

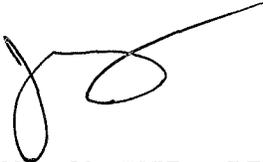


MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: City Manager Jorge M. Gonzalez 

DATE: June 3, 2009

SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF May 5, 2009.**

OLD BUSINESS

1. Discussion of Proposed Line of Credit.

ACTION

The Committee recommends that the Commission move forward with the line of credit.

Chief Financial Officer Patricia Walker presented the item and gave a brief synopsis.

She stated that the City needs additional funding to complete the Water, Sewer and Storm water portions of the right of way programs. Typically the City would issue revenue bonds secured by a pledge of revenues from the funding sources. The City currently has unspent fully committed bond proceeds from the last issuance of Water, Sewer, and Storm water bonds. Until 85 percent of the proceeds are spent, including interest earned, the City will not be able to issue tax-exempt bonds.

Florida law requires all governments to have funds available in the amount of the contract at the time of awarding the contract. Because the City has unspent proceeds, we could only issue taxable revenue bonds, which would be more expensive. The most effective way to meet the City's financing needs, without incurring significant additional cost, is to obtain a line of credit. Under this approach, the City could utilize the line of credit to meet its financial commitment needs and be in compliance with state law while spending its existing bonds proceeds.

The City has secured a combined offer from SunTrust, Bank of America, and Wells Fargo/Wachovia of a proposed \$60 million line of credit for an 18 month term. The line of credit should allow the City to award the majority of the projects planned for fiscal year 2009 preceding the first issuance of the Water, Sewer and Storm water bonds anticipated in 2010.

In order to proceed with additional projects, increased utility rates need to be in place by early fiscal year 2010 in order to generate sufficient debt service coverage. This, in conjunction with the line of credit will give the City the ability to award projects before the

issuance of the new bonds.

The City plans to use the proposed line of credit to award scheduled projects while spending existing bond proceeds on both existing projects as well as those secured by the line of credit. This strategy should expedite the expenditure of existing funds and facilitate the issuance of future tax-exempt bonds while building the required debt service coverage.

Commissioner Jerry Libbin asked Ms. Walker if the Committee didn't recommend that the line of credit be issued what would happen to the list of projects that are to be scheduled. Ms. Walker replied by saying that the projects would be delayed.

Chairman Gross asked for an LTC stating what the money is going to be used for. Chairman Gross also requested a list of projects, the percentage of completion and how much money is associated with a particular project. The Committee recommended, subject to receiving adequate supplemental information, moving ahead with the line of credit.

2. Discussion regarding status, design and budget for the New World Symphony parking garage and park.

ACTION

City Manager Jorge Gonzalez presented the item and relayed a conversation he had with Frank Gehry about securing his services on the park and expressed appropriate regrets about the way things were handled.

Mr. Gonzalez believes that Mr. Gehry is at a point where he most likely will not do the Park design. However, Mr. Gonzalez stated that there is still one more conversation that should take place between Mr. Gehry and Commissioner Victor Diaz.

Chairman Saul Gross asked about the status of the Request for Qualification (RFQ) for the selection of the architect to design the park. Mr. Gonzalez replied that the RFQ due date has been extended to June 1st.

Commissioner Ed Tobin spoke with engineers and architects who advised that it would be foolish to not have Mr. Gehry design the park.

3. Little Stage Theater operational issues

ACTION

The Committee recommended adding \$10,000 to the budget for additional improvements and begin the process to amend the lease for the renewal of the Carl Fisher Clubhouse to include the theater.

Assistant City Manager Hilda Fernandez presented the item and gave a brief synopsis of the item.

The Little Stage Theater is part of the 21st Street Community Center. The facility has

been closed and in disrepair, leaving it unusable for the past several years. On December 10, 2008 the F&CWP Committee approved short term improvements to the Little Stage Theater to make the space usable during the pendency of the master plan process. A total of up to \$25,000 was identified for these limited improvements. The improvements were incorporated as a maintenance project with funds from the A&E portion of the comprehensive master plan of the Little Stage Theater. At its December meeting, the Committee requested SMI's (Sobe Music Institute) assistance in identifying the repairs to the theater that would make the space usable at this time. SMI has indicated that they would like to use the space as part of their summer programming (as well as regular programming). Chairman Saul Gross recommended adding \$10,000 to budget for additional improvements.

Staff recommends that the City retain a percent of any gross revenues derived from the rentals. Additionally, the City's Parks Department would retain a priority use of the space over any outside rental. It is also recommended that SMI be required to meet with the Parks Department prior to the beginning of each quarter to review scheduling and availability to the Parks Department for City programming, as may be needed.

The administration is asking to proceed with a temporary revocable Agreement with SoBe Music Institute (SMI), to allow SMI to utilize the space pending further discussion on the longer term management of the facility. The administration recommends that the Finance and Citywide Projects Committee approve the Letter Agreement with SMI for the use of the Little Stage Theater for a period of three months. The current lease term expires on August 31st and has a one year renewal. Commissioner Deede Weithorn suggested that the Letter Agreement be extended to August 31st to coincide with the existing lease term. Chairman Gross also recommended adding a one year renewal to the Letter Agreement.

The Committee recommended adding \$10,000 to the budget for additional improvements and begin the process to amend the lease for the renewal of the Carl Fisher Clubhouse to include the theater.

- 4. Discussion regarding a concession agreement with One Washington Avenue, Corp. for a concession in South Pointe Park adjacent to the Smith & Wollensky Restaurant to be used as an auxiliary dining area.**

ACTION

Item Deferred

NEW BUSINESS

- 5. Discussion regarding closing older liens imposed by the City of Miami Beach potential amnesty and or collection scenarios and certain procedural changes to improve the lien system**

ACTION

The Committee recommends the following:

- **The Special Master is to determine maximum amount of fines then charge interest on the unpaid amount.**
- **Expand the Special Master jurisdiction to 3 years after compliance.**
- **For condos in compliance to zero out all amounts in excess of the City's cost such as the Special Master fee.**
- **Dismissing the balance of the properties in the dismissal category (1731 Collins Ave., 7410 Collins Ave) and properties identified as out of business (437 W 41st St., 667 Lincoln Rd., 7410 Collins Ave.).**

Assistant City Manager Robert Middaugh presented the item and gave a brief synopsis of the item.

Administratively, the data base on liens is being updated to identify more precisely those properties that are still not in compliance with an enforcement order and to establish an address or contact point for the respective properties that is valid. One of the historic problems the City has in managing liens is that many of the older liens have a property address or contact address based on tax records that have not been updated or may have been incorrectly entered during the initial violation. As such, notice to some of these properties has been problematic and has been one of the reasons that several of these liens still remain outstanding or unresolved. In the Administrative update process, the older liens will be compared against property tax records as a first check and then with other resources such as www.sunbiz.org which is more current with property contact address information.

Once an accurate data base of compliance versus non-compliance and property addresses has been compiled, a member of the Administrative staff will be detached for a short period of time to focus on the resolution and closure of the outstanding liens.

For the group of liens which is not yet in compliance, the administrative person who is detached for this assignment will confirm that there is no compliance by a site visit and a notice to the property owner will be provided to address the compliance associated with the specific property. To the extent properties are found to be in compliance and/or promptly come into compliance those will be considered in the programs previously mentioned. Those who are not in compliance and refusing to come into compliance will be forwarded for further action up to and including a Notice of Foreclosure.

Procedurally, one change that is being implemented will require a periodic notice to persons who have been ordered to pay a fine by the Special Master to assure the property owners awareness of the fine and further to insure that the initiating City Department is diligently pursuing compliance. Another process improvement recommended is to have the director of the department, submitting a case to the Special Master, review each case file and verify that the address is correct, the property owner has been contacted and the violation is legitimate. As the lien function will become more of a collection function in its orientation moving forward, that activity will be located in the City's Finance Department which routinely deals with matters of this nature.

The Committee recommends that the Special Master determine the maximum amount of fines then charge interest on the unpaid amount.

Another policy consideration which would help the system is in the amount of jurisdiction time that is available to the Special Master for compliance cases. At the present time the City Code provides that the Special Master maintains jurisdiction over a case for one (1) year from the date the Special Master imposes a fine for the property. The Finance and Citywide Projects Committee may wish to consider alternate jurisdiction approaches that tie the Special Master jurisdiction more closely to compliance rather than a specific

period of time. In this approach the Special Master would retain jurisdiction of a case until such time as the infraction has been resolved. This approach maintains continuity both in terms of case management and evidence. Changing the jurisdiction period also focuses the process to a greater level on achieving compliance than the current jurisdiction period enables.

The Committee recommended the expansion the Special Master jurisdiction to 3 years after compliance.

Commissioner Weithorn wanted staff to consider an amnesty program similar to the one the State of Florida has.

For condos in compliance, the Committee recommends zeroing out all amounts in excess of the City's cost such as the Special Master fee.

The Committee recommends dismissing the balance of the properties in the dismissal category (1731 Collins Ave., 7410 Collins Ave) and properties identified as out of business (437 W 41st St, 667 Lincoln Rd, 7410 Collins Ave).

6. Presentation by TCBA Watson Rice LLP Regarding Building Department Organizational and Operational Review and Analysis

ACTION

The Committee was satisfied with the report and its only follow-up action was to tasked the Building Director with preparing a quarterly LTC that will be included in the Commission agenda as well as an annual report to the Finance and Citywide Projects Committee which will include the status of the observations, findings, and recommendations determined in the Watson Rice study.

Building Director Alex Rey presented the item and gave a brief history of the Building Department Organizational and Operational Review and Analysis. Mr. Rey then went on to introduce Arnold Broussard from TCBA Watson Rice LLP who is the consultant for the project.

On August 13, 2008, the City entered into a contractual agreement with TCBA Watson Rice to conduct a Building Department Organizational and Operational Review. TCBA Watson Rice completed their organizational and operational review and analysis of the Building Department. The Building Development Task Force Departments (Building, Planning, Fire, and Public Works) have met with Watson Rice and reviewed all of the recommendations. In general, the Departments agreed with the recommendations and have initiated steps to implement many of them, and in some cases, have fully implemented them. This exercise has yielded well coordinated efforts, and the departments did not wait until the final report was issued to begin addressing the concerns raised by Watson Rice.

Furthermore, the Departments have developed a long list of short and long term improvements. They have separated these improvements into four general categories: technology, financial and management, service quality and internal controls.

Mr. Rey and Mr. Broussard reviewed the twenty-five observations, findings, and recommendations of the report. A similar presentation had been made at TRAC at the request of the FCW Committee, a representative from TRAC, Mr. Frank Del Vecchio, indicated that the Committee was satisfied with the report. Conversation ensued.

The Committee was satisfied with the report and its only follow-up action was to task the Building Director with preparing a quarterly LTC that will be included in the Commission agenda as well as an annual report to the Finance and Citywide Projects Committee which will include the status of the observations, findings, and recommendations determined in the Watson Rice study.

7. Drainage improvements on 44th and Royal.

ACTION

The Committee recommends that both, the intersection of Chase and Prairie Ave and 44th Street and Royal Palm, be designated as a capital projects; and have the engineering staff create the design criteria in house and put the project out to bid when the funds are allocated as part of the capital budget process.

City Engineer Fernando Vazquez presented the item and gave a brief summary of the memo.

The City has accepted the Comprehensive Stormwater Management Program Master Plan (Master Plan). The Master Plan delineated over one-hundred sixty (160) individual basins and prioritized them based on pollutant loading, pollutant concentration, flooding potential, complaints, and City staff rankings. Thirty-four (34) of the basins were designated as "stormwater priority drainage basins" and designated to meet the Miami-Dade drainage system design criteria which specify a five-year storm level of service for collector and local streets in residential and commercial areas. A location where excessive flooding has been witnessed is 44th Street and Royal Palm. This intersection is currently registered as the lowest elevation of a significantly large drainage basin of approximately 73 acres located within the Orchard Park neighborhood.

The project is currently unfunded and has not yet been adopted by the City Commission as a Capital Project. The Engineering Division of the Public Works Department is underway with the design criteria package and expects to have this package completed and ready to go to bid upon approval by the City Commission. Staff recommends that these drainage improvements be approved by the Commission as a project and that funding be allocated in order to meet the mitigation requirements herein.

In addition, the Capital Improvements Office has been working in the reconfiguration of the intersection of Chase and Prairie Ave. The scope of the project would be to reconfigure the intersection to provide additional park area along Muss Park. City staff also recommends including in the Design Criteria package, the Muss Park expansion and intersection improvements. The rationale behind this approach is to allow both projects to be designed congruently, and in the event the Muss Park project is incorporated in the FY 09 Capital Program, then allow both projects to be constructed simultaneously, so as to minimize impact in the neighborhood.

Chairman Saul Gross asked Commissioner Deede Weithorn what should be the criteria as to how the City deals with hotspots that come out of the analysis. Commissioner Weithorn replied that the new engineering solution should provide for a five year solution and that if the City was going to fix a hotspot it should make it compatible with a five year storm requirement. Discussion ensued.

The Committee recommends that both, the intersection of Chase and Prairie Ave and 44th Street and Royal Palm, be designated as a capital projects; and have the

engineering staff create the design criteria in house and put the project out to bid when the funds are allocated as part of the capital budget process.

8. Altos Del Mar Sculpture Park project

ACTION

The Committee approved the following:

- **An initial term of ten (10) years, with two (2) five year renewal options.**
- **Altos Del Mar Sculpture Park (ADMSP) is permitted to rent the Premise for wedding receptions and other social functions, on limited days outside the normal hours of operation of the Sculpture Park.**
- **If a work of art is donated to ADMSP for the Sculpture Park, it would retain ownership and control of that piece and be able to sell it.**
- **ADMSP has the ability to sell naming rights for the exhibition areas in order to support its programming subject to limitations imposed by the City.**
- **ADMSP is not required to donate pieces of art to the City (for its Art in Public Places Program) periodically throughout the term of the Agreement.**
- **The City will not represent that it will not sell the property during the term of the proposed Agreement.**

The Committee recommends that the concept plan goes to the Planning Board and any concerns should be directed to the Commission. The Committee also recommends that the Agreement goes back before the Commission before it's executed.

Assistant City Manager Hilda Fernandez presented the item and gave a brief outline of the memo.

Peter Saile of Altos Del Mar Sculpture Park, Inc addressed the six pending issues (term, rental of the Premises, sale of art works, naming rights, art donations made by ADMSP to the City, and) outlined in the memo and discussion ensued.

Term: While the RFP provides for an initial five (5) year term with one five (5) year renewal term, at the City's discretion, Addendum No. 2 of the RFP also gave the City the option to negotiate a longer term "...if the proposal awarded offers capital investment." As ADMSP's proposal does offer capital investment, they have requested an initial term of ten (10) years, with two (2) five year renewal options. Chairman Saul Gross asked Mr. Saile what ADMSP's capital investment would be. Mr. Saile stated that \$2.5 million is needed upfront and \$1.7 million is needed for operating costs yearly. Commissioner Diaz is in favor the ten year term with two five year options and suggests that the capital commitment is written into the Agreement. Commissioner Jerry Libbin also favors the ten year term as long as ADMSP continues to meet the benchmarks of the Agreement and expectations of the City.

Rental of the Premises: ADMSP initially requested that it be permitted to rent the Premise for wedding receptions, on limited days outside the normal hours of operation of the Sculpture Park (i.e. when it would not be open to the public) but during negotiations, ADMSP requested that, in addition to weddings, it also be allowed to rent the premises for other social functions (under rates and policies and procedures approved by the City). Commissioner Libbin asked Mr. Saile to clarify ADMSP's request. Mr. Saile responded that they are looking for the flexibility to have more events in the park. The Committee approved the request to allow for additional events and asked that rules and

regulations/guidelines be added about noise violations to the Agreement. Commissioner Deede Weithorn wanted parking guidelines added as well so that the neighborhood is not impacted during the events. Deputy City Attorney Raul Aguila then asked the Committee for clarification on the hours of operation and if necessary if a temporary closure of the park to the public is acceptable. Both the Committee and Mr. Saile want to keep the park open to the public during these events.

Sale of Art Works: The Agreement prohibits the sale of the art works while exhibited in the Park. Staff has recommended that the City should realize some sort of compensation (i.e. a percentage of the sale price) from the sale of an art work displayed in the Sculpture Park and which is subsequently sold. ADMSP has indicated that if a work of art is donated to ADMSP for the Sculpture Park, it would like to retain ownership and control of that piece and be able to sell it, with proceeds going toward the ongoing maintenance and support of the Park. Commissioner Libbin is opposed to staff's recommendation and supports ADMSP retaining ownership and control of the art works. Commissioner Ed Tobin asked Mr. Saile if he thought pieces of art should be sold. Mr. Saile replied that ADMSP goal was not to have a commercial enterprise but in the event that an artist did not want their art work returned and ADMSP did not want to keep the art work, they should be allowed to sell the piece. Commissioner Weithorn would like to see if ADMSP would lend art, post exhibit, to the City for use in the Art in Public Places Program and be allowed to sell the piece if they desired.

Naming Rights: ADMSP would like the ability to sell naming rights for the exhibition areas in order to support its programming. Commissioner Weithorn and Commissioner Diaz would like the sign's size, location and proportion specifications be added to the contract. Commissioner Diaz would also like "and the City of Miami Beach" added to the attribution signs. The Committee directed staff to request as part of the approval, exemption from the City's Naming Ordinance inside the park, subject to review of signs.

Commissioner Tobin asked if performance benchmarks are included in the contract. Mr. Aguila confirmed that there are benchmarks in the contract.

The sentiment of Committee was not to require ADMSP to donate pieces of art to the City (for its Art in Public Places Program).

The City's title to Altos del Mar Park contains a deed restriction which gives the State of Florida the right of first refusal if the City were to ever sell the property. ADMSP wants the City to represent that it will not sell the property during the term of the proposed agreement. The Committee agrees that the City will not represent that it will not sell the property during the term of the proposed Agreement.

The Committee recommends that concept plan goes to the Planning Board and any concerns should be directed to the Commission. The Committee also recommends that the Agreement goes back before the Commission before it's executed.

9. Discussion regarding transitioning certain operating activity and the associated funding for The Bass Museum of Art to The Friends of The Bass Museum, Inc.

ACTION

The Committee approved the transfer of \$216,931 and recommended the Administration come back before the end of the fiscal year as part of the budget process for next year with an explanation of what their recommendations are for privatizing the Bass Museum.

Assistant City Manager Hilda Fernandez presented the item and gave a brief synopsis of the memo.

Currently Museum staff consists of City employees (both classified and unclassified) and Friends of the Bass Museum Inc. employees, with substantial differences in benefits and pay scales. While the City's commitment to the Bass Museum remains strong, both the Administration and the Museum feel that the City can continue to fulfill its contractual obligations without having actual City employees working at the Museum. To this end, two recently-vacated City positions at the Bass have been filled as employees of the Friends of the Bass Museum Inc., the Assistant Director and Curator. The objective is to transition all Bass Museum positions to the Friends of the Bass over time, which will allow for significant savings in salaries and benefits.

The Administration recommends transferring \$109,131 in salaries to be used by the Friends of the Bass Museum Inc. for salary expenses related to the Museum's Assistant Director and curatorial services. Additionally, it is recommended that an additional \$107,800 be transferred to the Friends of the Bass Museum Inc. for operating expenses. These funds are currently available in the City's Bass Museum General Fund budget for professional services (carpet cleaning), sanitation fees, rent/building/equipment (art storage), contract maintenance (security alarm, alarm monitoring and dust mats), office supplies, repairs/maintenance, other operating expenses and dues. The combined transfer would be \$216,931. It is the desire of both the City and Friends of the Bass Museum Inc. to transfer funds for the same line items in future years as well. The Friends of the Bass Museum Inc. and Board of Trustees have reviewed this proposed transfer and recommended in favor of this agreement.

The Administration recommends the City enter into a management agreement with the Friends of the Bass Museum Inc., similar to the one entered into by the City and the Garden Conservancy for the Botanical Garden. The agreement would delineate the exact responsibilities the Friends of the Bass Museum Inc. would be required to meet in exchange for the funding. These obligations would be very similar to functions currently carried out jointly between the City and Friends of the Bass Museum Inc.

Commissioner Jerry Libbin asked if there was any cost savings to the City by transferring the \$216,931 and if the two line items would remain the same in future years. Ms. Fernandez suggested that limiting the cpi to no more than 3% would constitute a long term savings to the City and that the amount of these items should be addressed in contract negotiations.

The Committee approved the transfer of \$216,931 and recommended the Administration come back before the end of the fiscal year as part of the budget process for next year with an explanation of what their recommendations are for privatizing the Bass Museum.

10. Discussion regarding funding sources to replenish the \$50,000 appropriated from the general fund unallocated fund balance

ACTION

The Committee recommended that the \$50,000 from the General Fund Unallocated Fund Balance appropriated to fund the financial incentive component of the Leadership in Energy and Environment Design (LEED) Ordinance be replaced by funds available in the FY 2008/09 General Fund Budget due to anticipated fuel

savings, to be effectuated at year-end in conjunction with other year-end budget amendments.

On April 22, 2009 the City of Miami Beach Commission adopted the Ordinance establishing definition, standards, procedures and incentives providing for property owner voluntary participation, and City mandatory participation, in the Leadership in Energy and Environment Design (LEED) Certification Program, as established by the U.S. Green Building Council (the LEED Ordinance). In conjunction with the adoption of the LEED Ordinance, the Commission appropriated \$50,000 from the General Fund Unallocated Fund Balance and directed the administration to develop recommended funding sources to replenish the \$50,000.

The LEED rating and certification system is intended to enhance energy conservation, encourage use of recycled materials and encourage operating practices that are environmentally friendly, and has systematically evolved and improved to an internally recognized standard to encourage and assess the actual performance of green building development.

Based on the Commission direction, the administration reviewed potential funding sources to replace the use of \$50,000 in General Fund Unallocated Fund Balance. Preliminary projections indicate that there will be a savings in Internal Service Charges from Fleet Management to the General Fund, due to fuel expenditure savings associated with reduced fuel prices. Assuming that fuel prices continue at close to current levels, it is recommended that \$50,000 of these savings be used to fund the financial incentive component of the LEED Ordinance for FY 2008/09.

The Committee recommended that the \$50,000 from the General Fund Unallocated Fund Balance appropriated to fund the financial incentive component of the Leadership in Energy and Environment Design (LEED) Ordinance be replaced by funds available in the FY 2008/09 General Fund Budget due to anticipated fuel savings, to be effectuated at year-end in conjunction with other year-end budget amendments.

11. Update on South Pointe Pier Project

ACTION

The Committee approved the project to move forward and suggested that a neighborhood meeting be scheduled in approximately 4 weeks. After the neighborhood meeting the Committee asked that the design concept is brought to the Commission for final approval.

Acting CIP Director Fred Beckmann presented the item and gave a brief history of the South Pointe Pier Project. Mr. Beckmann then went on to introduce Matthew Tucker from the firm of Hargreaves & Associates who is the consultant for the project.

Mr. Tucker presented a revised conceptual plan to the Committee as per the Committee's request. The concept will be further developed by Hargreaves as the design process continues.

The current concept is to view the pier as a telescope, which becomes wider as you move east. Materials used on the pier will reflect the high-quality materials used in the South Pointe Park project. The shade structures have been moved from the north side to the south side of the pier as to avoid shading the water.

Mr. Tucker suggested having the contractors bid out the wood deck which would match the same IPE material used in the park as opposed to a concrete. Commissioner Deede Weithorn asked for a maintenance analysis for an IPE wood deck versus a concrete deck.

Discussion ensued on the hours of operation for the pier, lighting options and accommodations for fishermen.

Commissioner Ed Tobin would like to see accommodations such as fish cleaning tables and sinks added to the design and suggested including a place to rent fishing poles and buy bait at the end of the pier.

Commissioner Victor Diaz and Chairman Saul Gross asked what would be the next step to moving the project forward to which Mr. Tucker replied that the next step is the permitting process which takes approximately six to twelve months.

The Committee approved the conceptual design of the project and suggested that a Neighborhood meeting be scheduled in approximately 4 weeks to have the community give their input. After the Neighborhood meeting the Committee asked that the design be brought back to the Commission for final approval.

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