

**APPROVED  
MINUTES  
NORTHWEST PROGRESSO – FLAGLER HEIGHTS  
REDEVELOPMENT ADVISORY BOARD  
FORT LAUDERDALE  
100 NORTH ANDREWS AVENUE  
8<sup>th</sup> FLOOR CONFERENCE ROOM  
APRIL 28, 2010 – 3:30 P.M.**

<b><u>Members Present</u></b>	<b><u>Attendance</u></b>	<b>Cumulative Attendance May 2009 - April 2010</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
Michael Ferber, Chair	P	10	1
Ella Phillips, Vice Chair	A	7	4
Phyllis Berry	P	7	4
James Brady	P	9	2
Ron Centamore	P	10	1
Mickey Hinton (3:37 arr.)	P	8	3
Bradley Hubert	P	8	3
Doug Sterner	A	8	3
Clare Vickery (3:37 arr.)	P	4	7
Alan Gabriel	A	6	5
Samuel Williams	P	10	1
Jessie Adderley	P	9	2
Steve Lucas	P	11	0
John Wilkes	P	9	1

**Staff**

Alfred Battle, Director, CRA  
 Thomasina Turner, CRA  
 Angela Wilson, CRA  
 Sandra Doughlin, Clerk III, CRA  
 Mina Samadi, CRA  
 Jamie Opperlee, Recording Secretary, Prototype, Inc.

**Communications to the City Commission**

None.

**I. Call to Order/Roll Call**

The meeting was called to order at 3:30 p.m. by Chair Ferber. As of this date there were fifteen appointed members to the Committee, which means eight would constitute a quorum. Following a roll call it was determined that a quorum was present.

**II. Approval of March 24, 2010 Minutes**

**Motion** made by Mr. Brady, seconded by Ms. Berry, to approve the minutes of the March 24, 2010 meeting.

In a voice vote, the motion was approved unanimously.

**III. Action Item – Eclipse West Associates, Ltd – Funding Request**

Mr. Battle provided a brief description of the requested \$230,439.50 streetscape grant to cover a portion of the costs associated with the installation of landscaping, lighting, and on-street parking.

**Motion** made by Mr. Lucas, seconded by Mr. Wilkes, to approve Staff recommendation for funding as presented.

Chair Ferber opened the floor for discussion.

Mr. Brady requested information regarding any investigation done to see how the grants improved profitability beyond a reasonable rate of return in the industry. Mr. Battle stated the question of undue enrichment had been raised in the past, however there was no defined investment policy to tie to a “reasonable rate in the industry”, therefore no back-end analysis had ever been done.

Mr. Williams asked if the TIFF projections included the CRA investment on the impact fees. Mr. Battle explained all developers in the City of Fort Lauderdale were required to pay into the fees through pre-construction costs. Staff supported paying the fees at the beginning of the project due to the project being unique and providing affordable housing in an area where there was none at the time. Mr. Battle noted times had changed since then, however at the time there was an affordable housing crisis.

Chair Ferber requested clarification regarding the funding vehicle being specific to dollars expended for infrastructure in the public right-of-way, and funding would not go to the structure on the privately owned land. Robert Lochrie, representing the developer, confirmed the funding would involve streetscape improvement and would not go into any physical building. Mr. Lochrie stated there were elements of the streetscape improvement, such as lighting, which might be on the private property, however all dollars would go to the streetscape project. Mr. Lochrie pointed out all invoices would be approved by Staff, and the funding could not exceed the \$230,439, even though the actual costs were beyond the requested amount.

Chair Ferber explained to the Board members the funding mechanism was a method used by Fort Lauderdale, as opposed to some other cities, where the developer would, in some cases, actually build the streets and be partially reimbursed.

Mr. Wilkes followed up with a question regarding the right-of-way funding criteria, and asked if the dollars allotted for landscaping and irrigation would be located within the public right-of-way. Mr. Battle confirmed, based on the request received, the dollars would be spent in the right-of-way, and Staff would verify the location once the final plans were received. Mr. Lochrie also confirmed all the landscaping was in the right-of-way except for some trees along Flagler. The trees within the parking lot were not included in the request, only what was adjacent to the sidewalk.

Mr. Brady suggested a policy be established to address his original profitability question. Mr. Brady noted some of the money being paid by the CRA was being used to pay the attorneys who came in to represent the developers, and felt there should be a policy regarding the rate of return for CRA ventures. Mr. Brady stated with no policy there was no way to perform analysis or make comparisons. Mr. Battle explained a message regarding the concern could be sent to the City Commission. Mr. Battle confirmed the issue had come up before, and was an interesting question, both from the perspectives of the City and the developer. Mr. Battle provided examples used in other cities to deal with the issue, however was unsure how exactly a motion would be presented.

A “retrospective analysis” was suggested by Mr. Williams containing hard facts from previous developments in the area, which would provide comparatives, allowing a baseline to be set. Mr. Battle agreed, and pointed out the leveraging ratio analysis attempted to do the same type of thing.

In a voice vote, the motion passed unanimously.

#### **IV. Discussion Item – Northwest Commercial Development Project**

Mr. Battle stated Staff provided a progress update to the City Commission at their April 20, 2010 meeting. One of the key discussion points was the lease between the grocery store and the developer. Mr. Battle explained one of the conditions of the existing agreement was the grocery store lease had to be approved by the City Commission.

Staff felt there needed to be some discussion regarding issues, restrictions, requirements, and conditions surrounding a grocery store project on the site. Mr. Battle provided a significant amount of back-up information outlining the terms of the proposed lease. The City Commission provided feedback to negotiate stronger positions on

issues such as right of reversionary interest in the event the grocery store closed down and other community issues.

As an example, Mr. Battle pointed out a condition by which the grocery store would only be required to stay open for one day. The condition was initially a concern, however after speaking to people in the commercial real estate industry, Staff found that to be an industry standard. Mr. Battle stated a variety of business practices were new to the participants since dealing with this type of lease was not something commonly done in the past.

Mr. Battle stated the negotiations were still in process, and the amendment language was not resolved to the point of an agenda item for the City Council's May meeting. Chair Ferber recalled time was of the essence for the developer to meet certain requirements. Mr. Battle confirmed the agreement required the developer have an executed lease with the City by the 14<sup>th</sup> month of the effective date. The effective date was June 1, 2010, which was enough time to complete the negotiations.

Ms. Berry expressed concern regarding the industry standard of the grocery store only being required to be open for one day. In looking at the lease, Ms. Berry did not see any protection for the public dollars involved. Ms. Berry asked if the City Commission indicated any protection for the public's investment in the project. Mr. Battle did not feel the wording would be changed since it was considered an industry standard, however language was included regarding a six month timeframe for cancelling the lease after the store closed. Mr. Battle felt the shortened timeframe for the developer to cancel the lease would protect the public investment.

Mr. Battle emphasized the development agreement and the lease were two separate documents. The development agreement would protect the City's interests, and the lease agreement would be between the developer and the grocery store. The City would have the ability to influence the wording of the lease, and the City was attempting to interject conditions to protect the investment as much as possible. Mr. Williams asked which would take precedent, the lease or the agreement, to which Mr. Battle replied the agreement would take precedence, and the two documents could not be in conflict.

Mr. Centamore noted the neighborhood needed a grocery store, however the lease agreement did not provide any guarantee to the community for a grocery store later if the original grocer decided to leave. Mr. Williams asked what the recourse would be if the developer "went under". Mr. Brady explained the industry did not want to do anything outside of their "cookie cutter" way of doing business. In discussions with people in the industry, Mr. Brady heard this was an economic issue and the grocery

industry had certain protocols to meet to come into an area. Mr. Brady emphasized one thing he heard was the face of the building on 7<sup>th</sup> Avenue was not attractive to the industry people. Mr. Brady felt the Jones' had done a good job with what they had and did not see any benefit to the Jones family in "sandbagging" the situation for a future opportunity.

Mr. Brady also pointed out there was nothing there now after promising a grocery store to the neighborhood for many years, and a grocery store coming into the area would bring in other businesses. Mr. Brady suggested the only other option was for the CRA to try to sell the area to the ICSC. Mr. Centamore felt the CRA did try to sell the area, however the "strip mall development mentality" was a continuing problem holding back the development of the area. Mr. Centamore also expressed concern with the phasing aspect of the project, and felt there was a possibility of running into some of the same problems experienced in the riverfront project.

Chair Ferber said he respected the concerns expressed, however if the CRA waited for the "ideal" to come in, nothing would ever be built and the location would remain empty forever. Chair Ferber continued the marketplace had spoken, and the grocery store was what the people wanted. If the grocery store failed at a later date, the dollars used to construct the buildings were developer's dollars not the taxpayer's dollars. Chair Ferber suggested there were several limited possibilities, and it seemed the City Commission already arrived at a consensus.

Mr. Centamore pointed out seven years ago the economy was booming versus today's economy. Chair Ferber did not feel even when the economy was booming people were not "falling over themselves" to develop the area. Mr. Hinton provided several examples of possibilities for development in the past, and stated it was time to move forward. Mr. Brady felt this was an opportunity to move forward, and maybe this option was "all the street would accept".

Ms. Berry emphasized she lived in the community, and the community was not "splintered by what they wanted, but by what they were promised". Ms. Berry felt the community should be elevated by doing a little bit more and bringing everybody up, which was the original premise, and the concern was in getting less than what was promised. Ms. Berry felt although there was "resignation that this is all we can get", there should still be a push to get the "most that we can get".

Chair Ferber noted the improvements were incremental, and pointed out the initial disappointment with the original Flagler area buildings. Chair Ferber understood the disappointment expressed, however felt the current improvements were laying the groundwork for more improvements later. Ms. Adderley stated she lived in the area for

60 years, was aware of the need for the grocery store in the neighborhood, and did not believe the grocery store would bring the neighborhood down. Ms. Adderley expressed a desire to see development on Sistrunk, however she felt the issue was politics, not the grocery store. Ms. Adderley felt even a “strip mall” that was doing well was good for the neighborhood.

Chair Ferber asked for clarification regarding the two different site plans discussed previously. Mr. Battle explained the liner building along 7<sup>th</sup> Avenue were modified, the bank was moved closer to 6<sup>th</sup> Avenue, and the retail area was reoriented to address concerns expressed in earlier discussions. Mr. Battle felt the new site plan would meet the objective of the grocer, as well as the community, in terms of design. Mr. Battle agreed to provide copies of the most recent site plan to the Board members.

Mr. Battle stated the issue would be before the City Commission at the May 18, 2010 meeting. Mr. Wilkes asked if, as part of the agreement the land was given to the developer, and the City would have no further involvement in the project. Mr. Battle explained there were restrictive covenants on the uses for a period of 21 years, with reversionary interest in the event any of the covenants were violated. Chair Ferber pointed out the project would generate increment.

## **V. Old/New Business**

In response to a question by Mr. Lucas, Mr. Battle stated the enterprise zones were not eliminated, however one of the eligible incentives (the ability of condos to take advantage of the sales tax refund) was eliminated. Mr. Battle explained during the discussions of the legislation, Fort Lauderdale was called one of the biggest violators, as approximately 85% of the applications over the last five years were from condos. Angela Wilson, CRA, noted the zone was being expanded to include some other cities.

Chair Ferber asked for a brief update on 6<sup>th</sup> Street and Sistrunk Boulevard. Mina Samadi provided one letter from the Florida Department of Transportation was outstanding, and all final plans were expected within two weeks allowing the RFP to go out for construction bids.

## **VI. Director's Report**

Mr. Battle announced a City Commission agenda item for the bid award for the Northwest Neighborhood improvements, similar to the Dorsey Riverbend enhancements. The project would be approximately \$800,000, with \$300,000 coming from the CRA and the balance from the FDOT grant. Ms. Samadi noted there would be other phases to follow including drainage, sidewalks, stamped crosswalks, pedestrian

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lights, and tree planting in the swale. Mr. Battle thanked Ms. Samadi for her efforts and pointed out the design was done completely in-house.

**VII. Adjournment**

With no further business to come before the Board, the meeting was adjourned at 4:32 p.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]