

**COUNCIL MEETING
MINUTES
JANUARY 11, 2012**

Pursuant to Public Notice, Vice-Mayor Rhodes convened the workshop meeting of the City Council on Wednesday, January 11, 2012, at 6:05 p.m., in the Council Chamber. Those present were Vice-Mayor Scott Rhodes, Councilman Gregg Billman, Councilwoman Sheryl Denan, Councilman William Higginson, City Manager Michael P. Crotty, City Attorney James Beadle, and City Clerk Leonor Olexa.

Vice-Mayor Rhodes led a prayer to give wisdom and guidance for the decisions made tonight for the betterment of our City and asked for protection over our Police Officers and Firefighters. He then led the Pledge of Allegiance.

Councilman Billman expressed his sincere sympathy over the passing of Brevard County's Emergency Operations Director Bob Lay and asked for blessings over his family.

Vice-Mayor Rhodes stated that this will be his first meeting as Chair of the City Council and explained that no decisions can be made at a workshop. There will be discussion by Council, input from citizens and will finish with Council recommendations on the CRA matters.

RESPONSE TO THE STATE OF FLORIDA (JLAC/ATTORNEY GENERAL)

Vice-Mayor Rhodes gave a brief update on the history of this issue to include:

- JLAC sent a letter inquiring about funds being transferred to pay for Police and Fire services and questioned where this was allowable in the CRA Charter.
- Council gave direction for City Attorney Beadle to respond.
- JLAC responded and suggested that the City may want to seek an AGO.

Council discussed the following:

- This is a legal issue; Council should receive input from City Attorney Beadle.
- JLAC cannot force us to do anything. JLAC also referred us to AGO.
- The City held open meetings, passed ordinances at public meetings, submitted detailed audits (over eight years) with the county and state and did not receive any issues back.
- When the questions were raised, the City took action and stopped the transfer of funds to pay for Police and Fire services.
- The City could opt to do nothing, continue with the legal response from City Attorney Beadle, or work to negotiate repayment.
- If negotiating for repayment what amount should be used? From inception of the CRA when funds were transferred or from the point that the City found out about Daytona Beach (2009).
- What areas should be addressed in the repayment: Police Services (considered gray area), Fire Services, and electricity?
- The affects of the City repaying money used from the CRA funds could reduce the levels of service for health and safety. There could also be repercussions felt by the FRA and other CRAs.
- Need to re-evaluate areas that were designated in the CRA (condominiums) that should not have been. This could provide more tax revenue that would help to pay for those services.
- An ordinance should be drafted to address not allowing transfer of funds into general funds from the CRA for services not allowed in the plan.

City Attorney Beadle will prepare necessary documents and will provide the information to Council to review in February.

Vice-Mayor Rhodes asked for citizen comments; the following individuals address Council:

- Vic Brungart, 140 Park Avenue, stated that the plan is flawed and suggested identifying which areas of the City make up the CRA District. Anyone not in the district cannot participate with CRA enhancements. He stated bond funding has to be done in less than thirty years from the adoption of the CRA Plan. He recommended getting this resolved.

- Rodney Smith, 265 South Robert Way (CRA AC member), stated that funding provided from the CRA comes from residential/commercial properties located within the CRA district. The CRA can change and evolve over time. He recommended moving forward to get this issue resolved.
- Joel Shugars, 765 Rosada Street, stated that you answer the questions that are asked and that you should not provide additional information on this issue. He recommended keeping the process simple and, if allowed, he would recommend getting rid of the CRA altogether.
- Ron Jurgutis, 620 Ocean Street, reported information of various addresses within the CRA District and taxes taken from each property. He requested from Council to supply the schedule for the statement of expenditures and changes in Fund Balance from the years 2002 through 2011. He recommended auditing all funds prior to submittal to JLAC or the AGO. [*This information was provided during the 2011 election and be provided to Mr. Jurgutis.*]
- Pat Gibbons, 469 Coach Road, stated that his business (Lori Laine Plaza) received CRA funds that greatly improved his commercial property. We have a good working CRA Plan, he recommended getting this resolved. He is excited for the future and would like to see a business plan move forward to help businesses which will enhance the services provided to the residents.
- Skip Bollinger, 400 Kale Street, questioned what the City Council can do as the CRA that they cannot do absent the CRA? The CRA can create a large amount of debt without a referendum, whereas the City Council would have to ask for a large amount of money through a referendum. This CRA can repeat this process and create an environment that makes the taxpayers responsible for the debt. He did not recommend having a CRA.
- Lloyd French, 240 Colonial Court, stated that he did not believe that going forward to the AGO with a legal response is the best course of action. The County may have an issue with the amount that we repay back to the CRA due to the requirements that any funds that are not used within each fiscal year are required to go back to the County. He recommended a full investigation of how the CRA funds were managed and to repay the funds that should not have been used from the CRA over the next 16 years.

Council discussed the following:

- Council has a fiduciary responsibility to protect the City.
- Need to follow the rules of F.S. § 163.
- The City has short changed itself by allowing the condominiums to be calculated into the CRA funds. There could be other areas that should not be a part of the CRA District.
- City Attorney Beadle explained that if someone were to sue the City for non-budgetary transfers, the statute of limitation (4 years) would apply from the date the lawsuit was filed.
- Discussed what took place in Lauderdale Lakes and Daytona Beach.
- Recommended adopting an ordinance preventing transfer of CRA funds into the General Fund for services outside the scope of the CRA Plan.
- Review of the CRA Plan can take place sometime in the future.
- City Attorney Beadle advised Council that they should never admit to wrongdoing as this would open up more possibilities of potential lawsuits, which would be hard to litigate against. Instead, Council can discuss ways to settle the issue, not point fingers, and do not incorporate any language that indicates wrongdoing.
- Council directed the City Manager to research the following:
 - Contact Brevard County to find out what would be involved in removing the condominiums from the CRA District boundary and provide the figures showing the impact that would have to the General Revenue Fund.
 - Provide a spreadsheet showing CRA funds used for Police, Fire, and electricity services starting from the year 2008 for further discussion.
- CRA Director Gary Rogers of Lauderdale Lakes would be willing to provide information to the City.

- Council suggested City Attorney Beadle contact JLAC to see if they have other options or acceptable solutions that would not be a financial hardship to the City for repayment of CRA funds.
- Schedule a future workshop to discuss the direction/amount/timeline of repayment of CRA funds and the re-evaluation of the CRA Plan.

DISCUSS VISION FOR THE CRA

Vice-Mayor Rhodes stated that Councilwoman Denan provided an outline as a basis for discussion.

Council had the following comments:

- Council questioned what the CRA does that the City staff could not do? [*The CRA receives TIFF funds to provide necessary improvements to the CRA District that the City would otherwise not receive. If you did not have a CRA you would still have to have a developer for the City.*]
- What would the impact be if you did not have a CRA? [*The money would go back to Brevard County to provide for those services on our tax bill.*]
- Council needs to protect the citizens from the ability of the CRA to indebt the CRA District taxpayers. [*This can be addressed in a separate ordinance, which would be binding.*] Councilman Billman stated that for the record he would want to have this ordinance to protect the citizens.
- Council agreed to revive and reorganize the CRA.
- Once the ordinance that will not allow the transfer of funds gets approved and forwarded to JLAC, new boundaries need to be established for the CRA District, followed by amending the Plan.

MANAGE THE CRA IN THE FUTURE

Council had the following discussion:

- Although F.S. § 163 does not indicate the requirement to have a CRA Director, Council highly recommended the need to have someone with experience/degree in planning development, zoning, building, and code enforcement.
- Florida Statutes require planning and zoning. F.S. § 163 refers to comprehensive plan, but does not refer to zoning.
- Council sets the salary range and the City Manager does the hiring and fixes the compensation of the staff.
- City Manager Crotty provided the current projects to include: JPA of the South Patrick Landscaping Plan, and the final stages of the rights-of-way for the traffic signal at Hightower Beach Park. City Manager Crotty has become the point of contact for Hunt, Lighting Science and a few other businesses during this process.
- Could the position be filled temporarily by a volunteer until the City could hire someone? [*It was not recommended to have a volunteer fill the position. Person hired for the job needs to be held accountable and be responsible for the task and duties.*]
- Council directed City Manager Crotty to provide job descriptions at a future meeting. Also noted was that it would take approximately ten days to advertise position.
- Council requested discussion at a future meeting to establish merging the CRA and CRA AC to include the CRA and two members of the CRA AC into one entity. This would require two separate ordinances to adjust the current CRA and the CRA AC.

Vice-Mayor Rhodes asked for citizen comments; the following individuals address Council:

- Carol Robitschek, 560 Teakwood Avenue, suggested advertising on the City's website for local residents to be aware and apply.
- Dania Billman, 690 Jackson Court, recommended having someone come in on a temporary basis to allow for time to tweak what you want this position to become. You could also hire with the understanding of a 90-180 day temp position(s) and see if it could transition into a full-time position.
- Pat Gibbons, 469 Coach Road, stated that time is of the essence and recommended getting someone in the position quickly. He explained that he has activities going on to get the business

sector more involved. We need someone to organize things and give out input/ideas and move in a positive direction.

- Skip Bollinger, 400 Kale Street, inquired if the CRA money stops growing and the City finds itself having to pay for the debt, if the CRA District tax payers could not pay the debt, would the responsibility fall on the City's taxpayers to pay for the debt? He gave an example of the City of Port St. Lucie with a shopping center that did not get developed and was defaulted; the taxpayers had to pay for the \$50M debt. [*City Attorney Beadle stated that he would have to look into to this and get back with the information.*]
- Ron Jurgutis, 620 Ocean Street, suggested hiring temporary and moving toward permanent. People living in the CRA District should be appointed as advisors with the CRA. [*Councilman Billman asked if a business person within the CRA would work.*] Mr. Jurgutis stated that it would work to have one business owner and one CRA resident.

Council had the following comments:

- Concern about a temporary person staying with the City if there was a full-time position elsewhere.
- The average professional in this field may not apply for a temporary position.
- It was recommended to inquire with a consultant temporarily (20 hours per week) until the position could be filled.
- Need to have a person to handle the CRA/development issues and to reorganize the Plan.
- Question whether there are local people and Council did not want to commit on just local but have the most qualified person in the position.

REVIEW THE FLORIDA REDEVELOPMENT AGENCY (FRA) RECOMMENDATIONS FOR PLAN UPDATES

Recommendations by the FRA will be reviewed and addressed when revising the CRA Plan.

GOALS FOR CRA

Some of the ideas Council addressed were as follows:

- Evaluate what past procedures did not work and incorporate proactive business friendly PR campaign to help make the community and the County aware of the City's Plan.
- Revamp the City Code to make it more business friendly.
- Need to look at the demographic base and provide incentives to bring in businesses that could thrive.

Council recapped on the important issues that will be addressed as follows:

1. Provide update to JLAC to make them aware of the City's intentions.
2. Ordinance to establish no transfer of CRA funds for services not covered under the CRA Plan.
3. Provide the adopted ordinance to JLAC.
4. Reorganize the CRA to better fit the City's needs.
5. Work to change boundaries in the CRA District to establish the condominiums back into the tax revenue for the next budget cycle. (Could hire a consultant to assist in this process.)
6. City Attorney Beadle will prepare a letter for Council to review at the January 18, 2012 meeting.

Vice-Mayor Rhodes adjourned the meeting at 8:22 p.m.