

MINUTES OF THE REGULAR MEETING
BOCA RATON COMMUNITY REDEVELOPMENT AGENCY
MONDAY, DECEMBER 8, 2003
3:30 P.M.

The regular meeting of the Boca Raton Community Redevelopment Agency was called to order by Chairman Dave Freudenberg at approximately 3:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Chairman Dave Freudenberg
Vice Chairman Susan Haynie
Commissioner Steven L. Abrams
Commissioner Bill Hager
Commissioner Susan Whelchel

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
Executive Director Jorge Camejo

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

MINUTES:

Minutes of the Regular Meeting of November 24, 2003

Motion was made by Commissioner Whelchel, seconded by Commissioner Hager, to adopt the minutes as presented. Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Abrams, Hager, and Whelchel voting yes.

REGULAR BUSINESS - PART I - QUASI-JUDICIAL PUBLIC HEARINGS:

There were no items for consideration.

PUBLIC REQUESTS:

No one wished to speak.

REGULAR BUSINESS - PART II - RESOLUTIONS:

1. Resolution No. 2003-11-CRA

A resolution of the Boca Raton Community Redevelopment Agency ("Agency") consenting to the assignment of the partnership interests of the ground lessee of the Retail Lease, Phase II Lease, Office I Lease, and Office II Lease all for Mizner Park and to the assignment of the ground lessee's interest in the Phase II Lease for Mizner Park; authorizing execution of an escrow agreement related to the assignment of the Phase II Lease; approving and accepting a Special Warranty Deed for a parcel of land consisting of approximately 0.09 acre and located in Mizner Park; authorizing the execution of documents as appropriate; providing for severability; providing for repealer; providing an effective date

The City Manager gave the presentation and explained that this item comprised a request for a transfer of Teachers Insurance and Annuity Association's interest in the long-term leases at Mizner Park; this included a Retail Lease, an Office I Lease and Office II Lease. The CRA was being asked to approve the assignment of the commercial leases to one group made up of the Rouse Company, with 50% ownership, and Henley Holding Company, also with 50% ownership. The Henley Holding Company's subsidiaries would be assigned 100% of the residential leases at Mizner Park. Mr. Ahnell referred members to the material distributed and explained how the transaction would be processed. It was noted that Henley Holding Company had been formed in 2003; therefore, no audited financial statements were available. Consequently, Henley Holding Company would escrow funds to assure payments of lease amounts due under the lease obligations; details were provided. Audited financial statements and certifications related to commercial lease payments for the Rouse Company were also included in the material. In summary, approval was being sought for the assignment of the leases; the language included in the material before members clarified financial capacity and provided "clean hands" certification. As both criteria for the assignment of the leases was met, staff recommended approval. Mr. Ahnell then answered questions from members related to net operating income and Parcel 16.

Attorney Charles Siemon, representing Teachers Insurance and Annuity Association, asked for approval of the assignment. He identified the parties involved in this transaction, who were in attendance at this meeting and available for questions. Mr. Siemon then complimented staff on their efforts in bringing this transaction forward and answered questions from the Agency. Responding to members, he clarified that, in regard to ownership, two components exist: 1) the office and commercial retail element, which would be managed by Rouse and Henley Holdings, and 2) the residential element, which would be owned by Henley Holdings and operated by Clarion. Mr. Siemon explained that Henley Holdings, a Grand Cayman corporation, is a wholly owned subsidiary of the Abu Dhabi Investment Authority (AIDA), which is a vehicle by which the emirate of Abu Dhabi invests excess revenues from their oil production to create a domestic and international asset base to sustain the country when the oil is depleted. When asked whether there was any way that Henley Holdings, as an arm of a foreign government, could claim sovereign immunity in order that assets would be beyond the reach of a domestic entity, in this case, the City of Boca Raton as the owner of the property. Mr. Siemon answered negatively and stated that this was a private, passive investor, subject to all U.S. laws governing this asset.

Ed Rotter, managing director for ING Clarion, provided information related to their management experience, as requested by the Agency. He explained that they manage many State pension funds and approximately \$13 billion in investments in the United States. They are part of a larger entity, ING Real Estate, which manages \$43 billion around the world. In the past, Clarion partnered with Trammell Crow and built Mizner on the Green. They used to own the Yacht Club at Highland Beach and San Tropez in Plantation, Florida. They currently own the Waterside Shoppes in Naples, Florida, and have been involved in the South Florida area for many years.

Greg Lozinak, senior vice president for ING Clarion, advised that their residential portfolio ranged from approximately 6,500 units to 8,000 units over the last 12 months. Approximately 13 properties are managed in-house; their portfolio goes from Cambridge, Massachusetts down the coast to Raleigh, North Carolina and the D.C. area. Additional assets may be found in Clearwater, Ft. Lauderdale, Texas, San Diego, San Francisco and Seattle. Responding to members, Mr. Lozinak explained that property is bought and sold, depending on client criteria and provided details in support of same. He confirmed with the Agency that Clarion's intention, at this time, was to upgrade the residential areas in Mizner Park and keep them as rentals. In addition, the possibility of a boutique-type of hotel was being explored.

Paul Fikinger, group vice president/director for the Rouse Company, explained that, while plans were not specific at this time, they wanted to improve the leasing and merchandising of Mizner Park and upgrade some of the restaurants and retail shops. He then provided details related to their national account system, saying that these people interact with all the national chains and designer names across the country. Responding to the CRA, Mr. Fikinger stated that his company was not averse to investing additional capital into Mizner Park.

At the request of CRA members, Mr. Siemon verbally certified the following: 1) the appropriate funding, required to consummate this transaction and consistent with governing provisions, was in place, 2) the origin of the funding was traced and met the provisions of Federal, State, and local laws, and 3) the characters involved in this transaction were traced and met applicable Federal, State, and local criteria.

Mr. Siemon added that Teachers, under Federal law, had the obligation to ensure the capability and integrity of the institutions to which they sold their resources under the Sarbanes-Oxley Act; details were provided. The City Attorney and the City Manager were asked by the Agency whether they had the same level of confidence in the representations made today. Based on the information provided, they concurred that the required criteria had been met; the City Attorney provided additional details as requested by Agency members.

Responding to another query by the Agency regarding whether the Rouse Company was willing to invest in the public portions of Mizner Park, as well as the private portions, Mr. Fikinger stated that the Rouse Company was willing to work with the City and had done so with other municipalities. Discussion turned to what had been known as the International Museum of Cartoon Art and completion of the Centre for the Arts project.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Commissioner Whelchel, seconded by Vice Chairman Haynie, to adopt Resolution No. 2003-11-CRA. Motion carried unanimously; Chairman Freudenberg, Vice Chairman Haynie, Commissioners Abrams, Hager, and Whelchel voting yes.

QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:

There were no items for consideration.

OTHER BUSINESS:

There were no items for consideration.

DIRECTOR'S REPORT:

The Director had nothing to report at this time.

ATTORNEY'S REPORT:

The City Attorney had nothing to report at this time.

COMMISSIONERS' REPORTS:

The Commissioners had nothing to report at this time.

ADJOURNMENT:

Motion was made by Vice Chairman Hager, seconded by Commissioner Whelchel, to adjourn the meeting. Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager, and Whelchel voting yes.

The regular meeting of the Boca Raton Community Redevelopment Agency adjourned at approximately 4:10 p.m., Monday, December 8, 2003.

Dave Freudenberg, Chairman

ATTEST:

Sharma Carannante, City Clerk