

City of Coral Gables City Commission Meeting
Agenda Item I-1
December 8, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

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

Public Speaker(s)

Kolman Kenigsberg, Court Appointed Receiver
Alex Palenzuela

Agenda Item I-1 [Start: 11:09:58 a.m.]

Status report regarding 5626 Granada Boulevard and discussion with court-appointed receiver for the property.

Mayor Cason: Mr. City Attorney we had a time certain for 11 (a.m.), it's yours.

City Attorney Leen: Yes, thank you. Thank you Mr. Mayor. So the time certain, Item I-1 is a status report regarding 5626 Granada Boulevard and discussion with court-appointed receiver for the property. I would like to thank the receiver for coming today. He's been appointed by the court, Judge Rebel, who is a Circuit Court Judge. This is a property where the City filed a lawsuit and sought an injunction and sought a receiver being appointed by the court; and the court granted us that relief and a receiver was appointed and he's here today. He works for the

Judge and he's kind enough to be here to listen to our concerns and to tell us about the property and what's going to happen to the property. So we really appreciate you coming, and I would also like to thank Alex who is our special counsel, who has put a lot of time into this case and in fact, into a lot of cases and we have net tremendous success. Just to say one other thing – this Commission identified a number of properties that were in a deteriorating state and through its action, very aggressive, powerful action that other cities simply don't do, you've seen these properties become beautiful; and one of them 1044 Cotorro, which started all this, drive by it and take a look at it and that was this Commission's action and I think the other City Attorney doesn't remember the community, what you've done here is just amazing. I know the City Manager feels the same thing. So anyways this is one of these properties and we are happy to have the receiver here today.

Commissioner Keon: Welcome.

Mr. Kenigsberg: Good morning, pleasure to be here. Just to report, we took over the property in June of this year. The property has a clouded title and it's in very bad shape for repair. We brought in some advisors who looked at the property, gave us some cost estimates on bringing up the property up to snuff and make it salable. The repair estimate seems excessive, not understanding the full value would make the property an eyesore for the City and subsequently we'll have to sell it at a loss, the bank would take a loss. The bank would not fund the repairs or the maintenance of the property, so we came to the conclusion that the only way to get this property finished was to bring in an investor who would buy the note from the bank, make the numbers jive so that we could turn around and have the property sold at a fair value and everybody be made whole. To that end, one of the investors finally made an offer to the bank. Actually, they made two offers; the first offer was responded to, the second offer has been presented to the bank in the last month. It's probably less than half of the note that's on the property. I believe the original note was \$1.4 million; the current note with interest is over \$2 million. The house when finished might come to that value, but not too much more. So the offer at hand is \$850,000. In the meantime, a third party has approached us and offered to come in and finish the property. I'm just waiting for the appraisal from the bank in order to commit to one of these two alternatives, and hopefully we can get this done in short order now because all the

wheels are in motion, and it looks like we may have a finished product by the middle of this year.

Mayor Cason: Great.

Commissioner Keon: Thank you.

Commissioner Lago: I stepped out just for a quick moment to use the restroom.

Commissioner Keon: It's the property on Granada behind Temple Judea.

Commissioner Lago: And we are discussing receivership.

Commissioner Keon: It is in receivership.

City Attorney Leen: The City filed a lawsuit asking the court initially to do an injunction to require the bank to fix the property up. The remedy that we received and we saw it was to have a receiver appointed and there is also an injunction in place, my understanding?

Mr. Alex Palenzuela: Correct. There was an original injunction and because none of the parties brought the property into compliance, the City sought sanctions and the appointment of a receiver and the court entered orders granting both of those motions. The bank filed an appeal, but we have stayed the appeal and the bank has agreed to allow the receiver to undertake bringing the property into compliance with Code, as the court has ordered. The only thing I'll add to what the receiver explained is that, either someone can sell the note to an investor or the receiver has the power to issue certificates that would have priority over any other debt, any other liens, including the City's liens, so he could fund the repairs that way.

Commissioner Lago: Let me ask you just a quick question. Is this property in the hands of the bank already, so the bank is making the final decision?

Mr. Palenzuela: No. After the court's orders were entered, the bank unbeknownst to the counsel in the injunction action refiled their foreclosure that had been dismissed, so they are now trying to foreclose on the note that they may sell and whoever acquires that note could pursue the foreclosure action.

Commissioner Keon: This is one of the properties that when we did the abandoned properties items. This was one of them that we went to, they contacted the bank and asked the bank to do, the bank would not be responsive, so they went to court and the court appointed a receiver. We were very successful; the City was very successful in dealing with this property with the bank.

Commissioner Lago: The reason why I bring up who has control of the property because the location of the property is impeccable and it's a great opportunity, and I thought maybe somehow someday the City could gain control of the property and maybe make it into a park or a passive park or just an entrance feature. I'm thinking hypotheticals obviously, that's why I'd asked for a recap since I had stepped out.

Commissioner Keon: Well, I think it's in receivership and they would like to take action. We still have – if something isn't done with it, within a certain period of time, and that's what we can discuss also, we can send it to the Unsafe Structures Board, if it is determined to be an unsafe structure, it could be demolished and we would ask that it be demolished, that the pool be filled in, and that it be grassed over as a grassy lot and you can hold it for as long as you want, as long as you maintain that is green space, but that half built house in the condition it is can no longer exist in that neighborhood no more.

City Attorney Leen: The City has a number of remedies that we could pursue. What we pursued was, we used or abandoned property ordinance to hold the bank accountable, we sought an injunction and received it, we've done a number of lawsuits, and we prevailed in every one. This one was contested by the bank and Judge Rebel. He ruled in our favor in a contested hearing. They did not comply, by they, the bank did not comply with the order, so we asked for a receiver to be appointed as a sanction, there is a receiver on the property, and I feel that we need in good faith to allow the receiver an opportunity to do his job.

Commissioner Lago: Let me ask you, what's a rough timeframe in regards to this property being abandoned and the current state it's in? Every time I drive by, we are talking about probably three to four years at a minimum, right?

Mr. Kenigsberg: Well it's taken us a while to get to the stage that we are at, but currently we have two interested parties and an offer that was made to the bank. If this offer is accepted in the next week or two, we all proceed and should be done with remedying the situation by the end of June of this year.

Mayor Cason: So presumably, if we are lucky, the house would be completed and we'll have a beautiful home or a beautiful piece of property and not the eyesore that's there.

Commissioner Slesnick: So you have an offer for \$850,000 now and...

Mr. Kenigsberg: I don't have an offer; the investor has made an offer.

Commissioner Slesnick: And you are expecting another one to come in this week?

Mr. Kenigsberg: There is a third party who would under receiver certificate complete the repairs to the building, make it saleable at that point. If the bank refuses the offer from the investor, I'll proceed with that individual and get the property in shape.

Commissioner Slesnick: And again, you think this can be accomplished by June?

Mr. Kenigsberg: Correct.

Mayor Cason: Great.

City Attorney Leen: So what I would recommend is monitor it. Maybe we could ask the receiver back in a few months and at that point if it's not working. I'm sure he'll tell us and the other remedies we have is the Unsafe Structures Board and we have our forfeiture ordinance, but obviously the best solution, I think, is what we saw which is a receiver and we obtained it. That's very significant. It's very rare to have a receiver appointed for a specific property and this was all because of this ordinance that you passed. So I think we should give it all the opportunity.

Mr. Palenzuela: Craig...in foreclosures where the receiver takes the income from the property and then of course uses it according to the court order. It's unusual for a non-income producing property for there to be a receiver to bring it into compliance with the code, and I might add that the court order does include a provision that if the receiver determines that the valuation isn't

there, to complete the repairs and finish the house that he can seek an order from the court allowing him to apply for the demolition permits, so we wouldn't even have to take it to the unsafe structures procedures.

Mayor Cason: We have a lot of options.

Mr. Kenigsberg: Yes, we do.

Mayor Cason: Finish, demolish, you come back to us and hopefully it will be repaired and we'll have another beautiful home for people to live in the Gables. So thank you very much.

Mr. Kenigsberg: Thank you.

Commissioner Keon: Thank you. So you'll come back in three months, is three months an appropriate amount of time?

City Attorney Leen: Are you willing to come back in three months.

Mr. Kenigsberg: I certainly am.

Commissioner Keon: Thank you very much.

City Attorney Leen: Thank you.

[End: 11:20:42 a.m.]