



Joint Delray Beach City Commission/CRA Board
Workshop Meeting Minutes
Thursday, June 10, 2021 – 2:00 p.m.
Arts Warehouse
Delray Beach, FL 33444

STAFF PRESENT:

Renee Jadusingh	Tracy Waterlander	Ivan Cabrera
Christine Tibbs	Kim Phan	Rob Massi
Nikki Temple	Lori Hayward	

OTHERS PRESENT:

DJ Doody	Dr. Joe Saviak	Lynn Gelin
Jennifer Alvarez		

1. Call to Order

Chair Johnson called the meeting to order at 2:00 p.m.

2. Roll Call

City Commissioners Present: Mayor Shelly Petrolia, Vice Mayor Shirley Ervin Johnson, Deputy Vice Mayor Adam Frankel, and Commissioner Ryan Boylston.

CRA Board Members Present: Chair Shirley Ervin Johnson, Vice Chair Adam Frankel, Deputy Vice Chair Angie Gray, Commissioner Ryan Boylston, Commissioner Shelly Petrolia, and Commissioner Kelcey Cordell Brooks.

3. Approval of Agenda

Chair Johnson noted this was the first joint meeting of the CRA Board and the City Commission since the Board make up became the City Commissioners plus two (2) volunteers from the community. She stated it was historic and she hoped not the last time. She explained this gave the opportunity to discuss joint issues.

Motion by Commissioner Petrolia, seconded by Deputy Vice Chair Gray, to approve the agenda as presented. In a roll call vote, the **motion** passed (6-0).

4. Discussion

a. Presentation on Public Private Partnerships (P3s) by Dr. Joe Saviak

Chair Johnson introduced facilitator Dr. Joe Saviak.

Dr. Saviak gave a *PowerPoint* presentation titled “Success with Public Private Partnerships.” He explained that he would start with a primer on how P3s work, then the Commissioners could use the information-rich *PowerPoint* as a guide when considering the format as an option for projects moving forward.

Continuing, Dr. Saviak stated in public policy, it was important to select the right tools for a job and understand the strengths and limitations of the tool. He explained P3 was a popular tool with a proven track record, but many policymakers and manager need greater competence and expertise in how the process works. He discussed ways the tool might be used, including for environmental infrastructure, transportation infrastructure, and social infrastructure.

Dr. Saviak explained the things to consider with P3s, including:

- Independent analysis of the project
- Selected the right partner
- Right contract design
- Right contract management

Dr. Saviak provided a definition of P3s and discussed the contractual relationship between a government and a private sector entity. He explained it was much more of an alliance or partnership than a traditional buyer/seller relationship. He discussed how P3s differ from contracting and the associated challenges.

Continuing, Dr. Saviak discussed the most common P3s, noting that other countries such as Australia, Canada, and the United Kingdom had used the model for a number of years and a variety of purposes. He stated the most common P3s are for things like airports, bridges, highways, hospitals, parking facilities, prisons, rail systems, roads, tunnels, and water/wastewater projects. He noted that Florida had been a leader in the model in the U.S.

Dr. Saviak reviewed the different types of P3s. He explained that the partnership could be structured depending on the project and goals, as well as the strengths of the partners. He discussed the potential benefits of P3s, stating that in some situations the partnerships not only accelerated infrastructure but made available opportunities that would not have been possible without the P3.

Dr. Saviak shared case studies of P3 projects throughout the country and the results, including Route 895 in Virginia, the E470 toll road in Denver, Colorado, and a study by the Federal Highway Administration. He stated the study found that design-build P3s performed well on all metrics, reducing the project duration by 14 percent and the total costs by three (3) percent while maintaining the same level of quality.

Continuing, Dr. Saviak discussed funding opportunities and stated it was important for a municipality to use the full set of financing tools available to them. He noted that just like any other method, a P3 could fail if implemented incorrectly. He reviewed case studies of P3s used to build the Long Beach California Court House, the Port of Miami Tunnel, operation of maintenance of the Chicago Skyway, the I-495 Capital Beltway, Texas State Highway 130.

Dr. Saviak discussed authority under Florida law to do a wide range of P3s, laying out ground rules and eliminating confusion. He reviewed the elements of the statutes.

Discussion ensued regarding potential future preemption of local control of the issue by the State Legislature.

Dr. Saviak stated any public purpose could justify a P3 agreement under State law. He discussed criteria, process, and independent analysis for objective data. He reviewed provisions which are required within a comprehensive agreement in a P3 plan. He read over a checklist to consider when starting a P3 initiative.

Continuing, Dr. Saviak reviewed best practices for selecting a private sector partner and for managing the P3 process. He discussed risk and how to mitigate and manage it. He shared an example of issues with a transportation P3.

Commissioner Petrolia asked who was responsible for trying to make the P3 work out when issues come up.

Dr. Saviak stated that in the example, he believed it was a state project and responsibility fell back on the State.

Commissioner Petrolia asked if that was the case, what risk the private partner was realistically taking by entering the partnership.

Dr. Saviak discussed risks, and stated the partner was not paid. He stated a municipality would not be exposed to endless liability in these types of situations. He stated that risk could be understood, and the agreement could be structured to mitigate it. Dr. Saviak stated that generally success and failure are hiding in plain sight, and if the work is done ahead of time, the issues present themselves to allow for rational decision making.

Continuing, Dr. Saviak reviewed types of risk, including political, financial, Force Majeure, and other types of risk associated with projects. He stated that the expertise of the State and local governments in P3s is an important variable in managing and mitigating financial risk and reiterated that developing expertise was a factor. Dr. Saviak discussed lessons learned in implementation of P3s and noted that municipalities have the opportunity to learn from those lessons going into their own agreements.

Chair Johnson referenced a comment on independent analysis and asked if there were organizations that focus on that type of work.

Dr. Saviak responded that there are firms available that would have no skin in the game that can handle that analysis. He stated the CRA's administrative team would also be scrutinizing the deal to provide an additional layer of scrutiny.

Dr. Saviak discussed specific recommendations and issues to consider when creating P3 programs and policies, including not micromanaging projects, complying with all laws and regulations, dispute resolution, and accepting limitations.

Chair Johnson stated that Dr. Saviak had been emphasizing transportation and asked if there were other types of P3s. She noted that all the CRA's Capital Improvement Projects (CIPs) are not infrastructure.

Dr. Saviak reiterated the multiple categories of infrastructure from the beginning of his presentation and provided additional examples. He noted that housing at State universities was at times delivered as a P3. He stated there are all types of infrastructure that can be done.

Chair Johnson responded that the City and CRA were preparing to renovate the largest park in the community. She stated there would be a few fees, but mostly it would be for recreation purposes. She asked if that would fall under the categories.

Dr. Saviak stated that it did fall into the category. He said his advice was to ask the market, because they will tell you if there was an appetite to create solutions. He advised against short circuiting that process by not asking for proposals related to some aspect of the park. Dr. Saviak stated the takeaway was to look at your infrastructure needs and then ask the market. He suggested the administrative team could also look for examples in other municipalities.

Chair Johnson stated that the list of CIPs was daunting and expressed concern that they were past due. She noted the police and fire facilities needed to be replaced and stated those were not revenue streams but are of service to the community. She asked if those could be bundled in some way.

Dr. Saviak responded that to get the attention of the market, you might get better attention for a \$100,000,000 project instead of a \$100,000 project by bundling several major capital projects as a package. He agreed that might be more attractive as an opportunity for a private sector partner.

Dr. Saviak stated that there would be projects on the list that might be good candidates for P3s, and it would be the Board's choice to look at different finance options. He noted that there were several capital projects identified during the City Commission's goal setting workshop which could be looked at to make them more realistic, feasible, and doable in a shorter time frame.

Continuing, Dr. Saviak discussed the procurement process for a P3. He reviewed a list of key differences, processes, and tools.

Interim City Manager Jennifer Alvarez commented on Dr. Saviak's reference to "asking the market." She stated she would look at that as more formal market research. She stated for those projects that don't have mechanisms for funding in place, they might issue a request for

letters of interest. She noted that was formalizing the market research without an obligation to proceed with the responding entities. Ms. Alvarez explained that information could also be used to formulate the Request for Proposals (RFP) or similar solicitation.

Dr. Saviak stated that they wanted to have a P3 process that was open and inviting to partners. He noted it was important that it was efficient and welcomed information in order to best meet the public interest. He continued explaining the procurement process. Dr. Saviak stated the process was an open dialogue to bring clarity and focus, while also recognizing the reality where different partners may propose different plans and financing options. He noted that it is not always possible to know what the market will deliver, and they want to encourage as much innovation as they can.

Dr. Saviak discussed ways to maintain bidder interest and what to include in a contract. He noted the importance of designing and managing the performance-based contract in order to have the best outcome. He reviewed recommendations including feedback and culture and options for surveying the market like the example Ms. Alvarez had shared.

Continuing, Dr. Saviak emphasized that P3 was a partnership model which requires the right mindset and skills. He noted to make a partnership successful, managers would need to be successful in procurement, partner selection, rethinking service and infrastructure delivery, relationship management, contract design and management, risk allocation, and program evaluation.

Dr. Saviak shared additional examples of places where P3s could be beneficial for both the community and the developer. He asserted that being aware of the options available would be most conducive to success for the community.

Chair Johnson thanked Dr. Saviak for his presentation and asked for any questions.

Commissioner Petrolia asked Dr. Saviak to share any downsides to P3s, whether there were P3s which exist within financial institutions, and how the local government determines what the best assets to consider a P3 locally would be.

Dr. Saviak responded that the downside of P3s was the same as any other policy choice or administrative decision, that if the wrong tool was chosen or it was designed or implemented the same way, the result would not be as hoped. He reviewed examples, including lack of due diligence or ignoring independent analysis.

Commissioner Petrolia asked how that was different from the selection process in other procurement. She stated that she thought P3s were better for certain things because they could potentially transfer risk and get things done quicker, but she was not sure if the downside was more cost or something else.

Dr. Saviak stated what they did not want to do was rob themselves of the benefits of a P3 by micromanaging the project. He listed issues that could come up while using the P3 as a tool.

Commissioner Petrolia asked if there were financial P3 relationships for things like borrowing money or getting money for a project.

Dr. Saviak responded that it all depended on how the P3 was structured, noting the partner was typically going to the market and getting the financing. He recommended looking at the full range of financing tools, mixing together State funds, Federal funds, and private funds. He shared details of a conservation easement he had discussed with another municipality recently.

Commissioner Petrolia asked how the CRA or City should determine what assets would be best to consider potential P3 arrangements on.

Dr. Saviak stated that Ms. Alvarez's recommendation to issue a request for letters of interest was a way to find out what was out there, because the municipality won't always have perfect information and know what to ask.

Commissioner Petrolia reiterated an early comment from Dr. Saviak that if something does not work out, sometimes you have to look at yourself and ask how it was put together. She stated that any P3 contract they put together would require counsel with experience in doing that type of agreement. She asserted that the City and CRA legal teams could not be relied on to know the ins and outs of what would get the project to the goal line, because they had not done this type of work over and over again.

Dr. Saviak stated that there are law firms which have P3 practices and noted a major one (1) was in South Florida. He compared the idea to getting bond counsel or other independent financial analysis.

Deputy Vice Chair Gray asked who the market was when going out to ask for letters of interest. She stated the CRA was fairly new at this and needed more guidance.

Dr. Saviak responded that you would first want to identify the potential projects, then as Ms. Alvarez had said, there are certain publications where you can advertise, and it will be seen by the firms that do P3s. He explained that it is interesting how much you do not know unless you ask and gave an example of a transit project in Atlanta.

Deputy Vice Chair Gray asked if that was something that was specialized or easy to find.

Dr. Saviak stated the world is currently awash in capital that is looking for safe, sound, productive long-term investment vehicles, and as a result, if you communicate with the market, it will begin communicating with you. He added that the process would uncover opportunities which are not currently known. Continuing, Dr. Saviak stated that they would find that some partners were a really good fit for Delray Beach's needs, while others would just not be "them."

Deputy Vice Chair Gray stated Delray Beach has a project at Pompey Park which is one (1) of its largest parks and projects and asked if Dr. Saviak was aware of specific partners that had partnered with local governments on parks.

Dr. Saviak stated that he could not identify a particular firm and would not feel comfortable in this forum identifying a specific firm. He asserted that just like when the state of Arizona

thought no one would be interested in partnering on their rest stops and a company identified themselves as excited about that partnership, you never know unless you ask. He stated the reality is that parks and recreation does generate revenue, or they have the opportunity to co-locate revenue producing activities there, so it is a possibility.

Chair Johnson stated she was excited because Dr. Saviak had answered a question she had had for a very long time as to how Europe and the Far East are so far ahead of the U.S. in transportation and maintaining their infrastructure. She said she was hoping that Delray Beach could now start thinking outside the box.

Chair Johnson reiterated the process she had heard and asked if the Dr. Saviak would agree that when working with a partner it was a partnership, so you could not just send them out to come up with a result that was nothing like the project you thought would be. She emphasized the importance of the partnership and noted that the wonderful part was that the CRA or City still owns the property. She asserted this was important to her because they had been accused more than once of giving away assets.

Dr. Saviak agreed that the municipality maintains control.

Chair Johnson stated that when improvements have been done in the past, projects have been pushed so far down the road they would become more expensive, so until they get a handle on what they really must do as responsible public officials and educate the residents as to the needs, the first thing people want to know is how things will be paid for. She asserted that this was where a P3 could come in, and said she was excited about the whole thing. She stated the important thing was to maintain control without micromanaging.

Dr. Saviak responded that magnets work better than handcuffs. He stated it had to be a genuine partnership and not an attempt to dictate. He asserted that would rob government of private value, innovation, and efficiencies. He noted that they might not utilize the option for any projects, but the takeaway should be to consider all options.

Chair Johnson commented that the group working the partnership might not be who you think it is, noting the City Manager and City Attorney both have other responsibilities. She stated it did not have to be all City employees and asked if there could be residents involved.

Dr. Saviak responded that they would want a multi-disciplinary team that assembles the right experience, expertise, skills, objectivity, checks and balances, and independence. He noted a lot of it would be in house, and some would be outside in order to determine that the capacity was in place to do these deals on behalf of the taxpayers.

Ms. Alvarez stated she was available to discuss any of the matters presented and certainly had some ideas and options to share. She noted that she spent many years in Miami-Dade County, so had some background on the partnerships done there. She stated that when you go about the business of doing this, there has to be a little bit of understanding that the private sector is going to make some money, and that was important to know. She asserted that in a partnership, you would want the private partner to be successful just like you want the public entity to be successful.

Continuing, Ms. Alvarez asked that they keep in mind that although the private sector usually fronts the money, the City or CRA still needs to find a mechanism by which to pay those funds back. She referenced the example of the Port of Miami tunnel, and noted that it was financed by a company in Europe, but the City paid funds back through bonds and tariffs.

CRA Executive Director Renee Jadusingh thanked everyone for attending the first joint workshop of the City and CRA. She stated that she was happy to bring the entities together, as they are excited about moving forward with current and future projects.

Chair Johnson asserted that Ms. Jadusingh also had experience with projects similar to this in Miami.

Ms. Jadusingh responded that like Ms. Alvarez said, she did not think it was called P3 when they did it in Miami, but she had seen many different projects and financing tools there. She noted that staff had plenty of experience in this type of relationship.

Chair Johnson thanked everyone for coming and stated she was looking forward to putting the new information to use.

5. Adjournment

There being no further discussion, the meeting was adjourned at 3:39 p.m.

Renee Jadusingh, Executive Director

Shirley Ervin Johnson, Board Chair