

# COMMUNITY REDEVELOPMENT AGENCY BOARD

## EMERGENCY MEETING MAY 18, 2018

### MINUTES

#### Present:

Lesa Peerman  
Joanne Simone  
Anthony Caggiano, Vice Chair  
Tommy Ruzzano, Chair

#### Also Present:

Samuel A. May, Executive Director  
Donald J. Doody, Cherof, Doody & Ezrol, P.A. (via phone)  
Scott Ginsberg, resident  
Vanester Small Jones, resident

#### Not Present:

Arlene Schwartz

The emergency meeting of the Margate Community Redevelopment Agency having been properly noticed was called to order at 12:00 p.m., on Friday, May 18, 2018, by Chair Tommy Ruzzano. He announced that the Board Attorney Donald J. Doody was participating via the phone. Roll call was taken, followed by a moment of silence and the Pledge of Allegiance.

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- 1A. MOTION: TO RECONSIDER ACTION TAKEN AT THE SPECIAL COMMUNITY REDEVELOPMENT AGENCY BOARD MEETING ON APRIL 26, 2018, IN LIGHT OF EMERGENCY CONDITIONS AT 1225 AND 1229 EAST RIVER DRIVE

Chair Tommy Ruzzano explained that reason for the meeting was to clarify wording in a motion made at the previous MCRA meeting which referenced the MCRA funding of the sea wall repairs if the City were to get a grant. He questioned whether the MCRA should wait for the grant which he said might take up to six weeks or to proceed and pay for the repairs.

Donald J. Doody, Board Attorney, explained that the Board would be considering the removal of the requirement of applying for the grant and authorizing the reimbursement of the retaining wall repairs that were necessitated by the collapse of the wall that occurred that week. He asked the Executive Director if he concurred with the timing element.

Samuel A. May, Executive Director, stated that it would take two to three weeks to get the agreement signed and then it would need to go through federal procurement guidelines.

Mrs. Peerman asked if a new motion were needed.

Attorney Doody explained that the property owner would be responsible for entering into a contract for the repairs of the retaining wall and the MCRA would provide reimbursement through the issuance of a two-party check in the names of the property owner and the company effectuating the repairs which would ensure that the monies went directly to the repair of the wall. He said he would also ask the Board to consider authorizing the Board Chair to execute any documents that might be required to effectuate the emergency repairs.

Mrs. Peerman commented that three of the Board members were going to be away and she made the following motion:

- MOTION: TO ALLOW THE CHAIR AND THE EXECUTIVE DIRECTOR TO HAVE UP TO \$50,000 IN THE EVENT AN EMERGENCY ARISES BEFORE COMPLETION

The motion died for the lack of a second.

Discussion ensued as to whether a separate motion was needed or the agenda amended. Attorney Doody said he thought it was captured in the intent of the item. He explained that the Board was reconsidering the action they took at the last meeting and refining it to eliminate the condition of the application for the grant. He said the Board could also authorize the expenditure of monies to perpetuate the repair if they wished.

Mr. May read the title of resolution two from the April 26, 2018, special meeting.

Mrs. Peerman made the following motion:

MOTION: TO RECONSIDER REMOVING THE GRANT INFORMATION FROM THE ORIGINAL MOTION AND TO HAVE THE MCRA PAY FOR THE SEA WALL

The motion died for the lack of a second.

Mr. May said the MCRA would still want it to provide for the National Resource Conservation Service (NRCS) eligibility determination. Chair Ruzzano asked why the MCRA was partnering with NRCS and Mr. May explained that they were the determining factor for eligibility but, per the resolution, the MCRA would still fund the full amount of the cost to repair the wall.

Mrs. Peerman made the following motion, seconded by Mr. Ruzzano:

MOTION: TO RECONSIDER THE ORIGINAL MOTION TO HAVE THE MCRA PAY FOR THE SEAWALL 100 PERCENT BASED ON THE ELIGIBILITY DETERMINATION FROM THE NATIONAL RESOURCE CONSERVATION SERVICE

Mr. Caggiano asked for clarification as to whether the City would pay for 25 percent of the repair cost. Mr. May stated that the MCRA would pay 100 percent for the repair cost.

Attorney Doody interrupted and said that it was his recommendation that a condition of the property owner receiving the funds would be that they agree to indemnify and reimburse the MCRA in the event an outside agency determined that the expenditure was not appropriate and consistent with the MCRA plan. He said he thought it was consistent with the plan but the MCRA needed to be protected by the property owner. He said Mr. May had indicated that the property owner did not have insurance.

After making several comments from the audience, Chair Ruzzano asked resident, Mr. Pellecchia, to come forward to speak. Mitch Pellecchia commented that the Board failed to help the homeowner and that the discussion had gone on long enough. He said the Board needed to decide whether to pay for it or not. Mr. Ruzzano commented that the MCRA did not fail. He said he had just been made aware that if it were determined that the MCRA was not allowed to pay for the repairs that Mr. Ginsberg would have to reimburse the MCRA. He said he was not comfortable with it and he doubted that Mr. Ginsberg would be either.

Mrs. Peerman asked Mr. Ginsberg to come up to the podium and she asked him if he was being represented by the previous speaker [Mitch Pellecchia]. Mr. Ginsberg responded that he was not. She explained to Mr. Ginsberg that it was her understanding and that of Attorney Doody's that the repair was allowed per the MCRA plan; however, if someone chose to advise the Office of the Inspector General that it should not have been done, it could become an issue. She asked him if he had a problem with it and he responded that he needed to understand the concept.

Scott Ginsberg, 1229 East River Drive, said he needed to understand why, if it were legal, he had to sign something that said if somebody else came back and said it was not able to be done, that he would be responsible for reimbursing the MCRA. Mrs. Peerman said that it could possibly happen. Mr. Ginsberg said he needed to understand the legal repercussions from it. Mrs. Peerman said it was not going to come back to him and she explained that it was the law firm's responsibility to protect the MCRA. He said he understood that part but still did not fully understand the legal part of it and that he could become responsible for it. Mrs. Peerman said dealing with blight was specifically in the MCRA plan. He questioned the reason he needed to sign any paperwork that being the case.

Mrs. Peerman asked Attorney Doody if he were willing to not have Mr. Ginsberg sign it. Attorney Doody said he was suggesting that the Board make it a condition. He explained that he represented the MCRA Board which was preparing to authorize an expenditure of close to one quarter million dollars and it was doing so consistent with the MCRA plan. However, he said that if someone took exception to it and there were legal ramifications for that expenditure and it was determined that the MCRA spent money on private property for the benefit of a private property owner, then the MCRA should have recourse back to the property owner and the property owner should be responsible for it. Mrs. Peerman said she appreciated Attorney Doody's response. She said if that were to happen,

she would take responsibility for it; she did not want Mr. Ginsberg to have to sign something. Attorney Doody said he was providing advice and it was the Board's prerogative to accept it or to proceed as they saw fit.

Mrs. Peerman asked if the other Board members thought Mr. Ginsberg should sign the waiver.

Mr. Caggiano commented that the MCRA paid for legal advice and the MCRA should follow the advice given to it.

Chair Ruzzano commented that the MCRA also received the advice that the project fell within its plan and he asked why it even consider having him sign something. He asked why it would be his [property owner's] fault if it was not in the plan.

Attorney Doody said he was trying to protect the MCRA if there were a third party, a court or a government agency that disagreed with the MCRA's interpretation of the plan. He said most CRA's had reimbursement provisions. He said the request was not for reimbursement; it was for indemnity in the event a determination was made that the appropriation was not consistent with the plan. He said it was conditional and that it might never occur, but that the MCRA was not in existence to improve private property.

Mrs. Peerman reiterated that it was spelled out in the plan, and Chapter 163 allowed CRA's to do the things that were in their plan. She said she wanted consensus on whether or not Mr. Ginsberg should sign it.

Chair Ruzzano said he did not think Mr. Ginsberg should sign it.

Ms. Simone said she thought he should sign it.

Mrs. Peerman commented that the consensus was 2-2. She made reference to the other homeowner who was affected and said she needed to speak on the item as well. Chair Ruzzano asked the homeowner to come forward.

Vanester Jones, 1225 East River Drive, questioned why an attorney was requesting something be signed when it was for something that was part of the plan. Mr. Caggiano said the MCRA was planning on fixing the sea wall and he acknowledged that the item might never end up in court because someone said it was wrong. He explained that the MCRA paid a lawyer to give the best legal advice and to protect it which also protected all the citizens of Margate. Back and forth discussion continued with Ms. Jones asking why the attorney was not supporting the plan. Mrs. Peerman explained that the attorney was doing what he was paid to do which was to protect his clients. Ms. Jones commented that their backs were against the wall. Mrs. Peerman told Ms. Jones that she understood but the votes were not there and she asked her if she would sign the indemnification document. Ms. Jones said she felt as though she did not have a choice because she did not have the money to fix the wall.

Mrs. Peerman asked Mr. Ginsberg if he were okay with it. Mr. Ginsberg also said he really did not have a choice and he responded yes.

Mrs. Peerman made the following motion, seconded by Mr. Caggiano:

**MOTION:** TO RECONSIDER THE ACTION TAKEN AND TO HAVE THE MCRA PAY FOR THE SEA WALL PROJECT ON 1225 AND 1229 EAST RIVER DRIVE TOTALLY, BASED ON THE NATIONAL RESOURCE CONSERVATION SERVICE ELIGIBILITY DETERMINATION AND BECAUSE IT WAS IN THE MCRA PLAN; AND, HOMEOWNERS ON BOTH PROPERTIES WILL SIGN THE INDEMNIFICATION AGREEMENT IN FAVOR OF THE MCRA.

Chair Ruzzano commented that if a meeting like this were to be held in the future, the Board needed to have the back-up because he was not aware of the indemnification agreement and it was not fair. He said he disagreed with having the homeowners sign something just in case the MCRA could not do it. Attorney Doody asked Chair Ruzzano for permission to comment. He explained that it was an emergency meeting that had been confirmed at 11:00 a.m. that morning. He apologized for his absence and the issue with the back-up, and he said that he was accommodating them as best as possible. He said the sea wall was going to be fixed and that the property owners should be sensitive to the fact that the MCRA was doing its best to rectify the problem.

**ROLL CALL:** Ms. Schwartz, Absent; Mrs. Peerman, Yes; Ms. Simone, No; Mr. Caggiano, Yes; Mr. Ruzzano, Yes. The motion passed 3-1.

Mr. May said the next step would be to reach out to whichever contractor was selected. A short discussion ensued about whether a motion was needed so the Chair and Executive Director could sign off on anything associated with the commencement of the repairs the following week. Board Attorney Doody clarified that the homeowner would be entering into an agreement with the sea wall contractor, not the MCRA. Mrs. Peerman made the following motion, seconded by Mr. Caggiano:

**MOTION:** TO ALLOW THE CHAIR AND THE EXECUTIVE DIRECTOR TO MAKE ANY DECISIONS BETWEEN NOW AND WEDNESDAY THROUGH THE MCRA ATTORNEY FOR ANYTHING THAT MIGHT BE NECESSARY FOR THIS PROJECT

**ROLL CALL:** Ms. Schwartz, Absent; Mrs. Peerman, Yes; Ms. Simone, No; Mr. Caggiano, Yes; Mr. Ruzzano, Yes. The motion passed 3-1.

Mrs. Peerman said she did not understand why the MCRA was giving the money to the homeowner and not to the contractor. Mr. May said the MCRA would issue a two-party check and he asked Attorney Doody the reason it would be done that way. Attorney Doody explained that CRA's typically gave the monies as a reimbursement to monies already spent by a property owner. He said it was his understanding that the property owners did not have the means to advance monies to the contractor for the repairs. Therefore, the MCRA would make payment to the contractor and the property owner so that the property owner could remit the money directly to the contractor, and the MCRA would have evidence of the fact that the money was in fact being paid to the contractor.

Chair Ruzzano asked if there would be a payment schedule attached to the contract. Board Attorney Doody said typically there would be a percentage due at a certain point in the repair process. He explained that the property owners were going to have to produce a quote for the repairs from the sea wall contractor and that they would enter into the contract with the contractor, and how payment would be made through the two-party check process.

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There being no additional business, the meeting adjourned at 12:38 p.m.

Respectfully submitted,

Transcribed by Rita Rodi, CRA Coordinator

Tommy Ruzzano, Chair