

**MINUTES OF THE COMMUNITY REDEVELOPMENT AGENCY BOARD MEETING
HELD ON TUESDAY, MAY 10, 2011 AT 6:30 PM IN
CITY COMMISSION CHAMBERS, CITY HALL,
100 E. BOYNTON BEACH BLVD., BOYNTON BEACH, FLORIDA**

PRESENT:

Jose Rodriguez, Chair
Bill Orlove, Vice Chair
James "Buck" Buchanan
Woodrow Hay
Steve Holzman
Mark Karageorge
Marlene Ross

Vivian Brooks, Interim Executive Director
James Cherof, Board Attorney

I. Call to Order - Chairman Jose Rodriguez

Chair Rodriguez called the meeting to order at 6:32 p.m.

II. Pledge to the Flag and Invocation

Mr. Karageorge gave the invocation followed by the Pledge of Allegiance to the Flag led by Mr. Buchanan.

III. Roll Call

The Recording Secretary called the roll. A quorum was present.

IV. Legal:

There were no legal issues to discuss.

V. Agenda Approval/Disclosures:

A. Additions, Deletions, Corrections to the Agenda

Chair Rodriguez asked the Board members if there was anything to be disclosed.

Chair Rodriguez inquired if any member had items to pull from the agenda.

Mr. Karageorge pulled Consent Agenda, Item B, Informational Only, Items A, C and D. Mr. Hay inquired if the new Vice Chair was being announced. Chair Rodriguez indicated it automatically takes place, but Attorney Cherof indicated it was a subject matter for the City Commission, not the CRA. Chair Rodriguez advised in the past, it was automatic

not ceremonial, but he acknowledged Vice Chair Orlove was the Vice Chair at the City Commission which typically is transitioned to Vice Chair of the CRA Board.

Ms. Brooks indicated she wanted to add to the agenda under Old Business, Consideration of a Budget Amendment for Ruth Jones Cottage in the amount of \$23,000 for impact fees to Palm Beach County. This was added as Item H.

Chair Rodriguez advised he wanted to pull Consent Agenda, Item D.

B. Adoption of Agenda

Motion

Mr. Karageorge moved to approve the agenda as amended. Vice Chair Orlove seconded it and the motion passed unanimously.

VI. Informational Items by Board Members & CRA Attorney:

Mr. Buchanan commented that the dinner for the Children's Schoolhouse Museum went well. Ms. Ross added she was also at the dinner and it was a big success, with a \$10,000 donation by Harvey Oyer and his family. Mr. Karageorge advised he wanted to remind everyone that on the 19th of this month is the Taste of Boynton. Tickets are available through the Chamber of Commerce online. He added he attended the CRA concert and had the pleasure of attending the final movie of the season, Secretariat. On June 2nd, there will be a ribbon cutting at the St. John Missionary Baptist Church, Pathways to Prosperity.

Chair Rodriguez reminded everyone that on 21st of this month, the painting of the exterior of City Hall would take place. He advised he received a call from a painting company that wanted to help. Frankie's would be providing lunch, some local vendors were helping with supplies, and the Solid Waste Authority would be donating paint. All that was needed was volunteers to help. It would save the City \$90,000, which is what it costs the City to repaint the building every three years.

VII. Announcements & Awards:

A. Ocean Avenue Concert

Kathy Biscuitti, Special Events Director announced the last concert would be May 20th and the Ocoee River Band would be playing. Food and drink vendors would be onsite.

B. Presentation of New Boynton Harbor Marina Website

Margee Walsh, CRA Marketing Director, presented a slideshow of the new marina website that was developed. The reason for the site is threefold. 1) To promote the marina as a natural resource; 2) to drive economic development by promoting the businesses located there; and 3) to highlight all the activities that are there. The tagline is "Your Tropical Port for Fun". The pages are designed so people who visit the website can "click" on certain areas for information and find more detailed, specific things to do. There are also Google map links on businesses located around the area. There are also links to area realtors for people looking to relocate to the area. This website would be linked to the CRA website.

Chair Rodriguez inquired if any of the businesses located at the marina had contributed to the website. Ms. Walsh indicated they were doing so just by providing information. The CRA had been in contact with them on a continual basis asking for updated information, rates, and hours among other things. Chair Rodriguez added he felt the CRA was promoting them as a business for multiple organizations and possibly they should contribute to the cost of the website. He further inquired if we asked them to and if they had their own websites. Ms. Brooks answered that some have their own websites and were listed under their contact information, but have not been approached to assist with the cost of the website. This was the CRA's way of helping promote businesses in the marina and also the restaurants and retail along Ocean Avenue and Boynton Beach Boulevard. Chair Rodriguez suggested expanding the links so that when individuals go to a specific category in a shopping plaza, they would be able to see all the businesses in that plaza. Ms. Walsh indicated that was already done and would continue to be updated.

Mr. Karageorge inquired of Ms. Walsh about the realtors for residential purposes. He advised there was commercial space both in Ocean Plaza as well as Marina Village and that if we could get those commercial realtors listed, hopefully businesses could contact them through this website as well. Ms. Brooks interjected that those are not listed with commercial brokers as Ocean Plaza is family owned. Most at Marina Village are individually owned and individually marketed. Ms. Walsh indicated that there was currently an opportunity to at least contact someone if rental space was desired.

Vice Chair Orlove inquired about the program that was in place, with videos of certain businesses and asked if those were included in the marina area, and if there was a link to those on the marina site. Ms. Walsh indicated the marina businesses that had agreed to be video taped are part of the Google map on the site and they would be under the Ocean Avenue District. Vice Chair Orlove inquired if there was a way to put links on the marina site to those videos. Ms. Walsh indicated the Google videos for the marina businesses are on the marina website and those businesses that had their own websites that would be listed would put the Google video link underneath their website.

VIII. Consent Agenda:

- A. Approval of Minutes – CRA Board Meeting March 9, 2011
- B. Approval of Minutes – CRA Board Meeting April 12, 2011

This item was pulled.

- C. Approval of Period Ended April 30, 2011
- D. Monthly Procurement Purchase Orders

This item was pulled.

IX. Pulled Consent Agenda Items:

- B. Approval of Minutes – CRA Board Meeting April 12, 2011

Mr. Karageorge advised he had corrections to the minutes. Page 2 at the bottom, “lastly I invited everyone to come to a benefit, should read luncheon. Page 15 under Public Comment, Anonymous, should read Guarn Simms. Page 29 says “Mr. Karageorge indicated an RFP was issued and there are gaitz, should be dates “in there that fell out”, should read spell out.

Mr. Buchanan advised on page 19, comments made on changing the downtown master concept into downtown master plan, minutes state “..... and feels a plan that has specificity and philosophy”, should read velocity.

Motion

Mr. Karageorge made a motion to approve the minutes as of April 12, 2011, as amended. Mr. Hay seconded the motion and it passed unanimously.

- D. Monthly Procurement Purchase Orders

Chair Rodriguez asked for clarification from the Board and the Executive Director regarding the item “Procurement Purchase Order Report”. He did not think these items were applicable. The Commercial Façade Grant is not a procurement purchase order. If the desire was to include everything that was paid, then the title should be changed.

A. CRA Policing Activity Reports

Mr. Karageorge noted that according to the report, the crime rate went down by 18% and he wanted to commend both the CRA Police and the Police Department and wanted to say thank you.

Motion

Motion to approve made by Vice Chair Orlove and seconded by Mr. Buchanan. Motion passed unanimously.

C. CRA Bond Rating Review by Standard & Poor's

Mr. Karageorge was glad the bond rating of an "A" was retained. He stated the information raised concerns that the revenues had been going down and the debt service had either been steady or up. It concerned him that it could be an effort to keep the bond rating at an "A" and he wanted to bring it to the Board's attention.

Vice Chair Orlove inquired of Ms. Brooks what she thought of the report. She advised she reviewed it and felt it was good. She further advised the debt is going down because no new debt was being taken on. Some debt had just been retired, as it was every year. Mr. Karageorge inquired if she agreed with the revenue aspect of it. She advised she did not feel revenue would continue to go down. She felt it would remain flat for approximately two years and then would begin to climb slowly. Chair Rodriguez indicated the property on North Federal would increase the tax rolls because that property would only be improved. Mr. Karageorge felt that would go on the tax rolls in future years and looking at it over the last couple years, as well as for next year, that was where the concern was, based on the history and where the trend was to that point.

Susan Harris, Finance Director, pointed out that as a note of encouragement everyone must remember that this review was done on years with severely declining revenues. If the "A" rating was maintained during those years, that would help the discomfort because it would definitely be better.

Ms. Brooks advised that the CRA maintains a debt service reserve and the fact that the debt service reserve is being maintained is partly why there was an "A" rating.

Motion

Motion made by Mr. Holzman to approve and seconded by Mr. Buchanan. The motion passed unanimously.

D. Small Business Development Program Student Survey

Mr. Karageorge advised that Annette Grey, who was present, did a great job of the five classes in helping people put business development plans together. He indicated he was disappointed in the response to the survey. He added he hoped it would be a greater number considering there were five graduating classes. He added it was a good program and there are people doing business, as well as businesses that expanded as a result of that program.

Mr. Holzman commented that email blasts were sent out and only six were returned and inquired of Ms. Walsh if the email blasts were followed up with a phone call or was an email blast the only thing relied on which obviously was not successful. Ms. Walsh advised that she did the email blasts with Theresa Utterback, Administrative Services Manager and did not follow up. She advised the email addresses would have to be linked to phone numbers. She would follow up and bring it back to the Board at the next meeting.

Motion

Ms. Ross moved to accept and was seconded by Mr. Hay. The motion passed unanimously.

X. Information Only:

A. CRA Policing Activity Reports

This item was pulled.

B. Public Comment Log

C. CRA Bond Rating Review by Standard & Poor's

This item was pulled.

D. Small Business Development Program Student Survey

This item was pulled.

E. Presentation of Documentary Video on CRA Small Business Classes

Sandra Donhert, 840 NW 1st Avenue, advised she was an artist in music and graphic design and she took the business development course. She learned a lot about the many things to consider before starting a business. Her company name is Sandrasonik Creative and was now a member of the Chamber of Commerce. It was very inspiring to

see people from all different backgrounds and educational levels getting a sense of closeness to their dream. She advised she wanted to capture that inspiration and created the documentary video about to be presented. (Video presented to Board and audience).

XI. Public Comments: (Note: comments are limited to 3 minutes in duration)

Jerry Taylor, 1086 SW 26th Avenue, commented that he knows the City works hard to bring people in the downtown area and get business created. He commented that Margy's Restaurant was very popular years ago and when the strip mall was torn down, the restaurant went out of business. Since the Promenade was developed, Margy's reopened. Mr. Taylor advised he went there a few weeks ago and parked in the garage. When he went to go to the exit doors, all three doors were locked. In order to get to the restaurant, a person had to walk to the entrance or the exit of the garage. His opinion was it could potentially be a safety hazard, should there be a fire or emergency and no one could get out. Chair Rodriguez informed Mr. Taylor that this was an item that he felt was on the agenda and would be addressed when they discussed the Promenade. Mr. Taylor disagreed and felt it was a separate issue. He advised they were cited by the City, but he believed they were only cited for the second and third floors. The proprietor of the garage informed the inspectors the doors did not have to be unlocked on the first floor. The proprietor offered access when the lease was signed. His opinion was that businesses would not want to be there if people cannot get there easily. If the City cites, it could be months before they have to react and the problem should be resolved by now. He felt if the City told the proprietor the garage would be closed until the issues were taken care of and then the residents could not get in either, the residents would bring enough pressure so the proprietor would do something immediately. He wanted to bring this matter to the attention of the Board.

Chair Rodriguez advised he would have discussion on this issue when they get to the agenda item in which the Promenade is included.

Vice Chair Orlove added that he passed this issue on to the Executive Director. Ms. Brooks advised that this was discussed and the fire chief went there. He indicated they were cited to have the doors unlocked and when it was followed up on a week or two later, the doors were not unlocked. In the parking garage, where the public parking is marked, the doors were not unlocked. A person could not gain access and would have to go around.

Chair Rodriguez closed Public Audience.

XII. Old Business:

A. Review of the Promenade DIFA Audit Report (Tabled March 9, 2011)

Chair Rodriguez requested a motion to remove from table.

Motion

Mr. Holzman moved to remove from table and Ms. Ross seconded it. The motion passed unanimously.

The representatives were present. Staff had reviewed what Boynton Waterways Investment Associates had provided, and they had created the public parking, and the public access per the agreement. They also created the retail space agreed upon per the terms of the DIFA. There is a sticking point with the condominium documents that the attorneys were working out. Mr. Holzman wanted Attorney Cherof to clarify the comment.

Attorney Cherof advised the point that Ms. Brooks referred to was an inconsistency between the language and the DIFA, regarding the terms of the public amenities and the language that was in the recorded condominium document. There were three possible cures. The language in the recorded documents could represent a risk to the CRA if the condominium association would be discontinued or dissolved, but the DIFA would still be payable by the CRA to the developer. That was a low risk, but still presented a risk. One option would be for the Board to simply acknowledge that inconsistency and assume the risk. The second would be to require the condominium documents to be amended, which was not the easiest thing to do, and the developer's representative would agree, would be burdensome. The third solution would be to simply reform or amend the DIFA agreement to provide that, in the event the condominium association was dissolved, the CRA's obligation to continue to pay the annual DIFA would cease.

Attorney Michael Weiner, on behalf of Boynton Waterways, advised that Attorney Cherof had supplied the three options approximately one day ago and it was appreciated that he was creatively thinking because there was a third option. That option was to actually amend the DIFA so that if the declaration were to end, that would be a breach of the agreement. To give assurances on the perpetual nature of the things that were stated with respect to public access, he advised he was not the only attorney advising them, they do need to consult with the condominium association attorney. The existence of that third option and the creative thinking would allow the Board to get over that last hurdle. After discussions with the other attorney, an answer should be returned to Attorney Cherof shortly.

Mr. Karageorge inquired of Attorney Weiner to confirm the third option as long as the attorneys agree. Attorney Weiner advised he would need to be counseled on its effect to the remaining documents, but felt it was a creative solution. There were still some that had to read the other foundation documents of this particular organization to ensure

they could be amended. With a multi-million project of this size, all the "i's" must be dotted and "t's" must be crossed.

Chair Rodriguez requested that Attorney Cherof provide clarification that it was being amended to fit the agreement. Attorney Cherof advised either the condominium document would be conformed to the DIFA Agreement or the DIFA Agreement would be clarified to indicate if the condominium form of ownership were dissolved, that would trigger the end of the DIFA and the payments to the developer.

Chair Rodriguez further inquired if any of that included challenges with the tenants and previous agreements with the shopping center. Attorney Cherof advised there was no connection between the two. The tenants were bound by whatever legal arrangement they had with the developer of the Promenade. Those were not tied to the DIFA agreement. Ms. Brooks advised they only had to create a certain amount of square feet at a certain amount of rent level. There was no other obligation.

Mr. Holzman inquired of Attorney Cherof if the funds would be released or held until the agreement was in place. Attorney Cherof advised the recommendation contained in the document was that the release be contingent upon either the recording of an amendment to the declaration or an alternate solution or waiver on the part of the CRA. Mr. Buchanan inquired whether the issue could be voted on or would it need to be tabled. Attorney Cherof advised it could be considered because there were two components of the distribution. One was to accept the annual report which had not been done. It would be timely to act on that after their presentation. The acceptance was contingent upon the presentation. The distribution could also be approved subject to the recording of the appropriate document. Once that occurred, there would be no reason for the matter to come back.

Sam Waylan, Boynton Waterways Investment Associates, gave a presentation and gave a brief explanation. Promenade was a brand new condominium that features 318 luxury condominiums and 77 condo hotel suites located within two 14-story towers. The luxury residential condominium is located on the Intercoastal in the Heart of Downtown Boynton Beach. Stunning ocean and intercoastal views and an array of elegant amenities and designer finish, move-in ready residences are what makes it Palm Beach County's value in luxury waterfront living. Promenade also features 20,000 square feet of ground floor retail space, destined for upscale shops and restaurants. Margey's Restaurant had recently opened its doors to the public and looked forward to opening Happy Garden Restaurant in the near future. The condominium is fully furnished, and moving forward with closings underway and residents already enjoying the coveted lifestyle. There are approximately 150 residents, or over 90 families, currently living on site. Sales had been consistent and with a positive response from the market. There was a plan to move up the launch of the sales of the South tower ahead of schedule due to the successful sales season and demand. Starting in January 2011, a very aggressive marketing campaign was initiated that resulted in a huge influx of traffic to

the project. Asking prices have been reduced by an average of 40% of the original asking price. The property is continually marketed through advertising venues such as print, online and TV advertising, billboards and direct mail pieces. There was also an incentive program that offered buyers up to \$20,000 in savings on a purchase of the unit.

Vice Chair Orlove commented that he visited the property and liked what he saw. He inquired how many units were occupied in the North Tower. Mr. Waylan advised there were 56 units occupied in the North Tower out of 154.

Mr. Buchanan inquired when Mr. Waylan anticipated the hotel rooms would be available. Mr. Waylan responded the status is continually reviewed and, as everyone knows, the economic environment has not been very conducive to opening new hotels. A couple of different options have been looked at and there had been no decision on a course of action.

Motion

Mr. Holzman moved to accept the presentation. Mr. Karageorge seconded and Chair Rodriguez opened it up for public comments.

Irene Apaslopilous, Manager and Owner of Margey's Restaurant, inquired whether there was confirmation the doors would be unlocked. It was a major concern. If everyone works together, the Promenade could be successful, bringing more businesses there. The way it was set up, she felt the commercial property was an afterthought. Parking and access was the main issue along with convenience and location. She advised she simply needs help getting it all going. She has the customers, the background, the heart and the following. She does not want to lose what took twenty years to build.

There being no further public comments, Chair Rodriguez closed the public audience.

Chair Rodriguez commented that he visited the restaurant and thought it was great, but did encounter the situation where he was told it was a private development and could not use the doors to get to the restaurant. He advised he would have the matter looked into to help the restaurant stay successful.

Mr. Hay would like to see a timeline initiated as he felt this issue needed to be taken care of as quickly as possible. Chair Rodriguez suggested an update by the next Board meeting, if not before. Ms. Brooks also mentioned that the developer indicated he would put a sign up for the restaurant. She would appreciate him also taking care of that as it was part of the agreement.

The motion to accept the presentation was passed unanimously.

Motion

Mr. Holzman moved to release funds subject to the agreement by the representative as stated by Attorney Cherof as Option #3 being that after they agree, the document language would be prepared which would then be submitted to the Mayor for signature. When the document had the signatures of both parties, Staff would distribute the money. Mr. Karageorge seconded the motion and it was passed unanimously.

E. Approval of Application Process of Pride in Property Program of Heart of Boynton Neighborhood

Chair Rodriguez inquired whether this was supposed to be a contest, and Ms. Brooks advised that it was decided that Staff would select the top three homes. Chair Rodriguez wanted to clarify the language in the brochure, stating it appeared that who ever did improvements to their property would receive \$250.

Mr. Karageorge agreed with offering cash incentives to improve property. It was in the budget for one fiscal quarter. He agreed flyers should be changed to reflect the cash award would be for the top three properties.

Chair Rodriguez inquired what the impact of this project would be to the staff and what goals were set to focus on the big projects underway for redevelopment. Ms. Brooks advised it was time consuming, but to save money, a tri-fold would be done in-house, labels would be printed and put on, stapled and mailed. As far as impacting other projects, it would take away from staff time. She would not recommend this as it does not have enough cumulative effect for the amount of time expended. She commented that a few years ago, there was a partnership with a youth group where neighborhood cleanups were done. That had more cumulative impact because they were getting community hours and prizes for cleaning up sections of the neighborhood. Itt did not impact staff time.

Mr. Hay inquired how much time would be impacted on staff with this program. Ms. Brooks advised that for one fiscal quarter one person's time would be impacted for a half a day to mail out and get it all together. Initially, the mailing would go to every property owner within the HOB, which was 388 acres including multi-family and commercial, even if it does not apply to their property.

Chair Rodriguez commented that \$250 multiplied by 8 properties equals the amount of money earmarked for this. An option would be to go into the neighborhood, find the eight worst homes and offer to buy materials up to \$250 and tell them to fix the property. Ms. Brooks indicated when the CRA had rehab grants for low income families which required no match, and the neighborhood was blanketed with postcards to apply for the funds, no one applied. She further advised a lot was done before it was decided not to

do the program again. Chair Rodriguez commented that there would be some residents that would do some repairs and some that would not so the neighborhood would still have some homes that would look the same and as a result there would be no impact.

Ms. Brooks and Mr. Buchanan both suggested channeling the funds to the Youth Empowerment Center for their summer programs and possibly have them participate in clean up programs.

Mr. Karageorge agreed with Mr. Buchannan and commented he would like to put the budgeted amount toward the YVPP (Youth Violence Prevention Program) for the summer and have them do neighborhood cleanups for a set amount of hours in the HOB. Chair Rodriguez pointed out If the goal was to clean up the whole neighborhood, Youth Empowerment would work best.

Mr. Hay agreed and said the impact on the entire community had to be the goal. With the YVPP, the result would be getting the mentality of the youth involved and that would be a long range impact.

Motion

Mr. Buchanan moved to channel \$2,500 to the Youth Empowerment Center and work out a program with them to participate in neighborhood cleanup. Mr. Hay seconded the motion. Chair Rodriguez opened this up to public comment.

James Brake, 710 SW 27th Terrace expressed that it was a great idea but brought up another idea about having paint teams with donated paint. If the City Hall was going to be painted that way, why not help families fill out the application for getting donated paint and then the City would have their own donated paint team, empowering the youth to be the paint team or multiple paint teams, cleanup teams, and anti-graffiti teams. With the small amount of money budgeted, it creates an ampliphier effect by putting more people back into it. Chair Rodriguez commented he thought the idea was a good one and suggested when it gets turned over to the Youth Empowerment Board that discussion should come up as to how they will activate it

Public comments were closed.

The motion passed unanimously.

C. Ocean Avenue Projects and Ocean Breeze West Construction Update

Michael Simon, Development Director for CRA, provided an update on the Ocean Avenue projects. In hindsight, he advised he had amended his presentation to include 710 North Federal Highway, for an update. In the future, the tenant build out process would be updated as well. In regards to the Ocean Avenue Projects, the Board

approved moving forward with those projects and going under contract with Kaufman-Lynn Construction Company to accomplish the Ocean Avenue Amphitheater, the Boynton Harbor Marina Entry Feature and the Ruth Jones Cottage relocation/renovation. The Heart of Boynton/Ocean Breeze West project was approved and all the projects together totaled close to \$1,428,000. The projects have all started and are moving incredibly smooth.

Mr. Simon, in his presentation, pointed out that the Amphitheater project began the first week of April. The fences went up and by the end of the week, demolition started. He explained the Boynton Harbor Marina Entry feature project process. He noted the helical pier system that goes under each of the cement structures are going to be placed on a very unstable and very moist ground. The CRA had to hire a geotechnical engineering firm to verify those depths, the compaction of the helical piers and the structural tensions that are placed on them to satisfy payment to the contractor and ultimately the CRA. He continued to present the cementing and construction process. An issue was discovered with regard to the unstable and extremely wet soils that were visible to the geotechnical engineer, hired by the CRA, to analyze the construction. It was determined that an issue was not taken into consideration as to the severity that the geotechnical engineer and the CRA thought it should be and, as a result, was not initially addressed in the drawings. It was verified by the structural engineer and the design team that the risk of assured future sinking was determined and that the weight and load was not adequately addressed in the drawings stating the helical piers were the most prudent solution.

Chair Rodriguez inquired when the geotechnical report was available. Mr. Simon advised the technical report for the tower feature location was available during the drawing of it and was reviewed by the geotechnical firm. For the tower feature, sixteen helical piers had to be implemented. None were recommended or identified by the architect for the ten cement features, the eight columns and the two art pads. Chair Rodriguez further inquired, when it went to permit, if the drawing did not have any supports. Mr. Simon confirmed, no. The architects designing the fence posts features did not take into account the soil to the degree the geotechnical firm felt they should have. The contractor and the foundation company agreed it would take mediation whether that be in prices that were obtained for over digging each individual fence column, the cost of the pumping, additional earth work, or the potential filling of rocks as opposed to the piers. Had these been identified by the hard scape architects and reviewed by the geotechnical firm prior to permitting, that cost would have been included in the original cost of the project.

Chair Rodriguez was concerned that the City was asked to come up with another \$7,700 and if this was a guaranteed maximum price, this should have been absorbed by the contractor. Mr. Simon reiterated that if it was overlooked by the design firm and was not in the drawings, any other contracting firm would have not included it in their price. Chair Rodriguez stated that any good contractor, knowing that it would be built ten feet

from the intercoastal, would have included some sort of costing for potential foundation issues at that site. Anytime something is built close to the intercoastal, there would have to be helical piers. Looking back at the minutes where the other contractor specifically stated that the geotech report was not back, he had already included the pricing regardless of what was returned on that report. This \$7,700 should be absorbed by the firm that quoted a guaranteed maximum price and was questioned by the entire Board.

Mr. Buchanan commented that there was the option of compaction rather than pilings. Chair Rodriguez pointed out that this discussion was exactly the one the Board had when this vendor was chosen, that the price was underbid and inquired whether it was guaranteed maximum price. The Board was warned this would happen and now it has, so a decision has to be made.

Mr. Simon continued his presentation by updating the Board on the Ruth Jones Cottage indicating approval was received and the plans were accepted. Chair Rodriguez inquired once the cottage was removed, what would happen with the empty lot. Ms. Brooks advised it would be mowed and it was purchased as parking for the Old High School. There are no other recommendations for this budget year on what to do with the property.

Mr. Simon continued with the presentation and discussed the Ocean Breeze project and explained the progress on the site work and the building aspects of the project. He advised there was a snag in the project in which the contractor, upon receiving his approved plans, got in to do the demolition and began the process of construction of the structure, found there was a tremendous amount of structural disintegration in the foundation and the footer in the rear. The entire back part of the project had to be removed and they had to stop construction and redesign the project to meet the incredible amounts of decay.

Chair Rodriguez advised there were a couple of change orders that would need to be approved. He inquired where the \$23,000 came from. Mr. Simon advised it was the new item "H". The City Building Department generates a final bill for fees encountered during the permitting process of anything being built. On the permit fees for that item, the original application submitted put the costs of the project as it was known, and based the permit fees at the time at submittal. It was not until May 5th that an email was received from the Building Department stating they had calculated the fees and were advised that county impact fees had to be paid which amounted to approximately \$22,060. Ms. Brooks advised that the amount was not agreed to and in her experience, the amount is generally wrong. She was going to speak to Mr. Swoope at the County and obtain the correct figure. She further advised no credit was being given for an existing use and believed this was a high number. Mr. Simon interjected that staff and REG Architects had been meeting with the City for over a year on this project and at none of those meetings were impact fees inferred. The argument was that there was an existing structure that had a value of impact fees that had already been paid so there

should be a credit. The position argued was that it would be a completely new use and would be removing that location of that existing credit to a place where there is none at all.

Chair Rodriguez inquired what the approximate total cost to date spent on the property was, including the purchase price and the projected future cost. Mr. Simon advised to date \$265,000 had been spent in acquisition, \$340,000 had been projected for construction/relocation and if the impact and permit fees are included, the cost would be at \$628,000. Tenant build outs could run another \$100-200,000 for 900 square feet. Chair Rodriguez remarked it was shocking to spend that amount of money for that amount of square footage for a building that had no historical value. It could be torn down and rebuilt as a brand new building for less than a third of that price. He felt the Board needed to reconsider and inquire whether the project can be terminated legally. Ms. Brooks advised that the largest cost was because it was going to be a full service restaurant; but that could be changed. Mr. Holzman indicated unless it was a full service restaurant, it would not be successful. Chair Rodriguez inquired of Attorney Cherof if the contract would allow termination of the agreement before the Board discussed options. Attorney Cherof advised he believed the contracts permit the City to get out, but not without cost.

Chair Rodriguez asked the Board for consensus to have Attorney Cherof review the contracts to determine if the City could be removed from the redevelopment effort. Mr. Buchanan advised he would be in agreement. Ms. Brooks reminded the Board they may face the same challenges on the Magnuson House and costs involved in that project. Mr. Holzman inquired whether historic preservation grants were investigated for the move and the renovation. Ms. Brooks advised that historic preservation grants are not for a private building. The Board was in agreement to have Attorney Cherof review the contract and also to have a cost analysis done along with some historical perspective. Chair Rodriguez also asked for consensus as to whether to put the project on hold until Attorney Cherof provides the requested information or move forward with the renovation until a decision is made. It was also agreed to have a special meeting to be held before the regular City Commission meeting.

Motion

Mr. Karageorge moved to approve the report and change orders on the marina entry feature and amphitheater and was seconded by Mr. Hay.

There was discussion by Mr. Holzman and he inquired of Attorney Cherof what would happen if the Board decided to not approve the change orders as he believed Kaufman-Lynn was responsible. Attorney Cherof advised discussions would be started up with the construction manager to determine how to dispose of the need to amend the project. It is not simply the approval of the change order which deals with changes in the work; there are also sub elements of it which is the cost of doing it including the

construction manager's fee. If it was not approved tonight, the City would pick up the dialogue with them and try to work out an agreement that would come back for approval. Chair Rodriguez commented that Kaufman-Lynn was paid \$6,000 to provide pricing for this project to use for the bid process. They are the ones that put it together and then came back with the guaranteed maximum price.

Vice Chair Orlove inquired of Attorney Cherof if the change orders could be approved pending discussion with Kaufman-Lynn as to whether or not the Board was liable to pay. Attorney Cherof advised he thought it would be better to table the item to allow for those discussions. This was the first instance that the work did not turn out as anticipated with newly discovered issues. He advised he felt it would be premature to throw down the gauntlet without engaging in some dialogue with Kaufman-Lynn. Over the course of the project, whatever it ends up being and whatever the Board decides, with communication and cooperation, the Board will get there probably cheaper than by drawing a line and standing on the first issue. Attorney Cherof advised that the work would continue on the project whether the item was tabled or not, as the contract states the work would continue even if there was a dispute. If the work did not continue, it could result in additional damages.

Motion

Vice Chair Orlove amended the motion on the floor to table this matter pending discussions by the Attorney and Executive Director with Kaufman-Lynn. The motion was seconded by Mr. Holzman.

Mr. Karageorge inquired of Mr. Simon and Attorney Cherof if the A&E firm that did the plans, would they be subject to part of the cost, since they did not put it in the plan. Attorney Cherof advised he did not think this was a forum in which to discuss this issue when the first objective would be to communicate with them and see what could be worked out.

There was no public comment and the motion passed 4-3 (*Messrs. Hay, Buchannan, Karageorge dissenting*).

Chair Rodriguez advised since the topic was being discussed, the Board would discuss Item H, Ruth Jones Cottage.

Mr. Simon inquired of Attorney Cherof if the builder should be alerted to stop any expense on the Ruth Jones Cottage until the Board had made a decision. The more work they continue to do, the more cost would have to be reimbursed if, in fact, it was decided not to move forward with the project. He advised that the mover of the house is attempting to locate himself in Boynton Beach to begin the preliminary site work of moving the house. It was not a time issue; it was an expense issue with mobilization

and more expense that would potentially have to be reimbursed. Chair Rodriguez advised there was financial data that would be provided to the Board at the Special Meeting on Tuesday, which would decide the fate of the Ruth Jones Cottage. The question at hand was should the work be stopped for two days until the Board makes a decision. Vice Chair Orlove reiterated Mr. Simon's point that costs might still be incurred if the project was stopped. Chair Rodriguez felt the work should be stopped until a decision is made. Vice Chair Orlove indicated he would not agree. There had been long discussions about this project and a value has to be placed on the historic value of the project. He expressed he would not be in favor of moving forward with stopping the project. There was further discussion among Board members about whether the work should be continued until a decision was made by the Board. The consensus among the members was to move forward with the project.

Motion

Mr. Holzman made a motion to table Item H until the Special Meeting on Tuesday and was seconded by Ms. Ross. The motion passed unanimously.

- D. Update on Request from Palm Beach County for Repayment of Development Regions Grant Funds for Delray-Boynton Academy in the Amount of \$50,000 (Tabled March, 9, 2011)

Attorney Cherof wished to discuss this item and Item E together but advised he did not want to remove from the table. He advised dialogue had been started with the representatives at the County to deal with their letter claim for \$50,000 for reimbursement for the Delray-Boynton Academy and \$50,000 for the KU Holdings. In the first meeting, good progress was made with respect to the Delray-Boynton Academy and less progress on the KU Holdings. There was nothing to report and Attorney Cherof requested this be stricken from the agenda until a report was ready to be returned to the Board.

- F. Update on Request from Palm Beach County for Repayment of Development Regions Grand Funds for KU Holdings in the Amount of \$50,000 (Tabled March 9, 2011)

Motion

Ms. Ross moved to strike Items D and E from the agenda. Mr. Holzman seconded it and it passed unanimously.

- G. Consideration of Adding Conflict Disclosure by Board Members to CRA Board Agendas

Attorney Cherof advised the agenda cover sheet on this item, dealt with the section of the agenda the Board currently already had; A – Informational Announcements, and C & D are legal requirements, whether they are spelled out that way or not. The suggestion had been by listing them in that manner, the concept of announcing voting conflicts and filing disclosure forms would always be fresh because as the agenda was reviewed, the Board would be prepared to do that.

Item B was the subject matter that started the discussion at the last Board meeting, regarding the extent to which the disclosures should be made. This would be other than pure voting conflicts under State Statute. Mr. Holzman inquired if a member had a conflict, there was a legal obligation to step off, so was this simply adding a form to that legal requirement that was already in place? Attorney Cherof explained that Item B was an expanded suggestion about the responsibilities for disclosing contacts with lobbyists or applicants. Mr. Holzman indicated there was already a lobbying Ordinance in the City and that Ordinance could be used to require lobbyists to register with the City. Attorney Cherof advised the Lobbyist Registration Ordinance would be back to the City Commission to examine in detail with some idea for modification, particularly to match up with what the County regulations are or will be. Mr. Buchannan added he felt this issue had nothing to do with requirements for lobbyist registration; it was simply disclosure by Board members if they had contacts with lobbyists, applicants, or proposers and felt this was something that needed to be implemented. Chair Rodriguez inquired what if there were those who were not registered lobbyists but were proposing for others, how would that be handled and also inquired whether Item B was a requirement of the Board anywhere. Attorney Cherof advised it would not apply to the CRA. There was further discussion on the issue and as to when to disclose items that come before the Board that are on the agenda.

Motion

Vice Chair Orlove made a motion to move forward as proposed which was seconded by Mr. Karageorge. Chair Rodriguez informed Ms. Brooks that he had asked for definitions of the agenda items so it would be apparent what to disclose. She advised she provided them via email. Chair Rodriguez felt it was important that before this issue was approved, there should be definitions tied to the item so it would be clear as to what was being approved. Ms. Brooks explained the agenda and how definitions were provided. It was decided to adjust Item B on the agenda to say disclosure of contacts with lobbyists, applicants and proposers to the current agenda and asked to move forward with the motion. Chair Rodriguez advised he would not be in favor without definitions.

Motion

Vice Chair Orlove restated his motion to include Item VI, B and is clarified only for items regarding the current agenda. It was seconded by Mr. Karageorge. The motion was passed 6-1 (*Mr. Holzman dissenting*).

H. Consideration of Employment Agreement for Executive Director

Chair Rodriguez inquired if the Board members had an opportunity to read the agreement. Mr. Buchanan inquired under termination it stated “needs a supermajority vote for severance pay”. What would the super majority be? Attorney Cherof stated six. Mr. Buchanan also inquired if a termination would also take a super majority. Attorney Cherof stated the way the agreement was drafted, it only would apply to the severance package. Vice Chair Orlove had a question regarding the vacation and sick time and advised he did not understand what she had now and what the staff had and wondered if she should have more or the same. He felt it was not made clear. Attorney Cherof indicated the sick and vacation hours would be the sick and vacation hours accrued at that point, without having to start over with accrued time.

Susan Harris advised that currently the Executive Director would get the same amount of time as staff. Staff can accrue up to 320 hours of vacation time and up to 480 hours of sick time as a cumulative total. Any amount over those limits would be lost. Vice Chair Orlove inquired if this was different than the prior Executive Director’s agreement. Attorney Cherof advised the starting point was not to make any reference to the former Executive Director’s contract, as there was so much criticism of its form and content. Ms. Ross inquired about the travel and subsequent expenses. The agreement made reference to one national convention. Ms. Brooks advised one conference could be chosen. Ms. Ross also questioned what was meant by the “International Council of Shopping Centers Historic Trust”, and it was determined that was an error. Mr. Karageorge inquired as to the item under “Duties” 1.3”. He requested the wording be changed from “as the Board of Commissioners of the CRA”, to delete the word Commissioners. Chair Rodriguez indicated the word “Commissioners” was being used as a general term and that was confirmed by Attorney Cherof. Mr. Karageorge further stated he felt the termination language appeared too “punitive” as far as the super majority reference. Attorney Cherof explained that during the Legislative Session there was a bill pending that would have eliminated severance pay for any public employee but there was a provision that provided an exception to it, if there was a governing body policy and it provided for a super majority vote and that language was borrowed for the drafting of the agreement.

Motion

A motion was made by Mr. Holzman to approve the contract in its state and seconded by Ms. Ross.

Vice Chair Orlove commented it appeared that Ms. Brooks would be the same as a staff person, except it is in writing. The contract outlined that she would be staff and does not give anything more. Ms. Brooks advised that she had not spoken during any of the discussion nor is she in agreement with all of the terms. Chair Rodriguez commented

that what distinguished her from staff is that there is a contract and her salary would distinguish her from the rest. Her reporting structure had her as head of the CRA. Ms. Brooks advised under the terms of her contract, she would prefer to remain as is. The terms of the contract are not beneficial to her in her opinion. She advised it was limited as to vacation, as it could not be accrued. She was limited to how much could be taken at one time. In addition, some percentage of the insurance would be out of pocket. It is not consistent with the HR Policies with other staff among other things. Chair Rodriguez reminded the Board that Ms. Brooks had an attorney working on her behalf. Attorney Cherof commented on Section 5 of the insurance issue, it does not provide for any percentage, it is a blank. Any number could be filled in at a later time if it is determined an employee should pay a proportionate share of a premium. For clarification, Chair Rodriguez restated the motion to be that if the Board approves the contract in its present state, Ms. Brooks would then take it to her attorney and they would come back to the Board and either agree or have points of revisions. Vice Chair Orlove suggested possibly tabling the matter, but it was determined the contract had to be approved first with its terms and conditions.

The motion passed 6-1 (*Vice Chair Orlove dissenting*).

I. Ruth Jones Cottage

This item was previously discussed.

Motion

XIII. New Business:

A. Preliminary FY 11/12 Budget Discussion and Staff Recommendations

Ms. Brooks indicated the need to begin to figure out, as a Board, what needs to be accomplished. She advised she wanted to have a policy discussion, rather than a project and program discussion, but she added she felt it would be beneficial for the Board to hear staff's ideas on how the redevelopment of the downtown area could be continued. Because of lean times and because the CRA is on a path of redevelopment, the focus needed to be razor sharp and take the finite resources available and use them in the most responsible and effective manner. Ms. Brooks indicated she would recommend changes that may not be popular. The TIF revenue will continue to go down, the projected drop is approximately 3%. The preliminary estimate was \$6.5 million in TIF, about 60% of that is from the City, 40% is from the County. No change in millage was estimated yet. Other sources of CRA revenue are fund balances which are unused funds, the marina revenue, which was not from rents but from fuels. Approximately \$850,000 comes from fuels and the balance was rental income. Tenants

receive a discount of .20 per gallon for fuel. Ms. Brooks further stated there would be a very aggressive fundraising effort for events, along with a very aggressive special events slate. The operating expenses would be dropped again for the third year in a row, starting with the salary line item or payroll expense. Payroll expense dropped last year and then were dropped 15% from last year to this year. Of all the different line items, CRA operates three funds; the general fund which is operating expenses, the project fund which is the capital projects and programs and the debt fund, which is what the debt service is done through. Overall, operating expenses were reduced by 3%. Ms. Brooks advised one of the things not in this year's budget was any retirement benefits. The City has a pension system, the CRA does not. Susan Harris explained that CRA had a two-fold system. One was the 457 match, where if an employee saved money, the CRA would contribute up to 5% of the salary in each year. The other system was non-contributory in nature. The CRA contributed 5.2% to every employee's salary to their retirement fund each year. The two of those together for the upcoming fiscal year would be \$60,000 in total if the board decided to reinstate that program.

Vice Chair Orlove inquired of Ms. Harris what were the benefits funded for and Ms. Harris approximated it to be \$70,000. The benefits also included dental, vision, and life insurance, which was the difference between the listed \$70,000 and \$132,000. The \$60,000 would be for the retirements benefit only; the balance would be what was anticipated as increases for medical, dental, vision and life.

Chair Rodriguez reminded the Board this was not the time to review budget. The understanding was for policy direction. Chair Rodriguez inquired of Ms. Brooks what was she looking for as far as policy direction. Ms. Brooks asked for clarification if the Board wanted that added back in or not. She further stated basically after the debt service is paid out, with the DIFA next year for the Promenade, the Wal-mart Brownfield payment, the Palm Beach County Grants Refund, the CRA would have an estimated project program revenue of \$1.1 million. She inquired to the Board what would they want to do with that money. Chair Rodriguez advised Ms. Brooks should be the one making the recommendations on what projects should be funded next year. Vice Chair Orlove made a suggestion of adding art along Ocean Avenue but also noted there are no places for people to sit for the bus on Federal Highway. When the Art Board made a presentation, there was some discussion and visuals on some creative ways of doing transportation seating. He would like to pursue investigating what it would take to get that started. He also stated he would like to have an incentive program for residents to use merchants within the CRA. Chair Rodriguez suggested that if any Board member had recommendations of things they would like to see done in the CRA district, to email Ms. Brooks and then she could bring them forward to the budget hearings. There was discussion on when the CRA budget hearings should take place and the recommendation was to hold them after the City budget hearings. Vice Chair suggested putting this on the June agenda. Chair Rodriguez asked for consensus from the Board for a date certain that the ideas would be given to the Executive Director so

she had ample time to put together the numbers associated with it. The consensus was to have ideas to Ms. Brooks by May 20th.

B. Discussion of Possible Dates for Ribbon Cuttings for Marina Entry Feature and Amphitheatre

Margee Walsh advised the challenge was to get all the Board members together for these events, different dates are being proposed. The CRA felt having these on a Saturday would bring more citizens out. A later date in July for the marina and amphitheater were suggested. A suggestion of July 23 was made. Vice Chair Orlove suggested doing this in August due to vacation and school. Ms. Brooks asked the Board to email the top three date choices and the majority will prevail.

XIV. Interim Executive Director's Report

A. Project Status Update

There were no items to discuss.

XV. Future Agenda Items:

- A. Consideration of Recommending to City Commission of Reinstating Project Approval of Development Projects within CRA from P & D to CRA Board (Tabled 4/12/11)**
- B. Renegotiate the Terms with the Palm Beach County Commission on Ethics**
- C. Consideration of Recommending to City Commission the Naming of Independent CRA Board Members at the Time of Creation of Independent CRA Board (Tabled 4/12/11)**

XVI. Adjournment

There being no further business to discuss, the meeting properly adjourned at 9:51 p.m.



Ellie Caruso
Recording Secretary