

TAB 1

**DRAFT
SPECIAL CRA BOARD MEETING
DECEMBER 19, 2011**

CRA Board Members Present

Shirley Groover Bryant, CRA Board Presiding Officer
Brian Williams, Chair
Tamara Cornwell
Tambra Varnadore
Alan Zirkelbach
Charles Smith

Staff Present

Mark Barnebey, City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

PUBLIC COMMENT: None

Presiding Officer Bryant called the meeting to order at 12:10 pm.

1. CRA BOARD AGENDA APPROVAL

MOTION: Mr. Zirkelbach moved, Mr. Williams seconded and motion carried 5-0 to approve the December 19, 2011 CRA Board Agenda.

2. CRA BOARD CONSENT AGENDA

A) Minutes: December 5, 2011

(TAB 1)

MOTION: Mr. Zirkelbach moved, Mr. Smith seconded and motion carried 5-0 to approve the December 19, 2011 CRA Consent Agenda.

3. ASSIGNMENT OF VACANT LAND CONTRACT BETWEEN BOB GRAHAM AND CADENCE BANK FOR THE PURCHASE OF 325 8th AVE. W., 320 9th AVE. W. AND 834 RIVERSIDE DRIVE

Jeff Burton described the four pieces of property on Riverside Drive and 8th Avenue he has working on to consolidate. At this time the properties are owned by Shell Oil Company and a local bank. The CRA is prepared to move forward with the purchase of the Shell property; there is a timing issue in the due diligence process with the second property.

Attorney Barnebey recommended that the CRA not enter into the contract to purchase the three properties held by Cadence Bank. The contract purchase price is \$770,000. The due diligence period would end on December 30, 2011, and the current buyer has not been able to extend the due diligence period.

The Circle K property, which is the next agenda item, has a purchase price of \$400,000. The owner has agreed to extend the due diligence period. The parcel is a known brownfield property, but it is anticipated the due diligence time frame can be met. Attorney Barnebey stated neither contract is contingent on the other.

Because of the timeframe in moving forward, there are changes to the assignment. Attorney Barnebey stated Mr. Graham, the assignor, has requested changes to the contract, most of which are procedural. He reviewed the key changes, as follows:

- Assignment fee will be due if the transaction under the contract fails to close due to the City's default.
- On the Cadence Bank parcel, eliminates the City's proposal for an automatic 30-day extension of the due diligence period. (This point can be negotiated if an additional extension is needed.)
- Requires that the CRA reimburse Mr. Graham the \$25,000 deposit on the Circle K property immediately after electing to go forward at the end of the feasibility period.
- Increases the documentary stamp tax on the assignment fees on Circle K document to \$280 and \$539 on the Cadence Bank document.

Mayor Bryant opined the Shell property is a positive acquisition even if the second parcel is not obtained, because it is a gateway to the City.

Attorney Tim Knowles, representing Mr. Graham, discussed the reasons why Cadence Bank would not agree to extend the due diligence period; however, the bank has acknowledged that the due diligence period will expire on January 6, 2012. He asked the Board to consider approving the contract conditioned on an extension being granted to January 31, 2012. If approved, Mr. Graham can then further negotiate the transaction with Cadence Bank.

Discussion ensued on the environmental assessments that would have to be performed on the properties. Mr. Zirkelbach discussed the time that will be necessary to perform the geotechnical testing that will be necessary. Attorney Knowles suggested (without confirming with his client) that if the CRA could move forward on both properties and then opted out of the Cadence property under the contract regarding the due diligence dates, the expense would have to come back to his client as the buyer of the contract. Mr. Zirkelbach requested the right to be involved in locating where the borings should be performed.

Attorney Barnebey stated initial discussion with the environmental engineer suggests that the phase 2 environmental assessment may not be available by the end of January. He suggested that with the due diligence expiring January 6, 2012, the topic could be reviewed again at the January 9, 2012 scheduled CRA Board meeting.

Attorney Barnebey confirmed his recommendation to move forward with the Circle K property, which has a purchase price of \$400,000 and an assignment fee of \$40,000. With the additional expenses, that could occur the final price could be approximately \$500,000.

Mayor Bryant suggested that the Commission could authorize negotiation, subject to attorney approval, to avoid having to call a special meeting.

Regarding the due diligence ending January 30, 2012, Mr. Burton referred to the MPO Brownfield Assessment Agreement testing that will be done, but which will probably not include a completed phase 2 report. Mr. Zirkelbach stated there are a few geotechnical engineers that can perform the testing within a 30-day period, which will increase the cost.

Mr. Burton opined the phase 2 could be completed by the end of February. He also suggested that the bank has suggested that with an additional deposit, the due diligence time line could be extended beyond January 31, 2012. Mr. Nick Easterling, Mr. Graham's agent, commented on documents that he has reviewed, stating there is no evidence of any leaching [from the Shell property] onto the adjacent property; the plume has been identified as a "7" of "150".

Public Comment: Jane Hunter voiced concern about borrowing money to buy vacant land. Mayor Bryant will share with Ms. Hunter the CAR's long-range plan for the properties under discussion.

MOTION: Mr. Zirkelbach moved, Mr. Williams seconded and motion carried 5-0 to approve the assignment of the Vacant Land Contract with Bob Graham regarding the Cadence Bank

property as proposed and revised, based on the comments from the City Attorney, contingent upon the due diligence period being extended to at least January 31, 2012 under similar terms as provided for the Circle K contract considered in this meeting today, and authorize the Mayor or CRA Chair to execute the assignment for the purchase of 325 8th Ave., 320 9th Ave., and 834 Riverside Drive.

4. ASSIGNMENT OF REAL ESTATE CONTRACT BETWEEN BOB GRAHAM AND CIRCLE K FOR THE PURCHASE OF 301 8TH AVE. W.

MOTION: Mr. Zirkelbach moved, Mr. Williams seconded and motion carried 5-0 to approve/not approve the Assignment of Real Estate Contract and authorize the Mayor or CRA Chair to execute the Assignment of 301 8th Ave. W.

5. RESOLUTION NO. 2011-01

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF PALMETTO COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO LOAN AGREEMENT WITH BANK OF AMERICA, N.A.; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Williams moved, Mr. Zirkelbach seconded and motion carried 5-0 to adopt CRA Resolution No. 2011-01.

6. RESOLUTION NO. 2011-02

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF PALMETTO, FLORIDA AMENDING THE BUDGET FOR FISCAL YEAR 2011-2012, FOR FUNDING THE REDEVELOPMENT OF THE RIVERSIDE BOAT RAMP AND FOR THE PURCHASE OF LAND IDENTIFIED AS 301 8TH AVENUE WEST, 325 8TH AVENUE WEST, 320 9TH AVENUE WEST, AND 834 RIVERSIDE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Zirkelbach moved, Mr. Williams seconded and motion carried 5-0 to adopt CRA Resolution No. 2011-02.

7. CRA DIRECTOR'S COMMENTS

Distributed an email explaining non-profit organizations that the CRA currently funds. He requested that he be notified with any questions regarding the policy.

8. PRESIDING OFFICER'S COMMENTS

None

9. CRA BOARD MEMBERS' COMMENTS

None

10. PUBLIC COMMENTS FOR CRA BOARD

None

11. ADJOURNMENT

Meeting adjourned at 12:50 p.m.

Minutes approved:

James R. Freeman, City Clerk

**DRAFT MINUTES
CITY OF PALMETTO
SPECIAL CRA BOARD MEETING
January 20, 2012
11:45 a.m.**

CRA Board Members Present

Shirley Groover Bryant, CRA Board Presiding Officer
Brian Williams, Chair
Tamara Cornwell
Charles Smith
Tambra Varnadore
Alan Zirkelbach (departed the meeting at 12:14 p.m.)

Staff Present

Mark Barnebey, City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Allen Tusing, Public Works Director
Deanna Roberts, Administrative Assistant

PUBLIC COMMENT: None

Presiding Officer Bryant called the meeting to order at 11:50 a.m.

1. CRA BOARD AGENDA APPROVAL

MOTION: Mr. Zirkelbach moved, Mr. Smith seconded, and motion carried unanimously to approve the January 20, 2012 CRA Board Agenda.

2. DISCUSSION: PURCHASE OF CIRCLE K PROPERTY

Property located at 301 8th Avenue West, Palmetto, Florida. City Attorney will discuss due diligence timeframe and other title related items.

Action Request: No action necessary unless the City Commission does not want to move forward with the acquisition, or the Commission believes there are more issues that need to be addressed.

Mr. Barnebey informed the Commission that there are certain restrictions on the property, but the City still has time to do due diligence as the property will not close until the end of the month. Based on title work, the three restrictions are:

- 1) The property owner won't release oil, gas and other mineral rights on the property.
- 2) The City cannot install tanks for storage of potable water on the property.
- 3) The property cannot be used for residential purposes.

Mr. Barnebey explained that a hotel, offices or commercial would be okay, but no residential use would be permitted. Mr. Williams and Ms. Cornwell said that the City has looked at multi-use, and this limits what can be done on the property.

Mr. Barnebey said the current owner would have the right to come onto the property for mining. Mr. Zirkelbach commented that this relates to subsurface mineral rights, and they couldn't destroy anything on the surface.

Ms. Cornwell objected to the restrictions being "forever". Even if it was for one hundred years, there should be a limit.

Mr. Barnebey informed Commission that Motiva has right of first refusal until 2021. The access agreement is for the benefit of Motiva in case the environmental remediation is not complete. He believes the tanks have been removed, however. Mr. Barnebey explained that Motiva is a company that is related to Circle K. Shell has the mineral rights to the property and Motiva has the other two rights: the right of first refusal if the City of Palmetto sells the property, and no residential uses on the property.

Timothy Knowles of Porges, Hamlin law firm informed Commission that the right of first refusal is a condition of title. The right exists for ten years. In exercising that right, Motiva must get back to the City within thirty days or the sale of the property would be approved. Motiva is a restructure of Circle K, and the right exists for business reasons. They would not want a competitor to build on the property.

Mr. Zirkelbach apologized for having to leave the meeting but said he supports the City acquiring both pieces of property. He opined it is a great opportunity to help make the gateway to the City what they want it to be. He departed the meeting at 12:14 p.m.

Mr. Barnebey interjected that there is a boundary issue, but it poses minimal risk and the City has until January 31 to complete its due diligence.

Regarding Mr. Williams concern about the residential restriction, Mr. Burton said this restriction is only on the Shell property and not the Cadence Properties so that two-thirds of the block could still be used for multi-use purposes.

There was a consensus of the Commission to move forward with the acquisition of the property. Mr. Barnebey said he will keep the Commissioners posted, and they can schedule another meeting if necessary.

Mayor Bryant opined that this is a positive direction for the City to take and will be an improvement to the gateway.

3. ACQUISITION OF ASSIGNMENT FROM BOB GRAHAM TO PURCHASE THE CADENCE PROPERTIES Properties located at 325 8th Avenue West, 320 9th Avenue West, and 834 Riverside Drive, Palmetto, Florida

Mr. Barnebey informed Commission that Mr. Graham's due diligence has expired, and he is required to close by Monday. If the City approves the assignment, it steps into that position. The City has done title work on the site, and the restrictions that exist on the Circle K site do not exist on this site. The environmental review has been completed, and a reliance statement letter has been received from Streamline Environmental. The letter is attached to these minutes.

Mr. Barnebey stated that the assignment fee to Mr. Graham was reduced from \$77,000 to \$66,000, negotiated by Mayor Bryant. The City is paying out-of-pocket expenses for normal due diligence not-to-exceed \$20,000, an expense the City would have incurred anyway if the property had been bought directly from Cadence Bank. He expects the expenses will be closer to \$14,000. If the City does not enter into the agreement, the property will be open to other purchasers.

Commissioner Varnadore asked Mr. Barnebey about the commission referred to on the contract which stated that A Paradise would receive 50% of the total commission. She asked for clarification.

Timothy Knowles, Esq. of Porges, Hamlin confirmed with Cadence Bank this morning that there is a variable commission and the commission is a standard 6% if there is a co-broker sale to any third party; 5% if there is no co-broke, and 2% if the property is sold to the City of Palmetto. The 2% was negotiated by Cadence with the FDIC through their stop-loss agreement. He explained that the 50% was to be 50% of a 6% commission.

Mr. Knowles suggested that if the assignment is going to be approved, append it to say the City can acquire it by title through Mr. Graham, Monday, at no greater expense that they would have had if acquired under the pure assignment theory. Mr. Barnebey said he has language that will say that, and he provided the proposed language to add to the motion.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded, and motion carried 4-0 to approve the assignment of vacant land contract with Bob Graham for the Cadence Properties at 325 8th Ave W., 320 9th Avenue West, and 834 Riverside Drive, Palmetto, Florida with approval of the assignment of contract subject to modification of the Assignment Agreement to provide for the alternative, at Mr. Graham's election, of Mr. Graham closing the purchase and sale transaction with Cadence Bank, followed by an immediate transfer of the property by Mr. Graham to the CRA under the following terms and conditions:

- 1) the sole consideration to be paid by the CRA to Mr. Graham will be the assignment fee already agreed upon;
- 2) Mr. Graham will step into the shoes of Cadence Bank as Seller under the contract, and the CRA will step into the shoes of purchaser, and the parties will execute a supplemental agreement to that effect;
- 3) the City and the CRA will incur no additional costs or fees as a result of this two part closing beyond those that were specifically set forth in the assignment; and

to authorize the Mayor to sign the necessary documents relating to the assignment and purchase of the properties.

4. CRA DIRECTOR'S COMMENTS

None

5. PRESIDING OFFICER'S COMMENTS

None

6. CRA BOARD MEMBERS' COMMENTS

None

7. PUBLIC COMMENTS FOR CRA BOARD

None

8. ADJOURNMENT

The meeting was adjourned at 12:55 p.m.

Minutes approved:

James R. Freeman, City Clerk



Mr. Nick Easterling
Via Email: nick.easterling@live.com

RE: Phase I and II Environmental Site Assessment Reports
and Limited Contamination Assessment Report
834 Riverside Drive, 325 8th Avenue West & 320 9th Avenue West
Palmetto, Florida 34221

Dear Mr. Easterling:

This letter is written with respect to a proposed transaction involving the property located at the site referenced above. Streamline Environmental, Inc. (Streamline) prepared the following reports regarding the site for Cone & Graham, Inc.

Phase I and II Environmental Site Assessment Reports and Limited Contamination Assessment Report
834 Riverside Drive, 325 8th Avenue West & 320 9th Avenue West
Palmetto, Florida 34221
Streamline Project No. 111220

Streamline understands that The City of Palmetto and Palmetto Community Redevelopment Agency, a public body corporate and politic (Palmetto CRA), wish to receive Streamline's permission to rely upon the findings and conclusions contained in the Report.

Streamline consents and agrees that the City of Palmetto and Palmetto CRA may rely on the facts and opinions set out in the Report to the same extent as Cone & Graham, Inc., for whom they were prepared. This permission is granted notwithstanding any contrary provisions regarding third party reliance in the Report or in Streamline's retainer agreement, contract, work order or other agreement with Cone & Graham, Inc.

Streamline's contract with Cone & Graham, Inc. may set a monetary limit on Streamline's professional liability to Cone & Graham, Inc. for the content of the Report. Notwithstanding any agreement to the contrary between Streamline and Cone & Graham, Inc., Streamline will provide professional liability insurance covering the City of Palmetto and Palmetto CRA's reliance on the Report, with per claim limits of at least one million dollars (\$1,000,000.00); proof of which is attached hereto.

Sincerely,

Michael J. Roose
Vice President
Streamline Environmental, Inc.

Enclosure: Evidence of Insurance

Knoxville	Tampa -Headquarters	Seattle
518 Echo Valley Road	1821 Sahlman Drive	715 Grant Street
Knoxville, Tennessee 37923	Tampa, Florida 33605 PH 813-258-5561 Fax 813-258-4257	Port Townsend, WA 98368