



# City of Jacksonville Beach

11 North Third Street  
Jacksonville Beach, Florida

## VIRTUAL

### Workshop Meeting Agenda **Amended\***

#### Community Redevelopment Agency

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Thursday, August 12 2021

3:30 PM

Council Chambers

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#### **MEMORANDUM TO:**

Members of the City of Jacksonville Beach Community Redevelopment Agency

The following Agenda of Business has been prepared for consideration and action at a Workshop Meeting of the Community Redevelopment Agency:

#### **CALL TO ORDER**

#### **ROLL CALL**

Art Graham (Chairperson), Frances Povloski (Vice-Chairperson), Jeffrey Jones, Gary Paetau, David McGraw

#### **DOWNTOWN CAPE UPDATE**

#### **OLD BUSINESS**

#### **NEW BUSINESS**

#### **ITEMS FOR DISCUSSION**

- a. **Council Workshop Briefing**
- b. **Horn Ct. Property**
- c. **Plans for Districts (Downtown and Southend)**

#### **ADJOURNMENT**

#### **NOTICE**

*In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299 no later than one business day before the meeting or by sending an e-mail to [CityClerk@jaxbchfl.net](mailto:CityClerk@jaxbchfl.net). Information concerning the hearing process is available online at [www.jacksonvillebeach.org/publichearinginfo](http://www.jacksonvillebeach.org/publichearinginfo) and a copy is also posted in the City Hall first floor display case. In accordance with Section 286.0114, Florida Statutes, any member of the public can attend the public hearing and can be heard on any matter presented before the Agency. Anyone who wishes to provide live public comment should complete a "Speaker Request Card" and submit it to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience. Speakers will be called to address the Agency when specified items are under consideration and will be limited to a maximum of three minutes or less, at the discretion of the presiding officer.*

*Alternatively, written public comment can be submitted in advance and must include the following: (1) First Name, (2) Last Name, (3) Address, (4) Public Hearing Date, (5) Specific Agenda Item(s), and (6) Comments. Written public comments may be submitted by one of the following options: (1) Email to the Agency Administrator at [planning@jaxbchfl.net](mailto:planning@jaxbchfl.net), (2) Postal mail to Community Redevelopment Agency Administrator - Public Comment, 11 3rd Street North, Jacksonville Beach, FL 32250, or (3) Drop off in-person to Planning and Development at City Hall. Written comments that include all required information and are received 24 hours in advance of the meeting will be distributed to the Agency and attached to the related agenda item before the start of the meeting. Written public comments will be read into the record at the appropriate time and will be limited to three (3) minutes of reading time. All comments received are public record.*

***In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.***

cc: Mike Staffopoulos, City Manager

## **INSTRUCTIONS FOR VIEWING** \*

The following communications media technology (CMT) options are available to view and listen to the August 12, 2021, CRA Workshop:

**1. View and listen to a video of the meeting online:**

Access the meeting by visiting the City of Jacksonville Beach YouTube Channel: [YouTube Channel for the City of Jacksonville Beach](#).

**2. Hearing or speech impaired access:**

Contact the agency using the Florida Relay Service, 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice).

*In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, no later than one business day before the meeting or by sending an email to [CityClerk@jaxbchfl.net](mailto:CityClerk@jaxbchfl.net).*

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The Council Workshop began at 6:00 P.M.

The following City Council Members were in attendance:

**Mayor:** Christine Hoffman

**Council Members:** Georgette Dumont      Sandy Golding      Dan Janson  
Fernando Meza      Cory Nichols      Chet Stokes

Also present were City Manager Mike Staffopoulos and Agency Consultant Jim Gilmore.

**Purpose of Workshop**

The purpose of the workshop was to discuss the Community Redevelopment Agency (CRA) objectives.

**Objectives**

Mayor Hoffman reviewed the Strategic Plan [on file] with the Council as it tied in with Priority 3: Local Economic Development:

- Goal 1 – Develop a downtown that attracts residents, visitors and commerce.
  - Objective 1 – Develop strategies to stimulate the downtown business district to include mixed use, commercial, retail and living spaces.
  - Objective 2 – Implement the Downtown Vision Plan.

Mayor Hoffman stated clear initiatives and empowerment should be given to the CRA members.

Agency Consultant, Jim Gilmore, stated the CRA's roles and job responsibilities were discussed at the July 26, 2021, CRA meeting. Mr. Gilmore reviewed the process of the CRA implementing the Redevelopment Plan and the flow of the entire project process. Mr. Gilmore stated the CRA developed new working relationships with all the departments within the City over the past year.

Conversation ensued regarding the different versions of the Downtown Redevelopment Plan. The plans and documents [on file] were reviewed and discussed by the Council, and some documents were streamlined.

Mayor Hoffman led a conversation regarding how to prioritize the following Redevelopment Objectives:

- General Objectives
- Economic Objectives
- Land Use Objectives
- Circulation and Parking Objectives
- Utility Objectives
- Urban Design Objectives

The Council agreed the Economic Development Objectives and Land Use Objectives should be top priorities of both the CRA and Council.

### Economic Objectives

The following Economic Objectives were discussed:

- Increase the tax base in the Community Redevelopment Area to assist in financing public actions to support redevelopment.
- Encourage the re-creation of a compact mixed-use code area oriented to recreation, entertainment, specialty retail, tourism, and housing.

A discussion continued about creating and promoting an Incentive Tool Box and ways to attract Private, Public Partnerships for development in the downtown area.

### Land Use Objectives

The following Land Use Objectives were discussed:

- Encourage the development of a mix of activities in the core area, including residential, retail, hotel, and office.
- Stabilize and enhance the predominantly residential portions of the redevelopment area through infill development and rehabilitation activity.
- Expand and enhance usable open space in the community redevelopment area to support and encourage greater pedestrian activity.
- Control the amount of land zoned for commercial use to stabilize predominately residential areas and concentrate commercial activity in the core area.

The Council talked about not adding more hotels in the downtown area, promoting mixed-use opportunities, and enhancing the Latham Plaza area.

### Additional Topics

Mayor Hoffman asked the Council for their opinions concerning expanding the footprint of the Downtown CRA area across 3<sup>rd</sup> Street to include more historical buildings. Conversation ensued regarding the requirements to expand and to what specific areas. The Council's consensus was to add this topic to a future Council Briefing to discuss the details further.

The workshop adjourned at 7:27 P.M.

Submitted by: Jodilynn Byrd  
Administrative Assistant

Approval:

\_\_\_\_\_  
Christine H. Hoffman, MAYOR

Date: \_\_\_\_\_

## **July 29<sup>th</sup> City Council Workshop Staff Notes:**

### **Council Objectives for CRA:**

1. Economic Development
  - a. What incentives are best to use to attract business and expand business in the downtown? (Fine tune the incentive toolbox into a working document/plan)
  - b. Work with purchasing to amend the purchasing policy documents to allow for easier public private partnerships to occur (staff will check with CFO on process/timeline for amending document)
2. Land Use Objectives
  - a. Focus on parking areas and potential underutilized areas to redevelop. (open space redevelopment)
  - b. More 'community' space rather than large amounts of green space
  - c. CRA revisit Latham Plaza redesign

### **Council Workshop Notes:**

- Council and CRA are to utilize staff to communicate between the two boards.
- Council wants to meet quarterly (just council, not joint meeting) to discuss CRA and objectives
- CRA to give council their list of Southend objectives by September/October
- Consolidated downtown plan does not need to be adopted by council or CRA
- Staff create document explaining the 'duties' of Council, CRA, and staff
- Council feels there needs to be an established timeline for projects, and specific priorities set
- HOW will council set priorities, and objectives, that the CRA and staff can achieve?
- Desire to have community input on major CRA projects moving forward (example: Latham Plaza)

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MICHAEL J. ROPER  
MICHAEL H. BOWLING  
JOSEPH D. TESSITORE  
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**MEMORANDUM**

**TO:** City Manager  
**FROM:** Sherry G. Sutphen, Esquire *sgsutphen*  
**DATE:** March \_\_\_\_, 2021  
**RE:** Surplus Properties - Jacksonville Beach/Jacksonville Beach CRA

It is the intent of this Memorandum to provide recommendations related to the future handling of certain real property which is owned and/or maintained by the City of Jacksonville Beach and/or the Jacksonville Beach CRA. It is assumed that the properties detailed herein are no longer needed for City/CRA purposes and either have been or will be officially deemed surplus.

**BACKGROUND**

***Sunshine Court Lots***

| RE#                | Description                                             | Size      | Market Value                      |
|--------------------|---------------------------------------------------------|-----------|-----------------------------------|
| <u>181417 0005</u> | South Beach Replat – Sunshine Court, Jacksonville Beach | 0.15 acre | \$200,000.00 (Property Appraiser) |
| <u>181417 0020</u> | South Beach Replat – Sunshine Court, Jacksonville Beach | 0.15 acre | \$200,000.00 (Property Appraiser) |
| <u>181417 0015</u> | South Beach Replat – Sunshine Court, Jacksonville Beach | 0.15 acre | \$200,000.00 (Property Appraiser) |
| <u>181417 0025</u> | South Beach Replat – Sunshine Court, Jacksonville Beach | 0.14 acre | \$200,000.00 (Property Appraiser) |
| <u>181417 0010</u> | South Beach Replat – Sunshine Court, Jacksonville Beach | 0.15 acre | \$200,000.00 (Property Appraiser) |

In August of 1999, the City of Jacksonville Beach (Resolution No.: 1593-99) and the Jacksonville Beach CRA (Resolution 99-5) determined that it was consistent with the objectives of the CRA and in the best interest of the public to acquire, by eminent domain, certain real property located within the jurisdictional boundaries of the CRA, for the purpose of developing a recreational park. CRA monies were utilized to fund the real property acquisition and in 2001, park development began. Over the years, the park has continued to be developed with various recreational features; however, certain of the real property that was originally acquired has remained undeveloped, with no plan to expand the park to include such undeveloped property.

In 2006, it was determined that the undeveloped portion of the property should be re-platted for residential use, serviced by a cul-de-sac roadway, now known as Sunshine Court. The determination to replat considered the development in the area, the zoning requirements for the property and the safety concerns with having multiple driveways entering directly onto South Beach Parkway. The ultimate re-plat resulted in five (5) residential lots, particularly described above and referred to collectively hereinafter as the "Sunshine Court Property". While the Sunshine Court Property was technically owned by the CRA, because CRA funds were utilized to acquire the Property, the ownership designation for the lots of record was assigned to the City of Jacksonville Beach at the time of replat. It is important to note that since the original acquisition in 1999, the City has expended funds to physically care for the Sunshine Court Property and manage other administrative necessities for such properties, including the processing of the replat in 2006. It is my understanding that the Sunshine Court Property is not currently used or planned to be used for a City or CRA purpose. Upon any sale of the same, the Sunshine Court Property would be placed back on the tax roll, with future development proving to be a benefit to both the City and the CRA. Despite the fact that the City is the record owner of the Sunshine Court Property, in the event of sale, consideration should be given to reimbursing the CRA for its initial investments.

### ***Horn Property***

| RE#                               | Description                      | Size              | Market Value                  |
|-----------------------------------|----------------------------------|-------------------|-------------------------------|
| <a href="#"><u>1809320000</u></a> | 0 Horn Court, Jacksonville Beach | 6,000 Square Feet | \$239,000.00 (2020 Appraisal) |

In May 1994, the Jacksonville Beach CRA voted to purchase the above-described lot, referred to hereafter as the "Horn Property", following several adverse occurrences involving the property, which spanned from 1988 to the ultimate purchase in 1994. CRA records indicate that the Horn Property was purchased to avoid potential legal action from the property owner based on purported actions taken by the City related to redevelopment in the area. The Horn Property was purchased by the CRA for \$40,334.00, it is zoned residential and is located on what is now a cul-de-sac street due to area changes funded by the City. The Horn Property is not currently used, nor is there a future planned use, by either the CRA or City. Upon any sale of the same, the Horn Property would be placed back on the tax roll, with future development proving to be a benefit to both the City and the CRA.

### **STATUTORY AND CITY CODE CONSIDERATIONS**

*Florida Statutes, Section 73.013.* If property is acquired by eminent domain, the sale of such property is limited by certain statutory constraints. Here, it is important to note that Florida Statutes, Section 73.013, would not apply to the sale of the Sunshine Court Property despite its acquisition by Eminent Domain. First and foremost, the Sunshine Court Property was acquired prior to the effective date of the statutory restrictions. In addition, if the statutory limitations were applicable, any sale of the Sunshine Court Property would be without limitation because more than ten (10) years have elapsed since the property was acquired using the power of eminent domain.

*Florida Statutes, Section 163.380.* The CRA may sell, lease, dispose of or otherwise transfer real property which it owns, as deemed necessary or desirable, in order to otherwise carry out the objectives of the community redevelopment plan. In determining the value of real property,

as being in the public interest, the CRA may take into account and give consideration to long-term benefits, short term losses and costs associated with the disposal of the property.

*Florida Statutes, Section 163.01.* It is the purpose of the Florida Interlocal Cooperation Act to permit local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage, to provide services and facilities in a manner that will best accord with the needs of the community. The Act applies to public agencies including both municipalities and special districts.

*City of Jacksonville Beach Code of Ordinances, Chapter 2, Administration, Article 1, In General, Section 2-1.1 Purchase procedures; contracts, etc.(e) Title to property.* Whenever the City determines that it possesses real property that is no longer needed for a public purpose, the City may sell the same by a competitive award process or by public auction.

### ANALYSIS

The City's code provides authority for the City to sell real property which has been deemed surplus and no longer needed for a public purpose. Similarly, the above cited statutory authority provides that the CRA may sell, lease or otherwise dispose of real property which it owns. The City's code provides the various options for effectuating such a sale and since the CRA does not have established procedures for the sale of property, a reasonable approach would be to utilize the City's process, especially since it is contemplated that City funds/forces would be utilized to effectuate the sale of the Horn Property. Additionally, because all of the subject properties are located in the CRA boundaries, it is recommended that the City's competitive award process be used. This would enable to City/CRA to clearly state the expectations for development of the properties, including the contemplated reversion of a property (back to the City or CRA) in the event it was not developed within the time period established.

There are several noteworthy conditions related to the sale of both the Sunshine Court Property and the Horn Property which need to be memorialized in an Agreement between the City and the CRA. First, CRA funds were utilized to acquire the Sunshine Court Property; however, due to City funds/forces being used for maintaining and improving the development potential of the Sunshine Court Property, ownership of the same was transferred to the City during the replat process in 2006. Despite the fact that the City is the current owner, the initial investment made by the CRA should be reimbursed following any sale of the same. With respect to the Horn Property, the same is wholly owned by the CRA; however, City funds/forces have been used to maintain the property and increase development potential, as set forth above, and it is contemplated that City funds/forces would be used in any sale process as well.

The purpose of the Interlocal Cooperation Act is to enable government entities to make the most efficient use of their resources in cooperation with one another. While there has not been an actual agreement in place, the City has maintained both the Sunshine Court Property and the Horn Property, it has managed the development potential of each and will, by its forces, effectuate the sale of the properties through the competitive solicitation process. In addition, the CRA has made monetary contributions which were not recognized in the 2006 transfer of the Sunshine Court Properties. This unique situation fits squarely within the purpose behind the Florida Interlocal

Cooperation Act and use of such an agreement in this instance would ensure that both the City and the CRA are made whole after the sale of the Sunshine Court Property and the Horn Property.

**RECOMMENDATION  
(INTERLOCAL AGREEMENT)**

An Interlocal Agreement should be drafted for approval and execution by the City and the CRA which includes the following general considerations:

- Compensation to the City for the past and continued physical maintenance of the Horn Property
- Compensation to the City for the past and continued management of and legal services for the administrative necessities associated with ensuring development capabilities on the Horn Property
- City shall provide administrative and legal services related to any future sale of the Horn Property and should be compensated for providing such services
- Compensation to the City for performing any and all unanticipated services necessary to effectuate the future sale of the Horn Property
- Compensation to the CRA for its initial investment related to the Sunshine Court Property

If you have any questions related to the information contained herein, please do not hesitate to contact me.



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|                    |                                                   |
|--------------------|---------------------------------------------------|
| CRA AGENDA ITEM C. |                                                   |
| TO:                | Jacksonville Beach Community Redevelopment Agency |
| FROM:              | Taylor Mobbs, CRA Coordinator                     |
| DATE:              | August 13, 2021                                   |
| SUBJECT:           | Plans for Downtown District                       |
|                    |                                                   |

### BACKGROUND

After receiving direction from City Council on downtown district objectives, staff carefully reviewed the project lists from the CRA and created a master list outlining which projects fall under economic development, land use, and miscellaneous projects.

Please consider the following information and staff recommendation relative to the following action item to be discussed at the upcoming August 12, 2021 workshop: Discussion Item; C.

### Economic Development Objectives:

- Expand access to retail corridor: There are many businesses in the southern end of downtown, that are not easily accessible from the downtown. Look into utilizing wayfinding signage and multi-use paths to incorporate these businesses into the 'downtown'.
- Incentives: CRA to create a plan to implement incentives that 1. Encourage new development in the downtown and 2. Encourage property owners to meet the vision for the standards in the downtown.
- Outdoor Dining: CRA wants to work with staff and council to make downtown more outdoor dining 'friendly' to encourage expansion of current restaurants, and development of new restaurants.
- Possibility of a Parking Garage in the Downtown.
- Possible Expansion of CRA boundaries (topic discussed at Council workshop).

### Land Use Objectives:

- Explore land development opportunities: explore opportunities for the CRA to have control over spaces that can be leverage to attract businesses, expand parking, etc.



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- Green Spaces: focus efforts on green spaces, vibrant sidewalks, and overall aesthetics in the downtown to make them visually pleasing, as well as usable spaces for residents and visitors.

#### Miscellaneous:

- Bicycle Planning: extend the bicycle lane down to 8<sup>th</sup> Ave. N. to extend the length of the downtown.
- Implement strategies for sustainability in the downtown.
- Improve maintenance on CRA and City owned properties in the downtown ("lead by example").

#### CRA DIRECTION REQUESTED

After careful review of the recommendations, approve staff to begin the process of strategic planning to implement the economic development and land use objectives at the **August 23, 2021** CRA meeting.

Create a plan, and prioritize projects currently permitted in the existing plan and falling within the objectives set by City Council.

#### ATTACHMENTS

- Downtown Project Timeline List

### CRA Downtown Projects:

|                                                     | Short Term<br>(0-2 years) | Mid-Range<br>(2-5 years) | Long Term<br>(5+ years) | Ongoing |
|-----------------------------------------------------|---------------------------|--------------------------|-------------------------|---------|
| Bicycle lane extension to 8 <sup>th</sup> Ave. N    | X                         |                          |                         |         |
| Land Development Opportunities                      |                           |                          |                         | X       |
| Expand Access to Retail Corridor in Southern end    |                           | X                        |                         |         |
| Green spaces, vibrant sidewalks, overall aesthetics |                           | X                        |                         |         |
| Incentives                                          | X                         |                          |                         |         |
| Outdoor Dining Friendly                             | X                         | X                        |                         |         |
| Improvement of "Maintenance"                        | X                         |                          |                         |         |
| Sustainability                                      |                           | X                        | X                       | X       |
| Parking Garage                                      |                           |                          | X                       |         |

Date .



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|                    |                                                   |
|--------------------|---------------------------------------------------|
| CRA AGENDA ITEM C. |                                                   |
| TO:                | Jacksonville Beach Community Redevelopment Agency |
| FROM:              | Taylor Mobbs, CRA Coordinator                     |
| DATE:              | August 13, 2021                                   |
| SUBJECT:           | Plans for Southend District                       |
|                    |                                                   |

### BACKGROUND

After receiving legal opinion regarding several of the projects for the Southend district, staff has created the following list of projects that are not recommended, allowed with plan amendment, and allowed under the present Southend Plan.

Please consider the following information and staff recommendation relative to the following action item to be discussed at the upcoming August 12, 2021 workshop: Discussion Item; C.

### Projects Not Recommended:

- Business Incentive Program: Commercial property in the South beach Redevelopment area is developed and the market does not indicate and incentive action is necessary.
- Community Center Maintenance/Improvements: Legal opinion stated that this was not a permitted use of CRA funds, as the building is utilized by the City.
- Land Repurchase (City owned lots N. of Jax Drive): If the CRA wishes to do a passive park, a land purchase is not permissible. The CRA can either 1. Have the city build the park without any transfer of ownership or 2. Transfer ownership of the lots without meaningful payment to the City.

### Currently in Public Works CIP:

- Road way projects: South Beach Pkwy road improvements – Ocean Terrace drainage improvements, bid opening 8/11 for construction, with plans to begin in fall 2021. PW to bring the funding request to CRA August 23, 2021.
- Storm water improvements
- Sewer main lining



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Need a Plan Amendment:

- Passive Parks: An eligible CRA expense, but needs to be outlined in a plan amendment as nothing in the current plan address the need for a new park.

\*\*\* MULTI-USE TRAILS: because this is a City-wide project, this does not need a specific plan amendment. However, staff recommends that when we amend this plan, we add language to allow for future changes/expansion etc. to the trail system. \*\*\*

Currently Eligible:

- Wayfinding Signage: enhance corridors and areas coming into south Jacksonville Beach.
- Landscape/Beautification improvements in FDOT ROW: Staff met with FDOT and CRA can utilize funds for landscaping, art, and other improvements. FDOT will continue to work with staff on timelines and processes once CRA has a plan for improvements.
- Yellow 'traffic' delineators: PW and FDOT looking at this. This is a permitted use of funds.

CRA DIRECTION REQUESTED

After careful review of the recommendations, approve staff to begin the process of a plan amendment at the **August 23, 2021** CRA meeting.

Create a plan, and prioritize projects currently permitted in the existing plan.

ATTACHMENTS

- Southend Project list 2021

## South Beach CRA

- Business Incentives Program  
Want to expand the program that assists in attracting new businesses to the South Beach district.
- Stormwater Master Plan Action Items  
What future projects will arise from the update to the stormwater master plan? Wait for an update on this, then circle back to discuss potential projects
- What can CRA move from City budget to CRA Budget
  - Legal opinion  
If in the CIP for the City, there is a 3 year waiting period before items can be moved to the CRA plan. WHAT out of the CIP can the CRA legally plan to move in the future? (Ex: Lift station, road paving)
- Roadway Projects  
Some roadways in the South Beach district need repaving/milling. PW already set to do this work, but in City CIP. Need Legal guidance on potential next steps
- Sewermain lining
- Park Security (lighting, cameras ...)  
Want to expand on the idea of adding the appropriate infrastructure now, to later support new lights and cameras in the park. Coordinate with IT for CAPE to see what type of camera systems will coordinate with the police IT system
- Community center maintenance  
Maintenance/improvements to the building adjacent to the park, that also houses the parks and recreation department
- Sidewalk on west side of FD  
Expand the sidewalk footprint to give safer access to the park
- Multiuse trails reevaluation  
Look at what is in the CRA plan, and what parks and rec is doing presently, and consolidate ideas to expand multiuse paths
- Lift station landscaping/streetscape  
CRA can fill out a revocable right of way on city owned property in order to beautify the landscaping around lift stations, ROW, etc. Can also encourage businesses to do the same
- Beautification  
create an incentive to encourage business owners to beautify the easements/ROW/common areas. Also want to work with parks and rec to improve medians and common spaces, to be more aesthetically pleasing
- Passive pocket park on Jax Drive (CRA owned)  
Create some type of feature that could potentially support the passive park, and the areas surrounding.
- Use of lots north of Jax Drive (City owned)  
create a plan to take to council to utilize the lots for a quiet, serene park. Since the lots are owned by the City, CRA will either purchase lots to do the park, or request the City act on the park

- Get rid of ugly yellow things  
Dividers in between the flow of traffic, want to replace with something more aesthetically pleasing
- Landscaping in FDOT ROW  
Work with staff and CRA to get in touch with FDOT to offer the idea of allowing CRA to improve some of their ROW at the CRA expense, and CRA to maintain
- Wayfaring signs (welcome, ID, branding)  
CRA to discuss ideas of enhancing the corridors and areas coming into the south beach district
- ROW north of South Beach Plaza.  
work with FDOT to gain access and ability to make ROW more aesthetically pleasing and welcoming



## Memo

**To:** Jim Gilmore, Ashlie Gossett  
**From:** Jacob Schumer, Esq.; Clifford B. Shepard, Esq.  
**Date:** May 3, 2021  
**Re:** Jacksonville Beach South Beach Redevelopment District

Please see below for our answers to the six questions provided to our office related to CRA expenditures.

### Question 1: Paradise Key Infrastructure Maintenance

*In 2005, the CRA provided \$1M to the Paradise Key developer to resolve a drainage ditch issue. When the Paradise Key development was completed in 2006, its infrastructure was contributed to the City for ownership and maintenance. While the CRA paid \$1M for the relocation and reconstruction of the ditch section, it is the City of Jacksonville Beach that entered into an agreement with developer and subsequent HOA of Paradise whereby Paradise Key appears to have assumed responsibility for the aesthetic maintenance obligations in Exhibit E, Part 2, Section 2 of the Paradise Key Acquisition and Development Agreement. And it is presumed that the City shall provide non-routine structural and operational maintenance of the system. In 2017, the Southend CRA Plan was amended to allow for maintenance of capital improvements and facilities which were funded for construction through the use of TIF dollars. Is it appropriate for the CRA to subsidize those non-routine structural and operational services as part the 2017 maintenance Plan Amendment given these conditions?*

Yes, such TIF expenditures for storm drainage maintenance should be legally appropriate. Sections 163.370(2)(c) and (d), *Florida Statutes*, authorize CRAs to install, construct, reconstruct, furnish or repair

public works such as stormwater utilities. While this authorization does not explicitly use the word “maintenance,” the act of maintaining infrastructure is a clear part of furnishing, repairing, and reconstructing such infrastructure. There is a long history of CRA funds being used for maintenance of public infrastructure. However, such expenditures must not have been in “a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan unless and until such projects or improvements have been removed from such schedule or plan of the governing body and 3 years have elapsed since such removal or such projects or improvements were identified in such schedule or plan to be funded, in whole or in part, with funds on deposit within the community redevelopment trust fund.” Fla. Stat. § 163.370(3)(b).

That the initial contract was with the City does not affect the issue. While CRAs are technically a separate agency from the City, CRAs are using powers provided to the City for the same public as the City. The Redevelopment Act contemplates that properties acquired for redevelopment purposes can be held by either the City or the CRA. See F.S. § 163.380(1). There is no need for land or improvements to be owned by the CRA before the CRA may use redevelopment funds on the land or improvements, so long as the use of the funds serves a valid redevelopment purpose under the Redevelopment Act and is part of the adopted redevelopment plan.

#### Question 2: Rip Tide Infrastructure Maintenance

*TIF dollars facilitated the assembly of land for the Rip-Tide subdivision development. The developer constructed all infrastructure at their own expense, and in theory was reimbursed for that expense through the sales of all single family homes within the subdivision. When the developer completed the project, the public infrastructure (roadway, drainage, etc.) was contributed to the City for ownership and maintenance. Given that there was no direct payment to the developer for public infrastructure, does this preclude the CRA from using SB TIF funds for maintenance activities?*

As discussed above, Florida Law generally allows CRAs to spend TIF revenues on upkeep of utilities and public infrastructure. However, because F.S. § 163.387(6) provides that a CRA may only spend moneys from the trust fund for undertakings described in its Redevelopment Plan, there needs to be some justification within the Plan itself for the CRA to spend TIF funds for such maintenance. Additionally, such expenditures are subject to the restrictions of Fla. Stat. § 163.370(3)(b) as outlined above.

The 2017 Maintenance Plan Amendment only authorizes use of TIF revenues for maintenance of “improvements and facilities located within the South Beach Community Redevelopment Area which were funded through the use of Tax Increment Trust Funds.” I would read that sentence as only authorizing maintenance expenditures when the improvements or facilities *themselves* were funded by

TIF funds. As such, the CRA is not *precluded* from spending TIF revenues on maintaining such infrastructure, but the CRA must either amend its plan to address such expenditures or locate another plan provision which provides authorization.

### Question 3: Revisiting Plan Projects

*The CRA has indicated a preference for replacing any and all infrastructure within the TIF District before it sunsets in 2047. This would include projects already performed by the CRA and assets that have not already reached their end of life. For example, if a Plan project undertaken in 2015 included the installation of water/sewer pipes, and those pipes have a useful life of 40 years, could the CRA replace the pipes with like in 2045, 10 years ahead of schedule? Simply stated, can the CRA perform a Plan project twice? Is it typical for CRAs to replace infrastructure before the end of its useful life?*

*If infrastructure installed as part of a Plan project requires an upgrade due to unforeseen capacity issues, can the CRA pay for those improvements under the maintenance plan, or would a plan amendment be required?*

Nothing in the Redevelopment Act requires a CRA to wait until the last moment of an installation's expected "useful life" to finance its replacement through increment revenues so long as the replacement serves a valid redevelopment purpose. Additionally, there is nothing that prevents a CRA from doing the same thing twice. If the CRA replaces a light bulb, it is not prohibited from replacing a light bulb a second time.

Whether the CRA may make such replacements—either due to unforeseen capacity issues or any other issue—will depend on the language of the Plan regarding that improvement. For example, the 2017 Maintenance Amendment may authorize replacing of individual portions within a larger stormwater system as regular maintenance. However, we would recommend against relying on the Amendment for a complete overhaul or upgrade of an existing system. Similarly, the parts of the Original Plan which authorize the installation of a specific improvement do not authorize a complete overhaul and replacement of that improvement.

### Question 4: Land Repurchase

*In 1988, the CRA purchased several parcels of land on South Beach Parkway leading up to Jacksonville Drive. At the time of purchase, the parcels were deeded to the City. This land remains undeveloped. The CRA now desires to build a park on the land previously purchased and deeded to the City. Is it appropriate for the CRA to purchase the same property twice, effectively moving funds to the General fund?*

*Additionally, the CRA assembled the land for the South Beach Park complex in 2000 through condemnation proceedings. At the time of purchase the land was deeded to the City. The CRA has inquired if it would be possible to purchase this land back from the City. Is it appropriate for the CRA to purchase the same property twice, effectively moving funds to the General Fund?*

We would recommend either (1) building the park and any other planned improvements without transferring ownership to the CRA, or (2) transferring ownership to the CRA without meaningful payment to the City.

As discussed above, while the City and CRA are separate entities, CRAs are using powers provided to the City for the same public as the City. There is no need for land or improvements to be owned by the CRA before the CRA may use redevelopment funds for installing improvements on the land. Thus, the City and CRA are free to use TIF funds to build a park or other public infrastructure on City-owned land if that project is contemplated by the Plan and if same is not prohibited by the limitations of Fla. Stat. § 163.370(3)(b). As such, if land were transferred back to the CRA for anything more than a nominal sum, there could be questions as to the purpose of the public expenditure.

This is especially the case given the statutory restrictions on disposing of public property within a Redevelopment Area. As discussed in *Riverside Heights Dev., LLC v. City of Tampa*, 46 Fla. L. Weekly D 35 (Fla. 2d DCA 2020), F.S. § 163.380 requires a notice and proposal process before the City may dispose of any publicly owned property within a Redevelopment Area. While selling to one's own CRA should not be considered "disposing" of a property, if the CRA decided for some reason to pay market rate for the property, that could trigger questions about whether the City was disposing of the property and should have gone through the proposal process.

Note that for the properties acquired through condemnation, the CRA's ability to convey those properties to private entities will be limited by F.S. § 73.013.

#### **Question 5: Urban Trails Project**

*The City added an Urban Trails project to its 2021-2025 5-year CIP plan following feedback from the Community Conversations. This project is in the early stages of development and there is a thought to expand the trails to areas within the Redevelopment District. State Statutes say that projects must be out of the City's plan for 3 years before they may be added to a CRA plan. Does this apply to a project expansion? If Parks identifies urban trail areas in either TIF district, can these projects be added to the FY2022-2026 5-year CIP plan without waiting 3 years?*

Yes, the CRA can pay for an urban trails expansion not previously contemplated by the City's 5-year CIP plan without waiting three years.

The Statute discussing the three-year requirement, F.S. § 163.370(3)(b), reads as follows:

(3) The following projects may not be paid for or financed by increment revenues:

(a) . . .

(b) Installation, construction, reconstruction, repair, or alteration of any publicly owned capital improvements or projects if such projects or improvements were scheduled to be installed, constructed, reconstructed, repaired, or altered within 3 years of the approval of the community redevelopment plan by the governing body pursuant to a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan unless and until such projects or improvements have been removed from such schedule or plan of the governing body and 3 years have elapsed since such removal or such projects or improvements were identified in such schedule or plan to be funded, in whole or in part, with funds on deposit within the community redevelopment trust fund.

Regardless of any issues with the timing of the plans, this prohibition only applies to improvements which the City had already been scheduled to install. If the CRA wants to use TIF revenues to install an *expanded* urban trail system, with trails not contemplated by any capital improvement plan approved by the City, this section has no effect and does not limit the CRA's ability to use TIF revenues to add more trails to the project.

#### Question 6: Water Plant #2 Project

*In 2011, the Southend CRA Plan was amended to include improvements to Water Plant #2 including safety improvements for chlorine storage. The Plan Amendment states that emergency chlorine dry gas scrubbers should be installed. A feasibility analysis was conducted in 2020 and it makes more sense to replace the chlorine system.*

- *In order to pursue the more modern technique, is a Plan amendment required? Or may this be considered as part of the original scope or intention of the Plan?*

Because F.S. § 163.387(6) provides that a CRA may only spend moneys from the trust fund for undertakings described in its Redevelopment Plan, we would recommend amending the Plan to authorize replacing the chlorine system.

The language of the 2011 Plan Amendment, as incorporated by Resolution 1876-2011, is very specific in its authorization. The Amendment recommends a handful of specific improvements to the existing chlorine facilities, then goes on to state an overall cost estimate for the improvements to the plant. Notably, the Amendment does *not* discuss the possibility that other upgrades to the system may be required or recommended. As such, it is difficult to read the Amendment as authorizing overall replacement of the chlorine storage system.

- *This project was contemplated in the 2011 Plan amendment and should have been broken out and placed in the CRA CIP plan, but staff changes in both the Redevelopment and Public Works Departments did not separate it when the document was produced. Because the projected appeared in the City's CIP plan in 2021, are we subject to the 3 year wait period, or may it be considered a scrivener's error?*

Because the CIP specifically states that funding for the chlorine system replacement will come from the City's Water and Sewer Fund, we would recommend waiting the three-year period before spending TIF revenues on the replacement. However, the CRA need not wait three years to add the improvements to the Redevelopment Plan if the City removes the project from its CIP.

As discussed in Question 5 above, the prohibition on spending TIF revenues on previously planned capital improvements applies when the improvement is scheduled within the next three years on a plan of the governing body that created the CRA. And as you are aware, that would appear to be the case for the chlorine storage replacement—due to a scrivener's error.

Unfortunately, the City is likely bound by this error. The Capital Improvement Plan specifically states the project will be paid from the Water & Sewer fund, while other parts of the CIP specifically call out projects which will be paid for through TIF revenues. While this may have been a scrivener's error, a City's intent is generally measured by what the council votes to approve. As such, it will be assumed that the City intended all portions of the CIP which are not clearly an error on their face. Because nothing about the chlorine system entry is clearly error, a Court is likely to hold the City to the CIP as approved.

However, the prohibition on spending TIF revenues is just that—a prohibition on spending TIF revenues. The CRA can immediately amend its plan to contemplate this replacement (or any other replacement deemed necessary) but cannot spend trust moneys on the replacement until the project has been removed from the City's CIP for a period of three years.