

COMMUNITY REDEVELOPMENT AGENCY MEETING



City of Fort Lauderdale
City Hall, 100 N. Andrews Avenue
Fort Lauderdale, FL 33301
www.fortlauderdale.gov

Meeting Minutes - APPROVED

Wednesday, February 17, 2015 3:00 PM City Hall Commission Chambers

Mayor Seiler called the meeting to order at approximately 10:15 p.m. Roll was called and a quorum was present.

Present: Mayor John P. "Jack" Seiler
Vice Mayor Romney Rogers
Commissioner Bruce G. Roberts
Commissioner Dean J. Trantalis
Commissioner Robert L. McKinzie

Also Present: Lee Feldman, Executive Director
John Herbst, City Auditor
Jonda K. Joseph, Secretary
Cynthia A. Everett, General Counsel
Alfred Battle, Deputy Director of Sustainable Development

No public comments were submitted by email for this meeting.

CRA-1 15-0093 Minutes of November 4, 2014 and November 18, 2014 Meetings

Motion made by Commissioner Roberts and seconded by Commissioner Trantalis to approve the item as recommended. AYES: Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Vice Mayor Rogers and Mayor Seiler. NAYS: None.

CRA-3 15-0166 Transfer \$1,238,068 from Sebastian Street/Alhambra Street Parking Garage Project to Aquatic Center Parking Garage Project

Motion made by Commissioner Trantalis and seconded by Commissioner Roberts to defer the item to a special Community Redevelopment Agency meeting on February 25, 2015 at 8 p.m. or as soon thereafter as possible. AYES: Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Vice Mayor Rogers and Mayor Seiler. NAYS: None.

CRA-2 15-0181 CRA Building Foreclosure Status Report

Deputy Director of Sustainable Development Al Battle advised that the grant and forgivable loan to Sixth Street Plaza, Inc. in the total amount of \$398,190 were one transaction in 2001. The building had to be occupied for a period of 10 or 15 years which did not go in place until the building was complete in 2008.

Mayor Seiler reviewed the history of this matter outlined in City Commission Agenda Memorandum 15-0181. Battle advised that a portion of the loans were personally guaranteed. Some clarifying discussion took place concerning the forgivable loan and its terms. The Executive Director explained that the \$398,190 is bifurcated into two pieces; one is a direct grant with no conditions for forgiveness and one a forgivable loan.

In response to Commissioner Trantalis, Battle said the project cost was about \$1.6 million. Commissioner Trantalis noted that the CRA provided \$1.16 million and Regent Bank provided a couple million for a project that cost \$1.6 million. He questioned the disparity. Hundreds of thousands were allocated above the cost of the project. Mayor Seiler noted that \$697,990.50 is reached by subtracting assistance deemed a grant to cover CRA occupancy of the building and streetscape improvements. Commissioner Trantalis questioned why \$250,000 given in 2009 after Regent had given \$1.8 million and the CRA had already given \$450,000. Battle advised that in 2009 staff brought forward a request from the property owner to help pay for mechanics liens. Commissioner Trantalis concluded that clearly liens were imposed because bills were not paid with the original allocation. Battle explained that staff was told that cost overruns occurred and the project was not managed properly from a financial standpoint. Staff explained this to the Commission at the time. In further response, he did not know how much the property owner invested. Mayor Seiler believed that the project cost went over \$2 million. Commissioner Trantalis reiterated that the property owner has not contributed or accounted for where all the money went. He understood that the property owner also filed for bankruptcy. Mayor Seiler understood from the backup material that she withdrew her reorganization plan about a week ago and as such there will apparently be a revised bankruptcy plan. The Executive Director advised that the CRA is third in line in the foreclosure proceeding. Vice Mayor Rogers pointed out that in 2009, there were mechanics liens action that, had they prevailed, would have wiped her out.

In response to Commissioner Trantalis, Commissioner McKinzie pointed out that the CRA was created to eliminate slum and blight. Until an economic engine is created, the CRA should be aggressive with projects. The more successful CRAs are those that purchase and manage property and attract tenants. The CRA should be viewed as a whole. The CRA should look at what can be done for this project to move forward. Commissioner Trantalis felt this was a bad investment. Something should be learned from it. Commissioner McKinzie pointed out that there are others throughout the city. Commissioner Roberts turned discussion to the winning and losing of investment in general, and learning from it. Commissioner Trantalis felt there should be much more oversight and caution going forward. As to this project, he would like to find out where the excess money has gone.

Attorney John Halliday said he is the foreclosure court appointed receiver. In response to Mayor Seiler, Halliday advised that taxes are current. The scheduled foreclosure sale is May 5. An appraisal has not been performed. Mediation was ordered after the summary judgment. No decision was reached. He has not analyzed the financials because it was not part of his assignment. There has been some repairs and maintenance done. They are trying to work through some open building permits, but he was not aware of any other liens. Vice-Mayor

Rogers wanted to ensure any liens are cleared because the CRA provided funding for them. Mayor Seiler indicated that the CRA was also told open permits would be resolved. Halliday offered to prepare a report specific to those questions.

Property owner Maria Freeman said when the property was developed, there were existing mortgages of about \$700,000. Commissioner Trantalis asked what percentage of the loan went toward new construction and what percentage toward the purchase price. She was not prepared to respond to that question. However \$750,000 had to go toward paying off existing mortgages. She reviewed the purchase prices of several properties for Commissioner Trantalis: \$330,000; \$140,000; \$125,000 or \$150,000; \$85,000 or \$90,000. Additionally there was vacant land. She originally proposed the project to the CRA in 2000 with a cost of \$1.4 million. The new building cost might have been \$800,000.

Mayor Seiler pointed out that the first mortgage appears to be \$2.137 million with judgment. The South Florida Planning Council committed about \$300,000 and the CRA committed about \$700,000. He wanted to account for how the \$3 million was spent. Freeman advised that much of it was project over cost. The loan was closed on a \$1.4 million cost in 2001, but construction did not begin until 2005. The construction cost should have been revalued and renegotiated. All of the money went toward the cost of construction including overruns. Regent Bank dispersed all of the funds. In response to Vice Mayor Rogers, she estimated the construction cost was more than \$2 million and agreed to provide a breakdown. In response to Mayor Seiler, she indicated her equity investment was about \$400,000 or \$500,000. There was value in the real estate. There were four buildings and vacant land that was owned free and clear.

Commissioner Trantalis asked if the City Auditor had been asked to look at this matter. The City Auditor indicated no, but he began looking through some of the documents several weeks ago. They evaluated the business plan and looked into oversight and compliance. They reviewed minutes and consulted with the City Attorney's Office regarding the bankruptcy. He did not have the cost figures. There is no right to audit clause in the agreements. The CRA does not have copies of financial statements or tax returns. The investment programs were not structured that way.

Mayor Seiler asked about the status of the bankruptcy. Freeman said it is personal bankruptcy. It has nothing to do with this foreclosure. In 2008 there was a market crash and she owned a lot of real estate, much of which was supported by county housing programs. Funds were cut off. Chapter 13 was a way to reorganize. She believed the City is listed as a creditor but Regent Bank is not. Vice Mayor Rogers believed under the Chapter 13 plan, the City should be getting payments. Freeman believed someone from the City contacted her bankruptcy attorney so the City could vote on the plan. It has not yet been approved. The process began two years ago but was withdrawn due to problems with a lender. The foreclosure took place because of lack of tenants and, or tenant build-outs. She elaborated upon challenges with securing tenants since 2013. There are now some good prospective tenants. The 900 building is almost occupied. Two of the existing tenants need build-out dollars. She invested her own money in the past for build-outs but does not have any money left.

In response to Commissioner Trantalis, Freeman said that she has partners in the ownership of some of her businesses. The business climate on Sistrunk has been challenging – marketing, perception. Many businesses need build-out dollars. In response to Mayor Seiler, she indicated that the building had positive cash flow for many years. She is looking at the numbers with the prospective tenants. In further response to Commissioner Trantalis, she noted the rent payments being paid prior to the economic downturn. The mortgage did not get behind until last

year. The foreclosure was because the taxes were delinquent. She was able to pay the taxes the following year. She needs a continued commitment from the City in order for the building to continue to perform. In response to Ms. Freeman, Mayor Seiler advised that the lease expires August 31, 2015. Freeman alleged the lease expiration date is disputed because the lease was not to start until the CRA physically moved into the building in 2009. Therefore, seven years would be 2016. It is important for the CRA to continue as tenant to occupy the building, in order to demonstrate performance to the bank.

Commissioner Trantalis asked what would change the challenging business climate on Sistrunk. Freeman felt that additional marketing and tenant build-out dollars are needed. She went on to ask for the continued commitment of the CRA to remain as a tenant. Mayor Seiler indicated that it depends on whether she owns the building after May 5. In response to Vice Mayor Rogers, she said that the pro forma requires 1.24 debt service ratio. The CRA takes up about 75 percent of the building at \$16 per square foot. Mayor Seiler advised the lease says \$19 per square foot and triple net. Freeman indicated another tenant is paying \$16 per square foot. The CRA's rate is not inconsistent with what other tenants in the building have paid. More discussion ensued about reaching the debt service required by the pro forma. Freeman said the CRA loan was deferred and the South Florida Regional Planning Council is considering deferring their loan for a year so that the property can stabilize. Freeman estimated her monthly rent income if fully occupied would be close to \$30,000. Mayor Seiler pointed out there is still over \$3 million in debt. He asked if there is anything in the pro forma that would repay the CRA's debt. She explained that the deferral was to allow time for a higher market rate. has not yet defaulted to the City.

Mayor Seiler asked what happens with an outstanding loan when the CRA sunsets. The City Auditor advised that if there is any uncommitted fund balance, it must be returned to the other taxing districts. At the end of the CRA, the receivable will be a remaining component of the fund balance. Theoretically the City would owe some portion of that receivable to the other taxing districts.

In response to Mayor Seiler, Freeman indicated that the pro forma should be finalized the beginning of next week. There is a prospective tenant at \$16.50 per square foot however there are build out dollars to consider. Freeman advised that open building permits have to do with the 914 building that she elaborated upon having to do with a white box approach using her own funds. This space is almost completed; it is needing about \$30,000. She has been approached by various types of businesses, but chose to hold fast to her vision. Mayor Seiler could not imagine the CRA would advance any more dollars for any purpose. This board needs to see the pro forma and be informed, if the City/CRA has been included in the bankruptcy. Commissioner Trantalis wanted an analysis of where the money went. There was consensus agreement for an analysis. Freeman said Regent Bank should have those records as the bank made all of the disbursements.

Vice Mayor Rogers asked about the amount of cash flow before she stopped paying the taxes. Freeman indicated that taxes are about \$43,000. Mayor Seiler advised that the final judgment shows taxes at \$50,000. Together with the debt, he did not think the building would ever cash flow. Freeman replied to Mayor Seiler that the building was not cash flowing after taxes were paid. Commissioner Roberts did not think cash flow made sense in what was taking place. He wanted to review the pro forma. Freeman agreed to provide the information from Regent Bank to the City Auditor and whatever the City Attorney needs.

Mayor Seiler opened the floor for public comment.

L.F. Rosenthal, 1237 NW 4 Avenue, suggested Vice Mayor Rogers meet with Regent Bank with the idea of the bank contributing funds for the tenant occupancy.

Charles King, 105 North Victoria Park Road, suggested the board allow it to go into foreclosure and back to the private sector. He felt the board should use funds for improvements such as sidewalks.

There was no one else wishing to speak.

Commissioner Roberts agreed with Mayor Seiler that he also would not support any more advancing of funds for this project. He pointed out that there is a recommendation to hire a bankruptcy attorney to assist the City and the CRA. The City Attorney advised that bankruptcy notice was filed. She felt it may be useful to have a bankruptcy attorney review the position of the CRA and its claim. The larger amount is not due and owing, therefore she would consider it a debt. Commissioner Trantalis noted that in May the CRA will be divested of any lien interest on the property and will have no right to own the property. The City Attorney noted that there are some unique issues and a bankruptcy attorney may be useful. In response to Commissioner Trantalis, Vice Mayor Rogers noted that the bankruptcy is personal but the property was purchased in Freeman's corporate name. Mayor Seiler suggested deferral of securing a bankruptcy attorney until more information is available. The City Attorney advised that there is a question of whether the City or CRA or both are included. A claim has not been filed on the larger amount. Some assistance may be needed in amending the claim. It was noted that if the debtor files bankruptcy, it is an automatic default according to their documents. Therefore, it is owed now. Ms. Freeman agreed to provide the pro forma as soon as it is completed.

WALK-ON Funding Request and Authorization to Amend Reimbursement Agreement to Flagler Village Special Events

Mayor Seiler was concerned that this item passed by a narrow margin vote of 6-5.

In response to Mayor Seiler, Dylan Lagi, president of Flagler Village Civic Association, said he is also a Commissioner of the Northwest Progresso Flagler Heights Redevelopment Board. The vote had more to do with the concept than the amount. There was a question of whether a civic association should manage it or should it be bid out at a City staff level. The Executive Director said he would prefer to have partners operate their events and the City or CRA help financially. This format has been successful in the past. He described particulars about funding and noted that ultimately this would be charged to Flagler Village Transit Oriented Development (TOD). Mayor Seiler asked about auditing of the expenditures. The Executive Director advised it is handled on a reimbursement basis. Receipts are submitted and reviewed by staff before reimbursement is made. Commissioner McKinzie pointed out that there were 12 board Commissioners at the meeting, but one Commissioner apparently left because the vote only shows eleven. Commissioner Trantalis pointed out that it was approved and it is consistent with what the CRA encourages within its boundaries. It should be considered on its merits.

Mayor Seiler was concerned about precedent as to the dollar amount to a civic association. Commissioner Trantalis pointed out that the precedent has already been established; this is just another allocation. Deputy Director of Sustainable Development Battle said there is precedence for setting aside funds for these types of efforts over the past two fiscal years. Working directly with the civic association has occurred this fiscal year. The CRA formerly worked with the

Flagler Village Improvement Association two budget cycles ago. The improvement association has handed over organizing events to the civic association. They present a budget before expenses are incurred. The Executive Director advised that if the CRA agrees to reimburse \$5,000 or a \$10,000 expense, for example, the association is responsible for the balance. The contract is between the civic association and the vendor. Battle explained that staff verifies that the expense is applicable to the event.

Mayor Seiler suggested making this a one-year pilot. Battle replied that there was discussion at the advisory board level about when events should become self-sufficient, when do sponsors become involved and how the investment can be spread evenly throughout the CRA. Commissioner Roberts also supported the pilot concept. He went on to confirm that one Commissioner left the meeting early, therefore the vote only reflect eleven Commissioners.

Motion made by Commissioner Trantalis and seconded by Commissioner Roberts to approve the item as amended for a one-year pilot period. AYES: Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Vice Mayor Rogers and Mayor Seiler. NAYS: None.

There being no other matters to come before the Board, the meeting adjourned at 11:44 p.m.



John P. "Jack" Seiler
Mayor

ATTEST:



Jonda K. Joseph
Secretary