



MIAMIBEACH

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: March 21, 2012
SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF January 19, 2012.**

OLD BUSINESS

- 1. Follow up: Report on the number of Business Tax Receipts (BTRs) outstanding**

ACTION

The Committee requested quarterly updates be given via Letter to Commission (LTC).

Georgina Echert, Assistant Director of the Finance Department, presented the item. The City began sending out the Fiscal Year (FY) 2012 renewal notices in early July of 2011. As of January 13, 2012, the following is a summary on the status FY 2012 BTR renewals:

- 7,801 renewal notices were mailed out;
- 1,624 renewal notices remain unpaid; and
- 1,879 renewals have been paid, but remain in pending status.

A list of business entities that have not renewed their BTR has been sent to Code Compliance for follow-up action. Ms. Echert also stated that a follow up notice has been sent to remind businesses that have not renewed their BTR. Commissioner Jerry Libbin asked how this compares to previous years. Ms. Echert stated that the compliance level was approximately 65-70% last year, as compared to 80% this year. The Committee requested quarterly updates be given via Letter to Commission (LTC).

- 2. Discussion regarding amendments to the Recycling Ordinance**

ACTION

Item Deferred

- 3. Discussion regarding towing permits**

ACTION

The Committee recommended that:

- **the auditing and inspection provisions resemble the provisions in the Boucher Brothers contract**
- **option 1 for resident discounts be put into the contract**
- **review the towing software and in-vehicle camera enhancements in one year**
- **Administration continue to negotiate with the Permittees regarding the number of hours a vehicle is stored at no charge to the customer**
- **the item be brought to the full Commission**

The Committee asked that the Permittees explain why credit cards and personal checks are not accepted when the item is brought to the full Commission and that a discussion regarding the City's towing policy be had.

Assistant City Manager Jorge Gomez presented and gave a brief history of the item.

The Committee discussed the auditing and inspection provisions for the towing permittees. Commissioner Jorge Exposito asked if the City has the legal ability, other than what is granted to the City by contract, to determine the profitability of a company or the ability to set a standard of profit. Chief Deputy City Attorney Raul Aguila stated that the City did not have the ability to determine profitability. Discussion ensued. The Committee recommended that auditing and inspection provisions resemble the provisions in the Boucher Brothers contract and that option 1 for resident discounts be implemented. The Committee discussed the requirements for retrieving a towed vehicle. Chairperson Deede Weithorn suggested that a revision provision be included in the contract to ensure that the permittees are making progress in regards to implementing the enhancements required by the contract. Ralph Andrade asked why GPS tracking devices were being required. Parking Director Saul Frances stated that the tracking would be used for vehicles that are providing city services and the tracking software will address issues with accountability and show the proximity of the tow truck to vehicle which is to be towed. Mr. Frances also added that city vehicles are equipped with GPS tracking devices. Commissioner Jerry Libbin stated that he was not in favor of moving forward with the renewal of towing permits before an audit was performed. Ralph Andrade, attorney for Beach Towing, gave a power point presentation regarding increasing the towing rates. City Manager Jorge Gonzalez asked Mr. Andrade of the jurisdictions shown as comparables, how many, if any, have towing as a regulated industry with a limited number of operators. Mr. Andrade stated that he was unsure if any were regulated like the City is. Mr. Gonzalez stated that the way industry was regulated would affect the pricing, more towing companies would yield more competitive rates. Chairperson Weithorn opened the floor to public comment which included suggestions on revising the towing bill of rights to better protect the vehicle owner, raising fees not by a percentage but rather a flat fee, and support for auditing provisions. The Committee asked that the Permittees explain why credit cards and personal checks are not accepted when the item is brought to the full Commission. The Committee recommended that:

- the auditing and inspection provisions resemble the provisions in the Boucher Brothers contract
- option 1 for resident discounts be put into the contract
- review the towing software and in-vehicle camera enhancements in one year
- Administration continue to negotiate with the Permittees regarding the number of

- hours a vehicle is stored at no charge to the customer
- the item be brought to the full Commission

4. 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 recommended that the item be brought to the full Commission and that the funding chart be included as part of the memo.

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

A modification of the repayment terms in the Promissory Note dated February 5, 2007, between MBCDC: Meridian Place, LLC, to the Miami Beach Redevelopment Agency was requested in order to facilitate the completion of Meridian Place, as well as to prevent jeopardizing \$6,415,085 of additional public funds which have been awarded to this affordable housing project for formerly homeless elderly people. The repayment terms in the Promissory Note are not feasible because this affordable housing project cannot produce sufficient cash flow to cover annual principal payments in the amount of \$150,000 to the RDA. The project rehabilitation is 70% complete, and therefore had no rental revenue cashflow to make the first \$150,000 annual loan payment which was due in December 2011. Subsequent annual payments are due every December for the next nine years. In the event the RDA Promissory Note debt service is not modified, the project cannot be completed and the other existing funding sources are in jeopardy. Each of the other funding sources entered into various governing documents with MBCDC and its predecessor to secure the use of funds and project execution. While all the documents were prepared independently by each lender, all the loan documents share common covenants which require the delivery of a completed affordable housing project. Assistant City Manager Hilda Fernandez noted that neither the \$2,864,642 of the City's HUD HOME and CDBG funds or the \$1,379,395 of Miami-Dade County's Documentary Stamp Surtax Funds require repayment as long as the building is kept affordable even at the end of the affordability period. 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. This project's "affordability period" is currently thirty (30) years, commencing at the issuance of the Final Certificate of Completion. It was also recommended that at the expiration of the 30-year affordability period, that 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. The Committee recommended that the item be brought to the full Commission and that the funding chart be included as part of the memo.

REPORTS

5. Report on the status of FY 2010/11 potential new revenue initiatives

ACTION

None Required

The Committee did not discuss the item.

NEW BUSINESS

- 6. Request for approval to issue a Request for Qualifications (RFQ) for a fourth solid waste franchise contractor to provide commercial waste collections and disposal services**

ACTION

The Committee recommended that this item and the item regarding the Recycling Ordinance be brought back to the March 1, 2012 Finance & Citywide Projects Committee Meeting.

Public Works Director Fred Beckmann presented the item.

At the Finance and Citywide Projects Committee Meeting of January 26, 2010, the Committee recommended that the City pursue the option of maintaining four (4) franchise haulers and to accept the services package presented combined with a five (5) year term. The Committee also recommended that a minimum of four (4) haulers be retained and in the event the number falls below four, the matter be brought to the attention of the City Commission. There are presently three waste collection and disposal services franchisees in the City of Miami Beach: Waste Management of Dade County; Waste Services, Inc.; and Choice Environmental Services of Miami. In 2011, a previous fourth franchisee, General Hauling Services, Inc. was purchased by Waste Services. The current waste collection and disposal services franchisees have petitioned the City to maintain at three the number of haulers providing services within the City. It was recommended that the fourth hauler negotiations could provide the opportunity for the three remaining haulers to proffer additional resources for the educational and enforcement requirements of the new recycling ordinance. However, the re-written ordinance significantly reduces the resource requirements for enforcement and therefore does not present the same opportunities. The haulers have requested that - in exchange for agreeing to increase their current contribution to fund green initiatives from 1.5% to 2% (representing an annual revenue increase of approximately \$100,000), and double their annual cash allocation for the purchase of recycling containers from (15) containers valued at approximately \$18,000 to (30) containers valued at approximately \$36,000, or current market value - they would like to keep only three haulers and exercise the three (3) year renewal option currently at the City's discretion in September 2014. Chairperson Deede Weithorn stated that she would like to delay discussing this item so that it could be discussed in conjunction with the item regarding the Recycling Ordinance. Mr. Beckmann stated that the proposed recycling ordinance is ready aside from the few details that needed to be confirmed with the County. Commissioner Jerry Libbin was also in favor of deferring the discussion. Commissioner Jonah Wolfson and Commissioner Jorge Exposito were in favor of issuing the RFQ. Discussion ensued. Public comment included support for both issuing the RFQ and support for keeping the number of waste haulers at three. The Committee recommended that this item and the item regarding the Recycling Ordinance be brought back to the March 1, 2011 Finance & Citywide Projects Committee Meeting.

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

ACTION

Item Deferred

- 8. 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

The Committee recommended moving forward with the issuance of a Request for Proposals (RFP) for auditing services.

Georgina Echert, Assistant Director of the Finance Department, presented the item. The current auditors, McGladrey and Pullen were selected in Request for Proposals (RFP) No. 23-05/06 and approved under Commission Resolution 2006-26247 to provide auditing services for a period of five (5) years with the sole option and discretion of the City to renew for five(5) additional one (1) year periods. The Committee recommended moving forward with the issuance of a Request for Proposals (RFP) for auditing services.

9. Discussion regarding property assessed clean energy (PACE) program

ACTION

Item Deferred

- 10. Discussion pertaining to a retail lease agreement between the City and South Florida Salon Group, Inc., for use of approximately 1,327 square feet of City-owned property located at 1701 Meridian Avenue, Unit 1 (A/K/A 765 17TH Street), Miami Beach, Florida**

ACTION

The Committee recommended that the item be brought to the Commission with the best deal.

Assistant City Manager Hilda Fernandez presented the item. On November 16, 2011, Koniver Stern Group, the City's contracted real estate broker, presented the City with a Letter of Intent (LOI) on behalf of the South Florida Salon Group, Inc., (SFSG) for use of approximately 1,327 square feet of City-owned space located at 1701 Meridian Avenue, Unit1. The New York-based investment group which is behind SFSG is proposing to introduce a relatively new and exciting concept taking hold in many retail markets throughout California, New York, Arizona, Texas, Atlanta and Miami in the form of a

blow-dry hair salon. As the name implies, the facility would offer an attractively affordable fixed-price menu of blow-dry hair styling options as well as manicuring services. In addition to SFSG, the City received inquiries about the availability of the space from the current adjacent tenant, operating as Massage Envy. This existing tenant wished to expand their current space as well as introduce certain services not currently included in their franchise agreement, which formed the basis of the lease for their current space. Further, the initial terms proposed were deemed not favorable to the City, while the prospective tenant submitted terms more favorable for the City's consideration. While the adjacent tenant has remained interested in the vacant retail space, and has since offered comparable terms, the City's broker advised staff that securing a diverse tenant mix would protect the City further, as compared to leasing out this space to the adjacent tenant and having one tenant control two of four retail spaces. SFSG is offering to pay \$46 per square foot for the space. Based on current market conditions, the proposed rent is comparable and competitive. Lyle Stern of Koniver Stern Group stated that Massage Envy had very recently made an offer which exceeded the current \$46 per square foot and suggested that more information be gathered before a final recommendation is made. The Committee recommended that the item be brought to the Commission with the best deal.

11. Discussion pertaining to a retail lease agreement with Groove Man Entertainment, Inc. involving Suites 1 through 4 in the Anchor Shops, located at 1550 Collins Avenue, Miami Beach, Florida

ACTION

The Committee recommended moving forward and bringing the item to the full Commission.

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

On January 11, 2012, Koniver Stern Group, the City's contracted real estate broker, presented the City with a Letter of Intent (LOI) on behalf of Groove Man Entertainment, Inc., (Grooveman Music) for Suites 1 through 4 in the Anchor Shops. Grooveman Music was founded by DJ/Producer George Acosta in the late 90's and has been doing business on Miami Beach from their current location at 1543 Washington Avenue since 2002, selling DJ-related products, clothing and accessories, vinyls and CDs and advance ticketing to music events anywhere in the world. Grooveman is interested in moving its business to the Anchor Shops, which will not only allow them to expand their business, but also allow them to develop higher-end boutique market with new products and designers. Given current market conditions, the subject 2,884 square foot space has been challenging to fill and has been vacant since December 2010. Grooveman Music has proffered an offer of \$31 per square foot, plus tax, to lease the space for an initial term of five (5) years plus a renewal term of four (4) years and 364 days at the City's option. The Committee recommended moving forward and bringing the item to the full Commission.

12. Discussion regarding PAL's refusal to hand over Public Records

ACTION

The Committee recommended that should the PAL not comply with the public records request to the satisfaction of the City Attorney's Office, a public hearing

be scheduled to discuss what measures should be taken including termination of funding.

City Attorney Jose Smith presented the item and went on to introduce Donald Papy, Chief Deputy City Attorney. Mr. Papy stated that he had spoken with the new counsel for the Police Athletic League (PAL), Israel Reyes, regarding the status of the Miami Herald's public records request to the PAL for records and that Mr. Reyes stated that they were cooperating with the Miami Herald and have asked for some additional time because he had recently become the new counsel for the PAL. Mr. Papy stated that Mr. Reyes conveyed his intent to fully comply with the request. Chairperson Deede Weithorn asked Mr. Papy if he asked what the time frame was for Mr. Reyes to turn the records in. Mr. Papy stated that he did not ask but stated that Mr. Reyes had asked for an additional 30 days to respond to the request. Steve "Bubba" Cohen, former PAL board member, stated that his attorney had made the same request in 2009 of the PAL and that it took almost two years for the records to be turned over. Mr. Cohen also stated that the PAL was requested to respond to the 2005 City Audit but the PAL has never responded to the audit. Mr. Cohen was also concerned that the Parks and Recreation Department, the Boys and Girls Club and the PAL are all in Flamingo Park and all competing for a small pool of children. Chairperson Weithorn stated that if the PAL has not complied with the request by the time that the budget is being discussed, their funding could be cut. Commissioner Jonah Wolfson stated that he would also support not funding the PAL. The Committee recommended that should the PAL not comply with the public records request to the satisfaction of the City Attorney's Office, a public hearing be scheduled to discuss what measures should be taken including termination of funding.