

City of Coral Gables City Commission Meeting
Agenda Item H-4
March 25, 2008
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Slesnick Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael "Ralph" Cabrera, Jr.
Commissioner Wayne "Chip" Withers

City Staff

City Manager, David Brown
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

Steve Siegfried, Attorney for Granada
Tom Rebul, Attorney Representing City of Coral Gables

H-4 [Start: 12:03:55 p.m.]

Update on the Coral Gables Country Club

City Manager Brown: Two Commission meetings ago, Commissioner Cabrera asked that we bring to you a synopsis of where we are with our actions concerning the Country Club of Coral Gables. Steve Siegfried was out of town last meeting, otherwise I would have had him here, I've asked Steve Siegfried and Thomas Rebul to both join us to brief the Commission and the audience and those at home on the lawsuits and our actions with regard to the Country Club and where we are with those particular lawsuits. Mr. Siegfried.

Mr. Siegfried: Good morning, my name is Steve Siegfried, 201 Alhambra Circle, Coral Gables.

Commissioner Cabrera: Just take the mike, take the mike; there you go, yes sir.

Mr. Siegfried: I have been involved in defending the claim, the lawsuit that was filed by Granada, that action was stayed at the request of Granada, I think all of you are aware of that, so really nothing is happening in the circuit court action where the City has been sued by Granada. Tom Rebul was hired by the City Attorney to represent the City in its action for possession of the premises, so he's here to report on the status of that case. Tom Rebul.

Mr. Rebul: I guess its good afternoon at this point; Tom Rebul, 2 South Biscayne Boulevard, Miami 33131. We are representing the City, in fact this morning we had a hearing before Judge

Saenz on some request from both sides to serve written – request for information on each other. We've asked for the case to be set for trial before Judge Saenz, it will not be a jury trial, we expect and anticipate that the case will be tried to the court within sixty (60) days hopefully of today and we can bring the matter to a head.

Mayor Slesnick: And that's the suit for possession of property.

Mr. Rebul: That is correct.

Commissioner Cabrera: So you expect this then to end within the next sixty (60) days if all the schedules are met?

Mr. Rebul: If all the schedules are met, correct.

Commissioner Cabrera: One way or the other.

Mr. Rebul: It's not totally within our control. We have an opponent of course.

Commissioner Cabrera: My question this afternoon is not directed at either one of you, it's actually directed at our City Manager; Mr. Manager, yesterday....

Mayor Slesnick: I'm sorry, just before you get to that though, what did you say on the suit that we are defending; where are we on the suit we are defending.

Mr. Siegfried: It's stayed – Granada has asked the court to stay the action, so there is nothing really going on.

Mayor Slesnick: Until when or until what event?

Mr. Siegfried: Well, they've asked to disqualify my referral and until the court rules on that, nothing's happening.

Commissioner Cabrera: And when do you anticipate that occurring a ruling on that?

Mr. Siegfried: No idea, they have to bring it before the....

Mayor Slesnick: Which Judge is this?

Mr. Siegfried: It's Judge Freeman, Bill Freeman.

Commissioner Cabrera: Well, I think everything will come to a head in the summer.

Mayor Slesnick: I mean, can we push the Judge to make a decision?

Commissioner Cabrera: I wasn't aware of the fact that this was going on, and that's my fault for not knowing, I mean, I don't blame anybody, I did not know that this was on hold.

Mr. Siegfried: It's the affirmative claim of Granada, it's the affirmative claim of Granada, and it's not a claim that the City has in that law suit.

City Manager Brown: There are three different actions going on.

Commissioner Cabrera: You want to outline them, the three actions that are going on.

Mr. Rebul: What you may be referring to is the...

City Manager Brown: The three suits, our suit for eviction, their suit for damages, and then the one to remove Steve's firm.

Mr. Rebul: It's not a separate action.

Mr. Siegfried: No, it's not a separate action.

Mayor Slesnick: But there is a third suit, SunTrust....

Mr. Rebul: That's what I was referring to.

Mr. Siegfried: We are not involved with that; we don't really know the status of it.

Commissioner Cabrera: Do you know the status of that Mr. Manager?

City Manager Brown: As of yesterday the Country Club...no...LLC is still negotiating with SunTrust for a price.

Commissioner Cabrera: A price to settle on the appliances?

City Manager Brown: Yes sir.

Commissioner Cabrera: OK.

City Manager Brown: That was as of yesterday.

Commissioner Cabrera: And that was just in the neighborhood of two hundred thousand dollars (\$200,000), somewhere in that neighborhood.

City Manager Brown: That was the first number; I haven't even privied any numbers since that.

Commissioner Cabrera: Can I go back to my question for a minute?- and I don't want you gentlemen to leave because maybe some other members of the Commission might have questions, but I wanted to ask the Manager because yesterday the five of us, as I understand, the five of us received a letter from, its interesting, from the Country Club of Coral Gables, but its signed by the gentleman that manages on behalf of Granada LLC, is that correct?

City Manager Brown: That's correct.

Commissioner Cabrera: You know, one of the things I'm going to ask you to do, and this has nothing to do with legality, but I want to find out what officer of the Country Club of Coral Gables gave authority for this letter to be issued to the City Commission, because I think its important; I still want to know what that Board does, because I can't find minutes. I don't know the last time they met, unless Mr. Bornstein called a meeting for them, so I'm really interested in knowing how much they know about this; but essentially what the letter is about, and I'll just cut to the most important part of the letter because the rest of the stuff in my opinion is garbage; the letter talks about the air conditioning unit, and it specifically addresses the concerns that they have with regards to the main chiller and other systems that are there, and auxiliary systems; and I remember three or four Commission meetings ago asking you to go and find out what the heck was going on and to bring back a report from our engineers. Can you shed some light on all of this?

City Manager Brown: I can tell you that Mr. Delgado and his crew went out there after the Commission talked about the possible condition of the air conditioning and would it make through the summer. They went out and said yes, it needs maintenance, but it was livable and it could make it through the summer. When I read that letter, I've already drafted a memo to Mr. Delgado saying your ascertainment of the situation out there, and this letter's ascertainment of the situation are completely opposite, make an appointment with Rudy Sevrattan and walk the premises unit by unit and let's find out who's assessment is more correct, and that's what we are doing right now.

Commissioner Cabrera: Is this a legal question if I ask you who is responsible for the air conditioning system?

City Manager Brown: I believe that they are responsible....no, its not a legal question....I believe that the Country Club is responsible for the maintenance of the AC system; we are responsible upon approval by this Commission for capital improvements; but for the maintenance of the system I believe the Country Club is responsible. They quoted five point one (5.1) in their letter, section five point one (5.1) of one of the agreements that we are under the capital improvement guide, this is maintenance, the air conditioning clearly resides there.

Commissioner Cabrera: If we get nothing else done, you know, with the legal issues that we are facing with some of the delays that I've heard about today, could we somehow bring the issue of the air conditioning system to some sort of closure prior to the summer months.

City Manager Brown: Yes.

Commissioner Cabrera: Because I mean there is some merit that is being said that you are going to have some mildew and mold problems if the system, you know, conks out.

City Manager Brown: I expect to have a report from Mr. Delgado by the end of next week.

Commissioner Cabrera: So the initial report basically told us that it wasn't as bad.

City Manager Brown: It wasn't as bad as they are claiming it to be, and they are claiming in the second letter that it's very bad, and I need to find out how bad.

Commissioner Cabrera: You know, curiosity kills me when it comes to this stuff, I'm just wondering at what point in time are both parties, and I mean the City and Granada LLC, going to agree on anything, I'm just curious.

City Manager Brown: Well, I'll address that, and so can Mr. Siegfried and he can step in, but we have tried – this Commission tried to help that Club regain their financial responsibility and help them through some tough times, and frankly their negotiations were fruitless. We sat down – you all authorized me a million dollars (\$1M) to direct that million to help them through the bad times, and all we wanted them to do was pay, like they are supposed to pay, for the capital improvements of the four million dollars (\$4M), and they wouldn't take that, and I wasn't about to give another million dollars without that guarantee. So we have tried and since that point the LLC has not come to us with any other proposal about settling this case with the exception of the one that we last saw when we were offering the million dollars.

Commissioner Cabrera: When we learn about, what I would perceive to be irregularities, what would be the best course to adopt to have the City investigate, send it directly to your office?

City Manager Brown: Yes.

Commissioner Cabrera: OK, because you know, I think all of us also received another memorandum or email that alleged some issues were going on that may seem inappropriate or irregular, and I think that those need to be looked at by us.

City Manager Brown: You should send that to my office and I'll sit down with Mr. Siegfried and Mr. Rebul or I should say Mr. Rebul in this case, and we'll make a response or request to the Club to outline those items, and their responses.

Commissioner Cabrera: So back to time frames; time frames could be anywhere between sixty and as long as one hundred and twenty days – one hundred and eighty days.

Mr. Siegfried: Yes – as far as the possession action is concerned, the court has an obligation to, Mr. Rebul can tell you, the court has an obligation to expedite those matters on their calendar, and I think that's something the court is considering right after Tom's...[inaudible]...

Mr. Rebul: That actually gives me the opportunity to slightly amend something that the non-lawyer Mr. Manager said, which is this is not an eviction action because its not a lease between the City and the Country Club it's a management agreement, so we are proceeding under a statute that calls for possession of the property to come back to the City, but it is supposed to be expedited, its subject to Chapter 51 of the Florida Statutes which provides for summary proceedings, and I can tell you the Judge Saenz is very conscious of that and his ruling this morning reflected that and concerned that the matter be expedited as much as possible.

Commissioner Cabrera: OK.

Vice Mayor Kerdyk: Can we step in and secure our property as far as getting back to the AC issue, if the AC was to go bad, can we go in and replace or repair the AC unit without setting precedent for the City itself because we are securing our premises or trying to create damages that would be created if the AC were to go off?

Mr. Rebul: In part, I'm reluctant to discuss too much of an attorney-client in nature at an open meeting; I will say this as a general statement of Florida Law, which I don't think anybody will disagree, which is that all parties in a dispute have a duty to mitigate damages, and so the way I always explain it to any client, and it's a matter of Florida Law is, if you roof gets taken off you can't just let it rain on your goods and let them get ruined and claim further damage, you have a duty to cover them up and do what you can. So that applies equally to all parties involved.

Vice Mayor Kerdyk: Alright.

Commissioner Anderson: Thank you.

Mayor Slesnick: Thank you all, appreciate it. David, there is a part of this letter that said the City performed two recent audits of the Club's books, and if that's true I'd just like, you don't need to discuss it now, but I would like you to send around a lay persons couple paragraph description of what two audits we performed on the books and what we found, as opposed to depending on this letter to tell me what that is.

City Manager Brown: Shall do Mr. Mayor.

Mayor Slesnick: Because according to this we found the books to be in good shape. People keep hearing us hang out our dirty laundry in this case, it should be noted that the Club, the building looks great, the civic clubs continue to meet their; there continues to be activity there, etc. etc. So I want the citizens to know that while they are hearing all these horrible tales of lawsuits that this Club continues to operate and continues to serve a lot of people in the City, which is of course what we hope it continues to do.

Commissioner Cabrera: Don, you know what, I take exception to your comment, I'll tell you why; I'll tell you right now, I take exception to you saying about us airing our dirty laundry; I'm not airing dirty laundry...

Mayor Slesnick: I didn't say you.

Commissioner Cabrera: Well, because I'm the guy that asked for the report.

Mayor Slesnick: I didn't know you asked for it until David mentioned it.

Commissioner Cabrera: Well, you know, the bottom line is and I've said this to all of you before, and I will say it again, I want the Club to succeed, at the same time I think that this needs to be a transparent issue that gets brought up in the public's realm. Now I realize today we had

two attorneys, who cautioned us to not have legal discussion, and I respected that Don, but I just want to make sure....

Mayor Slesnick: Ralph, don't take exception...

Commissioner Cabrera: But I do.

Mayor Slesnick: Don't take exception because you shouldn't take it; don't take exception because I'm telling you I didn't mean that comment to be any reflection; I meant we as a group talk about problem issues, I just want to raise a few positive things, that's all.

Commissioner Cabrera: Well, there are positives; it's great that the Club is still functioning....

Mayor Slesnick: I did that in this discussion and I appreciate it.

Commissioner Cabrera: Well then....

Mayor Slesnick: That wasn't my problem.

Commissioner Cabrera: OK, well I took it differently because I don't, you know, I don't want to bring out our dirty laundry, its not something – listen this Commission meeting has absolutely been no fun, OK, from the get to till now, but that's OK that's what I signed on for; and I hate like heck to bring some of these things up, but I have to bring them up.

Mayor Slesnick: And Ralph you are just misreading me, I didn't....and you know what, let me say it a different way, Commission meetings and government in general tend to hone in on problems because that's why we come here together...

Commissioner Cabrera: OK.

Mayor Slesnick: ...but day to day you and I, Maria, Bill and Chip see all the good things in life and I was only trying to say....

Commissioner Cabrera: Well, I took it differently, so that's why I decided to....

Mayor Slesnick: Please don't...no, no, no.

Commissioner Withers: Just let me chime in, I think we all agree, at least I hope we all agree that, and Dave I guess you are getting this message, that regardless how this turns out, that our commitment is to keep the Club up and running, if an interim group has to go in, we don't want to close the doors, and we want to honor those contracts that people have made out in the future, and I think we all agree on that.

Commissioner Cabrera: I think you made it very clear a while ago when you talked about the fact that if we were to close the doors what that could do to the property, excuse me, the property

and here we are talking about an air conditioning system that could really damage the property, so we are not even talking about closing the darn place.

City Manager Brown: Its my hope Commissioner, Mayor, members of the Commission that when this legal battle ends that someone is going to be right and someone is going to be wrong, and then there will be an absolute change of whatever the courts decide and then we'll orderly make that change and the residents of the City won't suffer because of that change whatever it may be.

Mayor Slesnick: David, until then when you send Alberto and his team or his team, whomever over to the Club we ought to consider that if there is maintenance that needs to be done, and its not being done on the air conditioning and in consultation with your attorneys to ensure that we don't mess up that we take whatever actions we need to do to keep the air conditioning running.

City Manager Brown: That's why I want to see Mr. Mayor, what is the problem over there.

Mayor Slesnick: As Ralph said most of this letter is...

Commissioner Cabrera: Called it garbage.

Mayor Slesnick: ...garbage and to write us a bunch of air conditioning units need help, you know, my first reaction was to call the Club and say what are you doing about it.

City Manager Brown: I got you Mr. Mayor.

Mayor Slesnick: Are we straight?

Commissioner Cabrera: Oh we are and I apologize to you if I over-reacted, I didn't mean to over-react.

Mayor Slesnick: I didn't mean for you to take it that way.

Commissioner Cabrera: OK, apology accepted.

[End: 12:20:27 p.m.]