

## SPECIAL/WORKSHOP MEETING

June 9, 2009

A Special/Workshop Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Nelson S. McDuffie in the First Floor Conference Room at City Hall at 6:00 p.m., on Tuesday, June 9, 2009.

Roll call showed:

Present - Commissioner Gary P. Eliopoulos  
Commissioner Fred B. Fetzer  
Commissioner Adam Frankel  
Commissioner Mackenson Bernard  
Mayor Nelson S. McDuffie

Also present were - David T. Harden, City Manager  
Susan A. Ruby, City Attorney  
Chevelle D. Nubin, City Clerk

Mayor Nelson S. McDuffie called the special meeting to order and announced that it had been called for the purpose of considering the following Item:

### SPECIAL MEETING AGENDA

1. **TERMS OF EMPLOYMENT FOR THE CITY ATTORNEY:** Consider the terms and conditions of employment for the City Attorney.

Mr. Fetzer stated that he and Brian Shutt, Assistant City Attorney, discussed the contract regarding the terms and conditions of employment. In addition, he stated any realignment of the duties of Terrill Pyburn, Assistant City Attorney or Catherine Kozol, Police Legal Advisor that would require a salary adjustment should be taken care of during the budget process.

Mr. Bernard stated since the contract would be effective on June 16, 2009, the annual review should be done August 2010 instead of August 2009.

Mr. Frankel stated he wanted the other attorneys to be compensated fairly if their responsibilities increased.

Mr. Eliopoulos commented that he spoke with Mr. Shutt regarding the contract and suggested that the offer should be handled during the current budget. He also stated that Mr. Shutt should get a raise with his promotion.

Mayor McDuffie stated that his questions were addressed. He briefly discussed the salary survey for the City Attorney's position.

Mr. Fetzer suggested a promotional increase of \$124,100.

Mr. Bernard suggested \$125,000.

Mr. Fetzter moved to approve the contract in the amount of \$125,000.00 with the removal of the annual review in August 2009, seconded by Mr. Eliopoulos. Upon roll call, the Commission voted as follows: Mr. Fetzter – Yes; Mr. Frankel – Yes; Mr. Bernard – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes. Said motion passed 5-0.

2. **AGREEMENT/WORKFORCE ALLIANCE, INC./SUMMER YOUTH EMPLOYMENT PROGRAM (SYEP)**: Consider an Agreement between the City and Workforce Alliance, Inc., to participate in the Summer Youth Employment Program (SYEP), which is fully supported by Federal Stimulus funding (ARRA). Funding will be provided through the American Recovery and Reinvestment Act of 2009 (ARRA), Workforce Investment Act Eligible Youth and Adult Participants.

Richard Reade, Interim Public Information Officer, presented this item. He stated that the Summer Youth Employment Program (SYEP) is funded through stimulus funds and that it would be a great opportunity to support our local youth between the ages of 18- 24 at no cost and provide them with work experience and skills. It would also help to drive economic growth and recovery in the City and Palm Beach County. He stated that the agreement had been reviewed by staff and the City wanted to hire twenty-seven (27) employees.

Mr. Eliopoulos moved to approve the agreement with Workforce Alliance, Inc., for the Summer Youth Employment Program (SYEP), seconded by Mr. Frankel. Upon roll call, the Commission voted as follows: Mr. Frankel – Yes; Mr. Bernard – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos; Mr. Fetzter – Yes. Said motion passed 5-0.

Mr. David T. Harden, City Manager, discussed the city's efforts regarding the Workforce Alliance extending this to include local governments.

Mayor McDuffie adjourned the Special Meeting at 6:14 p.m.

### **WORKSHOP AGENDA**

#### **1. Police and Firefighters Retirement System Presentation**

Mr. Charles Jeroloman, Chair of the Police and Firefighters Retirement System presented this item. Mr. Jeroloman introduced Brad Heinrichs of Foster & Foster and Mike Welker of Bogdahn Consulting. Mr. Jeroloman gave an overview on money management, investments, and the terms of trustees going from two (2) to four (4) years. Mr. Jeroloman discussed benefit increases, historical returns and pension plans. He stated that the pension plan had not been exposed to Madoff, Sanford, sub-primes and/or junk bonds.

Mr. Welker discussed their involvement since being hired in 2006. He went over the Portfolio Performance Review and Investment Strategy, discussed bonds and diversification.

Mr. Jeroloman also discussed "TIMBER" as well as Corporate Inflated Protection Securities (CIPS) and Treasury Inflated Protection Securities (TIPS) portfolios.

Mr. Heinrichs discussed the increase in the City's contribution rate for investment and returns. He stated that the City's recently increased funding requirements from 31.8% to 38.7% are due to last year's unanticipated investment performance. He also discussed the Five (5) Year Projection Report Assumptions and the Actuarial Valuation Report.

Mr. Fetzer asked when the contribution rate of 31.7% to 38.7% would be in effect.

Mr. Heinrichs stated it would become effective October 1, 2009.

David T. Harden, City Manager, stated that historically the actuaries had given the City a dollar amount that had to be contributed. This year the Division of Retirement asked them to give the City a percentage, which created budget problems for the City. The City coordinated with the Division of Retirement to get them to change their position.

Mr. Eliopoulos asked what the number was for increased salary.

Mr. Heinrichs stated it was 6.25%.

Mr. Bernard asked about the five (5) year projection and what would happen if the market changed and things got better.

Mr. Heinrichs stated that hopefully there would be an upswing over a five (5) year period. He stated investment returns over and above the assumed rate of 8.3% would cause the City's contribution requirements to decrease eventually. The investment rate returns less 8.3% would cause the City's requirements to increase eventually over the next five (5) years.

Mr. Frankel recognized Assistant City Manager Douglas Smith and Inspector Lieutenant Jim Tabeek who also serve on this board. He complimented all of the members on the board.

Mayor McDuffie asked how the mortgage worked with rates going up and down.

Mr. Smith asked Mr. Heinrichs to give a summary of the five (5) year projection of pension costs.

Mr. Heinrichs gave a brief overview of the five (5) year projection of pension costs.

## **2. Presentation of the Beach Property Owners Association (BPOA) Beach Master Plan**

Andy Katz, Beach Property Owners Association (BPOA), distributed handouts and introduced Mary Renault, President of the BPOA and Board Member Bob Currie. Mr. Katz gave a PowerPoint presentation and discussed the elements to be addressed on the design and landscaping, etc. of the proposed Beach Area Master Plan. He stated he would like to establish an official plan for the beach. The beach area needed to be polished in some areas but still maintain a natural feel.

Mr. Frankel stated it was a good idea and he supported doing this.

Mr. Bernard stated that he believed we should move forward with this plan. He discussed beach renourishment and beach concession.

Mr. Eliopoulos stated charities and getting people involved would be a great start.

Mr. Fetzer discussed ongoing maintenance costs and capital expenses. He stated he is supportive of the idea and believes the City should be able to provide support to the charities.

Mayor McDuffie inquired about the restrictions and what would be the impact with naming it a park. He is in support of the idea.

Mr. Currie stated the beach is the most important “park” in town and the BPOA would like to create a plan for the beach.

### **3. Presentation of Concept Design Plans for Martin Luther King, Jr. Drive**

Alberta McCarthy, Alberta & Associates Consulting, presented this item. Ms. McCarthy conducted a PowerPoint presentation that gave an overview of the project. She stated this project would be done in phases. Ms. McCarthy discussed landscaping, corridor design and commemorative features that would be laid strategically. She talked about the budget for this project and announced it would be over a three (3) to four (4) year period. Ms. McCarthy discussed her proposed timeline for the project with groundbreaking on January 18, 2010 (Martin Luther King, Jr. Day).

Mr. Eliopoulos thanked the Committee for a great job and requested that any kind of green elements be done; he also approved of the crosswalks.

Mr. Bernard asked how crime was addressed.

Ms. McCarthy explained she brought in pictures of other Martin Luther King, Jr. drives, streets, etc., from other cities and states. She stated she discussed this in relation to “Clean & Safe”. She advised the biggest concern was inadequate lighting and other ways crime was addressed.

Mr. Bernard stated he supports the project and questioned how it was budgeted. If it fits in the budget, then the project should move forward.

Mr. Eliopoulos talked about lighting and safety in the area.

Mr. Fetzer thanked Ms. McCarthy, the Committee, Community Redevelopment Agency (CRA) and staff for their involvement in the project.

Mayor McDuffie asked what budgeting dollars are identified right now.

Lula Butler, Director of Community Improvement, advised there is \$3.6 million budgeted.

Mayor McDuffie discussed safety and a mural on the wall. He thanked Ms. McCarthy and the Committee for a great job and project.

Mr. Frankel thanked Ms. McCarthy for their work and stated it was great.

Ms. McCarthy thanked Sharon Koskoff and Old School Square for their assistance and spoke briefly about the Martin Luther King, Jr. event.

### **4. Auburn Group Development Update**

Mr. Bernard disclosed his prior relationship with the Auburn Group from 2006-June 2008. He gave an overview of his employment and his termination of employment. He stated he retrieved a formal ethics opinion (CEO 09-9) dated April 27, 2009 from the Ethics Commission, and discussed a summary of the opinion. Mr. Bernard stated based on the report he would not participate in the discussion or deliberations, and left the dais at 7:55 p.m. since this was the last agenda item.

Allan Schnier, Consultant for Affordable Housing, introduced this item and Orlando Cabrera, Esq. He discussed the accomplishments of Mr. Cabrera and informed the Commission that he would be the moderator for the evening.

Mr. Cabrera did a presentation on housing policies and the affordable housing market and provided a handout to the Commission. He advised a mixed-income development would make it hard to get financial partners. Mr. Cabrera discussed the pros of tax credits. He advised it is extremely difficult nationwide to sell anything contemplating anything other than 100% affordable housing units in today's market.

Mr. Schnier briefly discussed the three (3) eras of the tax credit program.

Chris Roog, Director of Government Affairs did a presentation on the economic advantages of a tax credit. He discussed the handout given to the Commission on Building Permits and construction costs. Mr. Roog also discussed job creation based on information provided to him by the National Association of Home Builders (NAHB). He advised a single family home creates an average 1.84 jobs and 0.9 jobs for an average multi family unit. Mr. Roog stated that the City has generated approximately 200 jobs from January –April. Mr. Roog also distributed the handout, “The Local Impact of Home Building in a Typical Metropolitan Area”, to the Commission.

Mr. Schnier briefly discussed the ripple effect of affordable housing. He also stated the income target is from \$28,000.00-\$52,000.00 based on family size. He introduced Chip Reid, Chief Executive Officer (CEO) and Bob Schnurman, Sr., Vice President of Current Builders.

Mr. Reid discussed job creations in the local workforce. He gave an overview of the company, Current Builders and their association with Leadership in Energy and Environmental Design (LEED) certifications.

Mr. Schnier introduced Art O'Brien, a member on the board of People Engaged and Active Community Efforts (PEACE).

Mr. O'Brien talked about some of his concerns of the community with affordable housing. He stated the goal of the Affordable Housing Committee of PEACE is to found a trust fund with a dedicated source of revenue and to ensure the funds are spent in an efficient manner to provide affordable housing in Palm Beach County. He gave a summary of the recommendations.

Mr. Schnier introduced Suzanne Cabrera, Chief Executive Officer and President of Housing Leadership Council of Palm Beach County. He stated there is a need for 14,000 affordable housing units in Palm Beach County at this time.

Ms. Cabrera stated that due to foreclosures, the need for affordable housing rental units has greatly increased. Ms. Cabrera stated that 38% of their units are over thirty (30) years old. She advised since we are a service economy, those are the jobs that have to be supported.

Mr. Schnier requested policy direction that works with Florida Housing Finance.

Mr. Frankel stated the presentation was wonderful; the presenters were well qualified. He asked for an update on the Village at Delray project. He wanted to know the outcome of the mediation that was scheduled the previous week.

Mr. Cabrera stated there was mediation last week and there was an impasse, however, Auburn Group is proceeding with cooperating on the application for the capital fund competitive program. He explained detailed information cannot be given, it is not evidentiary and the meeting is being recorded. However, there was an offer and a counter offer and another offer presented. Mr. Cabrera clarified Ms. Cabrera's statistics that were presented earlier on the people that qualified- it was median wage income that was used instead of minimum.

Mr. Eliopoulos asked what is being requested of staff specifically. He asked for clarification on his understanding that the project would be low income to get the tax credit instead of mixed income.

Mr. Schnier stated a policy that would allow developers to come in and build affordable housing is being requested.

Mr. David T. Harden, City Manager, discussed his perception of what was being asked of Commission. He advised that the City could wait on the market to improve and support their original vision of a mixed income community or support the low income housing that Auburn Group has proposed.

Mrs. Susan Ruby, City Attorney, stated that the Conditional Use that was granted for this project was based on a mixed-use project. Mrs. Ruby discussed if there was a change to the project, then the conditional use would have to be changed. In addition, there are planning issues with the Comprehensive Plan.

Mr. Eliopoulos thanked the Auburn Group for their presentation. He acknowledged that the dynamics have changed in the market; however, the vision of a mixed income community should not be changed. Instead adjustments should be made to get through with the project. He would only support mixed-income, which was the original vision.

Michael Weiner, Attorney with Weiner, Aronson & Mankoff, P.A., discussed Mrs. Ruby's statement and the project. He advised Commission to keep their vision of the community, but would recommend getting one great project started.

Mr. Harden discussed the accommodation of affordable housing in Delray Beach.

Mr. Fetzer stated that he concurred with Mr. Eliopoulos and he supported standing by the original vision of a mixed income community.

Mayor McDuffie asked if impasse is for a project or the Master Development Agreement.

Mr. Cabrera questioned their understanding of mixed income.

Mr. Eliopoulos questioned what it meant when Auburn Group responded to the RFP.

Mr. Cabrera explained the RFP as it was drafted at that time at the height of the market it would have been an unlikely deal to do in Florida.

Mr. Eliopoulos asked why Auburn Group responded to the RFP. He explained his understanding of mixed income.

Mr. Schnier discussed the policy that addresses the affordability of housing in Delray Beach.

Cito Berguiristan, First Vice President of Auburn Trace Development, LLC., discussed the proposed use of the original project site, which encompasses approximately seventy (70) acres.

Mr. Schnier advised that nothing would change with respect to the quality of the buildings and the site plan. The only difference would be that there would be people of a different income level than what was originally anticipated.

Mr. Harden advised that if Auburn Group does not follow through with what was originally agreed to on the conditional use with regards to some units being at market rate and some below market rate, then the site plan would need to be re-opened and re-examined to see if the waivers are still appropriate.

Mr. Eliopoulos advised that the hurdle with Delray Beach Housing Authority has to be resolved.

Mayor McDuffie asked Mr. Berguiristan, beyond the eleven (11) acres, what makes things viable then for mixed income that are not viable now.

Mr. Cabrera asked Dorothy Ellington, Director of the Delray Beach Housing Authority, how comfortable was she in discussing mixed income.

Mrs. Ellington stated she is not comfortable with the conversation, this is not her meeting and it is not appropriate.

Mrs. Ruby advised this is not a question and answer period; it is a Commission meeting that the Auburn Group was invited to attend.

Mr. Berguiristan stated it is possible to do the balance of the site in a different aspect because it would most likely be for sale at some future point when the market recuperates. He discussed the different programs offered to accommodate the mixing of incomes. He also stated that Florida Housing must approve of the redevelopment. Mr. Berguiristan apologized for anything that was done by him or the Auburn Group that was aggressive or offensive in the process.

Mayor McDuffie suggested all parties get together and come to an agreement to get the project done with no special privileges to anyone.

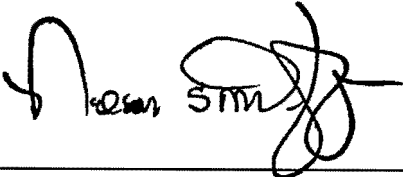
Mr. Frankel stated that the plan was not clear to Commission and it needed to be brought out.

Mr. Eliopoulos advised his vision had not changed.


Mayor McDuffie adjourned the Workshop Meeting at 9:41 p.m.

  
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City Clerk

ATTEST:

  
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MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Special/Workshop Meeting of the City Commission held on Tuesday, June 9, 2009, which Minutes were formally approved and adopted by the City Commission on July 7, 2009.

  
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City Clerk

**NOTE TO READER:** If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval, which may involve amendments, additions or deletions to the Minutes as set forth above.