



MIAMI BEACH

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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 *Jorge*

DATE: June 6, 2012

SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF May 17, 2012.**

OLD BUSINESS

1. Discussion regarding new recycling bins throughout the ROW on the beach

ACTION

The Committee recommended that the item be brought back at the time the FY 2012/13 budget is presented and that staff determine the number of recycling bins needed and where the recycling bins will be placed to ascertain the costs associated with each bin option.

Public Works Director Fred Beckmann presented the item.

On April 19, 2012 the Finance and Citywide Projects Committee (FCWP) recommended that one GoGreen Eco-Bin and one Big Belly Solar unit be installed in the Right-of-Way (ROW) to compare the two models. These bins along with the City's current silver recycling bin and the proposed Coca-Cola sponsored bin have been placed at Euclid Circle on Lincoln Road. Coca-Cola provided the uniform messaging panels for the GoGreen Eco-Bin and Big Belly Solar. Since 2009, the City installed 74 dual recycling bins and 74 silver urban style standalone silver recycling bins throughout the City's ROW, and 74 dual recycling/trash bins at beach entrances, and in select parks. The bins were financed through negotiations with the City's franchise waste haulers. 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. The City is also still in discussions with Coca-Cola for ROW recycling bins as part of the Coca-Cola partnership agreement. As part of this agreement, Coca-Cola is developing signage and wraps for existing recycling bins to improve recycling rates. In addition, Coca-Cola has proposed a new silver bin to be installed along Lincoln Road and has agreed to purchase at least nineteen (19) new recycling bins once a style and design has been approved by the City.

Agenda Item CGC
Date 6-6-12

The Sustainability Committee believes that the City should consider improving the design of the recycling receptacles currently deployed throughout the City. A number of companies have presented dual trash and recycling receptacle products to the Sustainability Committee, including GoGreen Eco-Bin 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. An ordinance was adopted by the City in 2001, codified in Section 82-414 (Attachment D) in the City Code, which addresses directory signs, bus shelters, and the bike sharing program, which are supported by advertisement. Section 82-414 would need to be amended to permit advertisement on waste receptacles. Other concerns that have been identified with selecting new recycling receptacles included size constraints in the ROW, uniformity with current receptacles, and odor problems associated with the compacting models.

Currently, it costs the City approximately \$400 to operate/maintain a City recycling bin over a five year period. The bins are purchased through funds from our waste haulers, and the regular servicing of the bins is at no cost to the City. It would cost approximately the same amount to operate and maintain the Coca-Cola bins that would be provided for free to the City. Based on the proposals submitted, the cost (per bin, over five years) for the City to own and operate the GoGreen Eco-Bin would be approximately \$6,000 and the cost to own and operate the Big Belly Solar unit would be approximately \$9,500. The per bin cost for the City to lease the bins and advertising/community messaging space over five years is approximately \$7,200 for the GoGreen Eco-Bin, and is approximately \$9,700 for the Big Belly Solar unit.

Sanitation Director Alberto Zamora expressed concerns about the durability of the solar panel on the Big Belly unit and asked the cost to replace it if it got damaged. Laura Craven, of Dade Paper, stated that she was not with the manufacturer of the Big Belly Solar Bins but with the distributor, but would find out the cost of replacing the solar panel. Ms. Craven also stated that the solar panel could be cleaned if it were graffitied or covered and that the motorcycle battery which operates the compactor would continue to work for approximately 30 days if the solar panel was covered or damaged. Commissioner Jorge Exposito asked what the savings would be from using the new recycling bins. Mr. Beckmann stated that the least costly would be the Coca-Cola provided bins (no cost to the City for some bins; only \$680 per bin for any purchased by the City directly), then the GoGreen Eco-Bin, and the most costly would be the Big Belly Solar unit. Furthermore, Mr. Beckmann stated that replacing the recycling bins which currently are provided by the franchise waste haulers would not create a savings for the City in terms of servicing them because the City has no expense with these bins; the City's franchise waste haulers provide in-kind solid waste and recycling pick-up at no cost to the City. The Committee asked if the bins were "operational" in terms of their ease to be accessed and serviced. Mr. Zamora stated that all bins were "operational" with the exception of the GoGreen Eco-Bin. Chairperson Deede Weithorn asked if there were currently recycling bins located in places other than South Beach. Mr. Beckmann stated that there are some bins located in parks and beach entrances in Middle and North Beach. Chairperson Weithorn then asked how many more bins would be needed throughout the city. Mr. Zamora stated that he would get back to Chairperson Weithorn with the number. The Committee recommended that the item be brought back at the time the FY 2012/13 budget is presented and that staff determine the number of recycling bins needed and where the recycling bins will be placed to ascertain the costs associated with each bin option.

2. Discussion regarding a renewal of the current management agreement between the City of Miami Beach and The Miami Beach Garden

**Conservancy for the management and operation of the Botanical Garden;
as well as a proposal to increase the rental rates for use of the facility.**

ACTION

The Committee recommended that the management agreement be extended for the five-year renewal option, and that a review of the proposed fee increases be discussed when the FY 2012/13 budget is presented, and that the Miami Beach Garden Conservancy prepare a projection of what their income will be based on the new rate schedule; and that the discussion on an additional renewal period occur at that time.

Assistant City Manager Hilda Fernandez and Real Estate, Housing, Community Development Director Anna Parekh presented the item.

The item was discussed briefly at the April 19, 2012 F&CWP Committee meeting and referred to the budget meetings. However, since the current term expires June 30, 2012 Commission action was required before then. As a result, the item was placed on the F&CWP Committee agenda again.

On January 17, 2007, the Mayor and City Commission approved a Management Agreement with the Miami Beach Garden Conservancy (the Conservancy) for the operation of the Botanical Garden, with an initial term of five (5) years, commencing on July 1, 2007 and ending on June 30, 2012, with option, at the City's sole discretion, to renew and extend the Agreement for an additional five (5) year term. Since taking over the operations of the Botanical Garden in July 1999, the Conservancy has initiated extensive public outreach initiatives and educational programming, and has played an important role in working with the City to plan and implement the recently completed renovation of the Botanical Garden. In order to see the Master Plan through to completion and to continue its mission of providing quality horticultural, educational and volunteer-based programming initiatives, the Conservancy is asking to exercise its renewal option for an additional five years. Also, in light of the recent improvements to the premises, and in order to be more competitive with comparable venues in South Florida, the Conservancy is proposing to increase the rental rates at the Botanical Garden, which also requires the City's approval. Additionally, the Conservancy is asking the City to consider amending the Management Agreement to provide for an additional renewal option for an additional five (5) years, at the City's sole and absolute discretion. It was noted that this is separate and in addition to the one renewal option provided for and authorized in the current Management Agreement. Suzanne Stolar, President of the Miami Beach Garden Conservancy, stated that the five (5) year renewal and the five (5) year extension is important because the Conservancy will be hiring a new executive director. The Committee recommended that the management agreement be extended for the five-year renewal option, and that a review of the proposed fee increases be discussed when the FY 2012/13 budget is presented, and that the Miami Beach Garden Conservancy prepare a projection of what their income will be based on the new rate schedule. Further, they deferred action on the requested additional five year renewal period until that time.

NEW BUSINESS

- 3. Discussion regarding the issuance of a Request for Proposals (RFP) for the management and operation of street markets in Miami Beach at various locations**

ACTION

The Committee recommended issuing the Request for Proposals (RFP); that the RFP is broad enough for a market in locations other than where the markets are today; and recommended that the current agreement(s) be allowed to continue on a month-to-month basis until the process was completed.

Staff is to review and research the per day charge for electrical service.

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

On September 6, 2006, the Mayor and City Commission adopted Resolution No. 2006-26281, awarding, pursuant to RFP 30-05/06, the operation and management of the Green Markets on Lincoln Road, Espanola Way and Normandy Isle to the Market Company and the operations and management for the Antique and Collectibles Market on Lincoln Road to Production Sud, Inc. The City entered into four separate management and operating agreements governing each of the Markets, each commencing on October 1, 2006 and terminating on September 9, 2009. The Agreements provided for an extension of the respective terms for an additional three (3) years, which was approved by the City on July, 1, 2009. It was noted that shortly after the renewal options were approved, the Espanola Way Market was closed due to lack of interest by the vendors. With no additional renewal options remaining, the current terms are set to expire on September 30, 2012. For allowing the Markets to operate in their respective locations, the City receives rent equivalent to the greater of a fixed percentage of concessionaire's gross receipts or an established minimum guarantee. The City also receives certain additional rent from the Concessionaires to cover the cost of field monitoring at \$19.85/hour for a maximum of 2 hours per event; \$100.00 paid in four equal quarterly installments of \$25.00 each to cover the cost of pressure cleaning; and \$4.00 per market day for each vendor that requires electrical service. The original intent of bringing the Markets to Miami Beach was to establish an ancillary activity to attract new business for the merchants in the areas in which they are located, particularly during the summer and off-season months. However, since the number of vendors participating in the Green Markets is significantly reduced during the summer and off-season and the Antiques and Collectibles Market only operates from October through May. Staff recommended the Committee consider a new Request for Proposals (RFP) process to solicit interest in managing and operating street markets on Miami Beach in one or more of the four locations and that the scope of the RFP be expanded to include other areas of the City, provided however, the locations involved have the support of the respective neighborhood and/or neighborhood association, do not interfere with traffic circulation and parking and don't pose any life-safety and/other code-related problems. Additionally, staff recommended allowing the current markets to continue operating on a month-to-month basis beyond their respective expiration dates, until such time that new agreements are executed.

Chairperson Deede Weithorn asked if staff was seeking one operator for all of the markets or could there be several operators. Ms. Parekh stated that there could be several operators. Commissioner Jorge Exposito asked if there had been any requests for a market in the north end of Miami Beach. Assistant City Manager Hilda Fernandez stated that there has been some discussion about Ocean Terrace and suggested that if the RFP could be made broad enough, for proposers to suggest a market in locations other than where the markets are today. The Committee recommended issuing the Request for Proposals (RFP); that the RFP is broad enough for a market in locations

other than where the markets are today; and recommended that the current agreement(s) be allowed to continue on a month-to-month basis until the process was completed. Commissioner Exposito stated that the \$4.00 per market day charge for electricity seemed low. Ms. Fernandez stated that staff would ask the Property Management Department for an estimate for use of electricity.

- 4. A discussion regarding approving a second amendment to the retail lease agreement by and between the City of Miami Beach, The Miami Beach Redevelopment Agency (RDA) and Penn 17, LLC (Lessee), involving the lease of ground floor retail space at the Pennsylvania Avenue Garage**

ACTION

The Committee recommended that the item be approved and brought to the full Commission along with the maintenance standards of the sidewalk café permit.

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

On April 13, 2011, the Mayor and City Commission passed Resolution No. 2011-27647, approving a lease agreement (the Lease), having a term of nine (9) years and 364 days, between the City, the Redevelopment Agency (RDA) and Penn 17, LLC (Tenant), for use of the ground level retail space at Pennsylvania Avenue Garage, 1661 Pennsylvania Avenue, Miami Beach for a restaurant (primary use), with ancillary uses for a bakery, a bar/café, and a book and gift shop. In February, 2011, the City's Broker was able to secure the interest of the current approved Tenant, whose background in the restaurant industry is well suited to taking on the cost of building out the space, which at the very least would have to include the installation of a grease trap, additional sub-grade plumbing and venting of the kitchen exhaust, none of which were provided for in the design of the space. As plan development progressed, it became apparent that some of the challenges in converting the space proved considerably more complex and time-consuming than originally anticipated, particularly related, but not limited to, the engineering and permitting of the venting for the kitchen exhaust; installing not one but a system of multiple grease traps; the build-out of the storage room and particularly the design of the structural slab; restoration of the existing structural slab in the retail space following partial demolition to install the plumbing; and addressing additional flood-proofing criteria. The plans have also undergone extensive revisions to address comments and concerns raised by the Building Department, as well as certain other regulatory agencies, as part of the permitting process. As a result of the delays, it is anticipated that the opening date, originally planned for April 2012, is now pushed back to late July or August. However, the Lease Agreement, in acknowledgement of the Tenant's originally anticipated schedule and level of investment, currently provides a six month rent credit, with rent payments that formally commenced on April 13, 2012. Out of consideration of the Tenant's ongoing commitment and level of investment, staff recommended an additional one-month rent credit, together with a deferral of an additional two month's rent, to be repaid in equal monthly installments together with the Tenant's regular payments of rent, taxes and Common Area Maintenance (CAM), commencing on the first day of the third year of the lease term.

Also, pursuant to the Lease, the Tenant is in the process of building out the area located beneath the garage ramp to render it useable for walk-in refrigerated food and beverage storage, dry storage, certain food preparation and for general deliveries. The Tenant's work includes creating an access door, installing lighting, electricity, plumbing, life-safety systems, pouring a floor slab and installing refrigerators and storage enclosures.

Immediately adjacent to this area is an existing 284 square foot storage room used to store the building's flood barrier panels. In order to properly level and tie in with the existing slab under the panel storage room, the Tenant's work mandated the removal of the interior walls in this space, which in effect squares off the entire space beneath the ramp as one contiguous area. While the Tenant's plans provide for restoration of the City's storage panel room in the same location, the Tenant is instead proposing to retain and incorporate this space as part of its storage area and to construct, at its sole cost and expense, a new floor-to-ceiling enclosure for the City in an alternate and unused space located on the ground floor of the garage. Pursuant to the Lease, the Tenant currently pays the established CAM rate of \$10.00 per square foot for use of the storage space. The additional 284 square feet will increase CAM by \$2840, from \$98,850 to \$101,690 annually. In acknowledgement of the significant added value created by the Tenant's build-out of this previously unusable area of the garage, staff recommended approving this minimal modification and amending the lease accordingly.

Commissioner Jorge Exposito asked if there were minimum standards set for maintenance of the sidewalk area. Assistant City Manager Hilda Fernandez stated that the standards of maintenance of the sidewalk area are covered by the sidewalk café permit and are not part of the lease agreement. Commissioner Exposito asked that when the item is brought to Commission that the expected maintenance of the sidewalk as part of the sidewalk café permit be included. The Committee recommended that the item be approved and brought to the full Commission along with the maintenance standards of the sidewalk café permit.

5. Discussion regarding a resolution authorizing the City Manager to solicit the services of a qualified firm(s) to audit the processes of certain regulatory departments or divisions

ACTION

The meeting was recessed and will reconvene June 1, 2012 at 10 am.

Assistant City Manager Hilda Fernandez presented the item.

This portion of a four-part Commission Item from the May 9, 2012 Commission Meeting was referred to the Finance & Citywide Projects Committee for further discussion and direction.

At the April 16, 2008, City Commission Meeting, the Commission authorized the hiring of an outside auditor to perform an audit of the operations and processes of our Building Department. At the meeting, the Commission appointed Commissioner Deede Weithorn to work with the administration to develop the scope of the work for this process, and to assist the administration in identifying/selecting a firm and negotiating an agreement for services. After meetings with various consultants, Watson Rice was subsequently selected to perform the organizational review and operational analysis; their report provided specific recommendations to improve the operations of our building development process. Similar audits for other City departments and divisions have been discussed since then, including the Capital Improvement Projects Office, Code Compliance Division, and Parking Enforcement.

Based on recent events with the Code Compliance and Fire Inspection divisions, it was recommended that similar external audits be initiated of the Code Compliance Division; Fire Inspection process; Parking Enforcement Division; Fire Prevention Division; Public Works Department (permitting processes only); Planning Department (permitting

processes, concurrency fees, impact fees and other related areas); and Special Master Processes. The firm(s) will be asked to prioritize and complete audits of the Code Compliance Division, Fire Inspection process and Parking Enforcement Division first.

In order to expedite the process, an initial meeting was convened on April 23, 2012 to discuss the potential scope of such an audit. Based on the input from the participants in the meeting, it was concluded that the minimum criteria be necessary for a firm to conduct these audits would include the following:

- Experience with similar regulatory systems, including dispatch-based process;
- That it be a Florida Firm (registered in the State of Florida), preferably with a South Florida office; and
- that Staff assigned to the project from the successful firm must have at least one of the following certifications:
 - certified public accountant;
 - certified fraud examiner;
 - certified fraud specialists; or
 - certified public auditor.

An expedited timeline is envisioned for the component of the review relating to the Code Compliance Division, Fire Inspections and Parking Enforcement. Ideally, the selected firm would complete their review of these three areas within 120 days of contract execution, with separate final reports to follow in each individual area of review within 30 days. The balance of the areas for review would follow a timeline to be determined at the time of Agreement execution. If a contract is successfully negotiated by the end of June, field work on the first three audit areas could take place between July and October, with final reports for those three areas due in November. A timeline for the completion of the external audit of all other areas would be developed with the selected firm. A preliminary list of potential consultants to perform these external audits was also developed at the initial meeting. It was recommended that a process similar to that used in the selection of the Watson Rice be initiated for this process, designating Commissioner Weithorn to assist the administration in developing the short list of questions that the interested firms would respond to; reviewing and selecting the firm; negotiating the engagement agreement; and serving as a liaison to the administration during the audit process. The fees for the agreement would be negotiated, at a not to exceed amount of \$150,000.

Commissioner Ed Tobin asked that the Capital Improvement Projects (CIP) Department be added to the departments that are audited. Chairperson Deede Weithorn stated that the skill set needed to audit the CIP Department is different from the skill set to audit the other departments and suggested that it be brought up as a separate engagement. Commissioner Tobin was also concerned about the projects handled by the Public Works Department. Chairperson Weithorn suggested that that type of investigation could be added to the suggested CIP audit. Commissioner Tobin then stated that he would like Chairperson Weithorn to be the liaison. Commissioner Tobin then asked how long it would take to hire the audit firm. City Attorney Jose Smith stated that a waiver was approved at the May 9, 2012 Commission Meeting. Commissioner Tobin restated that he wanted to Chairperson Weithorn to be the liaison and to make decisions on behalf of the Commission regarding the audit. Conversation ensued. The Administration will work with Commissioner Weithorn to send out a request for Expressions of Interest to identify firms, and receive responses. The Committee will meet to review the responses and determine which firms they would like to interview. A recommendation is anticipated for the June 6, 2012 City Commission meeting. The meeting was recessed and will reconvene June 1, 2012 at 10am.

6. Discussion regarding memorandum of understanding between the City, on behalf of the Police Department, and the Federal Bureau of Investigation, Miami Area Corruption Task Force

ACTION

The Committee recommended approval of the Memorandum of Understanding (MOU) and that the item be brought to the full Commission.

Police Chief Ray Martinez presented the item.

The Miami Division of the Federal Bureau of Investigation (FBI) has established the Miami Area Corruption Task Force (MACTF) for the purpose of maximizing inter-agency cooperation and formalizing relationships between the participating agencies, for purposes of coordinating policy guidelines, planning, training, and public relations relative to public corruption. The mission of the MACTF is to identify significant public corruption investigations throughout the Southern District of Florida. The MACTF also works to identify and develop new cases of corruption by both public officials and law enforcement officers on the Federal, State and Local levels of government. Current MACTF members include the Federal Bureau of Investigation; City of Miami Police Department; United States Attorney's Office – Southern District of Florida; United States Department of Housing and Urban Development – Office of Inspector General; United States Department of Transportation – Office of Inspector General; Internal Revenue Service – Criminal Investigation Division; City of Hialeah Police Department; and the United States Environmental Protection Agency – Office of Inspector General.

In the course of discussions relating to the recent arrests, the Miami Beach Police Department (MBPD) and the FBI discussed the City's participation in the MACTF. Both the FBI and the City felt that this was a mutually beneficial partnership. The proposed Memorandum of Understanding (MOU) between the FBI and the City of Miami Beach on behalf of the MBPD would allow the City to assign a sworn police officer full time to the MACTF to work in conjunction with their personnel in investigating and prosecuting public corruption. Participation in the MACTF will benefit the City and the MBPD by providing access to the full benefit of the Task Force's investigatory support and capabilities to attack corruption now and in the future in Miami Beach. In addition to the assigned officer, other Police Department investigative personnel will also be deputized to have special training and clearance to work with MACTF. The term of the MOU is for the duration of the MACTF operations, and can be terminated at any time upon written mutual consent of the agencies involved. There is no additional cost associated with the City's participation in the MACTF beyond the City's continued funding of the full time sworn officer. The FBI covers costs associated with providing a car (including fuel), phone, training, and reimbursement of overtime. Additionally, the City will participate in the distribution of funds from any seizures.

Chairperson Deede Weithorn asked whose supervision the police officer would be under. Chief Martinez stated that the officer would be under the FBI's supervision and would report to the Internal Affairs chain of command. Chief Martinez then introduced FBI Supervisory Special Agent John Jimenez, supervisor of the Public Corruption Task Force. Commissioner Jorge Exposito asked for clarification on where the Miami Beach Police Officer would be assigned. Agent Jimenez stated that the officer would work on cases in Dade County, including Miami Beach. Commissioner Jorge Exposito asked who the findings would be reported to and what the Miami Beach Police Officer's chain of command would be. Agent Jimenez stated that the reporting that is done would be FBI reports and could not be disseminated outside of the FBI without the FBI's approval;

communication with the Miami Beach Chief of Police would be done on a "need to know" basis; depending on the scope of the case; and would be left to up to his discretion. Commissioner Exposito then asked if there was training for the officer that could be brought back to the Police Force. Agent Jimenez stated that there is FBI training that the Miami Beach officer would participate in and that FBI would expect that the training would be brought back to the Miami Beach Internal Affairs Department. Chairperson Weithorn asked how long an officer is typically assigned to the task force. Agent Jimenez stated that there is no limitation and that his recommendation, because there is a learning curve in investigating public corruption and FBI procedures, would be a minimum of a three to five year commitment. City Attorney Jose Smith asked if there certain crimes that involve public corruption that are not within the jurisdiction of the FBI and if so, does the FBI work with the State Attorney's Office to pursue the investigation. Agent Jimenez stated that there are not many violations that are not within the jurisdiction of the FBI, but there can be and those cases are referred to the State Attorney's Office. The Committee recommended approval of the Memorandum of Understanding (MOU) and that the item be brought to the full Commission.

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