




MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Matti H. Bower and Members of the City Commission

FROM: Kathie G. Brooks, Interim City Manager 

DATE: December 12, 2012

SUBJECT: **REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE, A DISCUSSION REGARDING POLICE ATHLETIC LEAGUE (PAL) LEASE.**

ADMINISTRATION RECOMMENDATION

Refer the matter to the Finance & Citywide Projects Committee for discussion.

BACKGROUND

The Miami Beach Police Athletic League (PAL) was founded in 1958 and is the oldest in the State of Florida. This non-profit 501(c)3 organization offers the community's youth an array of recreational, athletic and educational activities. However, its primary focus is educational due to the shortage of nearby available outdoor field space.

Resolution No. 73-13924 authorized a five year lease agreement between PAL and the City on 02/21/73 for the use of a parcel of land on Flamingo Park for the benefit of the youth of the community and to enable our youth to participate in healthful sport and recreational activity. The Lease agreement's terms were extended with the adoption of Resolution No. 77-15471 and then again until 06/30/96 with the passage of Resolution No. 93-20868. Next, it was extended for a five year period ending 06/30/01 through the passage of Resolution No. 96-21987.

PAL raised monies in 1997 through donations, grants, etc. with the City's assistance to construct a new facility in Flamingo Park. Accordingly, Resolution No. 98-227 41 was passed granting PAL a twenty-five year lease to operate on the premises through June 30, 2023. Compliance with the stated lease terms is monitored by the City's Office of Asset Management. PAL is presently located at 999 11th Street in Flamingo Park. The 13,000 square foot facility opened in January 2001 and contains a computer lab; classrooms; fitness center; meeting, conference, library/reading room; offices; and wrestling, martial arts and workout rooms. Its programs are designed to create better relations between law enforcement officers and youth, as well as to prevent juvenile delinquency.

The Lease provides for shared use of the PAL facility between the City's Parks and Recreation facility and PAL. Resolution No. 96-21987 requires PAL to maintain the facility and pay all utilities throughout the term of the lease agreement. Meanwhile, section 2 of PAL's corresponding lease agreement states "*Lessor {City} agrees to pay for all utilities used within the premises including, but not limited to, electric, water, gas, telephone and garbage disposal.*" These two statements are contradictory, resulting in uncertainty as to which organization is

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responsible for paying for the building's utilities. The City's Legal Department opined that a scrivener's error occurred and that PAL has always been responsible for the utilities of the building. In reality, the City pays the water and sewer charges, while PAL pays the electric and telephone charges. However, the City's use of the facility is significant and PAL believes that they should not bear the responsibility for the share of these costs as there is no requirement in the lease to provide space to the City free of charge.

In an attempt to resolve this issue, the City Manager and PAL Board President signed a Memorandum of Understanding on 11/05/07 which contained a paragraph stating *"The Parties have also discussed the payment of utility bills associated with the operation of the Building. The City of Miami Beach has agreed on a one-time payment of \$50,000 to assist with previous utility bills associated with the property. This payment is with the understanding that in the future the Police Athletic League may utilize an Off-Duty Police Surcharge Fund created to assist the Police Athletic League for whatever portion of future utility bills the Police Athletic League determines is necessary. The fund has been created to assist in the eligible operational expenses of the Police Athletic League by adding one dollar per hour to the off duty police rate. This amount shall be forwarded to the Police Athletic League upon receipt of a quarterly request from the Police Athletic League. In the event the surcharge rate is altered in the future, the parties agree to meet and discuss alternate funding mechanisms as necessary. The City will have no future responsibility to pay utility bills beyond this one-time payment per terms indicated in the Lease Agreement."*

The City made the \$50,000 payment on 07/27/07. In addition, the City's Finance Department has made quarterly wire transfers to PAL since December 2007 for the off-duty surcharge. The terms above of this Memorandum of Understanding were followed until, during the FY 2010/11 budget process, at the direction of the City Commission, payment of the surcharge to PAL was ceased.

PAL continued discussions with the Administration to address ongoing concerns with facility maintenance and shared used of space between PAL and Parks & Recreation. At this time, PAL continues to have concerns with the allocation of utility costs between PAL and the Parks & Recreation Department. A lease amendment is required in order to address this matter to ensure responsibility is based upon calculated usage of the building. Before proceeding with negotiations of an amended Lease Agreement, the City Administration is seeking direction from the Mayor and City Commission.

The amended agreement will require the approval of the City Commission and the PAL Board. It will be submitted to both entities for review and approval upon its completion.

CONCLUSION

The Administration recommends that the Mayor and the City Commission refer the matter to the Finance & Citywide Projects Committee for discussion and further direction.

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