

City of Fort Lauderdale

City Hall
100 N. Andrews Avenue
Fort Lauderdale, FL 33301
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Meeting Minutes - DRAFT

Thursday, July 10, 2014

2:00 PM

City Commission Chambers

CITY COMMISSION - SPECIAL MEETING

FORT LAUDERDALE CITY COMMISSION

JOHN P. "JACK" SEILER Mayor - Commissioner
ROMNEY ROGERS Vice Mayor - Commissioner - District IV
BRUCE G. ROBERTS Commissioner - District I
DEAN J. TRANTALIS Commissioner - District II
BOBBY B. DuBOSE Commissioner - District III

LEE R. FELDMAN, City Manager
JOHN HERBST, City Auditor
JONDA K. JOSEPH, City Clerk
CYNTHIA A. EVERETT, City Attorney

Meeting was called to order at 2 p.m. by Mayor Seiler.

ATTENDANCE ROLL CALL

Present: 5 - Mayor John P. "Jack" Seiler, Vice-Mayor Romney Rogers, Commissioner Bruce G. Roberts, Commissioner Dean J. Trantalis and Commissioner Bobby B. DuBose

Also Present: City Manager Lee R. Feldman, City Auditor John Herbst, City Clerk Jonda K. Joseph and Assistant City Attorney Cynthia A. Everett

Vote Roll Call Order for this Meeting

Vice-Mayor Rogers, Commissioner Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

RESOLUTIONS

R-2 14-0870 COVENANT TO PRESERVE WAVE STREETCAR ASSESSMENT AND PROVIDE FOR REPAYMENT OF STATE INFRASTRUCTURE BANK LOAN IN THE EVENT OF THE DISSOLUTION OF DOWNTOWN DEVELOPMENT AUTHORITY and authorizing City Manager to execute loan agreement

The City Manager explained that when the Wave streetcar initially was proposed, an assessment was included through the issuance of a bond. A better, lower-cost method would be to use the State Infrastructure Bank loan pool through the Florida Department of Transportation. The Downtown Development Authority (DDA) submitted an application. Debt service on the loan goes through 2039 but the DDA only exists through 2030. This resolution provides that the City will step in, continue the assessments and make the debt service payments. In order to effectuate this, the City needs to become a co-borrower. This resolution is a covenant that the City will keep the assessment in place and pay the debt service. The City Manager advised he would not execute the loan agreement until it is approved in form and content by the City Attorney. Mayor Seiler suggested amending the resolution to include that condition.

Commissioner Roberts introduced the resolution as amended, to provide that the loan agreement shall be approved as to form and content by the City Attorney, which was read by title only.

The City Manager confirmed for Vice-Mayor Rogers that this would not impact the City's bonding ability or its rating.

Mayor Seiler opened the floor for public comment.

L.F. Rosenthal, 1237 NW 4 Avenue, spoke in support of the item. He referenced recent news articles that state the operating cost of public transportation is only covered by 31 percent of revenues and the balance is paid by government subsidies. He drew attention to another transit project in Miami Beach that was a failure. He also was concerned about continuity of management at the Downtown Fort Lauderdale Transportation Management Association (TMA) with its executive director resigning. The City staff should focus on costs and increasing revenue. When it was clarified that the Wave is a different project than the Sun Trolley, Rosenthal indicated his belief that the Sun Trolley is wasteful.

There was no one else wishing to speak.

Commissioner Roberts said the Sun Trolley accommodates more than 500,000 riders annually. A new director has been selected for the TMA; she is a former employee of the Florida Department of Transportation. City staff works closely with the TMA. He listed the entities represented in the TMA operation. There are six routes. Rosenthal indicated he has not seen any riders at the stop on Sunrise Boulevard.

ADOPTED AS AMENDED

Aye: 5 – Vice-Mayor Rogers, Commissioner Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

R-1 14-0855 SCHLITTERBAHN WATERPARK - LEASE AGREEMENT FOR EXECUTIVE AIRPORT PARCELS 25, 26, 27 AND 19B - FTL Waterresort, LLC

The City Manager explained that this item was discussed at the Commission's July 1 meeting. A demolition bond is the one remaining issue. Staff is proposing a letter of credit be issued in favor of the City in an amount necessary to demolish the water park component of the project, leaving the other public improvements such as a parking lot and soccer fields. It would kick in after the performance bond concludes and would run for three years after the certificate of occupancy (CO) on the water park component is received. The amount of the letter of credit would be determined by the engineer of record, certifying the demolition costs at the time the CO is issued. It would be an irrevocable letter of credit.

Mayor Seiler opened the floor for public comment.

Bruce Qualey, chair of the Parks, Recreation and Beaches Advisory Board, said he supports the project but had some concerns about the lease agreement. He provided his credentials in the commercial mortgage business. In Section 5.02, the agreement outlines the park will be maintained in "first-class condition," which is defined as a standard set by other Schlitterbahn water parks. They could experience problems and the other parks could no longer be maintained as they are today. He suggested something more specific. He suggested the standard of Disney-quality and specific parks could be named rather one that is owned and operated by Schlitterbahn. He went on to say that a three-year letter of credit is better than a one-year demolition bond, but he still was concerned. He would like to see additional collateral beyond a three-year period to protect the City's interest. He asked if there is a demolition cost estimate. Mayor Seiler advised that the engineer of record would make that determination. Commissioner Trantalis added that there would be an annualized assessment. A figure of \$2 million has been discussed. Commissioner Roberts added that the estimate for demolishing the two existing stadiums on the property is \$1.5 million.

Vice-Mayor Rogers pointed out that the lender has a huge stake in the project which seems to be a good backstop. Qualey pointed out that this is a single-purpose complex that cannot function as anything else. He questioned whether the associated planned apartments will rent for \$150 to \$1,000 per night. There are many on the Ocean that are much cheaper.

The City Manager responded to Commissioner Trantalis that about \$500,000 per year is being spent from the Airport Fund to maintain the property in its current state. Commissioner Trantalis commented that Qualey's points have also been raised by the Commission. They now have to make a business decision, weighing the cost to maintain the property versus rent, jobs and other economic impact plus demolition if it is not successful.

In response to Quailey's question, the City Attorney advised that the Lessee is being asked to hold the City harmless and indemnify it for any accidents. They are required to maintain a certain amount of insurance. By Florida statute, the City has sovereign immunity. If the City was found liable, it would require an act of the Legislature for the other party to collect. The amount was deemed reasonable by both parties. Mayor Seiler noted that the policy shows \$2 million per occurrence with \$15 million of excess. He felt it is pretty good coverage with the City having sovereign immunity. Mayor Seiler provided clarity concerning Quailey's question about Section 31.03(1) by explaining the language has to do with the construction period. Employees should be covered by workers compensation and the contractor or subcontractor policy. There are very strict trespass laws for construction sites.

As to maintenance, Mayor Seiler requested the condition of the Fort Lauderdale Schlitterbahn be equivalent to the best-maintained Schlitterbahn park. Commissioner Trantalis questioned why Schlitterbahn's parks are being used as the standard instead of Disney, for example, or some industry standard. Quailey noted that the status of Schlitterbahn parks could change considerably over time and reiterated his request that Schlitterbahn be held to a Disney standard.

Joe Cerrone of Recreational Design and Construction (RDC), a member of the development team for Schlitterbahn, said the four Schlitterbahn parks are all held to the same standard. There is no standard for a water park. Schlitterbahn is a totally different experience than, for example, Disney. Vice-Mayor Rogers felt that the language could remain unchanged as long as it is qualified with a statement that it is a first-class water park that will always be maintained under a first-class water park condition. He felt that first-class condition should be defined as the prevailing condition in other Schlitterbahn water parks and compared to other water parks in the industry. The City Attorney agreed to add that language.

Commissioner Roberts asked the City Manager to weigh in on Quigley's comments concerning the three-year letter of credit. The City Manager advised that for the first years of operation the greatest assurance of continual operation is the Lender. The Lender and equity partner have much more at stake than the City. If the project fails during the three- to seven-year period, he expected the Lender would attempt to find another operator. In the absence of another operator, the Lender would seek to use the property, which would require demolition. Commissioner Trantalis pointed out that over the past six or seven years, lenders have neglected local property and allowed it to sit vacant and in disrepair. He did not have much faith in lenders acting responsibly. Success can be anticipated for the first few years. The letter of credit also provides a comfort level. As the City starts to collect rent and stop paying, there is a swing between \$500,000 in payments and \$900,000 in rent or \$1.4 million that will function as a savings account. Therefore, the taxpayers are being saved the risk. The City Manager agreed. If the Lender does not demolish the property, the City will have the resources to do so. Vice-Mayor Rogers added that there are also ad valorem taxes to consider. He felt that most lenders are responsible. Mayor Seiler noted that at some point there will be improvements to Lockhart Stadium and the soccer fields. Regardless of what happens to Schlitterbahn, those assets will be left with the City. Schlitterbahn has a history of success.

Commissioner DuBose said that he visited a Schlitterbahn park in Kansas City. He is supportive of the project but previously had reservations about the location. The future is unknown, but ultimately based on the assets it is a plus for the city.

Vice-Mayor Rogers said he visited a Schlitterbahn park in Texas. He felt it is a high-quality operation. He has no doubt about a water park being right for South Florida.

Commissioner Roberts advised that there were two successful community meetings and presentations to neighborhood associations. The project was well-received by the vast majority. Many of the major concerns were satisfied. Other development issues can be addressed when the project goes before the

Planning and Zoning Board. Additionally, the business community at the Executive Airport is supportive.

Attorney Jim Blosser of Blosser & Sayfie, representing Schlitterbahn, commented that Schlitterbahn is in fact the Disney of water parks. The Henry family operates four parks which are sought after by many major cities in the country and in fact given many incentives in terms of tax abatements, subsidies, employee health benefits and so forth. Communities want this water park because of the benefit to tourists and residents. Schlitterbahn sees Fort Lauderdale as a prime market; there is no first-class water park in South Florida. There are 6 million people within 100 miles. This is a great addition for families and corporate events. Schlitterbahn has been in business for more than 50 years. He went on to discuss the history around two other parks that were built in South Florida. One was sold because it was more economical to develop a shopping center. The other one, a roller coaster park, was a high-risk project from the beginning. To compare those to Schlitterbahn is highly inappropriate. Schlitterbahn has not requested any incentives or favors from the taxpayers. They are willing to put their capital at risk. This will create 1,000 jobs on a part-time basis for those who are generally the most unemployable, that is, youth during the summer and senior citizens. The Broward Alliance is thrilled with this opportunity. There will be 40 to 50 full-time management staff located here. This is a \$100 million capital investment over a period of time that includes the water park, soccer fields, improvement of Lockhart Stadium, parking lots and other enhancements. This will go through the Design Review Committee. Schlitterbahn will have a great deal invested. He noted the assets that would be left behind if the park is not successful. The site is 65 acres of unusable land in its current state. There is no known alternative use, including an aviation use. This project will put the land into production. In addition to the jobs and other economic benefit, \$810,000 in annual rent will go to the Airport Enterprise Fund and 6 percent sales tax to the State. It is 100 percent on the tax rolls. This provides a family activity option. Lockhart Stadium will hopefully be upgraded. Along with the soccer fields, there are great hopes of turning the area into quality destination for multiple sporting events. He felt Schlitterbahn should be welcomed to the community. Vice-Mayor Rogers pointed out that they are a family business.

Commissioner Roberts introduced the resolution, which was read by title only.

ADOPTED

Aye: 5 – Vice-Mayor Rogers, Commissioner Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

There being no other matters to come before the Commission, the meeting adjourned at 2:49 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph

City Clerk