

MINUTES

SPECIAL MEETING - COMMUNITY REDEVELOPMENT AGENCY BOARD (CRA)

August 5, 2009

Minutes of the Special Meeting of the Community Redevelopment Agency Board of The City of Daytona Beach, Florida, held on Wednesday, August 5, 2009, at 4:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

1. Roll Call.

Commissioner Robert Gilliland	Present
Commissioner Derrick Henry	Present
Commissioner Cassandra Reynolds	Present
Commissioner Richard Shiver	Present
Commissioner Pamela Woods	Present
Commissioner Shiela McKay-Vaughan	Present
Mayor Glenn Ritchey	Present

Also Present:

James V. Chisholm, City Manager
Marie Hartman, City Attorney
Jennifer Thomas, City Clerk

2. Commissioner McKay-Vaughan led the invocation.
3. Commissioner Gilliland led the Pledge of Allegiance to the Flag.
4. Approval of Minutes of the July 1, 2009 Special Community Redevelopment Agency Board Meeting, as individually read.

It was moved by Commissioner Reynolds to approve the July 1, 2009 Special Community Redevelopment Agency Board Meeting Minutes. Seconded by Commissioner Gilliland. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Yea
Mayor Ritchey	Yea

5. AGENDA APPROVAL

James V. Chisholm, City Manager read the Agenda changes:

No Changes.

It was moved by Commissioner Gilliland to approve the Agenda. Seconded by Commissioner Woods. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Yea
Mayor Ritchey	Yea

6. PUBLIC COMMENTS BY PEOPLE ADDRESSING THE COMMUNITY REDEVELOPMENT AGENCY BOARD

John Nicholson, 413 North Grandview Ave, Daytona Beach stated two months ago Florida Power and Light, (FPL) had a meeting at City Hall for rate increases and at that time talked about the lighting for our lamp posts throughout the City specifically on A1A. He has been working with a gentleman for two months to get 59 lights on. He stated where some of the locations were. He encouraged the Commission to make sure there is adequate lighting especially in the tourist area a priority. He also suggested revamping lighting issues for the existing darkness on Main Street since it will be an E-Zone area.

7. ADMINISTRATIVE ITEMS

- A. Adopted/Resolution CRA No. 09-08 authorizing the expenditure of funds and purchase of 41 S. Oleander Avenue in the amount of \$60,000, contingent on an appraisal of the property. The purpose for acquisition is to demolish and remove a blighted, vacant five-unit building that is a noncontributing structure located in the National Surfside Historic District. The seller is responsible for the closing costs. The acquisition of the property is consistent with the goals and policies of the Main Street Community Redevelopment Plan. City Clerk Thomas read the Resolution by title only. A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY APPROVING THE EXPENDITURE OF TAX INCREMENT FUNDS FROM THE MAIN STREET REDEVELOPMENT AREA TRUST FUND FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 41 SOUTH OLEANDER AVENUE FOR THE AMOUNT OF \$60,000 PLUS UP TO \$1,000 IN CLOSING COSTS; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY TO COMPLETE THE PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

Ken Paz, 33 South Oleander, Daytona Beach stated he was one house away from the 41 South Oleander Avenue apartment and thanked the Commission for their interest in the property. It is a structure that does not belong in a single family neighborhood and it has been a problem since he has been there since 2002. He asked that they fund the demolition of the building. He commented on the lack of parking for his business or if they can provide additional residential parking. He asked if they would consider funding an incentive to give up their multi-family grandfathering on properties. He has several properties in the area and if someone were to offer him a little money, he would empty them in a second and tear them down.

Frank Heckman, 46 South Oleander Avenue, Daytona Beach stated he has lived across the street for 46 years from 41 South Oleander Avenue. For the last 38 years, he has watched it continually deteriorate. Years ago it was nice but it has changed over time and agrees with Mr. Paz regarding the parking situation for residents and business clients' needs to be addressed. He is in favor of the building being demolished. Code Enforcement has boarded up the place due to drug and transient activity.

Commissioner Woods asked what the demolition cost would be versus a buyout.

Reed Berger, Redevelopment Director stated an invitation for bids has gone out and the low bid so far has been for under \$7,000.

It was moved by Commissioner Shiver to approve the Agenda. Seconded by Commissioner Henry. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Yea
Mayor Ritchey	Yea

- B. Adopted/Resolution CRA No. 09-09 approving a Redevelopment Agreement between The City of Daytona Beach, the Community Redevelopment Agency (CRA) and John C. "Jack" White to construct 15 single-family attached (townhomes) homes, in the South Atlantic Redevelopment Area at 516 South Grandview Avenue. In 2007, the CRA purchased the apartment building at 516 South Grandview Avenue and demolished a blighted 34 unit apartment building. The CRA issued a request for proposals (RFP) for interested parties to redevelop the site consistent with the adopted South Atlantic Redevelopment Plan. The City's selection committee recommended Jack White's proposal. The proposed project is consistent with the adopted South Atlantic Redevelopment Plan. City Clerk Thomas read the Resolution by title only. A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY APPROVING THE W. C. GRAND REDEVELOPMENT AGREEMENT WITH THE CITY AND JOHN C. "JACK" WHITE, FOR THE PURCHASE AND REDEVELOPMENT OF CITY-OWNED PROPERTY LOCATED AT 516 SOUTH GRANDVIEW AVENUE IN THE SOUTH ATLANTIC REDEVELOPMENT AREA; AUTHORIZING THE MAYOR, AS CRA CHAIR, AND CITY CLERK TO EXECUTE THE AGREEMENT ON BEHALF OF THE CRA; AND PROVIDING AN EFFECTIVE DATE.

Helen Humphreys, 3 Tropical Lane, Daytona Beach stated she was speaking first as being a citizen of this City and secondly as a member of the First Presbyterian Church which was next door to the piece of property in question. There are many children that live in the area and that building which has finally been torn down was an absolute nightmare and nothing more than a drug hovel, just as you have heard. She was very thankful that it was torn down, and they are so fortunate to have someone such as Mr. White who is willing to put up a very nice looking addition to that community and the people in the community are looking forward to the building being built in the neighborhood. She just wanted to say thank you to Mr. White and the City Commission.

Jack White, 208 Wall Street #301, Daytona Beach and Chris Challis, 150 Magnolia Avenue, Daytona Beach introduced themselves.

Commissioner Woods asked the two gentlemen if they would give the Commission an overview, also she had some specific things she wanted to make sure Jack White covered on tonight and she was sure that Chris Challis had already discussed this with Mr. White.

Jack White, 208 Wall Street, Daytona Beach reported that his goal was to bring full time residents back to Daytona Beach so when he had the opportunity with this project that was still his goal. In this project there are 17 townhome row style units, his goal is to fit in with the architectural style in the neighborhood so they were going to spend some time working on that. The units range from 1,200 to approximately 1,800 square feet and the size and style is to attract and bring people back to Daytona Beach. The price ranges are around \$200,000 to \$250,000 dollars a range that the people in this area can afford and not in the \$500,000 range for the people to be buying and coming here to live one month out of the year. Units are built to the streets and the parking would be in the back of the buildings which would make it pedestrian oriented in the front.

Commissioner Woods stated there were some specific questions in reference to the agreement as far as assurances for the City because the City currently owns the property and the City would like to make sure that the residents/taxpayers are protected on this project.

Chris Challis, 150 Magnolia Avenue, Daytona Beach stated the first security is spelled out where the City would handle rezoning to a Planned Redevelopment District which would make it a PUD that the City Staff would process and that the Planning Board and the City Commission would eventually approve. The first stage of that from the zoning standpoint would be the zoning for the property prior to the closing would be that development plan that was part of the development package. The agreement clearly states that it has to be substantially compliant and the staff will control that. Secondly the agreement itself will run with the land and call for development of the property to be consistent with the plan that was submitted and also with the development agreement. The assignment of this agreement has to be approved as the agreement specifically states by the board. Any type of assignment to a third party would have to come back to the Commission for approval first. There is a performance bond toward the back of the agreement and that bond amount would secure that the property would be developed as stated in the agreement, if it is not the City can call on the performance bond for a letter of credit. He hoped that answered the questions concerning the agreement assurance on behalf of the City.

Commissioner McKay-Vaughan stated it was mentioned in the agreement there would be 15 at least 17 she wasn't quite sure what was going on.

Mr. White replied 17 was their goal, they could build up to 18 on the site, but with the constraints as to how they designed it, 17 was what they came up with so that they don't get backed into a corner they put 15 in case the stormwater became more than they could handle or some other issue arose it gave them a bit of a leeway in there to work with.

Commissioner McKay-Vaughan asked which units would be in Phase I.

Mr. White replied they are hoping for a combination and it would probably be mostly the 1,200 and 1,500 square feet that would be in the Phase One part of the project. He stated that B that was on the right hand side of the packet also part of the C, B & A.

Commissioner McKay-Vaughan asked Mr. White how many Phases they are going to have.

Mr. White replied they had up to three. They would like to do it all in one Phase, or they could do two, but they allow up to three.

Commissioner McKay-Vaughan asked what their starting date for the project was.

Mr. White answered they hope to start in about two years, but if they could move that time up they would be more than happy too, because the quicker they get started the sooner they would be done and have actually completed the project. You are looking at a two year time frame.

Mr. Challis stated to Commissioner McKay-Vaughan that the infrastructure for the entire work site has to be completed during Phase I.

Mayor Ritchey asked Mr. White and Mr. Challis if they were bearing all of the cost with this agreement.

Mr. White replied yes sir.

Mayor Ritchey stated professionals such as the policemen, firemen and the people living in other communities, this would give them an opportunity to move into something nice in our community and be able to afford it.

Mr. White stated their goal is to get the people to move back to Daytona Beach. The people such as firemen, policemen and teachers are going to be targeted first. Those are most definitely their targeted market.

Commissioner Woods asked what the value would be on the end when it's billed out on the tax rolls, what were they estimating.

Mr. White replied for them a saleable value was at \$4 million. The property appraiser was going to take it and run it through his system and he wasn't sure what he was going to come out with as far as taxable.

Mayor Ritchey asked if there were any other questions or comments for Mr. White or Mr. Challis.

Commissioner McKay-Vaughan stated she wanted to have a discussion on the issue of \$20,000. She stated the assessed value of this property was \$607,000 and she was told \$875,000 so she was wondering where the logic of \$20,000 dollars cost for this property came from that the City has already put \$2 million dollars into.

Reed Berger, Redevelopment Director asked if he understood the question correctly what was the value now and what the City would be getting. The numbers that he was working with is in the memorandum in the agenda packets and the numbers they were working with is \$423,000.

Commissioner McKay-Vaughan stated she called Morgan Gilreath (Property Appraiser) on today and he told her \$607,000.

Mr. Berger stated there are two kinds of appraisals the County has one which is for tax purposes as well. Hopefully when they are done the City will get more taxes out of them if it works out that way. The bottom line is the City is getting \$26,000 dollars a year as opposed to when that building was there in about 2003 before everything kind of inflated and now we are kind of coming back to that time period the City was only getting around \$400 dollars a year. You have a difference of \$24,000 dollars a year versus \$400 a year in addition to removing the blight. His simple math on that was if the value today was \$423,000 dollars

and the City was getting back the \$20,000 dollars at closing plus after figuring out the average of units somewhere around a total of \$145,000 dollars which leaves about \$278,000 dollars which means in about 10 years or so the City should have recouped the \$2 million dollars. When all was said in done he estimated in approximately 15 years the City should break even.

Commissioner McKay-Vaughan stated she wasn't sure about the \$20,000 dollars even after hearing Mr. Berger's simple math explanation and hearing how the figures were going to work out. She did not feel this was a very good business deal for the taxpayers. She stated this was a wonderful proposal and she was thrilled Jack White wanted to do this project and she wanted him to do this project however; she has a responsibility to the taxpayers of this City and she did not think that voting for this today and the amount of \$20,000 dollars would be the most responsible way to go. She knows that the people in the neighborhood want it built up; this was also the neighborhood she lives in which made it very exciting but she felt the City needs to do a little better. This project brings up two issues and one of them was the way the City goes about advertising or getting bids. By that she meant the City goes out and asks somebody to do a job and see if they have the qualifications to do the job which is a wise thing to do, then you decide on a price which is done by staff and she questioned why things are done this way. She knew this was a technique utilized by the City but the outcome was not in the City's best interest after putting \$2 million dollars in the property already. Secondly, about incentivizing developers to finish the projects so she appreciated the fact there was a performance bond built into the agreement. That bond incentivizes the developer to finish the project but she would like to see something in there that would also incentivize the start of the project. Because the property would be tied up for two to four years for \$20,000 dollars and who knows what the value of that piece of property would be at that time. She wanted this project to go back to the Planning Board and indicate in the agreement a start date for Phases one, two and three; so that the City won't be left sitting on a piece of property for three or four years and be sorry that it was sold for only \$20,000 dollars.

Commissioner Shiver stated the acquisition price was discussed with Jack White and Chris Challis a while back and the reality of the situation is if you tried to get the \$437,000 dollars out of that project, the project wouldn't happen. The benefit to the neighborhood, the long term benefit in the taxes far outweighs the price they paid for it. It is part of the Commission job and responsibility to bring the city back to what it once was and one of the ways of doing that is by allowing projects such as this to occur. Even though the City would be taking a loss on it, it is simply a project that would not have happened if the City tried to get what is perceived to be total value of that land. As stated by Mr. Berger, the taxes will pay for it many times over in the long term.

Commissioner Woods stated she knew the concerns with the \$20,000 dollars and there should be more taxes coming in which there will be in the long run, but she was concerned about the agreement and the project actually being built. She was willing to take the risk on this project and go ahead and do this, because what has been done in the past in the CRA hasn't worked and when you look at what other communities have done, the Cities have been much more active to make sure that the redevelopments themselves took place. She

felt this was something the City needed to take a look at and see if there was some way it could be done. When they would have community policing, every meeting she attended for the neighborhood this piece of property was brought up like a poster child as to what was wrong in the Main Street and South Atlantic CRA. This is something that needs to be turned around and have a new development there that is going to be a good thing in that neighborhood.

Commissioner Shiver stated that he would support Commissioner McKay-Vaughan's idea that there needed to be some assurance that the project was going to get done in a timely manner which was also a concern of his. He did not want to turn a piece of property over at a great value to a buyer to see it sit idle for many years.

Mayor Ritchey asked Mr. Challis if there was there a reverter clause in the agreement.

Mr. Challis replied five years to complete construction.

Mayor Ritchey asked the five years is to complete construction, what about to start construction.

Mr. Challis replied there was an incentive to start maybe in four years.

Commissioner Woods asked if the Commission signed this today would the five years began from today or from the rezoning or closing. She stated the rezoning would have to take place before closing.

Commissioner Shiver stated in his eight years on the Commission he could not tell you how many projects he'd seen that were absolutely getting built in this town that never occurred. This has happened time and time again and the City keeps making the same mistake over and over again and this really needs to stop.

Commissioner McKay-Vaughan stated she certainly never inferred the City needed to get \$423,000 dollars for the piece of property, but she wanted to make the point that \$20,000 dollars was ridiculously low so she would like to see that renegotiated but she would also like to have this postponed and brought back with a start incentive. She would not support this project tonight without the start incentive in it anyway so she asked if he could go back to the Planning Board to have that included and be brought back before the board.

Mayor Ritchey asked Mr. White if he had any problem with adjusting that agreement to start with the understanding that he could come back before the Commission in the event the project fell deeper in the recessionary time or whatever. He stated there have been many developers to come before the board that had beautiful pictures and drawings and they really had no intentions in the beginning to ever build. The board would end up having to flip the project over to someone else. The board was not saying that was what Mr. White and Mr. Challis were going to do, but he asked how about a year, what about three years instead of four years to start.

Mr. White asked just to clarify what Mayor Ritchey had stated a year after the rezoning would be 2 ... or 18 months. After a short pause he stated he thinks they could do three years, he was just trying to offset some of the risk so he would do his best to start it in three years.

Commissioner McKay-Vaughan replied it was not about completing the project, it was how soon he would be starting. She did not have a problem with him wanting to complete it in five years. She would like to see something on that property that says Phase I will be starting in such and such of time, if not the City needs to ask for \$100,000 dollars or something back out of the performance bond. In this economic climate four years from now it's going to be a whole different bag from tomorrow. If he couldn't start it soon maybe he should wait which is another alternative. For the sake of the City she felt the taxpayers needed to see that something was going to be done if they said that it was.

Mayor Ritchey stated he suggested three years and he was not for any incentive to do that and if they did that the City could add some time to complete the project.

Commissioner Shiver asked Reed Berger how long before the rezoning and the permitting could be done.

Mr. Berger replied in order to get this going it should get started right away. The marketing starts, and you have 90 days, you have 6 months to go through rezoning and get that completed, so his answer is to start right away. For permitting he would have to come back and ask Mr. White how soon he could accomplish that.

Mr. White replied the agreement called for the rezoning to be completed in a year or the agreement is terminated. They submitted the RFP over one year ago and a year for rezoning was probably a little conservative but one year would be a fair window with what's currently built in there.

Commissioner Shiver asked Mr. White if he could feasibly start in 18 months and was he willing to go with that to start not finish.

Mr. White stated that part of the problem was if you are going to start construction in 18 months you have to build everything back and you are talking to your lenders very soon and they were looking at presale which starts to cut into their lenders willing to approve.

Mayor Ritchey replied in today's economy with a recession you are not going to find too many lending institutions looking to jump on financing a project right now so that would be cutting it a bit close by saying 18 months.

Commissioner Shiver asked what about 24 months.

Commissioner McKay-Vaughan asked Mr. White would he be willing to put into the contract that there would be no clipping of the project and if there was that the project would be started over.

Mr. Challis replied the only transfer was from Jack's name individually to an LLC, which Jack would create.

Commissioner Shiver replied it was actually already in the contract.

Mayor Ritchey asked was everyone agreeable with three years.

Mr. White and the board all replied three years would be fine.

Mayor Ritchey stated three years from the approval of the agreement which would include the time to get the permitting processed, the financing and everything to start the project.

Commissioner Gilliland stated the completion would be the 12 months to get the project rezoned plus the 5 years which would make it 6 years for all 3 phases to be completed.

Mayor Ritchey stated he would like to add time than to give any kind of cash incentives or any other thing like that because if they are that far along you are going to have a great project.

Commissioner Gilliland amended his earlier motion to say that the term in the agreement would indicate three years as a start date to begin Phase One of the project.

It was moved by Commissioner Gilliland to adopt the Resolution as amended. Seconded by Commissioner Reynolds. The Resolution was adopted 6-to-1 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Nay
Mayor Ritchey	Yea

- C. Adopted/Resolution CRA No. 09-10 accepting the low bid from P&S Paving Inc., 3701 Olson Drive, Daytona Beach, FL 32124, in the amount of \$1,051,304.41, for the Base Bid and Additive Alternate Bid for the International Speedway Streetscape Enhancement Construction. Primary Funding is through a Federal Department of Transportation (FDOT) administered Federal Highway Grant; supplementary funding for non-federal grant eligible items, in an amount not to exceed \$175,000, is available in the Midtown Redevelopment Trust Fund. City Clerk Thomas read the Resolution by title only. A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY APPROVING THE EXPENDITURE OF TAX INCREMENT FUNDS FROM THE MIDTOWN REDEVELOPMENT AREA TRUST FUND FOR THE INTERNATIONAL SPEEDWAY BOULEVARD STREETScape PROJECT IN THE AMOUNT OF \$175,000; AND PROVIDING AN EFFECTIVE DATE.

Commissioner McKay-Vaughan asked if the Midtown Redevelopment Board was happy with the choices being made. When this started out it was a much grander project and it has been pared down. She had read some of the things they had wanted in the past and she thought they might be more important to them than this. She couldn't find anything in the minutes of the Midtown Redevelopment Board meetings that indicated they were happy with these choices. She believes staff made these choices.

Reed Berger, Redevelopment Director stated they have had more than three or four discussions on the logos and the stamped pavers and as this project matured and changed there was great frustration from the board because they want to see this happen. It was one of their top five projects. It is very important to the Midtown Board.

Commissioner McKay-Vaughan stated it is important to her too. She clarified that what Mr. Berger was saying was that the board is happy with the condensed version and the choices that were being made.

Mr. Berger stated they are happy as they can be and they would like to have the rest of it done. It was a very clear message from the board to not stop there, but to continue to find the money and do the rest.

Commissioner Reynolds stated this was something they had been trying to get down since before she was on the Midtown Board. This project has been going along and talked about for a very long time. It might not be exactly what we want but give us something. She would like to proceed with it.

It was moved by Commissioner Woods to adopt the Resolution. Seconded by Commissioner Shiver. The Resolution was adopted 7-to-0 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Yea
Mayor Ritchey	Yea

- D. Adopted/Resolution CRA No. 09-11 accepting the lowest and best bid from Saboungi Construction Inc., 290 A North U.S. Highway 1, Ormond Beach, FL 32174; and authorizing the expenditure of Redevelopment Funds, in the amount of \$948,812, for construction of Boardwalk Park and Bandshell improvements; funding both the Saboungi Construction Inc. contract of \$862,000 and approving Change Order No. 1 for \$86,812, which extends project design and construction on both sides of Main Street from the Historic Coquina Arch to Ocean Avenue. The project is well under construction budget and has been presented and approved by the following Boards: Historic Preservation Board, Beautification/Tree Advisory Board, and Main Street-South Atlantic Redevelopment Area Board, as well as the Boardwalk merchants and land owners. City Clerk Thomas read the Resolution by title only. A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY ACCEPTING THE LOW BID OF SABOUNGI CONSTRUCTION, INC., FOR THE BASE BID AND ADDITIVE ALTERNATES #1 AND #2 FOR THE BOARDWALK PARK AND BANDSHELL IMPROVEMENTS; APPROVING CHANGE ORDER NO. 1; APPROVING THE EXPENDITURE OF TAX INCREMENT FUNDS FROM THE MAIN STREET REDEVELOPMENT AREA TRUST FUND IN AN AMOUNT NOT TO EXCEED \$948,812; AUTHORIZING THE CHAIR AND CITY CLERK TO EXECUTE THE AGREEMENT AND CHANGE ORDER NO. 1 WITH SABOUNGI CONSTRUCTION, INC.; AND PROVIDING AN EFFECTIVE DATE.

John Nicholson, 413 North Grandview Ave, Daytona Beach stated he knows this is a done deal and it was the first time the architect drew it. He stated his concerns about problems with certain projects and commented more about the lighting concerns he stated earlier as well as the lighting problems that would be associated with this project.

Commissioner McKay-Vaughan asked if this project had been reviewed by the Mayor's Commission on Disabilities.

Ron McLemore, Deputy City Manager/Public Works stated he did not know the answer.

Commissioner McKay-Vaughan stated she would like them to review it. She questioned the need of the project at this time. We are destroying something we already have. She asked if there was a large drawing the Commission could view of the project rather than the backup in their packet.

Paul McKittrick, Deputy City Manager/Administrative Services stated he had done a lot of work on the item when he was with Public Works. We are putting pavers over existing concrete. He would be happy to show it to the Mayor's Handicapped Advisory Committee. It is all what we call flat work; no steps and no ramps, just existing one inch pavers. We have had two meetings with the Boardwalk merchants and they seem satisfied with the plans after some adjustments were made addressing their concerns. We are filling in the middle part with the decorative pavers that we had used in approved projects in the past - namely Ora and Breakers Park. We always said we were going to do this and now we would like to complete it.

Mayor Ritchey asked if they were sculpted pavers that would present problems to individuals in wheelchairs or walking with a cane.

Mr. McKitrick stated no. They are pavers with sand grout. There are no American Disabilities Act (ADA) issues but he would be happy to present it the Mayor's Alliance for Persons with Disabilities Board and make any adjustments we can.

Mayor Ritchey asked about the lighting issue Mr. Nicholson raised.

Mr. McKitrick stated this is the state and county's turtle lighting ordinance. The lighting at the parks was not turtle compliant. There rules for lighting are extremely strict. For this project we are leaving every existing light on the Boardwalk and adding some lights like the ones at Ora Park. During the turtle season, the lighting is dim but after this project, there will be more lighting down there than we currently have.

Commissioner McKay-Vaughan stated I do have a big problem with it not going to the Disabilities Committee. She had big questions about the railing and the peeling effects.

Mr. McKitrick stated the rail Mr. Nicholson is talking about is at the Regency located at the 400 block of Atlantic Avenue and the City did not install that rail. The railings at Breakers Park are powder coated metal guard rails and the stuff he has seen over the last year to year and a half has held up good.

Commissioner McKay-Vaughan stated she would like to see some guarantee from the company before doing this in light of these economic times. She has many concerns for the deteriorating railings. She questioned if this was the best time to do this project and maybe it can be postponed until next year.

Mr. McKitrick stated it was before the Commission because the project would be done in the fall when the tourism is slow.

Commissioner McKay-Vaughan stated the slow period will come around again next year sir.

Commissioner Woods stated she has noticed when she goes for walks that the pavement has become uneven and she has almost fallen a couple of times. From a liability standpoint, we need to address the surface down there whether we do this project or not. She asked if the pavers were going to be placed on top of the existing concrete.

Mr. McKitrick stated yes they will.

Mayor Ritchey stated so they won't be destroyed. They will lay them on top with sand grout.

Commissioner Shiver asked what the fund balance was for the redevelopment fund.

Mr. Berger asked was he talking about capital or the entire fund.

Commissioner Shiver stated give me both of them.

Mr. Berger stated in addition to the \$1.3 million he has for that particular fund, he has \$8.8 million remaining and that does not account for a land acquisition that is pending.

Commissioner Shiver stated you mean the park we just purchased.

Mr. Berger stated that's right now that was the capital.

Commissioner Woods asked what the other fund was.

Mr. Berger stated that would be the operating fund.

James V. Chisholm, City Manager stated you have about \$11 million total if you put everything together. It's not the operating fund, it is capital or project related fund.

Commissioner McKay-Vaughan stated so operating is not part of the \$11 million.

Mr. Chisholm stated the operating is not part of the \$11 million. It is separate from it.

Mr. Berger stated right now we have an appropriation of \$1.4 million for Main Street for operating.

It was moved by Commissioner Gilliland to adopt the Resolution as amended. Seconded by Commissioner Reynolds. The Resolution was adopted 6-to-1 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Nay
Mayor Ritchey	Yea

- E. Continued/Resolution approving an Agreement for Termination of Lease and Related Agreements and for Sale and Purchase of Business Assets. Carlsberg Management Company and Diland Corporation, the Pier tenant, have agreed to terminate the lease, related agreements, and sell and purchase certain business assets so that the City can obtain exclusive control over the property and operations. The City Manager has negotiated an amount to terminate the lease of \$1,830,000 with adjustments for deferred maintenance fee payments, specific improvements and assets. The total settlement amount is \$1,989,646.18 plus closing costs and the value of inventory (approximately \$30,000). The Citizen Pier Committee met on July 14th and recommended to the City Manager that the amount not exceed \$1,830,000. City Clerk Thomas read the Resolution by title only. A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY APPROVING TERMINATION OF THE MAIN STREET PIER AND OCEAN PARK DEVELOPMENT AGREEMENT, PIER LEASE AGREEMENT, OCEAN PARK MAINTENANCE AGREEMENT, AND RELATED AGREEMENTS OR PORTIONS THEREOF WITH CARLSBERG MANAGEMENT COMPANY, DILAND CORPORATION, AND THE CITY OF DAYTONA BEACH; APPROVING AN AGREEMENT FOR TERMINATION OF LEASE AND RELATED AGREEMENTS AND FOR SALE AND PURCHASE OF BUSINESS ASSETS WITH CARLSBERG MANAGEMENT COMPANY, M AND W PIER, INC., DILAND CORPORATION, AND THE CITY OF DAYTONA BEACH, AND AUTHORIZING THE CHAIRMAN AND CITY CLERK TO EXECUTE THE AGREEMENT; APPROVING THE EXPENDITURE OF \$1,830,000 IN TAX INCREMENT FUNDS FROM THE MAIN STREET REDEVELOPMENT AREA TRUST FUND FOR THE TERMINATION OF INTERESTS AND PURCHASE APPROVED HEREIN, PLUS UP TO \$190,000 FOR CLOSING COSTS, INVENTORY, AND SETTLEMENT OF CERTAIN OTHER AMOUNTS DUE THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

Gary Libby, 723 North Oleander Avenue, Daytona Beach shared some of the dynamics that happened on the committee regarding some possible remedies for a problem with the pier. Mr. Libby stated he had met with J. Paul Wetzel, Support Services Director, and Jerry Fincke hoping to find some grants to help restore and repair the pier. A major defect is the lease contained a no-end clause that made neither the City nor the lessee eligible to apply for any grants. Several years later he was asked to serve on a committee made up of John Graham, Dino Paspalakis, Paul Zimmerman, Paul Politis, Virginia Brown, and Theresa Doan, which was a cross-section of citizens and business people, people familiar with the deal, and people totally unfamiliar with what happened. They were asked to consider remedies that could be brought to the Commission. Perhaps they should look at remedying the defects in the lease that Diland Corporation was the tenant of record. Since the City owned the pier, if the City took over the responsibility for the major structural repairs then the City would become an eligible applicant to a whole series of granting agencies. As money was invested by the City, the lease to Diland would increase in modest amounts that would be equal to the investment that the public would be making to the pier. One committee member had the position that the City should evict the tenant for non-compliance with the lessee. The problem was they did not have a sheaf of code violations or any back up to do that even though the pier was in a very desperate situation and getting more desperate every day. The committee suggested remedying the defects in the lease. Diland

Corporation and Mr. Fincke were not interested in that. The committee discussed the option of the City taking the tenant to court for non-compliance and the tenant taking the City to court because it was late in constructing the park and the parking that they had agreed to provide for the tenant so they could have people visiting the pier. That option would be in court for quite a period of time. Buy-out surfaced as another option. They consulted attorney Bob Abraham to determine how to figure out the value of the lease. Using multipliers from business models the figure went from \$3.4 million down to \$1.8 million. The committee supported his motion of not going beyond that amount even though Diland tried adding closing, goodwill, and other costs. The committee didn't think that was appropriate and recommended the buyout option be dropped in the lap of the Commission. The recommendation was up to but no more than \$1.8 million. The committee had engineering reports that the pier had deteriorated significantly since Diland took over the lease from the previous corporation. The City Commission was in a position to consider adjustments about the condition and what it would take to make the pier whole and how the process might be moved forward. The ad hoc committee had no power and nothing other than the good will of citizens and business people.

Paul McKittrick, Deputy City Manager/Administrative Services stated Mr. Libby gave a very good overview and the City Clerk's office had distributed an executive summary. He would go over that summary to allow some focus as the discussion went forward. There were a couple basic decisions to be made initially. One was whether or not the Commission thought the situation with the lease and the condition of the pier was acceptable. If the Commission thought it was acceptable and that the status quo was okay, then that was the end of the discussion. The Commission would recall that during several annual strategic planning sessions they discussed what important issues were for the Commission and the community. They talked about the beach, the airport and other issues, and they always mentioned the pier. If the Commission agreed that the present situation with the pier was not satisfactory and that a change was warranted they would see five bullet points on possible changes that could be made.

- Put the tenant on notice of failure to abide by the terms of the lease regarding maintenance and any other alleged breach in accordance with Article 15 of the Main Street Pier and Amusement Pier Lease.
- Negotiate Lease amendments allowing the City to regain development rights and assume responsibility for major maintenance while allowing the present tenant to remain as an operator of the various businesses including the restaurant, fishing pier, gift shop, and other businesses that are on the pier.
- Terminate the Lease with financial compensation to the lessee for the value of the leasehold.
- Allow the existing lease to stay in effect, but underwrite maintenance of the pier and casino with the tenant's permission.
- Approve issuance of an RFP for the purpose of selling the pier.

Commissioner Woods stated she thought Mr. Libby said that the tenant was not interested in renegotiating the lease.

Michael Crotty, Esquire, 1825 Business Park Boulevard, Daytona Beach stated Diland was made up of four shareholders, three of which lived in Rochester, New York, and one lived locally. The youngest of the shareholders was in his late 60s. In the last year some of the shareholders had developed health issues. The members of Diland had become much more motivated and interested in actually selling. He didn't think a modification would work for them at this point.

Commissioner Woods stated so that needed to be removed as one of the options.

Mr. Crotty stated that would not be an option.

Commissioner McKay-Vaughan asked if George Anderson was involved with Diland.

Mr. Crotty stated George Anderson was not involved in any way. The local member was Jerry Fincke.

Commissioner Woods stated based on what Mr. McKitrick gave them, two was not an option and now four was not an option either.

Commissioner McKay-Vaughan asked if Mr. Crotty really believed the pier was in better condition now than it was in 2003.

Mr. Crotty stated he could only go by the data from the engineering reports that said the pier remained structurally sound, mechanically sound, and the electrical and fire systems were sound. He was not sure what the condition was in 2003. He knew Diland had put almost \$5 million into the capital improvements, opening some areas of the pier that were closed, for example part of the casino, and had added to it and had added a fresh coat of paint. The pier he saw was pretty, presentable, and drawing many people a year.

Commissioner McKay-Vaughan stated there seemed to be a big discrepancy in numbers about what Diland had put into it. She heard a number of figures and now it was \$5 million.

Mr. Crotty stated he thought it was \$3.6 million directly and another million from insurance proceeds. He said \$5 million but it is probably closer to \$4.6 million. \$3.6 million was the amount of money Diland had expended on the pier to date in addition to the \$1 million in hurricane insurance proceeds, all of which went back into the capital construction.

Paul Zimmerman, 356 Woodland Avenue, Daytona Beach distributed photos that gave a closer view than Seabreeze Avenue. They were taken last month.

Commissioner Gilliland asked if there were any photos from 2003.

Mr. Zimmerman stated he knew that was an issue, but if he was not mistaken the City had several Universal Engineering reports and he thought the argument was that they can't establish what they were and where they were in 2003 because they had several reports that showed ongoing deterioration year after year. He was in favor of repairing the pier and

bringing it back to a state they could all be proud of. He was not in favor of giving someone \$2 million as a buyout. He also provided the Commissioners with a package of alternative legal opinions, current pictures of the pier, a 2003 article from the News-Journal predicting this situation, and a CPAs report putting into question the techniques that were used in the appraisal. He hoped the Commission took the time to review that and would consider that in their decision. It had been stated many times that many people were dissatisfied with the current situation. The issues of appearance, maintenance, the timeliness of payments were some of the issues related to the dissatisfaction. The process to address those concerns was spelled out in the lease. That process began with the City notifying Diland Corporation in writing of the specific areas of dissatisfaction. That had not been done. They had a 2008 and a 2009 Universal Engineering report showing ongoing problems with maintenance yet the City had not put Diland on notice. In his judgment the City had not followed the terms as spelled out in the lease to possibly remedy the problems they had. He would like the City Commission to direct the City Manager and the City Attorney to begin the process as laid out in the lease by notifying Diland specifically of the deficiencies using the Universal Engineering 2009 report. They had a detailed estimate of \$1 million in repairs that were currently needed to repair the pier. If Diland completed the repairs as identified in the Universal Engineering report and still wanted out of the lease, then maybe they could negotiate. They appeared to have skipped over the process as spelled out in the lease to notify the tenant of the concerns and jumped right into spending \$2 million for a buyout. Let's not give \$2 million away before they at least follow the remedies spelled out in the lease. He asked the City Commission to vote no on this item and hold Diland to the responsibility of its lease obligations.

Bill Chaffin, 213 North Oleander Avenue, Daytona Beach stated he had been a resident for 18 years and was employed by the pier from 2001 until his retirement earlier in 2009. He served in several different capacities there and was general manager for almost four years until May 2009. His wife made and sold seashell jewelry from a kiosk there since 2001. He objected to the characterization of the present leaseholder not having made improvements to the pier and allowing the pier to deteriorate. He could tell them from direct and firsthand experience that it required a constant vigilance to keep the pier in operating condition. There were two full time employees there who were at all times trying to keep up with repair and reconditioning lists. Outside companies were constantly being called to the pier to fix things that were beyond the capacity of the pier's maintenance department. There had been huge expenses to repair the roof and the structure that supported the roof, the pilings underneath the pier, and to keep the sky ride in operating condition. When the Diland Corporation bought the pier from Theresa Doan he was there and could tell the Commission with all certainty that the condition of the pier had improved greatly from that date. He believed that Jerry Fincke had acted with all good faith to make improvements but he probably underestimated the scope of the project he undertook. To suggest the Diland Corporation with Jerry Fincke came onto the pier and just didn't do anything was grossly unfair. Since the City had more oomph and favorable access to grant funds for repair and improvement, he was in favor of the resolution.

Betty Kane, 101 University Boulevard, Daytona Beach stated she had lived here for 37 years. She liked the pier but she didn't like some of the things that were going around. Staff

gave them some options that she didn't feel were the options that needed to be done. She felt the leaseholders gave their word in 2003 that they had enough money to take care of this. She would like to see them turn to the City and say they made a bad deal. The pier was now becoming an eyesore. She has brought people into the city and held her breath when they wanted to see the pier. She would like to make it nice. But she didn't want to take \$2 million right now. She thought Diland had their nerve. If they wanted to fight, the City had a wonderful legal department. She thought they should just turn over the lease and be a gentleman about the whole thing. Let the City spend the money that would be given to Diland to fix the pier so the citizens could be proud of.

Don Kane, 101 University Boulevard, Daytona Beach stated the bone of contention was that Diland Corporation did not meet their obligations for the rental. He thought this was a management problem and a legal problem. He suggested the City Commission demand that the management of the City and the legal department take the necessary steps to evict if necessary. This was a landlord/tenant problem. The City had met its obligations. Diland agreed in 2003 to certain conditions and they failed. He thought they should be brought to task on this. Like Mrs. Kane said, the City had a legal department and it should not be afraid to fight. They should not be intimidated by Diland Corporation. They owe it to the taxpayers of the City. He asked the Commissioners to do the right thing. The City should keep \$2 million and Diland should keep the responsibility to do the right thing and manage the pier like they were instructed to do.

Neil Harrington, 101 Grand Oak Circle, Daytona Beach asked the Commission to allow him to be more emotional than scientific as some of the other speakers had been. He quoted from a very famous political book. "Every politician should have a moral compass." "They should be guided by voter sentiment favoring character and honesty." Those words came from Jerry Fincke's book "Primer for Political Wannabees, Confessions of a Political Gunslinger." He suggested the City knock off conversation about termination. They were talking about how to renege on a contract. They had somebody who signed a contract that didn't work out because they weren't very good at the business they were in. He was not saying no negotiations, no reduction, no nothing, but he was saying \$2 million to reward a brand of political maneuvering was just not right. He suggested tabling the issue for a few weeks and determining what they could come up with that was more realistic.

David LaMotte, 2210 South Peninsula Avenue, Daytona Beach stated he was a member of the Main Street South Atlantic Redevelopment Board. The project never came before them. He was also the chairman of the Volusia County Beach Advisory Board. He was there tonight, not as a member of that board, but as a resident of Daytona Beach. He asked many times at some of the board meetings he attended if the City had done its due diligence as far as looking into the pier and what could or could not be done. He never got a straight answer. On his own on July 30th he contacted John F. Milio, Fish and Wildlife Biologist with the U.S. Fish and Wildlife Service. His question to him was "knowing what goes on in Volusia County with the sea turtles and the lighting issue, could they or could they not build a concrete pier with amusement rides, Ferris wheel, and everything that had been talked about or could they rebuild the existing pier." He distributed copies of a letter from Mr. Milio, and read his answer in full which ended "it is unlikely the Corps would move forward in

permitting the project.” He had a letter dated June 29th from Paul McKittrick to Mr. Chisholm the third bullet point was “enhance the structure of the pier as a tourism asset and destination by pursuing permits to allow a substantially wider walkway connecting the casino to Breakers Park to accommodate additional amusement rides and other family oriented activities.” The City would not be allowed to do that. The City could fight, take it to court, and the bottom line was they were being asked by Diland Corporation to pay them \$1.8 million on something that they did not do their homework on, and that they did not do their due diligence on years ago. They could have done what he did and found out that all the things that had been proposed since 2003 were null and void. The development rights costing anywhere from \$1.7 million to \$3 million were null and void because they could not be able to do what the Diland Corporation said they could do. As they could tell, he was against spending the \$1.7 million because there were no development rights to that pier.

Weegie Kuendig, 718 North Wild Olive Avenue, Daytona Beach stated while the fine mess they had gotten in was not the fault of the present City Commission it had fallen to them to get the City out responsibly. In the last year there had been conversations all over the City about what to do because Diland wanted out. Ever changing negotiations with Diland had occurred without any direction from the commission. This was the first public hearing in two years about the pier. Tonight it was time for the Commission to decide and direct what should be done. The pier was in deplorable condition. It is an embarrassment to know that tourists walk underneath and on to the pier at the World’s Most Famous Beach. Diland was required to maintain the property. Any reasonable person can look at the pier and say it was not being maintained. Plywood and spray paint were not any kind of fix whatsoever. Fixing six of sixty one pilings that needed repair was not maintaining the pier. The option of buying out the lease for \$1.7 million was based on the Velie income approach appraisal needed a second look if she read it correctly. Their appraisal was based partially on income from the Space Needle but if the Space Needle was not being used they should deduct that from the appraisal value. The tenant had been in over its head since the beginning and was under-capitalized according to a City consultant’s report in 2003. That was not the taxpayer’s fault. Even through several years of a great economy, Diland and Carlsberg did not honor the terms of their agreement. The City must rid itself of this predicament. It was time to issue Diland the notice to cure specific defaults and also issue the demand for the maintenance money due. This was the City’s minimum responsibility to its citizens. Enforce the provisions of the lease first and use the time to come up with alternative plans for the future of their pier when they get it back.

John Nicholson, 413 North Grandview Avenue, Daytona Beach stated a lot of his friends were opposed to paying out any amount. He had to disagree with them. He admitted it was a really bad lease. The City had not done its due diligence. They didn’t take photographs. They didn’t document the condition. He understood Diland was relying on the money from the area development to operate and the development didn’t go in. It was not their fault. It was not the City’s fault. He questioned the \$1 million from the hurricane (insurance) and that Diland used for repair. He believed that would have been City money and would not go to the lessee. Why the City did not have Code Enforcement there for the last four years was beyond him. That was the City’s fault again. Diland and the City were both making mistakes. Part of the lease was that they would do x, y, and z, of which they did none. They

didn't do what they were supposed to and the City didn't do what it was supposed to do and they were in a mess. If they go to law suits, it would be expensive. He was saying the fastest and best thing for the City was to bite the bullet, pay them about \$1 million and then walk away. Diland was entitled to the lease. They could sit on it. The City didn't want them to do that. They wanted to save the pier but \$2 million was way too much. Diland deserved something for the 70 years the City gave them. A million dollars was more than enough especially since the City gave them the pier free.

Linda Smiley, 357 Manhattan Avenue, Daytona Beach stated she is a resident of 51 years; she grew up on Main Street and hung out at the pier. She thinks it is deplorable that the City is considering paying them any money for not taking care of the pier and doing what they said they were going to do. The City has a record of getting into these projects where the people don't do what they are supposed to do and then the City pays them to get out of it. The City needs to take a look at that and stop wasting taxpayers' money.

A. Lenny LeGary, 342 Burleigh Avenue, Hilly Hill, Florida stated he is sad when he sees the pier. He has lived here all of his life and grew up on Main Street for a long period of time. He is not in favor of taxpayer money going to someone who did not hold up their end.

Barb Nagey, 1400 N. Halifax Avenue, Daytona Beach stated she is a new resident to Daytona Beach and the pier is deplorable, she will not even go near it because it looks like a safety hazard. She is surprised that the Commission is even considering this other than the fact that just recently she received a letter from The City of Daytona Beach telling her she had to have numbers on her building facing the street otherwise she was going to be fined \$1,000. It is mind blowing to her that the City wants to fine her for not putting numbers on her building yet the City wants to pay somebody \$2 million for not honoring their contract. The City should not consider paying them a cent, if they do not want to negotiate let them sit on it.

Hannah King, 1409 N. Halifax Avenue, Daytona Beach stated she wanted to let the Commission know how the community feels. The problems might not be partially the company's fault and partially the City's fault but one thing she knows it was not her fault and she does not want to pay for it.

Donald King, 1409 N. Halifax Avenue, Daytona Beach stated with free enterprise you have a right to make an investment and if you succeed you make money, if you fail then too bad you took the chance you fail and that's life, that's the way it goes.

Kevin Kilian, 126 E. Orange Avenue, Daytona Beach stated the Chamber board met last week and after some discussion the Chamber's recommendation is that the City approves the termination of the lease agreement and that the City resumes the responsibility for and control the pier operation which is essential to the future development and the vision of the area.

Hiram C. Powell, 1661 W. Paradise Lane, Daytona Beach stated it has been said, thank you.

Reverend L. Ronald Durham, 110 Aleatha Drive, Daytona Beach stated he thought Daytona Beach was in a rare position to do something that not just our own generation but generations that follow us will look back on and note this day. One of the very first places he went to several years ago when he came to Daytona Beach was the Daytona Beach Pier and no matter how much we may deplore what has happened one of the very first places that every tourist that comes to this City is going to go is to the Daytona Beach Pier. He stated it is a rare moment when a City has an opportunity to take control of its own destiny rather than to pin hopes, as was done in the past in this instance, on a private developer to do what is best for our City. He stated he believed that a vote against taking control of the pier is a vote against our City taking control of our destiny, he urged the Commission to vote yes and let the City develop what is a landmark in our City so that in years to come people will look back at what you have done.

Gilbert Myara, 43 S. Atlantic Avenue, Daytona Beach stated he was going to speak as a small business person. He stated he owned property on both sides of the pier, both sides of Main Street; he hears about the pier on a daily basis he is only a couple of hundred yards from the pier, he owns Daytona 2000. He hears the good and the bad about it; he does not represent all of the business people but he represents the majority of the business people on both sides of the pier. He agrees with staff and the City; the only people who can save a landmark is the City, nobody else is going to come in and pick up the pieces of the pier, nobody is going to come in and buy the pier as is. Everybody south of the pier will benefit when the City picks it up and renovates it. He urged the City Commission to take it back stop pointing the finger and start working together.

Michael Crotty, 1825 Business Park Blvd., Daytona Beach stated he wanted to respond to the comments made earlier by Mr. LaMotte regarding the permit. He stated the morning newspaper also stated something to the effect that there may be an issue regarding the permit. He contacted Bill Geary, the original contractor involved, who actually went and got the expansion of the submerged lease, he asked him what exactly was going on it seemed like a significant matter to overlook with the amount of monies they have expended to date. What he told him was that this was a legislative process and needed the Governor's approval and as a part of that they needed to go in front of the Department of Environmental Protection (DEP) and the Department of Fish and Game.; they did that and they did sign off on that and the issue permit would not be a problem, additionally according to the firm they were going to use to design the pier, they also said permitting would not be an issue.

Mayor Ritchey stated they have heard from the citizens and the representative of Diland Corporation and it was time they talked with each other.

Commissioner Gilliland stated he agreed with everyone, he does not like the current condition of the pier but does not think it is in a much different condition as it was when he started taking his children there years ago. In his opinion and he is not a lawyer, it seems the maintenance issue is the big ambiguity, the City did not do a good job on the front end documenting what the pier looked like, the City did not put into the lease that they had to replace the railing by a certain date or replace this by a certain date none of that was in there so our ability to say they are in default based on a maintenance provision appears suspect to

him and he thinks that the two attorneys who have looked at this on their behalf would agree and Marie's memo stated the City could expect a three to six year legal battle in the event the City chose to go that route. He gave an example of somebody owning a home and has a tenant in there paying him \$800 a month and they are supposed to be doing the exterior maintenance and they are not doing it; he could declare them in default and have them evicted if they didn't remedy the situation. The big difference between that situation and this one is he owns that house and he paid for it, in this situation the City did not pay for the pier, they paid for the pier and gave it to the City the original purchase package was somewhere in the \$2-\$2.5 million range over \$1 million of that went to Ms. Doan a quarter of a million went to get the submerged land lease because of the age of the pier there had never been one the remainder was part of a contribution to Breakers Oceanfront Park. He feels that the \$1.8 million is palatable. He has been pushing this thing for a year and has seen without the Boardwalk hotel getting built there is no rationale for why those people are going to put more money into this and based on their age with the youngest one being 68 by the time the market turns around these people are going to have very little interest in the building of the amusement pier, the expansion of the pier or the adding back on of the 100 feet that came off during the 04' hurricanes. He wants to see the pier preserved/improved and the only viable opportunity that he sees as getting out of this thing is the one that has been brought forward, thousands of hours of time has been put into this and nothing has changed in a year. He is in support of the agreement.

Commissioner Henry stated he took a long walk on the pier last night and it does not look in the condition that we would want our main thorough fair to the beach to look like. He actually asked some of the visitors what they thought of the pier and they actually kind of turned their noses up, they appeared to be somewhat disgusted by it. He thinks what is really deplorable is that we are in this situation because to some degree of course ... and to a large degree we as a City not necessarily this body and certainly not the City Manager. He wanted to thank the City Manager, this has become a difficult journey, this is something he inherited something we all inherited but it's the role of government and we have the responsibility and we have to make a decision. It seems to him for us it is somewhat of a loss either way the City goes he does not think either side is going to be happy. For certain in his opinion the City cannot stay in the same position they can argue as to whether or not they can enforce a lease but the bottom line is they are not going to leave the pier next week no matter what the City does. It is not going to be that simple to just enforce the lease because he believes cosmetically they can from what he sees it's about 50/50 as to whether they have carried out the lease begin to enforce them to do it, it is not going to take that much for them to appear that they are now carrying out the lease as the agreement was written. The lease was a poor lease from the beginning and when it was re-written it didn't get much better. From his perspective the best thing they could do was to find a way to get them to go but certainly it is not worth \$2 million. He believes their value as a lease holder is somewhere between \$1 and \$1.2 million and that is the extent to where he would be willing to vote to get them to go. He knows that doesn't make everyone happy but that is where he stands.

Commissioner Reynolds stated this has been a long road and hopefully this will come to some conclusion tonight. She stated that she thought they had paid for some other things that they should not have in this current environment. She agrees that something needed to

be done as soon as possible and is not at all adverse to paying the \$1.8 million and will support it.

Commissioner Shiver held up a binder and stated that this was the information provided to them by staff on this one issue and nowhere in there does it say one way or the other what they think. He thinks the City Manager has been given somewhat of a raw deal; he has met with him many times over the last couple years on this issue and never has he tried to influence him one way or the other and he can't do that. He appreciates what staff has done which was a lot of work to provide them with all the information. Piers around the world can be great tourist attractions, some of them are pretty spectacular and he wishes our City had one of them. He asked himself what negative effects does the condition of our pier have on our tourism industry and concluded that it has hurt our tourism and probably helped make one of the most endangered species on the beach our tourists. As we look at what has become the World's Most Forgotten Beach we see a structure out there that is not in good shape, he knows it is in worse shape than it was. He was on the Commission when the agreement was approved years ago and it has gone south since then. He has gotten many emails and had many conversations with people from all over Daytona Beach both business and residential and not one person has said to him that they think \$1.8 million dollars is a good idea. He recommended that Code Enforcement visit the pier, asses what needs to be done and put them on notice. He thinks the results would be a substantial amount of work that would be required to be done and believes the negotiation and the attitude towards the \$1.8 million would change at that point.

Commissioner Woods stated she has spent the last couple of weeks trying to figure this out from other documents and records before staff provided the binder. She is still not clear on what the deal actually was when it was made back in 2003/2004. She hopes this Commission, in the future, never does anything like this again. One of the things pointed out in the process was that the City owns the pier but at the end of the day is it really an asset or is it going to be a liability. She thinks Mr. Fincke and Diland Corporation have found out that there is a lot more maintenance than any of us probably realize that needs to be done on that pier. She has read about all the work that he has done and she has looked at the receipts and she doesn't doubt for one minute that they haven't put a lot into this but obviously it's not enough. She has really noticed a change in the structure on the pier in the last three years. When she first got elected and Mr. Chisholm brought up that the City was looking at the pier buy out issue her first question to him was had he been down there and looked at the pier. She does not know what happened but about three years ago the maintenance on the pier really began to decline and there has been a whole lot of water intrusion in there so when we get in there the repair cost is going to be huge. She does not believe in a buyout, she agrees they ought to put the tenant on notice. The easiest thing for the Commission to do is buy him out but it is not necessarily the right thing to do. She wants to do what she thinks is right for The City of Daytona Beach and the taxpayers, she thinks they need to put him on notice.

Commissioner McKay-Vaughan stated she thinks they need a lot more discussion. She has heard conflicting statements. The Commission has conflicting ideas. She would like a presentation with some facts; she has been working on this for six years herself. She has a

summary with the facts but there are some pieces missing. At this point, in a way she does not know how important all that is. She stated they all knew it was not in good condition and thought couldn't they have at least painted it, she is sad that it is in the condition that it is in. One thing she heard was that the only ones that could save the pier is the City, she has a problem with that statement as she knows two people that have spoken to her that are interested in leasing the pier. There is some interest out there and that needs to be investigated. She is not in favor of the City to take over running the pier like the Golf Course and the Tennis Center, she does not think the role of government is to continue to take on businesses and try to operate them, but there are people out there who are experts at operating them and we need to find someone who can do that. She is for the pier and she has not heard anyone say let the next hurricane take it. She questioned the amount of money required to bring it up to a safe standard, she has received conflicting \$ amounts, \$2 million a month and a half ago and this week \$1 million. She cannot support this tonight; she thinks they need more information.

Mayor Ritchey stated he would use status quo because too long they have had that when Main Street is open three months a year, we have had it in other areas of our community that have long ago needed attention and didn't get it, we recently bought a lot on the river because it was the right thing to do and there is money to be spent on that now we have to turn it into a park. It was the right thing to do for the community, could we have bought it for less maybe. This economy will turn and that park will be beneficial someday for this community. He hears a lot about don't spend my tax dollars ... give it to the teachers they need money, in truth those are redevelopment dollars they can't go outside of that redevelopment area they can only be used to correct blight and to acquire properties within that redevelopment area. He also knows that operating a pier is a flawed business model, he wouldn't do it. All across the country piers are not turning into dance halls they are turning into a place you walk out to fish and buy bait; it is not a money making venture. Grants are sort of like pie in the sky if we get them god bless us but as he hear Gary Libby say the lease that we currently have prohibits Diland or whoever owns the pier from inquiring into or securing any leases. As far as the development rights putting a pier adjoining that pier that is not even a part of this conversation, this is about an iconic, historical structure in our City, the pier. He would like to see a renegotiation he is not comfortable with the \$1.8 million on the other hand he agrees with Commissioner McKay-Vaughan that they have not had enough dialogue on this, they need a little time to restructure take another look at this see what is palatable and then move on. This has been a good opportunity for dialogue and is why he did not take the issue off of the agenda as was asked by a number of people. He commented that none of them were there when this lease was structured but to let it go on and on and he could care less about litigating with anybody that happens every day of our lives and hasn't proven fatal to too many people. He proposed that they table the item and go back to Diland with all of the concerns brought forth by the Commission and go back to the table that is where he stands. But he believes the City should own it, he believes the City should control it for ever more. He stated Reverend Durham was right on, we don't ever want to turn that ... to sit here and say if they do bring it up and they get by with minimal standards do we want somebody to control that pier for 70 years. He does not want that. If he voted tonight he would vote yes to renegotiate it and purchase the pier because he would like the City to own it. He asked the Commission to continue this until they can have more dialogue, more

public input and another opportunity to sit at the table for discussion.

Commissioner McKay-Vaughan stated she would make that motion.

Commissioner Woods asked if they had to pick a date.

Mayor Ritchey stated he thought it should come back within 30 days.

There was discussion about the interpretation of the notice.

Commissioner Gilliland stated he disagreed with the interpretation and that was not going to be easy to settle tonight and should not be dealt with at this time.

There was additional discussion regarding the date to bring this back.

Commissioner Shiver stated he is leaving September 17.

Commissioner Woods stated she has heard that the \$1.8 was solid and firm in their decision and they were not willing to come down on that, somebody needs to find that out like now because is that is what they are saying then we need to vote on that. Not tonight but that needs to be the very first question, are they willing to negotiate and if they are not end of story, bring it right back to the next meeting.

Commissioner Gilliland stated that they not go date certain, leave it with Mr. Chisholm to have some conversation with ... Mike (Crotty) can talk to his clients and then talk to Jim and if they have something to talk we can put it on the first meeting in September, if not then ...

Mayor Ritchey stated okay we have a motion to continue this to allow the City Manager to enter into additional/different negotiations and bring it back to this body in September.

It was moved by Commissioner McKay-Vaughan to continue the item until September. Seconded by Commissioner Henry. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Gilliland	Yea
Commissioner Henry	Yea
Commissioner Reynolds	Yea
Commissioner Shiver	Yea
Commissioner Woods	Yea
Commissioner McKay-Vaughan	Yea
Mayor Ritchey	Yea

Mayor Ritchey stated stay tuned any additional meetings will be noticed. He stated to Mr. Libby that he would love to know potentially what grants are available and how much.

8. COMMENTS AND INQUIRIES FROM THE COMMUNITY REDEVELOPMENT AGENCY BOARD AND CITY MANAGER

No discussion.

9. ADJOURNMENT

There being no further discussion or comments the meeting was adjourned at 6:30 p.m.

GLENN S. RITCHEY
Chair

ATTEST:

JENNIFER L. THOMAS
City Clerk

Adopted: September 9, 2009

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Community Redevelopment Agency Board makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a tape of the meeting for \$2.00 at the City Clerk's office. Copies of tapes are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.