




MIAMIBEACH

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

COMMITTEE MEMORANDUM

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

FROM: Interim City Manager Kathie G. Brooks 

DATE: March 13, 2013

SUBJECT: REPORT OF THE FINANCE AND CITYWIDE PROJECTS
COMMITTEE MEETING ON JANUARY 24, 2013

The agenda is as follows:

EMERGENCY ITEM

1. Discussion regarding the Convention Center Catering Invitation to Negotiate

ACTION

The Committee recommended that Acting Assistant City Manager Max Sklar write a Letter to Commission when the Invitation to Negotiate goes out and bring back to the Finance Committee in February or March.

Acting Assistant City Manager Max Sklar presented this item.

Acting Assistant City Manager Max Sklar began by stating the status of the Invitation to Negotiate (ITN) is in final review with legal. It is expected that the ITN will be issued tomorrow. Chairperson Deede Weithorn requested that a Letter to Commission (LTC) be issued. Acting Assistant City Manager Sklar stated that the due date of the ITN is approximately 30 days. The intent is to come to the March Commission meeting with a short list of individuals to approve and then the City can go into negotiations with the solicited firm. The new contract approved and signed would probably be in the June timeframe with inclusion of a transitional period if it's a new company. Commissioner Jerry Libbin asked what happens during the transitional period if the current company decides to leave. Acting Assistant City Manager Sklar stated there is a meeting with Centerplate next week to discuss this. Chairperson Weithorn stated she would prefer that the current Catering Company let them know ahead of time if they plan to exit before the transitional period has expired so that things can be planned accordingly. Commissioner Jorge Exposito stated his concern about the first quarter and second quarter being the busiest months and that maybe

Agenda Item CGD

Date 3-13-13

they should consider starting the contracts on April 1st that will allow for a slow transitional period. Chairperson Weithorn stated that the service should be the main focus of the negotiations.

The Committee recommended that Acting Assistant City Manager Max Sklar write a Letter to Commission when the Invitation to Negotiate goes out and bring back to the Finance Committee in February or March.

2. Discussion regarding the BMG Loan Program

ACTION

The members of the Finance and Citywide Projects Committee (FCWPC) recommended that the BMG Money Loans-At-Work program be extended on a month-month basis, with a discussion item to be referred to the FCWPC to explore what potential loan alternatives may be available. Commissioner Jerry Libbin moved the motion and it was second by Commissioner Exposito.

Chairperson Deede Weithorn presented this item.

Chairperson Deede Weithorn began by discussing the BMG Money Loans-At-Work program provides a voluntary payroll deduction loan program to employees through a non-traditional, unsecured loan to cover unexpected financial emergencies, with repayment provided through payroll deduction. This program was provided to employees on a one-year trial basis that ended on December 31, 2012. At the December 11, 2012 Commission Meeting, the Administration recommended the BMG Loans-At-Work program be extended for one month, from December 31, 2012 to January 31, 2013, giving the City Commission the opportunity to review the activity which occurred during the twelve month trial period and make their determination to either continue offering the program or terminate the program. The Administration further recommended that the item be referred to the Finance and Citywide Projects Committee for their recommendation either to continue the current program or to issue a request for Proposal, exploring what loan options may be available at lower interest rates. After their discussion, the City Commission agreed to discontinue the program effective December 31, 2012. Due to feedback provided to the City Commission members by employees and the Communication Workers of America (CWA) and Fraternal Order of Police (FOP), the item was referred to the FCWPC for discussion.

Chairperson Weithorn and Commissioner Jorge Exposito repeated their initial concern over the interest rates charged, indicating that the interest costs were high. However, after discussion with representatives from the BMG Money Loans-At-Work Program highlighting that unlike credit cards, which compound interest and retire principal over many years, the BMG Money Loans-At-Work loans are structured much better for the borrower using simple, non-compounding interest charges on the loan, with payments that retire principal quickly for a maximum period of 2 years.

The members of the FCWPC recommended that the BMG Money Loans-At-Work program be extended on a month-month basis, with a discussion item to be referred to the FCWPC to explore what potential loan alternatives may be available. Commissioner Jerry Libbin moved the motion and it was second by Commissioner Exposito.

OLD BUSINESS

- 1. Discussion regarding to consider a request for rent relief from Penn 17, LLC. regarding the retail space at the Pennsylvania Avenue parking garage**

ACTION

The Committee recommended granting application of 1/3 of the existing security deposit towards the November 2012 back-due rent, an abatement of 50% of the base rent and Common Area Maintenance (CAM) due for the six (6) month period commencing January 13, 2013 through July 12, 2013, granting a deferral of fifty percent (50%) of the Base Rent and CAM for the six (6) month period, commencing July 13, 2013 through January 14, 2014 ("Deferral Period"), to be repaid by the Tenant in twenty four (24) equal monthly installments, commencing in the sixth year of the Lease Term and ending on the last day of the seventh year of the Lease Term and repayment of 1/3 of the security deposit to commence on January 2014 with release language absolving the City of any liability be brought to the Commission.

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

Real Estate, Housing & Community Development Director Anna Parekh began the discussion by stating on December 12, 2012, the City Commission referred the matter to the City's Finance and Citywide Projects Committee (FCWPC) for discussion, subject to the Tenant remitting all outstanding rent amounts due for October, November and December. Subsequent to the Commission meeting, the Tenant informed staff that it wasn't in a position to remit rent for the three-month period and instead remitted a wire transfer for the outstanding October 2012 rent in exchange for the Committee's consideration of its request. On December 17, 2012, the Tenant informed staff that it had closed the restaurant with the intent of reopening in February, 2012 under a new name and concept. The Tenant also informed staff that given the amount of money and time it had invested in the Premises, that it was fully committed to keeping its lease and was hopeful it could negotiate favorable terms with the City to do so. To date, rents for the month of November, December and half of January are outstanding that total \$150,000. The tenant has requested the 3 month security deposit be applied to the rent. The FCWPC directed staff to negotiate terms for a rent deferral to present directly to the City Commission and to incorporate release language absolving the City of any liability with regards to any claims made by the Tenant concerning construction delays and/or issues concerning the relocation of the HVAC compressors as well as the kitchen exhaust venting. Per

these instructions, the following was recommended to the tenant:

On January 2nd, Staff proposed the following rent payment plan:

- November and December 2012 rent payments be deferred until year three of the lease;
- Commencing on January 14, 2013 and through June 14, 2013, City will abate 50% of rents due. This results in a rent abatement equivalent to three full month's rent;
- In the meantime, all outstanding sidewalk café fees, concurrency fees, and resort tax fees, will be due and payable by January 8, 2013;

Tenant was informed that due dates for the initial payments were important because the January 16th City Commission agenda would be printed on January 9th and, in an effort to demonstrate good faith, the City should receive the outstanding sidewalk café, concurrency, and resort tax fees by January 8th. Tenant was further informed that the first 50% rent payment must be received timely on January 14th so that the City Commission can be informed on January 16th when the matter is discussed.

On January 3rd, Tenant rejected the above-stated proposal, stated that it had shown good faith by paying October rent; and counter-proposed the following:

- Reduce the security deposit by two months due to the major improvements made and the value it has contributed to the building, and in light of the high rent for the space;
- As to concurrency fees, Tenant requested that amounts paid to date remain on account pending a revision of the concept;
- As to the rent for 2013, the Tenant wished to pay 50% for 12 months however, "for the sake of finding a fast and manageable solution we will accept the following:
 - First 6 months at 50% and the balance is permanently abated;
 - Second 6 months are also billed at 50% but the balance gets paid over year 5-6 as rent additions, so the balance of 180K gets paid over 24 months, at approximately \$7500 per month."

After further negotiations, on January 9th at 12:40pm, Staff proposed:

- Applying fifty percent (50%) of the security deposit in the amount of \$71,765 towards back-due rent amounts owed for November and December 2012, totaling \$112,635; leaving a balance of \$40,870 (Back Rent) to be repaid in six (6) equal monthly installments commencing on July 13, 2013 and ending on January 12, 2014;
- Granting an abatement of fifty percent (50%) of the Base Rent and Common Area Maintenance (CAM) due for the six (6) month period commencing January 13, 2013 through July 12, 2013;
- Reimbursement of that portion of the security deposit applied to the Back Rent in the amount of \$71,765, to be repaid in twelve (12) equal monthly installments commencing in the fifth year of the Lease Term and ending on the last day of the fifth year of the Lease Term;
- granting a deferral of fifty percent (50%) of the Base Rent and CAM for the six (6) month period, commencing July 13, 2013 through January 14, 2014 ("Deferral Period"), to be repaid by the Tenant in twenty four (24) equal monthly installments, commencing in the sixth year of the Lease Term and ending on the last day of the seventh year of the Lease Term.

The tenant stated they could not start repaying anything until next year. Given the impasse on the negotiations, the Administration was unable to present a recommendation to the City Commission and instead is requesting further input and direction from the FCWPC as to the Tenant's counter position.

Real Estate, Housing & Community Development Director Parekh made it clear that on January 18, 2013, Tenant hand-delivered two checks: one in the amount of \$9,295.43 representing payment of the outstanding resort tax; and one in the amount of \$30,003.20 representing 50% of the January rent plus sales tax. Chief Financial Officer Patricia Walker stated they do owe adjusted concurrency fees.

Chairperson Deeded Weithorn stated that there was a 6 month due diligence period that the tenant was given to examine if there was any issues with the space. Therefore, the City's position is the tenant should have stated there was an issue with the placement of the air condition. Commissioner Jerry Libbin's concern is if the restaurant will make it even if they are given Rent Relief. City Attorney Jose Smith stated that the lease provides for a default provision. Since they are already in default due to being late with the rent, the next step on the City's behalf does not have to be negotiations, but the option to go to Circuit Court for eviction proceedings unless the tenant cures what is owed. Cooper Avenue Partner Amir Ben-Zion specified that they hired KVC for placement of the air conditioner, but one month rent relief will not work. Commissioner Exposito stated as he understands it, Cooper Avenue hired KVC and trusted their judgment so therefore, Cooper Avenue assumes the responsibility based on their clients recommendations. He then added that what seems reasonable is to offer abatement for 4 or 6 months and to have at least 2 months security deposit. Real Estate, Housing & Community Development Director Parekh explained that the new proposal is granting application of 1/3 of the existing security deposit towards the November 2012 back-due rent, an abatement of 50% of the base rent and Common Area Maintenance (CAM) due for the six (6) month period commencing January 13, 2013 through July 12, 2013, granting a deferral of fifty percent (50%) of the Base Rent and CAM for the six (6) month period, commencing July 13, 2013 through January 12, 2014 ("Deferral Period"), to be repaid by the Tenant in twenty four (24) equal monthly installments, commencing in the sixth year of the Lease Term and ending on the last day of the seventh year of the Lease Term and repayment of 1/3 of the security deposit to commence on January 2014 with release language absolving the City of any liability. Commissioner Exposito and Chairperson Weithorn voted yes and Commissioner Libbin voted no.

NEW BUSINESS

- 2. Discussion regarding a recommendation by the GLBT Committee to address the issue of benefits tax inequality for City Employees with registered domestic partners versus legally married spouses**

ACTION

Item Deferred.

- 3. a. Discussion regarding water and sewer deposits; implementing rules and regulations and applications of rules similar to Miami-Dade Water and Sewer Department**
- b. Discussion regarding consideration of new policy establishing criteria for the reimbursement of guarantee deposits for those customers who have established a positive payment history on their water bill**
- c. Discussion regarding the creation of procedures to provide a 24 to 48 hour notification to homeowners prior to water being shut off due to non-payment**

ACTION

The Committee recommended that interest be paid on deposits, to keep commercial accounts with the requirement of a 3 month deposit that is not returned until the property is sold and accept the proposal for payment Arrangements over a 5 year period whether the property is residential or commercial.

Chief Financial Officer Patricia Walker presented this item.

At the October 24, 2012 City of Miami Beach Commission meeting, two discussion items regarding customer deposits and the implementation of rules and regulations for utility accounts were referred to the Finance and Citywide Projects Committee (F&CWPC) for discussion.

Chief Financial Officer Patricia Walker began the discussions with item A and B, explaining the proposal of utility billing deposits and payment plans. Both referrals requested staff review current procedures for deposits and explore deposit policies by other entities such as Miami-Dade County Water and Sewer Department.

Currently, the City Code requires UTB customers to have a cash deposit of up to four times the amount of any previous monthly bill. The City's current practice is to request a deposit equivalent to three months of average service. Per the City Code, this deposit is held until such time as the account holder services are discontinued. At that point, the guarantee of payment deposit shall be refunded less outstanding charges for service. No interest is paid on the deposit.

Administration has surveyed neighboring communities and utility companies for a comparison of deposit practices and policies. The proposal for residential and condominiums is to request a two month deposit instead of three months, offer the interest rate that the City currently earns on its money that will be credited to the account annually and credit the deposit to the account after 24 months of timely payments. Commissioner Jerry Libbin asked what happens if the

customer becomes delinquent after the deposit has been credited to their account. Chief Financial Officer Walker stated the customer would then be requested to implement a new deposit. Chairperson Deede Weithorn asked what happens if the customer becomes delinquent within the 24 months. Chief Financial Officer Walker stated their 24 months would start over because they have to have 24 months of continuance good standing.

Chief Financial Officer Walker stated that the proposal for commercial and apartment buildings are dealt with differently because tenants have to be notified. The proposal is to request a three month deposit, offer the interest rate that the City currently earns on its money that will be credited to the account annually and to keep the deposit until the account is closed. Commercial accounts are substantial and require that we keep a deposit on file just in case an account isn't paid. These are large businesses that have to be administered prudently.

Chief Financial Officer Walker further stated that over the course of the last few years, the Finance and Citywide Projects Committee and City Commission have endorsed various initiatives to assist residents and businesses with their utility accounts. Some of these initiatives included:

- **Condominium Association Assistance Program:** provided for payment arrangements to those associations that are currently past due on their utility bills and can document that at least 15% of their units are in foreclosure.
- **Utility Bill Due Dates:** increased the days allowed for payment of a utility bill from 15 to 21 days, to be consistent with other utility companies.
- **Utility Bill Late Penalties:** removed the one-time 10% penalty on the current portion of a utility bill and adopted a recurring monthly charge of 1.5% on any portion of the account balance that is past due.

Chief Financial Officer Walker then discussed the process for utility billing collections and shut-off procedures. The City reviews utility billing accounts on a monthly basis. Bills are generated and mailed within one week after the read date. This is done after service orders are created for re-reads for extraordinary high or low reads. Utility customers are billed on a monthly basis and have twenty-one (21) days to make payment for a utility invoice. Listed below is a summary outline of the procedures for collections and shut-offs:

- If not paid within twenty-one (21) days a 1.5% penalty is added to the past due balance on the account and a courtesy "late notice" is generated and sent to the customer. The account is then "past due" which allows for an additional seven (7) days to pay otherwise service will be subject to disconnection.
- If the past due balances are still not paid and no payment arrangement has been made:

- Residential/commercial service is cut for all water monies owed. This includes all past due funds with any additional billings that have been generated (current billing).
- If no payments are made and no calls have been received to make payment arrangements, service is scheduled to be cut.
- Once the account is scheduled to be cut, the customer will receive a phone call (placed to the account's main contact number) before the scheduled cut. The phone call outlines the date the account is scheduled to be cut (48 hours) and the process as to how to resolve the issue. The phone call also includes the final day/time payment can be received (24 hours) to prevent the cut order from being executed.
- Service cuts are performed on Tuesday, Wednesday, and Thursday, based on Public Works staff availability.
- If the utility account is paid, or a payment arrangement is made, on the day of the service cut, the account will be reconnected the same day if the payment/arrangement is made before 3pm. A \$40 disconnect/reconnect charge is billed to the customer.
- If the utility account is paid, or a payment arrangement is made, on the day of the service cut, after 3:00 PM, the service will be reconnected the next business day.
- If customer wants service reconnected after normal working hours, the Public Works Department is contacted in order to verify there are available personnel to reinstall service. If staff is available for an afterhours turn-on, a \$50 afterhours charge is billed to the customer.
- For those customers that have had their utility service cut and no payment has been made, a service order is created to verify that the service is still off and no tampering/illegal use has occurred. If an illegal connection has been made, the Public Works Department will remove the meter and a Lien letter is sent to the customer. A \$100 tampering/illegal use fee is charged to the account. For a second offense a \$200 fee is imposed and \$300 fee for a third violation.
- If the service has been disconnected and no payment arrangements have been made, a thirty (30) day "lien letter" is sent to the property owner. If after thirty (30) days no response or payment is made, the Lien is then sent to Miami-Dade County to be officially recorded.

Chairperson Deede Weithorn asked if the City of Miami Beach is in line with other municipalities in not returning the commercial account deposits. Chief Financial Officer Walker stated that we are. A motion to pass the interest rate paid on deposits was made by Commissioner Jorge Exposito and second by Commissioner Jerry Libbin with the motion passing. Resident Scott Needelman raised his concern on the 3 months deposit being required on commercial properties and the interest. Chief Financial Officer Walker stated that these

amounts were large and were necessary to keep as deposits. In reference to the interest earned, she stated it would be the interest amount the City earned on the deposits.

Another motion was made by Commissioner Exposito to keep the Commercial accounts with the requirement of a 3 month deposit that is not returned until the property is sold. The motion was second by Commissioner Libbin and passed.

Chief Financial Officer Walker proceeded with discussing the payment plan policy. Payment arrangements are offered to customers that cannot make full payments on their utility accounts in an effort to avoid turn-offs and bring the account back into current status. Plans are offered to all types of accounts: residential, commercial, apartments and condominiums. The initial two week extension requires \$0.00 initially and a total balance due at the end of the 2nd week. The 2nd two week extension requires a payment of 50% of the outstanding balance with the total balance due at the end of the 2nd week. If a payment extension is entered into, subsequent bills must be paid by due date. NSF/returned items are not eligible for payment extensions and if a payment extension is broken, there are no further extensions offered.

Chief Financial Officer Walker continued by explaining the proposal for payment agreements as follows:

- 1st Time Shut-Off: 30% balance due for reconnection, 35% balance due month two and 35% balance due month three
- 2nd Time Shut-Off: 50% balance due for reconnection and 50% balance due next billing due date
- 3rd Time Shut-Off: 75% balance due for reconnection and 25% balance due next billing due date
- 4th Time Shut-Off: Apply Deposit, 100% balance due for reconnection, new three month deposit due that's billed over three months for residential or commercial

Commissioner Exposito made a motion to accept the proposal for payment agreements as stated within a 5 year period whether the property is residential or commercial. The motion was second by Commissioner Libbin and passed.

4. Discussion regarding: Business Tax Receipt renewal notices; How we handle over charges; Reasons for miscalculations; and corrective action plan

ACTION

Monitor this item and bring it back before the Committee in November to see how it worked.

Chief Financial Officer Patricia Walker presented this item.

At the October 24, 2012 City of Miami Beach Commission meeting, an item regarding Business Tax Receipts (BTR) was referred to the Finance and

Citywide Projects Committee (F&CWPC) for discussion by Commissioner Jorge Exposito and Chairperson Deede Weithorn.

Chief Financial Officer Patricia Walker explained Business Tax Receipts (BTRs) are issued annually in accordance with Florida Statutes Chapter 205, as well as locally governed by Article V, Section 102 of the Code of the City of Miami Beach. Chapter 205 states that BTRs are due and payable on or before September 30 of each year, and expire on September 30 of the succeeding year.

Chief Financial Officer Walker stated that of the 7,100 renewal notices processed, 52 individual notices were identified as having a miscalculation as a result of a permanent bug in the EDEN Licensing Module, the City's BTR software. The 52 businesses are apartment buildings with some transient use which are charged a tax for their apartment use, but in addition are also billed a line item for their approved hotel rooms within their building.

These businesses were charged the correct tax for their apartment category, but also inadvertently billed a hotel category tax of \$244.00. This is because the City's current software is automatically programmed to bill the hotel tax category for any business having hotel rooms. Revenue Manager Manny Marquez stated that due to this database problem, they have had to manually adjust these 52 BTR's annually. Chief Financial Officer Patricia Walker stated the Eden System has not been able to correct this calculation error; however, this calculation bug will be remedied with the implementation of the new ACCELA Automation Licensing module. All renewals for FY 2013/14 will be processed in this new system.

Chairperson Weithorn stated that we should monitor this issue and bring it back before the Committee in November to see how it worked.

5. Discussion regarding Police Athletic League (PAL) Lease

ACTION

The Committee recommended going ahead and negotiating the current amount of the lease and bringing it back to the Finance Committee along with a list of measurable that are provided to the Community. Commissioner Exposito requested a Letter to Commission detailing dollar surcharge be brought back to the budget meeting.

Acting Assistant City Manager Max Sklar presented this item.

Acting Assistant City Manager Max Sklar began by stating 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. The Lease provides for shared use of the PAL facility between the City's Parks and Recreation Department 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.*" 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. The main issue is the controls of the air condition that's increases the charge. The main issue is the air condition that has increased the electric cost at 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. At the time, this payment was with the understanding 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 terms were followed until the FY 2010/11 budget process, at the direction of the City Commission, payment of the surcharge to PAL ceased.

It is estimated that the annual cost of the utilities (electric, telephone, cable & water) for the PAL building is as follows:

- Electric – FPL-(11/1/10 - 11-29-12) \$54,263.60/\$2,170.54 monthly/
\$1,085.27 Each
- Cable - Broad Band (11/1/10 – 9/24/12) \$1,138.96/ \$51.77 monthly/
\$25.88 Each
- Water - (Domestic & Irrigation) Average monthly \$401.81/ \$200.91
Each
- Telephone-AT&T (11/1/10 – 9/24/12) \$5,462.71/ \$248.30 monthly/
\$124.15 Each

Based on the above information it is estimated that the cost shared expense for the City and the PAL if divided equally would be approximately \$1,436.21 monthly or \$17,234.52 annually. Please note that the City currently pays the costs for Water usage (Domestic & Irrigation), PAL pays for all other utilities.

Miami Beach Police Officer Michael Gruen stated the main reason there's an increase in costs due to the air conditioning since Ameresco has had control since October 2011 of turning the system on and off. This creates an issue of huge increases with the temperatures indoors being too cold, especially for the kids at the daycare. Commissioner Jorge Exposito requested a Letter to Commission detailing the dollar surcharge be brought back at the budget meeting. Chairperson Deede Weithorn stated there's not a problem paying a fair share of the utilities and to go ahead and negotiate the figures that can be brought back to the Finance Committee with the lease and measureables that can be provided to the community.

6. Discussion regarding the Jewish Community Center's request for reimbursement, in the amount of \$241,000, for the costs associated with reconstructing the seawall along the City-Owned property located at 4221 Pine Tree Drive

ACTION

The Committee recommended to discuss putting the \$241,000 payment for the Seawall into the upcoming budget development process and spread the payments over one or two years.

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

Real Estate, Housing & Community Development Director Anna Parekh stated on June 3, 1981, the City first leased to the Jewish Community Centers of South Florida (JCC), City property located at 4221 Pine Tree Drive. The purpose of the lease was to allow the JCC to use the City's property for construction of a community-recreation center. The original Lease was amended and extended on three occasions, such that the Lease term extended through to October 31, 2015, with two additional ten-year options, and was assigned to Miami Beach Jewish Community Center, Inc. On July 12, 2000, the Mayor and City Commission approved an Amended and Restated/Consolidated Lease Agreement that included a provision to extend the term for 99 years to 2099. JCC's new 36,000 square foot facility received its Temporary Certificate of Occupancy (TCO) on September 25, 2012 and opened its doors on October 2. On November 19, 2012, correspondence was received from JCC's President, Jerry Sokol, asking the City to reimburse the JCC for the unforeseen expense of having to rebuild the entire seawall of the City's property fronting Indian Creek, totaling \$241,000 and exceeding JCC's available project contingency. Although the seawall is technically not within the JCC's leasehold boundary and consequently never contemplated as part of the project's scope or budget, according to the JCC, the re-construction of the seawall became a necessity in order to stabilize the property and more specifically, support the new swimming pool located on the east side of the Premises.

Interim City Manager Kathie G. Brooks added they looked into FIND Funding to see if the project would be eligible for that, but since it's already in construction, it cannot be retroactively applied. It can be included for prioritization in the budget process that comes up for the next fiscal year. Jewish Community Center Board member Russell Galbot stated they would be willing to do the repayment during a two year period. Chairperson Deede Weithorn asked the Committee if they wanted to budget this item over one or two years. Interim City Manager Brooks stated they might want to look at everything to see what you're dealing with during the budget process. Commissioner Jerry Libbin made a motion to discuss putting the \$241,000 payment for the Seawall into the upcoming budget development process and spreading the payment over one or two years. Commissioner Jorge Exposito second the motion and it was passed.

7. Discussion of a lease amendment with Damian J. Gallo & Associates (D/B/A Permit Doctor)

ACTION

The Committee recommended allowing Damian J. Gallo subject to regulatory approvals, to use the leased premises as requested for the dual purpose and additionally negotiate with legal to use the outside space.

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

Real Estate, Housing & Community Development Director Anna Parekh stated on July 30, 2003, the Mayor and City Commission passed Resolution No. 2003-25298 approving a Lease Agreement between the City and the Miami Beach Federal Credit Union for the use of approximately 1,350 square feet of City-owned property, located at 1701 Meridian Avenue, Unit 4 (a/k/a 775 17th Street), Miami Beach, Florida for use as a federal credit union. On January 11, 2006, the Mayor and City Commission passed Resolution No. 2006-26087 approving Consent to Assignment and First Amendment to Lease Agreement whereby the Miami Beach Federal Credit Union assigned its lease to the Dade County Federal Credit Union. On May 13, 2009, the Mayor and City Commission passed Resolution No. 2009-27071, approving a Consent to Assignment and Assumption of Lease Agreement whereby the Dade County Federal Credit Union assigned its lease to Damian J. Gallo & Associates, Inc. d/b/a Permit Doctor and certain terms and conditions of the Lease Agreement were modified, including correcting the square footage of the Demised Premises which is 1,269 square feet of ground floor retail space (not 1,350 square feet). The lease automatically renewed on February 1, 2011 and expires on January 30, 2016, with no additional renewal options. The Tenant has requested permission from the City to expand the use of the Demised Premises to include a cafe in approximately the eastern 2/3 portion of space, to be separated by partition walls from the space which Tenant will continue to operate its plan and permit processing services (d/b/a Permit Doctor). Furthermore, Tenant has requested to use the outdoor walkway, immediately outside and to the east of the Premises (perpendicular to the 17th Street sidewalk), as an outdoor eating area, containing four tables/umbrellas and eight chairs, including consideration for patrons requiring ADA accessibility. The Permit Doctor space and the café would each have their own entrances as well as exterior signage. The use of the outdoor area in the City Hall complex is new but is comparable to other outdoor concession/lease agreements with the City such as Smith & Wollensky, Syanna, LLC and Miami Beach Film Society.

Interim City Manager Kathie G. Brooks suggested discussing the change of use and outdoor space separately because this would be the first time this is being done. Commissioner Jerry Libbin stated he doesn't have an issue with the change of use, but he prefers there not be outside seating in front of City Hall. Chairperson Deede Weithorn stated her concern of blocking the walk way to the garage. Commissioner Jorge Exposito had an issue with the rental rate per square feet after the triple net cost has been removed to determine if it's the

appropriate utilization of the space. Real Estate, Housing & Community Development Director Parekh stated the tenant did ask if the City would be willing to cancel the current lease and start a new 10 year lease. The tenant mix has changed over time with the use of the commercial spaces in this building. Chairperson Weithorn got clarification that the business will be more of a café than a restaurant. Acting Assistant City Manager Max Sklar explained to the tenant that Commissioners are comfortable with the use being amended, but they are not comfortable with the outdoor seating. Permit Doctor Owner Damian J. Gallo explained that where he would be placing table and chairs is a sidewalk that ends. It is not an actual walkway into the garage that individuals walk thru. They would like to do 4 tables and 4-8 chairs to enhance the exposure of the new business. Commissioner Jerry Libbin stated if they can put in the lease a revocable clause as it pertains to sidewalk tables and chairs, then he would allow it. Commissioner Exposito stated he feels it should be a separate lease for each business. Assistant City Manager Jorge Gomez added that there's no guarantee that the change of use would be approved. Commissioner Exposito made a motion for administration to explore the details of what needs to be included in the lease, that the regulatory requirements are met and that a new lease is instituted separate from the Permit Doctor Lease. Commissioner Jerry Libbin made a motion to allow him subject to regulatory approvals at every level, to use the leased premises as requested for the dual purpose and additionally negotiate with legal to use the outside space. Commissioner Weithorn seconded the motion and Commissioner Exposito voted no.

8. Discussion regarding developing parameters for the Gun Buyback Program

ACTION

The Committee recommended funding the \$10,000 for the City of Miami Beach Gun Buy-Back program to be held in March.

Commissioner Jerry Libbin presented the item.

Commissioner Jerry Libbin began the discussion by stating this item was referred at the January 16, 2013 Commission Meeting where the Commission appropriated \$10,000 from the Law Enforcement Trust Fund, subject to review from the Finance and Citywide Projects Committee whose direction was to maximize the use of the sponsorship funding.

Police Chief Raymond Martinez went on to explain in an effort to assess the feasibility of implementing a Community Gun Buy-Back Program, the Miami Beach Police Department has researched local and nationwide police agency gun buy-back programs. The following are recommendations as to how the City should implement a similar program.

The intent of this program is to get guns off the streets by exchanging firearms for financial incentives which can be provided in the form of gift cards, cash or

some combination thereof. The Miami Beach Police Department will have full control and responsibility for the administration of this program. The funding for these types of programs is established through government funding (state and/or local), private donations, or a combination of both. Proposed funding for this program will come from State confiscated funds in the Law Enforcement Trust Fund which is statutorily permitted under Florida Chapter 932. In order to encourage community participation, a public information campaign utilizing print and electronic media must be established. The City of Miami has already started their Gun Buy-Back programs and that is being used as a parameter to the amount of people the City of Miami Beach is expecting which will probably be less than initially estimated. The gun buy-back would need to take place at a City facility, such as the Miami Beach Convention Center, which could accommodate a number of participants and provide adequate parking that allows for the logistics required in receiving the firearms. The MBPD is suggesting that this program be held in March 2013.

Police Chief Martinez added that similar to other programs, a process will be established to manage the in-take of the firearms, ensure their security and place a value on the major types of firearms such as revolvers, semi-automatic handguns, rifles and assault rifles. It will be the policy of the program that participants are not required to give their name or address to exchange the firearms or explain the circumstances as to how they came in to possession of the firearm. As part of MBPD's due diligence, similar programs at the following jurisdictions have been reviewed: Los Angeles, CA; Camden, NJ; Oakland, CA; San Francisco, CA; Seattle, WA; New York, NY; Opa Locka, FL; and Miami-Dade County, FL. Gun buy-back programs take guns off the street that could have otherwise been used to commit a crime or injure someone accidentally. The success of gun buy-back programs is often quantified by the number of firearms taken off the streets.

Commissioner Jorge Exposito asked what happens if there's a successful turn out and the \$10,000 runs out. Police Chief Martinez responded that he doesn't believe that will be the situation in light of the City of Miami doing their program and other communities doing there's based on the response they received in a 4 hour block. The initial calculation was based on receiving about 150 guns, but those are not figures that have been reached by the other municipalities that in theory would have more guns than the City of Miami Beach. If it does become an issue, then the commander would have to make an administrative decision to shut it down early or present a voucher to come back and receive the funding. Interim City Manager Kathie G. Brooks asked for clarification on the request if sponsorships were still needed. Commissioner Libbin responded that if there's enough time, we should ask the neighboring business in the community to donate gift cards which will also decrease the funds that are spent from the \$10,000 that has been allocated.

Police Chief Martinez went on to explain that based on the experience of other agencies, we expect that a single event may yield approximately 50 to 75 firearms, with a value of \$50-\$300 depending on the type of firearm. As a result, it is recommended that \$10,000 be set aside for City of Miami Beach Gun-Buy-Back program to cover all contingencies.

The Committee recommended funding the \$10,000 for the City of Miami Beach Gun Buy-Back program to be held in March.

9. Discussion regarding the Lease for the Miami-Dade Gay and Lesbian Chamber of Commerce Foundation located at Historic City Hall at 1130 Washington Avenue

ACTION

The Committee directed administration to provide a list of all the non-profits with an outline of what they pay and any measureables that are required and to reduce the rent for MDGLCC from \$4,360 monthly to \$2,500 monthly, representing a reduction in rent from \$20.57/sf to \$11.80/sf.

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

Real Estate, Housing & Community Development Director Anna Parekh began the discussion by stating On March 10, 2010, the Mayor and City Commission passed Resolution No. 2010-27354, approving a Lease Agreement between the City and MDGLCC Foundation, Inc. ("MDGLCC" or Tenant) for the use of approximately 2,543 square feet of City-owned property, located at 1130 Washington Avenue, 1st Floor North, Miami Beach, Florida ("Leased Premises"); said Lease having a term of three (3) years, commencing on April 1, 2010, and ending on March 31, 2013, with two (2) additional three (3) year renewal terms. MDGLCC currently pays annual rent in the amount of \$52,320 (\$20.57 per square foot) payable in monthly installments of \$4,360. Said monthly amount consists of \$2,065 for base rent (\$9.74 per square foot), \$1,950 for operating expenses (\$9.20 per square foot) and \$345 for insurance (\$1.63 per square foot). The current Lease term ends on March 31, 2013, but has two additional three (3) year renewal terms. MDGLCC advised the City they had been communicating directly with Duane Knecht, former Director of Property Management, regarding various maintenance and repair issues related to their office and the building, mainly an infestation problem. The Tenant has expressed a need for a rent reduction in order to offset the cost of hiring additional staff, increase its hours of operation, and broaden its advertising. The Tenant also requested a new ten (10) year lease. MDGLCC requested that its rent be reduced to \$30,000 annually (\$11.80 per square foot) payable in monthly installments of \$2,500. The other ground floor tenant (Miami Beach Cinematheque) pays \$9.20 per square foot for operating expenses and \$1.63 per square foot for insurance, for a total of \$10.83 per square foot.

Commissioner Jerry Libbin asked are all non-profits using City facilities within the same range per square feet for rent and CAM per their leases. Chairperson Weithorn stated it appears the \$10.83 that the tenant is paying seems to be in line with what the other non-profits are paying. Commissioner Exposito stated they need to establish parameters so that all non-profits are on the same page regarding CAM and rent. Commissioner Jerry Libbin requested a list of all the

non-profits within the City and a list of what they are paying. Real Estate, Housing & Community Development Director Parekh added that they have sent an extermination company that's checking the entire building regarding the infestation. Commissioner Jorge Exposito made a motion to the Committee directed administration to provide a list of all the non-profits with an outline of what they pay and any measureables that are required and to reduce the rent for MDGLCC from \$4,360 monthly to \$2,500 monthly, representing a reduction in rent from \$20.57/sf to \$11.80/sf. The motion was second by Jerry Libbin and passed.

THIS PAGE INTENTIONALLY LEFT BLANK