

**City of Coral Gables City Commission Meeting**  
**Agenda Item I-1**  
**April 27, 2010**  
**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**

**City Manager, Patrick Salerno**  
**City Attorney, Elizabeth Hernandez**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

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I-1 [Start: 10:14:28 a.m.]

Resolution directing the City Attorney to proceed with filing an action for past and future rent due, costs, expenses, and all other remedies authorized by the lease agreement against Bijan’s Coral Gables, LLC, d/b/a Bijan’s Key West Grill and Bijan Nakhjavan, individually, for breach of the Lease Agreement by failing to pay rent and for vacating, abandoning, or deserting the premises; and further authorizing the City Attorney to take all action necessary to represent the interests of the City.

Mayor Slesnick: Madam City Attorney.

City Attorney Hernandez: Yes, Mr. Mayor, Commissioners, we recently were advised by the attorney for Bijan’s that they would be turning over the keys, and that they were going to be walking away from the lease. In this particular instance we have a personal guarantee, and we are asking for authority to proceed forward with filing an action for past and future rent due, cost expenses, and all remedies authorized under the lease agreement. We have e-mail from their attorney basically advising us that they are abandoning the property, so we will be relying on that in order to move quickly and efficiently through the courts, and we are doing an acid check on the personal guarantor, in order to make sure that we can proceed against them.

Commissioner Anderson: I’ll move it.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: It's been moved by Ms. Anderson second by Mr. Kerdyk. Let me only say that I am concerned about this in the sense that, I'm not concerned in the city enforcing its rights under the lease contract with these people. As you know we had this – this restaurant has failed three different times in this location under three different...there was a Chinese restaurant, it was a hookah restaurant at one time, it was something else with a motorcycle in the middle, then it was a burger place.

Commissioner Withers: It was a Fish Bone Grill or something at one point.

Mayor Slesnick: Yes, but it's all under the same management, and Bijan himself is a person who has been very community minded and has worked in the restaurant industry in this community, and has supported various things; for instance he is the person that supports the "Dade Day" operations for the last twenty plus years and cooking the paella and the capital, and so forth, and he tried to put his nephew, I believe if I'm stating this correctly, into business in this location, it has not worked, did not work, and we've tried three different times to move forward. I think you all were copied in a letter that I got about the various issues faced by the family.

Commissioner Cabrera: I never saw it.

Mayor Slesnick: OK, well I got a letter saying that the nephew is suffering from cancer or something, and they had to withdraw from trying to be an active operator of the place. As you know, I had personal heartburn, I guess that is a good description when you are dealing with a restaurant, over our last dealings in this lease where we were told it was going to be one thing, it was going to be Monty's, and then it was going to be Key West, and then it was going....So I'm not, I don't know what I'm saying, I'm not saying we shouldn't enforce what we have, but I think that, Liz, in moving forward, I would hope that there is some way to resolve this.

City Attorney Hernandez: Well the sooner that we can move forward and be able to have the ability to lease the premises to a new tenant, the quicker we can mitigate our damages, and then whatever final judgment we do obtain, I will obviously present it to the City Commission before we proceed forward and obtain any – I'm sure....mediation, I'm sure we'll be dealing with those particular issues, but from the city's perspective the sooner we have the full ability to lease to a new tenant the sooner we can mitigate our damages.

Mayor Slesnick: And Liz, I'm going to vote for this because I'm going to be consistent, if you remember I was one person who said we should vote to give you authority in the trolley advertising case, not necessarily to enter into a case that would end up in the Supreme Court, but to give you the authority to have the tools with which to resolve the case, that's why I'll support it. But I want to put on the record my concerns.

Commissioner Withers: Well Don, do you want to do like a two month moratorium, I mean, before we take this step, I mean....

City Attorney Hernandez: But then we can't mitigate.

Mayor Slesnick: I think I'd rather give her the authority and let her bring back to us hopefully...

City Attorney Hernandez: The quicker we get a judgment, the more....

Mayor Slesnick: Let me just say this. Chip; in resolving it in the end, I hope that we'll have – if it's called for some compassion on this particular thing.

Commissioner Cabrera: Can I tell you somebody that didn't support this?- that...

Mayor Slesnick: You didn't and you also were one of the few Commissioners who went there to try it out.

Commissioner Cabrera: I used to go there all the time and try to help them as much as I could and send people there as much as I could, but I've been by there since then, and I got to tell you, the place has been stripped down to the bare walls, and I want to be sympathetic to these folks, but if you look at the place, it's not like they acted in a good fashion. In fact, if you look and you see the door, at the door, the Coke-a-Cola Bottling Company has some of their own equipment in there and they are trying to get it out, and they had no choice but to put out a sticker on the front door letting anyone, obviously the landlord know that, that property that's in there belong to the Coke-a-Cola people, and they just want to claim it back. So when you stick your head up against the glass, you will see that they have pulled anything and everything; there is wires everywhere, all of the lighting fixtures are gone, I mean, they strip this thing down to the bare walls. No, it's a mess Don. So you know my problem, and I know you are being sympathetic and you are trying to be helpful to somebody that reached out to you, and I hate to say this based upon your comments, but if you really analyze it they've not behaved in any kind of professional and sympathetic manner, they've been more than callous, and abrasive, and disruptive, and unwilling to be part of a solution. So I think that – my position is even though I have not seen that letter, maybe it would give me more compassion, my position is to support the City Manager and the City Attorney and say let's move forward with whatever we have to do to recover our losses, and that's the concern here.

Commissioner Withers: OK – perfect.

Mayor Slesnick: Any other comments?

City Attorney Hernandez: Is there a motion?

**Mayor Slesnick: Mr. Clerk.**

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Commissioner Cabrera: Yes**

**Mayor Slesnick: Yes**

**(Vote: 4-0)**

**(Vice Mayor Kerdyk: Absent)**

[End: 10:21:30 a.m.]