Motion**

Ms. Horenburger moved to approve the request to amend the Comprehensive Plan Future Land Use Map from Mixed Use to Low Density Residential, LUAR 06-019. Vice Chair Norem seconded the motion that passed 7-0.

D. Casa del Mar Land Use Amendment/Rezoning

1. Project: **Casa del Mar (LUAR 06-018)**

Agent: Bonnie Miskel, Esq., and Kim Glas-Castro,  
AICP of Ruden, McClosky, Smith, Schuster &  
Russell, P.A.

Location: Ocean Boulevard Properties, LLC  
2632 North Federal Highway (east of  
Federal Highway, north of Dimick Road)

Description: Request to amend the comprehensive Plan  
Future Land Use Map from Local Retail  
Commercial (LRC), High Density Residential  
(HDR), and Low Density Residential (LDR),  
to Special High Density Residential (SHDR,  
20 dus/per acre); and

Proposed Use: Request to rezone from Community  
Commercial (C-3), Multi-Family Residential  
(R-3), and Single-family Residential (R-1AA)  
to Infill Planned Unit Development (IPUD).  
Multi-family development (82 units at 19.95  
dus/acre)

D. New Site Plan – Casa del Mar

2. Project: **Casa del Mar (NWSP 06-015)**  
Agent: Bonnie Miskel, Esq., and Kim Glas-Castro,  
AICP of Ruden, McClosky, Smith, Schuster &  
Russell, P.A.

Owner: Ocean Boulevard Properties, LLC

Location: 2632 North Federal Highway (east of  
Federal Highway, north of Dimick Road)

Description: Request for new site plan approval for the  
construction of 42 townhomes, 40  
condominiums, recreational amenities and  
related site improvements on 4.11 acres to  
be zoned IPUID.

Height Exception – Casa del Mar

3. Project: **Casa del Mar (HTEX 06-007)**  
Agent: Bonnie Miskel, Esq., and Kim Glas-Castro,  
AICP of Ruden McClosky, Smith, Schuster &  
Russell, P.A.

Owner: Ocean Boulevard Properties, LLC

Location: 2632 North Federal Highway (east of  
Federal Highway, north of Dimick Road)

Description: Request for a height exception of  
approximately nine (9) feet to allow a  
mansard roof to exceed the maximum

building height of 45 feet, for a total of 53 feet 6 inches (53' 6") at its highest point.

Steve Myott recused himself from voting on the Casa del Mar items since he was employed at the architectural firm that was representing the project. Mr. Myott provided a voting conflict form to the Recording Secretary for inclusion in the record. Ed Breese, Principal Planner, asked for the board's permission to present all three Casa del Mar items at one time and the board concurred.

Mr. Breese informed the board the proposed project would promote the efficient use of a long narrow 4.11-acre parcel of land from Federal Highway to the Intracoastal. The agent and applicants agreed with all conditions of approval.

Mr. Breese displayed the site plan and described it, including the elevations of the townhouses and condominium buildings. The condominium building would be a four-story building with parking underneath. There would be 10 units on each floor for a total of 40 units. The principal ingress and egress points would be off of Federal Highway. A secondary ingress/egress was located on Dimick Road on the south side of the project. Recreation amenities would include a community swimming pool and one-story clubhouse located on the Intracoastal Waterway, various usable open space areas on site, a central fountain, and public artwork visible from Federal Highway. There was a 20-foot setback from the townhouse buildings along Dimick Road, which mirrored the front setback of single-family residences on the south side of Dimick Road. The proposed condominium building would be set back 20 feet from the southeast property line, with a building step-back of 17 feet from the second floor upwards. The project was evaluated against the Land Development Regulations criteria and found to be in compliance. The property's location within both the Community Redevelopment Area and the Planning Area 1 of the Federal Highway Corridor Study supports the requested increase in allowable density for the area.

The height exception for the condominium building was for 9 feet to accommodate a roof over the top of the stairwells and elevator.

Staff recommended approval of the land use amendment/rezoning, the new site plan, and the height exception.

**Bonnie Miskel** spoke on behalf of the applicant, saying she had been the attorney that presented The Peninsula project adjacent to the subject property. At the time, The Peninsula was one of the first projects that helped to create a special sense of place for Boynton Beach traveling south on Federal Highway. They had tried to create a "wow" project that was unique, neighborly, and pedestrian friendly. The applicant also tried to create a "wow" project that would make a passerby believe this would be a nice place to live.

**Jim Williams, architect with Quincy Johnson Jones Myott Williams,** reviewed some of the characteristics of the site plan. He displayed aerial views and elevations that showed the colonial island style of architecture. There were two different color schemes for the townhouses and another for the condominiums. The townhouses were all three stories in height of a traditional neighborhood design with the garages in the rear, the entries facing public streets or an internal linear parkway. The condominiums are four stories in height. The project had lush, heavy landscaping.

In response to Mr. DeMarco's concern about the two parcels that were not part of the project, Ms. Miskel responded the owners had been approached, but were not under contract. Mr. DeMarco also asked about the parking. Mr. Williams responded this had been worked out during the staff review and the applicant had added over and above what was required for parking. In addition to the nine spaces on Dimick, there were additional guest spaces scattered throughout the site. Mr. DeMarco asked if off-street parking would be in the way of traffic and Mr. Williams responded it would not.

Ms. Horenburger asked how big the setback was on Dimick Road. Mr. Williams responded it was eighty feet from the front of the townhouses to what could be built across the street in the single-family area.

Chair Tillman opened the floor for public comment.

**Stan Nitkowski, President INCA Neighborhood Association**, asked the CRA to pay special attention to this project and remember it for future reviews in regard to the 20-foot set back from Dimick Road, plus 9 feet for parking. This was the first project they had seen where there was an IPUD directly across from residential homes in a neighborhood and to see that large setback made INCA very happy. They hoped this would be a precedent moving forward.

**Mona Murchak, 2624 Lake Drive North**, resident of the home on the corner between Lake Drive North and Dimick Road, expressed her concerns. She was concerned the change in zoning would drive down the property values of the existing homeowners in the area. She was also concerned about traffic, noise, and congestion. She was concerned that cars would be parking up and down Dimick Road and blocking access to the residential properties. Dimick Road was a run down, old road that was difficult to park on.

Ms. Miskel responded to Ms. Murchak's concerns, saying they were going to improve Dimick Road to raise its quality. The only parking anyone would see was what was planned for Dimick Road today, approximately 9 spaces. They actually showed fewer openings on Dimick than if the parcel were to be developed as a single-family parcel. They were reducing the movements onto Dimick by only having the one opening.

Ms. Murchak asked if people could still walk through. Ms. Miskel responded there would be sidewalks and it would be more pedestrian friendly than it was at the moment.

Ms. Murchak asked how this would affect access to the water. Ms. Miskel responded one portion of the development would go all the way to the water. This plan had a one story building on the water so the condo building, the taller one, was set back significantly more than its neighbors, helping to preserve the view.

Ms. Murchak asked about what had been done with the sewage system where the nursery had been. She contended when it rained heavily, the City had to come pump out sewage. Ms. Miskel commented they would have to comply with all City Codes regarding water and sewer improvements. There was no drainage mechanism at all on an undeveloped site. Their complying with all Water Management and City rules should actually improve the situation.

Ms. Murchak asked whether garages would be facing Dimick Road, and the response was negative. She also asked if they were providing traffic lights to get in and out of the project, and the response was negative.

Chair Tillman closed the floor to public comment when no one else wished to speak.

**Motion**

Ms. Horenburger moved to amend the Comprehensive Plan Future Land Use Designation from Local Retail Commercial, High Density Residential and Low Density Residential, to Special High Density Residential and rezone from Community Commercial, Multi-Family Residential and Single-Family Residential to Infill Planned Unit Development. Vice Chair Norem seconded the motion that passed 6-0, Mr. Myott recused.

**Motion**

Ms. Horenburger moved to approve the request for new site plan approval for the construction of 42 townhomes, 40 condominiums, recreational amenities and related site improvements on 4.11 acres to be zoned IPUD. If this request is approved, it is contingent upon the approval of the request for land use amendment/rezoning, request for height exception, and subject to satisfying all comments indicated in the Conditions of Approval. Any additional conditions recommended by the board or City Commission shall be documented accordingly in the Conditions of Approval. Vice Chair Norem seconded the motion that passed 6-0, Mr. Myott recused.

Mr. Breese confirmed staff's recommendation of approval on the height exception.

**Motion**

Ms. Horenburger moved to approve the request for a height exception of approximately 9 feet to allow a mansard roof to exceed the maximum building height of 45 feet, for a total of 53 feet 6 inches at its highest point. Vice Chair Norem seconded the motion that passed 6-0, Mr. Myott recused.

Ms. Horenburger reiterated a request made at previous meetings for staff to revisit the height codes so that it was not necessary for the board to hear so many minor exceptions. She also wanted them to review the ceiling heights. Mr. Breese responded that staff was taking the height codes into consideration at this time.

E. Hemingway Square Land Use Amendment/Rezoning

- |    |              |  |
|----|--------------|--|
| 1. | Project:     | <b>Hemingway Square (LUAR 06-006)</b>  |
|    | Agent:       | Garcia Stromberg Architecture, Inc.  |
|    | Owner:       | 2319 South Federal Partners, LLC/Robert Vitale (Managing Member)   |
|    | Location:    | 2319 South Federal Highway, northwest corner of SE 23 <sup>rd</sup> 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 (IPUD), 20 dus/acre  
Proposed use: Multi-family development (21 units at 16.8 dus/acre)

Hemingway Square New Site Plan

2. Project: **Hemingway Square (NWSP 06-007)**  
Agent: Garcia Stromberg Architecture, Inc.  
Owner: 2319 South Federal Partners, LLC/Robert Vitale (Managing Member)  
Location: 2319 South Federal Highway, NW corner of SE 23<sup>rd</sup> Avenue and Federal Highway  
Description: Request for new site plan approval for the construction of 21 townhomes, recreational amenities and related site improvements on 1.25 acres zoned IPUD.

Hemingway Square Height Exception

3. Project: **Hemingway Square (HTEX 06-006)**  
Agent: Garcia Stromberg Architecture, Inc.  
Owner: 2319 South Federal Partners, LLC/Robert Vitale (Managing Member)  
Location: 2319 South Federal Highway, NW corner of SE 23<sup>rd</sup> Avenue and Federal Highway  
Description: Request for height exception of four (4) feet to allow chimneys to exceed the maximum building height of 45 feet, for a total of 49 feet

Ed Breese, Principal Planner, asked for board approval to discuss all three parts of the Hemingway Square project at one time and the board concurred.

Mr. Breese commented this project was to take the place of the former Baker Furniture property on the northwest corner of South Federal Highway and S.E. 23<sup>rd</sup> Avenue. Staff recommended approval of the land use amendment/rezoning based on being consistent with the goals and objectives of the Comprehensive Plan, the intent of the Federal Highway Corridor Community Redevelopment Plan, would not create additional impacts on infrastructure, and would contribute to the overall economic development of the City.

Mr. Breese displayed the site plan, which would have 21 fee simple townhomes at a gross density of 16.8 dwelling units per acre. The four proposed buildings consist of four to seven units each and are three stories tall with one building being a combination of two and three stories. The architectural style was Key West with ship lath siding, aluminum roofs, and barn

style doors. The building chimneys accounted for the four-foot height exception request and staff concurred with it. Staff recommended approval of the land use amendment/rezoning, the site plan, and the height exception.

**Mark Cohen, Garcia Stromberg Architecture, Inc.**, displayed a PowerPoint presentation and reviewed the site plan characteristics. He showed extensive landscaping in front of the units, especially on the south side, to buffer out traffic and noise. They had lowered the units to be more in keeping with the adjacent single-family residences. The colors were vibrant pastels. Building #3 that would front on Federal Highway was a vibrant pastel yellow in color. Mr. Myott questioned the fence materials and was informed it would be aluminum or some type of Fiberglas to imitate wooden material. The mean roof height was 45 feet and they had applied for a height exception of three feet two inches to accommodate the chimney.

Ms. Horenburger asked about entrances and exits on S.E. 23<sup>rd</sup> Avenue. Mr. Cohen responded there was only one entrance and it was off of S.E. 23<sup>rd</sup> Avenue close to the western end of the parcel. A secondary ingress/egress for emergencies only was located on S.E. 23<sup>rd</sup> Avenue near the east side of the project. Ms. Horenburger asked about recreation amenities and was told there was a pool to the northwest side of the property with five parking spaces, including handicapped.

Mr. DeMarco indicated that was a very busy corner and S.E. 23<sup>rd</sup> Avenue was a very narrow street. He was concerned about the current traffic situation and was not pleased about adding more traffic to the area. He contrasted the proposed ten-foot setback with the larger setback with plants and trees at Tuscany across the street and thought the buildings would not be attractive. He also believed that 21 units on a little over an acre was too much. He could not vote in favor of it. Mr. Cohen stated the County and City had plans to widen S.E. 23<sup>rd</sup> Avenue to give more space between traffic and buildings, which would allow more buffering. The applicant's plans were in compliance with the required setbacks for an IPUD. They planned to make an extra effort with their landscaping to compensate for the setback.

Mr. Myott did not agree with Mr. DeMarco, saying the project was unique and quite well done, but it did have a great deal compressed into one site. He wanted to see more detail on the gable of Building #1 that you would see when driving south on Federal Highway. He was also concerned about value engineering because the materials being shown were very expensive. This was the kind of project the CRA wanted, but he would expect to see the same materials in the completed project. He counted on the Planning Department to see that this happened. The developer responded the owners were committed as a group to making the project as designed and Planning staff was also holding them to their design and materials.

Ms. Heavilin asked about the staff comment on the landscaping slightly exceeding the minimum requirements and wondered whether that was acceptable. Mr. Breese responded there were no conditions of approval pertaining to landscaping, but in many instances they did not have much room to landscape or they did it heavily around the corner of the building where they would also have art in public places. They proposed a sculpture of Hemingway sitting on a bench with one of his cats. When Ms. Heavilin asked about having more landscaping on S.E. 23<sup>rd</sup> Avenue as a buffer, the response was they did not want to hide the architecture with too much landscaping. Their intentions were to buffer the east and south sides of the property as much as possible and go above and beyond requirements on the north and west, proposing a six-foot high privacy wall with landscaping backed up against it. Ms. Horenburger liked the look, the

colors, the softness, and the art, which would be an attraction for people driving by on Federal Highway.

Mr. Sims liked it but echoed Mr. DeMarco's comments about S.E. 23<sup>rd</sup> Avenue and the traffic conditions in that area. He hoped the road improvements were planned for the very near future. Mr. Cohen responded they had lost five feet of their property due to the County and City plan to widen S.E. 23<sup>rd</sup> Avenue. Ms. Horenburger asked staff if there was going to be any widening of that road. She thought this was the City's portion of Golf Road and that it changed at Congress Avenue. Mr. Breese thought the County had the right-of-way to Federal Highway and the developer had committed to a five-foot dedication to the County for future improvements. No improvements were on the books today, but having the additional right-of-way might further the effort. Chair Tillman asked if it were in the five-year, ten year, or any plan. Mr. Breese indicated it was not yet on a road building plan.

A representative of the developer came to the podium and said they had met with the County and the developer promised to do some drainage and right of way improvements along S.E. 23<sup>rd</sup> Avenue. They would be doing this before getting a permit for underground infrastructure. He thought it would be in the near future.

Chair Tillman opened the floor to the public to speak.

**Flynn Holland, local resident**, asked for a description of the setback from the roadways. She also asked if there would be a swale or walk for the public next to the building. Also, she asked where the extra parking was for family and friends. Mr. Breese responded the extra parking was inside and there would be no parking on the roads. The setbacks from the road were 10 feet with a 5-foot public sidewalk within the right-of-way, not on the property. Ms. Holland thought this would be extended for the road and the sidewalk would be lost. Mr. Breese stated the applicant was responsible for the sidewalk associated with this project. Mr. Cohen commented the sidewalk would be five feet off the property line. Currently, the sidewalk goes down the site a third of the way, and stops and there is no sidewalk on the north side of S.E. 23<sup>rd</sup> Avenue. Their improvements would bring a sidewalk that goes along the entire length of the project. This would be a catalyst for the next project, who could tie onto that sidewalk. Mr. Cohen noted there would be a sidewalk, landscaping, a fence, and more landscaping.

Chair Tillman closed the floor when no one else came forward to speak.

### **Motion**

Mr. Myott moved to approve the request to amend the Comprehensive Plan Future Land Use Map from Local Retail Commercial to Special High Density Residential. Ms. Heavilin seconded the motion that passed 6-1, Mr. DeMarco dissenting.

### **Motion**

Mr. Myott moved to approve the request to rezone from Community Commercial and Neighborhood Commercial to Infill Planned Unit Development at 20 units an acre. Vice Chair Norem seconded the motion that passed 6-1, Mr. DeMarco dissenting.

### **Motion**

Ms. Horenburger moved to approve the request for new site plan approval for the construction of 21 townhomes, recreational amenities and related site improvements on 1.25 acres zoned

IPUD, incorporating Mr. Myott's comments, especially in regard to value engineering, and the caveat to hold them to exceeding the landscape requirements. Vice Chair Norem seconded the motion that passed 6-1, Mr. DeMarco dissenting.

**Motion**

Vice Chair Norem moved to approve the request for height exception of four feet to allow chimneys to exceed the maximum building height of 45 feet, for a total of 49 feet. Ms. Horenburger seconded the motion that passed 6-1, Mr. DeMarco dissenting.

F. Post Office Easement Abandonment

- |    |              |   |
|----|--------------|---|
| 1. | Project:     | <b>Post Office Easement (ABAN 06-007)</b>   |
|    | Agent:       | Jason Mankoff, Weiner & Aronson   |
|    | Owner:       | Valley Land Corporation, c/o Curtis Shenkman, Esq.  |
|    | Location:    | Southwest corner of Boynton Beach Boulevard and Seacrest Boulevard  |
|    | Description: | Request to abandon a three (3) foot wide easement located in Block 4 of the Boynton Heights Addition, extending south of Boynton Beach Boulevard a distance of 131.00 feet. |

Ed Breese presented the report on behalf of Planning & Zoning staff. He explained this easement was right across from City Hall. The U.S. Post Office building was constructed over a 3' unused utility easement located at the western boundary of the site. The agents are requesting abandonment of the easement. The public utilities and City departments have no utilities within the subject easement and have no objection to the abandonment of the utility easement. Mr. Breese said that the comment in the staff report about having to wait for a response from Florida Public Utilities could be disregarded since they had now responded. As such, staff recommended approval.

The board members expressed support of the project when asked.

Jason Mankoff, Weiner & Aronson, was available to answer questions.

Chair Tillman opened the floor to the public for comment, and closed it when no one came forward.

**Motion**

Vice Chair Norem moved to approve the request to abandon a three-foot wide easement located in Block 4 of the Boynton Heights Addition, extending south of Boynton Beach Boulevard a distance of 131.00 feet. Mr. DeMarco seconded the motion.

Ms. Horenburger asked if the deletion of the comment about waiting for a response from Florida Public Utilities could be included in the motion and Vice Chair Norem and Mr. DeMarco agreed. The motion passed 7-0.

G. Coastal Bay Colony Abandonments

1. Project: **Coastal Bay Colony (ABAN 06-002)**  
Agent: Carlos J. Ballbe, P.A.  
Owner: Southern Homes of Palm Beach II, LLC  
Location: Southwest corner of SE 23<sup>rd</sup> Avenue and Federal Highway  
Description: Request to abandon a ten (10) foot wide utility easement at the southwest corner of the property.
  
2. Project: **Coastal Bay Colony (ABAN 06-003)**  
Agent: Carlos J. Ballbe, P.A.  
Owner: Southern Homes of Palm Beach II, LLC  
Location: Immediately south of SE 23<sup>rd</sup> Avenue on the west side of Federal Highway  
Description: Request to abandon a ten (10) foot utility easement located across lots 14, 15, 16, 17 and 18 of the original Robinson's Addition Plat.

Mr. Breese reported Coastal Bay Colony was a townhouse development put together by Southern Homes right across from the Hemingway Square site plan just reviewed. As the applicant went through the process and platted the property, it was noted on the plat these two easements were to be abandoned. At one point, one of the easements had a City utility line that the applicant relocated, at its expense. The other one had an FPL line and when the lots were incorporated into the project, the FPL line was no longer needed. All utilities have been relocated. The staff report indicated they were waiting for a response from Florida Public Utilities, but that had been received so that condition of approval should be removed from the conditions of approval. Staff recommended approval.

The applicant was not present. The board had no questions and did not enter into any discussion.

Chair Tillman opened the floor to public comment and closed it when no one came forward.

**Motion**

Vice Chair Norem moved to approve the request for abandonment of a 10-foot wide utility easement at the southwest corner of the property (ABAN 06-003). Ms. Horenburger seconded the motion.

Mr. Breese asked if the motion could have the lone condition of approval removed and Vice Chair Norem and the Ms. Horenburger agreed.

The motion passed 7-0.

Mr. Breese indicated the previous presentation applied to the second abandonment and staff also recommended approval.

**Motion**

Vice Chair Norem moved to approve the request for abandonment of the ten-foot wide utility easement located across lots 14, 15, 16, 17 and 18 of the original Robinson's Addition with the staff recommendations. Ms. Horenburger seconded the motion.

Ms. Heavilin asked whether they needed to remove the condition of approval, and Mr. Breese believed the motion addressed that.

Chair Tillman opened the floor to public comment and closed it when no one came forward.

The motion passed 7-0.

H. Boynton Beach Lofts Site Plan Time Extension

- |    |              |   |
|----|--------------|---|
| 1. | Project:     | <b>Boynton Beach Lofts (SPTE 06-005)</b>  |
|    | Agent:       | Bradley Miller, Miller Land Planning Consultants, Inc.  |
|    | Owner:       | Addison Properties of South Florida, Inc.   |
|    | Location:    | 623 S. Federal Highway  |
|    | Description: | Request for a one-year time extension for the approved site plan and height exception granted on April 19, 2005, from April 19, 2006 to April 19, 2007. |

Ed Breese reported the applicant was requesting a site plan time extension for the mixed use project consisting of 48 condominium units, 13,354 square feet of office space, and 563 sq. ft. of retail space on approximately 1.2 acres. The Commission approved the development order and associated height exception for the elevator shaft on April 19, 2005. Staff recommended approval of the extension. The applicant had given a list of reasons explaining the need for the extension.

**Bradley Miller, Miller Land Planning Consultants, Inc.**, appeared representing Addison Properties of South Florida, Inc. The project was moving forward. One of the contingencies on financing was a percentage of presales and the applicant had about 45-50% in presales and 50% was the requirement. This would allow the applicant to continue with the permitting process, payment of impact fees, and so forth. They were confident that would occur and they just needed additional time to make it happen.

Ms. Horenburger said most of the approved site plans came back to the board for extensions, since they were only approved for a period of 12 months. In her experience, the site plans were normally granted for 18 months. She hoped the City would consider extending site plan approvals to 18 months. Mr. Breese indicated staff was considering doing just that in the current LDR re-write.

There were no other board questions or issues.

Chair Tillman opened the floor public comment.

**Flynn Holland, local resident**, commented that she lived near the proposed project. She was concerned about the parking at the proposed site. A friend went to look at it and said there was not enough parking spaces for patients and staff. She wanted to protest that the project, as it stood, was not viable in its location so close to residential. She wanted to see how this project fit with the residential plan of the area. People will have to come out on the back road or S.E. 5<sup>th</sup>, which is a residential street with problems already.

**Dom Desiderio, local business owner, owner of Atrium Place** on South Federal Highway, declared he supported all the projects. The problem businesses were having on Federal Highway was that all they had was empty condos and empty lots. The projects had to be pushed along. The merchants needed the business. The hurricanes had caused enough problems and all of this had hurt business. They needed some help.

**Rod Silverio, local resident**, echoed Mr. Desiderio's comments. He also observed all the empty lots and as much as this project would improve the area, it had never been fenced. All the projects he had seen were fenced and kept nice. For a time, this motel area was piled high with rubble. The City had to force developers to do demolition to maintain their empty lots. The lumberyard stood empty for a very long time. He agreed with the extension but asked the developer to do something about the appearance of the property also. He asked the City require all developers to keep their lots looking good while going through the building process.

Bradley Miller responded to the comments about parking, noting the parking had been reviewed by the City and found to be adequate. This was a hearing for an extension of the site plan approval only.

Mr. Myott asked Mr. Breese what the standard or rules were for the maintenance of vacant building sites. He agreed there were many of them and they varied in their appearance. Ms. Bright had reviewed the City Commission's draft agenda, and they were creating a plan for demolition and site protection activities to be issued as an ordinance. The ordinance would have specific times for demolition and specific strategies for site protection. Mr. Myott asked the applicant if he would conform to the new ordinance regarding the protection and maintenance of the site. Mr. Miller would have to review the ordinance before making a commitment. He realized that early on, there some issues about the demolition and when contacted, his client took care of it immediately. They would do whatever they could do to keep the site in good order.

Ms. Heavilin pointed out in the meantime, the hurricane season had begun. Were there any special provisions to address the issue of loose debris. Mr. Breese responded whenever there was a storm alert, the building and code inspectors drove around the City and notified the developers, contractors, and others to reduce the potential of flying debris.

Ms. Bright indicated Jeff Livergood had spoken of debris control for hurricanes and they were doing an extra pickup. There was also a special initiative in the Heart of Boynton where they were cleaning not only their own CRA lots, but were willing to pick up anything in conjunction with protection during hurricane season.

Ms. Horenburger asked if Code Enforcement had observed the Fairfield Apartments just north of the Hemingway Square project, where there was wet, ugly furniture outside. She felt this should be corrected.

**Motion**

Ms. Heavilin moved to approve a one-year time extension for the approved site plan and height exception granted on April 19, 2005, from April 19, 2006 to April 19, 2007 for Boynton Beach Lofts. Vice Chair Norem seconded the motion that passed 7-0.

As the time was 9:00 p.m., Vice Chair Norem raised the issue of whether or not the Lamar Realty presentation would be made. It was determined earlier that Mr. Finkelstein would have to be called 45 minutes ahead of any presentation. A discussion ensued about whether to hear the two presentations under New Business from InTown and Lamar Realty and possibly a third party interested in the Heart of Boynton but not on the agenda, Pinnacle Housing Group. Procedurally, it was determined that Pinnacle was not on the agenda and that only the noticed agenda items should be heard at this meeting. Since Attorney Spillias had given the board members a memorandum with options pertaining to the CRA Redevelopment Requirements for the Acquisition and Disposition of Real Property, some thought that should be presented first, especially since one of the options was to go out for Request for Proposals.

Attorney Spillias commented that normally, agendas were reordered at the beginning of a meeting and that presenters had a right to depend on the agenda as agreed upon. Adding the Pinnacle item to the agenda at this point would not be appropriate; however, if the board wished to do so, a special meeting could be set up, noticed and advertised where it could hear all three developer presentations pertaining to the Heart of Boynton.

Ms. Miskel, representing InTown Development Group, declared if the Board Attorney's memorandum led the board to decide to go through the RFP process, they would refrain from presentation until such time as the RFP was brought before the board. In the event the board chose to proceed without an RFP, they were prepared to present. She requested the board consider the actions outlined in the Attorney's memorandum, since their decision could make discussions moot at this time, depending on their chosen action.

Mr. Sims was in favor of hearing from InTown and Lamar Realty at this meeting, regardless of the lateness of the hour and doing what it had to do to get Pinnacle on the agenda at another meeting.

Mr. Myott was concerned that if they deferred the two developer presentations, they would go to the City Commission and the CRA would lose its opportunity to review and comment. Ms. Bright indicated she would not know that until the pre-agenda meeting to be held on June 16.

Attorney Spillias stated he had now heard twice that his memorandum called for going through the RFP process and that was not what the memorandum said. He was ready to explain the options contained in his memorandum when the board was ready. The consensus of the Board was to hear Attorney Spillias' explanation of the options contained in his memorandum before making a decision about the presentations from InTown and Lamar Realty.

Attorney Spillias indicated the board should consider the agenda items as listed on the agenda, before discussion of his memo, which should be done just before the developer presentations.

**Motion**

Ms. Horenburger moved to hear the final presentation of the FIU Metropolitan Center and to reorder the agenda so that consideration of agenda items VIII-B and IX-1A and the Pulled Consent Agenda items would be placed at the end of the agenda. If needed, they can move to recess the meeting and finish at the workshop scheduled for June 22. Mr. Myott seconded the motion.

Ms. Heavilin clarified that these items would be heard after Comments by Staff.

The motion passed 6-1, Vice Chair Norem dissenting.

**VII. Pulled Consent Agenda Items**

This was moved to follow XIII, Comments by Staff.

**VIII. Old Business**

An unidentified individual in the audience took issue with the reordering of the agenda, implying the vote had not accurately reflected the will of the board. At the Chair's request, the Recording Secretary declared the motion to reorder the agenda had passed 6-1, Vice Chair Norem dissenting.

A. Final Presentation: FIU Metropolitan Center – CRA Housing Needs Assessment

**Ned Murray, Ph.D., AICP, Associate Director, Metropolitan Center at Florida International University**, delivered the findings of the Housing Needs Assessment. The full report is available as part of the permanent record. The report had been prepared under the terms of a contract entered into with the CRA several months previously. Dr. Murray noted they had prepared a similar study for the Broward Housing Partnership.

**Critical Findings Summary**

- Most employment is in the services and retail industries with retail comprising the largest number of jobs (21,550).
- The median hourly rate for retail salespersons is \$10.17 or \$21,153 per year.
- The City has lost 16% of its rental units due to condo conversions (598 within the CRA).
- The average rent for a two-bedroom apartment is currently \$1,250, a 58 percent increase since 2000.
- The "affordability gap" for single-family homes ranges from \$74,458 to \$216,680.
- The City of Boynton Beach's projected population and employment growth through Year 2025 should create the demand for approximately 4,173 new workforce-housing units (80-120 percent of the Average Median Income (AMI)) and 6,627

- affordable rental-housing units for new households earning less than 80 percent of the AMI.
- The CRA will absorb a significant portion of the City's projected population and employment growth. There is an estimated demand of 2,900 units for the CRA at the 80-120% of AMI and an additional 4,606 rental units for households earning less than 80% of the AMI.
  - Thirty-four percent of CRA residents are housing cost burdened (paying more than 30% of income for housing).
  - Ninety-eight percent of the housing stock is over 25 years old with 674 units considered substandard.

Mr. Myott asked Dr. Murray to quote a price for a "for sale unit" that would equate to the 80-120 percent of the AMI. Dr. Murray responded one of the last pieces they had done of the study was a development feasibility analysis that looked at the price points at those various income levels. In general, at the 80-120% level, the price of the "for sale unit" would be about \$160-170K.

Mr. Sims was in favor of the recommendations as given. He thought staff should be directed to work on policy recommendations that take this information into consideration.

Mr. Myott noted a conclusion in the report that said, "In total, the City of Boynton Beach will need to produce approximately 10,800 units that are affordable for households at or below 120% of the AMI by the year 2025 and 7,500 would need to be apportioned to the CRA." In response to that, Mr. Myott asked:

- When looking at the development in the pipeline, were they on target or not?
- Were they heading towards non-affordable housing?
- Were they trying to change the makeup of the people?
- Were they looking to have people here with higher-paying jobs, lower paying, the same?
- Where were they headed?

Dr. Murray declared that the current industry mix would probably not change much. That, coupled with a 41% appreciation rate in the CRA and a significant appreciation rate in the City and County as a whole, meant there were really wide affordability gaps in the City and the County. The CRA was not addressing the affordable housing issue at this time and given the population and employment projections, that would remain the case unless it took action to address it. Mr. Myott agreed they were not creating enough affordable housing, and they would need to make that up in some way. Dr. Murray thought the study showed conclusively there was a significant housing demand that was not being met.

Mr. DeMarco thought the information contained in this report was valuable and the CRA office should share it with developers. It was also important to the formulation of the CRA's objectives. Dr. Murray responded the study was meant to serve as background information for discussions that should take place.

Vice Chair Norem commented staff should review this and come back to the board with any recommendations they felt were appropriate for the board to act on.

Ms. Horenburger commented there was a workshop where this was supposed to be presented and she hoped in the future, workshops would be scheduled when the material was ready. She referred to inclusionary zoning and communities that were determining what percentage of affordable housing they had and plan to maintain that percentage in their plans. She did not see a defined figure, other than the 41% of households under the 80% AMI, about how much affordable housing exists in the City. This is one of the things she had hoped the report would show. She would not want Boynton Beach to become the "affordable housing capital" of Palm Beach County. Because the CRA's median sales price was \$222.5K and the City's was \$350K, it appeared they needed real redevelopment with affordable housing and not just the creation of more affordable housing in the CRA than already existed on a percentage basis. They needed to have a better mix than that and she thought they were seeing it with some of the projects coming through, but the mix should be maintained. Ms. Horenburger saw a need for the CRA to address infill housing, community development, and rehab housing. Then, she felt it was up to the City, with its higher AMI rates, to develop more affordable units in the rest of the City to balance it off. She also wanted staff to work on policy recommendations. In regard to inclusionary zoning, Ms. Horenburger had heard there was a court decision against inclusionary zoning and she asked the Board Attorney to research that issue. She still did not know the percentage of affordable housing they had and still wanted to receive that figure.

Chair Tillman agreed. In considering the Housing Needs Assessment, he asked:

- What did the median mean?
- What was affordable housing? What was not?
- What was the availability of affordable housing stock in the CRA now?
- What could the CRA do to add to that stock?
- Did they have too much affordable housing?
- When Habitat for Humanity came in did that help to add to the affordable housing stock? What was Habitat's mission?

Once they understood the foregoing, they could meet the demand for affordable housing in the future. It was a continuing process.

Chair Tillman thanked Dr. Murray for his report.

B. Consideration to Pay Additional Costs Associated with Boynton Terrace Demolition

This was moved to follow XIII, Comments by Staff.

### **VIII. New Business**

Ms. Bright reminded the board at last week's City Commission meeting, the City Commission rejected signing of the Letter of Intent for the MLK Self Assembly Group. She pointed out the letter from Pinnacle Housing had been distributed to the board to let them know there were other developers interested in the Heart of Boynton. She looked to the board for direction on how to respond to the letter from Pinnacle. She believed the board now wanted to hear

Attorney Spillias speak about his memorandum on CRA redevelopment requirements for the acquisition and disposition of real property. Chair Tillman reiterated the letter from Pinnacle was not on the agenda and he did not feel it could be addressed at this meeting. If the Executive Director wished to bring Pinnacle in to make a presentation under a future agenda, that would be fine. The board concurred.

Chair Tillman did not believe the self-assembly process could move forward in light of the City Commission's refusal to sign the Letter of Intent.

Ms. Horenburger believed before hearing presentations, they had to understand the information in Attorney Spillias' memorandum. It would not be fair to ask for presentations if the board decided to go through the RFP process, one of the options in the referenced memorandum.

Attorney Spillias indicated a threshold decision had to be made in that regard, particularly in light of what was said by the representative of one of the presenters earlier in the meeting. Attorney Spillias made clear they were dealing with a situation where there was an area the CRA wanted to see redeveloped and in which the CRA owned property. The City and private interests owned property there also. The Self Assembly Group was an effort to bring all that together and allow the CRA to have a role in the development of that property. Chapter 163, Part III, of the Community Redevelopment Act, provided the CRA a great deal of flexibility in how to go forward in encouraging redevelopment in the redevelopment plan area. It could participate as a developer, and this was one approach that had been taken. It had not worked and they were now looking at other approaches.

Attorney Spillias informed the board of the various options and restrictions pertaining to the acquisition or disposition of real property and the requirements of State Statute, Chapter 163.380 (1) (2) and (3) (a) governing Community Redevelopment Agencies. The letter is made a part of the minutes and is available in the permanent record.

Attorney Spillias made it known that the discussion pertained to the CRA's responsibilities, but he believed the City's responsibilities would be the same and they owned property in this area as well.

In discussion, it seemed to Mr. Myott there were two options: 1) for the CRA to act as a developer or, 2) allow other parties to present proposals through public notice. Attorney Spillias concurred. Attorney Spillias added that even in the context of being a developer, if part of that involved transferring the property to another entity, they would have to go through the same process. Mr. Myott heard they would have to maintain ownership throughout the process. Attorney Spillias added they could do it through some sort of agreement that identified at the end who the ultimate owner/developer would be.

Vice Chair Norem recalled the City Commission meeting of the previous week, saying the City Commission made it very clear that they did not want to be landlords at all. The Heart of Boynton project Phase 1 had CRA owned property and City-owned property and property owned by individuals. There were also properties going through the eminent domain process that the CRA would eventually own; however, he was not certain of the status. He did not think the CRA needed to be involved on a partnership basis as a developer. If they were offered a fair market value (which was not always dollars) in consideration for what the property is transferred for, that might be a better and cleaner deal, especially with the hodge-podge of

properties on the map. It appeared to Mr. Norem that some landowners were "stirring the pot," and Ms. Bright concurred. Mr. Norem asked Ms. Bright to elaborate on that so they would have an idea of what they really had or did not have in terms of property.

Ms. Bright declared the domain legislation signed into law by the Governor was supposed to protect transactions already in the process. It was her understanding from E-mails and communications from the City Manager that counsel for the landowners was questioning the Order of Taking. Also, the owners of the parcels in eminent domain also own vacant lots, so they were bringing up the question, "Why were we allowing consideration of other vacant parcels to be part of the development cycle with theirs being taken?" That was important according to the eminent domain attorney for the City, because the judge was questioning the CRA's actions. A strategy meeting was being planned with regard to those particular parcels.

Ms. Heavilin asked if those parcels could be identified for the board. Ms. Bright knew them by number, but said there were some on the south side (9<sup>th</sup> Avenue), some on the north side of 9<sup>th</sup> Avenue (Mr. King and King Robinson's parcels), Ms. Bell's parcel. Jesus House of Worship was not in eminent domain action. Mr. Barry was not part of eminent domain or option or purchase or self-assembly. The Golly lawsuit was being questioned. The four they thought would go through rather quickly were in question.

Vice Chair Norem did not see how they could possibly go out with an RFP on anything. The CRA was an isolated landowner just like half the people in the block.

Ms. Horenburger asked the Attorney's opinion on declaring a master developer before going through the process under Chapter 163. Attorney Spillias responded the CRA Act clearly stated, in moving forward with the redevelopment of the redevelopment plan area, the CRA was to work with and encourage the private sector redevelopment of land. It was geared towards the CRA and the City not being the developer. It was based on the premise the private sector was the best to do the development and the CRA's and the City's job was to identify the slum and blight area and to the extent it could, acquire land and make it available to the developers in ways that let them go forward. There was no requirement to have a master developer. If someone had a plan for an area that the CRA determined met the goals of the redevelopment plan, had the capability of doing it, and the land they owned was crucial for them doing it, the CRA could enter into a contract with them to make the land available and let them redevelop it. The contract could have stipulations in terms of timing or, to some extent, the nature of the project. There was no one way to do this.

Ms. Horenburger asked if they could name a master developer before going through the 30-day process to sell the land. Attorney Spillias felt they could, but questioned if they did not know whether they could get the land, what could they do? Ms. Horenburger commented if they were to name a master developer, many people who had speculated would finally come to terms with the fact they were going to sell to us or them. Attorney Spillias indicated they could name a preferred developer based on information and presentations provided, negotiations, and the belief that together with your efforts, they would be able to assemble the land and do the project.

Ms. Horenburger further commented the Heart of Boynton Plan began nearly six years ago. The delay was due to certain officials fending off development interests so speculators could come into the Heart of Boynton and profit at taxpayer's expense while absolutely nothing was done to

benefit the community. The delays caused not only the price of land to be artificially inflated, as was proved by the Treasure Coast Study, but during that time, construction costs escalated due to the shortage of materials and manpower plus the storm damage of the last two years. The Treasure Coast study showed that the cost of the MLK Corridor Redevelopment would be far more than originally anticipated in the HOB Plan. Their conclusion was that it would need to be subsidized by either increased density or TIF incentives, or a combination of both, and these kinds of things would be future policy decisions of this board. Ms. Horenburger opined it was time to stop the bleeding of taxpayer money and give the City a redevelopment project to be proud of. The MLK Corridor needed to be developed as one cohesive project from US 1 to Seacrest Boulevard and from Northeast 9<sup>th</sup> to Northeast 11<sup>th</sup>. It should be the finest, most livable and economically viable redevelopment possible to generate other activity in the whole region of the Heart of Boynton. She thought the board should make a decision tonight to have the presentations or go out to RFP.

Mr. Sims was skeptical about not allowing a variety of proposals to come before the board. He was not in favor of choosing a developer and giving him carte blanche. He hoped an RFP would solicit proposals from developers who would take into consideration what the residents and business owners of the Heart of Boynton area would like to see. That was the most effective, most traditional way to do it. Mr. Sims wholeheartedly agreed with Ms. Horenburger's comment about redeveloping the Heart of Boynton in a unified, cohesive manner throughout the entire area and not in little parts. With an RFP, they would still have an opportunity to set a timeline of when they wanted to see things done.

Ms. Heavilin concurred with Mr. Myott and Vice Chair Norem – the CRA shouldn't be developers. She was in favor of disposing of the properties owned by the CRA. She envisioned disposing of the properties and turning that money into subsidizing land buy downs or affordable housing. She had heard loud and clear that they were not doing enough fast enough in the Heart of Boynton. She felt the CRA would be selling the community short knowing there were developers interested in doing the redevelopment if the CRA did not go through the RFP process. She wanted to let everyone respond. The CRA should not name one developer. They owed that to the Heart of Boynton. She thought there was a narrow strip of land on the north side of MLK Boulevard owned by the City and the CRA and that this could be used as a starting point. Ms. Bright responded they owned this, except for the pieces on the corner, which were in eminent domain.

Mr. Myott was in favor of offering CRA lands for disposition to let interested developers in the private sector bring offers and create their own proposals. If three were interested, let them make presentations. He was prepared to support letting the properties go according to what they had paid. He wanted to get a recommendation from the Board Attorney about how to do the same things with properties now in the eminent domain process. He asked Mr. Spillias if the eminent domain process would be stopped or allowed to keep going?

Attorney Spillias advised he had not been involved in the discussions Ms. Bright mentioned, but his view was that once the eminent domain process had started, it should not be made retroactive – the Statute should not apply. To declare that the removal of slum and blight was not a public purpose – that was the part of the Statute that killed CRAs. There had been no court decision yet. Those who were resisting eminent domain were going to raise the issue and say this was some sort of remedial statute and therefore, did apply retroactively. Assuming the property was acquired, if the board went to a full RFP process or even just the inviting

proposals process, the CRA would have to provide all the information available and the land available or that it believed it would have available. As long as all of that occurred at least 30 days before any final contract to sell the land, the requirements of the Statute would be met.

Mr. Myott was in favor of offering all the lands the CRA owned and the lands that were presently under the eminent domain process for disposition to interested parties. Mr. Spillias added in receiving proposals, one of the things that could influence the board would be the financial capability of the proposers to acquire the land that was under eminent domain right now. Mr. Myott agreed, saying another criteria was that any proposer would follow the Treasure Coast Planning Council's recommendations for the type of development. The criteria were set and he was comfortable with letting the private sector have a shot at it.

Mr. DeMarco stressed that one of the most important things was to find out the reputation, background, and financial capabilities of an entity. It was important to ascertain whether they were financially capable of doing the job.

Chair Tillman echoed Mr. DeMarco's sentiments. He declared the Heart of Boynton was a phased development and it was time to "get off the dime." There were some issues that had slowed this down tremendously, driving land prices to speculative heights and causing confusion. He was in favor of providing an opportunity for development in every corner of the CRA area, regardless of where it was, and that included the HOB area. He was in favor of disposing of the property owned by the CRA. The main reason they acquired it was to move the project forward, but now they were at a crossroads. He wanted to see market considerations come forward. If it became necessary for a 30-day period to have some other group come in with a proposal, let market considerations deal with them. He encouraged the members to move this issue and process forward to the point where private parties talked to each other more than the CRA. He would be in favor of seeing what the private sector could do. The longer the deliberations continued, the more likely it was that land prices would continue to rise, confusion reign, and nothing would be done in the HOB area.

### **Motion**

Ms. Horenburger moved to direct CRA staff to draft a basic RFP for a master developer of the MLK Corridor between U.S. 1 to the east and Seacrest Boulevard to the west and from S.W. 9<sup>th</sup> to S.W. 11<sup>th</sup> Avenues. The draft shall include the following requirements of the proposers: 1) financial capability to complete a project of this scope; 2) documented experience of their team in the redevelopment of an MLK Corridor of like size; 3) conformance of their proposed plan to the general tenets of the Heart of Boynton adopted Plan and the Treasure Coast Regional Planning Council Heart of Boynton Study; 4) a requirement that the proposers agree to their plan being subject to future policy determinations this board will have to make as outlined by the Study; 5) willingness on the part of the proposer to purchase the CRA's MLK Corridor property. The draft shall also include the CRA's intention to sell the real property it owns in the area defined to the proposer and shall also state that only those who meet every criteria of the RFP will be invited to present their response at the selection meeting. The draft shall be presented to this board for a vote to issue the RFP at a special meeting (or continue at this meeting) to be held at the time of the CRA workshop on Thursday, June 22, 2006 and noticed by advertisement the next day, which shall include the intention again to sell the property owned by the CRA. The draft shall include a response date by the proposers of Monday, July 24, 2006. The CRA board at its next regular meeting on Tuesday, August 8, will hear only qualified presentations and vote to select a master developer.

Chair Tillman passed the gavel to Vice Chair Norem and seconded the motion.

Ms. Heavilin declared she would vote against it because there was too much in it. She wanted to direct staff to prepare a full RFP for Phase 1 and let them bring it back to us.

Mr. Myott would vote against it because he did not think they should have the full RFP and they ought to let the land be available and let the interest rise to the surface from the private sector.

Mr. Sims got lost in the length of the motion. He lost the gist of it.

Mr. DeMarco agreed with Ms. Heavilin, Mr. Sims, and Mr. Myott, saying he could not vote for it because he could not digest everything that was in the motion.

Ms. Horenburger offered to pass the copy of the motion down the board in written form.

Chair Tillman supported the motion.

Mr. Sims asked if it could be restated one more time. Ms. Horenburger stated, "financial capability, experience, tenets of HOB and Treasure Coast, future policy determinations by board, and willingness to buy the property" were the primary features of the motion.

Vice Chair Norem would not be in favor of the motion as stated, but would be more in favor of having staff come back to the board with an RFP. If this motion failed, they could invite another one.

Ms. Horenburger asked if the board did not want those items in an RFP? Vice Chair Norem wanted to leave it to the professional staff, who might put those items in.

Ms. Bright reminded the board that at last month's meeting, the CRA was given direction to run concurrent with the MLK Self Assembly. They had a 90% possibility of presenting a draft for approval if they could do a special meeting before the workshop on June 22. The RFP draft could be finalized at a meeting with Legal and given to the board.

Chair Tillman commented that if the members had listened to the motion, it already contained what would have come back to the board from staff.

Vice Chair Norem asked staff how they viewed the current motion that was on the table. Ms. Bright said the only clarification she would need was it sounded like the scope of the project area was expanded from what they drafted in the original RFP, which was basically the Phase I project area. She heard from Federal Highway all the way to Seacrest. Ms. Horenburger agreed, saying that was to make a more cohesive project.

Ms. Heavilin offered a substitute motion.

**Motion**

Ms. Heavilin moved to direct staff to come back to the board at the continuation meeting on June 22 with an RFP for Phase I in the Heart of Boynton. Mr. Myott seconded the motion.

Ms. Bright asked if that meant Project Area 1 and 2 or 1? Ms. Heavilin replied, Project Area 1.

Mr. Sims would vote it down because he liked the unified, more cohesive concept. However, he did like the fact they were coming back as quickly as possible to move it forward.

Chair Tillman raised a point of order to move on the original motion. Vice Chair Norem and Attorney Spillias advised they had to move on the substitute motion first.

Vice Chair Norem called for a vote on the substitute motion. The motion failed. The board returned to consideration of the original motion. Vice Chair Norem asked for comments.

Mr. Myott asked the maker of that motion to include that simultaneously to that motion, the land be advertised for disposition. Ms. Horenburger said they would have to vote on that at the workshop and the next day it could all be advertised. That was in the motion.

Attorney Spillias' understanding of the original motion was to proceed as the Statute provided, once they decided what the advertisement would include and what the nature of the invitation to propose would be.

Mr. Myott did not think that was the most expedient way to proceed. He felt the CRA-owned property should be offered for disposition and see what happened. Let the folks who were interested, three of them apparently, make proposals.

Ms. Heavilin was not sure that on a Letter of Interest they could require the same information that they could on an RFP – an RFP went further in terms of qualifying the developer and the project. The turnaround time, according to staff, was the RFP could be issued the day after June 22 and give the developers 30 days to respond. Ms. Bright said it could be published on June 23 if they approved it on the 22<sup>nd</sup>. The responses could be received by June 24 and brought to the CRA board meeting of August 8.

Ms. Heavilin would be opposed to a Letter of Interest and wanted a full RFP. She felt they had more control over the projects and the qualifications.

Ms. Heavilin asked for clarification on the Phase in the original motion. Vice Chair Norem said it was basically an expanded Phase 1 – the cohesive plan advocated by Ms. Horenburger.

### **Vote**

The motion passed 6-1, Ms. Heavilin dissenting.

### **Motion**

Ms. Horenburger moved to request the City Commission declare its intent, as soon as possible, by advertisement of same as is laid out in the CRA Statute, of its intention to sell the parcels it owned in the area designated by its motion to an eventual master developer or whomever was chosen through the CRA's RFP process. Mr. Myott seconded the motion that passed 7-0.

Vice Chair Norem passed the gavel back to Chair Tillman.

Bonnie Miskel came to the podium and stated that based on the board's action, InTown Development would like to withdraw its request to present this evening.

**Motion**

Ms. Horenburger moved to table Agenda Item IX-1, A and B. Vice Chair Norem seconded the motion that passed 7-0.

Ms. Heavilin moved to recess the meeting until Thursday, June 22, but the other members wished to stay to handle the rest of the agenda. Ms. Bright indicated there would very likely be a lengthy discussion at the Savage Creatures workshop on the 22<sup>nd</sup>. Also, Ms. Bright indicated the Assistant City Attorney was present for the Boynton Terrace demolition item.

- A. InTown Development Presentation – HOB Phase 1 Project Area (**TABLED**)
- B. Lamar Realty Development Presentation – HOB Phase 1 Project Area (**TABLED**)

**VII. Pulled Consent Agenda Items**

- *Consent Agenda Item IV-B, Approval of Financial Results – May 31, 2006*

Mr. Myott said the report was all about numbers. He wanted to know, briefly, how the CRA finances were doing, in words. Mr. Reardon said the finances were on track, less expended than they could be. The biggest item still remaining in the May budget was the \$2M set-aside for The Arches project. In the June report, he moved that to the balance sheet because the money was owed; it was a liability for the CRA. That would bring the budget in line with true numbers. The budget was doing well. He was a little nervous about some of the expenditures being added on. At the next staff meeting he would ask staff to pull the reins in. Mr. Myott asked whether the additional money for the Boynton Terrace item would fall into that. Mr. Reardon advised it would.

**Motion**

Vice Chair Norem moved to approve consent agenda item IV-B. Ms. Horenburger seconded the motion that passed 7-0.

- *Consent Agenda Item IV-F, Rescind Old High School Interlocal Agreement & Replace with an Interlocal Agreement Without Financial Consideration*

Ms. Horenburger understood the City was conveying the Old High School to the CRA, but without parking. Ms. Bright replied that was correct, but she had received a subsequent e-mail from the City Manager. The CRA had gone out with an RFP for presentations on the best use of the Old High School. Ms. Bright hoped that by the following month, the board would hear presentations from the top RFP responders and make a decision. Depending on that decision, the City was willing to look at alternative parking sites, alternative City Hall sites, or a variety of alternatives to make whatever project was selected for the High School work.

Ms. Heavilin wanted clarification there would not be ramifications about the CRA terminating an agreement with the City. Attorney Spillias advised under the agreement, the CRA had the right to decide not to fund its obligations. If they did that, the City had 30 days to exercise its reversionary interest to take the Old High School back. If they refused to do that, then the CRA had the right to do whatever it wanted with the Old High School. Mr. Myott perceived they could take it back and tear it down, and Ms. Bright agreed that was the case. Attorney Spillias

indicated this would give the City 30 days to come into another kind of agreement with the CRA.

Mr. Myott noted they were not even funding the maintenance of keeping the roof watertight while trying to figure it out. The CRA could be making the situation worse by not funding it at all.

Mr. Reardon had brought this up because the former Director had pledged monies he had no right to pledge when the HOB Phase 1 was trying to get that money that was so critical. It was incumbent on the CRA to give the Interlocal Agreement back to the City, since they needed the money for something else.

Mr. Myott did not believe any requests for grants had been made, and Ms. Bright confirmed that was the case. Mr. Myott felt the City or the CRA should have done something to try to find historical preservation support. Mr. Reardon contended it was the Agency's problem because the former Director sold the City that position. The Interlocal Agreement went forward without parking and without money. Mr. Myott noted the former Director had been gone for some time now and they had not really tried to make any progress along the way. The Old High School meant a lot to him and it was an historic, nice building. He questioned whether they were putting it at risk or should they negotiate with the City for a new Interlocal Agreement instead of just giving it back to them.

Chair Tillman mentioned he had dealt with this issue from the beginning. He felt the continued maintenance and liability involved in keeping the building would be horrendous. Staff was trying to get things in order through the RFP process. To get things in order to be able to move forward financially at that date and time, it needed to be cleared out. Mr. Myott asked if the City was on board with the RFP process, and Ms. Bright replied it was.

Ms. Bright commented they had done some investigation for the historic preservation grants because they did have the designation. The \$4M needed would take up to seven to ten years to get in the form of grants.

### **Motion**

Ms. Horenburger moved to approve Consent Agenda Item IV-F. The motion was duly seconded and passed 7-0.

- *Consent Agenda Item IV-H, Approval of CRA Classification & Pay Program*

Mr. Sims said he was rescinding his request to discuss this. He will talk to Ms. Bright at some other time.

### **Motion**

Vice Chair Norem moved to approve Consent Agenda Item IV-H, Approval of CRA Classification & Pay Program. Ms. Horenburger seconded the motion.

Ms. Horenburger commented the Finance & Operations Manager, who often served as the Assistant to the Director, seemed to have a much lower pay scale than all the other employees except the Executive's Assistant. She thought this needed to be cured.

Susan Harris, Finance Assistant, indicated that was her position. Prior to his promotion to Assistant Director, Mr. Reardon's position was the Finance & Operations Manager.

The motion passed 7-0.

- *Consent Agenda Item IV-I, Approval of Resolution No. 05-16, Prohibition of Former Employees*

Ms. Heavilin asked if this meant that if any employees left the employ of the CRA, they could not be involved in any project coming before the CRA or just could not present before the CRA?

Ms. Bright responded any former employee, contract or non-contract, for a period of two years post-employment date, could not represent someone else to the CRA in a paid compensation position. Ms. Heavilin understood they could not represent anyone, but could they work on a project in the CRA. Ms. Bright said they just could not present to the CRA. They could not represent a client before the CRA. Ms. Heavilin asked if they could work with a client without actually representing him? Attorney Spillias said this was in the context of presenting or lobbying. The reason for these kinds of prohibitions was to prevent someone from utilizing their contacts and relationships with the agency to get an undue or unfair advantage. If someone worked on a project in a manner in which the CRA did not know they were working on a project, say in a research capacity, it might be difficult to stop. Ms. Heavilin was not sure that if one of the planners left and did some planning/consulting on a project, that should be prohibited, and Mr. Spillias agreed – as long as the CRA did not know they were working on the project. This did not apply to board members and it would only apply going forward, not retroactively.

### **Motion**

Ms. Heavilin moved to approve Consent Agenda Item IV-I, Approval of Resolution No. 05-16, Prohibition of Former Employees. Mr. Myott seconded the motion that passed 7-0.

### **VIII. Old Business** (heard out of order by consent)

- B. Consideration to Pay Additional Costs Associated with Boynton Terrace Demolition

Ms. Bright announced the Assistant City Attorney was present to discuss this. The original Interlocal Agreement (ILA) stipulated the CRA would pay up to \$350K but that had expired. This request came in over staff authority, so it was a policy decision to pay the additional amount to the City. There was also a lawsuit going on concerning it.

Ms. Jamila Alexander, Assistant City Attorney, City of Boynton Beach, declared this matter had arisen from an ILA between the CRA and the City regarding demolition of Boynton Terrace. In the actual agreement it said the City received estimates of demolition costs for \$350K. The estimates were lower than the actual expense, which turned out to be \$371K. The City was now a party in a lawsuit against the owner of the property, which is under foreclosure now, and the City has a lien against the property for the entire \$371K. The CRA had paid the City \$350K so now before the board was the \$21K above and beyond the estimated amount for the demolition. The City did not have the \$21K in its budget to pay this additional amount. Vice Chair Norem indicated the CRA did not have it in its budget either. Ms. Alexander continued,

saying another reason she was here was that since the City had placed a lien on the property, the CRA in one of its meetings and in a letter to the landowner, had stated the landowner would not be responsible for paying any demolition liens. Meanwhile, the City is still seeking to have the lien paid. The City was asking the CRA to pay the additional cost of the demolition, \$21K, and if not, then the City would proceed with enforcing the lien on the property.

Attorney Spillias advised there were more facts involved than the ones presented. Once the lien was placed on the property, the City was supposed to assign the lien to the CRA under the agreement. The City was waiting, since they had not received the full amount of payment, and the lien had not been assigned at this time. The portion of Ms. Alexander's comment that the CRA had agreed with the property owner to release the entire lien was in the context of a Direct Incentive Grant Agreement with the property owner. The Direct Incentive Grant recipient was Ocean Breeze. The agreement provided the CRA would give incentive monies of up to about \$1.3M and forgive the lien; however, one thing is the foreclosure action was not on a lien by the City, it was a foreclosure action by the lender on the property. This was a third-party foreclosure action. It raised questions about whether or not the property owner would ever be in a position to receive a Direct Incentive Grant, and even if he did resolve this with the lender, he was not entitled to the Direct Incentive Grant monies until he had met the conditions of the Direct Incentive Grant (a certain number of affordable units.)

Attorney Spillias continued, saying if the CRA was willing to pay the City the additional money for the demolition, \$21K, they should receive the assignment of the full lien and then retain the lien. He did not know whether the foreclosure action would extinguish the lien. Ms. Alexander said the lien was on the property at the same level as taxes, so she did not believe the foreclosure would extinguish the lien. Attorney Spillias thought this should be double-checked. If it did extinguish the lien, then the CRA still had the right to go after the property owner for the amount of the money at issue. The other option was if the property owner said he had worked out the financing with the lender and needed to get the lien removed, his recommendation would be not to do that unless he bonded it off. That way, the CRA would have surety to go against. Ultimately, the CRA would probably have some remedy for this issue if the board decided to pay the City the additional monies. But, they would need to get the assignment of the lien to the CRA contemporaneous with that.

Vice Chair Norem confirmed this was not in the budget. Mr. Reardon stated it was not in the budget and it was really \$26K because they had paid \$345K. Vice Chair Norem asked if it could be funded from unbudgeted funds and Mr. Reardon responded affirmatively. Vice Chair Norem thought if they did that and the property owner asked for extensions, the CRA could add conditions to the extensions and Mr. Spillias confirmed it. Vice Chair Norem thought the board had a good position to deny paying this to the City, but he would be in favor of paying it, which would make it a little cleaner.

Ms. Alexander said they would have to assign the entire lien to the CRA and if the entire amount due was \$371K as opposed to \$350K, there was \$26K not being paid and in limbo.

**Motion**

Vice Chair Norem moved to pay the additional \$21K for the demolition of the Boynton Terrace. Mr. Myott seconded the motion.

The statement was added, "with contemporaneous assignment of the lien to the CRA." Vice Chair Norem and Mr. Myott agreed.

**Motion**

Vice Chair Norem moved to pay the costs associated with the Boynton Terrace Demolition. Mr. Myott seconded the motion.

Mr. Myott asked to include the phrase in the motion, "with the understanding the CRA gets full lien rights." Vice Chair Norem agreed.

The motion passed 7-0.

**IX. New Business**

- 1.A) Consideration of Off-Duty Police Detail Contract for Marina Roadway Construction (heard out of order by consensus)

Ms. Bright explained the Marina Roadway had opened for the reconstruction of Casa Loma Boulevard and N.E. 6<sup>th</sup> Street. Flagmen were in place and paid for by The Related Group. However, there were pedestrian traffic and public safety concerns that relate to the CRA's own Marina parking and drop-off as well as those individuals having to park in the off-site parking lot on N.E. 6<sup>th</sup> Street and 1<sup>st</sup> Avenue. There had also been complaints about things being left on the Promenade. Until the signs were in place and the roadway completed, which was expected to be July 19, 2006, staff was asking for authorization to approve a two-man overtime Police detail with a 16 hour day from June 14, 2006 through July 19, 2006 at a rate of \$38.00 per hour. The fiscal impact would be \$36,480.00.

Chair Tillman had heard the City was adopting an ordinance to protect that area. At that point, would the City pick up security? Ms. Bright doubted it the City would pay for extra security. She and Mr. Reardon had to meet with Public Works, because the CRA was responsible for the maintenance.

Ms. Heavilin asked if they had the money. Mr. Reardon responded there was \$100K left in the Police line item. This was chosen because they could get the \$26K for the Boynton Terrace item from that source as well.

**Motion**

Ms. Heavilin moved to approve the recommendation for an overtime Police detail contract to cover the marina area. Mr. Sims seconded the motion that passed 7-0.

**IX. Comments by Board Members** (heard out of order by consensus)

Chair Tillman's only comment was for the agenda in this section to list the Executive Director and Staff's comments first, followed by the current list. Also, if some issues were brought up by staff or the Executive Director, the board could discuss the information.

Vice Chair Norem had three comments: 1) He thought it would be good to start the CRA meetings with a prayer and a pledge and if the board concurred, he would like to see that added to the agenda; 2) He knew there were three laser pointers, but asked if they could have

a laser pointer with a big dot. It was not possible to see the dot across the chambers from a person making a presentation from the opposite side of the room; 3) He thought the Valero gas station in the Sunshine Square project discussed earlier would make a nice park and art corner.

Ms. Bright responded she was meeting with Sunshine Square and they were contemplating having a huge decorative art wall to encompass it. They were given many suggestions for this. Ms. Horenburger observed they were seeing a lot of gas stations going away due to redevelopment, and they did not want them to go away.

Ms. Heavilin stated Ocean Plaza was the only viable pocket of retail in the Central Business District at this time and they needed a little help, everything else having been torn down for redevelopment. The sixteen businesses were planning a promotional event on Friday, July 21, and the goal was to generate interest and excitement in the downtown area for the small businesses. She felt this should be part of the CRA's Small Business and Economic Development program. They were planning entertainment, advertising, a lot of things for children, a dog parade, and art demonstrations. She had been asked to approach the CRA to see if they agreed this would qualify for an economic incentive or program. If so, would the CRA allocate some funds for it, at least \$1K. Their budget for the event was estimated at \$3K.

Ms. Horenburger thought that was a tough time to throw a party since many people would be out of town. Ms. Heavilin believed the point was to help the businesses make it through the summer. It was dead right now. So many people did not know it was there. It was fully occupied right now. She did not know if it could be a CRA-sanctioned event or just a donation under the umbrella of Business Development. The CRA board and staff were invited.

Mr. Myott said as long as staff could squeeze it in, he would approve it. Ms. Bright said they could donate money, but not staff time. They were beginning their move next week.

Mr. Sims expressed approval of the idea.

Ms. Heavilin stated they were also thinking of doing a fundraiser for some charity in the CRA area to help generate more publicity, such as the Children's Museum.

### **Motion**

Ms. Horenburger moved to approve a donation of \$1K for Ocean Plaza's event on July 21. Mr. Myott seconded the motion that passed 7-0.

Ms. Heavilin continued with comments, saying she preferred under Public Hearing to go back to hearing the public before staff because they could respond to issues the public might raise. Also, she did not like being called upon to comment. If she had something to say, she would say it. She also felt it led to people making comments just because they were called upon. Ms. Horenburger thought the asking for comments from everyone made the process much more orderly. Mr. Myott agreed. Chair Tillman stated he like to keep it in order.

Ms. Horenburger noted that on other boards, when an issue came up, a motion was put on the table right away and then it was discussed. That was how she understood Robert's Rules and how she had always seen it done. Here, a motion is made at the very last second when everyone had spoken. Attorney Spillias noted that under the very strict Robert's Rules, a motion

is made first, but the various boards could modify Robert's Rules to meet their needs. Many governmental bodies preferred to have some discussion before making the motion. Ms. Horenburger stated it did help in that more things were probably included in the motion after discussion. Mr. Myott preferred to continue the board's current practice.

Ms. Horenburger commented that the Treasure Coast Regional Planning Council's Study suggested the CRA consider moving to a form-based Code. She asked Ms. Bright to get more information. Mr. Myott felt the Design Guidelines were a step towards that.

Mr. Sims asked to have copies of presentations provided to the board members ahead of time, even if the presenter just handed out copies to the board members before the presentation. Ms. Bright will ask the presenters to do this.

Chair Tillman remarked that when the members got their agenda packets on the Friday before a meeting, there was a very large amount of material to be read and digested. If the information was available earlier, even in draft form, it could be sent to the members, who could get the final copies on the night of the meeting. Ms. Bright responded the CRA material was usually available early, but not the Planning & Zoning staff reports. She had, however, gotten mixed messages from different boards members, some of whom did not like to get a lot of paper. Ms. Heavilin asked if the members could get the CRA material early and the Planning & Zoning material on Fridays. Ms. Heavilin was opposed to drafts because she felt she had to scan the final to see what the difference was.

#### **XI. Comments by Board Attorney**

Attorney Spillias commented that rather than doing the RFP as a continuation of this meeting, they should schedule a special meeting for June 22 at 5:55 p.m. to consider the RFP item. That would be the only item on the agenda and the only item that could be addressed. When that item had been addressed, the workshop could begin. Ms. Bright reminded the members the workshop and RFP meeting was at the Holiday Inn at Congress at the Catalina Center.

#### **Motion**

Vice Chair Norem moved to call a special meeting for June 22, 2006 at 5:55 p.m. to discuss the RFP issue. Ms. Horenburger seconded the motion that passed 7-0.

#### **XII. Comments by Executive Director**

Ms. Bright commented that Ocean One had gone to the City Commission and had sent her a formal letter. She would be meeting with the board on this next month. Staff was preparing a parking plan and the board's decision on Savage Creatures would affect the calculations for downtown parking.

August 4, 2006 was targeted for an all-day board governance workshop. (Note: The meeting will be held at the Holiday Inn in Highland Beach starting at 9:00 a.m. and ending at 4:00 p.m.)

Ms. Bright learned through the City that the TV station was about two months behind.

Ms. Bright noted a couple of the board members wanted the meetings to either start at 6 p.m. or have two set working meetings a month. Several board members had mentioned it was a lot to get through in one meeting.

Mr. Reardon asked everyone to enjoy the wayfinding signs, seven of which were up!

**XIII. Future Project Review**

- Town Center at Waterpoint Park & Ocean Point Towers – Ridgmoor Development

**XIV. Future CRA Workshops and Events**

- A. Savage Creatures Workshop – June 22, 2006  
Holiday Inn Catalina, 1601 N. Congress Avenue, Boynton Beach, Fl.
  
- B. State of CRA Luncheon  
Wednesday, July 12, 2006  
11:30 a.m. – 1:30 p.m.  
Boynton Beach Women’s Club, 1010 S. Federal Highway

**XV. Adjournment**

**Motion**

Ms. Horenburger moved to adjourn the meeting at 11:30 p.m., seconded by Ms. Heavilin and passed 7-0.

Respectfully submitted,

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Susan Collins  
Recording Secretary  
(061306)