

City of Coral Gables City Commission Meeting
Agenda Item I-1
November 8, 2011
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Frank Quesada

City Staff

City Manager, Patrick Salerno

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

S. Daniel Ponce, Counsel for the Biltmore Hotel

Dennis Doucette, General Manager, Biltmore Hotel

I-1 [Start: 11:57:27 a.m.]

Commission discussion and/or actions regarding Biltmore matters.

Mayor Cason: We now move to City Attorney Items. City Attorney?

City Attorney Leen: Thank you Mr. Mayor. Today I am reporting back to the Commission. Two weeks ago the Commission instructed me to go and continue to try to reach an agreement in the Biltmore matter to see if it was possible, and then to report that. We have done that. I am pleased to report that we have been able to agree on all business terms with the Seaway Corporation, and they are here today with their counsel, our counsel is here as well. What I was thinking today was to go through what those business terms are; also there is a caveat of course that we still have to finalize all the legal terms, but the business terms have been agreed to and I will describe those, then I will talk a little bit about some of the legal terms, and then the process going forward. So I was going to start with the Golf Course Agreement first. I'd like to say at the

beginning to that there are a lot of business terms, so it is possible I may miss one, or there may be some immaterial issue with one, if I say something – of course it all has to be put in writing and that's very important, but this is what the parties have agreed to. There will be an upfront payment of \$650,000 by Seaway to the City of Coral Gables, that will be paid upon closing of this settlement, so when we execute the documents, it's related to past due management fees, cost overrun claims, and reimbursements. What it really is, is there are a lot of claims going back and forth related to the Golf Course. The view of the City has been that there are a lot of management fees that are past due. In order to resolve that issue and also to resolve Seaway's claims related to the City on the Golf Course they are agreeing to pay \$650,000 and both parties will – it basically is a settlement of the Golf Course issues; they will be paying \$650,000 to the City right away. Second, the management fee going forward for the Golf Agreement will be \$40,000 per quarter commencing September 30, 2013, that will be subject to CPI (Consumer Price Index) and will increase starting once they begin paying the quarterly payments it will increase yearly. That will be the management fee related to the Golf Course that will be paid to the City. The prior agreement was more complex, it had different components, I think I briefed each of you individually so you'll understand what the change is, but that is what the City will be receiving going forward. Hotel Lease: Now there is a substantial past due rent owed on the hotel lease. The way that we have resolved that is basically in two ways; first, as to the amount itself Seaway will pay that back \$125,000 per quarter until its paid in full, that amount as we calculate, the City calculates it is \$5,408,419.96. That includes percentage rent for 2011, which is generally paid in 2012, includes interest, sales tax, that amount will be paid at a rate of \$125,000 until it is paid in full. So there will be no reduction of that amount as part of this agreement, it will be paid in full.

Commissioner Cabrera: What's that amount again?

City Attorney Leen: \$5,408,419.96, that's how the City has calculated it.

Commissioner Anderson: When will that repayment start?

City Attorney Leen: The repayment will start July 1, 2012.

Mayor Cason: What's the interest rate?

City Attorney Leen: The interest rate will be 2.5 percent. Installment payments will first go to pay the interest and then the balance to principal. There is also an adjustment in base rent, which is to the benefit to the City. Seaway is agreeing to increase – currently base rent is calculated based on a formula and is currently \$600,000 a year and adjusted by CPI. What it will be now, it's changing, Seaway made this concession, the new base rent will be \$800,000 starting next

year and that amount will increase by \$50,000 a year through the life of the lease. So in terms of guaranteed rent, base rent, the City will be receiving more of that.

Vice Mayor Kerdyk: Wait, wait – for the life of the lease?- or for the life of this agreement here?

City Attorney Leen: Well, it would be for the life, as I understand it, it will be for the entire lease; it's every year, it will go up by \$50,000.

Vice Mayor Kerdyk: OK, that's good.

City Attorney Leen: Now there is a cap on that, which you should all know in any given year. The cap is 80 percent of percentage rent, and the way that base rent and percentage rent is calculated is, percentage rent is generally 3.5 percent of revenues, of gross revenues. So, in any given year the base rent amount will be no more than 80 percent of that figure, but it's important to explain how that's calculated, it doesn't mean that in a given year – let's say four years from now base rent will have gone up to \$1 million, OK, \$50,000 a year, and its starting at \$800,000 next year, so four to five years from now it's at \$1 million. Let's say because of the way the calculations work with percentage rent, the 80 percent figure would only be \$900,000, when you look at the 80 percent. So the City in base rent would receive \$900,000, doesn't mean that base rent – for calculating in the next year though we don't go down \$900,000 and add \$50,000 to that, we add the \$50,000 to the million figure. So each year is looked at independently and every year base rent is \$50,000 higher than it was the year before, except it's a little complicated, it's capped in any given year at 80 percent, and the reason for that is there may be years where percentage rent is very low and so that's why there is that cap, and base rent would take the entire amount of the percentage rent.

Mayor Cason: And percentage rent on gross revenues for the hotel.

City Attorney Leen: Yes, yes Mr. Mayor. Now one of the main issues that's come up in the past two meetings and will be another main issue today where we have reached an agreement on business terms, and of course I should say that this agreement on business terms is, in terms of my recommendation to the Commission, of course all of this is subject to Commission approval. I can only speak for my – I've been entrusted by – I've been given a mandate by the Commission to try to reach an agreement, it's a recommendation and so when I say agreement I mean an agreement between me and the Biltmore that will be proposed to the Commission once it's in final form, but I'm just describing to you all of the business terms today. So, the component of rent that is called percentage rent, there has been an issue going back and forth between the Biltmore as to how much of that should be attributed to capital expenditures. The Biltmore you may remember originally asked, Seaway originally asked that the entire amount be put aside and

used for capital expenditures, and the City's position previously was that, no it should be completely discretionary for the Commission to decide. We have resolved that issue in this way, and this is over a ten year period: For the first four years sixty percent (60%) of that percentage rent figure will be what's called guaranteed, and what that means is that Seaway if they have a qualifying capital expenditure under a definition, they would be entitled to get a credit on their percentage rent, but it's a complex formula and the goal of the formula, and I'm going to describe it now, is to increase capital expenditures at the Biltmore, to make sure that money is going into the building. Here's how it would work: So in a given year Seaway would come to the Commission with a list of capital projects; the Commission would look at those capital projects and determine whether they meet the definition, and there would be time for feedback; the Commission would be able to approve or not approve those according to the definition, there would be no discretion to deny a capital expenditure that met the definition, but it would be up to the City to determine whether that met the definition. In addition, in order to receive a credit against the percentage rent, the fifty percent portion...

Mayor Cason: Sixty percent (60%).

City Attorney Leen:...pardon the sixty percent portion, forgive me, thank you Mr. Mayor, the sixty percent portion Seaway would have to match that in a certain way. In the first year they would have to spend \$1.5 dollars to every dollar of credit the City gives them; and in years 2 through 8, and really 2 through 10, but I will explain that later, in order to get the matching funds they would have to spend \$2 dollars for every dollar of credit the City gives; and the way that would work is, let's say in a given year there are 1.5, Seaway intends to do \$1.5 million in capital expenditures. OK, they would have to do this \$1.5 million in capital expenditures in order to get a \$500,000 percentage rent credit. So, I guess I should have said that the other way. So let's say the percentage rent credit could be \$500,000, they would have to spend \$1.5 million in order to get that credit, and then the way it would be calculated would be, once it's all said and done they would have paid a million dollars and the City would have paid \$500,000, because they would have received a credit, so its 2 to 1, and of course the first year as I mentioned was 1.5 to 1; and the reason the City is doing that is to give them a little bit more ability to make these capital expenditures in the first year and to qualify for this, and it was an accommodation we made for them based on their request. Now, another caveat, or pardon me, another condition or really a requirement of this matching is that Seaway has been very successful at obtaining grants, and that's very helpful to the building; however, one goal of the City in this negotiation was to ensure that Seaway was putting its own money also into the capital expenditures, just as the City would be now putting some money into capital expenditures. So we also didn't want to discentivize grants, so what we ended up agreeing to was that 25 percent – Seaway could count 25 percent of the grants they receive in a given year to the 2 to 1 matching. So practically what does that mean?- let's say they received – let's say in a given year again percentage rent

that they could qualify for this matching fund was \$500,000, and let's say they went out and got a million dollar grant. Well \$250,000 of that million dollar grant could be counted toward doing the 2 to 1 match. Now they would still have to spend under that scenario an additional \$1.25 million in order to achieve the full credit. So the idea of this sort of agreement was to ensure that both parties, us the City through the credit, Seaway through having to get grants, but also through their own expenditures would be contributing to the Biltmore structure, and to making it a better more long lasting place.

Mayor Cason: This part of the agreement is to last for ten years?

City Attorney Leen: Yes Mr. Mayor. How it would work is the first four years, so far I've only explained the guaranteed portion and I'll briefly explain the discretionary too, but for the first four years sixty percent (60%) of this fund would be guaranteed. For the next four years fifty percent (50%) of percentage rent would be guaranteed and for years nine and ten zero percent of percentage rent would be guaranteed; and of course I'll explain, you might say why is there years nine and ten, because the hundred percent in those years would be discretionary and so that leads me to I'll discuss discretionary portion now.

Vice Mayor Kerdyk: Just one quick question just for clarification. The grants – we have a grant out there right now, is there any of that that's applicable to this equation?

City Attorney Leen: No. That \$1.5 million grant which is an important grant we are looking to pursue that once we reach this agreement. We stated throughout that we need to reach this agreement first before we formalize this grant with them to ensure that we have a long lasting relationship, but that \$1.5 million does not count toward the matching. OK. Now discretionary portion: So let's say in the first year sixty percent (60%) of this percentage rent is guaranteed, so what would happen would be that Seaway would pay the forty percent (40%) as percentage rent in April of 2012, pardon me, April of 2013 and that would be for 2012, because that's when they normally make the percentage rent payment. So let's say they make the percentage rent payment in April 2013 of that 40 percent; that 40 percent then as part of the – is money that's received by the City, as part of the budget process Seaway every year, at least for these ten years, will have the opportunity to come to the Commission and to request those funds, some of those funds, all of those funds. They'll still have to match them, but in the same way that they were with the guaranteed, but the Commission will have complete discretion to determine whether to grant that or not in a given year, and the idea behind that was one, it does give the City – it doesn't transfer to the City any duty to provide this money or to rehabilitate the Biltmore, but what it does it does give the City discretion and the ability to every year Seaway would have to come before the City and the City Commission can ask them questions, can give ideas about what to do with the structure, it will give the City a lot of ability to affect the Biltmore, if it so desires. So the idea

that – I don't want to say the word – I thought it was a very beneficial part of the agreement, because it allows the City to have its own vision for the Biltmore and what it wants to achieve and in any given year the Biltmore can come before the City and you can impart that to them and if they are doing what you want them to do, and if the City budget permits it you can give them the money, and if they are not doing what the City wants to do, or if the budget doesn't permit it, then you don't have to give them the money, but it does give you that discretion. Now one other thing that came up, and I believe it was brought up at the dais was the idea of a transfer fee, and it was a good idea. So what the parties have agreed, this relates to the transfer, so let's say going forward this lease Seaway wants to transfer the lease, or let's say GALIC in the future, GALIC is the mortgage holder, were to take control of the lease, because of any number of events, those are treated differently. If there is a voluntary transfer of the lease by Seaway to another operator, another leaseholder, first under the current lease the City has the ability to consent to that or not consent to that, but that consent cannot be reasonably withheld, cannot be unreasonably withheld. So that's going to stay the same. And I'm not saying Seaway would, but if they were to transfer it to someone who did not operate hotels at all, and didn't know anything about it, it was a really bad operator and this was well known, the City could just say no. Let's say that Seaway was going to transfer to someone and the City could not reasonably withhold for whatever reason, there is a second issue and that is, does the entity that is now receiving the leasehold, that is receiving the transfer, does that entity receive the benefit of the agreement that we are reaching with Seaway now?- there are a number of components here that needs to be discussed. First, under our agreement the City has absolute consent rights here; it can't be challenged because of whether it's reasonable or unreasonable. It's up to the City whether the entity that's receiving the transfer gets the benefit of this deal, and if the City says no then they don't get the benefit of the deal, it doesn't mean they don't get the transfer, but they don't get the benefit of this deal, it goes back to the prior lease. Two, notwithstanding that, let's say the City does agree to the transfer, the City would be entitled to two things first, pardon me, three things; first, any of the deferred rent that's outstanding would become immediately payable, that's part of the transfer fee. So, if in one year there was a transfer something close to \$4.5 million or now I guess \$5.4 (million), something close to that would have to be paid immediately; two, whatever that amount may be the City is also entitled to \$500,000 adjusted annually for CPI. So in 30 years, let's say in 20 years, and let's say all the past due rent is already paid, the City would be entitled to \$500,000 adjusted over 20 years for CPI. The City also of course in agreeing, consenting or not consenting to give the benefit of the agreement to the new party could decide to give some of it, all of it, none of it, things like credit against percentage rent could terminate. Two, involuntary – let's say there is an involuntary transfer, and in my opinion our voluntary transfer rights are very strong, I think it was very good that this was brought up at the last meeting; two, involuntary – GALIC, who is the mortgage holder will receive the benefit of the agreement if they must foreclose ever on Seaway, hopefully that doesn't ever occur, but if that were ever to occur, if they were to step into the shoes of Seaway they would receive the benefit of the deal, and we

believe that, that will be a requirement of any deal in order to get GALIC to sign off, which I will talk about later. There are some legal issues related to that in terms of the language about how the involuntary transfer occurs, but what it really needs – let's say there was a default and there is no cure by Seaway, GALIC can cure and step into the lease, that's what it really means. They are not going to lose the benefit of the lease in the event of a default, a single default, and we are still working on the language related to that, but that's the general principle. Now in addition to all of these business terms, there are some very important releases that benefit the City. The City is insisting, and I'm insisting as your legal adviser in order to protect the City and based on what I believe the Commission would want is, that developer and GALIC are to release and waive all claims and defenses regarding the enforcement of the lease. We are also seeking to clarify certain issues in the lease, certain language, but I want to focus on the releases. Everyone knows Seaway has made certain claims against the City related to federal statute; they made claims that the City is not entitled to certain rent, they made claims that – they've argued that they should even get rent back that's already been paid to the City, and in one measure of their claims there could be even up to \$17 million as they have stated it. Now, I've already stated to the Commission that I do not believe that they could recover those amounts against the City, I don't think those claims are strong, I think the City has the stronger legal position in regards to enforcement of the lease. Nevertheless, I think it would be very prudent to ensure that those claims are released completely, and that they could never be brought up again, and that, that is a benefit to the City. There are several of these types of claims that have come up, so one of the benefits to the City of this agreement is to have Seaway release all those claims, likewise to have GALIC release all of their claims against enforcement of the lease or the ability of the City to demand a cure by GALIC if there is ever a default. Things like that we are going to see released. Seaway has also asked to receive some type of covenant not to sue or release themselves. At this point all I'm recommending is that whatever it's called that of course related to payments that were due under the lease we couldn't sue them again for it after settling it. So we are still working on the wording of that lease, pardon me, the wording of that release, but I don't anticipate that, that will prevent an agreement. Now there are – Oh, in addition, there was some discussion regarding the escrow agreement. Following the settlement the escrow agreement between the City and Seaway will be terminated; City will be allowed to use the information that has been provided by the developer, provided by Seaway in open forum; and what I mean by that, the documents themselves which is really the subject of the escrow agreement would go back to Seaway. Things that you learned you can discuss in the open forum, as far as I can tell from discussing this with Seaway that was never the intention of the agreement was to prevent you from being able to discuss things. Now legally because of the way it was worded, we've been very careful because some of the information you've gained was based on documents that were protected by an escrow agreement, and I still think that it was very prudent and right to be careful about that; but Seaway has assured us that, that's not their intent and they do want you going forward to be able to discuss business matters related to the Biltmore, particularly when they are coming in front of

you to discuss this discretionary funding, this guaranteed funding, so you are not going to have any restrictions related to that, you will be fully protected to be able to talk about these things. Likewise, the escrow agreement will be terminated or will expire, we are still working on how - what the actual language of that will be, but it will be finished, and they will receive back their documents. Now there are other provisions in the proposed amendments that we're going back and forth with which are more legal in nature, and of course we are still working out, but to me that is not the principal aspect of the deal, and in terms of the business terms those have been agreed to. So my recommendation at this time is to proceed to formalize this deal in writing and to bring it back to you soon; and I would like to say one other thing. Based on the Commission's instructions, suggestions, direction we have, the City has treated this as the highest priority. In our meetings with Seaway, we've met with them numerous times over the last couple of weeks, and over the last months or two, several months trying to resolve this matter, and I think that a lot of progress has been made, and I think that was very good. Nevertheless, we still need to get this into a final written agreement, moreover the mortgage holder has the right to either approve or disapprove that agreement. In my view, we negotiated this in good faith, it's a good agreement, it benefits all parties, it certainly benefits the mortgage holder as well, and it would not be right for them to renegotiate this agreement with the City after we've negotiated it once with Seaway.

Vice Mayor Kerdyk: I think we need to be clear about that. I think we need to be very, very clear that GALIC has no right, I mean they can do whatever they want, but I'm not going to listen to it to renegotiate this deal, I mean the deal has been done in good faith between these parties here. I will not be very much interested hearing that whatsoever.

City Attorney Leen: And I appreciate that. I anticipate complete good faith, I do, and that's the way I'm proceeding, that's the way we've proceeded over the last several weeks, but I do want to state for the benefit of the Commission and the record, it was asked last time whether I had the authority to issue a notice of default and I stated that I do, under my interpretation of the lease documents, my recommendation and my intent is not to do that at this time; however, it does need to be clear that we have agreed to business terms. If going forward it appears that those business terms are being renegotiated or GALIC decides that they want to renegotiate and won't give their agreement, I must act to protect the City in those regards and I would issue a notice of default if I ever found or believed that there was any sort of bad faith or anything like that in an attempt to renegotiate this agreement. I just want to state that for the record, I don't anticipate that happening, I don't. I do need to state that.

Mayor Cason: You have prepared a draft that you have given to Seaway?

City Attorney Leen: Yes. There is a proposed agreement as part of our settlement discussions that has been provided to them. We put tremendous time into getting that drafted quickly after we did the business terms, but of course they just have had it for a few days, so they are looking at it and we are anticipating a response soon. I will keep each of you updated individually, and of course it is always possible we could have a special meeting if there was an agreement. I do anticipate this happening quickly and I would ask for the Commission's instructions on that direction, but my view is that this needs to happen quickly, we can't lose this momentum, this needs to be finished.

Mayor Cason: Let's – before we have our discussion, Mr. Ponce will like to speak, if you'll keep it relatively short and then we'll have our own discussion.

Mr. Ponce: Thank you Mr. Mayor. Good morning. Craig, thank you so much for the summary. I just want you to know it was a pleasure working with Craig and with Adolfo and with Cory and with the Manager indirectly for the last week or two, we went hard for four days last week, a lot of give and take and nobody threw anything at each other and kind of walked out there Thursday afternoon OK. Just two quick corrections. Craig was reading off of a sort of script that we all have been working on and agreed to; two items that I think need to be corrected, one on the voluntary payment, when you talked about the \$500,000 transfer fee, you failed to say after the payment of debt, the mortgage will get paid first the prioritization how that payment would be, but your statement is correct assuming its many years from now and in fact the unpaid deferred rent has been paid it will be a \$500,000 transfer after debt payments. The other thing Craig, I think you brought up that you said, the due amount was \$5.4 million, the last number we agreed to was \$5.156 (million) and change. I understand just from what I've heard that you all have done a further interest calculation, so I always would like to take a look at that number first and make sure we agree to it because that wasn't the exact number, but I do understand you ran the interest factor further to closing day, is that correct.

City Attorney Leen: Yes, that's my understanding, that's why it was a little higher.

Mr. Ponce: And short of – obviously there is a lot of detail here and Craig did, I think, a very fair job in summary in presenting it. As far as the timing, we received the draft of these documents on Friday afternoon around 2 o'clock, I really candidly can tell you that everybody is exhausted from what we did last week; we have furnished it to GALIC, they got it Friday afternoon as soon as we got it. I've not heard comments back from them, in all fairness they have to digest it as do we, our counsel is looking at these documents and I agree with Craig's statements, it is our goal to give this timely, soon, there certainly will be some disagreement about some of the words we use, but we'll get through it. Craig and I have made a promise to each other on the phone yesterday that we will not let the words get in the way of getting this deal done, and that's

Seaway and my client's intention and again I think we accomplished a lot in the last month, we really have. If there are no questions I'll just go sit back down.

Commissioner Cabrera: Mr. Ponce just out of curiosity, when you submitted the agreement, the recommended agreement to your lender and you didn't hear back, when do you anticipate hearing back from them?

Mr. Ponce: I think in the next few days. We gave it to them; they literally got it roughly close of business Friday, so today is Tuesday mid-day. Michael Katz who is counsel for the lender, he very efficient, he'll get back to us in the next day or so. You know everything that I know at this point.

Mayor Cason: Thank you very much, appreciate that.

City Attorney Leen: Just a brief response. I do want to say that of course we are acting in good faith, both Danny and I we've spoken about this several times; I do want to make it clear of course, a lot of these legal parts are really important still, in the sense that we have to agree to them. I'm going to make sure the City is fully protected as I'm sure you will do for your client, so that's the spirit we are doing it, but we are trying to reach an agreement based on these business terms. We have agreed on the business terms themselves though, I want to make that clear, that's why I'm not recommending a default, I'm recommending that we get this into a final form at this time.

Mayor Cason: Now, I understand this will be subject to a resolution once and if we reach agreement, our next meeting is the 13th, but I would propose that we hold a special meeting to get this, just this to get this out, agreed to and off the agenda before the 13th of December, and I think the faster we can reach agreement on this the better so we can move onto other issues.

Commissioner Anderson: As long as it's a Monday or Tuesday anytime, those are my days.

Vice Mayor Kerdyk: I think that's very good.

City Attorney Leen: Yes, I think it will – of course the next Commission meeting is not for a number of weeks so there will probably have to be a special meeting to approve this. I'm not sure if you want to set that now or if you want to do it later.

Mayor Cason: We can set it once you've reached agreement. I think what we want to is we want to get this agreed to, we want to make sure that all the things that's actually in the language because the devil is not really in the details we are talking about, its major concepts, but this all

gets into, and it's very legalistic and we want to make sure everybody understands, there is no confusion about what we are agreeing to. So that's where I think, time is of the essence on this one.

Commissioner Anderson: Totally.

City Attorney Leen: Definitely.

Mayor Cason: I have a question about – I don't know about the rest of you, but I've been receiving a lot of e-mails on the question of the John Pallet Golf Academy, and e-mails about, I think we have gotten big stacks of materials; question is whether or not the golf course has or will continue to have a PGA. The original agreement called for five, the way I read it, the chart, five PGA instructors and academy and so on, I understand there is going to be one now, is that...

Mr. Doucette: The agreement calls for a Class A professional and we have several of them on staff.

Commissioner Quesada: Let me interrupt you for one second, and if I can get some input from our City Attorney on this. Our understanding is there are some proceedings between the parties, we don't want to infringe on any of the rights or any proceedings, so Craig if you tell us that we are at liberty to speak about this and your thoughts. My biggest concern is that we stick our nose in a dispute outstanding that don't want to shake anything.

Commissioner Anderson: I agree.

City Attorney Leen: There is a lawsuit pending between an arbitration I believe, a proceeding as you said, between the two parties. What I would strongly recommend is that there not be, we do not want a back and forth argument here today that would somehow get the City Commission involved...

Mayor Cason: My question was only concerning the PGA.

City Attorney Leen: You can ask for information.

Mayor Cason: There is a requirement that there must be a PGA person, is that correct.

Mr. Doucette: And they have always been in place.

Mayor Cason: OK, that's what I wanted to clarify.

Mr. Doucette: Absolutely.

City Attorney Leen: It is an issue that's come up that we need to talk about a little bit.

Mr. Doucette: And I can present the credentials to the City Manager's Office.

Mayor Cason: OK.

Vice Mayor Kerdyk: I think essentially we just want to get it resolved, we want to get everything resolved, you need to get that resolved too Gene.

Mayor Cason: Open to discussion – Maria.

Commissioner Anderson: No, I'm very pleased with the progress and I'm hopeful that we will come to an end to this. I look forward to the special meeting so we can ratify this, and you'll keep us apprised as to the progress, Mr. City Attorney. That's it for me.

Mayor Cason: Ralph?

Commissioner Cabrera: No – nothing.

Mayor Cason: Bill?

Vice Mayor Kerdyk: I'd just like to say I'm glad we are moving in the right direction to preserve the Biltmore structural integrity and future viability. The business points sounds like it have been essentially agreed upon, but I'm sure each of you have been involved in many, many negotiations, the devil is in the details, and there are a lot of good deals that are done or conceptually done with business points, but you don't get through to the goal line where we need to get. So want to make sure that gets to that point and then we'll talk about the accolades that need to be given out and stuff like that, but we are not at that point, but I do appreciate the cooperation from both us and the Biltmore moving in that direction.

Mayor Cason: Frank?

Commissioner Quesada: I'm going to reserve judgment on the issue right now until I see the ink on the paper and everything signed off. I've leaned heavily on Craig throughout this process, the City Attorney, he has been in all those negotiations, he's been there, that's why I'm going to follow his recommendation today, I'm going to vote that way, but again, as everybody has

mentioned the devil is in the details, everyone wants to see it worked out so that we can avoid dragging this out any further, so we can avoid litigation any expenses, but again I'm going to reserve judgment until I see that ink on the paper and that we are fully satisfied.

Mayor Cason: And for my part, I'm pleased that the last two weeks were apparently productive, that we were able to reach agreement on the business terms, and again, like my other colleagues I want to see the actual wordage and we will have a chance to vote at the next special meeting on the total package. So I want to thank Craig and I want to thank the Biltmore for all the effort you put into this and hopefully we can resolve this to everybody's satisfaction quickly. Anything else? This is not a matter to vote on; we'll just continue to move forward.

City Attorney Leen: Yes, as I mentioned there is an agreement on business terms, I would not have come and asked you to continue unless there was based on our prior discussions; there is an agreement on business terms. I want to see those business terms on paper though that's imperative and I want the City fully protected, that's the mandate I take from you and that's what I will go and do and I will come back preferably at a special meeting to get that approved.

Mayor Cason: Thank you very much.

[End: 12:36:57 p.m.]