



CRA Board Meeting Minutes
Thursday, December 10, 2020 – 2:30 p.m.
Arts Warehouse
Delray Beach, FL 33444

STAFF PRESENT:

Renee Jadusingh	Christine Tibbs	Tara Toto
Ivan Cabrera	Danielle Arfin	Rob Massi
Kim Phan		

OTHERS PRESENT:

DJ Doody	Neil Schiller	Daniel Lebensohn
Gregory Freedman	Taylor Levy	Zack Purdo
Avram New	Max Van Arnem	Daniel Rosemond

1. Call to Order

Chair Johnson called the meeting to order at 2:30 p.m.

2. Roll Call

Present: Chair Shirley Ervin Johnson, Vice Chair Adam Frankel (via telephone), Deputy Vice Chair Angie Gray (via telephone), Commissioner Ryan Boylston, Commissioner Juli Casale, Commissioner Kelcey Cordell Brooks, and Commissioner Shelly Petrolia.

3. Approval of Agenda

Chair Johnson stated she would like to amend the agenda based on the recommendation of the Executive Director. She asked to move item 9A to a future agenda and to move 9B to the January agenda.

Commissioner Boylston stated he would be fine with the first item being moved but asserted staff had worked hard to fast-track item 9B and said he would like to have the conversation.

Commissioner Petrolia agreed, stating she supported Commissioner Boylston and they should have the discussion.

CRA Executive Director Renee Jadusingh explained they could move forward if it was the will of the Board, but the presentation for the item was not available due to technical issues.

Chair Johnson added that they were anticipating at least two (2) hours in phone comments from the public at the meeting and adding the item would make the meeting longer.

Commissioner Petrolia asked if any of the public comments included item 9B.

Ms. Jadusingh responded that she did not believe that item had many comments, most were about BH3.

Motion by Commissioner Casale, seconded by Deputy Vice Chair Gray, to defer item 9A to a future agenda and move item 9B to the January agenda. In a roll call vote, the **motion** passed (4-3). Commissioner Boylston, Commissioner Petrolia, and Chair Johnson voted no.

Motion by Commissioner Boylston, seconded by Commissioner Petrolia, to approve the agenda as amended. In a roll call vote, the **motion** passed (7-0).

4. Approval of Minutes

a. October 27, 2020 – Regular Meeting Minutes

Motion by Commissioner Casale, seconded by Commissioner Boylston, to approve the October 27, 2020 Regular Meeting minutes as printed. In a roll call vote, the **motion** passed (7-0).

b. November 12, 2020 – Regular Meeting Minutes

Motion by Commissioner Petrolia, seconded by Commissioner Casale, to approve the November 12, 2020 Regular Meeting minutes as printed. In a roll call vote, the **motion** passed (7-0).

5. Meeting PowerPoint Presentation

Ms. Jadusingh stated the item was included in the backup for the Board's information and did not require a presentation.

6. Public Comments on Agenda and Non-Agenda Items

[Names spelled phonetically]

Daniel Rosemond, East to West Development Corporation, commented regarding deferral of item 9B. He stated he understood the Board had already voted, but noted as the party involved with the item, he did not understand the reason for deferral.

Ms. Jadusingh asked that the recorded public comments be played.

John L. Dean, 695 Lyndell Blvd, spoke in support of the BH3 project on Atlantic Avenue.

Waylon Roy, 613 SW 9th Court, spoke in support of the Atlantic Avenue project. He thanked the CRA for thinking of the community and stated he hoped the community would come together and breakdown the racial barrier.

Name Unclear, 575 NW 45th, spoke in support of the BH3 project.

Mike Johnson, 245 SW 9th Circle, called about the BH3 project.

Claude Lewis, 214 SW 12th Ave, called in support of the BH3 project.

Shaquara (no last name given), 11 SW 6th Ave, called in support of putting in a Publix because it would be very convenient to walk and not have to drive.

Name Unclear, 302 Sawgrass Dr, called in support of the BH3 project.

Shaquara (no last name given), 11 SW 6th Ave, called in support of the BH3 project because it was convenient, local, and she wouldn't have to worry about going to any other shopping centers.

Shantavia Young, 11 SW 6th Ave, spoke in support of the project and said putting in a Publix would be helpful to her as a single mom.

Angela Wilson, 11 SW 6th Ave, stated she would love a Publix to be put in because it would be closer and convenient for the grandson to get a job. She added that she supports BH3.

Spring Williams, 11 SW 6th Ave, called in support of BH3 and said the project would provide jobs and support the community.

Celeste Anticket, 21 SW 6th Ave, spoke in support of the convenience of building a Publix in the community because it would be more convenient

Samantha Huney, No address given, stated she wanted a Publix for job opportunities and convenience. She added that she supported BH3.

Timothy Garvin, No address given, said he loves Publix chicken and banana pudding and asked when it was coming. He added that he supports BH3.

Marie St. Cloud, 39 SW 6th Ave, called in support of the BH3 project. She stated it was a good project, and Publix would be close by.

Robinson (last name unclear), 121 SW 10th Ave, stated he supported the BH3 project and the change had been needed for some time.

David Thomas, 39 SW 6th Ave, spoke in support of BH3 bringing in Publix. He stated the community had been waiting for a Publix for years and needed it for job creation and to allow people to walk to buy food rather than having to drive so far.

Willie Gasey, 41 SW 6th Ave, stated he support the Publix.

Shervon Hullis, 112 SW 6th Ave, stated he supported BH3 bringing in Publix.

Yolanda E. Lee, No Address Given, spoke in support of the BH3 project and said it would be convenient and in her area.

Benjamin Alexander, 110 SW 6th Ave, stated he supported BH3 and Publix.

John LaMar, 109 SW 6th Ave, said he supported BH3 and Publix.

Lorenzo Perrin, 1324 Prospect St, spoke in support of the BH3 Publix.

Ryan Simms, 116 SW 6th Ave, stated she supports BH3 bringing in a Publix, as it would definitely bring in jobs.

Hannah Logan, 118 SW 6th Ave, spoke in support of BH3 and the Fabrik project bringing in Publix.

Lewis Logan, 118 SW 6th Ave, stated he supported BH3 bringing a Publix into his neighborhood where he can walk, and his children can get jobs. He added that he was super excited about it and hoped it could get done.

Ann Shea, 10081 Boynton Place Circle, called in support of BH3 and the Fabrik Project coming to her neighborhood.

Monica (no last name given), 318 NW 1st Ave, stated she supported BH3 bringing Publix into the neighborhood.

Lavina Rosen, 118 SW 6th Ave, spoke in support of BH3 bringing Publix.

Nigel Willard, 125 SW 6th Ave, stated he supported BH3 for Publix.

Christina Simpson, 125 SW 6th Ave, said she supported BH3 for Publix.

No Name Given, said they could come back the next day for additional signatures because they need people to let (the CRA) know they want the Publix and if they are going to bring it, bring it, because they want jobs and convenience. He stated right now they were trying to get 88 today as there were other people getting signatures in other places. He stated they had until Thursday, because all they need is a little more time and the City is fighting it, but the community wants a Publix.

Sherry (last name unclear), No address given, stated she supported BH3 and the Publix coming in.

Bart Griffith, 125 SW 6th Ave, spoke in support of Publix.

(Name unclear), No address given, stated he supports the project.

Loretta Wright, 1302 Prospect St., said she supported BH3.

Andrea Read, 140 SW 5th St, stated she supported BH3 for Publix to be built in Delray Beach.

Ina (last name unclear), 82 SW 6th Ave, spoke in support of BH3 and Publix.

Sharquila Williams, 237 NW 5th Ave, spoke in support of BH3 bringing Publix into the community.

Timothy E. Kitchen, 1102 NW 2nd St, stated he supported the CRA Redevelopment on West Atlantic Avenue.

Willie Caesar, 712 E Blvd Chatelaine, spoke in support of BH3 bringing Publix to Delray, and all of the other shops they were bringing. He stated it was a great idea for the community, and he supports it 100 percent.

Jerry Bryant, 425 SW 3rd Ave, stated he supported the Publix through BH3.

(Name Unclear), 699 Auburn Ave, spoke in support of BH3 Publix coming to her neighborhood.

Lucretia Brown, 3712 SW 5th Ave, stated she supports the upcoming Publix.

Pamela Waters, 28 SW 8th Court, stated she supports BH3 bringing Publix.

Lucretia Brown, 3712 SW 5th Ave, stated she supports the upcoming Publix.

Lenox Ferguson, 237 NW 14th Ave, stated he supports BH3 and the Fabrik project bringing a Publix to his community.

Pauline Caesar, 712 E Blvd Chatelaine, stated she supports BH3 bringing a Publix to the community, adding they help create jobs with a great atmosphere.

Jessie Kitchen, 332 NW 10th Ave, stated she supports BH3 and Publix.

Betsy Kitchen, 332 NW 10th Ave, stated she supports BH3 bringing Publix into her neighborhood.

Willie Newson, 700 Lindell Blvd, stated he supports BH3 bringing Publix to Delray.

Caller and message inaudible.

Macarthur Wesley, 1001 NW 3rd Terrace, spoke in support of BH3 bringing Publix to Delray Beach.

Cora Patterson, 331 NW 11th Ave, stated she supports Publix coming to Delray Beach by BH3.

Dora Brown, No address given, spoke in support of Publix coming to Delray and BH3.

Vincent Vasquez, 320 NW 11th Ave, stated he supports BH3 bringing Publix.

Antonio Ortega, 316 11th Ave, stated he supports BH3 bringing Publix.

Demetria Edwards, 308 NW 11th Ave, stated she supports BHS [sic] bringing Publix for jobs.

Anita Edwards, 700 Lindell Blvd, spoke in support of BHS [sic] bringing Publix to 6th Avenue for jobs.

Carrie Edwards, Address Unclear, stated she supports BH3 bringing Publix for jobs and more opportunities.

Pat Simpson Silver, 5041 NW 5th St, spoke in support of the project on Atlantic Avenue.

(First name unclear) Edwards, 123 SW 12th Ave, spoke in support of BH3 bringing Publix to 6th Avenue to help out with jobs for her community.

Danavius Edwards, 308 NW 11th Ave, spoke in support of BHS [sic].

Amari Jones, No address given, spoke in support of BH3 and the Fabrik project because the community has waited too long for groceries and they have Publix and are ready to deliver.

Danavius Edwards, 308 NW 11th Ave, stated he supports BH3 bringing Publix in because we need jobs.

Kendra Jackson, 307 NW 11th Ave, stated she supports BH3 bringing Publix.

Deon (Last name unclear), 2102 SW 13th St, spoke in support of BH3 bringing Publix.

Tayvon (Last name unclear), 320 SW 11th Ave, stated he supports BH3 and the Fabrik project because we have waited too long for a grocer, they have Publix and are ready to deliver.

Shaquira Edwards, 308 NW 11th Ave, stated she supports BH3 and the Fabrik project in her neighborhood for jobs.

Patricia Arnett, 302 NW 11th Ave, stated she is in support of Publix coming to the neighborhood, BH3 to support jobs.

Simpson Edmonds, 2839 XXXX Way, stated he was calling about the project from the City of Delray and supports the project.

Mary Jane Wilson, 308 NW 10th Ave, said she supports the issue.

Caroline Jones, 308 NW 10th Ave, stated she supports BH3.

Willie Davis, 324 NW 10th Ave, stated he supports BH3 bringing Publix.

Autumn Davis, 324 NW 10th Ave, stated she supports BH3 bringing Publix.

Michelle Diejuste, 709 SW 6th Ave, stated he supports BH3 bringing Publix.

Elionore Diejuste, 709 SW 6th Ave, stated she supports BH3 bringing Publix.

Marin Smith Diejuste, 709 SW 6th Ave, stated she supports BH3 bringing Publix.

Brenda (last name unclear), 709 SW 6th Ave, spoke in support of BH3 bringing Publix.

Pastor Carla Mays, 200 Sterling Ave, stated she was calling to stress the importance of her support for BH3 and the project they are doing, because it is going to bring jobs, adding she is super excited and the people in her community are super excited to have a Publix to walk to. She stated it is something to provide food, be something people can afford, and they don't have to go far for it. She said it's been a long time coming. She thanked the Board for considering the community and their opinion in support of BH3.

Tiffany Mays, 712 E Blvd Chatelaine, spoke in support of BH3 and them bringing Publix into the community. She stated it had truly been a long time waiting and they need to have a Publix in the community, and to hear (BH3) would like to bring one back, it would be truly amazing. She noted having a grocer available and accessible to us within walking distance would truly be an amazing addition to the community.

Willie Caesar Sr., 311 NW 11th Ave, spoke in support of BH3 and the movement of getting a Publix so that children can have jobs and people can actually walk to a grocer. He added that they really, really need that.

Name and Address Unclear, stated he supports Publix.

Shirley (no last name given), 332 NW 10th Ave, stated she supports BH3 in bringing Publix into the community. She said she definitely appreciates the move to developments that will benefit the people in the community by bringing jobs and convenience of walking to Publix to get real grocery food and not just walking to a corner store or liquor store for junk food, because it would definitely help the mental health and physical health of the community. She stated it would be historical and she 100 percent supports BH3 bringing in Publix.

Larry Stephenson, 220 NW 6th Ave, stated he supports the project in Delray Beach.

Shantay Drew, 311 NW 11th Ave, spoke in support of BH3 and the Fabrik project bringing Publix to the community, adding it was a great way to provide jobs and the community needs its own grocery store. She stated it would be convenient and in walking distance of everyone in the community.

Anthony Mays, 200 Sterling Ave, stated he supports BH3 and the Fabrik project on bringing Publix to the community. He said he thought it was simply outstanding and would be an awesome way to provide opportunity for those in the community, increase revenue, provide jobs, and to be convenient for those who might not have transportation.

Tonya Stillwell, 333 NW 6th Ave, spoke in support of the BH3 bringing Publix to the neighborhood. She said she had grandsons and a son that needed a job, and they don't have a car, so she would appreciate the project going through.

Brianna Mays, 332 NW 10th Ave, stated she supports BH3 bringing Publix into the area. She said it was quite challenging for the elderly in her family to get what they need, so a Publix in the area would be very efficient for them and would definitely bring a lot of employment to the community.

Sharnay Harris, 333 NW 6th Ave, stated she supports BH3 bringing Publix into the area. She added that she has three (3) teenage sons and a brother that need jobs, and they don't have transportation, so it would be great for them to have a Publix they could get to easily.

Junior (no last name given), 128 SW 5th Ave, spoke in support of BH3 bringing Publix into the community because of jobs.

Name Unclear, Blanc Fresh Cut Barber Shop, 704 W Atlantic Ave, stated he had been working in the barber shop for 31 years and would like to own his space. He said he was waiting for the development to come to West Atlantic Avenue to get jobs and more activities, so he supports the project.

Rick Olsoden, 128 SW 3rd Ave, stated he supports BH3 in bringing Publix to the community to create more jobs and help a lot of people who don't have cars walk over and buy food, and would also save money on gas.

Cassandra (no last name given), 320 SW 6th Ave, stated she supported BH3 bringing Publix into the neighborhood for a more convenient shopping location and bringing jobs.

Arlis Sidney, 128 SW 3rd Ave, spoke in support of BH3 bringing in Publix.

Christopher Caesar, 332 NW 10th Ave, stated he supported BH3 bringing in Publix, adding the neighborhood had been waiting for some type of grocery store for at least 40 years. He said he would like it to be there in the Fabrik project for the convenience, to shop and not spend gas money, and also to create jobs. He stated they want to demand that they allow the community to be hired, at least 70 percent of the hires coming from the community.

Senora Caesar, 712 E Chatelaine Blvd, called in support of the BH3 project bringing in Publix and the Fabrik project. She stated it would help elevate the community and being able to have access to a convenient actual grocery store.

Christy Smith, 1005 SW 2nd St, stated she supports the project on Atlantic Avenue.

Nigel Caesar, 712 E Blvd Chatelaine, spoke in support of BH3 bringing the Fabrik project and Publix. He added that he was really liking what they were doing, and it should be pushed a lot more.

Douglas Parker, 731 Avenue Serrant, stated he supports BH3 bringing Publix to the Delray Beach neighborhood because it would provide jobs for the teens and for people in the area.

Roger Parker, 1009 NW 33rd, stated he supports BH3 bringing Publix to Delray Beach because it would help support the job systems in the community and they need shopping in their own area.

Name Unclear, 47 Country Lake, spoke in support of the construction on Atlantic Avenue in Delray Beach.

Robert Denochent, 914 SW 1st St., called regarding the upcoming development. He stated the area had been waiting for a long time, and it was time to get this done in the community. He said he was in support, and all other areas had been developed. He added that he would really appreciate if access was given for this development to take place.

Reuben (last name unclear), 121 SW 13th Ave, stated he would like to support the project on Atlantic Avenue to move forward.

Charlene Bryant, 915 SE 3rd Ave, spoke in support of the project occurring on Atlantic Avenue.

Name and address unclear, stated he supports the project on Atlantic Avenue.

Archwood Burns, 341 SW 5th Ave, stated he supports the project on Atlantic Avenue.

Philip Jackson, 5055 NW 5th St, stated he supports the project on Atlantic Avenue.

Name and address unclear, stated he supports the project in Delray Beach.

Andrew Ten, 1309 Lee St, stated he approves of the project on Atlantic Avenue between 5th and 9th Avenue, and would appreciate if they could get it moving.

Arthur Levinson, 15244 Lakes of Delray Blvd, stated he had been a resident of Delray Beach over 20 years and looks forward to the development at Fabrik because he knows it will bring needed jobs to his community, provide income-based rentals for people to be able to afford, and provide community space within the development. He added that he was in full support of the Fabrik project.

Don Ginsburg, 110 Hendricks Isle, called in support of the Fabrik project that BH3 would like to build. He stated he would like to see development in the area, as it had been neglected too long and needed jobs, a grocer, and housing in the area. He added that he did not see why there would be opposition to them proceeding with the plan the area needs.

Tim Hall Olenn, 11902 Waterwood Drive, Boca Raton, called regarding the BH3 project in Delray Beach. He stated he had worked with BH3 for about seven (7) years and found they had extreme high integrity and always delivered on the projects they work on. He stated they were great people and he hoped (the Board) would consider them as the only viable people for the project.

Emanuel Vincent, 5884 Morningstar Circle, stated he supports the project on Atlantic Avenue.

Ari Goldman, 524 W Atlantic Ave, stated he was in very firm support of the BH3 project on Atlantic Avenue. He noted he was the owner of Pour and Famous.

(First name unclear) Adwani, 693 XXXX, stated he supports the project on West Atlantic Avenue.

Robert Sloan, 118 NW 13th Ave, stated he supports the project on West Atlantic Avenue.

Tennis Ellis, 43 SW 12th Ave, stated he supports the project.

Carol Rollins, 34 NW 5th Ave, stated she supports the Fabrik project.

Eleanor Bruken, 119 NW 6th Ave, stated she supports the BH3 project and asked that they be granted the time they need so that the project can be successful for the community.

Virgil Wislams, 120 NW 6th Ave, stated he supports the changes.

Sheila Johnson, 135 NW 6th Ave, stated she supports the business.

Elizabeth Glover, 119 NW 7th Ave, stated she supports the BH3 project because they need jobs.

Francois Olive, 135 NE 4th Ave, stated he supports BH3.

Kyle Gomez, 1328 Lee St, stated he supports the BH3 project.

Rabbi Ruvi New, 375 NE 4th St, Boca Raton, called in support of BH3 and the Fabrik project. He stated it had waited too long, and noted he had known Daniel Lebensohn, CEO for BH3 for many years and he was a person of great integrity. He stated he fully supported the efforts and believed they would be in the best interest of the Delray Beach community.

Elana Lebensohn, 15244 Lakes of Delray Blvd, called in support of the BH3 Fabrik project. She stated it was an exciting and wonderful project that would only benefit the whole community.

Shantal Wentworth, 110 SW 10th Ave, called in support of the BH3 project and asked that they be given more time.

Garth Bean, 15 NW 24th St, stated he supports the BH3 project.

Doug Quigley, 695 Lindell Blvd, stated he supports BH3.

Jay Muwan, Delray Beach, stated he supports the BH3 project.

Claude Milfort, 588 NW 48th Ave, stated he supports the BH3 project.

Alex Simeon, 4426 Brendan Dr, called in support of the BH3 project in Delray Beach.

Dean Joseph, 108 SW 9th Ave, stated he supports the BH3 project.

Byron Muller, 318 SW 5th Ave, stated he supports the BH3 project.

Max Deeder, 32 NW 6th Ave, stated he owns part of the 600 block and needs to speak with someone with Delray Beach regarding buying his property. He said talks could continue. He stated the CRA should give the company more time to develop, since they have Publix on the line already.

Damion Rodriguez Fernandez, 250 Congress Dr, spoke in support of the BH3 project.

Whitney Simon, 511 7th Dr, stated she supports the BH3 project.

Demetrius McFadden, 206 SW 12th Ave, called in support of the BH3 project.

Nancy Cannon, 200 NW 2nd Ave, called in support of the updated BH3 plan. She said she hoped the CRA would approve an extension because she thought it was a great developer for the location. She stated she liked the changes they made, and it was time to get that area going.

Lucy Larner, 401 E Linton Blvd, stated she was in strong support of the Fabrik project from BH3 and their updated plan. She said she would like to support the approval of the extension because the developer was doing amazing thing and she felt very strongly that this was the time to have something like this go on in the NW/SW. She said the community was great but keep Delray great.

1:06:10

Name unclear, 23 SW 9th St, called regarding BH3.

Name unclear, No address given, called in support of the BH3 project.

Yvonne Odom, 3905 Lonesome Blvd, stated she was reminding the Board that running the City as a Commissioner was their primary job and deserved their full attention. She asserted the duties of the CRA could easily be done by Commissioners appointed by them, other than themselves, to run the awesome business of the CRA. She stated the City Commission had the final approval anyway, and again urged the return of the CRA Board to an independent board. She added that she encouraged the Board to approve the plan laid out by their selected developer. She stated they had chosen them, and now should support them, while strongly encouraging them to work with the community to work the vision. She asserted it did not have to be adversarial, and this was no time to start again.

Chuck Ridley, 210 NW 2nd Ave, stated he was not speaking in favor of or against the BH3 project, but wanted to share observations. He asserted there was a notion that the community was desperate and in a rush for commercial development on W Atlantic Ave, but nothing was farther from the truth. He stated they were not looking for development that would push them out of their neighborhood but were looking for development that would provide neighborhood-serving businesses like a grocery store, bank, and pharmacy, as well as development that would provide housing for residents of the Set. He stated they were looking for development built by a developer with a social consciousness, meaning a developer willing to build a project in which both the developer and the Set residents benefit financially and a developer that has taken the time to build authentic relationships with Set leadership.

Mr. Ridley stated that he supported the proposed grocery store on the 600 block, which was the same proposal the Mayor promoted in 2016. He stated if the City Commission did not interfere back then, Publix would be breaking ground in 2022. He stated he supported the design and found it much more compatible than the original project but said given the number of times the plan had changed, there was no reason to believe what they were proposing now was what they would receive. He asserted that if the Board decided to continue, he encouraged them to put claw back mechanisms in place, so this was not another bait and switch. He added that if they decided not

to move forward, he encouraged the CRA to put out an RFP for a grocer on the 600 block and said it was his hope that Publix would respond, then put out an RFQ for the remaining blocks to give the CRA more flexibility. He asked that the CRA avoid politicizing the project moving forward.

Ms. Jadusingh stated there were additional members of the public present to speak.

Max Van Arnem, 265 NE 5th Ave, asked the Board if they thought the RFP process was fair for the other bidders, considering how many times the current plan has changed. He asked where this left the next RFP process, considering what wins seems to be pretty pictures.

7. Consent Agenda

- a. CRA Monthly Progress Report – December 2020**
- b. A-GUIDE End of Year Report Fiscal Year 2019-2020**
- c. Site Development Assistance Program Funding Application – Blairs' Downtown Condominium Association, Inc. (415-419 East Atlantic Avenue) for an Amount Not to Exceed \$23,064.00**
- d. Site Development Assistance Funding Application – Ronald Furst, LLC (123 NE 2nd Avenue) for an Amount not to Exceed \$9,359.00**
- e. Establishment and Approval of the COVID-19 Let's Keep It Clean Grant Program**
- f. Updated Job Descriptions for CRA Staff Members**
- g. First Amendment to Site Development Assistance Funding Agreement – Advanced Chiropractic of South Florida, LLC**

Motion by Commissioner Boylston, seconded by Commissioner Casale, to approve the Consent Agenda as printed. In a roll call vote, the **motion** passed unanimously (7-0).

8. Old Business

None.

9. New Business

- a. Discussion – Corey Jones Isle Statue**

Item moved to a future agenda.

b. Request for Proposals: CRA No. 2020-01 For Development and Disposition of CRA-Owned Properties in the SW Neighborhood for Workforce Housing (Carver Square) Determination

Item moved to January agenda.

c. Request Letter from BH3 Management, LLC – Development of SW 600-800 Blocks of West Atlantic Avenue

Ms. Jadusingh introduced the item, which was a request received from BH3 Management related to their development of the SW 600-800 blocks of West Atlantic Avenue. She provided a brief background of the project and priority uses included in the CRA requirements for the project. She briefly outlined that those uses included a full-service grocer of no less than 20,000 square feet, health and wellness facilities, a pharmacy, financial institution, family/social entertainment, office, retail, and service uses.

Ms. Jadusingh showed a list of the project description in the Purchase & Sale Agreement with BH3 Management, including:

- Retail/Food and Beverage: 43,300 square feet
- Grocery: 33,000 square feet
- Office: 21,600 square feet
- Public Open Space: 40,000 square feet (including 32,000 square feet for Frog Alley)
- Residential: 165 Rental Units (plus 28,532 square feet of amenity space including pool, club room, and fitness center)
 - 18 units Workforce Housing offsite
 - 12 units Workforce Housing onsite
- Parking
 - 2 structured parking facilities
 - 1 surface lot
 - Number of parking spaces includes the number approved by the City as part of site plan plus at least 206 public spaces

CRA Board Attorney Mr. Doody reviewed the critical dates related to the project. He stated the progress started with a Request for Proposals (RFP) in 2018, and the CRA was under contract with BH3 effective April 22, 2019. He stated other critical dates included:

Effective Date	April 22, 2019
First Amendment to Agreement	August 13, 2019
	Correct scrivener's errors related to the Restrictive Covenant
Second Amendment to Agreement	November 19, 2019
	Extend Application Date and Public Benefits Commitment Date by 60 days to January 17, 2020
Relocation Plan	December 18, 2019

Public Benefits Commitment	30 days prior to end of Application Date On or before January 17, 2020
Application Date	Within 270 days of Effective Date January 17, 2020
Third Amendment to Agreement	270 days after Effective Date January 28, 2020
Notice of Default	Allow CRA to enter into lease with EJS, Inc. January 28, 2020 CRA Board approved issuing Notice of Default
Application Submittal	January 29, 2020 CRA Legal Counsel sends written Notice of Default to BH3; BH3 has 30-day cure period; default cured (see Application Submittal) February 27, 2020 BH3 submitted their Site Plan Application and Conditional Use Application to the City; City accepted Applications
Approval Date	No later than Saturday, January 16, 2021 365 Days after Application Date Note: Date would roll over to Monday, January 18, 2021
Permit Date	Date on which the last of any required permits is issued
Closing Date	30 days after Permit Date
Termination Date	April 11, 2021 720 days after Effective Date

Mr. Doody stated the item was before the Board only for discussion, there was no action to be taken and no motions would be entertained. He read over the project description shared by Ms. Jadusingh.

Mr. Doody reminded the Board that under the Purchase and Sale Agreement (PSA), section 1.14 stated that any variance greater than 10 percent from the original plan required Board approval. He explained the original PSA had key performance dates structured into the it to require performance by the developer and discussed the previous three (3) amendments.

Chair Johnson asked for clarification regarding the roll over to Monday of the Saturday, January 16, 2021 approval date.

Mr. Doody explained since January 16 was not a business day, the approval date was January 18, 2021.

Neil Schiller, attorney for BH3 Management, LLC introduced the team present to answer questions from the Board, including Daniel Lebensohn, Gregory Freedman, Taylor Levy, Zack Purdo, and Avram New. He thanked CRA staff for being accommodating.

Mr. Schiller reviewed a project history, noting the original RFP issued on August 21, 2018 sought a general overview (including renderings), a conceptual site plan, conceptual elevations, basic floor plans, and anticipated uses. He stated on January 29, 2019, BH3 was selected as the winner of the RFP. He showed the concept plan which they were selected based on, called Atla West, and explained the aspects, which he said were baked into the PSA. The project included:

- Residential Units (mix of 1, 2, and 3 bed units and townhomes) – 165
- Commercial Office – 21,600 square feet
- Retail (including Food and Beverage) – 43,300 square feet
- Parking Spaces – required plus 206 spaces
- Public Open and Green Space – 40,000 square feet
- Grocery Space – 33,000 square feet

Mr. Schiller showed conceptual site plans from the original concept, then moved into the February 2020 site plan submission for a project called Fabrik, which included:

- Residential Units (mix of 1, 2, and 3 bed units and townhomes) – 167
- Commercial Office – 22,056 square feet
- Retail (including Food and Beverage) – 47,400 square feet
- Parking Spaces – required plus 206 spaces
- Public Open and Green Space – 38,041 square feet
- Grocery Space – 34,911 square feet

Mr. Schiller noted the increases and decreases in that project were within the 10 percent allowance Mr. Doody had referenced. He stated BH3 had heard from the community extensively.

Zack Purdo, who led the community outreach effort for BH3, shared a slide which outlined the community feedback sought by BH3, including:

- Met with community
 - Formal meetings
 - Meetings with stakeholders
 - Food distribution events during pandemic
 - CRA Workshop in June
 - Additional meetings with stakeholders
 - Neighborhood canvassing
 - 150+ phone calls
- Community Events
 - Spady Historical Bus Tour
 - Let's Move Delray
 - Roots Festival
 - United Hands for Global Impact Event
 - Frog Alley Event
 - 2019 Holiday Celebration

- Cars and Conversations 2020
- BH3 sponsored events
 - 9-week meal distribution (3,000 meals)
 - Sunday Music in the Park (5 events)

Mr. Purdo stated the team had attended formal meetings prior to the start of the pandemic, including the Elders Meeting, which had shaped the project as it moved forward. He noted one-on-one meeting with stakeholders had continued throughout the year. Continuing, Mr. Purdo stated the team had wanted to have large community meetings, but due to COVID-19, relied on neighborhood canvassing in its place. He reviewed the events sponsored or participated in by BH3.

Mr. Schiller shared feedback heard from the community, including not being happy with the amount of parking spaces because they didn't want to be a parking lot for East Atlantic Avenue, fear of being pushed out of their own neighborhoods, and concern with the size of the project, which was three (3) and four (4) stories tall.

Continuing, Mr. Schiller stated feedback from members of the CRA Board had been that they did not want a two (2) story grocer, and that they wanted to go back to the architecture of the original proposal.

Mr. Schiller added that market changes due to the COVID-19 pandemic were also a factor in the evolution of the project, including reduced demand for rentals but an increased demand for workforce and affordable housing, a reduced demand for retail and food and beverage, and a need for COVID-conscious development with outdoor areas and outdoor dining.

Mr. Schiller explained the new and improved Fabrik project being presented included:

- Reversion to the architectural style initially proposed
- Secured a national grocer with a binding Letter of Intent (LOI) as of October 12, 2020
- Smaller "Frog Alley" which incorporates water features and open space on the 700 and 800 blocks while providing a unique destination in the NW/SW neighborhood
- Residential will be 100 percent workforce and affordable housing to allow members of the community to not just work and shop in the project, but to live in it, as well
- Open/green space created for residents and community
- Seeking community desired uses:
 - Medical clinics and offices
 - Financial institution
 - Community meeting space

Mr. Schiller shared renderings of the project, walking through a mix of one (1) and three (3) story buildings by individual building and block. He reviewed the site plan, including

the grocer and townhomes and surface parking on the 600 block, and retail fronting on both the 700 and 800 blocks, along with water features and public space on both.

Mr. Schiller reviewed the specifics of the new site plan, including:

- Residential Units (mix of 1, 2, and 3 bed units and townhomes) – 69
- Commercial Office – 26,680 square feet
- Workforce Housing – 69 (from 40% previously to 100%)
- Retail (including Food and Beverage) – 19,586 square feet
- Parking Spaces – 352 spaces
- Public Open and Green Space – 33,457 square feet
- Grocery Space – Grocer to apply

Mr. Schiller explained the reduction in the residential units was due to lowered heights and densities as they addressed community feedback and COVID-19 realities. He stated the change to parking was because the community feedback was overwhelming that they did not want all the cars in the community and moving the grocer to the 600-block made it difficult to find space to put additional parking spaces.

Mr. Schiller stated the grocer selected has their own development team, and they have met with staff with the grocer. He stated a plan moving forward with regard to the square footage and other aspects would hopefully be solidified in the coming weeks.

Continuing, Mr. Schiller provided an overview of the project and request. He stated BH3 would be the fastest to turn the dirt, delivering a project the community wants. He stated the national grocer would end the food desert in the NW/SW neighborhood, while bringing jobs and giving back to the community. He noted the workforce and affordable units meant real new housing opportunities for residents of the neighborhood, and the low-rise, less intense development reflected the community sentiment to stay true to the neighborhood.

Mr. Schiller stated BH3 was requesting a 10-month extension due to the worst pandemic in 100 years, noting the project would rely on cooperation with the CRA and City of Delray Beach. He pointed out the team had not brought up Force Majeure, but they would be remiss in not mentioning it. He stated there had been delays.

Mr. Schiller reviewed the proposed Amendment to the PSA, with the project description to read:

- | | |
|-------------------------------------|---|
| • 69 Residential Units | • 19,586 sf of ground floor retail space (does not include 600 block) |
| • 26 – one bedroom | • 26,680 sf of commercial office space |
| • 30 – two bedroom | • 30,868 of open and green space |
| • 8 – three bedroom | • 8,672 of “Frog Alley” |
| • 5 – townhomes | • 5,446 sf of open space |
| • 100% workforce/affordable | |
| • 3,189 sf of residential amenities | |

- 2,222 sf of green space
- 352 parking space
- 220 spaces on 700 and 800 block
- 158 on 600 block* (150 grocer)

Mr. Schiller noted the project description appears in two (2) different places in the PSA, Section 1.14 and Section 1.20.

Mr. Schiller stated additional amendments to the PSA were requested to address project phasing and timing as follows:

- Project Phasing
 - BH3 will endeavor to initiate construction of the 700 block within 60 calendar days of all required governmental approvals being issued
 - BH3 will endeavor to start construction of the 800 block within 120 calendar days of all required governmental approvals being issued
- Timing
 - 10-month extension of the Approval Date (January 18, 2021) and other provisions of the PSA
 - Site Plan Preparation and Application (6 months)
 - Technical Advisory Committee (2 months)
 - Site Plan Review Process and Approval (2 months)

Mr. Schiller stated they needed to better understand the grocer's construction schedule before coming back to the Board to discuss it.

In conclusion, Mr. Schiller explained the national grocer was committed, ready, willing, and able to be in the NW/SW neighborhood. He stated the smaller site plan offered amenities to the neighborhood and City based on the CRA and community feedback, as well as having architecture and design which fits into the community. Mr. Schiller asserted the 100 percent workforce and affordable housing was a huge benefit, especially in these uncertain economic times. He stated the project welcomes people to the City of Delray Beach and the NW/SW neighborhood and uses would reflect community input to meet community needs.

Mr. Schiller noted one of the callers had asked that the developer continue to work with the community and stated BH3 was more than willing to make that continued commitment. He asserted the revised schedule was viable and realistic, and stated the team was happy to answer any questions.

Chair Johnson asked that Vice Chair Frankel be permitted to speak first due to the impending start of the holiday. She asked that each Board member give their opinions, then a consensus could be discussed at the end.

Vice Chair Frankel asked Ms. Jadusingh if it was fair to say there had been issues between staff and the developer.

Ms. Jadusingh stated there had been delays in communication, but there had been several COVID-related issues.

Vice Chair Frankel asked if the Executive Director had any position she would like to state.

Ms. Jadusingh stated at this point the question was whether the CRA Board wanted to entertain a fourth amendment, and if they did, staff was available to make recommendations on how to tighten things up and maybe get some concessions to benefit the CRA and require that the developers be more responsive. She stated it was a big project for the CRA and the City, and more communication would make them all feel better.

Vice Chair Frankel stated he agreed and noted members of the Board and community were anxious for something to move forward.

Deputy Vice Chair Gray asserted she was having difficulty hearing Vice Chair Frankel.

Ms. Jadusingh paraphrased Vice Chair Frankel's comments, stating that if the Board approved the extension, he would like to see some sort of protections put into the fourth amendment negotiated for the CRA, the community, and the City going forward.

Ms. Jadusingh responded that yes, if that was the will of the Board and they could come to terms which were fair for all, that was fine.

Chair Johnson asked Deputy Vice Chair Gray if she was able to understand the comments, then asked Ms. Jadusingh to repeat them.

Ms. Jadusingh repeated the last comments from Commissioner Frankel were that he didn't want to have another delay like they had before, with a meeting and then another meeting and a long delay before coming back to the Board.

Chair Johnson thanked Vice Chair Frankel for his attendance and wished him a happy Hanukkah, stating she understood if he needed to leave the meeting.

Commissioner Petrolia thanked BH3 for their presentation and the callers for their feedback, noting there weren't any that did not support the project. She stated she wanted to ask about Force Majeure, specifically wanting to ask the CRA Attorney if there were grounds for delay due to Force Majeure as Mr. Schiller had put forward, though they had not asked for it.

Mr. Doody stated that would be a decision by the CRA Board, as the contract specifically stated a Force Majeure had to be approved by the CRA.

Commissioner Petrolia clarified that Force Majeure was not something that was automatic if BH3 decided to ask for it.

Mr. Doody stated this was correct. He added that respectfully, upon receipt of the earlier letter he responded and tried to outline the CRA's position. He noted that the Purchase

and Sale Agreement specifically contained language that in the event of any Force Majeure being asserted by the developer, it is subject to CRA approval.

Commissioner Petrolia commented that there were some interesting and attractive features on the new project that obviously she thought the majority of the Board would welcome. At the time, she stated, the project was two (2) years in and at square one (1), and that was very concerning for her. She stated one of the reasons she didn't support the project moving forward was because she really knew that the West Atlantic area needed the catalyst, and two (2) years later what they are going to do is still being discussed and talked about.

Commissioner Petrolia added that she understood things had changed in the marketplace and it's understandable, but that happens all the time, and in another six (6) or eight (8) months it could be flipped again, and there could be another reason to delay the project. She stated she thought the project they had originally was approved and that was what they thought they were going forward with, but the process was moved forward with a change that was not acceptable to almost the entire Board, and here they were again with another change up.

Continuing, Commissioner Petrolia asserted there were good things and bad things with what was being presented. She said for her, 100 percent workforce housing and affordable units was tremendous, and a great positive feature change. She noted the green space going down by a few thousand square feet she understood and did not think it would make or break a difference.

Commissioner Petrolia stated the residential units going down and office space could be used, so the change was not a big deal for her, but retail was concerning because this was the connector from East to West Atlantic. She asserted she knew there were storefronts on the front, but the project itself was changing pretty drastically from a retail project into more of a housing development and office development and she didn't know that that was exactly what the CRA Board wanted to be seeing on West Atlantic.

Commissioner Petrolia stated that the retail along West Atlantic was very important and she "got it" that the project goes very deep into the community and so that's one of the reasons that it could be deemed acceptable. She explained the parking was one of the main reasons, if she recalled, that BH3 was selected over all the other projects. She stated it was that parking element of having 200 additional spaces for the City's use top of the spaces required for the development.

Continuing, Commissioner Petrolia added she knew it was overwhelming and that it was parking garages and so on and so forth, and there was probably pushback from the community which she understood, but that was the genesis for selecting it. She stated that from her perspective, that opened the Board up to a potential problem from someone who didn't get the project originally. She noted that was very concerning, and she knew that was going to require legal help to make sure they were not getting themselves into any kind of situation because it had become an entirely different project from what was presented originally.

Commissioner Petrolia stated she had a question with respect to the Publix, noting this was the same group that was involved originally, Pasadena. She asked if they were going to be asking for holdups, because originally, they were not going to build until they had a two (2) or three (3) year timeframe, from what she remembered, prior to BH3 being involved. She asked if there was anything like that in their requirements.

Mr. Schiller stated they had been in contact with the grocer and asked for a build schedule in preparation for this meeting. He noted he had been on the phone with them the previous day and they had not gotten approval from their internal committee yet, but those dates were forthcoming.

Commissioner Petrolia stated her guess would be that there would be a tie-up similar to before, but unless that was actually confirmed, they couldn't assume.

Gregory Freedman, BH3, spoke in response to the question regarding Pasadena Capital, noting that Publix has specific developers approved to build their stores for them, so Pasadena was not a third party, but the approved builder when working with Publix. He noted there was a previous submission by Publix from 2016 which was already approved.

Commissioner Petrolia asked if it was known whether Publix would be jumping in and coming out of the ground right away once they get their approvals, or if they were going to ask for a window of three (3) to five (5) years before they moved forward.

Mr. Freedman stated it was really not three (3) to five (5) years, but just to be clear, the whole project had been driven by the grocer. He responded to Commissioner Petrolia's comment that the project was at ground zero, stating that the LOI with Publix was just signed in October after the BH3 team went to dozens of grocers, and a lot of them either went out of business or did not want to be in Delray Beach. He stated having the grocer involved had driven everything regarding the new design, timing, and everything else.

Mr. Freedman asserted in terms of BH3's negotiations with Publix and the LOI, they had timelines for getting approvals, but the objective was that they be constructing their building at the same time BH3 was constructing theirs.

Commissioner Petrolia stated some of the negative parts, and something she needed to ask, was that she noticed when BH3 showed the picture of the grocer, it was a solid wall on Atlantic Avenue. She asked if there was going to be how it would look, because she knew there were rules about having to have clear windows, and she didn't want to be back in the same situation as on Federal with iPic.

Mr. Schiller stated in their conversations with zoning staff that same issue was brought up, and the developer for the grocer had gone back to Publix to determine the best way to deal with it. He stated there was window glazing and other things which needed to be done on Atlantic Avenue, and the BH3 had taken notes and passed them on for reform to address the issues.

Commissioner Petrolia asserted she believed there were windows on the parking lot side, but they may not have realized they had to have clear windows along West Atlantic Avenue, so it didn't just look like a wall.

Mr. Schiller responded that he thought the benefit with this grocer was the fact that they had been through the process with the City before, so they knew what to expect.

Commissioner Petrolia added that she does support the concern of Vice Chair Frankel that because they were already two (2) years in, she just didn't know if she had the faith that the project was going to get done. She stated she knew there were some issues regarding whether or not financials would be released, and that would have definitely been a deal breaker for her. She noted that in addition to that, she thought there should be a sizable nonrefundable penalty if they decided to move forward. She stated this was a point where BH3 was moving forward or the CRA would be getting a windfall and moving on.

Mr. Doody clarified that Commissioner Petrolia was suggesting that some sort of consideration be paid by the developer going forward.

Commissioner Petrolia stated absolutely, and that the contract was riding on it moving forward. She added that at that point there would be no more asking for an extension, the CRA would be taking the money and moving forward. She noted it should be sizable.

Deputy Vice Chair Gray thanked everyone who called in to voice their opinion about the project. She stated a grocery store was definitely needed in the community and had been needed forever, so she could understand why the community is excited. She stated her question would be whether it was guaranteed that Publix would be coming, because that was what the community was mainly in support of.

Ms. Jadusingh stated the letter received requesting an extension did not state Publix specifically as to a grocer. She noted CRA staff and BH3 had a call with Pasadena Capital, the builder for Publix, but the documents do not state that.

Mr. Doody added that the RFP and contract just refer to a grocer, there is no reference to any particular brand.

Mr. Schiller stated one of the worst kept secrets is that it is indeed Publix.

Deputy Vice Chair Gray asked if the CRA had something in writing saying that it is indeed a Publix being built.

Mr. Doody responded that they did not.

Deputy Vice Chair Gray asked why her community all believes that there is a Publix coming, because that is what they were sold on and every caller mentioned a Publix.

Mr. Schiller stated there were a couple of reasons, including that it was in the newspaper that the site was going to be a Publix. He added that BH3 had an LOI from Publix dated

October 12, 2020, and that Publix was the grocer they were moving forward with and had been in negotiations with throughout this whole time, along with others.

Continuing, Mr. Schiller stated Publix was the grocer that stopped calling them back when the pandemic hit because they were renegotiating leases with their existing stores. He noted this was the grocer that hires local and contributes to the local community, so BH3 is putting it on the record today for the first time that it is indeed Publix, and if the CRA allows them to move forward, the community will see a Publix.

Deputy Vice Chair Gray asserted that she was disappointed that the housing units had been reduced drastically from 165 units to 69 units, being that so much housing was needed not just in Delray Beach, but in the County and in the State of Florida. She noted the presentation said 100 percent workforce housing, which was different from workforce and affordable housing, which is what was said.

Deputy Vice Chair Gray stated she was really concerned that Frog Alley had been reduced, because that was one of the highlights for her. She highlighted that the project had changed so much over time, and the CRA was not guaranteed BH3 would not come back and want to change again.

Continuing, Deputy Vice Chair Gray noted she was concerned about the lawsuits that might be brought on because the change is over 10 percent. She stated she understood the CRA Board had the opportunity to approve that, but she was not quite sure if they want to go that route or not.

Deputy Vice Chair Gray pointed to the amenities previously discussed, stating there was no mention of the pool and other amenities for the residents, though they did talk about a pond and water feature. She asked for clarification that there was really no parking for the community or City, it would strictly be for the project.

Mr. Freedman stated there was a lot of talk about the density, the grocer, and the parking. He explained it is all driven by the grocer, because density requires parking and the only place to put the parking was on the 600 block. He noted in the first proposal, there was a parking structure with the grocer on the second floor, but the request for the grocer to go on the second floor and the grocer saying they would not go on the second floor changed the project so the parking would not be available.

Continuing, Mr. Freedman stated as developers, it was a profound moment in time for them to be before the Board saying they wanted to reduce density, height, and structured parking, rather than asking for as much as they can do. He noted they would like more parking, but there is no place to put it.

Deputy Vice Chair Gray asked why the housing units were reduced so dramatically from 165 total to 69 workforce units and what percentage would be affordable housing.

Mr. Freedman stated the reduction in density for the apartments, which before was all market rate with the exception of the limited workforce housing component, was driven by parking. He asserted the space was not available for the density which was included in

the project previously. Mr. Freedman stated they had reduced the retail in part because of parking and in part because retail is a toxic word in the current environment, with several retailers going out of business, and it all goes back to the viability of getting the project done.

Deputy Vice Chair Gray asserted that for her, the housing was extremely important, and she was really concerned about moving forward with no more delays. She stated if the Board decided to move forward, she would like to see that penalties were in place to make sure it was not going to be another two (2) years, or a grocer that doesn't want to build for another two (2), three (3), or four (4) years after gentrification is here.

Mr. Freedman stated the grocer does not have the luxury of waiting five (5) years and added that the prior approval was for market rate housing and it was now workforce and affordable housing.

Deputy Vice Chair Gray asserted that she understood market rate housing, but also understood that workforce housing is just as expensive.

Commissioner Casale stated she was at some of Zack Purdo's community events and appreciated everything BH3 did for the community, because they had done a lot. She noted that whenever the CRA engages with anyone in a contract, she first and foremost wants to see them be successful and will do anything she can to help, but honestly, she shares the concerns that had been shared during the meeting.

Commissioner Casale asserted she wanted BH3 to know where she was coming from, because it had been two (2) years. She asked if the CRA had a LOI from Publix, because she did not think that they did.

Ms. Jadusingh stated CRA staff did not, but BH3 had asserted they had one.

Mr. Doody confirmed that the CRA was not in receipt of a copy of the letter.

Commissioner Casale stated one of the things that would concern her generally was that when BH3 started engaging with Publix, the project was considerably larger, and her understanding was that Publix wants to wait and be the third part of the process after it starts in the ground, because obviously they need the business to function. She added that now that it is reduced significantly, she is concerned, and would like to know that Publix is committed to the project as it currently sits on the table. She asserted it is not unreasonable to think that a reduction in the housing might put Publix in a different situation.

Mr. Schiller responded that yes, Publix was committed to the site, and BH3 had a binding, signed LOI with them as of October 12, 2020.

Commissioner Casale asked why the CRA did not have the letter, noting it was December. She asserted it was confusing.

Mr. Schiller stated once BH3 delivers the LOI to the City, it becomes public record, which would void some confidentiality agreements. He declared the developers would be willing to bring the agreement and let counsel and the Executive Director review it, but they needed to avoid giving it to the CRA because that would create some issues.

Commissioner Casale responded that she understood, but 92 of the calls were all about Publix, so it is something that is relevant to the residents.

Commissioner Casale stated she shared the concerns about the process, and the reduction of retail because the intent of the project was to be the connector to the downtown. She said she understood that we are in COVID-19 and it looks different, but at the conclusion of this, we will be beyond COVID-19.

Mr. Schiller asserted he understood the concern, but asked they not forget it's not just about retail driving people, it is also about the residences there, the 30,000 square feet of office space, so people would be working there and going there to use the services. He stated they imagine the community having space there. He added that the one thing they do not want is the drive down Atlantic Avenue and see empty retail space, because that is the direction that the economy and the market are going.

Commissioner Casale stated she understood, but the other concern was that the proposed change is quite a bit out of the 10 percent. She clarified a comment during the presentation that the Board didn't want a two-story grocer, noting at the conclusion of the last CRA Board meeting (regarding the BH3 project), Commissioner Boylston had discussed the two-story Publix that he had been in and there was conversation regarding how exceptional it had been. She stated she thought the Board had come to the conclusion that it didn't sound unreasonable, and she didn't think the CRA was the driver for not having the two-story grocer.

Mr. Schiller asserted it was not just this Board's comments, but the community also was concerned. He stated obviously there is a lot of elderly in the community, bringing carts up and down elevators and escalators can be intimidating, so that is one of the reasons.

Continuing, Mr. Schiller asked to address Commissioner Casale's comment regarding procurement and the legality of the procurement. He stated it was an important point that everyone needed to understand, that the contract specifically said BH3 did not need to get approval from the Board if they adjust upward or downward within 10 percent, but the converse of that was also true, that to go up or down more than 10 percent, BH3 needs the approval of the Board. He asserted to him, that mitigates any procurement issues the CRA has. Additionally, he said the contract says in multiple ways that just because BH3 had agreed to the numbers in the project description of their concept plan does not mean that they can not increase or decrease over that 10 percent. He stated obviously the Board has their own counsel, but he had been doing public procurement for almost 20 years now and had filed his fair share of bid protests but did not believe this item was bid protestable. He noted that was just his legal opinion and they may get others, but he believed that what was being done was completely legal and fair.

Commissioner Casale responded that he may be correct on that, but as Commissioner Petrolia pointed out, while what was produced at the initial meeting was remarkably attractive, one of the persuasive features of the project was that it was going to provide the City with very much needed spill-over parking. She said while she appreciated that the residents don't necessarily want it to be that it is something critically important and necessary for the City and was one of the reasons BH3 was awarded the project.

Commissioner Casale asserted that in light of the changes, the Board needed to decide whether they were willing to make the changes and if they wanted to consider that it was fair to ask the Board Attorney whether they needed to go back to the drawing board and put the project out for bid. She stated the project was lovely, but the CRA has a responsibility to be fair.

Mr. Doody stated he did not see a legal obligation to go back out at this point. He noted the basic components of the RFP are still within the proposed project, the differences were to scale, and the contract addresses approval for variances of 10 percent. He stated he could not speak as to whether or not one of the other proposer's would object to the CRA's decision and was not going to speculate on that. He added that his initial examination of the proposal was consistent with the terms of the RFP in terms of components.

Commissioner Casale asked for clarification regarding if someone were to take issue with the changes.

Mr. Doody stated the item was beyond the bid protest period, so they would have to initiate a civil action in court.

Commissioner Casale asked Mr. Doody if he thought that was a problem for the City.

Mr. Doody stated it was always a problem if you get sued, but he thinks the object would be to derail the project and force the CRA to go back to the drawing board and reissue the RFP. He stated he did not see the CRA being subject to economic damages, but someone could take exception to the process and get a restart.

Commissioner Casale stated that she shares the concern with the reduction in residential.

Commissioner Boylston thanked Mr. Schiller for the presentation and staff for the update. He stated he thought when the Board gets updates, they don't go back far enough, to the actual RFP. He stated the RFP was only 30 days, so basically the CRA was asking that respondents do all the research, go out to the community, do initial site maps, and present a concept in 30 days.

Commissioner Boylston asserted that the CRA "rushed it," with 30 days for the RFP and contract 60 days after that. He stated they moved very quickly, and one of the drawbacks to that is you are getting concepts, not fully baked plans, or plans that had public charrettes. Commissioner Boylston opined five (5) respondents could not do public charrettes in the time allotted, noting the CRA knew that, and wanted an RFP to go out,

pick a project, and then the project gets molded. He added that no one could have saw this year coming.

Commissioner Boylston stated he read the RFP again and suggested everyone go back and read the RFP. He noted retail was not a big component of the RFP, which refers only to grocery retail and then goes down a list of things that should be in the project and what's important to it. He stated retail shopping was not listed as an important element. He listed items on the list, including grocery store, pharmacy, financial institution, and a heavy focus on residential, ideally affordable. He stated the project is not 100 percent affordable housing, which is great.

Continuing, Commissioner Boylston stated one thing he did not notice before in reading the RFP several times is that it said the CRA was open to on and off premises parking. He noted this was important to him, because like Commissioner Petrolia said, one of the things that stood out in the BH3 project was ample parking.

Commissioner Boylston asserted that he gets it, and he heard it as well, that all of the neighbors of the 600, 700, and 800 blocks said no parking garage. He noted they didn't say no parking spots, they said no parking garage. He stated the City was making decisions to help small businesses, specifically restaurants, by not requiring them to have parking, but to be able to do that, there needed to be parking. Commissioner Boylston pointed out downtown was able to do that because they provided a parking garage, providing that parking so that restaurants could move into the downtown, spark, and eventually completely change the downtown.

Commissioner Boylston stated they were going to use this project to help the restaurants and residents open businesses in the Northwest/Southwest, so they needed that parking. He stated if the project was at 352 today and they were providing 700, BH3 needed to find a lot of parking. He said in the RFP it referenced on and offsite parking, so there was some flexibility there, but that was an issue for him.

Commissioner Boylston noted the RFP did not state it was a project to try to be a connection to downtown, it was very clear in the RFP it was a project to be a part of the community. He stated this was the closest thing he had seen to that intent, and it was funny because when the CRA made the commitment to move forward with the project, they didn't say "you better build us a lot of stuff because you got the land for nothing," they said, "well you shouldn't have to build a lot of stuff to make money because you got the land for nothing." He asserted he would much rather see a small-scale project there, and that BH3 should be able to lean into exactly what the community wants, and that they should be open and willing to listen. He stated he liked where the project was today.

Commissioner Boylston said in response to the request, if BH3 is really the CRA's partner in this, and it is a public/private partnership, he can't imagine not giving an extension when there has been a pandemic. He asserted BH3 could be coming to the CRA and saying they are not doing the project anymore, as is happening all over the country and the world, but they are not.

Continuing, Commissioner Boylston stated that BH3 somehow got Publix to not only answer the phone during a pandemic, but the sign a LOI to open up an additional grocery store. He asserted that he could not see not providing an extension under the circumstances of a once in 100 years pandemic.

Commissioner Boylston explained he was absolutely in favor of providing the extension, considering the year, but there were a lot of questions he needed answered. He stated the primary question was parking.

Mr. Schiller stated they heard the comments loud and clear, and if granted an extension, would communicate with all of the Board members before their next appearance before the Board about additional parking opportunities.

Commissioner Brooks thanked all those that had called in and stated his concern is the time. He asserted two years was ample time, and his concern was that if BH3 didn't come through, the community was back at square one. He stated you have to be able to deliver on what you say you are going to be able to deliver in that time frame.

Commissioner Brooks stated he came into the project later, but one thing that he recognized was that the project changed from what it originally was to what it was now. He stated that his concern was that if the Board gave the extension, and BH3 did not deliver, the CRA Board had mud on their face for entrusting them once again.

Mr. Schiller responded that the message in terms of time was heard loud and clear, and if the Board did not want to give a blanket extension of 10 months, he would encourage them to let BH3 prove themselves throughout the process with interim deadlines and a final date. He stated that the CRA Attorney and Executive Director would negotiate the best deal for the CRA, BH3 would do the same, and at the end of the day there would be a compromise.

Mr. Schiller stated the one thing he was remiss in not continuing to say was that the project was not going to change again. He explained it would take all of the six (6) months to create the site plan application.

Commissioner Petrolia asserted that Mr. Schiller's comments were painful to hear, because it feels as though the project is at a two (2) year mark, and now all of a sudden there is a fire. She asked why that wasn't there from the beginning, and stated it was a big concern, and the reason she says that if the project moves forward, the only way she will agree to it is if there is a penalty that must be taken if in fact, they do not make it.

Mr. Doody stated in response to issues raised by the Board, he would like to pose a question to counsel for BH3. He asked Mr. Schiller if BH3 was prepared to waive Force Majeure. He asserted that should provide a strict timeline to the Board, if it is so inclined.

Mr. Schiller responded that he had confirmed with his client that waiving Force Majeure would be something they would be willing to negotiate as part of the amendment.

Commissioner Casale asked if the financial penalty Commissioner Petrolia was suggesting was in fact something that could be incorporated, and if so, what type of penalty was being considered.

Mr. Doody confirmed a penalty could be a component in negotiations of the amendment. He stated they could request a nonrefundable amount or other concessions.

Commissioner Petrolia stated in her opinion, she would say \$1 million.

Chair Johnson stated she wanted to respect those in attendance with religious commitments, and the hour was getting late. She noted that she wanted to end the discussion with her comments, which would be short. She thanked everyone for their time and attention to the request.

Continuing, Chair Johnson asserted that when the CRA began this contract, the Board tried to explain to all of the developers who bid on it that this was a special development. She stated it had been before the CRA for so many years, she didn't even know how far back it went. She noted Deputy Vice Chair Gray had told her this may be the third or fourth iteration of trying to develop the property. She stated there must be something they were missing.

Chair Johnson asked if this was a P3 (Public/Private Partnership) development as someone had mentioned.

Ms. Jadusingh confirmed that yes, the CRA's contribution would be the land, and the developer was providing the funding for the development.

Chair Johnson stated BH3 was the fourth ranked developer in the RFP process, and because of the components to the submission, they won a lot of Board members' hearts and got the contract. She asserted that she believed part of the problem with the previous contracts and developers was that commitments were made and broken. She stated this would be the fourth amendment, and as she noted at the beginning of her comments, they tried to emphasize that this was not one the CRA was going to continuously extend and extend. She asserted that she believed trust had been broken, as several Board members had said, and noted that it started with one concept and it has gotten to the point where she doesn't even recognize the project.

Chair Johnson asserted that she had said before the development appears to be driven by a grocer that is only now officially named, and how that got out she does not know, because it seemed to have excited the community. She stated when the Board met with BH3 in June, two (2) things were asked of them – that they not necessarily get hung up on a particular grocer and have that grocer drive the project, and to stay in touch with the Executive Director – and she believed neither of those requests were honored.

Chair Johnson stated over the past six (6) months she continually asked if BH3 had come back with updates. She asserted that she certainly knew they did not come back to her as a Commissioner or now as Chair.

Continuing, Chair Johnson stated Publix appears to be driving the contract, the project has changed tremendously, and it appears that they are where they were a year ago, being confronted with a request to extend and make changes one (1) month before a deadline without any previous warning. She noted she was not in favor of accepting another amendment, even with an enormous penalty, because promises had been made and promises unfortunately had been broken.

Chair Johnson asserted she was not in favor of extending any type of amendment and asked Mr. Doody to end the discussion.

Mr. Doody asked Chair Johnson to obtain a consensus from the Board so the staff could clearly understand their obligation to go forward or to not go into any negotiations.

Chair Johnson clarified they were not voting, just asking for a consensus.

Mr. Doody stated this was correct and asked that each member recap their position.

Chair Johnson asked that each member state their position as to whether they would like to enter a fourth amendment negotiation.

Commissioner Boylston stated that each of his colleagues had very good ideas, and he was in support of all of them, including Commissioner Frankel's idea to put the issue in the hands of staff to ensure that elements were added, Mr. Schiller's time-bound goals, and Commissioner Petrolia's financial penalty. In addition, he asserted that he needed to hear a solution to the parking issue. He noted in order for him to be in favor of the extension, it was a combination of everything that had been said.

Chair Johnson asked for clarification regarding Commissioner Boylston's position.

Mr. Doody stated that he believed Commissioner Boylston was explaining he would be willing to entertain a fourth amendment with certain components included.

2:53

Commissioner Frankel asserted he was not for ... indecipherable ... sit down and come up with ... my colleagues and myself ... extreme monetary ... would also like ... would show ... Mr. Doody and the Executive Director can take our comments, meet with Mr. Schiller, and come back with a proposal. If the CRA Board ... extension ... come back and discuss whether based on the components, and extension ... indecipherable?

Chair Johnson stated she would put Vice Chair Frankel down as a yes with exceptions.

Deputy Vice Chair Gray asked that Ms. Jadusingh repeat what Vice Chair Frankel said, as she was unable to hear his audio.

Ms. Jadusingh reiterated that Vice Chair Frankel had said he did not have a blanket yes but would like for BH3 and CRA staff to sit down and come back with terms, possibly in a week or so. She added that Vice Chair Frankel had said he supported what the

Commissioners had said today about penalties and waiving Force Majeure, and he would like protections for the City and CRA community, so they were not in the same position 10 months from now.

2:57

Vice Chair Frankel ... inaudible...not a month from now, but to sit down right away ... we need to get this done.

Chair Johnson asked for clarification regarding the \$1 million mentioned by Commissioner Petrolia.

Ms. Jadusingh stated that penalty amount would be a term staff would negotiate.

Ms. Jadusingh repeated Vice Chair Frankel's comments for Deputy Vice Chair Gray.

Mr. Doody stated to put it in proper framework, it would be the fourth amendment to the Purchase and Sale Agreement that staff was negotiating.

Deputy Vice Chair Gray said she was a yes with all of the conditions.

Commissioner Brooks stated he was a yes with conditions.

Commissioner Casale asked for clarification on Mr. Doody's comment that staff would be negotiating the fourth amendment, stating the Board would not move forward unless BH3 was willing to incorporate the conditions and timeline, and it was not the amendment until they had decided on all of the conditions specifically.

Mr. Doody stated if staff was not able to reach a successful point which they think warrants the Board's consideration, the Executive Director would advise the Board.

Commissioner Casale asked if the parties were not amenable tonight to agree on the terms, then asked Mr. Schiller if BH3 was amenable to forego Force Majeure, allow a million-dollar penalty, and provide the LOI from the grocer immediately.

Mr. Schiller asserted that with all due respect, BH3 was not prepared to agree to those terms tonight, and it was unfair to ask for a \$1 million penalty. He said what they had committed to was sitting down and working out the best deal possible.

Mr. Schiller stated what he was hearing was that Commissioner Casale was interested in the terms and not necessarily the legalese, but something like a terms sheet in plain language that everyone understands, which would later get incorporated into the language of the amendment.

Chair Johnson asked if the Board was agreeing to what BH3 had presented during the meeting as a part of the amendment. She stated she was confused, because she thought the discussion was whether or not their presentation was worthy of moving forward with.

Mr. Doody stated it was a fair question. He explained what he was hearing was that action would be taken in stages, with CRA staff meeting with BH3 and coming back to the Board with a proposal which would be the basis of a fourth amendment. He stated what was being discussed was business terms which the Board could review to determine whether they would entertain a fourth amendment.

Mr. Doody asserted part of the discussion would be the consideration the Board was requesting and concessions. He explained prior to adopting a fourth amendment the Board would also have to approve the reduction above 10 percent and stated he would advise that be handled as a separate action, because there was no need for a fourth amendment if the Board did not agree to the variation.

Chair Johnson stated she believed the discussion had gotten off track, because BH3 had presented something, and in response the Board was renegotiating.

Commissioner Casale responded that Chair Johnson made a great point, because the Board members had all indicated what was produced required modification, specifically parking, units, etcetera. She agreed that if they didn't agree to what was presented, moving forth with any discussion on penalties or the like is unnecessary.

Mr. Doody asserted the discussion would become academic.

Chair Johnson asked if the discussion should start again, with the understanding of what the Board was first consenting to. Discussion ensued regarding terminology.

Commissioner Boylston stated that he agreed to allow staff to move forward in negotiating the terms of an extension.

Mr. Schiller asserted that Chair Johnson was asking for a vote. He stated BH3 had presented the plan based on community feedback and everything else, and the Board would have to vote in order determine whether they would go above or below the 10 percent change. He added that BH3 believed they had put forth the best product that was reflective of the Board's wishes and the community's wishes, as well as bringing a grocer.

Mr. Schiller noted BH3 also did not want to wait and had agreed to move mountains to meet in one (1) week because they were committed to bringing back a solution that addresses the parking issues and some of the other issues brought up. He argued against asking the Board whether they like the plan or not when the consensus previously given was to negotiate.

Commissioner Casale stated that Chair Johnson was saying the Board needed to decide whether what was presented was the project. She noted the concern was that the last time the Board approved a plan, there were modifications, and that begets another extension, so now they were looking at the issue and trying to figure out how to proceed. She asserted that the concern was legitimate.

Mr. Schiller requested that if the Board was asking for changes based on the plan that was shown, BH3 be given the opportunity to deliver.

Commissioner Casale argued the plan had the elements requested, and it had changed dramatically. She stated she appreciated that they had gotten substantial community input, but some of the things that were taken out were critically important to the City overall, such as the parking.

Mr. Schiller reiterated that they had committed to finding a solution and understood that they had to identify additional on site or offsite parking to gain Commissioner Boylston's vote. He stated he understood Deputy Vice Chair Gray wanted additional residential, and that was something the team needed to talk about. He stated he had already committed on the record to not making additional changes, to a strict timeline, and to potential penalties if the timeline was not met.

Mr. Schiller asserted he did not want to prolong things either, but they were asking for a week to get with staff to see if the changes were something that was viable. He noted the January 18 deadline was looming.

Mr. Doody stated he would like to simplify the issue and clarify the Board was not voting. He asked the Board to go back and revisit a consensus as to whether to direct staff to negotiate a fourth amendment or not.

Commissioner Petrolia stated it was clear from her perspective that there was a consensus that the Board was willing to give an extra week, and in one (1) week revisiting this meeting again, with the changes negotiated. She asserted that "with the conditions" speaks very clearly that if the conditions were not in place, the question was answered.

Ms. Jadusingh added that part of the terms sheet would include the project description, so if BH3 was amenable to making any changes, that would be included.

Chair Johnson asked Mr. Doody to clarify whether consensus was being given to extend the meeting for a week after having given feedback.

Mr. Doody stated that if he understood the Board's direction, staff was to meet with BH3 and enter into discussions to discuss the basis for a fourth amendment, taking into account the comments received from each individual Board member, and report back within approximately a week.

Chair Johnson asserted that it should be specifically a week, rather than approximately a week. She added that she thought the CRA had played around too long and spent two (2) years with the understanding that this was a special agreement with timelines to be met.

Chair Johnson asked who was going to make the decision as to whether the discussion was at an impasse, and whether it was up to the Executive Director.

Ms. Jadusingh responded that staff could put up a public notice for a meeting December 17 or 18. Discussion ensued regarding the parameters of the meeting.

Commissioner Boylston clarified that the deadline was January 18. He asked why it was necessary for the Board to meet next week, rather than prior to January 18. He asserted the Board members would all have conversations with staff and know whether the negotiations were working out or not. He added there might be a good reason, but he wasn't seeing it.

Mr. Doody responded that the best reason he could give was that it was the direction received by the Board.

Commissioner Boylston stated he thought staff should jump immediately into negotiations and the Board members should get updates in a week, but the vote could be after the first of the year.

Chair Johnson asserted (the discussion) had been going on for two (2) years, and she thought one (1) more week was about all the Board was willing to give.

Commissioner Boylston responded that either way, BH3 had until the January 18 deadline.

Chair Johnson stated if an amendment was negotiated, the January 18 deadline would no longer hold. She asserted it was a matter of consideration to give BH3 notice as to which deadline they needed to work toward as soon as possible.

Chair Johnson sought and received a consensus to hold a follow-up meeting in one (1) week.

Ms. Jadusingh stated staff would put out notice for a follow-up meeting on December 17 at 4 p.m.

Vice Chair Frankel left the meeting at 5:49 p.m.

10. Other Business

a. Comments by Executive Director

Ms. Jadusingh shared an update on a virtual speaker series previously discussed. She announced that in cooperation with the Arts Garage and Spady Museum, the CRA had secured Jason Reynolds, author of *Stamped from the Beginning*, to do a virtual presentation on February 20. She noted the first 100 people to sign up would receive a free copy of the book. Ms. Jadusingh stated historian Richard Rothstein, author of *The Color of Law*, would be presenting on April 29, and staff was working on a speaker for March. She stated staff was working to carry the equity conversation into 2021 and beyond.

Ms. Jadusingh stated the Senior Resource Center at the 700 building continues and is going well. She shared the December schedule and noted a January schedule was forthcoming.

Ms. Jadusingh provided a brief update on progress at Corey Jones Isle, noting the partners had been phenomenal and they should be celebrating the completion of the homes in May. She updated on the Southwest Neighborhood Improvement Project and Osceola Park Neighborhood Improvement Project, showing pictures of recent work.

Ms. Jadusingh wished everyone Happy Hannukah and Happy Holidays and said staff is looking forward to a new year working to accomplish the CRA's mission in 2021.

b. Comments by Board Attorney

None.

c. Comments by Commissioners

Commissioner Petrolia stated she had learned there was a disparity study in progress in St. Pete. She explained the City had set aside \$200,000 for a disparity study to be done in Delray Beach, and asked as a CRA Board member if the CRA would be able to come to the table with additional funds if needed so that the opportunity to get a study done in 2021 was not missed. She added that she had sent a letter to the City Manager and City Attorney letting them know about the study underway that Delray Beach may be able to piggyback off. She noted it was very important as part of the equity efforts.

Ms. Jadusingh stated the approved budget included funds for the disparity study in the amount of 20 percent of the City budget.

Commissioner Petrolia asserted she did not know what the cost would be and wanted to make sure it was covered in case there was a need.

Chair Johnson thanked everyone for bearing with the technical difficulties and for providing their input.

11. Adjournment

There being no further discussion, the meeting was adjourned at 5:58 p.m.


Renee Jadusingh, Executive Director


Shirley Ervin Johnson, Board Chair