

City of Coral Gables City Commission Meeting
Agenda Item E-10
February 24, 2009
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

Interim City Manager, Maria Alberro Jimenez
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

Barry Abramson, Abramson and Associates
Reeder Glass, Special Counsel for the City
Roxcy Bolton, Coral Gables Resident
Nick DiDonato, Liberty Entertainment Group, Toronto-Based

E-10 [Start: 10:51:42 a.m.]

Ordinance authorizing the Interim City Manager to execute a Lease Agreement with Liberty Events, LLC, for the long-term management and operations of a City-owned facility at 997 North Greenway Drive also known as “The ?Country Club of Coral Gables” with the legal description of lots 1-9 and 37-39, block 32, section “B” including the tennis courts with the legal description of that portion of the Granada Golf Course that is approximately 130 feet north of the north right-of-way line of South Greenway Drive and 336 feet west of the west right-of-way line of Granada Boulevard, which is now occupied and used as six (6) tennis courts and a Tennis Club House.

Ms. Swanson: Thank you Mayor, members of the Commission, I’ll remind you that the Procurement Code requires four-fifth vote; this is here before you on first reading, the Procurement Code for any lease agreement in excess of ten years would require two readings, so we’ll take comments today, we’ll make whatever necessary changes between first and second reading, and then we’ll come back to you at second reading when the document again is ready. In June 2008 the City Commission authorized the City Administration to issue an RFP for the leasing of the Coral Gables Country Club located at 997 North Greenway Drive, we issued a pre-submission conference and site tour on June 25th, proposals were due July 31st, we received two proposals; a Certification

Committee evaluated it, one was not in compliance, so we moved forward with the qualified one, which was Toronto based Liberty Events, and we presented it to an Evaluation Committee. The Evaluation Committee was a five member committee; they met on September 17th representing various important Boards that would be involved in the project moving forward, including Historic Preservation Board, Economic Development Board, Property Advisory Board, Traffic Advisory Board, and Parks and Recreation Board. The City also allowed us to retain hospitality consultants so that we could understand not only what was being proposed but the quality of the operator, and that was Adelphi Group, Chuck Martinez and Gil Katzman, and they are here today; and also we had retained Barry Abramson, Real Estate Advisor, Abramson and Associates, to help us understand the numbers behind the proposal. At the conclusion of the Evaluation Committee, they unanimously voted to recommend to the City Commission to allow staff to negotiate. The City Commission accepted that recommendation, authorized staff to negotiate, and we brought in to assist us with the negotiations, Reeder Glass, Special Counsel, selected by the City Attorney, and Reeder is here as well. So the full team of people that drafted a letter of intent incorporating the concerns of the Evaluation Committee and also the comments to the City Commission are here today. That letter of intent which became the basis of the business deal moving forward was approved by the City Commission in December, actually December 16th. So the steps that have been needed through the Procurement have been followed, and the lease agreement represents a thirty year lease, actually one ten year lease term, plus two ten year options, provided there are no defaults within the last two years prior to renewal, they are allowed to renew and exercise those options. We identified the rent schedule in the letter of intent and we followed that in the lease agreement itself. It's a combination of a guaranteed base rent, starting at twenty thousand dollars per month; there are three percent annual increases through the length of the lease; there is also a percentage rent for revenues in excess of four million dollars, so that rent would be calculated at six percent of gross on that number that is above the four million dollars. We have generally reviewed it with the Budget Advisory Board, the Property Advisory Board, and the Economic Development Board, and will go back for additional discussion with the Property Advisory Board and the Economic Development Board at their next meetings. They did not have issues, we merely presented it, walked them through it, and then asked for their comments between first and second reading. You also asked us to find out exactly what the City's obligation was in fixing up the building; there are certain things that would be required by the City and its role as landlord, and there are certain things that would be required by the tenant. Our original estimates were for the HVAC, the termites because we do have a serious termite problem in the property, and also the roof, there are leaks in the roof. Our original numbers were two hundred and ten thousand dollars, forty thousand for termites, sixty thousand for roof, and one hundred and ten thousand for HVAC. I am here to report that the numbers are higher, that in addition to the roof being going from sixty thousand to ninety thousand, it's a major repair work that we are asking for, that the hundred and ten thousand that was the HVAC is now a hundred and sixty thousand, but the termites have gone down, they were originally forty thousand and now the bids have come in at eighteen thousand. Add to that our obligation for environmental clean up; we are aware that there is an issue, we are dealing with it, a diesel tank was there in the early years, that was removed, we are taking care of containment issues, and we believe working through

our consultants that that will cost two hundred and fifty thousand dollars, and in addition to that the codes have changed for the pool, and for us to bring the pool up to code and to make the necessary repairs its an additional two hundred and fifty thousand dollars. So all totaled its seven hundred and sixty-eight thousand dollars that the City would have to put into the building. Moving forward once we delivered that then it would be the tenant's ongoing obligation to maintain those facilities; we're in charge of the structure but they would be in charge of the HVAC and the other requirements. On the issue of the roof repair the lease is very specific; if we are going to repair it then it's the City's job to maintain it moving forward; if we are going to replace it then they would take on the maintenance obligation, in this scenario we are going to repair it. We have asked that, the City Manager has asked that you allow us to come back to you at second reading to tell you how we at the City will budget for those improvements. The tenant will also need to make...I should comment, these are improvements that we as landlords would have to make anyway, so it's not a reflection on the deal, its things that need to be done with the building. The tenant will also be making a substantial investment in excess of one point five million. As noted in the draft lease and we can go over it, their leasehold improvements contingency included, are estimated at six hundred and twenty-seven thousand dollars. We are suggesting moving forward that we have that as a personal guarantee, but the additional amount of money that they are projecting, an estimated nine hundred and forty thousand dollars, kitchen equipment, furnishings, fixtures, opening costs, that that not be a personal guarantee; we may make some adjustments between first and second reading, but we believe that is the direction that we are recommending for us to move forward. We have given you all a very brief term sheet; talks about references that you can go to in the lease agreement; we talked about the term of the lease; one ten year term plus two ten year options; the guaranteed base rent; basically its two hundred and forty thousand dollars a year triple net, which means they are paying for the utilities, they are paying for the property taxes, because in this business model they are a for-profit venture. We include in the lease the various three percent escalations that will occur, and we've also done a proviso on real estate taxes as we noted in our letter of intent discussions, one of their concerns was what happens if real estate taxes go so high?- with a percentage rent scheme which is our second tier of revenues, we have created a base amount of property taxes, we have three percent escalations per year, if it goes higher than that, and they are in a percentage rent experience then they are able to credit that percentage rent that they owe the City with those additional real estate taxes, and we think that that is a fair agreement. We talked about the landlord improvements, we have listed out in section....the tenant responsibilities are in section 19 (B), and Exhibit "B" shows the City's building improvements. We talked about the tenant improvements themselves and how they are broken down. One of the issues that remain open that in our lease agreement that we suggest that a possession day, we could do a lease execution, then we do work, they do work on the property, then possession day, which is in our lease agreement, opening day, we have as September 30, 2009, and that rent commencement is December 31st. There maybe some revision to that discussion, we'll do that between first and second readings, we'll review that to the City Commission; the reality is we are giving ourselves in our lease agreement more time than we are giving the tenant to do the improvements, and we just want to make sure that its fair in the process, so we are going to be reviewing that. Membership: there is an exhibit; there is a provision that gives

lifetime club members a discount. Our lease agreement, you'll see in section 15.C, that civic groups, organizations, residents, will also get a preferred, they will get charged a rate that is less than the prevailing rate that non-residents, non-civic organization, the question on the table was Rotary as an example, making sure that they are comfortable coming back to the Country Club. So there are provisions that are in place there. Assignment: as written now there is no right to assign; any change of ownership in Liberty Entertainment Group of more than twenty-five percent, they are the seventy-five percent owner in this project, that that will constitute an unauthorized assignment, you need to be able to be aware of those things. An obligation that the Evaluation Committee put forward which you accepted was oversight provisions. You want to make sure that the operational and financial reporting requirements are followed. So the way that we are pursuing this is, we have it as a lease requirement, there are reporting times both monthly and annual, there are obligations to meet with the Commission, to brief the Manager, and also their representatives, and we actually envision our representatives being our hospitality consultants, because they understand the business much better than we do. Talked a little bit about some additional discussions that will move forward between first and second reading, and I wanted you to know how staff is working with that. There was a request that the City should not be allowed to use its eminent domain powers in its landlord capacity to change or use the operator, we think that that's a reasonable request, we are going to work out wording and we are going to bring that back to you. These are not items though that you need to discuss today, I'm just letting you know so that you are not surprised when we come back that there is going to be a little bit of movement between first and second reading. The tenant – one of the issues that we discussed with the Commission and you were not interested in having, was the tenants wanting to take over the golf course. You said no, you said that we would be willing to discuss it at some point, but that you wanted no commitments. They have accepted that, that is reflected in the lease agreement, but they would want a right of first refusal, and if we can work out the language we'll draft it and present it to you, so that no other management group or operator takes over the golf course without them having the right to first look at it. We need to work out what that language would be; they've also said that if they could put on the table for discussion with the Commission some benefit that they would have then of being right next to the golf course, such as preferential "T" times for members, or some type of arrangement that would allow them right across the street for the club to benefit from the golf course, and we are going to look at that, and we'll come back to you with what our recommendation is, but they would also want the commitment of the City to run it as a golf course, I don't think you all have any intentions of operating it as anything other than a golf course today, that you would want it to continue to run as a golf course, and to run it in a competitive first class manner. That's how the golf course discussion was addressed based on the direction that we received from the City Commission and working and negotiating with the tenant the direction that we are going. Refinement forthcoming in the draft membership plans; this was a draft membership plan, its heavily focused on health and fitness, and its going to evolve and you'll have move evolution at the next meeting, but we also think that's important that they have the right to continue to evolve that, as they get more and more in tune with the local market. They have asked that the personal guarantee be limited to the leasehold improvement, and it is Nick DiDonato that would be providing that personal guarantee, not Liberty Events as a LLC,

not Liberty Entertainment Group, but he has suggested that it be limited only to leasehold improvements and those are the estimated six hundred and twenty-seven thousand dollars including contingency fees. That is basically this lease agreement moving forward, we have our financial advisors, we have our legal advisors, we have our hospitality advisors, and as important we have Nick DiDonato here; he is Liberty Entertainment Group, he is Liberty Events, he is here to answer any questions that you have.

Mayor Slesnick: Thank you and welcome Nick, we appreciate you coming in from Toronto for this, and it's always good to see Reeder Glass back in the fold.

Vice Mayor Kerdyk: Let me just, thank you Cathy for starting off and giving us a nice overview of what was going on. I have a couple questions and a lot of it pertains to the financial arrangements, so I guess Barry might want to accompany you up here, but in the meantime as I look through here, you mentioned that Liberty Entertainment Group was seventy-five percent of the deal and Arias Development is twenty-five percent, can you just expound upon that is a little bit of who Arias Development is.

Ms. Swanson: In the RFP proposal the response, Liberty Events LLC was the group that responded, and that consist of Liberty Entertainment Group, a Toronto based group, and Arias which is based in Coconut Grove. The Evaluation Committee considered that but really looked at the ongoing, everyday, significant experience of Liberty Entertainment Group in this business, I didn't provide the background, but we had talked before about it, substantial experience in this, that they really felt that they were the drivers in this deal and that should play the overriding role with the seventy-five percent/twenty-five percent confirms that, but they will play a minor role in the LLC, and we are continuing to define what that role would be.

Vice Mayor Kerdyk: With regards to the monies that the landlord improvements are being put into, I think it's a total of seven hundred thousand plus dollars, where are we getting the monies to put that in, and maybe that's a City Manager question, but...

Interim City Manager Jimenez: We intent to prior to the second reading identify the funding sources. We just recently received this information from our Public Works Department, and haven't had an opportunity to provide that information.

Vice Mayor Kerdyk: Alright, so we'll have that before the second hearing.

Interim City Manager Jimenez: Yes sir.

Vice Mayor Kerdyk: With regards to, before I get into the intricacies of the numbers, but with regards to the members, the former members I should say, lifetime members, have you kept them abreast of what was going on and have they been noticed of this hearing today?

Ms. Swanson: I did not notice them, unintentional on that, I noticed some of them, but I didn't notice all of them formally.

Commissioner Cabrera: Do you have the ability to do that?

Ms. Swanson: We tried to get [inaudible] but were not successful, but we have notified two members that have access too, but we will do that, in fact if the Commission would like, number one, notice them that we can, and then we'll also offer to set up a public meeting so that anybody that would want to review the lease components that we would sit down and meet with them.

Vice Mayor Kerdyk: I just don't want to sign this lease or go ahead and authorize the lease without at least noticing them to a certain degree; certainly most of them read the neighbor section and know what's going on, but maybe if we can do a little, as much outreach as possible to the members would be appreciative.

Ms. Swanson: I'd be happy to do that, I have plenty of time between first and second reading to do that.

Vice Mayor Kerdyk: And then speaking of membership it does say in here that the lifetime members are going to be rewarded with a...

Ms. Swanson: Ten percent discount for the life of their membership.

Vice Mayor Kerdyk: Right – and that ten percent is applicable to the, I guess it would be to the work out facility to the tennis courts, swimming pool, does that also extend to the food and service?

Ms. Swanson: The membership piece is evolving, but we can check with Mr. DiDonato, we can have that information back for the next...

Commissioner Cabrera: What would like?- do you have a preference?

Vice Mayor Kerdyk: I would like to extend it to the food, but I'd like to hear what Mr. DiDonato has to say.

Ms. Swanson: But we do give – there is a reference to the lease on a preferential rate for residents and civic organizations and also we'll work with him on...

Vice Mayor Kerdyk: Maybe you can come back with a schedule that we can take a good look at. With regards to the rent, we are going to get twenty thousand per month, or two hundred and forty per year triple net basis, correct.

Ms. Swanson: Yes.

Vice Mayor Kerdyk: And we are going to possibly get a percentage rent increase on another six percent, correct.

Ms. Swanson: Over four million dollars.

Vice Mayor Kerdyk: Right, right, and I guess the four million dollars, the break point we figured out the break point of the four million dollars divided by the two hundred and forty thousand dollars, which our break point is six percent, is how you determined that, which by the way is a very fair break point, six percent is very, very fair, very healthy assessment there.

Ms. Swanson: And its on gross Commissioner, you have made it clear that that's the term that you wanted...

Commissioner Cabrera: Can I ask you a question?

Vice Mayor Kerdyk: Sure.

Commissioner Cabrera: Or are you still asking the same, are you still on the same?

Vice Mayor Kerdyk: Yeah, I want to ask a couple of questions on that....

Commissioner Cabrera: You know, over the years in working with you, I've always seen you stress that increases should have a CPI component, but these increases are not based on CPI, how do you feel about that?

Vice Mayor Kerdyk: The increases – the rent is increased by CPI, the two hundred and forty thousand base rent is increased by CPI.

Commissioner Cabrera: I thought it was increased by three percent.

Vice Mayor Kerdyk: Oh, I'm sorry, three percent, three percent.

Commissioner Cabrera: OK. But you're the expert so I don't know if it's better to be on CPI or a fixed three percent.

Vice Mayor Kerdyk: Well the standard in the industry right now ranges between either CPI or three to four percent, is the standard in the industry, and I assume they took everything into consideration when they did take the three percent as the number itself. It's by no means outside the industry standard taking three percent. I personally always like a CPI increase because CPI increases just keeping your money the same as it was the year before, so that's why I always like a CPI increase.

Commissioner Cabrera: So why don't we do that? So why don't we do that?

Vice Mayor Kerdyk: I'd be more than happy with a CPI increase.

Commissioner Cabrera: No, I'm asking you; you know this stuff.

Vice Mayor Kerdyk: When I negotiate a lease deal, I negotiate with a CPI increase, because a CPI could be five point six percent, and we'd be losing two point six percent on our money, or it might be one point eight percent and the proprietor is gaining one point two percent on the money, so.

Commissioner Cabrera: It could go either way.

Ms. Swanson: I think your negotiating team looked at it as these are unknowns, this way three percent every year we know, they know, how to budget the revenues.

Commissioner Cabrera: I understand, I understand.

Vice Mayor Kerdyk: Good question though.

Commissioner Cabrera: You'd like to leave it alone then?

Vice Mayor Kerdyk: Well, I'd like to hear what they have to say when maybe Barry comes up and talks about it, because we do have that percentage rent in there and that's a question I have to ask about the percentage rent.

Commissioner Cabrera: Well, I didn't mean to take away from your question, I wanted to ask you.

Vice Mayor Kerdyk: No, that's a very good point. With regards to the percentage rent, Barry, the fact is that we are getting six percent and the interesting portion of this model is that it contains a real estate component to it; can you explain to us how the percentage rent applies exactly?

Barry Abramson: OK. Hello, I'm Barry Abramson, Abramson and Associates; appreciate your questions, always get good questions from Commissioner Kerdyk, real estate questions. Could you expand on that a little bit in terms of how it relates to the real estate?

Vice Mayor Kerdyk: Well, as I understand the percentage rent, we are getting a percentage rent of six percent over four million dollars, correct?

Mr. Abramson: Right.

Vice Mayor Kerdyk: But then we have a real estate component, if the real estate taxes increases...

Mr. Abramson: Oh, the taxes, the taxes.

Vice Mayor Kerdyk: Real estate taxes, yeah, real estate taxes.

Ms. Swanson: And others that may want to follow it, Exhibit “D” has a rent schedule, which includes percentage rent and how we in the lease include the real estate tax adjustment. I just want people to know that we have formalized that calculation that he is going to talk about, in the lease agreement as an exhibit.

Mr. Abramson: I will answer your question now that I have that missing word, tax. When Liberty made their original proposal they said that their rent proposal was assuming that their real estate taxes would stay at approximately the current levels, and that if they were to increase damatically, I think were the words, they would want some adjustment on the combined rent and real estate taxes, and as you know tenants as they look at their real estate costs its not just rent they are looking at, it's the combination of the occupancy costs, and they had in their projections actually estimated nine thousand dollars a year for real estate taxes, and when I alerted Mr. DiDonato to the fact that the current real estate tax assessment on that would imply real estate taxes at that time just for the Country Club, didn't include the tennis or the golf, or allocation for the golf, about twenty-one thousand he said, oh well, you know that was something we didn't get right, but OK we can absorb that, but if it goes significantly over that, its going to through our operating economics off kilter. Once we added in allocations for the tennis facility and the golf course, we came up with an estimate that was approximately twenty-seven thousand dollars for real estate taxes, and we worked into the lease an adjustment that basically took the twenty-seven thousand dollars and said, that's your base real estate tax for adjustment purposes, that number will increase at three percent per year. If in any year your real estate taxes exceed that, then you can get a deduction, a credit against not your total rent, but just your percentage rent. So if there's a year where they are not in a percentage basis, there would be no credit against the base rent. So we felt that was a reasonable and fair compromise in the negotiation.

Vice Mayor Kerdyk: Barry, I assume the twenty-seven thousand dollars is based on the assessed value that the County has...

Ms. Swanson: Which is very low – nine hundred and ninety-nine thousand dollars.

Vice Mayor Kerdyk: That's what I was getting at, right. So the fact is, my question to you, what is a cap rate that you would think is an acceptable cap rate in the industry today in real estate, what do you think is an acceptable cap rate?- eight percent?

Mr. Abramson: For a restaurant?

Vice Mayor Kerdyk: For a facility like this?

Mr. Abramson: Maybe it would be in that range, maybe given, there is some riskiness to it, maybe in that range.

Vice Mayor Kerdyk: I just want to point this out. If for some reason the County gets smart and looks at this lease, and finds out this lease is two hundred and forty thousand dollars a year, and they give you an eight percent cap rate, that eight percent is going to drive the number to, I have it somewhere around here....

Mr. Abramson: About three million.

Vice Mayor Kerdyk: Three million dollars, three million dollars; with your assessment of one million dollars there is a significant difference between a three million or paying sixty thousand dollars in taxes the two percent, is a little bit more, sixty-five thousand dollars, or the one million and paying twenty-five thousand dollars, so you are going to have a forty-one thousand....what I'm saying is if the County gets smart enough and actually does the assessment we could have a difficult time collecting on percentage rent, because there is that buffer; I just want the Commission to understand.

Mr. Abramson: That's a very good point, and actually before the meeting I was reviewing a previous memo that I had done for the Commission, which three months ago, I can't really remember what I wrote, but when I was reading this thing, I ran across that I had said, look even if the real estate taxes double, OK, the percentage rent is kind of hard to know what to do with, that's why I always hesitate to put a value on it; but if we look at the estimates that's in the proposal made by Liberty, they had initially a very minimal level of the first stabilized year, approximately eight thousand dollars of percentage rent, and then it would increase over time, and in the tenth year it was seventy-five thousand dollars. So in that case, yes, it would be perhaps, there'd be twenty-twenty-five thousand that would be an adjustment against the seventy-five thousand in that year, if you consider that tangible at all, and the City gets about twenty-seven percent, I believe, its share of the real estate taxes, so you know, the total loss... the City is much better off if the County keeps under valuing it, there is no question.

Vice Mayor Kerdyk: Right.

Ms. Swanson: Just so you understand, the County developed the City and Granada, the prior tenant went to the County to get the property taxes reduced with their lease in mind, so we think the County is very smart already, and is accurately appraising us.

Vice Mayor Kerdyk: I'm a hundred percent with them.

Mr. Abramson: I want to add two things to that that just occurred to me. One is, when we originally received the proposal and I informed Mr. DiDonato that the real estate taxes were twenty-one thousand on the Country Club, that was the number that was available for the most recent year, which I guess was a 2007 number; the 2008 is already down to seventeen thousand, so to some extent they are accounting for the diminution in value, so there is some room for uptake, but I would think if they were fully evaluating it, it would come higher. The other thought I'd want to add is that underlying our negotiations on this was the context that we have here of something that had fallen into disuse, where we had a good proposer, that there was some variability in expectation as to performance, and we didn't want to be penny wise and pound foolish by trying to max out everything and put the operator in a position where, OK, if the real estate tax is doubled well that's all on you and you pay the same rent, the same percentage and perhaps put him in a situation where he can't make any money. So that was underlying.

Vice Mayor Kerdyk: Barry, I understand that, and that's why I didn't push the CPI issue because I think of a restaurateur or an owner of this facility needs to have some stable ideas of what the value is, whereas normally as Commissioner Cabrera points out, I am usually all over the CPI increase, I was a little concerned that he understands what his fixed costs are, and that's why I didn't push that.

Commissioner Cabrera: And Ms. Swanson made it very clear that she wanted both sides to know and I can sympathize with that approach is appealing, you're the expert.

Vice Mayor Kerdyk: Thank you very much, he's the expert right there, but anyway Barry, I saw something that shows this lease is worth about four million dollars net present value, is that right?- and a twelve point four million dollars over the life of the deal?

Mr. Abramson: Well, the twelve point four million dollars was the total base rent over the thirty years, without accounting for anything beyond that at all, you know.

Vice Mayor Kerdyk: That's what I wanted to ask you about the net present value, was that...

Ms. Swanson: And just let the public understand, excuse me Commissioner, that's twelve million dollars add, add, add, add, not adjusted for what it means in today's dollars, and it's the net present value of four million; I don't want to get our residents hopes up that we have a heavy new revenue stream for the City.

Vice Mayor Kerdyk: No, no, no.

Mr. Abramson: And to answer the second part of your question; yes, depending on how you look at it, whether you look at the, if you just look at the base rent and that's all that I dealt with, I didn't deal with the percentage because its just too unpredictable and speculative, we'd all be happy to be the recipient of that stream, but you just couldn't predict it with comfort; but the base rent, if you just looked at the first thirty years has a present value of three point five million, and if you applied some conservative reversion of that it won't disappear after thirty years, it brings it up to four million, and I would add that I used a much more conservative discount rate than I normally do in valuing, present valuing City, base rents on City deals, and the reason for that is the reality that look, this is not a situation where somebody is putting in whatever it was, thirty or forty or more million dollars to build a Palace project, and their base rent, you know, some small percentage of that, the investment here is much smaller by the developer in relation to their base rent. There is always that concern that he's got to stay in business and make it work. If you actually looked more at the City's costed funds or something that assumed that that operation will stay in business, that present value of base rent would be much higher, so I was being conservative.

Vice Mayor Kerdyk: Very good – that was my next question, you were right. Thank you Barry, I think you pretty much answered. I do have a few other questions for Cathy. A suggestion and a comment; I'm not for or I don't think I will be for giving preferential treatment or "T" times to the golf course, I think that's going to be a difficult situation for me to overcome, and the other thing is I want to make sure...

Commissioner Cabrera: Where do you see that in the agreement?

Ms. Swanson: It's not in the agreement.

Commissioner Cabrera: Because I didn't see it.

Vice Mayor Kerdyk: She said it, she said it, she just mentioned...

Commissioner Cabrera: I thought maybe I missed something.

Vice Mayor Kerdyk: She said so today, and she also said which is very important and Reeder would probably be appreciative of this, that if we put in there, I'm very concerned about putting first class or a competitive golf course, I mean, we know we love our Granada Golf Course, but I don't necessarily think its on the magnitude of a first class facility like the Biltmore Golf Course is right now, and I don't know if that is ever our intention to spend as much money that we would have to spend, and furthermore I don't know if you could ever classify a nine hole golf course as the same as you could on an eighteen hole golf course. So I would be very careful on putting that language in a document.

Ms. Swanson: Could we put that the City will continue to maintain, this is just a discussion between first and second reading, that the City would continue to maintain in a course in the manner equal to what it does today, and then I'm just trying to control the variables on a thirty year lease, so.

Vice Mayor Kerdyk: I think that's legitimate.

Commissioner Cabrera: Can I chime in for a second on that because I have the same sort of heartburn with that. I was going to ask as we often do with the collecting bargaining units to have some sort of letter of understanding that has a reopener on the golf course, so that everyone understands where we are today, but that the opportunity...if you are looking for that language it appears on page 12, its item number 14.

Ms. Swanson: Thank you Commissioner.

Commissioner Cabrera: You're welcome.

Ms. Swanson: I'm looking also for another section, but the management, absolutely right, Management of the Golf Facility is Section 12; landlord – right now what we have is landlord is willing to consider tenant as a possible manager of the golf facilities in the

future, but is unwilling at this time to contractually or legally commit to providing such management right for options under the lease, I believe that's the section you are referring to.

Commissioner Cabrera: It's also on page 11.

Vice Mayor Kerdyk: Just one last comment. You know, I think that we have to understand, and Maria pointed out and you pointed out Cathy, we are very fortunate to have an operator of this magnitude that is going to bring his expertise to the City of Coral Gables, and revive our historic Country Club facility, and there are a lot of other intricacies in the lease that I would maybe look at a little harder based on the fact if this was not the case here. I want this person to be successful; I want that to be a community location that's going to house, you know, our Rotary Clubs and other events that are held throughout the City of Coral Gables, and really become the focal point of the community that the Country Club has always been; its taking on a whole other type of member or non membership as we put it, but I think its something that we need to revive and I thank you for bringing this forward. I thank Nick for bringing this forward and I look forward to signing off on the deal when it comes back for second reading. Thank you.

Mayor Slesnick: Mr. Cabrera.

Commissioner Cabrera: I am going to refer to two items in the agreement, but before I do, I want to congratulate you and your team for putting this agreement together, Mr. Glass and Madam City Attorney, I want to make sure, this has your blessings, right?

City Attorney Hernandez: Yes it does.

Commissioner Cabrera: So let's cut right to the agreement for my comments and considerations. If we go to page 7, item "H", and if you read down on item "H" there is a section that reads, "tenant may complete the full service upscale restaurant by possession date and defer the completion of the banquet facilities until on or before thirty-six (36) months from possession date". So the way I read this is, the tenant has up until three years to open a high-end restaurant or up to three years to open a catering facility, is that correct?

Ms. Swanson: If I drafted incorrectly we'll correct it. The tenant at possession has to open a banquet facility or he has to open a restaurant...

Commissioner Cabrera: One or the other.

Ms. Swanson: He can open both at possession, its not that he has the right to open neither until the thirty-six months.

Commissioner Cabrera: I'm just looking for the....I was trying to read into that verbiage the actual intent, that's what I was trying to come away with.

Ms. Swanson: In the use listings, and I will find that for you Commissioner, I appreciate the point; we say that they will, these uses, and we list them out, will be open at possession, but he was uncertain on timing on the first class restaurant so we created some lee-way there.

Commissioner Cabrera: Yes, I can see why he would first build a banquet facility, and then after the banquet facility is up and running then the high-end restaurant would come, I just was trying to fully understand the intent here, that's all, I'm being nit-picky.

Ms. Swanson: No, no, no, they are good clarifications. We talked with him on that, and the issue is, do you have a first class restaurant then create such an exciting launch that people say, oh, you've got to open your banquet facilities, or do you do the reverse, or do you do both?- and we wanted him to have that flexibility.

Commissioner Cabrera: OK, that's good; I understand now.

Ms. Swanson: On Section 7, Uses and Quality of Operation...

Commissioner Cabrera: What page is that?

Ms. Swanson: Page 8, we give the listing of uses, banquet, upscale restaurant, casual food service, fitness center, food and beverage services, recreational activities, membership services typical of a club similar to the premise, meeting space, and then we have, each of the uses will be fully operational and open to the public on possession date, except as provided in that sub-paragraph "H", and it was that sub-paragraph "H" that you read.

Commissioner Cabrera: OK and I just want to be clear that on back to the golf course discussion, I take you to page 11, Section 12; I really would like staff and counsel to consider that letter of understanding and/or a reopener, I just want to reiterate that.

Ms. Swanson: At this point we don't have it; we just say we are willing to consider it at some point...

Commissioner Cabrera: OK.

Ms. Swanson:...but if you would like us to put in a time period of within "X" number of years or something like that.

Commissioner Cabrera: I'd like to be as tight as possible on this, OK, and speaking of things being tight, on that same page at the very top, it reads the Country Club operations, that's the end of a sentence, but the next sentence says, "said strategy shall be subject to periodic review and modification at the reasonable discretion of tenant, with the reasonable input of the landlord", and this talks about the marketing strategy because if you go back to page 10, its number 3, a description of the general marketing strategy which tenant intends to follow, or implement as the case may be to optimize both short

and long term profitability of the Country Club operations, that needs to get a little tighter, that needs to become more definitive, I just think its too “Lucy-Goosy”.

Ms. Swanson: OK, we will tighten that up; we link it in part to Exhibit “J”, which is the oversight requirements, but we will tighten that section up.

Commissioner Cabrera: OK. I’m almost done.

Ms. Swanson: No, no, no, these are excellent points.

Commissioner Cabrera: Page 12, item number 14, it relates to the fitness and tennis facility operator, it says, “tenant shall be required to sublease or contract out the operation of the fitness center and tennis facility to a competent operator, unless tenant hires staff that has substantial experience in the operation of such facilities”. I don’t see the City with any legal standing there; I see very little in the way of legal standing from the standpoint of the City of Coral Gables, was that intentional.

Ms. Swanson: So you would like us to develop acceptable operator qualifications...

Commissioner Cabrera: Well, I would like to provide some sort of protective language to the City.

Ms. Swanson: Its great to have our legal counsel here, I know he is taking copious notes on those points.

Commissioner Cabrera: Yeah, I just want to protect us, that’s all.

Ms. Swanson: I understand.

Commissioner Cabrera: And last, but certainly not least, I ask you to go to page 61, see after page 12 I was a breeze; we get to page 61...

Ms. Swanson: I’m sure the breeze isn’t over yet.

Commissioner Cabrera: Well for me, for me anyway; page 61, letter “B”, it says, “tenant shall meet with landlord’s designee every eight weeks to discuss Country Club’s operation”, who is the designee?

Ms. Swanson: Well, it would be up to the City Manager, but it would be our recommendation that Adelphi Group be the designee because they are the hospitality experts that have reviewed this lease; they can meet with me, but what we wanted to do was be able to pin-point if there are weaknesses in the process, and how to re-tweak it and keep it on track; we have no inclination that that will happen, but we just wanted to protect it and the concept of eight weeks was, gosh, if you wait once a year...

Commissioner Cabrera: No, listen, I love the eight weeks, I'm with a hundred percent of the way, but in this oversight process as much as I appreciate the good work that the consultant has performed for us, I am not completely comfortable with just the consultant having that oversight responsibility.

Ms. Swanson: OK, and is that something where if there was a consultant and City staff together, or...

Commissioner Cabrera: I'll throw this out; if it were my choice I would have as a team, an oversight team, the consultant, a member of City staff, a dedicated, I mean, that's impossible, we can't dedicate one person to the job, but when I say dedicated someone that doesn't have fifty other responsibilities and becomes somehow the least favorite one to do, and then I would ask the City to seriously consider the Property Advisory Board.

Ms. Swanson: Excellent point....

Commissioner Cabrera: But if I had my druthers....

Ms. Swanson: I see the Property Advisory Board staying involved in this anyway.

Commissioner Cabrera: But if I had my true druthers, I would tell you I would create an oversight board and committee to help in this process as suggested the last time that I got no support from anyone here, and the reason I was given that is, we don't have an oversight board for the Biltmore, and we don't have an oversight board for the Village of Merrick Park, and I understand that, and it makes a lot of sense, but we've gone through a lot of pain on this one, and we are about to go through some more pain at the tune of seven hundred and fifty thousand dollars, and we are just all very fortunate that we have Mr. DiDonato here, otherwise I don't know what we would be doing with that facility, so.

Ms. Swanson: I go to the Property Advisory Board at their next meeting, which happens before your second reading, let me sit down, and I deliberately didn't tell them, here take this and approve it, I want them walking through it, so I did an overview and now we are going to go over the details, I'll raise this issue.

Commissioner Cabrera: I'll give you some food for thought; it doesn't necessarily, if they chose not to take this on, it doesn't have to necessarily be them, and we don't have to create a new Board or Committee in the City so it becomes more cost inefficient, but what if we took a member of the Economic Development Board, and a member of the Budget and Audit Board, and a member of the Property Advisory Board, and make three of those members of that Board partly part of this team of oversight?- and now you've got three disciplines that are trying to work together to, just without creating a new Board, just something to think about, that's all, that's it for me; I'm very pleased and I again want to compliment everyone that worked on this agreement, it was very well put together document.

Mayor Slesnick: Ms. Anderson.

Commissioner Anderson: Wanted to make some comments as far as Liberty Group; one of our residents have been involved with the Country Club for a long, long time, I've met with him, and he had of course great interest in the process, and he actually checked you out, so he came with high recommendations and he a lot of strict standards, so I wanted you to know that. As far as oversight, I fully support any oversight issues; I know that in the first lease agreement we had, we had the Property Advisory Board act in the oversight capacity during the construction phase; if it is broadened to include the Budget Advisory and an Economic Development group, the more eyes on it the better, so that's fine with me, that would just be better on that issue since we have had so much concern over this facility. Fine with me, let's hope and pray that this goes well; this is a facility that's worthy of having to be revived, it is one of our central pieces in our City's history; let's hope that this one's a keeper.

Mayor Slesnick: Mr. Withers.

Commissioner Withers: Cathy, thank you very much, a couple of questions. Hours of operations, it says that it cannot be closed between 1:00 a.m. and 7:00 a.m., does that mean it can stay later, open later than that?- it says it must be open at least, if I remember that.

Ms. Swanson: We took your comments and I had hoped that we had corrected it so that it was clear, let me go back through and look at it, but you raised this issue at the letter of intent stage, and I thought that we had dealt with it appropriately. While you are asking other questions, I am going to look at...

Commissioner Withers: Well you know, my concern is, if it says that it has to be open from 7:00 a.m. to 1:00 a.m. that's certainly understandable, but does that mean they can be open until 2:00 a.m. or 3:00 a.m.?

Ms. Swanson: We don't want them open until 2:00 a.m.

Commissioner Withers: Well, I know that's what I'm asking you; what it says is...

Ms. Swanson: We will sit down and agree on a particular time that they will need to be closed by.

Commissioner Anderson: The neighborhood area.

Commissioner Withers: Yeah...

Ms. Swanson: And one of the great things about having, several great things, but Liberty as a part of this, is the pasoloma is in the middle of the single family, you know, is in a residential area, they don't want to be exclusive to the neighborhood, but we'll agree on some specific, unless you have like a lock in.

Commissioner Withers: No, no, no, I am thinking of Don four doors down, being the lightening rod for people calling when they have a pool party going on till one or two in the morning.

Ms. Swanson: I want to sit with him to find out what that right time is.

Commissioner Withers: And what drives this is the character of Liberty Entertainment, which is they are known and they are established for high-end individual events besides running a facility, you know, they have, I don't mean this in a negative sense, but in your face splash events, you know, Mercedes rolls out a new automobile and it will be launched at their Club, I mean, that's what they are known for, their high-end entertainment events, and it's a compliment its not meant to take anything away from you. Does that 1:00 a.m. closing refer to the tennis facility also?- is there a restriction on when they turn the lights off?- or how late the tennis facility, well that was my next question as far as improvements go.

Ms. Swanson: We'll clarify that, I know that there were pool hours that were not 7:00 a.m., that we were seeing specific hours that they were working on, the fitness part will carry that over into the lease agreement as it relates to the tennis and the pool, as to what those hours are I can't answer that...

Mayor Slesnick: I assume that the noise ordinance applies to the Country Club.

Ms. Swanson: Yeah, but we're keeping it to a higher standard than that.

Mayor Slesnick: But the noise ordinance does cover outside noise after midnight, on weekends, and after ten o'clock.

Ms. Swanson: Yes sir, but we've also had discussions and they were right with us on it, where no amplification of music, or the dancing that will be absolutely throughout the facility will be on the inside of the club, not the outside so the twelve piece band with speakers pointing towards Mayor Slesnick's house or whatever is not going to be happening, or any of the...

Mayor Slesnick: Just remember there is a Catholic priest that lives next door, so we need to be very cautious of what goes on.

Ms. Swanson: No, I used you as an e.g. person to throw in there as a name, but we are going to be sensitive to that.

Commissioner Withers: Now what about...

Ms. Bolton: [Inaudible – off mike]...Mr. Volsky's house.

Commissioner Withers: Are there any plans at all on expanding or lighting the tennis facilities?

Ms. Swanson: I would have to talk to him; he is not obligated to do that. I would have to check on a couple things; one, does the City allow it?- and does he intend to do it?- and we can report back to you on second reading.

Commissioner Withers: And then last but not least and maybe Reeder would have to help me with this. I understand there is Liberty Entertainment, and they are the large company...

Ms. Swanson: The Toronto based group.

Commissioner Withers:...OK, then you have the LLC which is a Florida based limited liability corporation, and its owned seventy-five percent by Liberty Entertainment and twenty-five percent by I'm assuming another partner in Coconut Grove?

Ms. Swanson: Aries.

Commissioner Withers: Aries – so how do we get our control in Liberty Entertainment?- I mean, if the LLC walks off the face of the earth, what do we have as far as guarantees from Liberty Entertainment?

Ms. Swanson: I'm going to have...I will probably be able to do it accurately, but I know he will, so I'm going to ask Reeder to come up and answer that question.

Commissioner Anderson: That's similar concern you all had with the Village of Merrick Park because it was a LLC.

Commissioner Withers: Well, if the Country Club falls down again and the LLC says we're out of here, with improvements, we are back where we are again; what did we learn from lessons past? Why don't you introduce yourself coach/

Mr. Glass: Hi, I'm Reeder Glass, Special Counsel to the City in connection with the Country Club. The specific protections that the City was negotiating has to do mostly with the assurance that the one point five million dollars would be invested in the premises both leasehold improvements, and opening expenses, and leasehold furniture and equipment. There was a conscience decision made that they would not require a non tenant source for payment of rent, so this is the way the letter of intent was read all the way through. So the theory of that was that if you put a million and-a-half into the property it's unlikely that you are going to walk away with the most surreptitious problem, and if that problem arose most tenants would not really want to be held past that. This facility has no operating history that you could look to with glowing results, so it became a matter of just kind of balancing the two points to be sure you got the facility that they bid on, that they said would be there, and then after that hoping that the facility operates with positive cash flow, but as you are pointing out Liberty Events is a special purpose entity, it has no assets other than this lease.

Commissioner Withers: So it's almost the same setup, if not the same setup we had with the previous operator.

Mr. Glass: Well, I'm not as familiar with that, but I think you are right, I think you had no rights to proceed against them for payments under the operating agreement or management agreement, and they were supposed to pay for but didn't pay for a lot of things that they brought to the table, so.

Commissioner Withers: Well, I'm just worried again, I mean, our asset is what would be liened in case of, I'm assuming, non payment by the operator for any obligations that they have.

Mr. Glass: Well, I think the City, the City Attorney is not here, well I think the City's property is exempt from...

Commissioner Withers: Is it exempt from lien?

Mr. Glass: But I mean, you don't want the black eye, I mean, some levels beyond legal...

Commissioner Withers: I'm sorry, I was incorrect with that.

Mr. Glass: And if the City Commission feels like there need to be some continuing back stop to something like that, which would only happen if they were operating at a deficit, then we could go back and talk to them about their concerns.

Ms. Swanson: Excuse me, a couple of clarifications; one, Exhibit "F", which is page 49, totals six twenty-seven. We are going to be recommending to you all that that with the right drafting, that that be what they are on the hook for, lease is executed. We are not recommending opening cost, pre-advertising, launch party, those kinds of things to be a guarantee, a personal guarantee. At the same time we have these oversight provisions and these other protections in this lease agreement that did not exist in other agreements, and we feel that the way that it has been drafted there is a clear understanding, if there is going to be a problem we are going to find out sooner than...

Commissioner Withers: No, no, Cathy I understand that, and I have a lot of confidence in this group, but we just had someone that supposedly put two and-a-half million bucks into our facility walk away, without much shame, and it concerns me that we have the same, and I don't know what you can do, I mean, they set up the LLC obviously to protect the corporation from any damages that could happen from a bad business deal, I mean, that's why I'm assuming that's why they setup the LLC to own this entity, and so it just concerns me we could be right back where we are a year or two from now if this is a failed venture.

Commissioner Anderson: What are the protections; yeah, I agree with you; what do we have to hang our hat on to make sure that we don't have that issue come up again.

Commissioner Withers: Now, if this happens two or three times over the next five years we are going to have one heck of a facility at the end of the day, I mean, it'll be phenomenal.

Commissioner Anderson: Yeah, but we don't want to go there.

Commissioner Withers: I just want everybody to go into this thing with eyes wide open that we are approving a limited liability corporation that they can walk away from this and there are no tentacles back to Liberty Entertainment that holds them accountable.

Mr. Glass: Well, I think this point is a perfectly good point and its obviously clear from the beginning that they are not going to, and do not want to, and may not have proceeded as they've been required to guarantee...[inaudible].

Ms. Swanson: And in the RFP that they submitted, so that everybody knows, it was Liberty Events LLC this specially created organization.

Mr. Glass: What you get though however is a renovated property full now of brand new furniture and fixtures, and kitchen equipment and a major effort at launching this property again. So the balance there is that if they walk away, and certainly that risk is in the first three years, Liberty Entertainment Group has made a commitment and paragraph 13, to staff this operation, and to commit a substantial portion of Nick's time during that first three year period to make this property work.

Commissioner Withers: Well, the assets I question because if they lease the gym equipment, if the lease the kitchen equipment, if they lease whatever they lease, I don't know if we have the right to...if they lease that equipment I don't think we have the right to secure that equipment, I mean, I would think it goes back to the leasing company.

Ms. Swanson: Page 49 which is Exhibit "F", the leasehold improvements that they are talking about, emergency lighting, fire separation, smoke detection, firewall ceiling work, I mean, it is...plumbing, sprinklers, it is a bricks and mortar...

Commissioner Withers: I understand that Cathy, I understand that, and again, I just want everybody to understand that tomorrow when everybody says we approve this deal, that this is the same deal we approved as the Country Club.

Ms. Swanson: This is not the same deal that you approved at the Country Club, but the ability for it to fail does exist and you cannot go after Liberty Entertainment Group, if that happens; you are absolutely right on that piece, but I really stand by the lease agreement that has been negotiated in terms of protecting the City and an agreement that the operator....

Commissioner Withers: I'm happy with the deal, but we couldn't go after the money people with the previous deal, and we can't go after the money people in this deal, that's

all I'm saying, and I just think we need to understand that, whatever history falls out that's the...and I think we all have to understand that that where we are on this. That's it.

Mayor Slesnick: And I did confirm with City Attorney that our City property cannot be lienied.

Commissioner Withers: I understand; construction loans or liens or anything like that.

Mayor Slesnick: Thank you all. We have one speaker from the...

Commissioner Cabrera: Before, before...I wanted to get off the agreement for one second, can I ask two quick questions before the public speaks? Two very quick questions; one piggybacks, I think it piggybacks to some extent, the conditions of the appliances that were leased by the former operator, what is happening there?- because I know that there are payments that are due to the leasing company.

Ms. Swanson: There are not payments that are due by the City nor by Liberty Events.

Commissioner Cabrera: No, I just said payments.

Ms. Swanson: Right.

Commissioner Cabrera: I didn't say....

Ms. Swanson: You'll see in their budget...

Commissioner Cabrera: No, no, I want to stay with their current kitchen equipment.

Ms. Swanson: The current kitchen equipment there, nobody is using it, its there and I would refer that question to the City Attorney or to her Special Counsel as to...

Commissioner Cabrera: Well, between first and second reading, can someone tell me what's going to happen or what could potentially happen with that equipment.

Ms. Swanson: Certainly, but we are pretty consistent that it's not the City's responsibility or Liberty Events.

Commissioner Cabrera: I understand, OK, but I wanted to know.

Ms. Swanson: OK.

Commissioner Cabrera: And the last question is there have been some e-mails that have been sent to some of us on the City Commission or all of us on the City Commission as it relates to the status of the liquor license for the Country Club, ma'am can you comment on this?

Ms. Swanson: Would you like me to comment on this or did you want to commit on this? I refer you to the City Attorney.

Commissioner Cabrera: Madam City Attorney would you be kind enough to comment on this.

City Attorney Hernandez: What's happening is, we are trying to put a placeholder as you know we are in litigation on the issues involving the prior management agreement and lease agreement and the problem that we have is we are trying to be as careful as possible not to make statements that are then going to jeopardize the litigation, but I will tell you that we are taking the necessary steps to secure and protect the City's interest and the interest that we had in the prior license and any new license.

Commissioner Cabrera: So I understand that the City is taking every effort to not only protect itself, but to protect that license from lapsing or being compromised.

City Attorney Hernandez: Compromised, correct.

Commissioner Cabrera: Compromise is a better word.

City Attorney Hernandez: Yes.

Commissioner Cabrera: And we feel good about our efforts.

City Attorney Hernandez: Oh yes, absolutely.

Commissioner Cabrera: There is no doubt that we will...

City Attorney Hernandez: We have no doubt, and we are happy to meet with you one-on-one to go over.

Commissioner Cabrera: No, there is no need to...I literally wanted to bring this up in a public forum because I think most of us, if not all of us got an e-mail from a very well meaning resident who felt very compelled to write us...

Ms. Swanson: You all forwarded to us and we then in turn forwarded it to the City Attorney.

Commissioner Cabrera: That's all, this is good to be, let's talk about it now, let's not read about it in the paper.

Ms. Swanson: We were aware of it, we were aware of it for some time and we are working towards a solution.

Commissioner Cabrera: That's it for me.

Commissioner Withers: Whose name is the license in?

Commissioner Cabrera: I believe it's in two names.

Ms. Swanson: It's in Granada LLC and the Country Club of Coral Gables.

Commissioner Withers: Is it the Coral Gables Country Club Incorporated?- or is it the corporation that was founded that we entered into the last agreement with?- do they now own it?- is that corporation still in existence?

Ms. Swanson: I will refer that question to the City Attorney.

City Attorney Hernandez: It's in two the prior foundation and...

Commissioner Withers: Prior what?

City Attorney Hernandez: Foundation, you know Board and the Country Club and they gave their consent to Mr. Bornstein, Granada LLC, that's the most I would like to comment on this at the present time with your indulgence.

Commissioner Withers: I understand. Can I ask you if the Country Club of Coral Gables Inc. is still a live corporation?

City Attorney Hernandez: I will check for you, but as I sit here right now I cannot tell you.

Commissioner Cabrera: I will check on it on the Internet real quickly and tell you.

Ms. Swanson: And this lease agreement is between the City of Coral Gables and Liberty Events.

Mayor Slesnick: We have one resident who has asked to speak, Ms. Roxcy Bolton.

Ms. Bolton: Good morning gentlepersons, my name is Roxcy Bolton; I live at 124 Cadima Avenue. Mr. Mayor, I'd like to inquire if I may, about the lawsuit, is it still pending against the Country Club.

Mayor Slesnick: It is. It is.

Ms. Bolton: We hope for the best but when you go to court there is nothing certain; should the court rule with Bornstein, that's who brought the suit, is that correct?

Mayor Slesnick: I couldn't hear you, there was a motorcycle.

Ms. Bolton: Is it Bornstein that brought the suit?

Mayor Slesnick: Yes – I don't know, I think its counter suits; I think we have suits back and forth.

Ms. Bolton: Should he prevail how does this affect this contract with the new...?

Mayor Slesnick: It would not, the suit is over money, it's just over who owes whom money.

Ms. Bolton: Yes, I understand that...

Mayor Slesnick: It would not affect the ongoing arrangement.

Ms. Bolton: But if we are stuck with this huge amount of money, a lawsuit against us, we are in...

Mayor Slesnick: We have been informed by our Counsel that we are in a comfortable position.

Ms. Bolton: Legal scholars say the City is not going to win this one, who knows, no one knows for sure, but legal scholars say because of the way it was written that the City may not win.

Mayor Slesnick: Well you never know exactly what's going to happen.

Ms. Bolton: No you don't, but what about the insurance carrier, is the City carrying insurance on that property now?

Mayor Slesnick: Yes.

Ms. Bolton: The City's insurance?

Mayor Slesnick: We insure all of our public buildings.

Ms. Bolton: But when the new owner takes over will the City insurance still prevail?

Ms. Swanson: Excuse me...

Ms. Bolton: You can interrupt me anytime.

Ms. Swanson: There are several very detailed lease, in the lease the obligations for insurance that Michael Sparber and the outside property consultant developed that the new tenant will have to provide to protect the City, and it is several pages.

Vice Mayor Kerdyk: It's a pretty good lease.

Ms. Bolton: So when the new contract is signed, the new owner will take charge of the insurance.

Vice Mayor Kerdyk: It's a triple net lease where he pays everything, the insurance, the electricity, everything to the property; I can answer that for you.

Ms. Bolton: Well now, are the sprinklers working at that building Mayor?

Mayor Slesnick: Are the what?

Ms. Bolton: The sprinklers, are they working?

Mayor Slesnick: We've been working on the sprinklers as a matter of fact; we've been working on a number of things; are you talking about the fire sprinklers?

Ms. Bolton: Yes sir.

Interim City Manager Jimenez: Yes, they are working.

Mayor Slesnick: I was talking about the grass sprinklers.

Ms. Bolton: Well you need that too, looks like a hay field...

Mayor Slesnick: We are working on all those things; but I've just been told that the fire sprinklers are operational.

Ms. Bolton: When were they tested last Maria?

Ms. Swanson: I know the smoke alarms were tested, but I'm going to have to ask him.

Mr. Delgado: [Inaudible – off mike].

Ms. Bolton: I didn't hear him.

Mayor Slesnick: He said yes, they've been tested.

Ms. Bolton: Now I'm concerned about the agreement when you talk about the golf course and the linkage with Burger Bob's. If you do something with the golf course will Burger Bob figure into that?

Commissioner Cabrera: No.

Ms. Bolton: No, it will not?

Commissioner Cabrera: No ma'am, it will not.

Ms. Bolton: He will remain as is?

Mayor Slesnick: That's a separate relationship and a separate deal, but some day Burger Bob may go away and we need to worry about what the next dederation, but at the moment this Commission has a lease with Burger Bob.

Ms. Bolton: In conclusion, my last question to Cathy. Cathy, are any employees, past employees owed anything by Bornstein that you know of.

Ms. Swanson: That's not something I know, but I can find out for you through Cory Lopez our litigation.

Ms. Bolton: Would you do that, because if there are any employees, long time employees they lost a lot, some lost a lot in this, and would appreciate it if you could let me know.

Ms. Swanson: We can get you that information; we can't necessarily give you the solution on that, but we can get you the information.

Ms. Bolton: No, I didn't ask you, but you will find one don't worry. I thank you Mr. Mayor.

Mayor Slesnick: Thank you Ms. Bolton, we'll close public hearing; and I did want to bring Mr. DiDonato up, you've come a long way, and if there is anything you would like to add to the discussion.

Mr. DiDonato: Well first of all I'd like to thank you for the opportunity to be here again and present our lease. I want to thank Ms. Swanson here who has done an incredible job, and we've worked together quite a bit over the last few months, and typically City issues like this take more than six to eight months to a year and I've been involved with many city issues in Toronto, and I'd like to say I'm very pleased with the resolve you have in terms of moving this forward, and Ms. Swanson, and this have been moving quickly, as quickly as I would expect. I know many of you had concerns with respect to us being here and the continued relationship here. We started this process a year ago and obviously the economic times have changed considerably, but we at Liberty Entertainment Group are confident we can make this facility work, our main issues is going to be timing and how quickly we can get it done, and I know there is really a want to get this open sooner than later, but I think we need to really understand the economic environment and how quickly we can get this done, and what's best for the long term success of the facility. So we are committed to the project, we know we can make this work. With respect to our current business in Toronto we are doing extremely well, our numbers at Liberty Grand and Casa Loma are up ten percent from last year despite the economic times and that's mainly because of our focus on business and where we are and our target market and the base of our business, which would be very similar here in Coral Gables; its about relationships, its about networking with the community and bringing the right people. So, as I said, we are realists; we know there are issues with respect to the

economic times, we believe we can overcome those, and it's just a matter of timing in terms of when and doing the right thing in terms of opening and so on.

Mayor Slesnick: Thank you, and I think you've heard the comments and you know that we are anxious and looking forward to working with you.

Mr. DiDonato: I think this is going to be a great partnership, and I think that's what it really it does have to be, not in terms of a real partnership, but a partnership in spirit in making this thing move forward.

Mayor Slesnick: Thank you. We did receive a written comment from Mr. Richard Namon from Oakwood Lane; I will turn it over to the Clerk to add to the record here. Do I have a motion?

Vice Mayor Kerdyk: So moved.

Commissioner Cabrera: Second.

Mayor Slesnick: Moved by Mr. Kerdyk second by Mr. Cabrera; and the motion is in fact on E-10 which is an ordinance authorizing the Interim City Manager to execute the lease agreement, this is on first reading, there will be a second reading, and when will that second reading be?

Ms. Swanson: On the second meeting in March.

Mayor Slesnick: Second meeting in March, is there any way to, is there a reason we'd like to speed it up?

Ms. Swanson: I'll ask the City Attorney from an advertising...and the City Clerk from an advertising standpoint would March 10th be an option for that?

City Attorney Hernandez: It's a possibility depending on the deadlines for advertising.

Ms. Swanson: There are advertising requirements we need to look at that...

City Attorney Hernandez: Right.

City Clerk Foeman: Ten days.

Mayor Slesnick: If its ten days...

Ms. Swanson: It its just ten days then we...I'll check...

Mayor Slesnick: Let me say this, and you've had all the questions, Mr. DiDonato points out something very valid and that is timing is everything, and this Commission has

expressed its desire that if we are going to proceed forward and open this facility it should be sooner rather than later.

Ms. Swanson: But if we are able to incorporate all of the changes and suggestions we'll work towards that March 10th.

Mayor Slesnick: Thank you.

City Clerk Foeman: Cathy, my deadline for advertising for March 10th will be tomorrow at 5:00 p.m.

Ms. Swanson: We'll work hard Mr. Mayor.

Mayor Slesnick: If we can try, we'll try. Mr. Clerk please, if you would call the roll.

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: Thank you for your hard work; thank you for your hard work all of our consultants and advisors, thank you, and our citizens and former members of the Club, thank you all too.

Commissioner Cabrera: Hey Chip, Coral Gables Country Club Inc. is currently inactive.

Mayor Slesnick: Ms. City Attorney based on the legal research of Mr. Cabrera, we have found the Coral Gables Country Club Inc. is inactive, would you please investigate the idea of us seeing what it would take for us to activate a Coral Gables Country Club Inc., it's been in existence for some time...

Commissioner Cabrera: 1937, December 15th.

Mayor Slesnick: 1937.

Commissioner Withers: Let's grab it.

Commissioner Anderson: And it's a special license...

Mayor Slesnick: This is not the liquor license this is the corporation.

Commissioner Cabrera: Florida Profit Corporation Coral Gables Country Club Incorporated.

Mayor Slesnick: And I don't know why it was profit either.

Commissioner Cabrera: That's what it says.

Mayor Slesnick: I know. Ms. City Attorney, OK, great.

[End: 12:09:20 p.m.]