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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, September 22, 2016, 5:30 p.m.
City Commission Chambers – 100 NW 1st Avenue
Delray Beach, FL 33444

STAFF PRESENT:

Jeff Costello	Lori Hayward	Kristyn Cox	David Tolces
Thuy Shutt	Yuberca Pena	D. J. Lee	Scott Pape
Joan Goodrich	Kevin Matthews	Tim Stillings	Susan Shaw
Elizabeth Burrows			

OTHERS PRESENT:

Jane Smith	Rhonda Vacanti	Dr. Vic Kirson	Eric Camacho
Carolyn Patton	Jeff Kozan	Charlene Farrington	Vera Farrington
Bruce Gimmy	Sharon Blake	Nancy Senelier	Claudia Willis
Kevin Warner	Maria Bolivar	Kathy Alderman	Roger Cope
John Szerdi	Mike Williams	Evelyn Dobson	Jim Knight
Morris Carstarphen	Linda Oxford	Steve Michael	Jo Ann Peart

1. Call to Order

Vice Chairman Joe Bernadel called the meeting to order at 5:30 pm.

2. Roll Call

Present: Joe Bernadel, Herman Stevens, Daniel Rose, Dedrick Straghn

Absent: Reginald Cox, Cathy Balestriere, Paul Zacks

3. Approval of Agenda

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

4. Approval of the September 8th Board Meeting Minutes

Mr. Rose made a motion to approve the Minutes of the September 8th CRA Board Meeting which was seconded by Mr. Stevens and passed unanimously.

5. Public Comments on Non-Agenda and Consent Agenda Items –

Jeff Kozan, 3219 Lawson Blvd., stated he was present should the Board have any questions in regard to Item 6A (Tattoo Studios – LDR Amendment).

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6. P&Z

A. Tattoo Studios – LDR Text Amendment – City of Delray Beach

Tim Stillings, Planning, Zoning & Building Director, presented the LDR Amendment. He reviewed the highlights, noting it was a City-initiated amendment defining the regulations for tattoo businesses in specified zoning districts and locations. He reviewed the proposed criteria that must be met in order to open a Tattoo Studio in Delray Beach, as well as the areas where they would not be permitted.

The Board Vice Chair asked for any public comments.

Dr. Vic Kirson, 2050 Alta Meadows, voiced his opposition to any additional tattoo studios, noting that there is already one in Delray and he wants Delray to remain a resident's town.

Rhonda Vacanti, 140 NE 2nd Avenue, is the owner of Changing Faces, a permanent makeup studio doing business in Delray since 2011. She wants to move to the larger space next to her current location which would require a \$30,000 buildout. If tattooing is not permitted in Pineapple Grove, she said it would ruin her business, which has many clients with cancer, eye diseases, and physical conditions.

Jeff Kozan, 3291 Lawson Blvd., stated he is currently opening a gallery and tattoo studio in Pineapple Grove, and noted it would be unfair to allow only one tattoo establishment. He cited the appropriateness of having an upscale tattoo establishment in the Arts District.

Mr. Rose asked Mr. Stillings if this LDR is to adapt to the federal courts' ruling protecting tattoo establishments. Mr. Stillings confirmed that tattoo establishments have been constitutionally protected as places of artistic expression, and that these are regulations for the City of Delray Beach to be in compliance with case law. Mr. Rose stated he supports the amendment. Mr. Straghn noted that while he did not agree with everything in the amendment, he supported the item. Mr. Bernadel felt that the City will make sure there will be a remedy for anything that may pose a problem going forward. Board consensus was supportive.

B. Swinton Commons – Conditional Use for Residential Type Inn, Certificate of Appropriateness, Class V Site Plan, Alley Abandonments – Atlantic Avenue Development LLC & MGM Sundry

Scott Pape, Planner, presented the item. He gave a presentation, and reviewed an aerial map of the subject property. He noted the proposal includes relocating some of the historic buildings elsewhere on the parcel. The application also includes four waivers, two of which staff has concerns with: the first is that there is a 6" requirement from the building to the sidewalk, but with the slope of the property to the west, it starts at 6" but increases to about 2'4" so there would be steps going up to the tenant space. It does not meet the design guidelines, and staff feels there is a design solution. The second is a setback waiver for the property which is zoned OSSHAD but subject to CBD regulations. The Developer is requesting a 25' setback rather than the required 30' setback. City staff also does not support this waiver and believes there is a design remedy. Mr. Straghn inquired about the other two waivers. Mr. Pape reported that one is for the valet queue which is required to be 100' long but this design has a length of only 30' or 40'. The other waiver concerns the 60' maximum width requirement for a building fronting on a street, and this building design is wider than that. Staff supports both of those waivers and the project overall.

The applicant's Architect, John Szerdi, gave a brief presentation, noting that the applicant is proposing to retain, relocate and restore the majority of the historic buildings on the site and provide a parking garage along SW 1st Avenue. He also pointed out an alley that will be abandoned and made into a green public space. The applicant, Steve Michael of Hudson Holdings, briefly reviewed the economic impact figures for the project which were done by an independent third party. He stated the parking will help engage West and East Atlantic Avenues. He stated they feel strongly that a good portion of pedestrians who would have used valet parking would park in this garage instead, providing them easy access to Atlantic Avenue and Old School Square. This would bring pedestrian traffic to the area and provide quite a bit of traffic and pedestrian mitigation. He stated annual revenue created would be close to \$100 million, with \$5.6 million in sales tax being generated.

Mr. Bernadel asked whether the applicant would be amenable to remedying the two waivers that are not supported by staff. Mr. Pape affirmed that the applicant has made numerous changes to accommodate staff and believes they can also accommodate the waiver concerns.

The Board Vice Chair asked for public comments.

Carolyn Patton, 1020 Tamarind Road, grew up in Delray Beach and has worked in historic preservation around Delray for over thirty years. She stated that in the 1980's five historic districts were designated, and include the context and relationship of the buildings. She said that now that the City is getting built out, developers are trying to destroy a designated historic district. The CRA's assisted in saving the West Settler's District about eight years ago, and once again she is requesting the CRA's help in keeping this historic district intact by not supporting this application. She provided a list of the sections of the Land Development Regulations that she felt the proposal would violate, including 4.5.1 (E) (5) (6) and (8) along with 4.4.13 (J) (1).

Charlene Farrington, 314 NW 2nd Avenue, Executive Director of the Spady Museum, stated she too is concerned about historic preservation in Delray Beach. She noted that South Swinton does need to be restored, and while she agrees with some development being needed, she opposes moving any historic structures.

Linda Oxford, 148 Coconut Road, stated she also likes the project but opposes moving historic structures. She implored the Board to not let the project go forward.

Jo Ann Peart, 107 NW 9th Street, President of the Delray Beach Preservation Trust, has been involved with historic preservation in Delray Beach since the late '80's. She noted the reason the historic homes have not been kept up is that the lots are not individually owned but have been owned by one or two developers for some years. Historic districts were created to protect this very intrusion. She felt this is a turning point for historic preservation in Delray Beach and cannot be supported.

Claudia Willis, 116 Marine Way, said there are many moving parts to this project, and some of them have the CBD overlay which is fine. She stated that the purpose of the OSSHAD district, however, is to protect and preserve history. She said a building does not a district make, and to move the buildings destroys the district. She felt the developer bought the property hoping a blind eye would be turned to the ordinances in place, and noted the property is not zoned for highest and best use or for this intensity.

Dr. Vic Kirson, 2050 Alta Meadows, noted Atlantic Plaza has been held up for two years because of opposition to traffic flowing onto Atlantic from the valet drop-off area. He stated the Swinton area cannot handle this type of flow either. He also opposed the alley abandonment.

Mr. Stevens sought confirmation that those who expressed concerns about changing the character of the area would not find relocating the historic buildings to be sufficient. That was confirmed. Mr. Straghn asked for a copy of the ordinances this project would violate. Mr. Rose stated the developer knew what he was buying, and spoke of how beautiful Bankers Row is because the historic buildings have been maintained. He felt this was a massive amount of development for such a small part of town. Mr. Bernadel felt this is an important project and would like the three absent commissioners to have an opportunity to state their opinions. After some discussion, three commissioners did not support the petition which was a consensus.

7. Consent Agenda

A. Monthly Financials, July 2016

B. Economic Development Monthly Report, August 2016

C. Interlocal Agreements between CRA & City for FY 16-17:

1. Construction & Professional Services

2. Tennis Tournament Sponsorship

D. FY 16-17 A-GUIDE Funding Agreements

1. Delray Beach Community Land Trust

2. EPOCH

3. Old School Square

4. Delray Beach Historical Society

5. Delray Beach Public Library

6. Creative City Collaborative

E. First Amendment to Funding Agreement with City for Economic Development Positions

Mr. Rose made a motion to approve the Consent Agenda. Mr. Stevens seconded the motion which passed unanimously.

8. Old Business - None

9. New Business

A. Seventh Amendment to Purchase & Sale Agreement - Delray Beach Holdings, LLC (iPic)

CRA Executive Director Jeff Costello presented the item. He gave an overview of the background on the item, and reviewed the Purchaser's request to extend the Termination Date to January 31, 2017, per the Seventh Amendment before the Board. Additionally, staff is recommending elimination of the stipulation requiring approval of the Parking Facility Easement Agreement by a specific date in the CRA's Agreement with Delray Beach Holdings, as the building permits will not be issued, and thus closing will not occur, until that agreement is approved by the City Commission.

The Board Vice Chair asked for public comments.

Bruce Gimmy, 439 E. Atlantic Avenue, thinks it is time to get the project started or just let it go. He felt the developer can't seem to get into agreement with the City and that the October closing date should remain. He stated the merchants are concerned that there is not enough parking. He had previously requested the parking garage be built first and felt if that does not happen the businesses will suffer.

Bonnie Miskel, Attorney for Delray Beach Holdings, LLC, clarified for the last speaker that the developer is not in any disagreement with the City and has complied with all requests. Currently, the Tri-Party and Parking Facility Agreements are being processed. She noted that things are moving rapidly, and the project is getting closer to the finish line.

Kevin Warner, 248 Venetian Drive, inquired about 1) stories that iPic is reluctant to sign a Parking Facility Easement Agreement, and 2) what arrangements are being made for parking during construction to replace spots that will be lost or used by construction workers.

Mr. Rose had concerns that the original contract (approved on December 12, 2013) gave a "no later than 720 days from the effective date to close", and it is now 1010 days into the venture and there is no shovel in the ground. Also he had concerns for the small businesses suffering during construction. He suggested not acting on the item and see what can get accomplished now and the October meeting. CRA Attorney David Tolces reminded the Board that the Parking Easement Agreement is between the City and Delray Beach Holdings and does not involve the CRA. Mr. Costello reviewed the timing of events on this project from when the City Commission gave their approval. He stated that the developer did not begin the construction drawings until after all approvals were granted by the City Commission for the project. He referred back to the May 12th Board Meeting when the Board voted to move the date forward from the end of December to the end of October to ensure the project kept moving forward. He said that Delray Beach Holdings had submitted permit applications for the parking garage and theater/office building in August, and that based on the City's expedited permit review process it is anticipated that building permits will be issued within four months which is a reasonable time frame particularly for a project of this complexity.

Regarding the comment about building a garage for this project similar to what was done at Worthing Place, Mr. Costello clarified that that was a separate, stand-alone parking structure off site and was not integrated into the development. He said that project had totally different dynamics than this project. Mr. Straghn wanted to know the deadline now on the Parking Facility Easement Agreement between the City and the Developer. Mr. Costello stated there is no deadline, it is when approved by the City Commission. However, he added the CRA has a termination date of January 31st, so everything has to be accomplished by then. Mr. Stevens commented this is the 7th Amendment, and asked if realistically Mr. Costello would think that holding this off until May of 2017 would be reasonable. Mr. Costello stated staff supports the January 31st date and that it is reasonable to expect closing to occur by that time. Mr. Stevens was concerned that the item will be back again for another continuance. Ms. Miskel commented on the complexity of the iPic building design, noting that the length of time it took to submit for permitting had a lot to do with the intricate design. She stated the hardest part is over, and that they have been assured by the City they will have their building permit by the end of January.

Mr. Rose felt that the proposed Amendment should be denied at this time or tabled until the October 20th meeting to ensure they continue to work with the City on the Parking Agreement. Mr. Rose made a motion to deny the Seventh Amendment to the Agreement for Purchase and Sale with Delray Beach Holdings, LLC to modify Section 1.12 of the Agreement to eliminate the time frame for the Parking Facility Easement Agreement to be negotiated between the Purchaser and the City, and Section 1.17 of the Agreement to extend the Termination Date to January 31, 2017. Mr. Tolces suggested typically motions are made in the affirmative. Mr. Rose withdrew his motion. Mr. Tolces suggested the item be tabled to the next meeting. Mr. Straghn made a motion to table the Seventh Amendment to the Agreement with Delray Beach Holdings, LLC, until the October 20th CRA Board Meeting. Mr. Stevens seconded the motion which passed 3-1 with Mr. Rose dissenting. Mr. Stevens suggested to Ms. Miskel that it would be helpful to have a progress update at the next Board Meeting on October 20th.

B. Adoption FY 2016-17 Budget and CRA Work Plan

1. Resolution No. 2016-12 Approving 2016-17 CRA Budget

2. FY 2016-17 CRA Work Plan

Mr. Tolces read the Resolution No. 2016-12 into the record. Mr. Costello noted a couple of changes have been made to the budget in response to the September 8th Meeting.

The Board Vice Chair asked for public comments. There were none.

Mr. Rose made a motion to approve Resolution No. 2016-12 adopting the FY 2016-17 Budget for the Delray Beach Community Redevelopment Agency as presented. Mr. Straghn seconded the motion which passed 3-1 with Mr. Stevens dissenting. Mr. Rose made a motion to approve the CRA Work Plan for 2016-17. Mr. Straghn seconded the motion which passed unanimously.

C. Curb Appeal Grant Modifications

Economic Development Manager Elizabeth Burrows presented the item. She reviewed the background on the Curb Appeal Grant, as well as gave the highlights on the proposed modifications. She noted that primary among the changes are an increase in the maximum grant amount from \$10,000 to \$15,000, the covering by the grant of roof repairs/replacement, and the inclusion of duplex properties along with single family residences. The program will continue to be administered by the City's Community Improvement Department.

The Board Vice Chair asked for public comments. There were none.

Mr. Rose thought the changes were great, and he made a motion to approve the proposed revisions to the program guidelines of the Curb Appeal Residential Improvement Program. Mr. Stevens seconded the motion which passed unanimously.

10. Other Business

- A. Comments by Commissioners - None**
- B. Comments by Board Attorney - None**
- C. Comments by Executive Director - None**
- D. Comments by Staff**

West Atlantic Redevelopment Director Kristyn Cox shared the new The Set brochures with the Board, and let them know The Set's webpage is now live for them to view. She also noted that there will be wonderful The Set banners around the NW/SW neighborhood which are being produced by the Downtown Development Authority.

Assistant Director Thuy Shutt advised the Board that the CRA's website now has each individual Board packet item available for the public online with the Board Meeting Agenda.

11. Adjournment

There being no further business the meeting was adjourned at 7:30 pm.

Jeff Costello, Executive Director

Reginald A. Cox, Board Chair