



# MIAMIBEACH

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## COMMITTEE MEMORANDUM

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

FROM: Jimmy L. Morales, City Manager 

DATE: October 16, 2013

SUBJECT: REPORT OF THE SPECIAL FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING ON SEPTEMBER 19, 2013

The agenda is as follows:

### OLD BUSINESS

1. Discussion of old business items to determine if they should remain on the pending items list:
  - a. Status update on Business Tax Process Improvement

### ACTION

The Committee recommended leaving this item on the agenda since the new Accela process is still pending.

- b. Additional proposed amendment to the City's Living Wage Ordinance Mandating Health Benefits Plan

### ACTION

The Committee recommended removing this item.

- c. Discussion of responses received from the Request for Letters of Interest (RFLI) for a North Beach parking garage

### ACTION

The Committee recommended removing this item.

- d. Discussion on water conservation methods and implementation

### ACTION

The Committee recommended removing this item.

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- e. **Discussion regarding upgrade to Municipal Parking Garage gated revenue control system**

**ACTION**

The Committee recommended leaving the item on the agenda due to the fact that the current revenue control system needs to be updated.

- f. **Discussion regarding the issuance of a request for qualifications for a third franchise Solid Waste contractor for residential and Commercial Solid Waste collections and disposal**

**ACTION**

The Committee recommended removing this item.

- g. **Discussion regarding permit expiration courtesy notices; Amnesty for expired permits; And length of time for building permits**

**ACTION**

The Committee recommended removing this item.

- 2. **Discussion regarding existing tenant's new proposal to renew the retail lease agreement with 1560 Collins Avenue, Inc. D/B/A Shan ("Tenant"), for the use of suites B and C in the Anchor Shops, located at 1560 Collins Avenue, Suite No 2, Miami Beach, Florida ("Space"); Compared to the US Vintage proposal for this space, approved at the July 25, 2013 Citywide Projects Commission Committee**

**ACTION**

The Committee recommended continuing the lease with 1560 Collins Avenue, Inc. d/b/a Shan for the use of Suites B and C in the Anchor Shops.

Cultural Arts & Tourism Development Director Max Sklar presented this item.

Cultural Arts & Tourism Development Director Max Sklar began by stating since the July 25, 2013 Finance and Citywide Projects Committee (FCWPC) meeting, the tenant's Montreal-based parent company has made the business decision to keep its presence in Miami Beach, Florida and fund any shortages which Shan may have during the renewal term. They have seen steady increases in the gross revenues in the past months. On August 28, 2013, tenant submitted a proposal to renew its lease, for the balance of its five year renewal term ("Shan Proposal"), based upon comparable rental terms to those of US Vintage Proposal. Staff recommends moving forward with the Tenant's proposal since

monetarily, the offer matches the US Vintage Proposal and it would keep the diversity of merchandise being sold at the Anchor Shops, while at the same time diversifying the risk of a default. Shan is current in its leasehold obligations and has been a compliant Tenant throughout its tenancy.

It should be noted that negotiations with the Tenant have extended past the March 18, 2013 expiration date of the initial Lease, pursuant to the provisions in the Lease, the Term has been extended on a month-to-month basis at the current rental rate until revised terms are approved by the City for the remaining five-year option. Commissioner Jorge Exposito made a motion to continue the lease with 1560 Collins Avenue, Inc. d/b/a Shan for the use of Suites B and C in the Anchor Shops and it was seconded by Commissioner Michael Gongora.

- 3. Discussion regarding a proposal from Alpha 22, LLC to lease 2,216 square feet of city-owned vacant property, located at 22nd Street and Washington Avenue, adjacent to existing restaurant space located at 816 Commerce Street, Miami Beach, Florida 33139 (Space), to be used as outdoor café, concurrent with the lease/use of the adjoining restaurant**

#### **ACTION**

**The Committee recommended moving forward in pursuing a lease agreement with Alpha as proposed with the necessary revisions as discussed.**

Cultural Arts & Tourism Development Director Max Sklar presented this item.

Cultural Arts & Tourism Development Director Max Sklar began by stating the City has received an offer from Alpha II, LLC ("Tenant" or "Alpha") to lease a City-owned 2,216 square foot vacant parcel located at 22 Washington Avenue, ("Site" or "City-Owned Parcel"), which is adjacent and east of 816 Commerce Street, a privately owned two-story commercial building. The City-Owned Parcel is a remaining portion of an undeveloped platted lot which is the residual lot in connection with the expansion of Washington Avenue. Due to its limited size and shape, the property serves little more than to provide access to 816 Commerce Street. The proposal to lease this Site is from a restaurateur who proposed to place tables and chairs on the Site to supplement the interior seating in the adjacent, privately-owned restaurant ("Restaurant Space").

Mr. Sklar went on to state the latest offer to lease the City-Owned Parcel comes from Alpha, who intends to utilize the City-Owned Parcel and adjoining Restaurant Space as a French Restaurant. Alpha Managing Principal Oliver Lubrano stated he currently manages and operates a French restaurant in New York under the name of Rouge NYC. Mr. Lubrano intends to follow a similar business plan utilized for Rouge NYC. Alpha currently intends to develop its site plan for the City-Owned Parcel, similar to the plan developed by the previous tenant, Syanna ("Syanna Site Plan"), which was approved by Planning; however, Tennant's final site plan will have to be approved by the City, as Landlord, and the Planning and Zoning Department. Mr. Sklar added that in order to mirror the

lease terms for the Restaurant Space, Alpha proposes a lease for nine years and 364 days in connection with the City-Owned Parcel at an initial base rent of \$20.00 per square foot, plus 3% annual increases every year thereafter, subject to the known Neighborhood Restrictions, as evidenced from the Letter of Intent. Typically, the leases with the City are for a shorter term. Staff recommends a shorter term with renewal options just in case unforeseen issues occur that need to be addressed.

Commissioner Jorge Exposito wanted to make sure no bus stations would be placed within the leases premises and the beautification of the area is maintained and that chairs and tables aren't being roped and tarped when the restaurant closes at night. Commissioner Michael Gongora made a motion to move forward in pursuing a lease agreement with Alpha as proposed with the necessary revisions as discussed. Commissioner Exposito seconded.

4. **Discussion regarding an amendment to the lease by and between the City of Miami Beach ("landlord") and Massage Partners, Inc. ("tenant") dated September 15, 2010, for the premises located at 1701 Meridian Avenue, unit 2 (a/k/a 767 17th street), Miami Beach, Florida, concerning: 1) the additional use of the demised premises as a nail salon; and 2) the use of the common area restrooms located on the second floor of the 1701 Meridian Avenue office building for tenant's nail salon customers**

#### **ACTION**

**The Committee recommended moving forward with the proffer of allowing the usage of the bathrooms as long as the tenant escorts the customers to and from the bathroom after hours and an increase to \$6.00 per square foot for Common Area Maintenance fees of the restroom.**

Cultural Arts & Tourism Development Director Max Sklar presented this item.

Cultural Arts & Tourism Development Director Max Sklar began by stating the Franchisor has stated it cannot approve the sharing of signage, entryways or bathrooms by its franchisees with other businesses. The Leased premises contain a separate entryway for the Proposed Nail Salon Space as well as a separate area for window signage. However, the Leased Premises do not contain a separate restroom which can be utilized by the nail salon customers. Subsequent to numerous discussions between the Administration and the Tenant, it was determined that a separate restroom is also required by the City in order for the Proposed Nail Salon Space to obtain the applicable business licenses. The Committee asked for direction from the Building Department to determine if the use of the common area bathrooms located on the second floor of the 1701 Meridian Avenue office building is permitted under the Building Code. The Committee also asked if the Building Code allows for Massage Partners to use the Permit Doctor's bathrooms via an agreement between the tenants. The space currently only allows for access afterhours to City Employees which was one of the Mayors concerns. Massage Envy has General Liability insurance that covers the entire building. Mayor Aide Gabrielle Redfern stated the mayor has

concerns regarding current construction on the upper floors and after hour access to those floors.

Chairperson Deede Weithorn stated if the tenants are escorted, that makes us feel more comfortable to allow access to the bathrooms. Mr. Sklar added the nail services and use of the restroom on the 2nd floor do not require City Commission approval. However, if the FCWPC recommends charging additional rent for use of the restroom, City Commission approval would be required for the increased rent. Commissioner Michael Gongora made a motion to proffer in allowing the usage of the bathrooms as long as the tenant escorts the customers to and from the bathroom after hours and an increase to \$6.00 per square foot for Common Area Maintenance fees of the restroom. Commissioner Jorge Exposito seconded.

## **NEW BUSINESS**

- 5. Discussion regarding Red Light Cameras in Miami Beach in light of a new State Law that goes into effect on July 1, 2013**

## **ACTION**

**The Committee requested that the City Manager bring back additional information before a decision is made on addressing the red light cameras.**

Police Plans Policy Manager Michael Gruen presented this item.

Police Plans Policy Manager Michael Gruen began by stating the program is trending. The number of notice of violations has decreased since the inception of the program, primarily due to the various changes in State law governing red light cameras. However, since the enactment of the new red light camera legislation in July 2013, which requires a complete stop before making a right turn, the number of right turn violations has increased dramatically. Although there are only two (2) months of data available, the average number of violations issued per day in July and August has increased to 4.48 per camera per day from 1.42 in Fiscal Year 2011/2012 and 1.99 in Fiscal Year 2012/2013 (year to date). Since the inception of the City's red light camera photo enforcement program in April of 2010, where the program was enforced under a City Ordinance to where the program is now pursuant to State Statute, there have been several legal challenges that have led to two (2) major changes to the program. These major changes have negatively impacted the City's ability to generate revenue. Pursuant to the City's Red Light Camera Ordinance, which was repealed on July 1, 2010, the City derived \$125 for each notice of violation in addition to late fees. On July 1, 2010, the Florida Legislature enacted the Mark Wandall Act, which essentially made red light camera infractions enforceable only under State law pursuant to FSS Chapter 316. As part of this change, Notice of Violation fines increased to \$158 per violation, with the State receiving \$83 and only \$75 going to the municipalities. This change alone accounted for a significant decline in revenue. This provision, coupled with the change in criteria from a complete stop when making a right turn to "careful and prudent manner", now allowed a rolling

turn. This one change led to a significant decline in the number of Notice of Violations and subsequently, a decline in total revenue. However, with the latest change to the law requiring a complete stop before making a right turn on a red light, revenue has spiked significantly. As of July 2013, net revenue for the program since its inception is \$192,231.87.

Commissioner Michael Gongora inquired as to why the City of Miami Beach is not making as much revenue as other municipalities indicate they are. Mr. Gruen stated the selection of intersections that were chosen were limited to only City streets that might or might not have high traffic volume in that area. City Manager Jimmy Morales stated if they want to continue the program, he can bring back some suggestions that take a look at expanding the cameras, keeping them or removing them. Commissioner Gongora made a motion to accept the City Manager bringing back additional information before a decision is made on addressing the red light cameras. Commissioner Jorge Exposito seconded.

#### **6. Discussion to immediately reinstate the Fee Waiver for Sidewalk Cafes in North Beach**

#### **ACTION**

**The Committee recommended reinstating the fee waiver for sidewalk cafes in North Beach.**

Public Works Director Eric Carpenter presented this item.

Public Works Director Eric Carpenter began by stating the Miami Beach City Code Chapter 82 authorizes the City to charge restaurants with sidewalk cafes a \$150.00 annual permit fee, plus \$20.00 per square foot for the café area. The City does not charge Sidewalk Café fees for businesses situated on State Roads because they were outside its jurisdiction. This created a competitive disadvantage for sidewalk cafes on City streets in the North Beach area.

Commissioner Jorge Exposito made a motion to reinstate the fee waiver for sidewalk cafes in North Beach. Commissioner Michael Gongora seconded.