



**CITY OF PUNTA GORDA, FLORIDA
COMMUNITY REDEVELOPMENT AGENCY MINUTES
SPECIAL MEETING - JUNE 11, 2008**

MEMBERS PRESENT: Friedman, Albers, Wallace, Goldberg, Sturges, Smith-Mooney, Weikel

CITY OFFICIALS PRESENT: Executive Director Kunik, CRA Attorney Levin, Recording Secretary Foster

Chairman Friedman called the meeting to order at 9:00 a.m.

Approval of Community Redevelopment Agency Minutes of June 4, 2008

Commissioner Goldberg **MOVED** approval, **SECONDED** by Commissioner Weikel.

MOTION UNANIMOUSLY CARRIED.

Taylor Road Improvements – Title Insurance Response

Executive Director Kunik explained members had requested the City Marketplace (TCM) attorney be contacted with regard to the title insurance, noting that opinion as well as the CRA's response was included in the agenda material. He then referenced an email relating to a meeting with the TCM developer, wherein Charlotte Development indicated their willingness to negotiate a land swap to provide for diagonal parking from Marion Avenue to Retta Esplanade along Taylor Street. He reminded members the initial plan called for parallel parking from Marion Avenue to the Retta Esplanade extension. He advised direction from members was necessary.

Commissioner Wallace questioned the number of parking spaces at the Event Center.

Commissioner Goldberg responded it was either 237 or 240 spaces.

Discussion ensued with regard to the inadequacy of parking spaces for events.

Mr. Ed Wotitzky, TCM attorney, reported an in-depth investigation had been made with regard to the legal descriptions included within the survey, title insurance and purchase deeds which included the disputed 17' strip of property. He stated they then filed a claim against the title insurance company, noting an investigation into the claim resulted in their providing a defense to TCM against the taking of the property. He explained he would be meeting with that attorney soon to review the claim. He then stated application of the Marketable Record Title Act and estoppel principals were the

basis of their claim to ownership of the property, opining the title attorney would look to certain actions or inactions by the City over the past 70 years with regard to the boundaries of the property in support of the claim. He provided a brief review of some of the actions such as inclusion of the property in relation to tax assessments, ordinances references Taylor Street as a 60' right-of-way (ROW) and a quiet title action by the City regarding the event center property which referenced the distance between parks as 83' in width. He maintained ownership of the property had never been questioned until this point in time. He concluded TCM was amenable to working with the City toward resolution of the dispute.

Chairman Friedman stated the CRA Attorney had addressed all points in his response to Mr. Wotitzky's assertions, adding members had heard of TCM's offer of a land swap to resolve the issue. He inquired as to members' opinion as to delaying a decision until staff was able to work with TCM.

Commissioner Goldberg pointed out no decision could be made without considering TCM's offer.

Executive Director Kunik displayed an overhead of the proposed parking improvements

Commissioner Albers inquired if the parking could be constructed without the 17' strip of land.

Executive Director Kunik responded negatively.

Mr. Mark Gering, City Engineer, added 8 ½' of the 17' strip was necessary to construct the bare minimum diagonal parking. He explained as the land was available they had included a wider sidewalk and landscaping in the area.

Executive Director Kunik explained TCM had offered to provide additional property between Marion Avenue and the Retta Esplanade to allow for diagonal parking the entire length of the roadway with the City giving back a portion of the 17' strip.

Commissioner Albers inquired if the developer would be responsible for construction of sidewalks and landscaping, adding if so, he did not see the need to dispute the property's ownership.

Mr. David Hilston, Urban Design Manager, responded the developer's agreement called for the City to provide same.

Commissioner Albers questioned the need for this discussion if the City would be required to install same in any event.

Chairman Friedman pointed out it would preclude the ability to construct diagonal parking without the disputed property.

Executive Director Kunik confirmed the land was necessary for construction of diagonal parking.

Commissioner Goldberg commented the parking spaces would benefit any development on TCM's property. He inquired if calculations had been done on the number of parallel spaces in the area as compared to diagonal.

Mr. Gering stated the original plan included 19 parallel spaces utilizing TCM's position, 27 spaces utilizing the City's position or the possibility of 29 spaces with the recently proposed land swap, concluding with a gain of two parking spaces.

Commissioner Sturges stated she felt staff should be directed to negotiate with TCM prior to beginning any lengthy litigation.

Commissioner Wallace stated he felt the land swap may be possible. He then inquired as to the tax assessment, inquiring if they were entitled to a refund with interest for payment of the taxes over that period of time.

CRA Attorney Levin responded same would be dependent on a court decision in TCM's favor, adding a refund may be required; however, a statute of limitations only allowed payment for a four year period.

Commissioner Smith-Mooney inquired as to plans for parking along the Retta Esplanade extension.

Mr. Dennis Murphy, Growth Management Director, responded the existing plan contemplated parallel parking.

Chairman Friedman inquired what portion of the 17' strip would be required for diagonal parking.

Mr. Gering responded 8 ½' were required for diagonal parking and a five foot sidewalk.

Commissioner Albers voiced confidence in the CRA Attorney's opinion should litigation occur; however, he felt the City should not have to give up much toward a land swap as same was in the best interest of TCM and the City.

Chairman Friedman suggested this be added to the July 2, 2008 CRA agenda while staff worked with the TCM owners in the intervening period for presentation to members.

Commissioner Albers referenced the developer's agreement, stating if it were determined to be TCM's property, they would be required to install the sidewalks and landscaping.

Commissioner Wallace spoke in favor of diagonal parking along the length of the street.

Commissioner Smith-Mooney requested any design for parking on Taylor Street not be considered as a portion of the parking required per the developers agreement for their project.

Commissioner Goldberg then referenced the email from the City Manager which reported TCM had employed the Sembler Group for marketing of the project and intended to meet with City staff regarding same.

Architectural Design Approval for the Hilton Garden Inn

Chairman Friedman reminded members a modification of the developers agreement would be required to accommodate this project.

Mr. Hilston stated staff had worked with the developer resulting in provision of interior second floor public open space, provision of a zero lot line wall along US 41 with awnings, trellises and park benches, prefinished metal trellis incorporated with plantings to provide an opaque cover for the parking area and varied facades to enhance the exterior design. He then stated staff had requested the following caveats: height limited to current code standards, hotel must be a Hilton Garden Inn and maximum number of guest rooms not to exceed 125.

Commissioner Goldberg questioned pedestrian access.

Mr. Hilston denoted the pedestrian movement areas, adding the only pedestrian entrance would be under the center awning.

Commissioner Smith-Mooney questioned the architectural style.

Mr. Hilston replied it was commercial vernacular for a hotel.

Commissioner Smith-Mooney pointed out the height of the windows on the wall, suggesting artwork or display windows for pedestrian viewing. She suggested the windows be lowered for same.

Mr. Hilston mentioned staff had suggested public art features.

Commissioner Wallace pointed out if the hotel were constructed at the lot line as required by code, pedestrians would be walking past hotel room windows.

Chairman Friedman added construction of a hotel was not the same as buildings with restaurants and shops, stating he felt display windows would not be overly costly and would be a nice pedestrian touch.

Consensus of members was to request the developer to include same.

Mr. Fred Herschovits pointed out the windows being referenced were openings for air flow for the parking behind same.

Commissioner Smith-Mooney inquired if windows could be installed below the awnings.

Mr. Herschovits inquired if same would be City maintained.

Commissioner Smith-Mooney responded local galleries would provide the artwork and maintain same at their own liability.

Mr. Herschovits requested time to discuss same with the architect prior to agreeing, adding he would be willing to consider same in order to be a part of the community.

Commissioner Smith-Mooney stated she would prefer them to be located in the façade areas between the awnings as she preferred to maintain the park benches under the awnings.

Mr. Herschovits reiterated they would consider same, adding if at all possible they would do so.

Commissioner Wallace **MOVED** approval of the architectural design as presented with consideration of the display windows, **SECONDED** by Commissioner Sturges.

Mr. Hilston inquired if the motion included the three conditions recommended by staff.

Commissioner Wallace responded affirmatively.

Mr. Hilston inquired if the display windows were not possible if approval could be conditioned on some type of public art.

Commissioner Smith-Mooney asserted she did not see why they would not be possible.

Mr. Herschovits questioned the condition relating to height.

Mr. Hilston responded same related to the 20% overage for decorative features.

Commissioner Smith-Mooney inquired if the motion required the display windows or consideration of the windows.

Chairman Friedman repeated the motion to indicate the public display was required.

CRA Attorney Levin advised the next step would require amendment of the developer's agreement to provide for this project, requesting approval be contingent upon a mutual modification of the developer's agreement.

Mr. Herschovits questioned the time frame on same.

CRA Attorney Levin responded if agreement of the terms occurred this date, it would not take a long period of time to draft same.

Commissioner Wallace stated he did not see the need for the contingency.

Chairman Friedman offered to allow public comment.

Ms. Lisa Beverly inquired how architectural approval could be made without a full set of plans. She mentioned the free standing wall, noting if display windows were constructed, parking would not fit. She reiterated approval should not be given without all of the facts.

Commissioner Smith-Mooney responded if adequate depth for the windows was not available a portion could extend beyond the façade.

Ms. Beverly reiterated members did not have adequate information to make a decision.

Ms. Geri Waksler, Harbor Inn, stated the primary concern was creation of a block with no activity, speaking favorably toward the addition of the display windows. She voiced concern no renderings of the facades that would face the two Retta Esplanades had been provided, asking if the developer would be allowed to do what they desired without any review on the remaining three facades.

Commissioner Goldberg pointed out additional reviews were forthcoming such as by the Development Review Committee (DRC). He recommended the Harbor Inn consider similar display windows on their US 41 façade.

Discussion ensued with regard to code requirements.

MOTION UNANIMOUSLY CARRIED.

CRA Attorney Levin explained he had initially suggested the property for this project be eliminated from the developer's agreement; however, a question arose as to the number of parking spaces to be required for the remainder of the development based upon the number provided by this project. He stated he felt an amendment to the agreement denoting the property by legal description and the development as had been approved by the CRA. He noted with approval by TCM same could be addressed quickly.

Commissioner Weikel **MOVED** to authorize amendment of the agreement as described to be signed by the Chairman, **SECONDED** by Commissioner Albers.

MOTION UNANIMOUSLY CARRIED.

Mr. Herschovits questioned the time.

CRA Attorney Levin responded he could draft same for TCM's review, noting same would require approval by the City Council which met on June 18, 2008.

Herald Court Parking Garage – Value Engineering

Executive Director Kunik stated Fawley-Bryant Architects and Owens, Ames, Kimball (OAK) met with regard to value engineering.

Mr. Frank Mullins, OAK, displayed a chart of savings, as delineated in the agenda material, explaining the drawings had been provided to the contractors who had successfully bid the job with a request to search out savings in the proposed costs. He then provided a review of the proposed savings, with a total proposed savings of \$498,751 leaving the project at a cost of \$10,212,737. He then mentioned a request to determine construction savings to delete the storefront and floodwall facing US 41, noting same would save \$267,000. He further explained another request related to not constructing the slab within the commercial area, noting the anchors would be required. He stated that savings would be \$51,000.

Commissioner Albers inquired as to the cost of constructing the slab at a later date as opposed to doing so at this time.

Mr. Mullins responded it would cost slightly more to pump in smaller sections of concrete as the spaces were leased.

Commissioner Albers clarified it would not be a cost savings but rather a cost deferment.

Commissioner Goldberg inquired as to the elimination of the storefront and floodwall.

Mr. Mullins displayed an overhead denoting same, adding same would provide an open space under the building. He opined it would be a good location for an open air market.

Chairman Friedman clarified same was also a deferral of costs to a later date.

Commissioner Smith-Mooney pointed out the costs could be passed on to the tenant for a reduced rental rate.

Chairman Friedman opined eliminating same detracted from the intent to construct a building that did not look like a garage. He recommended taking advantage of the efficiencies of constructing same at one time.

Commissioner Goldberg commented the price was becoming closer to what he preferred. He inquired if there were any other savings that had not been mentioned this date.

Executive Director Kunik responded sales tax savings from direct purchases had not been included as they were unknown at this time. He stated staff preferred to have a contingency account, noting same would not be used if it was not necessary.

Mr. Dave Dale, OAK, stated additional savings would be sought throughout the project; however, they had provided the best cost possible at this time without losing the design features that were desired.

Discussion ensued with regard to the contract.

Commissioner Weikel opined if the building was going to be constructed, it should be done correctly without attempting to cut corners. He questioned the need for construction of same, noting he would not approve it without a referendum vote of the community to determine the perceived need.

Commissioner Sturges spoke in opposition of having a dirt floor, adding she felt the exterior of the commercial units should be constructed, leaving the interior construction to the tenants.

Commissioner Albers pointed out members had voted to construct the garage, maintaining it was time to move forward with same.

Commissioner Goldberg mentioned the value engineering may provide funds for additional CRA projects.

Executive Director Kunik recalled questions related to construction costs, adding at a total cost of \$11,000,000, construction amounted to \$76 per square foot.

Chairman Friedman spoke in favor of the value engineering, adding he did not approve of the latter two options.

Commissioner Goldberg mentioned the increase in some aspects of construction costs, cautioning against delay.

Commissioner Smith-Mooney inquired as to utilities for future tenants if the floor was constructed at this time.

Mr. Dale recommended same be passed to the tenants, commenting that was their customary procedure.

Discussion ensued with regard to construction procedures.

Commissioner Albers **MOVED** to accept the value engineering and not to proceed with the other two options, **SECONDED** by Commissioner Goldberg.

Commissioner Smith-Mooney advised she had not changed her view on the timing of construction; however, as that decision had been made, she would support the value engineering efforts.

VOTING AYE: Goldberg, Albers, Sturges, Wallace, Smith-Mooney, Friedman.

VOTING NAY: Weikel.

MOTION CARRIED.

Executive Director Kunik reported the project would be reviewed by the DRC this week, followed by a site clearing and foundation permit.

Chairman Friedman stated this project had never been envisioned as something to be done as a result of the present economy or to satisfy an existing need, but rather looking toward the future and stimulation of business in the downtown area by provision of adequate parking.

Discussion on Policy regarding Philanthropic Naming Rights

Chairman Friedman explained the discussion related to consideration of a policy rather than the specific request which brought same to the forefront.

Commissioner Albers stated he supported the continuation of the policy not to rename City property or streets for honorariums or memorials, and to continue the program of recognizing those who in a special way contributed to the City, noting same would be determined on a case by case basis. He stated he did however feel that if a person or group wished to underwrite the cost of a new City facility, they should be

recognized with a plaque as the only visual element. He further stated he felt the size of the plaque should be limited.

Commissioner Wallace concurred.

Commissioner Goldberg concurred, adding there was a difference in honorary naming rights and philanthropic naming rights. He stated he felt the City should take advantage of philanthropic offers provided they met the requirements.

Chairman Friedman clarified there would be no renaming of property or streets, great contributions to the history of the City could be recognized by a plaque and philanthropic donations would be recognized by a plaque of a specific size, such as the one utilized by the Spirit of Punta Gorda.

Commissioner Albers **MOVED** to establish a policy as stated, **SECONDED** by Commissioner Wallace.

Commissioner Smith-Mooney stated she had heard comments from others who indicated if they were aware same would have been possible, they may have donated funding in order to name same after someone who had contributed to the City's history. She suggested in future incidents if more than one offer was made, members would be required to make a decision.

Commissioner Wallace opined the funding of a structure for the public amounted to a contribution to the City.

Commissioner Goldberg clarified approval of the policy would provide for approval of the stage funding.

Ms. Dawn MacGibbon pointed out the Historical Preservation Advisory Board had not been offered the opportunity to discuss a naming policy, adding she felt public input should be requested. She then read a statement in opposition of allowing a person with no connections to the City to have a structure named after them in exchange for funding same. She opined same negated the contributions of citizens past and present if there was no money attached.

Ms. Marilyn Thorndycraft stated while she appreciated Ms. MacGibbon's opinion, she felt with the present budget constraints it was appropriate to accept the offer to provide a much needed amenity.

Mr. John Benande commented doing so did not diminish the manner of naming things of historical significance, adding providing the funding for a public amenity was a contribution to the City.

Mr. Steve Fabian spoke in favor of the motion, adding the use of the plaque simplified things.

Commissioner Goldberg reiterated there was a difference in honorary and philanthropic naming rights, adding he also had been somewhat confused by same. He stated he had spoken with Mr. Whalley to clarify what was desired, explaining it was a genuine offer to fund a public amenity.

Commissioner Smith-Mooney reiterated her concern that the public had never been aware this was possible.

Commissioner Goldberg countered the fundraising effort had been covered in the local press.

Mr. John Shattuck spoke in support of accepting the offer.

MOTION UNANIMOUSLY CARRIED.

Commissioner Albers **MOVED** to accept the generous offer of Mr. Whalley to construct the stage according to the new policy, **SECONDED** by Commissioner Sturges.

MOTION UNANIMOUSLY CARRIED.

The meeting was adjourned at 11:09 a.m.

Chairman

Recording Secretary