



MIAMIBEACH

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COMMITTEE MEMORANDUM

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

FROM: City Manager Jorge M. Gonzalez 

DATE: October 14, 2009

SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF September 3, 2009.**

OLD BUSINESS

NEW BUSINESS

1. Discussion regarding proposed Water, Sewer and Stormwater Rates.

ACTION

The Committee moved the item to September 9, 2009 Commission meeting without a recommendation.

Chief Financial Officer Patricia Walker presented the item and gave a detailed synopsis of the memo.

The proposed, combined water and sewer rate increase for FY 2009/10 is \$0.90 per 1,000 gallons. Of this amount, \$0.61 or 68% is the County increase and \$0.29 or 32% is the City increase for the future issuance of water and sewer bonds. It was noted that the increase for the City portion of the combined water and sewer rate for FY 2009/10 was previously projected at \$0.82. However, as a result of further refinements in the rate calculation along with higher than expected revenue collections, the City increase for FY 2009/10 is now \$0.29. The Administration recommended a proposed rate for FY 2008/09 for stormwater of \$9.45 per month. However, the Administration took a further look at the phasing of the projects, with the goal of reducing the impact of the initial rate increases. As part of this review, the 10% operating expense contingency was reduced to 5%, earnings in excess of \$1 million were carried forward as revenues in the subsequent year, the issuance of the first series of bonds was moved from October 2009 to mid 2010 and the second series of bonds to 2012. As a result of these modifications, the revised stormwater rate was lowered for FY 2008/09 to \$7.42 per ERU. However, the stormwater rates for 2008/09 and 2009/10 will have to be set in order to be able to issue the first series of bonds on or about April 2010. The proposed monthly stormwater rate increase for a residential customer of \$1.64 is necessary for FY 2009/10 rather than the previously projected rate increase of \$2.01. Discussion ensued. The Committee moved the item to September 9, 2009 Commission meeting without a recommendation.

Agenda Item CGD
Date 10-14-09

2. Discussion regarding the potential garage project and joint venture in the Collins Park neighborhood.

ACTION

The Committee authorized the expenditure of funds for staff to hire an appraiser, it also authorized staff to proceed doing financial due diligence on American Riviera Real Estate Company and its principles to make sure they can financially perform.

The Committee appointed Commissioner Ed Tobin as liaison.

The Committee recommended the item be brought back to the Finance and Citywide Projects Committee Meeting on October 29, 2009.

The Committee asked that a comparison analysis be done between this garage project and other City garage projects that have been done.

Assistant City Manager Tim Hemstreet presented the item and gave a brief history of the item.

Chairman Saul Gross suggested that the City hire an appraiser to determine the fair market value of the fees, interest, and operating leases of the garage.

The Committee appointed Commissioner Ed Tobin as liaison between Ron Bloomberg and the City.

Commissioner Jerry Libbin asked that a comparison analysis be done between this garage project and other City garage projects that have been done. The Committee recommended the item be brought back to the Finance and Citywide Projects Committee Meeting on October 29, 2009.

3. Proposal to select BEA Architects from the City's Architectural/Engineering rotational list for the planning, design and construction administration of The Bandshell Park and the planning coordination associated with the development of the various projects at The North Shore Bandshell Park site

ACTION

The Committee approved the existing fee and asked that up to two (2) community meetings be included.

Assistant City Manager Tim Hemstreet presented the item and gave a brief history of the item.

Mr. Hemstreet stated that the issue is the percentage of soft costs, seventeen (17) percent, is high. Commissioner Deede Weithorn asked Mr. Hemstreet what the typical cost for A-E is. Mr. Hemstreet stated the typical percentage is approximately ten (10) percent.

Rene Gonzalez, Rene Gonzalez Architect Inc., stated that there is no duplication in services for the project, they are developing the concept/vision and then handing the project over to BEA. Mr. Gonzalez feels that his fee is fair and is based on the amount

of time it will take to do the design work and BEA's fees also include other consultants like a landscape architect.

City Manager Jorge Gonzalez stated that the City could bid the project, or have BEA do the project without Rene Gonzalez. Mr. Gonzalez stated that he would not be able to reduce his fee. Chairman Gross stated that he feels it should be bid. City Manager Jorge Gonzalez recommended moving forward with proposal presented from BEA Architects Inc., in partnership with Rene Gonzalez Architect Inc. Discussion ensued. The Committee approved the existing fee and asked that up to two (2) community design workshop meetings be included.

4. Discussion regarding proposed lease agreements for Historic City Hall at 1130 Washington Avenue

ACTION

The Committee recommends approving the lease agreement for:

- ***1ST Floor South – Miami Beach Cinematheque: as proposed with the inclusion of a minimum number of daylight hours, a three (3) month tenant improvement credit, removing the City's responsibility for the demolition of the interior walls, and rent to commence on June 1, 2010.***
- ***6th Floor – GEMCOR: as proposed and changing the three (3) month abatement to one (1) month per year for the first three (3) years***
- ***8th Floor – Coane & Associates: as proposed***

The Committee asked staff to calculate the point at which the building becomes taxable.

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

The following are the negotiated terms of the proposals that were submitted for the F&CWP Committee's consideration:

1st Floor South: The Miami Beach Cinematheque (MBC) submitted proposed terms for use of the southern portion of the first floor to relocate their current cinema. MBC has agreed to a base rent of \$20 PSF, to include insurance, common area maintenance and operating expenses. The Tenant assumes the cost for electricity (as the space is separately metered). It is recommended that a term of three (3) years with two (2) three (3) year renewals at the City's sole discretion be implemented. As currently proposed, the Tenant would retain all revenues from admission. This lease would be subject to a standard three (3) percent escalator, annually. MBC proposes that the City assume responsibility for the demolition of interior walls, with MBC retaining responsibility for the build out. Commissioner Jerry Libbin asked Ms. Fernandez if anyone has offered to pay more. Ms. Fernandez stated that no, no one has offered more. Chairman Saul Gross stated that he would like to see foot traffic at this space during daylight hours. Chairman Gross asked Dana Keith, Director of MBC, to discuss their proposal for creating foot traffic during the day. Mr. Keith stated that at their current location parking is limited however the close proximity to the parking garage at Historic Old City Hall would allow MBC to screen matinees at least on the weekends. He also stated that a gift shop with concessions would also be open during daylight hours. Commissioner Deede Weithorn suggested requiring MBC to be open a minimum number of daylight hours. The Committee approved a three (3) month tenant improvement credit and removing the City's responsibility for the demolition of the interior walls. Commissioner Weithorn

asked staff to calculate the point at which the building becomes taxable. Chairman Gross suggested, for all leases in the building, that if taxes were to rise above \$3 PSF, the tenant would pay their share of the increase. Conversation ensued. The Committee recommended rent commence on June 1, 2010.

6th Floor – GEMCOR: The proposed rate of \$23.30 PSF for (1,517 sf) includes insurance, common area maintenance, electricity and operating expenses. The Administration recommends an initial term of three (3) years, with two (2) renewal terms of three (3) years each. A three (3) month rent abatement was recommended, in keeping with current industry practices, and competitive with what the market is offering at this time. GEMCOR is requesting that a cap of \$1,000 per year be placed on all proportionate share increases. A ten (10) percent escalator would apply at the end of the third year. Rather than a three (3) month rent abatement, the Committee recommended one (1) month per year for the first three (3) years.

8th Floor - Coane & Associates: The Committee approved the proposed rate of \$30 PSF (for 1,517 sf), which includes insurance, common area maintenance, electricity and operating expenses. They have agreed to all the City's terms, will pay for their own parking, and will be able to occupy the space following lease approval. The proposed lease term is three (3) years, plus two (2) three (3) year renewals at the City's sole discretion.

1st Floor/additional vacant floor: ESPN has approached the City to request use of space in the building for a minimum of two weeks in January relating to their local coverage of Pro Bowl and Super Bowl events. The City has negotiated a market rent of \$25 PSF for the total space (6,630 sf). For this short term, ESPN would operate under a letter agreement. The Committee recommended the short term rental.

1st Floor North – MIAMI Dade Gay & Lesbian Chamber of Commerce (MDGLCC): Chairman Gross suggested MDGLCC share space with the Miami Design Preservation League (MDPL) at the Ocean Front Auditorium at 1000 Ocean Drive in Lummus Park. Steve Adkins, MDGLCC, stated that Historic Old City Hall has the visibility desired for MDGLCC. Discussion ensued. MDGLCC and the City have not reached agreement on terms, including the rent. Staff will continue to negotiate options and bring proposed lease terms to the F&CWP Committee as soon as possible. In the interim, MDGLCC and staff will visit the 10th Street Auditorium to determine if that space can accommodate their proposed operations.

5. Recommendation to approve a Management and Operation Agreement with Miami Design Preservation League (MDPL) for the Miami Beach Ocean Front Auditorium at 1000 Ocean Drive in Lummus Park.

ACTION

The Committee asked staff to develop measurable and determinable benchmarks for the MDPL.

The Committee recommended the item be brought back to the Finance and Citywide Projects Committee Meeting on October 29, 2009.

The Committee approved MDPL to occupy the gift shop under a Letter Agreement, when the space becomes available for occupancy.

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

the item.

Chairman Saul Gross asked if revenue sharing was included. Ms. Fernandez stated it is not currently included as part of the agreement.

Gary Appel, MDPL, asked the committee to increase the term of the agreement from a five (5) year term to a ten (10) year term. Commissioner Deede Weithorn feels that a five (5) year term is appropriate. Conversation ensued. The Committee asked staff to develop measurable and determinable benchmarks for the MDPL. The Committee recommended the item be brought back to the Finance and Citywide Projects Committee Meeting on October 29, 2009.

The Committee approved MDPL to occupy the gift shop under a Letter Agreement, when the space becomes available for occupancy.

6. Discussion regarding a lease agreement with Environmental Coalition of Miami and the Beaches (ECOMB) for the City-owned building located at 210 2nd Street.

ACTION

The Committee recommended approving the lease agreement for this space at the proposed terms and additionally requires ECOMB to perform clean-up of City beaches.

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

The space being considered for lease is a building located on the corner of Collins Avenue and 2nd Street, adjacent to the existing small dog park. Since September 9, 1998 until April 30, 2004, the building was occupied by Alliance for Media Arts, Inc. In April of 2004, the RDA Police began to utilize the building as a substation. A screen enclosure was added to the exterior patio to secure the area. The RDA Police has since been relocated. For the past three months the building has been vacant and secured.

Currently, Environmental Coalition for Miami and the Beaches (ECOMB) has approached the City requesting the opportunity to lease the building. ECOMB works closely with the City and other local organizations to promote activities in support of the environment, including clean-up events, and promotion of recycling and other green initiatives. Under the proposed lease agreement, ECOMB would be directly responsible for insurance and electrical utility costs for the entire 2112 square feet of the building. The City is requiring a security deposit of \$500. ECOMB would pay a base rent of \$1.20 per year, and monthly operating costs of \$200 to cover water utility costs. This rent structure is similar to that used for the South Shore Community Center. The lease would be an initial term of three (3) years, with one (1) option for a three (3) year renewal period.

ECOMB has presented a concept proposal to develop this facility into The Miami Beach Center for the Environment. This would entail, at a minimum, the enclosure of the screened in area. Until such time as ECOMB is able to produce a concept plan and demonstrate financial resources to implement the plan, the facility will be used for ECOMB's office space. Additionally, ECOMB will ensure that this historic structure is preserved and maintained.

The Committee recommended approving the lease agreement for this space at the proposed terms and additionally requires ECOMB to perform clean-up of City beaches.

7. **Modification of an existing retail lease agreement with Cadiac, Inc., involving Suites D and E in the anchor shops, located at 1550 Collins Avenue, Miami Beach, Florida; Providing for a reduction in annual rent to prevailing market rates for the duration of the remaining term of the lease.**

ACTION

The Committee recommended reducing the rent to \$55/sq.ft, the rent reduction be retroactive to June 1, 2009, for a period of two years (until May 31, 2011), upon which market conditions will be re-evaluated, and the Administration will determine the appropriate escalator for the remaining term of the Lease, which is set to expire on September 31, 2014

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

The Administration recommended amending the existing lease, reducing the rent from \$65/sq.ft. to the current rate being paid by the Tenant of \$55/sq.ft. It was further recommended that the rent reduction be retroactive to June 1, 2009, for a period of two years (until May 31, 2011), upon which market conditions will be re-evaluated, and the Administration will determine the appropriate escalator for the remaining term of the Lease, which is set to expire on September 31, 2014. The Committee approved the Administrations recommendation.

8. **Discussion regarding the issuance of a Request for Qualifications (RFQ) for a Real Estate Broker to service leasable City-owned properties**

ACTION

The Committee recommended the issuance of a Request for Qualifications (RFQ) for a Real Estate Broker to service leasable City-owned properties.

Currently there are several spaces in City-owned buildings that have commercial leasable space, either retail or office, vacant and available. While staff has made efforts to attract tenants and negotiate leases for existing vacancies, impending staff adjustments and market conditions have prompted a re-evaluation for the need for a Commercial Real Estate Broker, or Brokers, to market these City-owned spaces and procure and negotiate leases moving forward, as well as any additional revenue-generating leasable space as it becomes available.

The Committee recommended the issuance of a Request for Qualifications (RFQ) for a Real Estate Broker to service leasable City-owned properties.

9. **Recap of Community Visioning for the Byron Carlyle Theater**

ACTION

Status update

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

Chairman Saul Gross feels the building should be sold. Commissioner Jerry Libbin asked staff to reach out to colleges and universities with well known theater or music/arts programs and not just local institutions. Commissioner Deede Weithorn feels that we should not be tied to the concept of that building. Conversation ensued. Chairman Gross suggested including the theater in the inventory of properties for Real Estate Broker to handle.

10. Discussion regarding the City's Special Event Permit fees as they pertain to use of the public right-of-way and the accompanying Right-of-Way Permit fees.

ACTION

The Committee recommends amending the City Code to allow City staff to charge the greater of the Special Event Permit fee or Right-of-Way Permit fee.

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

The Special events Guidelines require all event producers privatizing public space to pay the greater of two fees: percentage of concession or square footage. Both essentially function as a rental fee for use of public property. The square footage fee is typically the more utilized amount and takes into account all areas, whether fenced, tented, or barricaded off. This fee is a one time only fee per event and is not assessed based on number of days used.

Part of the Special Events process includes city staff or the event producer obtaining Right-of-Way permits from the Public Works Department whenever streets or sidewalks are encumbered for an event's activities, inclusive of load-in and load-out. Public Works typically has a fee associated with stand alone right-of-way requests, including construction, but those fees have never been collected when permitted under the auspices of a Special Event permit, primarily because a fee structure, including permit and application fee, as well as square footage fee, exists as part of the Special Event process. Recently, the Public Works Department has advised that Section 82-151 of the City Code requires Public Works to charge a fee when issuing a Right-of-Way Permit and no waiver provision exists. This presents a concern as the City would be charging the event two different fees for the same purpose, privatization of the public right-of-way. City staff does not feel this is equitable and would likely make it cost prohibitive for most events to take place in Miami Beach if both fees were assessed.

For events that could have also been charged a Right-of-Way Permit Fee, Tourism and Cultural Development conducted analysis that compares the revenue received when charging the Special Event Square Footage Fee versus potential Right-of-Way Permit Fees. The analysis shows that Special Event Square Footage Fee generates more revenue for the City from events using public property for less than ten (10) days. Additionally, the Right-of-Way Permit Fees generate more revenue from events using public property for more than nine (9) days. These scenarios include event load-in/out.

The Committee recommends amending the City Code to allow City staff to charge the greater of the Special Event Permit fee or Right-of-Way Permit fee.

11. Discussion of a retiree pension issue regarding City of Miami Beach retiree Aldo Rodriguez and his widow Olga R. Rodriguez

ACTION

The Committee recommended that Ordinance No. 1901 not be amended retroactively.

Human Resources Director Ramiro Inguanzo presented the item and gave a brief history of the item.

Chairman Saul Gross asked Mr. Inguanzo what would be required if the Committee decided to grant Mrs. Rodriguez benefits. Mr. Inguanzo stated that, according to the City's Pension Attorney, the ordinance would have to be amended and retroactively make that benefit available. Commissioner Jerry Libbin asked if others would qualify if the change was made. Mr. Inguanzo stated that he was not aware of any but there could be others that would then qualify for benefits. Mrs. Rodriguez stated that she was not asking for the ordinance to be amended and feels that there were special circumstances in her particular case. Discussion ensued. City Attorney Jose Smith stated that there was no legal obligation to pay the pension. Mr. Inguanzo stated that the City's Pension Attorney did not recommend retroactively changing the ordinance. The Committee recommended that Ordinance No. 1901 not be amended retroactively.

12. Discussion regarding possible funding sources and strategies that the City may employ to assist condominiums in Miami Beach.

ACTION

Item Deferred