



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission
FROM: City Manager Jorge M. Gonzalez 
DATE: January 11, 2012
SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF December 6, 2011.**

OLD BUSINESS

NEW BUSINESS

1. A discussion of a proposed modification of the promissory note dated February 5, 2007, between MBCDC: Meridian Place, LLC, a Florida Limited Liability Corporation, to the Miami Beach Redevelopment Agency; and to discuss a subordination of the City's Mortgages in favor of a mortgage made by a commercial lending institution

ACTION

The Committee asked that the item be brought to the full Commission without a recommendation.

Anna Parekh, Director of Real Estate, Housing, and Community Development, presented the item.

Meridian Place was built in 1940 and had been operating as a 72-unit transient hotel, located at 530 Meridian Avenue, which was purchased for rehabilitation by Carrfour Supportive Housing in 2001. An August 22, 2006 appraisal by J.B. Alhale & Associates, Inc., determined the "as-is" value to be \$3,800,000 and the "upon-completion" value of \$6,525,000. As a result of ongoing issues with its funders, Carrfour Supportive Housing indicated that it would no longer pursue completion of the re-named "Sunsouth Place Apartments" project. Miami Beach Community Development Corporation (MBCDC) was approached regarding its interest in acquiring the property to ensure its continued availability to the community as affordable housing. To complete the transactions, MBCDC requested funding from the City to assist in the acquisition of the property. In July 2006, MBCDC entered into a purchase agreement with Carrfour Supportive Housing for acquisition of the property. At that time, there was no debt service contemplated for the RDA's \$1,500,000 contribution. On October 11, 2006, the

Miami Beach Redevelopment Agency (RDA) approved Resolution No. 538-2006 authorizing an appropriation of South Pointe Redevelopment Area funds in the amount of \$1,500,000 to be utilized by MBCDC for the purpose of MBCDC's acquisition and rehabilitation of the building located at 530 Meridian Avenue to provide 34 units of affordable housing for elderly, formerly homeless persons. On February 5, 2007, a Mortgage and Security Agreement and a corresponding Promissory Note were executed by MBCDC: Meridian Place, LLC, a Florida limited liability corporation (the Promissory Note), committing to a repayment schedule in the amount of \$150,000, commencing December 31, 2011, and continuing each December 31 thereafter annually.

At the time of MBCDC's acquisition of Meridian Place, total project costs were estimated at \$6,629,000, including acquisition. Since that time, the City's regulatory processes as well as HUD's regulations concerning the size of the units, necessitated significant modifications to the plans, including complete reconfiguration of the floor plans to reduce the number of units to 34, the addition of an elevator, and the configuration of the lobby for ADA compliance. The total costs are currently projected at \$8,117,797, including the \$3,800,000 acquisition cost. Until the HUD and County General Obligation Bond funds, \$355,012 and \$440,431 respectively, are paid to MBCDC, the funding gap to complete the construction of the project is \$977,975. Based on the current rental income projected for this affordable housing project, the RDA debt service which is scheduled to commence this December and the current market value of the property, MBCDC has been unable to obtain a commitment for private bank financing to fill the current funding gap.

Based on cash flow projections outlined in MBCDC's Meridian Place Profoma dated 9/21/11, the annual RDA debt payments would create negative cashflow of more than \$100,000 in each of the next ten years. This position is further compounded by an additional \$1,000,000 in negative cashflow if the State debt is repaid in the year 2020, as required. MBCDC states that if the RDA Promissory Note is modified to reflect a deferred or forgivable status, then the project will be provided with a modest net cash flow average of approximately \$20,000 for each of the next ten years; with the exception of the first year of operation. This also presumes that MBCDC is successful in receiving its requested payment deferral and extended amortization of the State debt.

The Administration recommended that the RDA loan repayment terms be restructured to be consistent with other affordable housing grants (loans) from the City which defer the repayment of the funding as long as the project is kept "affordable" in accordance with HUD guidelines. The project's "affordability period" is currently thirty (30) years, commencing at the issuance of the Final Certificate of Completion. It was also recommended that should the deferral of the RDA repayment be approved, that the expiration of the 30-year affordability period, the City may be given the option to either call in the note, extend the affordability period (e.g. another thirty years), or otherwise modify the note. Commissioner Jorge Exposito asked at what time the debt repayments normally begin. Ms. Parekh stated that normally the City does not give debt service on affordable housing loans; rather they are turned into forgivable grants as long as the project is kept affordable. Chairperson Deede Weithorn asked what would happen if the repayment is not deferred. Assistant City Manager Hilda Fernandez stated that project would not be able to continue. Chairperson Weithorn asked how much money is left to finish the project. Ms. Fernandez stated that there is a \$900,000 funding gap. Discussion ensued. The Committee asked that the item be brought to the full Commission without a recommendation.

2. Discussion concerning City Fees and Charges for Gay Pride 2012

ACTION

Item Deferred

3. Discussion and review of City's Investment Policy

ACTION

The Committee recommended that the item be brought to the full Commission with the recommended changes.

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

On September 27, 1995 the City's Investment Policy and Procedures were officially adopted in writing with the passage and adoption of Resolution No. 95-21726. This was a result of the passing of Chapter 218.415 of the Florida Statutes that require the adoption of a formal written investment policy by local governments. The last amendment to the Investment Policy was done in 2007 by the request of then Mayor David Dermer who wanted to add certain investments that the City should not invest in. He wanted to incorporate the State's "Protecting Florida's Investment Act" to the City's policy. This Act prohibited the investment of public funds managed by the City in any "Scrutinized Companies" with active business operations in Sudan or Iran, as listed by the State Board of Administration (SBA) on a quarterly basis. Thus this Act was incorporated into the City's Investment Policy by the adoption and passage of Resolution No. 2007-26602 on July 11, 2007. The State of Florida, in the passing of Chapter 218.415, has allowed investment in Israeli bonds. Due to the State allowing investments in Israeli bonds, the City will be adding the investment of Israeli bonds as an allowable City investment. In addition, it was recommended that Section L-Investment Committee was removed from the Investment Policy and replaced with the City's current practice of using an Investment Advisor.

Chairperson Deede Weithorn suggested that the policy be reviewed on a regular basis. Ms. Walker stated that provision will be added stating that the policy shall be reviewed no longer than five (5) years from the last review date or at the time of a change of any significant accounting pronouncement or change in the City's market treasury services. The Committee recommended that the item be brought to the full Commission with the recommended changes.

4. Discussion regarding the public beachfront concessions agreement

ACTION

The Committee recommended bringing the item to the full Commission with the language of the old agreement regarding the renewal provision, including benchmarks to be developed by Staff for the consideration of the Commission, and requested that two options be presented regarding the increase to the minimum guarantee: the greater of the Consumer Price Index (CPI) or three percent (3%); or the lesser of CPI or three percent (3%).

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

On February 21, 2001, the Mayor and City Commission authorized the issuance of a Request for Proposals (RFP) which resulted in the selection of Boucher Brothers Miami Beach, LLC (Boucher Brothers) for the operation and management of beachfront concessions including beach equipment rentals, food and beverage sales, and water sport rentals on the beaches seaward of Lummus Park, Ocean Terrace and North Shore Open Space Park. The agreement commenced on November 4, 2001, and expired on November 4, 2006 with an option to renew for an additional five (5) year term. An amended and restated concession agreement was entered into on May 18, 2005, which clarified and memorialized operational issues. An amendment to the amended and restated concession agreement was entered into on January 11, 2006, which granted a renewal term through November 5, 2011, and memorialized value enhancements from the Concessionaire to the City. A second amendment to amend the amended and restated beachfront concession agreement was executed on April 16, 2008, said amendment providing for the addition of a concession area adjacent to Bandshell Park. A third amendment to the amended and restated beachfront concession agreement was executed on July 15, 2008, which provided for the reconfiguration of a fenced storage area for storage and for a dumpster facility.

In light of satisfaction with the performance of the current concessionaire, and a desire to ensure that the concession agreement addressed desirable items, such as non-motorized water sports in North Beach, additional cleaning services, and the installation of beach lockers, Staff was directed by the Commission (following the Commission Retreat) to negotiate a new concession agreement with Boucher Brothers. The current opportunities afforded under the existing contract, as well as other options that can generate potential new revenue for the City, were researched and negotiated. In addition to allowing the rental of new types of luxury beachfront equipment, servicing new areas, and allowing for "heating" of certain foods, Boucher Brothers expressed a willingness to develop a non-motorized water sports program in North Beach, as well as continuing to provide (and offer additional) "Value-Added Enhancements" (VAE). The VAE would continue to include annual donations to the City for scholarships, for environmental programming, and in support of the promotion of the City of Miami Beach. Additionally, the proposed new Agreement requires that the Concessionaire shall provide, at its sole cost, support in cleanliness in Lummus Park, including the area outside of the Concession Areas. Furthermore, under the proposed new agreement, the Concessionaire will provide a public beachfront outdoor ashtray program and implement a beach locker program. The proposed terms reflect a flat minimum guarantee for Year One (same as year ten of current Agreement) and a deferred escalator that is intended to offset the capital investment necessary to implement the non-motorized sports concession in North Beach, the beach locker program and the additional services.

Ms. Fernandez stated that last month, the Concession Agreement was extended on a month-to-month basis pending the review and consideration by the City Commission of a new concession agreement, therefore, retroactive approval would be needed on this. Discussion ensued. Commissioner Jorge Exposito asked what the timeframe was for adding the non-motorized sports water channel. Ms. Fernandez stated that Staff will research what the timeframe and requirements are for a non-motorized water sports channel. The Boucher Brothers were asked for their comments on the proposed agreement. They mentioned that they had two issues of concern for them: the renewal language as proposed in the agenda item, and the escalator provision. On the former,

Perry Boucher requested that the language from the last agreement be included. Ms. Fernandez explained that the current language does not provide for an automatic renewal, but requires further Commission action. She also added that under the previous agreement, Boucher had to meet certain benchmarks for a renewal to even be considered. On the latter, staff explained that the current proposed escalator is a reduction from the flat 5% and that the CPI over the past ten years has never exceeded 2.5% (by calculations provided by Boucher), so the possibility of the escalator being greater than 3% was not likely. Following discussion, the Committee recommended bringing the item to the full Commission with the language of the old agreement regarding the renewal provision, including benchmarks to be developed by staff and included, and requested that two options be presented for the Commission's consideration regarding the increase to the minimum guarantee: the greater of the Consumer Price Index (CPI) or three percent (3%); or, the lesser of CPI or three percent (3%).

5. Request for approval to issue a Request for Proposals (RFP) for security guard services

ACTION

The Committee recommended:

- **the criterion for Financial Strength be made a minimum requirement;**
- **the criterion for character, integrity, judgment and reputation be removed;**
- **five (5) points from the removed criterion be added to experience and qualifications of the Contractor;**
- **five (5) points be added to experience and qualifications of the Management Team;**
- **that Staff determine the location and types of enforcement assistance for the trial basis**

Procurement Director Gus Lopez presented the item and gave a brief synopsis of the memo.

Chairperson Deede Weithorn suggested that the criterion for Financial Strength be made a minimum requirement, the character, integrity, judgment and reputation criterion be removed and that the points be added to experience and qualifications of the Contractor and experience and qualifications of the Management Team.

Chairperson Weithorn then asked if the City would save money if the Request for Proposals (RFP) went out. Mr. Lopez stated that in the past, the results of the RFP have been compared to the existing contract and if it is in the City's best interest, the City reserves the right to renew the existing contract and reject all proposals.

Commissioner Jorge Exposito asked if the purview of the security guards could be extended to include issuing citations. City Attorney Jose Smith stated that the issue would be if the City would pay more to have a more qualified security guard that is able to issue code violations. Assistant City Manager Hilda Fernandez stated that the difference would be approximately \$5 per hour for this level of officer. Chairperson Weithorn suggested that this be tested in South Pointe Park on a trial basis. Commissioner Exposito asked that should the City decide to move forward with this, what the training timeframe would be. Ms. Fernandez stated that the types of enforcement assistance would have to be narrowed down to determine the amount of training that would be needed.

The Committee recommended that the criterion for Financial Strength be made a minimum requirement; the criterion for character, integrity, judgment and reputation be removed; and that five (5) points from the removed criterion be added to experience and qualifications of the Contractor; five (5) points be added to experience and qualifications of the Management Team; and that Staff determine the location and types of enforcement assistance for the trial basis.

6. Discussion pertaining to the issuance of a Request for Proposals (RFP) for auditing services for the City's (CAFR), (OMB A-133 Single Audit), The Miami Beach Redevelopment Agency's basic financial statements (RDA), ...(PSF), (VCA) financial statements, The Miami Beach Convention Center, as managed by Global Spectrum, financial statements, The Children's Trust Program, The Building Better Communities Bonds Program, and The Safe Neighborhood Parks and Bond Program (SNP)

ACTION

Item Deferred

7. Discussion of Right-of-way recycling program

ACTION

The Committee recommended that a pilot program proposal be brought to the January Finance & Citywide Projects Committee Meeting.

Public Works Director Fred Beckmann presented the item.

Since 2009, the City installed 74 dual recycling bins and 74 silver urban style standalone recycling bins throughout the City's Right of Way (ROW), beach entrances, and in select parks. The bins were financed through negotiations with the City's franchise waste haulers. Also, through these negotiations the City's franchise waste haulers provide in-kind solid waste and recycling pick-up. Waste haulers service the ROW waste receptacles on a regular schedule to ensure a high level of service in City parks, beach entrances, and ROW locations.

Currently, the City is negotiating a partnership agreement with Coca-Cola. As part of this agreement, Coca-Cola will assist with developing signage for existing recycling bins to improve recycling rates. All future recycling receptacles purchased by the City would also include this updated message to create a uniform design throughout the City.

A number of companies have presented dual trash and recycling receptacle products to the Sustainability Committee including Go Green Eco-Bins and Big Belly Solar. Both of these companies' business models include an option to use advertising to offset the cost of providing these public benefits. Other concerns that have been identified with selecting new recycling receptacles include size constraints in ROW, uniformity with current receptacles, and odor problems associated with the compacting models of decomposing organic waste in Miami Beach's hot, humid climate. Neither the Go Green Eco-Bins nor the Big Belly Solar bin could be installed in the standard 5-foot wide sidewalks as they would not leave enough space to provide compliance with ADA standards. It was also noted that both the Go Green Eco-Bins and the Big Belly Solar design would require a concrete slab foundation for installation adjacent to the beach.

The Florida Department of Environmental Protection regulates construction activities west of the Coastal Construction Control Line (CCCL) and would require the City to obtain a CCCL Permit to move forward with installing these receptacles. Bruce Renard, President of Go Green stated that their proposal was not to place the bins on the ROW but rather in beach areas.

The Committee recommended that a pilot program proposal be brought to the January Finance & Citywide Projects Committee Meeting.

8. Discussion on FPL Franchise Payments to the City of Miami Beach

ACTION

None Required

Assistant City Manager Duncan Ballantyne presented the item.

The City's current thirty (30) year non-exclusive franchise agreement with Florida Power & Light (FPL) expires on January 22, 2012. Since January 2011, representatives of the City Manager and City Attorney's Office have been negotiating the terms and conditions of a new franchise agreement with FPL. A public workshop was held on November 28, 2011 at the Miami Beach Golf Course Clubhouse to discuss the terms of the proposed new agreement. A major concern at the workshop was the 30-year term, which, notwithstanding the City's continuous efforts to reduce, FPL indicated could not be modified. Residents from Sunset Islands 3 & 4 neighborhood addressed concerns regarding the difficulties surrounding the process of undergrounding. The Committee discussed the calculation of the current and proposed franchise payments. Chairperson Deede Weithorn opened the floor to public comment which included requests for research regarding the process of undergrounding.

9. Discussion on Outsourcing of Lincoln Road mall Maintenance Services

ACTION

The Committee asked that a detailed analysis about the positions that would be eliminated by the outsourcing of Lincoln Road Mall maintenance services be completed before the item is brought to the full Commission and that staff reply to the public records request by CWA.

Chairperson Deede Weithorn was concerned about positions being eliminated by the outsourcing of Lincoln Road Mall maintenance services. Fred Beckman, Public Works Director, stated that anyone that gets displaced due to the outsourcing will be placed in another job within the City. Chairperson Weithorn then asked for more detail about the positions that would be eliminated including how many positions and if any of the employees holding those positions would be retiring in the near future. The Committee asked that detailed analysis about the positions that would be eliminated by the outsourcing of Lincoln Road Mall maintenance services be completed before the item is brought to the full Commission. Discussion ensued. Commissioner Jonah Wolfson asked Richard McKinnon, Communications Workers of America (CWA) President Local

3178, what he was seeking to understand from the detailed analysis being asked for. Mr. McKinnon stated that he would like to show the difference in cost between outsourcing the maintenance services and having City employees provide the maintenance services was minimal. CWA Secretary Jonathan Sinkes added that union workers that work on Lincoln Road have not been sent out in several weeks because parts necessary to complete the work orders are not available. Discussion ensued. The Committee requested a Letter to Commission regarding open work orders and the Standard Operating Procedures for obtaining supplies. Chairperson Weithorn opened the floor to public comment which included requests for a workshop for the business on Lincoln Road to discuss policy changes. The Committee recommended a workshop be held with both business and property owners to discuss the scope of current Lincoln Road maintenance services as well as the possibility of out sourcing the maintenance services.

Additional Item (not on agenda): Discussion regarding towing permits

ACTION

The Committee directed Staff to meet with the towing companies before the December 14, 2011 Commission Meeting to work on the unresolved issues and bring their recommendations or policy questions to the Commission meeting.

Chairperson Deede Weithorn asked that the Administration bring the item to the December 14, 2011 Commission Meeting. Assistant City Manager Jorge Gomez stated that a memo had been drafted stating that the contract was to continue on a month-to-month basis, the issues that have not reached a conclusion were outlined, and asked for the Commissions to refer the item to the appropriate committee. Mr. Gomez then asked that the Commission give their direction regarding the unresolved issues at the December 14, 2011 Commission Meeting. Chairperson Weithorn recommended that Administration meet with the towing companies before the Commission Meeting to try to resolve the outstanding issues so that the policy decisions could be made and the item can move forward. The Committee directed Staff to meet with the towing companies before the December 14, 2011 Commission Meeting to work on the unresolved issues and bring their recommendations or policy questions to the Commission meeting.