

City of Fort Lauderdale

*City Hall
100 North Andrews Avenue
Fort Lauderdale, FL 33301
www.fortlauderdale.gov*



Meeting Minutes

Tuesday, July 11, 2017

2:30 PM

**OR AS SOON THEREAFTER AS POSSIBLE
City Commission Conference Room**

COMMUNITY REDEVELOPMENT AGENCY BOARD

***FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY BOARD OF
COMMISSIONERS***

***JOHN P. "JACK" SEILER - Chair
BRUCE G. ROBERTS - Vice Chair
DEAN J. TRANTALIS - Commissioner - District II
ROBERT L. McKINZIE Commissioner - District III
ROMNEY ROGERS Commissioner - District IV***

***LEE R. FELDMAN, Executive Director
JOHN HERBST, City Auditor
JEFFREY A. MODARELLI, Secretary
CYNTHIA A. EVERETT, General Counsel***

ROLL CALL

Present 5 - Commissioner Romney Rogers, Vice Chair Bruce G. Roberts, Commissioner Dean J. Trantalis, Commissioner Robert L. McKinzie, and Chair John P. "Jack" Seiler

QUORUM ESTABLISHED

Also Present: Executive Director Lee R. Feldman, CRA Secretary Jeffrey A. Modarelli, General Counsel Cynthia A. Everett, City Auditor John Herbst, and Sergeant at Arms Anthony Gnisci

No e-comments were submitted for this meeting.

CALL TO ORDER

Chair Seiler called the Community Redevelopment Agency (CRA) Board Meeting to order at 2:53 p.m.

MOTIONS

M-1 [17-0878](#) Motion to Approve Minutes for June 6, 2017 Community Redevelopment Agency Board Meeting

Vice Chair Roberts made a motion to approve this item and was seconded by Commissioner Trantalis.

APPROVED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

M-2 [17-0588](#) Motion to Approve Funding Agreements between the Fort Lauderdale Community Redevelopment Agency, 726 Ave LLC, and Invasive Species Brewing LLC for 726 NE 2 Avenue Commercial Façade Improvement Program - \$24,796 and Property & Business Improvement Program - \$85,557

Executive Director Feldman noted there was an error in the address in the Commission Agenda Memo (CAM), confirming that the correct address for this item is 726 NE 2 Avenue.

Commissioner Trantalis made a motion to approve this item as amended and was seconded by Vice Chair Roberts.

APPROVED AS AMENDED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

M-3 [17-0874](#)

Motion Approving a Joinder and Consent to the Ground Lease Agreement with Las Olas SMI (Suntex Marina Investors), LLC

Chair Seiler confirmed each member of the Board received an email from CBRE concerning this item.

Commissioner Trantalis stated he was uncomfortable with the terms of the Lease Agreement (Lease), including the abatement of rent during the first three years. Executive Director Feldman explained this item is the CRA's Joinder and Consent to the Lease, stating the only item the CRA is paying for is the construction trailer and has nothing to do with the parking garage that is relocating to where the Marine Services Center is currently located.

In response to Commissioner Trantalis's request to explain the Lease arrangement for the first three years, Executive Director Feldman explained the way the Request for Proposal was structured, Las Olas SMI, LLC (Suntex) payment of rent would be an average of the first ten years equal to the minimum rent. Over the first ten-year period, the minimum rent requirement will have been reached, receiving less on the front and more on the back end. Discussions ensued on the rent amounts to be paid during in the Lease. City Auditor Herbst reviewed the lease base rent payments over the first ten years, explaining both the base rent and the percentage rent. Commissioner Rogers confirmed under the terms of the lease, Suntex is required to negotiate an agreement with The Boat Show. City Auditor Herbst confirmed the total amount of revenue from the Lease over the first ten years should be \$18,500,000. Further comments and discussions continued on the calculations of percentage rents to be received. Executive Director Feldman confirmed the City's right to have the lessee provide an independent audit of percentage rent calculations.

Commissioner Rogers asked about Section 6.4 of the Lease dealing with submerged lands and issues related to notice to the City should the subtenant default. Assistant City Attorney Lynn Solomon confirmed language could be added to the Lease to protect the City, explaining the City is the tenant under the submerged land lease and the State is not releasing the City from liability. Should there be a default, the State would send notice to the City.

Commissioner Trantalis discussed Section 8.3, Ownership of Improvements, confirming whomever does an improvement is the owner of the improvement, confirming Suntex will own the results of

the dredging, i.e., the dock and upland improvements. As such, they will be responsible for the ongoing maintenance of these areas to ensure serviceability. He noted concern about the Lease being mortgageable. Ms. Solomon noted that this issue was discussed with outside counsel, stating her concern with minimizing the cure rights of the retail mortgage. Further discussions ensued on Section 8.3. Ms. Solomon referred to the bold face type on page 41 of the lease agreement in Section 14.6, confirming this language addresses and minimizes what is allowable in the Non-Disturbance Agreement with the leasehold mortgagee, noting examples and confirming there would be a contractual agreement with the leasehold mortgagee. In response to Commissioner Trantalis, Ms. Solomon confirmed the City is not subordinating the City's fee interest to any mortgage. Commissioner Rogers confirmed the Lease will be recorded. Chair Seiler said liens could not be placed. Further comments, questions discussions ensued on this topic, City ownership of the upland area, and the City's lease of the marina with the State of Florida that expires in 2021. The new marina where the dredged out parking is located will be owned by the City in fee.

Commissioner Trantalis commented on his concern about Suntex taking the Lease under a shell corporation and consequences should they default. Executive Director Feldman confirmed there will be a performance and payment bond. Commissioner Trantalis asked Executive Director Feldman to make sure the payments to the surety for the performance and payment bonds are paid in advance and the City is protected should the lessee goes into default. Assistant City Attorney Solomon referenced the members of the Suntex entity as noted on page 37, Section 14.1.

Commissioner Trantalis asked about the City's position as a sovereign entity should the lessee declare bankruptcy, i.e., would the City be a secured creditor and if a Trustee could terminate the Lease. Assistant City Attorney Solomon referred to the Bankruptcy Section of the Lease Agreement, stating the lessee must continue to maintain lease payments. Discussions continued on a worst case scenario and minimizing risk by ensuring the Surety Performance and Payment Bond Premium is paid for the first five years.

Chair Seiler asked if there were any other questions. There were none.

Commissioner Trantalis made a motion to approve this item, subject to approval by the City Commission, and was seconded by Vice Chair Roberts.

APPROVED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

M-4 [17-0854](#)

Motion to Approve Contract for Purchase of Construction Contract Audit Services - \$330,000

City Auditor John Herbst explained for large construction projects, the City would now be bringing in an outside firm with expertise in auditing construction contracts, following the construction project throughout its life and reviewing all details relating to the project, ensuring there are no errors and citing examples of auditing procedures and the budget allotments for funding. This is the first one involving a CRA construction project contract. This is being done for the following project:

Phase I, the Las Olas parking garage
Phase II, the Las Olas Oceanside lot/park configuration, and
Phase III, the Aquatic Complex.

Commissioner Rogers asked City Auditor Herbst if this oversight is prudent for the Suntex Marina project. City Auditor Herbst stated due to the fact the City is not funding that project, he does not feel it represents a financial risk to the City. Executive Director Feldman explained valuing the improvements, confirming Suntex is required to submit a schedule of values for the project for independent review.

Commissioner Rogers made a motion to approve this item and was seconded by Vice Chair Roberts.

APPROVED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

RESOLUTIONS

R-1 [17-0475](#)

Budget Amendment - Appropriation of Central Beach Fiscal Year (FY) 2016 Unspent Funds of \$612,374 and the Re-scope of Aquatics Complex Project of \$13,830,837 Totaling \$14,443,211 for the Aquatics Complex Renovations; and Appropriation of Northwest Progresso Flagler Heights FY 2016 Unspent Funds of \$182,115 for the Mizell Center Upgrade Project

Commissioner Trantalis inquired about the portion of this Resolution applying funds to the Mizell Center. Jonathan Brown, Area Manager, Northwest Progresso Flagler Heights Community Redevelopment Agency (NWPFH CRA), explained this item addresses the need to reallocate unspent end-of-year funds to the appropriate location.

There will also be a funding request coming forward on the Mizell Center as it relates to the YMCA project. He reconfirmed these funds are being reallocated and are not being spent.

Commissioner Trantalis introduced this item that was read by title only.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

R-2 [17-0838](#)

A Resolution of the Fort Lauderdale Community Redevelopment Agency in Support of and Authorizing the Submittal of an Application to the Broward County Board of County Commissioners for Grant Funding in the Amount of \$1.0 Million Through the Broward Redevelopment Program (BRP) for the NE 4th Avenue Complete Street Project from Sunrise Boulevard to NE 13th Street

Chair Seiler recognized Bob Wojcik, CRA Planner, who confirmed the source of funding approved in 2013-214 for the NE 4th Avenue Complete Streets Project. It was recommended by the Central City Community Redevelopment Agency (CRA) Advisory Board on June 28, 2017. It is also a DOT Project and is 60 percent complete.

In response to Commissioner Trantalis's question, Mr. Wojcik confirmed conversation from the Central City CRA Advisory Board and others about its lack of beautification elements. He confirmed this funding addresses those issues including additional landscaping, decorative lighting and enhancing pedestrian sidewalks.

In response to Commissioner Trantalis's question about travel lanes and bicycle lanes, Executive Director Feldman confirmed no lane change configurations would be sought through his item, confirming it addresses items between the property line and the edge of the pavement from 13th Street to Sunrise Boulevard for an improved pedestrian experience.

Further discussion continued regarding the configuration of travel lanes from 13th Street to Wilton Manors and development in the area west of Home Depot.

Commissioner Trantalis introduced this item that was read by title only.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice Chair Roberts, Commissioner Trantalis, Commissioner McKinzie and Chair Seiler

ADJOURNMENT

Chair Seiler adjourned the Community Redevelopment Agency Board Meeting at 3:31 p.m.

John P. "Jack" Seiler
Chair

ATTEST:

Jeffrey A. Modarelli
CRA Secretary