



If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, that person will need a record of the proceedings, and that, for such purpose, the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**REGULAR MEETING MINUTES**  
**Thursday, August 25, 2016 6:00 p.m.**  
City Commission Chambers  
Delray Beach, FL 33444

**STAFF PRESENT:**

|                   |                |                 |              |
|-------------------|----------------|-----------------|--------------|
| Jeff Costello     | Lori Hayward   | Missie Barletto | David Tolces |
| Thuy Shutt        | Yuberca Pena   | Mauricio Lara   | Alberta Gaum |
| Elizabeth Burrows | Kevin Matthews | Amy Alvarez     | Susan Shaw   |
| Joan Goodrich     | John Morgan    |                 |              |

**OTHERS PRESENT:**

|                 |                 |                 |               |
|-----------------|-----------------|-----------------|---------------|
| Victor Kirson   | Gail Luchey     | Andrew Luchey   | Evelyn Dobson |
| Alan Kornblau   | Dwayne Randolph | William Hatcher | Jeff Hatcher  |
| Rene Mathews    | Rebecca Travis  | Mike Williams   | Mark Bannon   |
| Gary Eliopoulos |                 |                 |               |

**1. Call to Order**

The Regular Meeting was called to order at 6:00 by Chairman Cox.

**2. Roll Call**

Present: Reggie Cox, Joe Bernadel, Cathy Balestriere, Daniel Rose, Dedrick Straghn, Paul Zacks

Absent: Herman Stevens

**3. Approval of Agenda**

Ms. Balestriere made a motion to approve the Agenda which was seconded by Mr. Rose and passed unanimously.

**4. CRA Annual Meeting**

**A. Appointment of Representatives (2) and CRA Board Liaison to Delray Beach Marketing Cooperative (DBMC)**

Mr. Costello introduced the item. Mr. Rose nominated Elizabeth Burrows and Lori Hayward to serve as the Representatives to the DBMC. Mr. Zacks seconded the motion which passed unanimously. Mr. Costello noted that Ms. Balestriere had stated her interest in continuing as the DBMC Board Liaison. Mr. Rose nominated Ms. Balestriere as Board Liaison to the DBMC, which was seconded by Mr. Zacks and passed unanimously.

**B. Appointment of Representative to Pineapple Grove Advisory Board (PGAB)**

Mr. Costello introduced the item. Mr. Rose made a motion to appoint Thuy Shutt as the representative to PGAB, with Mr. Costello as her alternate. Mr. Zacks seconded the motion which passed unanimously.

**C. Appointment of Representatives to Parking Management Advisory Board (Representative & Alternate)**

Mr. Costello introduced the item. Mr. Rose made a motion to appoint Dedrick Straghn as the CRA Board Representative to the Parking Management Advisory Board. Mr. Bernadel seconded the motion which passed unanimously. Mr. Bernadel made a motion to appoint Daniel Rose as an alternate CRA Board representative to the Parking Management Advisory Board. The motion was seconded by Ms. Balestriere and passed unanimously.

**5. Approval of the Minutes**

**A. Minutes of July 28 Workshop**

Mr. Zacks made a motion to approve the Minutes of the July 28<sup>th</sup> Workshop, which was seconded by Mr. Rose and passed unanimously.

**B. Minutes of July 28 Regular Meeting**

Mr. Zacks made a motion to approve the Minutes of the July 28<sup>th</sup> Board Meeting. Mr. Rose seconded the motion which passed unanimously.

**6. Public Comments on Non-Agenda and Consent Agenda Items – None**

**7. P&Z - 226 Palm Court – Class V Site Plan – GE Architecture**

Senior Planner Amy Alvarez presented the item for the site located at the intersection of Palm Court and George Bush Blvd. (NE 8<sup>th</sup> Street). The proposal involves demolition of the existing structure and construction of a new two-story mixed-use building with covered parking on the ground floor.

The Board Chair called for any public comments. There were none.

Mr. Zacks inquired about the staff's position on the parking waiver. Ms. Alvarez said that staff is supportive of the petition. Mr. Rose was not supportive as he had concerns about a medical building in a residential neighborhood. Overall Board consensus was supportive.

**8. Consent Agenda**

**A. Economic Development Report – July**

**B. CRA Monthly Financials, June**

**C. Fiscal Year 2015/16 Third Quarter Reports**

- 1. Delray Beach Marketing Cooperative**
- 2. Downtown Trolley**
- 3. Delray Beach Community Land Trust**
- 4. Delray Beach Public Library**
- 5. Old School Square**
- 6. EPOCH**
- 7. Delray Beach Historical Society**

**D. Ground Lease Management Agreement with DBCLT – 221 SW 12<sup>th</sup> Avenue**

**E. First Amendment/Name Change Amendment to the Agreement for Professional Engineering Services with Baxter & Woodman, Inc.d/b/a Mathews Consulting**

Mr. Rose made a motion to approve the Consent Agenda as presented. Mr. Zacks seconded the motion which passed unanimously.

## **9. Old Business**

### **A. Appeal of Paint-Up & Signage Grant Termination – Luchey**

Due to a conflict of interest, Mr. Straghn recused himself from the discussion and the vote. Economic Development Manager Elizabeth Burrows presented the item. She reviewed the background, and gave a timeline of events from the time of application through the last Board Meeting on July 28, 2016. After gathering documentation from the various pertinent City entities as directed by the Board, staff's recommendation is to uphold the recommendation to deny the request to reinstate the terminated Paint-Up & Signage Grant. She found that Mr. Luchey had several opportunities between the time of the approval of the Grant and the deadline of March 31, 2016, to notify staff of any issues, which he did not. All documentation has been provided to the Board for their review.

The Board Chair called for any public comments. There were none.

Mr. Zacks appreciated Ms. Burrows delving deeper, and thought it was critical that according to the documentation, two months after he applied he admitted to Code Enforcement that it was his own fault. Mr. Zacks was in favor of denying the request for reinstatement. Ms. Balestriere stated that she found nothing to support his claim that he was informed not to pay the fee. Ms. Balestriere supported staff's recommendation to deny the request. The applicant, Mr. Luchey, entered the Board Meeting. Mr. Rose acknowledged the thorough job Ms. Burrows did and supported her recommendation. Mr. Cox verified that January 28th was the initial deadline to apply for the landlord permits, and that the Paint-Up & Signage Grant deadline was March 31<sup>st</sup>. He asked if there was any communication between March 28<sup>th</sup> and May 10<sup>th</sup>. Ms. Burrows clarified that March 8<sup>th</sup> is when the City has record of a conversation with Mr. Luchey for the initial request, and that she had sent Mr. Luchey a reminder email on March 28<sup>th</sup> regarding the impending grant deadline of March 31<sup>st</sup> to which there was no response. She further clarified that during the time from March 28<sup>th</sup> to May 10<sup>th</sup> she was unaware there were any issues.

Mr. Andrew Luchey, 8517 State Drive, West Palm Beach and his wife, Gail Luchey of the same address, addressed the Board. Ms. Luchey described her experience when she went on line to apply for the landlord permit, and related her subsequent conversations with the City after receiving a code enforcement violation. She got her husband involved at that point. Mr. Luchey cited his communications with City staff, and noted he erroneously believed that the CRA was aware of the issue as he thought the CRA and City were tied together. Ms. Balestriere made a motion to deny the request to reinstate the terminated Paint-Up & Signage Grant. Mr. Zacks seconded the motion which passed 5-1 with Mr. Straghn abstaining.

### **B. Amendment to ILA for Landscape Maintenance**

Ms. Pena presented the item, giving background and reviewing the highlights of the discussion at the July 28<sup>th</sup> Board Meeting. At that time, the Board had inquired about who was the party responsible for the oversight and administration of the subcontracts for various streetscape improvement projects associated with the ILA. They felt there are areas that have not been adequately maintained, and also wanted to know what if any provisions existed to find the contractor in default. She noted that currently Parks and Recreation is working with the City's Purchasing Department to modify bid documents to include a more detailed scope of work and

improve performance measures and reporting requirements. She stated the contract administration will be turned over to Environmental Services Department in October.

The Board Chair called for any public comments. There were none.

Alberta Gaum, Recreation Superintendent, addressed the Board. She commented regarding the SW 12<sup>th</sup> Avenue contract 2015-62 which expired August 8<sup>th</sup>, stating that Parks and Recreation staff will be maintaining the area until it can go back out for bid. Mr. Zacks asked about any measures in place to guard against inadequate maintenance. Ms. Gaum stated that the plants and flowers were not specified clearly in the old contract so the scope was not clearly outlined. Mr. Tim Simmons, Parks Superintendent, stated there is a schedule of trimming once a month and weeding twice a month, mulching three times a year, and that the areas in between the nodes are the responsibility of the residents and are not part of the maintenance contract. He was under the impression these contracts had been renewed.

Mr. Cox asked if this ILA is renewed tonight, will the Environmental Services Department (ESD) be taking over this contract in October with Parks and Recreation then being out of the equation. Ms. Pena and Mr. Simmons confirmed that is the case. Assistant ESD Director Missie Barletto was present to answer questions. Mr. Cox stated the concern is both inside and outside of the nodes, and he asked her what her department was going to do differently to maintain what is being paid for in the contract. She stated in part the plan is to outsource a lot of the right of way maintenance, but she is not sure of the non-performance provision of the contract. She noted there will be staff regularly touring the area taking note of deficiencies in contract performance, and that the Public Works Department will be responsible for oversight. Mr. Straghn asked for clarification on the recourse in the event the grounds are not being properly maintained, and how can the CRA insure there is an avenue of recourse. Ms. Barletto said the contracts would need to be reviewed, and mentioned that more right-of-ways are going to be included going forward. Ms. Balestriere stated that in the contract specifications it does include non-performance as cause for termination, so she wanted to know who upholds that clause and if the CRA could have any say in what contractor gets hired. CRA Attorney David Tolces said it is the CRA's responsibility to provide the funds, and the City's responsibility to manage the process and enforce the contract. Mr. Cox said he did not see any process in the contract that has a time frame that includes corrective actions.

There was a great deal of discussion about provisions within the contract to be able to terminate for non-performance. Mr. Simmons said the contract is monitored by his assistant, and that his department will not pay until the job is completed and that monitoring is done on a daily basis. Mr. Zacks expressed again his frustration that the City makes the selection while the CRA pays with no input into the process. Mr. Costello said typically the lowest responsive bidder gets the contract, so perhaps some further clarification in the scope of the RFB could insure better quality of work. Mr. Cox felt it is an operational oversight issue, and suggested selecting multiple vendors to be able to have choices when one does not fulfill their duties.

Mr. Rose left the meeting at 6:40.

After extensive discussion, Mr. Tolces stated it might be possible to have a CRA representative on the Selection Committee with verbiage in the Amendment such as "the CRA should be entitled to have a representative on any Selection or Evaluation Committee that is being used to evaluate proposals submitted for work that is funded through this InterLocal Agreement". Ms. Barletto suggested perhaps an RFP could be issued rather than an RFB, and that respondents could give a proposal of how they would provide complete maintenance services for the medians rather than sending crews out piecemeal. If it went out as an RFP, the lowest bidder would not have to be selected, and the CRA could serve on the Selection Committee.

Mr. Zacks made a motion to approve the Fourth Amendment to the Interlocal Agreement with the City of Delray Beach to extend the time period for the CRA to fund the costs associated with the irrigation and landscaping maintenance along the Martin Luther King Jr. Drive right of way and along SW 12<sup>th</sup> Avenue from West Atlantic Avenue to SW 3<sup>rd</sup> Street, up to and including September 28, 2021 with the specified amendment stating that "the CRA should be entitled to have a representative on any Selection or Evaluation Committee that is being used to evaluate proposals submitted for work that is funded through this InterLocal Agreement". Mr. Straghn seconded the motion which passed unanimously.

#### **10. New Business**

##### **A. Memorandum of Understanding (MOU) Palm Beach County Commission on Ethics**

Mr. Costello introduced the item. He stated it is a three year MOU which includes a provision for fees to be paid to the Commission on Ethics in exchange for its services based on the fee schedule included in Section IV. Staff is recommending Option B in the provision of fees which provides for payment by event rather than hourly. He added that the Board has used the Commission on a couple of occasions for opinions, and recommends approval of the MOU.

The Board Chair called for any public comments. There were none.

Mr. Mark Bannon, Executive Director of the Commission, apologized for letting the MOU lapse, citing a transition in leadership for the oversight. He also pointed out the CRA is one of only two who have signed on with the Commission for an MOU, and in his estimation the two best CRAs in the County. Mr. Straghn noted the only modification in this MOU from the last one seems to be the inclusion of the Palm Beach County Lobbyist Registration Ordinance, and sought clarification as to what affect that had. Mr. Bannon replied really none, but that the Delray CRA is one of 35 cities who have adopted the Ordinance so it did need to be mentioned in the MOU. Ms. Balestriere made a motion to approve the Memorandum of Understanding between the Delray Beach CRA and the Palm Beach County Commission on Ethics with the selection of Option B in the Fee Schedule. Mr. Bernadel seconded the motion which passed unanimously. Mr. Bannon commented that there are a lot services which are provided at no charge, and that informal inquiries not requiring a written opinion are provided at no charge, as well as Ethics Training should the CRA wish.

##### **B. Arts Warehouse Construction Agreement – Hatcher Construction**

Assistant Director Thuy Shutt presented the item. She reviewed the background on the item and noted that the Bid Protest by West Construction had been withdrawn so the CRA can continue with the process. There had been several things needed from Hatcher, which have now been provided, and it has been verified that the Security Bond has a superior rating.

Therefore, conditions 1 and 2 in the recommended Board action have been met and can be stricken from any motion.

The Board Chair called for any public comments.

Mr. William Hatcher, 233 NE 21<sup>st</sup> Street, thanked the CRA for the recommendation and assured the Board that with their additional OSHA and Military Quality Control training they will be able to give the CRA the best possible job that any contractor can give.

Mr. Straghn made a motion to approve and authorize the CRA Chair to execute the Agreement between Hatcher Construction & Development, Inc. and the Delray Beach CRA for the Arts Warehouse Project in the amount of \$2,199,987.00. The motion was seconded by Mr. Zacks and passed unanimously.

**C. Amendment #2 to FY 15-16 City-CRA Interlocal Agreement – Construction/Professional Services**

Ms. Shutt presented the item, giving background on the ILA and the first Amendment. In August the City Commission authorized the City Manager's spending authority to \$1,325,000 in funding for the OSS Building Maintenance Project in order to expedite it for completion for the winter season in November. This represents a \$130,000 increase in the CRA's CIP Budget.

The Board Chair called for any public comments. There were none.

Mr. Bernadel made a motion to approve Amendment #1 to the Interlocal Agreement with the City of Delray Beach for funding of Joint Projects for Fiscal Year 2015-16. Ms. Balestriere seconded the motion which passed unanimously.

**D. FY 16-17 Budget Update**

Mr. Costello presented the Budget Update, reviewing some of the modifications to the CIP and Proposed Budget. He went over some of the items that need to be carried forward, some which needed increases, and some items which needed to be added. He brought up the funding of the Library and how at the last meeting it was initially voted to fund \$442,250. But after further consideration, the Board had concerns regarding the one-time \$110,000 given the Library last year in order for the City to reduce their funding, and the amount was reduced down to \$332,250. Ultimately the City had not reduced their funding so in essence the Library received \$110,000 from both entities (although they had offered to repay it to the City). Mr. Costello suggested the Board consider funding back up to the higher amount so that the City could in fact this year reduce their funding of the Library by \$110,000 to use those resources elsewhere.

In regard to the Tennis Tournament, Mr. Costello has been working with the City and staff felt that funding of 75% of the tournament (\$1,434,380) would allow the City to divert those resources elsewhere to address needs. He also noted that as part of the funding, the CRA could either work with the Delray Beach Marketing Cooperative (DBMC) or hire a firm to sell sponsorships for next year which could be used to off-set City expenses. He stated that even with factoring in the tenth of a mil reduction, staff is confident all other CRA line items can be met with funding the Tennis Tournament at the 75% level. He noted that as requested, the funding has been broken down by sub-area.

The Board Chair called for any public comments. There were none.

Mr. Bernadel commented that the Library is a gift for many of his students, and that he has attended many meetings there with only good experiences. He made a motion to fund the Library \$442,250 for the coming fiscal year which was seconded by Ms. Balestriere. Mr. Zacks reminded the Board that the reason the Board had gone with the lower figure at the last meeting was because the CRA gave a one-time amount of \$110,000 so the City could reduce their funding. However, the City did not make that reduction, so essentially the Library received that \$110,000 from each entity. He favored putting a contingency clause in the motion that the CRA would provide the additional \$110,000 in funding only to fill a gap if the City does reduce their funding of the Library by that amount. Mr. Straghn noted that he met with Library Director Alan Kornblau and they discussed what had been done with that additional \$110,000. He felt satisfied that it was not spent frivolously and he does support funding in the higher amount for the coming year. Mr. Cox asked if the City was definitely going to reduce their funding amount by \$110,000. Mr. Costello stated that it has not yet been finalized, but discussions have been that if the CRA could fund the additional monies it would allow the City to reduce their funding to use those monies elsewhere. Mr. Cox supports the higher amount in particular due to his support of the Small Business Resource Center program being developed at the Library. The motion on the table is without conditions. In a roll call vote funding in the amount of \$442,250 was passed 4-1 with Mr. Zacks dissenting due to no contingency clause.

There followed discussion regarding the Tennis Tournament. Mr. Zacks stated the last time this item was discussed, there were specific items requested and that what has been received of those items is insufficient. He does not understand why financial information cannot be turned over, and while he wants to be a good partner with the City, he is not comfortable funding an additional almost \$900,000 over last year's funding amount. He also felt that the full Board needed to be present when this vote is taken. Mr. Bernadel commented he has never seen a Match Point representative. Mr. Costello stated that there is ongoing litigation, and that the contract is between the City and Match Point so they have no obligation to come before the CRA Board. He stated that all CRA programs and projects identified can still be fulfilled while assisting the City with this obligation. Ms. Balestriere stated she has concerns as it is not bringing the economic impacts, particularly with hotels, promised to the community. However, she stated that the real ask is not for paying Match Point but rather for helping the City. Mr. Straghn agreed that it is about helping out the City, and he would feel more comfortable with the full board present for the vote. Mr. Cox commented on the fact that while Delray hotels are extremely relevant stakeholders, the room nights are not impressive for this event. He stated that the Tournament is not as impactful as the Board had been told and does not have a large ROI for the City. He said that everything the CRA does is helping the City so that is not a meaningful argument for him. Board consensus was that given the importance and high dollar amount of this funding, the voted be tabled on this item until the full Board is present.

Mr. Costello apprised the Board that their Budget booklets will be updated for the next Board Meeting, along with the Work Plan and the presentation, in preparation for the Budget presentation to the City Commission on September 13<sup>th</sup>.

#### **E. Monthly Progress Report July 2016**

Project Manager Kevin Matthews presented the item. He reviewed some of the additional updates and highlights since the last month's report. He noted Mauricio Lara, Assistant ESD Director, was also present for any questions. He reported that the project on SW 12<sup>th</sup> Avenue with the Duplexes is substantially complete and the Certificate of Occupancy was granted on August 24<sup>th</sup>. There were no questions regarding the report.

**11. Other Business**

**A. Comments by Commissioners**

Mr. Zacks noted that Ms. Balestriere's comments put the Tennis Tournament in perspective, but he also wanted to express the idea that there could be another big project to come along and the CRA would have been able to take it on but for having funded the Tennis Tournament.

Mr. Cox reminded everyone that the WARC Weekend is coming up Sept 9, 10 and 11, and he reviewed the events of that weekend. It is WARC's 20<sup>th</sup> Year of existence, and he mentioned that the Mayor has referred to it as the "sister organization" to the CRA.

**B. Comments by Board Attorney - None**

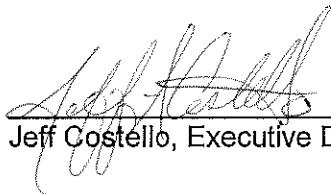
**C. Comments by Executive Director**

Mr. Costello reviewed his Memo of Updates which was provided to the Board. The memo included updates on Uptown Atlantic challenges, iPic, The Set Branding Initiative, tentatively scheduling CRA-WARC Board Joint Workshop for September 22<sup>nd</sup> to discuss the partnership, the Arts Warehouse Operations & Management RFQ, and modifications to the Curb Appeal Grant Program. He also requested feedback concerning the scope and any other comments or suggestions the Board may have on the CRA Staff Assessment which was provided with the memo.

**D. Comments by Staff - None**

**12. Adjournment**

There being no further business, the meeting was adjourned at 7:47.

  
\_\_\_\_\_  
Jeff Costello, Executive Director

  
\_\_\_\_\_  
Reginald A. Cox, Board Chair