

MINUTES

BUSINESS MEETING - COMMUNITY REDEVELOPMENT AGENCY BOARD (CRA)

May 05, 2021

Minutes of the Business Meeting of the Community Redevelopment Agency Board of The City of Daytona Beach, Florida, held on Wednesday, May 05, 2021 at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

1. Roll Call.

Commissioner Dannette Henry	Present
Commissioner Paula Reed	Present
Commissioner Ruth Trager	Present
Commissioner Aaron Delgado	Present
Commissioner Quanita May	Present
Commissioner Stacy Cantu	Present
Mayor Derrick Henry	Present

Also Present:

James Chisholm, City Manager
Robert Jagger, City Attorney
Letitia LaMagna, City Clerk

2. The Invocation was led by Commissioner Trager.

3. The Pledge of Allegiance was led by Commissioner Henry.

4. APPROVAL OF MINUTES

A. Approval of the minutes of the April 7, 2021 Business Meeting of the Community Redevelopment Agency (CRA) held at City Hall, 301 S. Ridgewood Avenue, Daytona Beach FL.

It was moved by Commissioner Reed to approve the minutes. Seconded by Commissioner Trager. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Henry	Yea
Commissioner Reed	Yea
Commissioner Trager	Yea
Commissioner Delgado	Yea
Commissioner May	Yea
Commissioner Cantu	Yea
Mayor Henry	Yea

5. AGENDA APPROVAL

James Chisholm, City Manager read the Agenda changes as follows:

No changes.

It was moved by Commissioner Reed to approve the Agenda with no changes. Seconded by Commissioner Trager. The motion passed 7-to-0 with the breakdown as follows:

Commissioner Henry	Yea
Commissioner Reed	Yea
Commissioner Trager	Yea
Commissioner Delgado	Yea
Commissioner May	Yea
Commissioner Cantu	Yea
Mayor Henry	Yea

6. ADMINISTRATIVE ITEMS

- A. Adopted As Amended/ Resolution CRA No. 2021-05 providing City Commission approval to, (i) enter into the Second Amendment to the Riverfront Esplanade Development, Maintenance, and Lease Agreement ("Lease") with Brown Riverfront Esplanade Foundation, Inc., to clarify the Parties' rights and responsibilities for maintenance and operations within the Lease area, and to include Sweetheart Trail Rules for the Riverfront Esplanade as an Exhibit to the Lease; and (ii) adopting a revised Riverfront Esplanade Master Plan to provide greater detail for development of the Riverfront Esplanade improvements by the Foundation, and identifying traditional public forum areas within the Lease area. City Clerk LaMagna read the Resolution by title only. A RESOLUTION APPROVING THE SECOND AMENDMENT TO THE RIVERFRONT ESPLANADE DEVELOPMENT, MAINTENANCE, AND LEASE AGREEMENT BETWEEN THE CITY, THE CITY'S COMMUNITY REDEVELOPMENT AGENCY, AND BROWN RIVERFRONT ESPLANADE FOUNDATION, INC., TO CLARIFY THE PARTIES' RIGHTS AND RESPONSIBILITIES FOR MAINTENANCE AND OPERATION OF THE LEASED PREMISES AND THE CITY'S SWEETHEART TRAIL; ADOPTING A REVISED RIVERFRONT ESPLANADE MASTER PLAN; AUTHORIZING THE CHAIR AND CITY CLERK TO EXECUTE THE AMENDMENT TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Sandy Murphy, 136 Park Avenue, Daytona Beach, stated she is curious about some things in the amendment. She stated the first amendment specifically excluded the Sweetheart trail and now this amendment puts in under the Foundation. She stated there are a number of non-motorized modes of transportation that would now be banned from the premises. She wondered why they wouldn't require City permits for events on the property. She feels it is a lot of control the City would be giving up.

Jim Cameron, Jim Cameron Consulting, stated he wanted to go on record in support of this project. He stated it is going to make the downtown area that much better.

Robert Jagger, City Attorney, stated the original lease that was adopted in 2019 was ambiguous as to whether the trail would become part of the premises or remain under the City control. He stated the first amendment was done to address that ambiguity and under that first amendment the trail would be considered outside the premises even though it ran through the premises. He stated it would be maintained as a public forum under City control. As the property is being developed at great expense to the Foundation, they came back to the City and asked for further clarification as to what the maintenance responsibilities would be. He stated the Foundation's concern was that the trail would be maintained to the same quality standard as the rest of the premises. He stated the second amendment clarifies that although the trail will remain under City control, the Foundation will have the obligation to maintain the trail. He stated the second function of the second amendment was to identify and clarify what the rules would be for the Sweetheart Trail. He stated some of the rules did

indicate prohibiting kite flying, and skating and rollerblading and those are items they can discuss today and amend if the Foundation or the City is not amenable to them. This amendment essentially answers what is Esplanade property and what will remain under City control.

Mayor Henry stated he understood the sentiments from Ms. Murphy, but he understands the challenge to kite flying down there and skating; they have a skate facility. He stated his bigger issue is the whole trail itself. The trail was part of the park and he wonders why they aren't relinquishing the whole trail. The Foundation has also repaired the trail. He believes they should enable them to manage the trail the way they are managing the rest of the park. He thinks they have enough other space that meets the public forum standard.

Mr. Jagger stated one of the issues here is what are traditional parks and what would be private use. He stated trails and sidewalks are traditionally consider public forum areas where people can exercise their First Amendment. He stated the reason why the trail was separated from the park premises, which would be managed by the Foundation, the trail would need to be maintained for First Amendment expression. They were trying to distinguish between the public area and the Foundation.

Mayor Henry stated couldn't they still make it part of the park...

Mr. Jagger stated they could as long as they maintained the public forum status.

Mayor Henry stated he thought the sidewalk should run congruent; if it agreeable to the Commission and the Foundation.

Mr. Jagger stated the other issue they run into is permitting. They wouldn't typically transfer permitting powers to a third party. He stated to the extend there would be events on the trail, the City would traditionally hold that authority.

Mayor Henry stated we wouldn't hold an event on a sidewalk.

Mr. Jagger stated parades or an outdoor activity that would occur on the trail.

James V. Chisholm, City Manager, stated this is a disagreement he has with the City Attorney in interpretation on the use of the trail as it relates to the park. He stated he knows of many trails that are in parks and are secured by the entity that runs that park. He stated they are providing the public the right to speak in designated areas similarly to what they do in many of their parks today. He stated He and the City Attorney are going to have to talk about it, but his interpretation is different than the attorney's.

Mr. Jagger stated he doesn't think they are disagreeing on that; the City Manager is saying it should be open to the public and he is saying the same. He stated whether that management is under the Foundation or under the City isn't significant under a legal standpoint.

Mayor Henry stated if they can work out that second part and it works for the Foundation; that is what he would prefer. He asked if the Commission agreed.

Commissioner Trager asked if there were going to be any permanent commercial establishments in the park.

Joe Yarbrough, Esplanade Manager, stated no. There is no commercial activity unless it is permitted for an event, but it would not be a regular commercial activity. He stated the rules expressly prohibit anyone from going into the park and running something commercial.

Commissioner Trager thanked him.

Mayor Henry again asked if they had any objection to his proposal. He doesn't want to give staff a directive without them being in agreement. He asked if it was okay for the staff in conjunction with the Foundation to develop a way the trail could be underneath the auspices of the Esplanade as the rest of the park is.

Commissioner Reed clarified they are speaking on the part of the trail that is in the park.

Mayor Henry stated yes.

Mr. Jagger stated they will amend the second amendment to provide that the trail will be within the premises and they will obviously need the Foundation's approval tonight to that.

Mayor Henry asked if they have to amend it tonight.

Mr. Jagger stated if they wish, they can bring it back...

Mayor Henry stated he would rather they get it to everyone's agreement.

Hyatt Brown, Esplanade Foundation, stated he thinks they need to go ahead and do what the Mayor suggested. He stated if they are going to make this a really, really "wow" park and be able to have something going on every weekend, they have to be in position to control the park. He stated they had to, at the request of the City, spend another million and half dollars to put a fence around the park, which is going to be hidden by a hedge and then there will be entry places. He stated they can actually close the park at night and open it each morning. He stated that is particularly important because of what is happening in some parks that are municipal, or State owned around Florida. He stated the other issue is the City has sovereign immunity, the Foundation does not. He stated the Foundation has to bend over backwards to be as careful as possible because if there is kink in the fence or a little hole, then they can be held responsible. He stated for them to be able to run it in the way the City would like them to run it and will benefit the Citizens in the way the Commission would like it to benefit the Citizens, they have to be in a position...and he would recommend to amend it tonight.

Mr. Jagger stated it is a simple change and they will just include the trail within the premises.

Mr. Yarbrough stated the Esplanade has the authority to do things the City can't do and one of them is panhandling and vagrants. The Foundation wants the Esplanade to be used by families and to be a safe place. He stated if the trail is under the responsibility of the Foundation, this Resolution allows the Foundation to close it at sunset and open it at sunrise. He stated what it doesn't do is allow them to adopt the rules and regulations for the rest of the Esplanade. He stated it is still under City rules and regulations and it is difficult to reach the goals one has with trepidation. He stated that it is difficult because if one steps off the trail onto the Esplanade it a different set of rules. He stated these are some of the issues they would like to be able to avoid if they can.

Mr. Brown asked if it was necessary to adopt the amendment as proposed.

Mr. Yarbrough stated if Mr. Jagger was prepared to let the Commission amend the second amendment to accommodate what they are talking about, and what he thinks the Mayor is referring to tonight, that is agreeable.

Mr. Jagger stated it is at the Mayor's discretion with the approval of the Commission. He stated if they would give him clear direction of how they want the second amendment revised he can do that without bringing it back to the Commission for another vote.

Mayor Henry stated he is not for added bureaucracy.

Mr. Brown stated let's do it now.

Mr. Jagger stated he will move the trail into the premises and under the operation management of the Foundation.

Commissioner Cantu stated she had received the emails from Sandy and Anne, and she understands some of the rules and she wanted to clarify that ADA motorized scooters would be allowed. She doesn't understand what the problem with kites and the model boats is.

Mr. Yarbrough stated there are a series of ponds and one is huge with a bridge over it. What they originally intended was they didn't want motorized boats and that kind of traffic sitting on the beach, running those, or on the walkway with pedestrian traffic. He stated it is something they are muddling through and it is nothing they are going to be hard on, but to start off with the rules and will use some common sense and then when one runs into it and it gets out of hand, the rules are in place. He stated they haven't gotten to the point...they have designated open areas and it is not as open as he would like it to be lending it to top kite flying every day. He stated they need to muddle through this. He stated the Oaks in there have really cut down on the open space, although they are beautiful, but it is not just an open pasture.

Commissioner Cantu stated right but if it is going to family oriented...

Mr. Yarbrough stated if it can be allowed...

Commissioner Cantu then it shouldn't be a big deal.

Mr. Yarbrough stated it isn't, he didn't even realize it was in the rules until he read it tonight. He stated he will take it back up with the Foundation and he believes they can accommodate them.

Commissioner Henry stated she agreed with Commissioner Cantu.

Mr. Brown asked if anyone there tonight had run a park. He stated he hasn't either, although he has been to a lot of them. He clarified that this is a new venture for the Foundation, and they are not going to do anything that would preclude people from enjoying the park as long as it doesn't create a potential problem for others. He doesn't see a problem with kites until they fly them next to a large grouping of Oak Trees and they get caught and some little boy or girl climbs up and gets hurt. That is the kind of thing they have to be careful of. He stated if they designate a place then it works and until they find out how all this works they are going to run this to be as beckoning and welcoming as possible, but they are also very concerned about the safety and welfare of the people using the park.

Mayor Henry stated he understands they are just getting off the ground...and some of those trees are over 30 feet...they aren't baby Oak Trees. He stated they have to give them a chance to figure out what to do and how it can work. He stated he trusts what they are doing and he feels they need to sort of let them go ahead and do what they are going to do and create what he believes is going to be more of an opportunity to draw the community together. He stated he personally has big plans for the park, not just for his family, but for the City. He stated let's give the Foundation an opportunity to show them and figure it out.

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

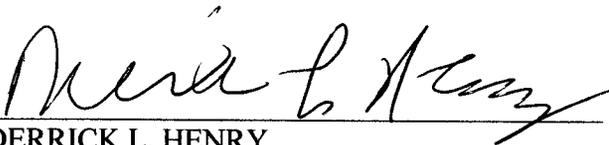
Commissioner Henry	Yea
Commissioner Reed	Yea
Commissioner Trager	Yea
Commissioner Delgado	Yea
Commissioner May	Yea
Commissioner Cantu	Yea
Mayor Henry	Yea

7. COMMENTS/INQUIRIES FROM THE COMMUNITY REDEVELOPMENT AGENCY – CITY MANAGER AND CITY ATTORNEY REPORT

No comments.

8. ADJOURNMENT

There being no further discussion or comments the meeting was adjourned at 6:44 PM.


DERRICK L. HENRY
Mayor

ATTEST:


Letitia LaMagna
City Clerk

Adopted: June 16, 2021

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission 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 cd of the meeting for \$2.00 at the City Clerk's office. Copies of cds are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.