

August 27, 2025 P&Z Board — McNab House & Botanical Gardens

Official Record vs. YouTube Captions: Compare, Contrast & Talking Points

Prepared for: Commissioner Audrey Fesik **Date:** May 17, 2026 **Subject:** Procedural framing concerns regarding LN-704 / PNZ 25-12-00002

1. The Official Record (Three Different Versions)

A. Legistar Agenda Item LN-704

- **File / Legislation Number:** LN-704 (Version 3)
- **Agenda Item Title:** "MCNAB HOUSE AND BOTANICAL GARDENS"
- **Type:** "PZB Submission"
- **Status:** "APPROVED"
- **Vote tally, mover, seconder, individual votes:** Not displayed on the public Legistar page
- **Source:** [Legistar Meeting Detail 8/27/2025](#)

B. Development Services August 2025 Monthly Report (Staff's own summary, post-meeting)

- **Application name:** "City of Pompano Beach McNab House and Botanical Gardens"
- **Application type:** "Major Site Plan"
- **Description:** "The applicant is requesting Major Site Plan approval for the McNab House and Botanical Gardens located on the McNab Park site."
- **Status:** "Approved"
- **Public Purpose Adjustment: Not mentioned at all.** The monthly report treats this as a clean Major Site Plan approval.
- **Source:** [Development Services Monthly Report August 2025 \(revised\)](#)

C. Pompano CRA Project Webpage (current, public-facing)

- States: "Project Received Unanimous Approval at the Planning and Zoning Board on August 27, 2025"
- Does **not** describe the approval as a "design" approval, a "site plan" approval, or specify the Public Purpose Adjustment.
- Source: pompanobeachfl.gov/government/cra/cra-projects/mcnab-house-and-gardens

2. YouTube Captions — Verbatim Record (8/27/25 Meeting)

Video: [Planning & Zoning Board Meeting 8/27/25 \(YouTube\)](#) | duration 3:58:07

Note: All timestamps below are clickable links that jump to the exact moment in the YouTube video.

Staff Presenter (Pamela Stanton, Development Services), opening statement [\[33:14\]](#):

*"This agenda item is for the consideration of the **major site plan application** for the McNab House and Botanical Gardens major site planing in zoning number **25-12-00002**."*

Staff Statement on Public Purpose Adjustment [\[32:54–36:53\]](#):

*"Also on this slide there is uh some text about the **public purpose adjustment** that I I want to talk about a little bit. um the public purpose adjustment applies to this project and I've mentioned that **parks and recreation zoning regulations are applicable** to this project and those regulations are um for **lot coverage and building setbacks are more restrictive** than the to EOD regulations and they require less lot coverage and greater setbacks. So having multiple buildings for a variety of program functions as proposed on this project, it increases the lot coverage and and bringing these buildings, the new buildings and the uh closer forward to the street is consistent with the context of the surrounding area in the EOD. And both of these points I just mentioned align more with the intent of the tood. Also, **certain aspects of the interior design of the buildings don't allow for the compliance with the design standards for fenestration requirements for transparent windows facing streets**. Therefore, because the project addresses a public purpose and provides a public benefit, public purpose adjustment can be used to allow deviations from these regulations."*

Staff's Three Recommended Conditions (read into record):

1. **"Obtain public purpose adjustment approval in accordance with code for relief from the parks and recreation requirement for lot coverage and building setbacks and for the requirements of the commercial, institutional and mixed-use design standards for design requirements for building fenestration and transparency where back of house operations are abutting the interior of street facing walls."**
2. Five-foot right-of-way dedication along East Atlantic Boulevard required before building permit
3. Standard conditions of approval prior to building permit issuance

The Final Motion (Rich Dally) [1:58:42]:

"In consideration of planning and zoning application 25-12-00002, I move that the board finds competent and substantial evidence has been presented that satisfies the three review criteria... and approves the major site plan with the, uh, subject to the three conditions provided by staff."

- **Seconded by:** Paul Fisher
- **Roll Call (unanimous Yes):** Dally, Worley, Doubek, Fisher, Hartzell, Coleman, Stacer

Earlier Deferral Motion (Gigi Doubek) [18:30]:

"I would like to um make a deferment for three... LN704, LN755, and LN768... we received a lot of requests from residents that um asked for some more time to review all of the uh documents as well as uh make sure that it's aligned with the upcoming city budget process and uh they just wanted an opportunity for more public input."

Doubek added [21:50]: *"the plans have also changed pretty dramatically as well as the budget because you had **Mad Room Hospitality back out**, you had another consultant back out and the botanical gardens is a new addition to the plans."*

Motion to defer FAILED 1-6 (only Doubek voted yes). The board proceeded knowing Mad Room had withdrawn — a withdrawal that had been a matter of public knowledge since January/February 2025, more than six months before the hearing.

CRA Director's Objection to Doubek's Participation (Nguyen Tran, CRA Director) [1:05:24]:

"The CRA wants to place on record objections to participation of a certain board member, Gigi Doubek, because of her social media posts... 'District 1 Park has sat vacant for almost six years. The CRA has delayed this project far too long and now we're pushing a \$27 million plan that has been mismanaged... say no to bonds pause fix roads... city proposes 277 million park conversion nobody asked for.' ... Miss Doubek is not impartial decision maker who can or will make her decision based on the record. We object to her participation in this hearing."

Note: Nguyen Tran's role is **CRA Director** (a senior CRA staff position), not an attorney. The objection was raised by CRA staff/management, NOT by CRA legal counsel Claudia McKenna or by the City Attorney's office.

Legal Counsel Response (attributed in auto-captions to "Mark Berman") [1:09:28]:

"There is nothing in the statutes that would require an abstention from voting... unless Miss Doubek has personally um or a relative of hers is going to benefit uh from this project, she does not have an ethical conflict."

Important attribution note — the P&Z Board's legal counsel is James Saunders, not Mark Berman. Mark Berman is the **City Attorney for Pompano Beach** and would not ordinarily be the counsel speaking on a P&Z Board matter. The auto-generated YouTube captions consistently misattribute names, and "Berman" here is almost certainly the captions' rendering of **James Saunders**, the P&Z Board's legal counsel.

This attribution matters: it was **the P&Z Board's own counsel (Saunders)** — not the City Attorney's office, and not CRA counsel — who ruled on the spot that Doubek had no ethical conflict, in response to an objection raised by a non-lawyer CRA staff member (Nguyen Tran). The full record question is whether Saunders had access to the social-media posts referenced by Tran before issuing that ruling, and whether the ruling was based on a written ethics opinion or an extemporaneous reading of §112.3143.

To confirm the speaker definitively: play the video at [1:09:28](#) and verify by voice/visual, then update this section accordingly. If Saunders is in fact the speaker, this is a meaningful correction to the public record.

Rich Dally's framing of the vote [1:11:50]:

"Tonight, we're not going to we're not voting on the how we're going to fund this potential project. What we're voting on is the actual site plan... while I have reservations on how potentially it's going to get funded, that's not up to me to decide."

3. Compare & Contrast: What Was Said vs. What's Being Sold

Source	Framing of the Vote
Legistar (official)	"PZB Submission" — APPROVED (vague, no detail)
Development Services Monthly Report	"Major Site Plan" — Approved (PPA omitted entirely)
CRA project webpage	"Unanimous Approval" — no qualifier
Staff verbal presentation 8/27	"Major site plan application" + Condition #1 requiring the applicant to separately obtain Public Purpose Adjustment approval
Rich Dally's motion	"Approves the major site plan... subject to the three conditions"
Redevelopment.net coverage	"major site plan alongside a 'public purpose adjustment'" — frames them as one combined approval
Press releases / public messaging	Generally referred to as a "design" or "plan" approval

The discrepancy is significant. The board did **NOT** approve the Public Purpose Adjustment. The board approved the **Major Site Plan CONDITIONED on the applicant obtaining a Public Purpose Adjustment** later. These are two different development orders under two different code sections.

4. The Legal Framework — Why "Design Approval" Framing Matters

The Rezoning Backstory (Critical Context)

McNab Park was historically zoned PR (Public Recreation). That zoning regulated lot coverage, building setbacks, and design with the expectation that the parcel would remain a public park.

At some point as part of the **East Transit-Oriented Corridor (ETOC)** initiative, **the park was swept into the TO/EOD (Transit-Oriented / East Overlay District)** rezoning. The current Bermello Ajamil DRC response confirms: *"The property has a Land Use of ETOC (East Transit-Oriented Corridor) which permits the proposed Park, Park Concession/Restaurant/Bar, and Institutional/Educational Uses."* (Max Wemyss, Planning Comment 1)

The ETOC was created via citywide Comprehensive Plan amendment and form-based code, with the city's own materials saying its purpose was to ensure *"that the planning for the District is not done on a piecemeal basis by individual developers seeking their own Comprehensive Plan amendment and rezoning."* The ETOC rezoning blanketly converted properties to TO/EOD.

Why this matters for your investigation:

1. **The PR-to-ETOC rezoning is what created the deviation problem in the first place.** Under PR zoning, a park with a restaurant, event pavilion, classroom, and parking lot likely wouldn't have triggered the lot coverage, setback, and fenestration issues that now require a PPA.
2. **The ETOC was designed for a transit-oriented mixed-use corridor with commercial on the first floor and residential on upper floors** — NOT for a dedicated public park.
3. **The Parks and Recreation "district regulations"** referenced by Stanton at [32:54] appear to be vestigial standards that survived as a use-overlay even after the rezoning to TO/EOD. The PPA is essentially being used to override the Parks & Recreation standards that the rezoning *did not eliminate*.
4. **The 2019 Public Purpose Adjustment ordinance ([Ord. 2019-110](#)) was created at the same general policy moment as the ETOC rezoning.** The PPA mechanism gave the City and CRA a code-level workaround whenever ETOC rezoning produced incompatible standards on city-owned property — with the Director (not Commission) holding the pen.

Worth requesting: the ordinance and date that rezoned McNab Park from PR to ETOC (TO/EOD). The rezoning ordinance, the staff report, and the public hearing record on that rezoning would be a major part of any community-feedback transparency case.

Public records request to add:

"All ordinances, staff reports, and meeting minutes related to the rezoning of the McNab Park parcel (2250 E. Atlantic Blvd.) from Public Recreation (PR) zoning to the East Transit-Oriented Corridor (ETOC) and TO/EOD zoning, including the original adoption ordinance, any subsequent text amendments affecting the parcel, all public notice records, and all public hearings."

Major Site Plan (Code Section 155.2407)

- A site plan governs **layout and general design**.
- Standard of approval: "**competent substantial evidence** in the record that the development, as proposed" complies with **12 numbered review criteria**.
- Decision-making body: **Planning & Zoning Board** (final decision).
- Quasi-judicial proceeding.
- Source: [Code 155.2407 Site Plan](#)

Public Purpose Adjustment (Code Section 155.2435)

- A PPA is a **separate development order** that allows deviations from code "for City of Pompano Beach or Community Redevelopment Agency owned and operated properties."
- Required findings (all six must be met):
 1. The project addresses a public purpose;
 2. There is a practical difficulty in complying with a technical requirement;
 3. The Code would unreasonably restrict the project or render it unfeasible;
 4. The adjustment is the **minimum necessary**;
 5. Not inconsistent with the character of surrounding area;
 6. On-site/off-site conditions minimize any adverse impact.
- **Decision-making body: Development Services DIRECTOR — not the P&Z Board.**

- "The Director has the discretion and authority to require City Commission review and approval for any Public Purpose Adjustment."
- A neighborhood meeting and a public hearing are **OPTIONAL** ("unless required by the Development Services Director").
- A PPA "shall automatically expire if a Zoning Compliance Permit is not obtained within two years."
- Source: [Code 155.2435 Public Purpose Adjustment](#)

Burden of Proof (P&Z Rules of Procedure)

"The applicant bears the burden of demonstrating that an application complies with applicable review standards. The burden is not on the city or other parties to show that the standards are not met by the applicant."

- Source: [P&Z Rules of Procedure 2019](#)
-

5. The Procedural Problems You've Identified

Issue #1: "Design Approval" framing obscures the actual decision

What happened: The P&Z Board approved a **Major Site Plan**, not a "design." There is no such thing as a "design approval" by the Planning & Zoning Board in Pompano Beach zoning code. Design review is performed by the **Architectural Appearance Committee** (which approved this project in July 2025). The P&Z makes site plan and quasi-judicial land-use determinations.

Why it matters:

- "Design approval" makes the vote sound aesthetic and benign.
- "Major Site Plan approval" is a legally binding development order that authorizes a Zoning Compliance Permit.
- The looser framing may have suppressed public participation — neighbors who would have shown up for a "site plan" hearing may have stayed home for a "design" presentation.

Issue #2: The Public Purpose Adjustment was NEVER formally approved by anyone present at the meeting

The staff condition #1 requires the applicant to "Obtain public purpose adjustment approval in accordance with code." That approval is to be issued by the **Development Services Director** under §155.2435.

- The P&Z board did not vote on the PPA.
- Press coverage and the city's own outside-facing narrative ([Redevelopment.net](https://redevelopment.net)) describe the P&Z vote as approving the site plan **"alongside a 'public purpose adjustment'"** — which is misleading.
- The PPA gets lot coverage, building setbacks, AND street-facing facade transparency relief — three substantial deviations from the Parks & Recreation district standards that protect the public character of dedicated park land.
- A neighborhood meeting and public hearing on the PPA are **optional** under code. The public has had no separate opportunity to weigh in on the PPA itself.

Issue #3: The site plan was approved as a "Major Site Plan" while the public-purpose deviations remain unissued

This creates a **circular approval problem**:

- The site plan can only be valid if the deviations it relies on are also approved.
- The deviations are issued by the Director, separately and without a public hearing.
- If the Director never issues the PPA — or issues it on different terms — the site plan as approved by P&Z is potentially invalid.
- Conversely, if the PPA is issued after the site plan vote, the public never had quasi-judicial due process on the PPA findings.

Issue #4: Material changes since the August 27 vote

The application file the P&Z relied on described a restaurant operated by **Mad Room Hospitality**. **Mad Room withdrew from the project in January/February 2025 — roughly six to seven months before the August 27, 2025 P&Z vote.** The Board therefore approved a site plan whose named

restaurant operator had been gone from the application for more than half a year, a fact Commissioner Doubek placed on the record at [21:50](#) ("you had Mad Room Hospitality back out"). Sarah Mulder, the CRA Project Manager who shepherded the application, departed the City in October 2025. Under §155.2407.H, minor deviations from approved plans are allowed, but the Development Services Director may not authorize changes that:

- "Substantially affect the terms of the original approval"
- "Result in significant adverse impacts on the surrounding properties or the city at large"
- "Increase or significantly decrease the intensity of nonresidential development that affects the overall character of the project."

Replacing the named restaurant operator and reprogramming the hospitality component arguably crosses each of these thresholds, which under code requires a **Site Plan Amendment** — meaning a new public hearing at P&Z.

Issue #5: The Doubek objection on the record — raised by CRA staff, not counsel

The on-the-record objection to Board member Doubek's participation was raised by **Nguyen Tran, CRA Director** — a senior CRA staff member, NOT by the CRA's attorney (Claudia McKenna) and NOT by the City Attorney (Mark Berman). The **P&Z Board's own counsel, James Saunders**, then ruled on the spot that Doubek had no ethical conflict. (The auto-captions misattribute this ruling to Berman.) That ruling — issued by Board counsel, not by the City Attorney's office, in response to a non-lawyer staff objection — is itself a process question worth flagging.

Why this matters more than a typical attorney-driven recusal motion:

- A non-lawyer staff director attempting to disqualify a quasi-judicial decision-maker based on social media posts is not a normal procedural posture.
- Recusal/disqualification arguments in Florida quasi-judicial hearings are typically raised by the applicant's counsel or by board counsel — not by the applicant's executive/staff.
- The CRA was the **applicant** before the P&Z. Having the applicant's director publicly attack a board member's impartiality at the dais looks like pressure on an adjudicative body, regardless of whether the legal ruling went their way.

- The CRA's own attorney (McKenna) does not appear to have made or joined the objection on the record.

This is a politically and procedurally significant fact — the CRA telegraphed publicly that it expected the project to face scrutiny and pre-emptively tried to neutralize a critical voice, and it did so through staff rather than counsel.

5.5. PPA Path Forward: Who Required It & Does It Go to Commission?

Who required the PPA — ANSWERED

The DRC Pre-App Comment Responses document (BA Project No. 02437, dated February 26, 2025, response to DRC comments received February 4, 2025) identifies the answer in writing:

The PPA was required by Pamela Stanton (Senior Planner / Zoning Reviewer), Comment 9. Her DRC comment reads (in full, verbatim from the file):

*"The floor plans indicate that the back of house operations, storage, and other uses are located adjacent to the exterior walls that face the streets on the four sides of the block, creating a need to screen these uses from view from the public rights-of-way. However, the appearance of the street-facing building facades must be addressed in a manner that does not create a 'back-of-building' appearance, particularly considering the pedestrian-oriented nature of the TO/EOD Zoning District in which the park is located. While the Commercial, Institutional, and Mixed-Use Design Standards of Section 155.5602 are applicable to this project, **Public Purpose Adjustments, Section 155.2435, may be used to alleviate the need to provide certain required building design elements such as transparent glazing for views into otherwise unattractive spaces within the buildings**, while providing building façade design that lends the appearance of active uses while screening the views into the interior spaces. For example, opaque spandrel glass used in openings may give the appearance of windows. Additionally, façade articulation and stepped parapets may provide visual interest to the building, etc. Please provide a narrative that addresses each Zoning Code Section for which a modification or adjustment is requested, and justification for each."*

Applicant response (Bermello Ajamil, Kirk Olney RLA):

*"The North elevation of the event building had been updated to create more articulation to be more in keeping with the pedestrian-oriented nature of the street. **A Public Purpose Adjustment shall be requested for the classroom/restroom building including a narrative explaining project intent and the reasoning for main program to face the garden rather than the streetside.** Decorative finishes will be applied to street facing facades as well as landscaping."*

What this tells us

1. **The PPA was Stanton's idea, not the applicant's.** Stanton offered it as a workaround for the design problem, NOT in response to an applicant request for relief.
2. **The original DRC list of deviations did NOT include lot coverage or building setbacks** — the only thing Stanton flagged was the transparency/fenestration issue tied to the design of street-facing facades with back-of-house program behind them.
3. **By the August 27, 2025 P&Z hearing, the PPA had grown.** Stanton's verbal presentation at [\[32:54\]](#) referenced lot coverage AND building setbacks AND fenestration — three deviations. Condition #1 of the approval covers all three. **The scope of the PPA expanded between DRC (Feb 2025) and P&Z (Aug 2025), and that scope expansion was never put through a fresh public DRC process.**
4. **Other staff who weighed in on the DRC review (none flagged the PPA):**
 - **Building Division (Todd Stricker)** — 24 building-code comments
 - **Engineering (David McGirr)** — 17 civil/utility comments
 - **BSO/CPTED (Anthony Russo)** — 10+ security comments
 - **Planning (Max Wemyss)** — 5 comments on platting and ROW
 - **Fire (Jim Galloway)** — 3 comments
 - **Zoning (Pamela Stanton)** — **the only reviewer to identify a PPA need**
 - **Landscape (Wade Collum)** — 44 landscape comments
5. **The applicant's response is significant.** Bermello Ajamil committed to requesting the PPA only for the *classroom/restroom building*, but the final P&Z condition covered the entire site for three different code categories. That's another scope expansion between February 2025 (DRC response) and August 2025 (P&Z approval).

Does the PPA have to come to City Commission?

No — not by default. Under [§155.2435.C.7](#):

"The Development Services Director shall have the authority to issue final approval of said applications; however, the Director has the discretion and authority to require City Commission review and approval for any Public Purpose Adjustment."

Three consequences flow from this:

1. **The Director (David Recor) is the default decision-maker.**
2. **A neighborhood meeting and a public hearing are OPTIONAL** (§155.2435.C.5).
3. **Commission review only happens if the Director elects it.**

What the public record shows as of May 18, 2026

As of this writing, there is **no public evidence the McNab PPA has been issued**:

Source	What it shows
April 2026 Development Services Monthly Report	No mention of McNab House, McNab Park, McNab Botanical Gardens, PNZ 25-12-00002, or any Public Purpose Adjustment.
Legistar calendar 8/27/25–5/18/26	No matching agenda items for any McNab PPA before any board or Commission.
Sept 18, 2025 CRA/Commission meeting coverage	Discussed McNab budget and bonds; no mention of the PPA.
CRA Project Page	Says project received "unanimous approval" 8/27/25; silent on PPA status.

Three possible explanations — each one a story:

- **(a)** The PPA was quietly issued by the Director with no public footprint and no required findings published. *Question: Where are the six §155.2435.D findings?*
- **(b)** The PPA has NOT been issued. *Question: How is the project moving toward bidding in April–June 2026 with an unsatisfied condition on the site plan approval?*
- **(c)** The CRA is planning to bring the PPA forward only after material changes (Mad Room withdrawal, new program) are locked in. *Question: Is this why no public PPA filing has appeared?*

Since you have ePlan access — here's where to look

The ePlan system holds the full application file. Look specifically for:

1. **A separate PPA application file** — PPA is a distinct application type under §155.2435 with its own application number. If no separate PPA file exists, the PPA has not been formally submitted.
2. **The applicant's narrative addressing each §155.2435.D criterion** — Stanton specifically requested "a narrative that addresses each Zoning Code Section for which a modification or adjustment is requested, and justification for each." That narrative is required code documentation.
3. **The DRC second-round review file** — the comments Stanton or her successor issued AFTER the February 26, 2025 BA response. The DRC review process is iterative; there should be a second-round comment letter and a third if needed.
4. **The staff report submitted to P&Z for the August 27, 2025 hearing** — this becomes the public-facing summary of all findings.
5. **The Development Services Director's written PPA decision/development order** — if it exists at all.
6. **Application status notes** — ePlan typically logs each step in the workflow (submitted, under review, approved, etc.). Filter by application PNZ 25-12-00002 and look for any sub-application or related PPA file.

Public records request to nail this down

Subject: Public Records Request — McNab House Public Purpose Adjustment (§155.2435)

Pursuant to Chapter 119, Florida Statutes, please provide:

1. The Public Purpose Adjustment application filed for the McNab House and Botanical Gardens project (PNZ 25-12-00002), including all submitted materials and the date received.
2. The written decision (development order) issued by the Development Services Director under §155.2435.
3. The Director's written findings on each of the six required criteria under §155.2435.D.
4. Any written election by the Director under §155.2435.C.7 either retaining final decision-making authority or referring the PPA to the City Commission.
5. Any record of a neighborhood meeting or public hearing held under §155.2435.C.5 and C.6, including whether the Director required either.
6. All staff reports, DRC comments, and internal correspondence between Development Services and CRA staff identifying which code deviations require the PPA, including the author, date, and code citation for each.
7. The status of the PPA application as of the date of this response (pending, approved, denied, not yet filed).

Please direct this request to: — Development Services Director David Recor (954-786-4664) — City Clerk's Office — CRA Secretary Kervin Alfred (954-786-4611)

6. Talking Points / Options Going Forward

You can pick any combination of these. They escalate from gentle inquiry to formal challenge.

Option A — Public Records & Information Push (low-friction, high-value)

1. **PRR for the Public Purpose Adjustment file** — request all documentation related to PPA application, staff findings under §155.2435.D, the Director's written decision, and any neighborhood-meeting determination. If the Director has not yet issued a PPA development order, request that fact in writing.

2. **PRR for the full agenda packet for LN-704 (8/27/25)** — staff report, application materials, plans, and all PowerPoint slides shown at the meeting.
3. **PRR for written communications between the applicant (CRA), Mad Room Hospitality, and Development Services from June 2025 to present** — specifically the withdrawal and any replacement operator search.
4. **PRR for Sarah Mulder's project transition file** — outstanding deliverables, DEP Grant LW758 compliance documents, and the named successor PM.

Option B — Procedural Talking Points for Commission Floor

Use these verbatim at the dais or in written communication:

1. **"The Planning & Zoning Board on August 27, 2025 did not approve a 'design' — it approved a Major Site Plan under §155.2407. The use of the word 'design' in subsequent public communications mischaracterizes the legal nature of that vote and the public's appeal and review rights."**
2. **"The Major Site Plan approval was expressly conditioned on the applicant obtaining a Public Purpose Adjustment from the Development Services Director under §155.2435. That separate development order grants relief from Parks & Recreation district lot coverage, setback, and street-facing transparency standards. To date I have seen no evidence that the PPA has been issued, no evidence that a neighborhood meeting was held, and no evidence that the six PPA findings were made in writing. I request that information be made part of the record before any further commitments — including bond issuance — are made."**
3. **"Since the August 27 vote, the named hospitality operator (Mad Room Hospitality) has publicly withdrawn from the project. The project manager who shepherded the application has departed the City. The financial assumptions that supported the application have therefore changed materially. Under §155.2407.H, a deviation that 'substantially affects the terms of the original approval' or 'affects the overall character of the project' requires a Site Plan Amendment with a new P&Z hearing. I am asking the**

City Attorney to advise in writing whether these post-approval changes trigger §155.2407.H and require return to P&Z."

4. **"The CRA project page and Development Services monthly report describe the August 27 vote as approval of the McNab Major Site Plan, with no mention of the Public Purpose Adjustment that the staff report itself made a condition of approval. I am asking the City Manager to direct that all public-facing project descriptions accurately reflect the dual-track nature of the approval and the status of each component."**

Option C — Motion at a Future Commission Meeting (formal, high-profile)

Draft a motion directing:

1. **Staff to return to P&Z with a Major Site Plan Amendment** addressing the loss of the named hospitality operator and any consequent changes to building program, parking demand, traffic, or maintenance/operations financing.
2. **The Development Services Director to either (a) provide the Commission with the written PPA development order and the §155.2435.D findings, or (b) elect to exercise discretion to require Commission review and approval of the PPA**, as authorized by §155.2435.C.7.
3. **A pause on any bond issuance** until items 1 and 2 are completed.

Option D — Letter to FL DEP / NPS regarding LWCF Grant LW758

- FAIN P23AP01591 has a **completion deadline of June 30, 2026** — six weeks from now.
- The grant was based on a defined scope. If the scope is now in flux (operator change, design uncertainty, no PPA yet issued), DEP and NPS arguably need to be notified.
- A letter from a Commissioner asking DEP to confirm scope compliance and the status of the match obligation could (a) protect taxpayers from a forfeiture risk and (b) create a federal-level record of the project's uncertainty.

Option E — Quasi-Judicial Challenge / Appeal Pathway

This is the most aggressive option and you would want legal counsel before pulling this trigger.

- An aggrieved party can challenge a quasi-judicial development order in circuit court via petition for certiorari, generally within 30 days of the order's rendition. That window has passed for the August 27 vote.
- However, when the Director issues the PPA development order, **a new 30-day certiorari window opens for that PPA decision.**
- Any "substantial deviation" determination that goes back through P&Z would similarly open new challenge windows.
- Standing typically requires showing a special injury different from the public at large. Adjacent property owners, frequent park users, and elected officials acting in their oversight capacity may have arguments here — but this is a legal question.

7. People & Roles — Reference Table

Name	Role	Source
Mark Berman	City Attorney, Pompano Beach (board-certified in City, County and Local Government Law)	Florida Bar News
James Saunders	Legal Counsel to the Planning & Zoning Board — issued the on-the-record ruling at the 8/27/25 hearing that Doubek had no ethical conflict (auto-captions misattributed this to "Mark Berman")	8/27/25 P&Z meeting
Claudia McKenna	CRA Attorney	5/19/26 CRA Agenda ; 10/21/25 CRA meeting

Name	Role	Source
Gregory P. Harrison	CRA Executive Director	5/19/26 CRA Agenda
Nguyen Tran	CRA Director (senior CRA staff — NOT an attorney) — objected to Doubek's participation on 8/27/25	8/27/25 P&Z captions
Pamela Stanton	Senior Planner, Development Services (staff presenter on McNab item)	Pompano P&Z Directory
David Recor	Development Services Director (issues PPA development orders under §155.2435)	Pompano P&Z Directory
Rich Dally	P&Z Board member, made the final motion	8/27/25 P&Z captions
Paul Fisher	P&Z Board member, seconded the motion	8/27/25 P&Z captions
Gigi Doubek	P&Z Board member, made the deferral motion (1-6 lost)	8/27/25 P&Z captions
Keriann Worley	P&Z Board member, voted Yes on final motion	8/27/25 P&Z captions
Sarah Mulder	Former CRA Project Manager for McNab (departed Sept/Oct 2025)	CRA project page (historical)

8. Conflict-of-Interest Network — Fisher / Briesemeister / RMA / Mulder

Added May 18, 2026. This section is for case-file reference only — none of these statements should be made publicly without the parcel-level verification noted in the companion document

Broward_Property_Records_McNab_Adjacent.md.

8.1 The Fisher Family and McNab Park — Public Record Facts

1. Lamar Fisher chaired the Pompano CRA for eleven years (2007–2018) as Mayor. During his chairmanship, the CRA — together with the City Commission, on which Fisher also sat — "formulated an ambitious rezoning and land-use plan for the east side of Pompano" through the **280-acre East Transit-Oriented Corridor (ETOC) district**. That is the same rezoning framework that converted McNab Park from PR (Public Recreation) to TO/EOD, which is what now requires the Public Purpose Adjustment under §155.2435. ([Florida Bulldog, May 26, 2020](#))

2. Lamar Fisher and partners sold three parcels totaling more than \$1.6 million to the same CRA he had chaired, on March 30, 2020. The City staff member at the time stated that the parcels would be used for "parking and construction staging during an overhaul of the city-owned park" — referring to McNab Park. ([Florida Bulldog, May 26, 2020](#))

Parcel	Sale Date	Sale Price	Purchase Year / Price
23 SE 22nd Ave, Pompano Beach	March 30, 2020	\$625,000	2013 / \$290,000
110 S Federal Hwy, Pompano Beach	March 30, 2020	\$400,000	2014 / \$275,000
24 NE 24th Ave, Pompano Beach (3 vacant lots)	March 30, 2020	\$620,000	2018 / \$515,000

Reporting describes these as "mainly his relatives'" interests plus Tom DiGiorgio (then head of the Pompano Economic Development Council), held through three unnamed LLCs. ([Florida Bulldog](#))

3. Fisher Auction Company headquarters sit roughly two blocks west of McNab Park, on the same boulevard, at 2112 E. Atlantic Blvd. ([Fisher Auction Company contact page](#)) Lamar Fisher remains CEO. ([Fisher Auction Company bio](#))

4. The LLC vehicle was LBF Properties LLC — a Fisher–DiGiorgio Jr. partnership operating since **January 2014**, which purchased the three vacant lots in October 2018 and then sold them to the CRA in March 2020. Total profit on the three combined sales: **\$565,000**. ([Florida Bulldog, November 2021](#))

5. The Florida Commission on Ethics dismissed the resulting complaint via a self-created "1% loophole." A complaint filed August 10, 2020 by Pompano resident **Rita Lipof** was dismissed October 27, 2021 on a no-probable-cause finding from Assistant AG Elizabeth Miller — the rationale being that Fisher's parcels were "much less than 1 percent" of the 279-acre ETOC. ([Florida Bulldog, November 2021](#)) Critics including **Kay McGinn** characterized this as a green light for politicians to enrich themselves on taxpayer-funded redevelopment as long as their share stays under 1% of the master project area. ([Florida Bulldog, November 2021](#))

6. Paul Fisher — Lamar Fisher's son — sat on the P&Z Board on August 27, 2025, and seconded the motion that approved the McNab House Major Site Plan.

7. A second wave of "future parking" parcel acquisitions is in the pipeline. Per direct knowledge available to the Commissioner: two more parcels are earmarked for McNab Park parking — **18 S. Federal Highway**, tied to a Tom DiGiorgio entity, and a second parcel tied to a Lamar Fisher entity. This tracks the **Amended and Restated East CRA Plan (May 2024)** — which states in the City's own words that "Additional property acquisition will be needed" and identifies "the parcels to the west of McNab Park" as the explicit joint-venture target. ([Amended and Restated East CRA Plan](#)) The **FY2026 East CRA budget** lines up *7.74 M for Property Acquisition* and *30.95M cumulative for Public Parking and Capital Improvements*. ([East CRA FY2026 Financing and Implementation Plan](#))

The pattern, stated plainly: the same two individuals identified by Florida Bulldog as having sold \$1.6M of land to the CRA Fisher chaired in 2020 are reportedly positioned to sell two more parcels to the same CRA, for the same McNab Park redevelopment, using money the CRA is now budgeting under the Plan that Fisher's son's vote helped move forward.

8.2 The Statute That Matters — §112.3143(3)(a) Fla. Stat.

Under Florida law, a local public officer **may not vote** on any measure that the officer knows would inure to the **special private gain or loss of a relative or business associate**. The statute requires:

- A **public statement of the nature of the interest, before the vote**;
- A **written Form 8B Memorandum of Voting Conflict** filed within 15 days of the vote.

Source: [§112.3143\(3\)\(a\) Fla. Stat. \(2025\)](#)

"Relative" is defined in §112.312, Fla. Stat. and includes father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

The pointed question for the case file: Does the McNab House & Botanical Gardens Major Site Plan, or its conditioned PPA, materially affect the market value, use, or developability of any parcel currently owned by Lamar Fisher, Fisher Auction Company, Fisher-McClellan Real Estate, or any LLC traceable to Lamar Fisher's family members?

If the answer is yes — and it must be answered with parcel-level verification, not inference — then Paul Fisher's second of the August 27, 2025 motion is the procedural question to surface, and the absence (or presence) of a Form 8B filing for that vote is the documentary question.

8.3 The Briesemeister / RMA / Mulder Network

Kim Briesemeister and Chris Brown, as co-principals of **Redevelopment Management Associates (RMA)**, managed the Pompano Beach CRA from 2009 until February 2018, when they self-terminated their contract amid the public disclosure that they had **personally purchased property inside the CRA district they were paid to redevelop**, through LLCs named **Old Towne Flagler LLC and East Village 2300 LLC**. ([RMA termination press release](#)) ([South Florida Business Journal, Feb 2018](#))

The RMA termination came roughly six weeks after a December 12, 2017 emergency meeting at which two Commissioners moved to fire RMA — a majority instead voted to retain them on the \$1.1 million annual contract. ([RMA, July 2020 follow-up](#))

Sarah Mulder worked as a Project Manager at RMA from November 2014 to July 2018. ([Sarah Mulder LinkedIn](#)) From February 2022 to October 2025, she was the **CRA Project Manager for the City of Pompano Beach**, including for the McNab Park project. ([Sarah Mulder LinkedIn](#)) She departed for JLL in October 2025 — between the August 27 P&Z vote and the present.

The family relationship between Sarah Mulder and Kim Briesemeister (per your prior research, daughter-in-law) is referenced in the case file but is **not corroborated in the open-web record**. Before naming that relationship in any public communication, source it to a marriage record, a Sunbiz officer overlap, or a sworn document.

RMA's reported current monthly CRA consulting fee — **\$29,968/month** per your prior records — should be confirmed by pulling the CRA's current consulting agreement and recent invoices from CRA Finance.

8.4 What This Adds Up To — A Single Network, A Single Site, Two Sale Waves

Five streams converge on the same 2.5-acre publicly owned park:

1. **The zoning framework** (ETOC / TO/EOD) that triggers the PPA was put in place under the chairmanship of a CRA chair whose family later sold land adjacent to the same park to the same CRA.
2. **The first land-sale wave (March 2020)** — LBF Properties LLC and related entities sold three parcels for **\$1.6M / \$565K profit**, with the explicit on-record purpose of providing "parking and construction staging" for McNab Park.
3. **The ethics complaint that should have stopped this** was dismissed by a 1% acreage exemption that critics including Kay McGinn said gave politicians a "green light" to take advantage in any way possible.
4. **A second land-sale wave is reportedly forming now** — 18 S. Federal Hwy (DiGiorgio) and a second Fisher parcel, both earmarked for McNab Park parking, against a \$7.74M FY2026 Property Acquisition line and \$30M+ in parking/capital.

5. **The project manager** of the McNab Park redevelopment came from — and departed back toward — the consulting firm whose principals previously self-terminated their CRA contract over their own personal property acquisitions inside the same CRA district.
6. **The site plan approval** on August 27, 2025 — the procedural step that unlocks the parking, the parcel demand, and the resulting acquisitions — was seconded by the son of the former CRA chair, with no Form 8B filing visible on the public record.

No single fact in this list is, in isolation, dispositive of misconduct. **Taken together, they describe a closed network operating on a single public asset across two sale waves, four years apart, with the same two beneficiaries on both ends.** That is the structural case the talking points support — not a personal accusation.

8.5 What to Do With This Section

- **Do not publish or distribute** until each parcel and LLC claim has been verified via BCPA and Sunbiz screenshots filed in the case folder.
- **Do use** it to drive the Public Records Requests in Section 9 below, and the Commission floor motions in the companion document.
- **When ready to go public**, lead with the structural case (the four streams above), not with any named individual's alleged motive. The structure tells the story.

9. Public Deception & the Charter Question — "The Public Will Not Lose a Park"

This section documents (a) a sustained pattern of public promises by the CRA and city officials that McNab Park would remain a park, and (b) the Charter provision that almost certainly required a voter referendum before this conversion could lawfully occur.

9.1 The Charter Says Disposal of a Park Requires a Referendum

Pompano Beach Charter §250 (Leases / Property Disposition), as currently in force:

"Disposal of the following property types requires approval by a majority of voters:

1. Airport or airpark

2. **Park**
3. Golf course
4. Recreational facility"

Source: [Pompano Beach City Charter §250 — American Legal Publishing](#). The verbatim live text of §250 currently published by American Legal Publishing **does not contain any Am. Ord. 2024-36 citation in its historical tail** — the historical citations stop at Am. Ord. No. 2004-38 (April 27, 2004). This is consistent with the November 5, 2024 ballot results below: the §250 lease-flexibility amendment did **not** pass.

Key legal question for the City Attorney:

- A 50-year lease of the northern half of a 2.5-acre public park (Park ID = McNab Memorial Park, dedicated 1952), at **\$10/year for the full 50-year term** ([Coastal News, 7/31/2019](#)), with a contractual commitment to construct a **restaurant, event pavilion, gated/fenced botanical garden with limited hours, and parking infrastructure** on park land, is in substance a **disposal of a park**.
- A \$10/year, 50-year lease that strips public-park use and substitutes restaurant/event/garden use is economically and functionally identical to a sale or perpetual conveyance.
- Under any reasonable reading of §250's voter-approval clause, the July 2019 CRA lease and the subsequent May 2022 lease of the southern portion ([New Pelican 5/19/22](#)) **should have gone to referendum first**. They did not.

9.2 What the 2024 Charter Amendments Did and Didn't Do

On November 5, 2024, three local Charter amendments to §§250, 251, 253 were placed on the ballot pursuant to Ordinance 2024-36 (passed by Commission on May 28, 2024). The official explainer is here: [PB-Charter-Amendments-explained.pdf](#). Ballot language is preserved in the [Sun-Sentinel legal notice](#) and confirmed in [Legistar File 24-310](#).

Of the three: only Amendment #1 passed. Amendments #2 and #3 were rejected by Pompano Beach voters.

Amendment	What It Would Have Changed	Result
#1 — §253(h)	Removed eminent-domain requirement for property transfers to other governmental entities	✓ PASSED — the only one ratified
#2 — §251(c)	Would have allowed contracts to be approved by resolution (not just ordinance) and contract terms exceeding 5 years with Commission approval	✗ FAILED — §251 remains unchanged. Contracts >1 year of appropriations are still capped at 5 years and still require an ordinance
#3 — §250(a)/(b)	Would have allowed City leases to be approved by resolution (two public hearings) and lease terms exceeding 50 years with Commission approval	✗ FAILED — §250 remains unchanged. Leases still require an ordinance of the City Commission and may not exceed 50 years

Independent verification (May 18, 2026): The live American Legal Publishing text of [Charter §250](#) and [Charter §251](#) reads exactly as it did before the 2024 election:

- §250(a): "Leases may be authorized **by ordinance** of the City Commission..."
- §250(b): "...for a period of time **not exceeding fifty (50) years**..."
- §251(c): "No contract involving the payment of money out of the appropriations of more than one year shall be made for a period of more than five (5) years; nor shall any such contract be valid unless made or approved **by ordinance**."

The "Am. Ord. 2024-36" citation that would appear in the historical tail of §§250 and 251 if either had been ratified is **absent**. Only §253 carries the post-2024 update.

Bottom line: The voters had a chance in November 2024 to give the Commission more flexibility on leases — they said no. §250 today is the same §250 that was in force on July 16, 2019 and September 16, 2019 when the McNab Park lease was approved and executed. The voter-approval clause for disposal of a park has never been touched. The McNab Park conversion never went to the voters.

For procedural comparison: in 2018, the City required a referendum (Resolution 2018-01, March 13, 2018 election) merely to **issue Parks/Recreation General Obligation Bonds**. If borrowing for parks required a vote of the people, converting a park to a restaurant/event venue surely does too.

([Resolution 2018-01](#))

Peer-city anchor: On May 13, 2026 — three weeks before our window — Boca Raton enacted a "Save Boca" charter amendment requiring a voter referendum for the sale, lease, or alienation of any city-owned land larger than 0.5 acre. ([The Real Deal, 5/13/2026](#)) Pompano's existing Charter language is **stronger** than Boca's new one — and the City is acting as if the language doesn't exist.

9.3 "The Public Will Not Lose a Park" — Statements on the Record

The city, the CRA, the CRA Director, and the project's own public materials have repeatedly told residents the park will remain a park. This is the central deception.

A. Nguyen Tran (CRA Director) — Direct Promises

- **At the April 15, 2025 CRA Board meeting, on camera, 01:29:17** — in direct response to a commissioner's question about why developers shouldn't fund the activation around the park ([YouTube](#)):

*"It's a public park. It will always remain a public park. Uh we will never get rid of the public park." → Said **five months before** Sarah Mulder's 9/4/2025 "redevelopment project, not a public park" admission. This is the starkest contradiction in the record. **Clip in workspace:***

02_Trans_AlwaysRemainPublicPark_4-15-2025.mp4

- **Same meeting, immediately after, 01:30:16** ([YouTube](#)):

"We know that open space and parks are very important as developers come and build. Um, so that's what we want to preserve and and to really activate this area and keep it open space." →

Frames the project as preservation **of** open space — same conversation. **Clip:**

03_Tran_OpenSpacePreserve_4-15-2025.mp4

- **At the May 4, 2021 public outreach meeting** (reported [New Pelican 5/19/22, p. 4](#)):

"We're trading off amenities. It's still going to be a public park."

- **At the July 16, 2019 CRA Board meeting** (quoted in the same Pelican article):

"In terms of a legal description to define the area, here's the area the CRA's going to be responsible for and improve. Here's the area the city will maintain... When you see that area, that's the only thing that changes when it comes down like this. **We will maintain and improve all the areas in here.**"

- **To the CRA Board, July 16, 2019** (reported [Coastal News 7/31/2019](#)):

"We are not looking at bed and breakfasts, we are not doing hotels. That is no longer part of this project." "It was a conceptual idea to start conversations. We got feedback from everybody, they don't want it. **It's off the table.**"

- **Promise of scope discipline** (Coastal News, 7/31/2019):

"while a master plan will be developed for the whole park, no other improvements identified in the master plan will be carried out, unless further direction is given by the CRA Board and the City Commission." → This commitment to staged, transparent decision-making has been honored only in form, not in substance: the southern half was subsequently leased in May 2022 without a discrete public vote framed as a park-disposition question.

A2. Sarah Mulder (then CRA Project Manager) — Acknowledges a Prior Promise Existed

- **April 15, 2025 CRA Board meeting, 00:17:27** ([YouTube](#)):

"As a matter of fact 75% of this plan which you'll see um shortly is public open space. Um and those commercial uses help to pay for the botanical gardens and the ongoing maintenance so that we can **keep it free to the public as we've promised.**" → The phrase "as we've promised" is Mulder, on the record, **conceding that a promise was made.** Five months later (9/4/2025) she

explains to the East CRA Advisory Board the "differences between a public park and a redevelopment project." **Clip: 01_Mulder_AsWePromised_4-15-2025.mp4**

A3. Randy Hollingworth (Bermello Ajamil, lead designer) — "Open to the Public" + "Public Facility"

- **January 23, 2025 Master Plan unveil, 00:14:21** ([YouTube](#)):

"The principles of the vision: **obviously open to the public**, um, self-sufficient financially to the greatest extent possible..." → The project's own designer states "open to the public" as a foundational principle of the master plan. **Clip: 04_Hollingworth_OpenToPublic_1-23-2025.mp4**

- **Same Master Plan unveil, 00:36:09** ([YouTube](#)):

"This is **totally a public facility** here. This is **for the community** and and the City of Pompano Beach to use for different types of activities." → The classroom — the centerpiece of the "public benefit" rationale — is explicitly described as a public facility for community use. **Clip: 05_Hollingworth_TotallyPublicFacility_1-23-2025.mp4**

B. Official CRA and City Materials

- **Pompano Beach CRA Facebook, July 24, 2025** ([source](#)):

"The proposed transformation of **McNab Park** into the McNab House & Botanical Gardens has gone through thoughtful review..." → The CRA's own social copy uses the phrase "transformation of McNab Park" — an admission that what is happening is the conversion of a park.

- **Pompano Beach CRA Facebook, July 28, 2025** ([source](#)):

"**This is the only Park in District 1!**" → Direct acknowledgment that the stakes here are the **only district park** — and yet no referendum.

- **Coastal News, December 2021** ([source](#)) — directly attributing project description to CRA:

"**The botanical gardens will be a public park** with fencing around the perimeter. During the day, it will be open to the community free of charge." → "Fenced, with operating hours, with a private restaurant operator, with private event-rental revenue" is not a public park in any ordinary sense. This is the verbal sleight of hand.

- **Current CRA Project Page** (pompanobeachfl.gov):

Identifies the asset solely as "McNab House & Botanical Gardens" — the word "park" has been dropped from the project's name even though the underlying parcel is still legally Park-zoned and Park-dedicated.

C. The Internal Acknowledgment That This Is NOT a Park

While the public-facing materials insist this remains a park, internal CRA documents tell a different story.

- **East CRA Minutes, September 4, 2025** ([ECRA-Minutes-09.4.2025.pdf](#)) — Sarah Mulder (then CRA Project Manager):

*"explained the **differences between a public park and a redevelopment project**" → This is an explicit, on-the-record acknowledgment by the project manager that the McNab site is now being classified as a **redemption project**, not a public park — said three weeks after the P&Z vote, in front of the East CRA Advisory Board.*
- **Site plan reality (the August 27, 2025 P&Z hearing record):** the application sought relief — via the Public Purpose Adjustment — from the **Parks & Recreation zoning regulations** for lot coverage, setbacks, and fenestration. You cannot simultaneously claim "it's still a public park" while asking a zoning board for adjustments from the park zoning code. (See Section 2 of this document.)

D. Residents Who Were Promised Something Different

- **Ken Arnold (Parks and Recreation Advisory Board)** — [New Pelican 5/19/22, p. 4](#):


"Arnold said he thought the redevelopment would be '50/50' with half the park becoming a botanical garden and the other half preserved as a traditional park." "I was shocked by the park presentation given at his board's meeting on April 20 [2022]."
- **Kay McGinn (former Mayor)** — same source:

"We deserve a park." — accused the CRA of "sacrificing green space for commercial interests."
- **Tom Terwilliger (resident letter to editor)** — [New Pelican 7/5/2019](#):

"McNab 'Memorial' Park was given to the city to honor the memories of our [veterans]... dedicated in 1952." — characterizing the conversion as a "land grab."

9.4 What Actually Happened — The Sequence That Bypassed the Voters

Date	Action	Why It Sidestepped \$250 Voter Approval
4/16/2019	CRA Board votes to relocate McNab House to McNab Park (RMA blog)	Framed as a "rescue," not a park disposition
6/2019	Zoning Board of Appeals grants Temporary Use Permit (TUP) for placing the house in the park (Coastal News 7/31/19)	A TUP is not a property disposition
7/16/2019	CRA Board approves 50-year, \$10/year lease of the northern half of the park, with \$2.7M capital commitment in 4 years (Coastal News 7/31/19)	Structured as a lease between two governmental bodies — but it is a 50-year stripping of public-park use
7/23/2019	City Commission approves the lease (Coastal News 7/31/19)	Done by ordinance, not by voter referendum as \$250 requires for disposal of a park
9/16/2019	CRA executes the 50-year, 10/year lease. * § 5.1 calls for \$2.7M in Capital Improvements within 4 years (≥\$1.35M within 2 years). § 5.1 calls these deadlines a "major	The lease's own four-year deadline is the CRA's substitute for a \$250 referendum — and the CRA failed to meet it

Date	Action	Why It Sidestepped \$250 Voter Approval
	breach ... entitling the City to all remedies occasioned by default." §5.1 expressly ties the dollar thresholds to City Charter §250.	
3/1/2020	McNab House physically relocated to the park (CRA project page)	Creates a fait accompli before residents can react
5/2022	CRA Board votes to lease the southern portion of the park as well (New Pelican 5/19/22, p. 2)	Same mechanism, no referendum
9/16/2023	 Four-year §5.1 deadline lapses. Lease in default by its own terms. As of today the breach is ~975 days old.	No Notice of Default has been issued by the lessor (the City). The City Commission — not the CRA Board — holds cure and default rights under §12.2
10/1/2023	CRA executes FL DEP LW758 / NPS FAIN P23AP01591 — \$1M federal pass-through grant — 15 days after the lease was already in default (FL DEP LWCF)	Federal pass-through liability transfers to City general fund if the underlying lease default is not formally noticed to State/NPS

Date	Action	Why It Sidestepped \$250 Voter Approval
	page)	
1/23/2025	CRA "unveils" final Master Plan: restaurant, event pavilion, sensory garden, classroom, café, koi pond (CRA project page)	Master plan now occupies the entire park — not the "50/50" Mr. Arnold was told
8/27/2025	P&Z approves the Major Site Plan with a Public Purpose Adjustment from parks-and-recreation zoning	The PPA itself is an admission that the park-zoning rules are being overridden
9/4/2025	CRA staff (Sarah Mulder) tells East CRA Advisory Board this is a "redevelopment project," not a public park (Minutes)	Internal reclassification confirms the public-facing language is no longer accurate
Sept 16, 2023 → today	Post-default disbursements continue. Project 19382 spending — incl. Bermello-Ajamil 2024 architectural contract ≥87.38% billed (\$1,506,358.45 of \$1,723,839 cap) — continues monthly. CRA Board has repeatedly	The breach is not historical — it is ongoing and compounding daily

Date	Action	Why It Sidestepped \$250 Voter Approval
	asked for \$5.1 compliance status; complete disclosures not provided.	

The pattern: Each individual step was structured to look procedural and routine. Cumulatively, they accomplish what §250 prohibits without a referendum — the disposal of McNab Memorial Park.

And the lease the CRA used to substitute for a referendum is itself in default. The CRA missed the §5.1 four-year capital-improvement deadline on **September 16, 2023**. The lease — by its own terms — classifies that as a "major breach ... entitling the City to all remedies occasioned by default." The City is the lessor. The City Commission (not the CRA Board) holds the cure and default rights under §12.2. No Notice of Default has been issued. Disbursements have continued for ~975 days past the deadline. **And a \$1M federal pass-through grant (LW758) was executed 15 days after the lease was already in default**, with a project-completion deadline of June 30, 2026 — meaning the federal-grant clock is now compounding daily on top of the underlying breach.

Bottom line: The CRA cannot cure a §250 referendum problem with a lease that is itself in major breach. The bypass mechanism has collapsed. The remedy is not a new vote — it is the City Commission exercising the lessor remedies it already has under §12.2 of the lease the CRA signed.

9.5 Talking Points & Public Communications

For Commission floor:

- "\$250 of our own Charter says the disposal of a park requires a referendum. McNab Memorial Park has been functionally disposed of through a 50-year, \$10-a-year lease and never went to the voters. I want a written opinion from the City Attorney on that question, on the record."
- "On July 16, 2019, the CRA Director told this Board that bed-and-breakfasts and hotels were 'off the table.' Today the project is a private-operator restaurant with an event pavilion. The promises that justified bypassing a referendum have not survived contact with the master plan."

- "In 2018 we required a referendum to issue a parks bond. We are asking residents to accept that disposing of their only district park does not require one. That is not a defensible distinction."
- **"The lease that the CRA used to substitute for a \$250 referendum is itself in default. The \$5.1 four-year capital-improvement deadline lapsed on September 16, 2023 — that's ~975 days ago. The lease — by its own terms, tied directly to Charter §250 — calls that a major breach. The City is the lessor. The City Commission holds the cure and default rights under §12.2. I am asking the City Attorney for a written opinion on whether a Notice of Default should issue, and on the status of LW758 federal pass-through exposure given that the federal grant was executed 15 days *after* the lease was already in default."**
- **"Post-default disbursements have continued for nearly three years. Bermello-Ajamil's 2024 architectural contract is over 87% billed. None of this spending occurred before the deadline — all of it is post-default. The CRA Board has asked for \$5.1 compliance status and not received it. I want that disclosure on the record before we approve another dollar of Project 19382 expenditure."**

For public communication:

- **"It's still going to be a public park." — Nguyen Tran, 2022. They said it. They didn't mean it.**
- **"Disposal of a park requires a vote of the people." — That's the Charter. Where was our vote?**
- **The only park in District 1, leased for fifty years at ten dollars, without asking the voters.**
- **In 2018 the city needed a referendum to borrow money for parks. In 2019 they gave one away without one.**
- **"Botanical gardens will be a public park." — except they have fencing, hours, a private restaurant operator, and adjustments from the parks-zoning code.**

Records to formally request (PRR/RPR):

1. Every City Attorney opinion (Berman or predecessors) addressing whether §250's voter-approval clause applies to the 2019 and 2022 McNab Park leases

2. Every CRA attorney opinion (McKenna or predecessors) on the same
 3. The complete file backing Ordinance 2024-36 — including any internal discussion of whether the \$250 voter-approval clause for parks was intentionally left unmodified
 4. All public-notice records for the July 23, 2019 City Commission lease approval — specifically any notice to residents that this was a park-disposition vote
 5. The full executed lease(s) — northern half (July 2019) and southern portion (May 2022)
-

10. The "Three Word" Sound Bites You Can Use

For social media or short-form public communication:

- **"Not a design vote."** — pushes back on the casual framing
 - **"Site plan, not approval."** — emphasizes that the site plan still depends on a separate, non-public PPA
 - **"Where's the PPA?"** — five-character question that forces staff to produce records
 - **"Material change — amend it."** — Mad Room withdrawal triggers §155.2407.H
 - **"Six findings, no record."** — the §155.2435.D required findings have not been published
 - **"Public park, private process."** — the PPA process bypasses public hearing
 - **"Twenty million, no operator."** — direct attack on fiscal prudence
-
- **"The Charter says vote — we didn't."** — the deception case in five words
 - **"Public park, ten dollars a year."** — captures the lease terms in one phrase
 - **"They promised. They lied."** — for the broken-promise track
-

11. Quick Reference: Key Citations

Document	Link
Pompano Charter §250 (Leases, w/ park voter-approval clause)	https://codelibrary.amlegal.com/codes/pompanobeach/latest/

Document	Link
	pompanobeach_fl/0-0-0-76689
Pompano Charter \$65 (Elections)	https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach_fl/0-0-0-76282
2024 Charter Amendments explainer (PDF)	https://cdn.pompanobeachfl.gov/city/pages/commission/PB-Charter-Amendments-explained.pdf
Ordinance 2024-36 (Legistar 24-310)	https://pompano.legistar.com/LegislationDetail.aspx?ID=6641386&GUID=1B576D95-3FA8-4CEB-BAA5-E662EE225AE9
2024 ballot legal notice (Sun-Sentinel)	https://classifieds.sunsentinel.com/fl/notices/city-of-pompano-beach-florida/AC1E04B91871c14007wf4B6D22BC
Resolution 2018-01 (parks GOB referendum requirement)	https://cdn.pompanobeachfl.gov/city/pages/commission/Resolution%20No.%202018-01.pdf
Boca Raton "Save Boca" referendum law (5/13/2026)	https://therealdeal.com/miami/2026/05/13/boca-raton-requires-voter-referendum-for-future-land-deals/
New Pelican 5/19/2022 (Tran "still a public park")	https://ufdcimages.uflib.ufl.edu/UF/00/09/09/00/00707/05-19-2022.pdf
New Pelican 7/5/2019 (Terwilliger "land grab" letter)	https://ufdcimages.uflib.ufl.edu/UF/00/09/09/00/00559/07-05-2019.pdf
Coastal News 7/31/2019 (50-year, \$10/yr lease)	https://thecoastalnews.com/pompano-beach-news-things-to-do-mcnab-house-

Document	Link
Coastal News Dec 2021 ("botanical gardens will be a public park")	relocation-restaurants-mcnab-park/ https://thecoastalnews.com/mcnab-house-botanical-gardens-project-continues-to-make-progress/
RMA blog 4/18/2019 (CRA decides fate of McNab House)	https://rma.us.com/pompano-beach-cra-decides-the-fate-of-mcnab-house-and-park/
CRA Facebook 7/24/2025 ("transformation of McNab Park")	https://www.facebook.com/ PompanoBeachCRA/posts/ 1174439791378701/
CRA Facebook 7/28/2025 ("only Park in District 1")	https://www.facebook.com/ PompanoBeachCRA/posts/ 1177664234389590
East CRA Minutes 9/4/2025 (Mulder: park vs. redevelopment)	https://cdn.pompanobeachfl.gov/city/ pages/cra/archive/ECRA- Minutes-09.4.2025.pdf
P&Z Meeting Video 8/27/25	https://www.youtube.com/watch? v=wsh2UQoPBQQ
Legistar Meeting Detail 8/27/25	https://pompano.legistar.com/ MeetingDetail.aspx? ID=1329499&GUID=66B215A1-FCF6- 41F0-8441-AF489CD038CE
Development Services Monthly Report Aug 2025 (revised)	https://cdn.pompanobeachfl.gov/city/ pages/development_services/ Development-Services-Monthly-Report- August-revised.pdf
Zoning Code §155.2407 Site Plan	https://codelibrary.amlegal.com/

Document	Link
	<u>codes/pompanobeach/latest/pompanofl_zone/0-0-0-32693</u>
Zoning Code §155.2435 Public Purpose Adjustment	<u>https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-47046</u>
P&Z Rules of Procedure 2019	<u>https://cdn.pompanobeachfl.gov/city/pages/planning_zoning/PZRulesProcedures2019.pdf</u>
Redevelopment.net Sept 2025 article	<u>https://redevelopment.net/2025/09/mcnab-house-botanical-gardens-approved-by-pompano-planning-zoning-board/</u>
CitizenPortal AI summary (mentions deferral motion)	<u>https://citizenportal.ai/articles/5690889/Pompano-Beach/Broward-County/Florida/McNabb-House-Botanical-Garden-Site-Plan-Advances-Despite-Deferral-Motion</u>
CRA Project Page	<u>https://www.pompanobeachfl.gov/government/cra/cra-projects/mcnab-house-and-gardens</u>
Florida Bulldog — Fisher land sales to Pompano CRA (May 2020)	<u>https://www.floridabulldog.org/2020/05/broward-commissioner-cashed-in-on-land-sales-to-pompano-cra-he-recently-led/</u>
§112.3143 Fla. Stat. — Voting Conflicts	<u>https://www.flsenate.gov/Laws/Statutes/2025/112.3143</u>
RMA termination press release (Feb 2018)	<u>https://www.send2press.com/wire/rma-terminates-contract-as-pompano-</u>

Document	Link
	<u>beach-cra-managers/</u>
South Florida Business Journal (Feb 2018)	<u>https://www.bizjournals.com/southflorida/news/2018/02/05/firm-managing-pompano-beach-cra-to-terminate-deal.html</u>
Broward County Property Appraiser Record Search	<u>https://bcpa.net/ReclD.asp</u>
Florida Division of Corporations (Sunbiz) entity search	<u>https://search.sunbiz.org/Inquiry/CorporationSearch/ByName</u>
Florida Commission on Ethics	<u>https://ethics.state.fl.us/</u>