

City of Coral Gables City Commission Meeting
Agenda Item I-3
November 10, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

Mr. Lecur, Coral Gables Resident
Melissa Tapanes Llahues, Attorney with Bercow, Radell & Fernandez

Agenda Item I-3 [Start: 2:29:00 p.m.]

Request for authority to modify Dispute Resolution Agreement relating to Lots 13, 14, and 15 of Coral Gables Granada Section (1011 and 1015 Lisbon Street) whereby the City would purchase Lots 14 and 15, which includes the specimen trees referred to as Sherman's Oak and the surrounding tree protection zone.

Mayor Cason: Item I-3 is a City Attorney Item.

City Attorney Leen: Thank you Mayor Cason. Item I-3 is a request for authority to modify Dispute Resolution Agreement relating to Lots 13, 14, and 15 of Coral Gables Granada Section (1011 and 1015 Lisbon Street) whereby the City would purchase Lots 14 and 15, which includes the specimen trees referred to as Sherman's Oak and the surrounding tree protection zone. This matter came before you a number of months ago related to two properties on Lisbon and three

trees which were referred to as Sherman's Oak and at the time the Commission agreed to, basically do a lot split whereby there would be three properties to build residences on and that would be done as an accommodation because one of the properties needed to preserve the trees, the specimen tree that was referred to as Sherman's Oak. And next door to that house there was also, remember around the tree there was a 25-foot tree protection zone and that tree protection zone went into two different properties, the property where Sherman's Oak was located and then the next door property where the tree protection zone went partially onto that property. Anyhow what ended up happening over the next several months is that the developer came forward with plans, and my understanding is they have received a permit as to one of the three properties, the one which does not have a tree protection zone, and they are seeking final permitting as to the middle property, which is the one next to the tree and then as to the property with the tree, that has still been in a degree of dispute as to how the house will be located on the property. It came before you last time we spoke. Anyhow, as you may remember, the Commission designed Commissioner Lago to enter into discussions along with the City Manager and myself with the developer to see if we can reach an agreement whereby the City might purchase the lot where the tree was located. In those negotiations it became apparent, I believe to the City Manager and Commissioner Lago and I agree with them, that it would be worthwhile for the City to purchase both lots, the lot where the tree is located and the next door lot and that, that would resolve a lot of the issues that have come up over the last several months. The proposal is within your packet, but just in a nutshell what the City would do is, it would purchase those two lots for \$800,000 in cash and \$100,000 in credits for a total value of \$900,000. There are other conditions as well, which are listed in your packet, and I'll go more into them in detail, but first I wanted to ask – I thought that you wanted to speak, you don't want to speak?- OK. One issue that came up in looking at whether the City should purchase these properties is whether the surrounding, and potentially use them as a park or as or as open space was, what would be the response of the surrounding residents. If I could have Mr. Lecur come up, he is going to speak to that issue.

Mr. Lecur: Hello Mr. Mayor, Commissioners, thank you for your time. Yes, I've spent a few hours in the past couple of weeks talking to my neighbors and all those involved and that have been so vocal, perhaps to you and certainly to my wife and I, I probably should announce myself,

and my wife Jorey Friedman, we've been sort of spearheading the neighborhood on this topic for the last couple of years. In my walks around the neighborhood, talking to my neighbors about the possibility of this deal happening, I found nothing but an aesthetic response, and in just a few hours I would like to put into record 103 names supporting this petition and this effort that I hope you will support, and that list is growing as the word continues to spread around the neighborhood of this possibility. As you probably also may know, in the North Gables we don't have much green space and I know that's a City initiative that I fully support and this could go a long ways to helping us in my neighborhood, not only protect this legacy tree that was around well before this City was founded and probably an inspiration for Mr. Merrick himself, not only preserve this tree for generations to come, but also provide much needed green space in our neighborhood of Lisbon Street neighborhood.

Mayor Cason: Are your neighbors immediate neighbors around the park all in favor?

Commissioner Keon: I think you are the immediate neighbor.

Mr. Lecur: I am one immediate neighbor certainly. I have not spoken to anyone that has shown any kind of opposition, face to face I have not spoken to anyone that has shown any kind of opposition. Everyone thinks it's a no-brainer and they would love it. In an effort to teach some civic duty, I have an 11 year old son and I also asked him, I made up a child petition for him to take around to his friends in the one block neighborhood of Sherman's Oak and he's got seven signatures of his friends 11 years and younger; and one reason I'd like to speak for Rodrigo Rivero said, we would like to be able to have fun together and meet new friends; and my son wrote down, we would be able to be safer than being on the street, as right now that's where they have to play because these are very small lots.

Mayor Cason: 10,000 square feet or something like that?

Commissioner Lago: Yes – 10,000 square feet.

Mayor Cason: Tell me – a lot of times – the Water Tower when somebody proposed putting benches there, all the neighbors rose up and were against it because they didn't want, as they called them, "those people" coming in and using...is that going to be an issue?

Mr. Lecur: I think for some people and I've talked to a lot of people there were maybe two out of the hundred or so that I spoke to that said, well if we put benches, we may have homeless people living there, and I said, well I don't see homeless people living in Country Club Prado entrance which has tons of places for them to inhabit, if that's going to happen, but I think it would go a long way if the neighborhood could have some say into how this green space would be utilized, and if the neighborhood could sound-off if this deal goes through, then those people that have any kind of fears about benches, and I think maybe that was the only one I heard....

Mayor Cason: Or parking of cars because generally the argument then goes with, and they would come in with a car and park on my swale and throw trash down. I just want to make sure...

Mr. Lecur: I've never heard any kind of concerns about that. It was just a bench or two comment about a homeless person living there, and I said, well I live next door and we keep a close eye as the developer knows on this property.

Mayor Cason: If we approve this going forward, it would be good to ask specifically what kind of a park?- do you want playground equipment?- do you want benches because that has a lot to do whether people will come from far away to use it or not. You have to be aware that maybe since it's the only park out there, you may attract people from more than 1,000 feet, maybe a mile.

Mr. Lecur: Well, I have my own feelings about that, but I don't think my opinion would be necessarily the one that should or could be followed, but I think simpler is better, personally myself, green space that doesn't invite any particular activity, but give some open space for kids to play in, for people to walk their dog in, that would be my preference.

Commissioner Lago: People to sit down and have lunch, to relax, to read a book.

Mr. Lecur: Enjoy that beautiful tree. So, personally I have no designs of anything complicated, but I would hope that maybe we could have an opportunity for other people to speak in the neighborhood that may have other ideas and then come to some kind of consensus I would hope.

Mayor Cason: That makes sense.

City Attorney Leen: To conclude and then for Commission input, of course. So what would be done is the Dispute Resolution Agreement would be modified, there would be an addendum attached, essentially, or something similar to that, whereby the City would agree to purchase these two lots from Palm Corp for, again let me go through the specific terms, \$800,000 in cash, \$100,000 in credits, such as impact permit fees, inspection fees, those fees could be for future projects or past projects. There was a request made that they'd be allowed to be assignable and transferable, City is not recommending and I believe there's been an agreement among the parties that what's meant by that is, not that its freely transferable or free assignable, but that these credits would be used for Palm Corp related projects or Palm Corp related entities. But sometimes one particular entity may own a project under a specific corporate name that's related to Palm Corp and that would need to be transferred to Palm Corp, for example. City shall be responsible for all buyer and seller closing costs, including title, taxes, and attorney's fees. The attorney's fees would be limited to the actual closing cost, the closing not what' happened in the past. Closing shall occur prior to December 18, 2015, obviously I would like you to, I'm recommending you approve this, substantially this form there needs to be some leeway for the City just in case we are unable to do that, but that would be in good faith, we would seek to do it by December 18, 2015, and what I'm asking you is to grant the City authority, by the City I mean the City Manager and myself, authority to go forward and resolve this matter. We would be doing this also with special counsel and City staff to proceed and it would not come back to you unless you wish it, but in order to move this along the idea would be you grant the authority today and we would have the full authority to go forward and execute the agreement with Palm Corp and I do see that Ms. Tapanes would like to speak, so with that.

Ms. Tapanes: Thank you all for having us here today. We are eager to bring this matter to final resolution. When we were here before over a year ago, we were excited to be able to commence construction. As it stands today, it seems we've been having some difficulty with the permitting process or the lot that Sherman's Oak is located on, so we do appreciate moving forward in this matter. We believe that it's a win-win situation. If you have any questions regarding the assignability or transferability, I can answer those questions. I think Mr. Leen did a good job of explaining the fact that how the business model works of development and there is various

corporate entities that we will need to be able to assign and transfer. Pursuant to our business model regarding attorney's fees, we considered this just to be very clear as to our intent, the \$800,000 cash, \$100,000 in credit and reimbursements, that's basically net, and we would ask that the City to take care of all the attorney's fees dealing with closing as well as the negotiations of this deal that it is a net loss and you've been a part of all our meetings, but we would ask for that to be included as well.

City Attorney Leen: Going forward though, right?- or are you talking about in the past.

Ms. Tapanes: We would say for the last week or two.

Commissioner Lago: We had three meetings, correct?

Ms. Tapanes: I believe we had two.

Commissioner Lago: Two.

Ms. Tapanes: Two meetings – so just so we are...

City Attorney Leen: I'm fine with that, its up to the Commission.

Commissioner Keon: Is it up to a certain amount?- or just whatever it is, I have no idea...?

City Attorney Leen: I've always assumed we'd put reasonable cost. If I had a huge issue with it, you wouldn't end up being entering into the agreement. I mean you are just granting the authority.

Commissioner Lago: We had two meetings and they were a few hours each meeting, so again, I imagine there was some background work, but it wasn't very much.

Ms. Tapanes: We'll be reasonable and we'll work with Mr. Leen to ensure that all fees are reasonable.

Mayor Cason: I think this is a good proposal. We've got – we're on record as wanting to have more parks, particularly up in the north, there aren't parks up there now. We have well over a

million dollars, if I'm not mistaken in our parks fund and it helps resolve a problem that we hope will go away. So, I'm in favor of it. Do we have a motion on this?

Commissioner Keon: I'll make the motion.

Mayor Cason: Commissioner Keon makes the motion – second?

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk.

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Mayor Cason: Yes

(Vote: 5-0)

Commissioner Keon: Thank you.

Mayor Cason: Thank you.

Commissioner Keon: Do we name that park Sherman Oak. I said do you name that park Sherman Oak?

Mr. Lecur: That would be my choice, yes.

Commissioner Lago: I want to say one thing really quickly. I wanted to commend staff, the City Manager, the City Attorney, and I also wanted to commend Palmcorp and its representative. We had a few meetings, extensive discussions in regards to moving this process forward, but I wanted to recognize the City Manager, because in the middle of the negotiations we went from potentially just buying one lot to coming up with the idea of finding a way to get both lots. So I wanted to commend her for her vision in reference to getting those two lots and now I think that

this is something that this Commission has discussed before that we really want to concentrate on North Gables and the lack of parks. This is a great opportunity to not only salvage a beautiful tree, but also to open up some green space, which is sorely needed in that area.

Mayor Cason: So let the play begin.

Mr. Lecur: If I could also add some thanks. My wife and I and the neighborhood have spent many, many hundreds of hours with City staff and with many of you, and I'd like to thank you for being true leaders of our City and every great cause, so each of you please accept the thanks of my neighborhood and every great cause needs a great champion and Commissioner Lago you have been the great champion here of pushing this to the resolution that the neighborhood is truly ecstatic about.

Commissioner Lago: I appreciate that.

Commissioner Keon: But you know what, every great cause also needs an active citizen that is willing to be persistent and to not give up, so I congratulate you and your wife and your neighbors for seeing that everything good was done for your neighborhood.

Mr. Lecur: We are very passionate and we love our neighborhood.

Commissioner Keon: I congratulate you.

Mayor Cason: We saved the tree and you got a park.

Mr. Lecur: Correct that's fabulous. Thank you all so much.

Mayor Cason: Thank you.

Commissioner Keon: I congratulate you.

City Attorney Leen: And I would like to thank Melissa and Palmcorp, you know its been a long process...

Commissioner Keon: Yes, thank you so much.

City Attorney Leen:...And we did work it out and thank you to the Commission for being so supportive of us working this out.

Commissioner Keon: And I hope you come back and do more projects and now that you know how important trees are, you'll be careful going forward (Laughter).

City Manager Swanson-Rivenbark: You know Commissioner, \$800,000 is a lot of money, but it is not only the land value, but the opportunity, the profit that they could have earned had they fully built it and I think that it was a very honorable negotiation and we appreciate Palmcorp and how they handled it, and we look forward to working with the neighbors through the Park Master Plan process and visioning what the two lots should become.

Commissioner Keon: Thank you. You know, in naming parks though, I really would like to see it not named after someone, I mean it seems like every time there gets to be a piece of green space become available somebody pops up and wants to name it after somebody. Whatever the name is, I hope it's a community name for the park, North Gables Green or whatever it is.

Mayor Cason: We'll address that at a future occasion.

Commissioner Keon: Please. Thank you.

Commissioner Lago:

[End: 2:45:58 p.m.]