

MINUTES OF THE REGULAR MEETING  
BOCA RATON COMMUNITY REDEVELOPMENT AGENCY  
MONDAY, JANUARY 12, 2009  
\*1:30 P.M.

\*The Regular Meeting of the Boca Raton Community Redevelopment Agency was called to order by Chairman Arts at approximately 2:47 p.m.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:**

Chairman M.J. Mike Arts  
Vice Chairman Bill Hager  
Commissioner Susan Haynie  
Commissioner Michael Mullaugh  
Commissioner Susan Whelchel

Also attending the meeting were:

Boca Raton City Manager Leif J. Ahnell, Agency Director  
Boca Raton City Attorney Diana Grub Frieser, Attorney to the Agency

**AMENDMENTS TO THE AGENDA:**

*Motion was made by Vice Chairman Hager, seconded by Commissioner Haynie to approve the agenda. Motion carried unanimously on a voice vote; Chairman Arts, Vice Chairman Hager, Commissioners Haynie, Mullaugh, and Whelchel voting yes.*

**MINUTES:**

Minutes of the Regular Meeting of December 8, 2008  
Minutes of the Planning Session of December 8, 2008

*Motion was made by Commissioner Whelchel, seconded by Commissioner Haynie, to approve the minutes as presented. Motion carried unanimously on a voice vote; Chairman Arts, Vice Chairman Hager, Commissioners Haynie, Mullaugh, and Whelchel voting yes.*

Chairman Arts welcomed Michael Mullaugh to the Community Redevelopment Agency.

**REGULAR BUSINESS - PART I - QUASI-JUDICIAL & RELATED PUBLIC HEARINGS:**

There were no items for consideration.

**PUBLIC REQUESTS:**

Lenore Wachtel opined that the City abdicated its responsibility to the Sanborn Square area, saying that special assessments have been paid over the years but no improvements had been made. She then provided additional commentary and stated that citizens wanted a downtown such as that found in Delray Beach. She advocated reconsideration of the plans for the Sanborn Square area, suggesting that the area could be redeveloped using stimulus funding obtained by the City, instead of a developer who may or may not do the right thing. Ms. Wachtel then turned to the subject of reclaimed water, advising that her subdivision, Golden Harbour, was maintaining several blocks of City-owned land at their expense and would like to have reclaimed water installed. She advised that Golden Harbour residents previously requested reclaimed water but have not been considered for same.

## **REGULAR BUSINESS - PART II – RESOLUTIONS AND REGULAR PUBLIC HEARINGS:**

### 1. Resolution No. 2009-02-CRA

A resolution of the Boca Raton Community Redevelopment Agency (“Agency”) amending the rules of the Agency regarding public notice requirements for Individual Development Approvals; providing for severability; providing for repealer; providing an effective date

Robert George, Special Projects Director with Financial Services, gave the presentation. He explained that public notice requirements were established for Individual Development Approvals (IDAs) via the Downtown Development Order (Ordinance No. 4035). In 2002, the CRA passed a resolution that significantly expanded the notice requirements for IDAs. In addition to the 7-day public hearing notice, a mailed notice was required to every property owner within 500 feet of the proposed project; this increased staff time for processing IDAs and, in some cases, slowed down the development approval process. Mr. George noted that this mailed notice requirement is in excess of mailed notice requirements for any other development in the City, based on the permitted uses on the property. He added that, in large part, the 2002 resolution was passed in response to controversies related to architectural buildings; however, in 2008, this Agency addressed architectural design of buildings by way of guidelines produced by Urban Design Associates.

Essentially, this resolution would: 1) simplify notice requirements for IDAs, 2) make notice requirements the same as what is required for public hearings in the Development Order, and 3) make public hearing notice requirements for development of permitted uses on a property similar to those throughout the rest of the City. Mr. George concluded his presentation and answered questions from Agency members. He clarified that if an IDA included a technical deviation or conditional approval, then mailed notices are required. Mr. Ahnell added that this resolution would provide consistency regarding notice requirements throughout the City. Responding to the Agency, the City Attorney clarified that the rules for public hearings had not changed. What did change was a local rule to allow introduction and the first public hearing for an ordinance to occur at the same time, which would allow for public comment at that time. Mr. George then provided additional information to the Agency as requested.

Lenore Wachtel voiced opposition to the resolution; Derek Vander Ploeg indicated support.

*Motion was made by Commissioner Whelchel, seconded by Chairman Arts, to adopt Resolution No. 2009-02-CRA. Motion carried 4-1; Chairman Arts, Vice Chairman Hager, Commissioners Mullaugh and Whelchel voting yes. Commissioner Haynie voted no.*

## **OTHER BUSINESS:**

There were no items for consideration.

## **DIRECTOR'S REPORT:**

### 2. Sanborn Square District - Crocker Partners LLC Proposal (December 29, 2008 – updated letter)

Charles Siemon, the attorney representing Crocker Partners, reviewed a new non-binding Letter of Intent, dated December 29, 2008, and the basic elements proposed by his client. Specifically, 1.4 million square feet would be redeveloped by Crocker into retail, office, residential, and hotel. Crocker Partners would have five years to acquire the land and during that time, neither the City nor the CRA could enter into any development agreements, nor could they allocate any tax increment to any other party or purpose. In addition, after a definitive agreement was reached, neither the City nor the CRA could sell, lease, convey, license or encumber public lands to any party other than Crocker Partners. There followed design restrictions, which included, among other conditions, approval by the City of transfers of development rights. Crocker Partners' commitments were outlined next and included construction of a pedestrian spine and all land acquisition. It was noted that parking designated for customers and visitors to tenants would be open to the public; however, Crocker reserved the right to charge fees for same. The CRA's commitment entailed giving 100% of all Tax Increment Financing (TIF) generated by the project to

Crocker. Once Crocker acquired sufficient property, the City would be required to convey title of all City and/or CRA land to Crocker; the City must also approve creation of a Community Development District (CDD) and provide Crocker with a license to redevelop, non-exclusively use, manage, and maintain the existing Sanborn Square Park. In addition, the City must agree to cooperate with Crocker to move the public display area to another location reasonably acceptable to the City. It was acknowledged that this Letter of Intent was non-binding.

Mr. Siemon drew attention to several design boards, advising that these were conceptual designs and then reviewed same. He emphasized that all structures would be built in accordance with UDA (Urban Design Associates) design and subject to approval by the CRA.

Angelo Bianco, Senior VP with Crocker Partners, urged the Agency to approve the proposal and responded to questions from the Agency; much attention focused on the TIF. During discussion, Mr. Bianco indicated that Crocker Partners would like to have a definitive answer from the City on this Letter of Intent today. CRA members generally agreed that the City's staff and professionals needed time to review this proposal, negotiate the items, work on dollar figures for infrastructure, etc., and then bring back a recommendation to the Agency, noting that this was a project easily costing three quarters of a billion dollars. Consequently, no decision could be made today. More discussion followed.

Responding to concerns voiced by the Agency, the City Attorney clarified that the Letter of Intent before members was not a binding agreement and not enforceable. She indicated that Crocker Partners did not want to waste time or money and was seeking input. She advised that these were the terms at a minimum but this document was not a binding development agreement. In response to Mr. Bianco's assertion that Crocker Partners met with staff and prepared the letter accordingly, Mr. Ahnell clarified that staff had provided Crocker Partners with a number of comments but had not negotiated with them.

Much discussion focused on the issue of the TIF. Responding to members, Mr. Bianco advised that he was open to negotiating the TIF, provided that a mutual understanding could be reached today that in two weeks, or a date certain, all negotiations would be finalized. Mr. Bianco was advised by the Agency that many questions still needed to be answered, such as where the parking is proposed, and where the development transfers would be coming from; in short, Crocker Partners needed to define an economically viable project that the Agency could know what it's getting for the citizens.

In response, Mr. Bianco advised that there were two components to the parking, which would be hidden: 1) a level of underground parking that extends throughout the entire development, and 2) a multi-level parking garage surrounded by retail, hotel and residential components. He acknowledged that, at this time, he could not speak to a feasible development as he would not know the final configuration until the properties were acquired. Mr. Ahnell added that the phases Crocker Partners could accomplish would drive the amount of TIF and public improvements required. For example, if Crocker Partners could only carry out 25% of the project, then the TIF and public improvements would need to be scaled back accordingly, in all fairness, to that 25%. Additional discussion followed.

Lenore Wachtel voiced opposition, indicating that the project comprised too much square footage and that residents in that area are against it and would fight it. She stated that two shopping centers on Camino Real have always wanted to build out; they will also be against it since 1 million square feet would need to be transferred for this project and there's only 1.5 million square feet available in the entire downtown. She added that the traffic would be horrendous, the City would get no TIF, and there would be no open space; the public would get nothing out of it.

Robert Eisen, an attorney representing Talbott Realty; Stephen Ast, President of the Boca Raton Resort & Club and representing the Chamber of Commerce, and Derek Vander Ploeg, a local architect; all spoke in support of the proposal.

Responding to the Agency, Mr. Ahnell advised that, should direction be given to staff today, a document could be brought back to the CRA in two weeks that would address all the concerns raised today, noting that many of the details would still need to be worked out later. Mr. Bianco indicated his willingness to work with staff over the next week to work on a nonbinding document.

The City attorney provided clarification regarding the Letter of Intent and the Development Agreement, as mentioned in the Letter of Intent. She also confirmed/clarified with all present that Mr. Bianco was speaking about delaying a response to this Letter of Intent, negotiating terms that would be agreeable to the City to make the Letter of Intent more mutually beneficial, and then having the CRA consider that document in two weeks. She noted that it would still be a nonbinding, unenforceable letter agreement without the more specific development agreement proposed. Ms. Frieser added that in two weeks, she would tell the CRA again what she was saying now, which is should the CRA have a Letter of Intent before it that it has no intention of proceeding with, it should not approve same. However, the Letter of Intent would not be enforceable against the CRA; it would only be an introduction to a more specific development agreement, containing expansive details about financing fees, definitions, and how the rights work. When that development agreement is created and submitted, the City and the CRA will have a chance to review and respond to same. At that point, the City and the CRA will be in a position to enter into a binding agreement. Mr. Bianco voiced agreement with the City Attorney and asked the CRA to direct staff to use all efforts to come to an agreement with Crocker Partners. Responding to Mr. Bianco, Vice Chairman Hager advised that it was not only up to City staff to be reasonable; both sides needed to negotiate in good faith.

*Motion was made by Vice Chairman Hager, seconded by Commissioner Whelchel, that the CRA accept the document that was forthcoming and, concurrent with that, direct professional staff to analyze it, take into account all concerns of the Council/CRA, and professional staff to negotiate with the opposing party and bring back, if possible, an edited version of the Letter of Intent, dated December 29, 2008. Motion carried on a voice vote; Chairman Arts, Vice Chairman Hager, Commissioners Haynie, Mullaugh and Whelchel voting yes.*

### 3. Downtown Marketing Update

Ruby Childers, Manager of Administrative Services for Development Services, gave a PowerPoint presentation, which focused on results of a Downtown Boca Raton Marketing Survey. The survey, sent to 702 business and property owners, sought to identify types of marketing strategies and whether interest existed for a merchants association; 141 responses were received for a 20% rate of return. Ms. Childers noted that property owners, business owners, and tenants responded from a variety of businesses. They were asked to give their perceptions on businesses, which included hours of operation, how to attract business (it was discovered that business owners did not feel that special events had a significant impact on business), and challenges faced by businesses, such as the economy and parking. There followed questions as to their perceptions of customers, specifically, the age of the customer, whether they're local or coming from other areas, and shopping habits. The survey also questioned whether merchants would be interested in participating in a downtown website; Ms. Childers advised that more than 50% were interested. When questioned about the possibility of forming a merchant focus group, many were willing to participate in that as well as an association. Details were provided on all the above. Ms. Childers concluded her presentation and answered questions from the CRA.

Commissioner Mullaugh commented that the numbers indicated to him that respondents don't identify themselves as downtown merchants but as Palmetto Park Road merchants or Mizner Park merchants. He added that 20% appeared to be very small response and questioned whether the CRA might be approaching this endeavor the wrong way; specifically, maybe the CRA should consider two or three separate merchant organizations. Discussion followed. Ultimately, Chairman Arts suggested that additional input be obtained from the respondents.

### **ATTORNEY'S REPORT:**

The City Attorney had nothing to report at this time.

### **COMMISSIONERS' REPORTS:**

Chairman Arts reminded those present that an Obama inauguration event was planned for Sanborn Square on Tuesday evening.

The City Manager provided an update on the former cartoon museum building related to funding - given the recent events at the County - and the City's government channel. He explained that approximately a month ago, the Broward County School District, using the FCC's "must carry" rules, took over Channel 19 in Broward County and most of Palm Beach County as well. Mr. Ahnell referred to the agreement worked out with Palm Beach County in regard to the cartoon museum building, advising that the largest portion of funding (\$1.2 million) would be allocated to the black box theater; the smaller portion of funding (\$350,000) would go to the broadcast studios. Mr. Ahnell explained that when he informed Palm Beach County of the Broward County School District's channel takeover and that the Palm Beach County School District had begun to look at purchasing WXEL for approximately \$5 million, since they did not want to be located at a higher channel, he also advised that the City was not willing to swap Channel 20 for Channel 19; Mr. Ahnell advised that Palm Beach County has Channel 20 throughout the County except for the City of Boca Raton, since Boca has the rights to it. Consequently, the County's response was that funding for the broadcast studios would not be provided; however, in the same conversation, they agreed to change the agreement to allocate the \$350,000 to the black box theater. Therefore, the intent is to modify the existing theater agreement and add the \$350,000 to bring the project to fruition and forego the studio. The City Manager then provided additional information to the CRA as requested and indicated that resolution of this matter was anticipated in 30 to 60 days.

**ADJOURNMENT:**

*Motion was made by Vice Chairman Hager, seconded by Chairman Arts, to adjourn the meeting. Motion carried on a voice vote; Chairman Arts, Vice Chairman Hager, Commissioners Haynie, Mullaugh and Whelchel voting yes.*

The regular meeting of the Boca Raton Community Redevelopment Agency adjourned at approximately 4:29 p.m., Monday, January 12, 2009.

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M.J. Mike Arts, Chairman

ATTEST:

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Sharma Hagerty, City Clerk