

**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: February 6, 2012

James R. Freeman

James R. Freeman
City Clerk