

MINUTES OF THE REGULAR MEETING
BOCA RATON COMMUNITY REDEVELOPMENT AGENCY
MONDAY, FEBRUARY 25, 2002
4:30 P.M.

The regular meeting of the Boca Raton Community Redevelopment Agency was called to order by Chairman Dave Freudenberg at 4:33 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Chairman Dave Freudenberg
Vice-Chairman Susan Haynie
Commissioner Steven L. Abrams
Commissioner Bill Glass
Commissioner Carol Hanson (arrived at approximately 4:36 p.m.)

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
Executive Director Jorge Camejo
City Clerk Sharma Carannante

MINUTES:

Minutes of the Regular Meeting of December 10, 2001

Motion was made by Commissioner Abrams, seconded by Council Member Glass, to approve the minutes, as presented. Motion carried 4-0 on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams and Glass voting yes.

AMENDMENTS TO THE AGENDA:

Motion was made by Commissioner Abrams, seconded by Council Member Haynie, to amend the agenda to consider Item 4, Resolution No. 2002-02-CRA as the first item of business. Motion carried 4-0 on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams and Glass voting yes.

Commissioner Hanson arrived at approximately 4:36 p.m.

REGULAR BUSINESS - PART II RESOLUTIONS:

4. Resolution No. 2002-02-CRA

A resolution of the Community Redevelopment Agency ("CRA") authorizing the Center for the Arts at Mizner Park, Inc. ("CFA") to take possession of the Amphitheater parcel; delegating to the Executive Director the responsibility of determining whether the Centre for the Arts at Mizner Park, Inc. has satisfied the conditions precedent to commence construction of the Amphitheater; authorizing the CFA to demolish the existing Amphitheater; authorizing the Executive Director to grant construction easements necessary for the construction of the new Amphitheater; authorizing the Executive Director to provide written consent to the Amphitheater mortgage based upon the review of outside counsel that the mortgage documents are consistent with the lease agreement; providing for severability; providing for repealer; providing for an effective date.

Executive Director Jorge Camejo gave the presentation, saying that the new amphitheatre would be constructed at the north end of Mizner Park on the western edge, near the Boca Raton Museum of Art complex. He outlined surrounding businesses and streets and provided an overview of the parcel to be redeveloped. Mr. Camejo detailed what passage of this resolution would mean and then reviewed seven

possession requirements to be met by the CFA, including plans and specifications for the amphitheatre, a construction budget, financial capacity to pay construction costs, the amphitheatre bond, the amphitheatre survey, insurance provisions under lease, and an amphitheatre operating agreement. Per Mr. Camejo, the CFA has satisfied these requirements. He concluded his comments by stating that staff recommended approval and then answered questions from the Agency.

CRA's special counsel, Elaine Cohen of Weiss, Serota, Helfman, Pastoriza & Guedes, P.A., spoke to the issue of the loan commitment and answered questions related to the interest rate and the cost of the amphitheatre, which is approximately \$5.9 million. She confirmed with Agency members that, while the CRA owns the land, this resolution would allow the CFA to lease the land.

During the public hearing, Wendy Larsen, Director of the Centre for the Arts, thanked the CRA for its continued support and confirmed that a loan commitment has been obtained from the bank and pledges have been received as well. In short, the CFA is ready to build. She then answered questions from the Agency.

Charles Siemon, the attorney representing the CFA, provided additional information to CRA members as requested and offered assurances regarding financing. He also mentioned that the CFA is currently negotiating for an endowment to provide perpetual maintenance of the grounds.

Esther Dance voiced concern as to who would be responsible should the CFA default on the loan.

At the request of CRA members, Mr. Siemon explained that the money is available to build the amphitheatre. As proof, he said the Agency has been given a copy of the audited statement, by an outside auditor, showing that the money is there. The CFA also has a contract with a contractor that guarantees the price, and the contractor has provided a performance bond guaranteeing he will deliver. Mr. Siemon then provided additional assurances as to the solidity of the financing.

The City Attorney offered a more detailed explanation as to the CRA's position, stating that the CRA will always be the fee-simple owner and will never be at risk because of the leasehold mortgage.

Motion was made by Commissioner Abrams, seconded by Chairman Freudenberg, to approve Resolution No. 2002-02-CRA. Motion carried 4-1; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Abrams and Glass voting yes. Commissioner Hanson voted no.

REGULAR BUSINESS - PART I - QUASI-JUDICIAL PUBLIC HEARINGS:

1. Resolution No. CRP-00-02R2

Individual Development Approval application of Charles Siemon, Esq. for James and Marta Batmasian, requesting an amended and restated Individual Development Approval (IDA) for the property which was the subject of IDA CRP-00-02 and IDA CRP-00-02R1; amending the site plan by redesigning Buildings E and F1/F2 and Parking Decks 4 and 5, replacing a hotel building on Mizner Boulevard with townhomes; increasing number of residential units; decreasing number of hotel units and modifying heights and square feet of approved buildings; granting technical deviations relating to driveway design and turn lane requirements for the redevelopment of Royal Palm Plaza located at Mizner Boulevard, S.E. 1st Avenue Federal Highway; providing this amended and restated Individual Development Approval shall supersede all previous development approvals

Jorge Camejo explained that the petitioners, through their attorney, Charles Siemon, had requested that consideration of this item be postponed until the March 18, 2002, CRA meeting. However, since this was an advertised public hearing, the CRA may wish to open the hearing today and continue it to the March meeting. The CRA decided to proceed with the hearing.

The City Attorney explained the quasi-judicial procedures that would govern the public hearing. The City Clerk administered the oath to those who intended to speak on the petition.

Herman Dance voiced concern about the abandonment of S.E. 3rd Street and spoke in opposition to the new verbiage in Paragraph 12. He requested that, if there were no implied rights, Paragraph 12 be deleted and construction take place within required setbacks.

The City Attorney clarified that the intent of this provision is to reaffirm that the abandonment is a precondition to completing all the requirements in the IDA. If abandonment is not secured, this condition would not be satisfied. She further stated that the petitioner could either secure the abandonment or re-design to conform to the setback requirements. The City Attorney then read the provision into the record and advised the CRA not to remove the provision, as it provides greater legal assurances should subsequent arguments arise that the petitioners are entitled to the abandonment.

Mr. Camejo provided additional information to the CRA as requested. It was determined that abandonment of S.E. 3rd Street could not take place unless property owners, of which Mr. Dance is one, on both ends of the street agreed to it. Commissioner Hanson mentioned that the site plans provided should be corrected to reflect S.E. 3rd Street instead of S.E. 3rd Avenue.

Motion was made by Commissioner Abrams, seconded by Commissioner Glass, to continue Resolution No. CRP-00-02R2 to the March 18, 2002, CRA meeting. Motion carried 4-1; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Abrams and Glass voting yes. Commissioner Hanson voted no.

2. Resolution No. CRP-01-01

Individual Development Approval application of Denise Burton, authorized agent for RLC Development, LLC., requesting Individual Development Approval ("IDA") from the Community Redevelopment Agency for the property located at 137 West Royal Palm Road to develop a 5,660 square foot professional office building; providing this Individual Development Approval shall supersede all previous development approvals

The City Attorney explained the quasi-judicial procedures that would govern the public hearing. The City Clerk administered the oath to those who intended to speak on the petition.

Planning & Zoning Director Carmen Annunziato gave the presentation, providing the location of the property in question and that of surrounding businesses. The one-story office building would include 22 parking spaces; 19 spaces are required. He then presented information on the setbacks, stating that all setbacks meet the requirements of Ordinance 4035. Mr. Annunziato reviewed slides of the building, reflecting the elevations and colors requested by the applicant. The Planning & Zoning Board and the Community Appearance Board reviewed the plans; both boards unanimously recommended approval. He concluded by stating that staff recommends approval, subject to the conditions listed in the IDA.

Mr. Camejo provided additional information to the CRA as requested, relating to the architectural coloring and style.

Bruce Retzch, architect for the project, provided information on the roof of the building in response to questions from the CRA.

Chairman Freudenberg opened the public hearing on Resolution No. CRP-01-01. Seeing no one come forward, the hearing was then closed.

Motion was made by Commissioner Abrams, seconded by Commissioner Hanson, to adopt Resolution No. CRP-01-01. Motion carried 3-2; Chairman Freudenberg, Commissioners Abrams and Hanson voting yes. Vice Chairman Haynie and Commissioner Glass voted no.

PUBLIC REQUESTS:

Esther Dance raised the issue of the vacant International Museum of Cartoon Art, encouraging the CRA to search nationally for a suitable cultural tenant. She was opposed to leasing the space to a hotel/management business.

Carl Jacobs spoke on Mizner Park, expressing that it is vibrant and full of people. He also commented on the City's 1992 Mizner Park bonds, saying the principal will be paid off on March 1. Mr. Jacobs then commented on a property in the downtown area, stating that the owner has resolved code violations. Referring to construction at Camino Real & Federal Highway, Mr. Jacobs voiced that the condition of the site is unacceptable. He also expressed concern that the contractor is unloading trucks from the second lane of Camino Real without putting up barricades. Consequently, Camino Real is reduced to only one lane, which is backing up traffic. The CRA asked Mr. Camejo to check into the situation. Finally, Mr. Jacobs commented positively that the book dropoff area at the library is being used to park bicycles.

3. Resolution No. 2002-01-CRA

A resolution of the Community Redevelopment Agency ("Agency") to recommend approval of AB-00-05 / 00-65000005, the petition of Five Five Five Realty Holdings, Inc. for the abandonment of George A. Long Alley (Right-Of-Way) located between S.E. 5th and S.E. 6th Streets, west of Federal Highway, in the Community Redevelopment Area; providing for severability; providing for repealer; providing an effective date

Development Services Property Specialist/Appraiser Lynn Bodor gave the presentation, saying that the George A. Long Alley is proposed for incorporation into the approved 555/595 South Federal Highway project; that site plan approval is subject to this abandonment. She explained that other portions of this alley have been abandoned to accommodate other redevelopment projects. Staff contacted all franchised utility companies, the Director of Utility Services and the City's Civil Engineer. While all entities supported the abandonment, the City's Utility Services Department asked that existing water and sewer mains in the right-of-way be abandoned and removed at the petitioner's expense. Relocation of sewer service to Barry Financial Center was also requested, if required. Ms. Bodor referred to Section 2, Paragraph (3) of the resolution, which was revised to reflect these conditions. FPL, Adelphia, and BellSouth also have affected lines and are requesting relocation and encasement at the petitioner's expense. The developer is planning underground installation of the relocated facilities. Ms. Bodor stated that staff recommends approval based on approximately seven conditions, which she outlined in detail, and then answered questions from the CRA.

Chairman Freudenberg then opened the public hearing on Resolution No. 2002-01-CRA.

Paul Slattery, the architect on this project, explained that the IDA approval expires in December 2002; the petitioner is ready to submit construction documents for permit upon approval of the resolution. Mr. Slattery then provided additional information to the CRA as requested.

The City Attorney clarified that the issue before the CRA now is simply a recommendation for abandonment. The actual abandonment will be processed and heard at a future City Council meeting.

Seeing no one else come forward, Chairman Freudenberg closed the public hearing.

Motion was made by Vice Chairman Haynie, seconded by Commissioner Glass, to adopt Resolution No. 2002-01-CRA. Motion carried 3-2; Chairman Freudenberg, Vice Chairman Haynie and Commissioner Glass voting yes. Commissioners Abrams and Hanson voted no.

5. Resolution No. 2002-03-CRA

A resolution of the City of Boca Raton Community Redevelopment Agency authorizing the Chairman to execute a third amendment to the agreement between the Boca Raton Community Redevelopment Agency and the City of Boca Raton for the purpose of providing services and support to the Boca Raton Community Redevelopment Agency; providing for severability; providing for repealer; providing an effective date.

Mr. Camejo explained that this amendment to the contract for services between the City and the CRA provides for an extension of the contract to the year 2018, which is the date of the final debt service payment on the Mizner Park Bonds.

Chairman Freudenberg then opened the public hearing on Resolution No. 2002-03-CRA.

Esther Dance came forward, asking for the CRA's expenses for this year, as well as the total expenses incurred up to this date. A spreadsheet outlining those expenses was distributed, at Mr. Ahnell's request. A copy was also provided to Ms. Dance. Mr. Ahnell then reviewed the spreadsheet and provided additional information to Ms. Dance as requested.

In a final statement, Ms. Dance expressed opposition to the City's monetary support of the CRA.

Mr. Camejo provided additional information for the record, stating that this resolution is the mechanism that will enable the City be reimbursed after the bonds are paid off. The cost of planning and the cost of any items related to review of development, such as applications for signs or renovations, are still going to exist whether this agreement exists or not. This vehicle allows the City to keep track of the dollars being expended. Mr. Camejo explained that the cost of maintaining Mizner Park is the largest expense, and that is tracked separately.

Seeing no one else come forward, Chairman Freudenberg then closed the public hearing.

Motion was made by Commissioner Glass, seconded by Commissioner Abrams, to adopt Resolution No. 2002-03-CRA, as revised.

Discussion ensued relating to the term of the extension. Although the date of 2018 was listed in the amendment, the extension was described as being for ten years instead of sixteen years, due to a scrivener's error.

Motion was made by Commissioner Hanson, seconded by Vice Chairman Haynie, to change the extension date listed in the amendment from 2018 to 2012. Motion failed 2-3; Vice Chairman Haynie and Commissioner Hanson voting yes. Chairman Freudenberg, Commissioners Abrams and Glass voted no.

The vote on the main motion to adopt Resolution No. 2002-03-CRA, as revised, carried 4-1; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Abrams and Glass voting yes. Commissioner Hanson voted no.

REGULAR BUSINESS - PART III - CONSENT AGENDA:

There were no items for consideration.

OTHER BUSINESS:

6. Review of meeting schedule – CRA will consider the following:

“Motion to revise the schedule of the CRA to cancel the first CRA meeting in March 2002 and reschedule the second meeting from Monday, March 25, 2002 to Monday, March 18, 2002; reschedule the second CRA meeting in May 2002 from Monday, May 27, 2002 to Tuesday, May 28, 2002; reschedule the first CRA meeting in November 2002 from Monday, November 11, 2002 to Tuesday, November 12, 2002; and cancel the second CRA meeting in December 2002.”

Mr. Ahnell explained that the schedule was being changed due to conflicts with holidays and voting days, and to recognize national holidays. The budget hearing process is also taken into account.

Motion was made by Commissioner Hanson, seconded by Commissioner Glass, to adopt the revised meeting schedule for the CRA. Motion carried 4-1; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Glass and Hanson voting yes. Commissioner Abrams voted no.

DIRECTOR'S REPORT:

Mr. Camejo explained that the City would not be sponsoring the carnival in conjunction with “Meet Me Downtown” this year, due to uncertainty relating to commencement of construction projects and parking issues in the downtown area.

ATTORNEY'S REPORT:

The City Attorney had nothing to report at this time.

COMMISSIONERS' REPORTS:

Commissioner Hanson asked that the map for Royal Palm Plaza petition be corrected to reflect S.E. 3rd Street instead of S.E. 3rd Avenue. She also questioned whether notification was sent to property owners affected by the requested changes. Mr. Camejo explained that notification for IDAs are similar to that for site plan approvals. A notice is published in the newspaper; individual notification is not sent.

Commissioner Hanson asked Mr. Ahnell and CRA members whether Bonnie Dearborn had contacted them regarding use of the International Museum of Cartoon Art as a permanent exhibit place for a "Titanic exhibit." Mr. Ahnell responded that he had received a message from Ms. Dearborn today; he would return her call tomorrow.

Commissioner Haynie asked that trashcans, and possibly street furniture, be installed at bus stops within the City.

Chairman Freudenberg expressed hope that a potential resolution will be found regarding the International Museum of Cartoon Art by the next CRA meeting.

Commissioner Abrams requested a list of potential occupants interested in leasing the International Museum of Cartoon Art from Chairman Freudenberg.

ADJOURNMENT:

Motion was made by Commissioner Hanson, seconded by Commissioner Glass, to adjourn the meeting. Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Glass and Hanson voting yes.

The regular meeting of the Boca Raton Community Redevelopment Agency adjourned at approximately 6:25 p.m. Monday, February 25, 2002.

Dave Freudenberg, Chairman

ATTEST:

Sharma Carannante, City Clerk