

CORAL GABLES PROPERTY ADVISORY BOARD

Minutes of July 15, 2009

Youth Center – Conference Room

405 University Drive, Coral Gables, Florida

MEMBERS:	J	A	S	O	N	D	J	F	M	A	M	J	
Mary Young	P	-	-	-	-	-	-	-	-	-	-	P	Mayor Donald D. Slesnick, II
Maurice Donsky	P	-	-	-	-	-	-	-	-	-	-	E	Commissioner Maria Anderson
Gustave (Gus) Perez	P	-	-	-	-	-	-	-	-	-	-	P	Vice-Mayor William H. Kerdyk, Jr.
James Hinrichsen	P	-	-	-	-	-	-	-	-	-	-	P	Commissioner Rafael “Ralph” Cabrera, Jr.
Luis M. Padron	P	-	-	-	-	-	-	-	-	-	-	A	Commissioner Wayne “Chip” Withers
Edmund J. Mazzei	P	-	-	-	-	-	-	-	-	-	-	P	City Manager Patrick Salerno
Valentin Lopez	P	-	-	-	-	-	-	-	-	-	-	E	City Commission

A = Absent

P = Present

E = Excused

STAFF:

R. Alberto Delgado, P.E., Public Works Department

Lorena Garrido, Public Works Department

GUESTS: Maria Alberro Jimenez, Assistant City Manager; Jessica Wotherspoon, Business Development Specialist; Bob Bonham, Co-owner Preston Scott Design with Flowers

RECORDING SECRETARY: Lorena Garrido, Public Works Department

CALL TO ORDER:

The Chairman, Mr. Perez, called the meeting to order at 8:30 a.m.

ROLL CALL:

Ms. Garrido called the roll and members confirmed attendance.

MEETING ABSENCE:

There were no members absent.

MINUTES OF JUNE 10, 2009 MEETING:

Upon a motion by Mr. Mazzei and second by Ms. Young, the June 10, 2009 meeting minutes were unanimously approved.

SECRETARY'S REPORT:

- **New Members' Introduction**

New members, Mr. Maurice Donsky and Mr. Valentin Lopez introduced themselves.

- **Schedule of Outstanding Rent – Report as of July 14, 2009**

Mr. Mazzei asked what is being done with Ortanique.

Mr. Delgado responded that their lease has been reviewed and that they have rent abatement. He also commented that they have approximately (2) years left in their lease and are looking into renewing their lease which is subject to them being up to date with rent. He mentioned that the Finance Department has sent them a past due notice.

Mr. Donsky asked if this Board was involved with this rent abatement.

Mr. Delgado replied yes and explained that in the beginning of their lease, Ortanique came to the Board requesting a (2) year rent abatement. This is why their lease period was extended by resolution from 10 years to 12 years.

Mr. Mazzei asked if the letter sent to the tenant was a default notice.

Mr. Delgado said no, that it was a notice of past due rent with a time limit to comply. Then if it's not addressed within the given time it would be referred to the City Attorney's Office for action.

Mr. Mazzei commented that for future reference when a tenant is behind and letters are sent to them, the Board should see what is being done by being provided copies of such letters. Mr. Delgado agreed.

Mr. Donsky questioned if the Schedule of Outstanding Rent report included all City leases.

Mr. Delgado responded that there are some parking lots but these are under the jurisdiction of the Parking Department.

Mr. Donsky requested a list of all City leases. Mr. Delgado responded that the lease matrix report is provided on a quarterly basis, but will be brought to the next scheduled meeting.

Ms. Jimenez mentioned that there was an update on the Schedule of Outstanding Rent report and that payment for the Gables Grand was received. She went on to say the only two outstanding were Ortanique, which she was meeting with them on Friday and Preston Scott on today's agenda.

Mr. Mazzei commented about again finding out greater details through the media regarding issues. This one in particular was regarding the article on the outstanding rent at the Biltmore Hotel. He stated that they knew they were behind, but now it is a greater situation. He asked what is happening at this point.

Ms. Jimenez stated the City Manager and the City Attorney are the ones working on this matter with the Biltmore. She continued to comment that she knows there are discussions going on and that whatever amount is reflected in this report is what's owed to the City.

Mr. Padron asked if one of the discussions have been to sell the Biltmore.

Ms. Jimenez responded no and that this was a general statement at the budget workshop by one of the elected officials. She also said that there was no vote or action taken or any direction on the comment.

Mr. Lopez asked if the City charges interest on back-due rents.

Ms. Jimenez responded that there are interests and penalties charges.

Mr. Mazzei commented that since the City Manager is directly involved, he wants to have on the record that the Board wants to be kept aware of what is going on. He also requested for the City Manager to come to the Board to introduce himself and so he understands the Board's issues and concerns.

Ms. Jimenez said that she would relate the message and that the City Manager would be glad to do this.

CITY COMMISSION BOARD RELATED ITEMS UPDATE:

Mr. Delgado updated that the City Commission approved the lease agreement with Plumer Management for the use of (12) parking spaces and the lease agreement with Bijan's Coral Gables, LLC for the former Karma space.

CITY UPDATE:

Nothing at this time.

OLD BUSINESS:

- **Preston Scott lease – request for rent reduction**

Ms. Jimenez opened this item by stating that the City and Preston Scott have been exchanging letters with the latest letter sent this morning by the City. She continued by saying that Preston Scott owed the City over \$100,000.00 and they have not made payments since April 2009. She felt some effort should have been made and advised them to at least bring themselves current on the rent to be able to consider some relief according to this Board's recommendation. As expressed in the last meeting, a big concern is setting precedence since the City has several other tenants and some tenants are also going through difficult times but have managed to cut expenses to be able to pay the City. As far as the taxes, Ms. Jimenez reported that the Finance Department appealed the tax bill in December on the tenant's behalf, not only for Preston Scott, but Patios and Things as well. The Value Adjustment Board hearing is scheduled for July 29, 2009.

Mr. Donsky asked who handles this, on the City's behalf. Ms. Jimenez responded that the City cannot advocate the matter only appeal on the tenant's behalf. The tenant is the one who to handle this.

Mr. Mazzei asked Mr. Bonham if he has retained someone to assist him with this.

Mr. Bonham replied that they found out about this late Friday and that Monday morning they contacted Mr. Tom Dixon. He further stated that Mr. Dixon felt they have a substantial case for reduction. He stated that their space was appraised at \$465/sq. ft. versus a nearby comparable space at \$179/sq. ft and that there were also nearby spaces selling for less than this. Mr. Bonham continued stating that as far as the rent goes, they are in a very critical situation. He said that the current June sales were half compared to last June's sales and that these sales have been the lowest June sales in their (20) year company history. The hopeful news is that this month's sales figures are only 13% lower than last years, which may be a positive indication.

Mr. Perez asked when the last payment was made and if it was a full month's payment.

Mr. Bonham replied May and that it was a half (partial) payment.

Mr. Perez mentioned that the Board was never made aware of any deal with Preston Scott by Development Department on a rent reduction to half its amount.

Mr. Mazzei commented that he would like to see Preston Scott make some payments so they don't get in a deeper hole and so it shows a good faith effort.

Mr. Perez stated that everyone knows how bad the economy is but there are other tenants that are making payments and are also hurting. He continued to state that some payments need to be made.

Mr. Mazzei said that in this regard he would have expected for the City to have already met with them and worked out something that works for them and the City. He stated that he knows that there have been discussions back and forth but being that this over \$100,000.00, there is still no progress. Mr. Mazzei also mentioned that during the last meeting he recommended that the City look at rent deferral to help them through this period and apply it to the outer years of their lease. He also commented that the Board found out about the tax issue for the first time during the last meeting and questioned why the City had not appealed it. The fact was that the City did appeal it but did not notify the tenant who is responsible for the tax bill.

Ms. Jimenez stated that the hearing notice was recently received, just about the same time Preston Scott was notified. Ms. Jimenez continued to say that in the most recent letter to Preston Scott it stated that even if the tax amount was deferred until the Value Adjustment Board made a determination, but they would have to become current on their rent.

Mr. Hinrichsen asked if this waiver or abatement is to be granted it would be done by the City Commission and not the City Manager.

Ms. Jimenez said yes because this is a change of the lease terms. She continued to explain that if the Board decided to make some type of recommendation, it will go as an action item to the City Commission. The City Manager's Office would then provide a recommendation to support or deny the Board's suggestions. Then the City Commission will make a determination and the lease would be adjusted accordingly.

Mr. Hinrichsen commented that one of the questions he had asked Mr. Bonham was if he was willing to go on a month to month lease, but Mr. Mazzei raised concerns that this may not be good for the City because Preston Scott can walk away from the lease. However, Mr. Hinrichsen felt this is irrelevant since they can walk away right now.

Ms. Young asked Mr. Bonham could there be some arrangement where he can make partial payments while changes to the taxes are being negotiated. She continued by saying that the concern here is setting the precedent to other tenants by saying that they don't need to pay. She also said by showing good faith in making partial payments, while working in the taxes changes this can be used as part of negotiations, which shows the City and Preston Scott are working together.

Mr. Bonham replied yes.

Ms. Jimenez stated that her understanding that payments started escalating as a result of the taxes because the City pays the tax bill and then bills the tenant. What she suggested in the letter was deferring the taxes until such time the Value Adjustment Board makes a determination, and then the bill can be adjusted.

Mr. Mazzei commented that the City appealed the 2008 taxes in December and the rest have to submit an appeal by September 19th so the City was not diligent in this regard. In August the tax notices for 2009 come out and an appeal needs to be filed and he is asking for the City to submit an appeal on time, notify the tenant and this Board. He continued to state that you do not have to pay the taxes when they are under the appeal process and until the results are determined. As far as the rent goes, we had asked that the City meet with Preston Scott and come up with a plan to present to the Board regarding a possible deferral and either adding it on to the out years or extending the lease. Nothing has been done on this and nothing has been done "officially" since this became a problem and that's not good business.

Ms. Young stated that this is not true that they are on the schedule for the Value Adjustment Board on July 29th. Further, we seem to be asking Mr. Bonham the same thing as far as being willing to pay what he was paying before while the hearing the results are known.

Mr. Bonham said yes.

Mr. Mazzei reiterated that the City, as the landlord has the responsibility to meet with the tenant and work something out. He continued to state that with all the time passed by, the City has not fulfilled their obligation to the City, the tenant or tax payers to diligently resolve this.

Ms. Jimenez stated she respectfully disagreed with Mr. Mazzei's comments. She received Preston Scott's letter in June which was discussed in the last Board meeting and was not aware that she was to provide a plan for the Board to consider. Ms. Jimenez further stated that Preston Scott has been informed that they need to be current. The taxes could be deferred until the appeal is heard but the lease payments are very behind. Whatever recommendation is provided by the Board would be either approved/disapproved by the City Administration and ultimately the City Commission would decide.

Mr. Mazzei made a motion for the City to have somebody from Finance Department, City Attorney and someone from the City Manager's Office meet with the tenant and come up with a workable solution to this dilemma. Further, for this solution be presented to this Board by having a special meeting or at our next monthly meeting for evaluation, consideration and recommendation to the City Commission.

Mr. Donsky seconded the motion but added for Preston Scott, as a good faith effort to come up to date with their rent and pay the \$3,700/month.

Mr. Hinrichsen stated that this motion seems to be the opposite of what is being asked from the Board and voted against the motion. He feels the Board is being asked to inform of its opinion to the City Manager's Office, which will allow some guidelines on how to proceed.

Mr. Mazzei commented that it is not the responsibility of the Board to work resolutions regarding a tenant obligation and a City lease. In years past, the City has always brought recommendations based on working with the tenant. He reiterated his modified motion as follows: that mentioned parties meet with the tenant and for the tenant to make partial payments for the owed months and that the City come back to this Board with a plan. He also stated that this Board is not legally qualified to deal with terms and conditions and we are a volunteer group who do not have time to go over this tenant's paperwork, documents, etc.

The motion was carried, approved by (4) members and opposed by Mr. Hinrichsen (Mr. Perez and Mr. Padron needed to leave early).

- **Burger Bob (Granada Snack Shop) – (1) year lease renewal with same terms and conditions**

Mr. Mazzei stated that Burger Bob's is requesting a one year lease renewal with the same terms and conditions. The Board strongly agreed with this renewal, however there was no quorum and a motion will be made at the next scheduled meeting.

NEW BUSINESS:

There were no open items for discussion.

OPEN DISCUSSION:

There were no open items for discussion.

ADJOURNMENT:

Mr. Mazzei motioned to adjourn the meeting. Mr. Perez seconded the motion. The meeting was adjourned at 9:30 a.m.