Deerfield Beach
Florida

Special Meeting Minutes
City Commission

Thursday, December 15, 2022 | **7:00 PM** | **Commission Chambers**

CALL TO ORDER AND ROLL CALL

The meeting was called to order on the above date by Mayor Bill Ganz at 7:00 p.m., in the City Commission Chambers, City Hall, Deerfield Beach.

Present: 5 – Commissioner Todd Drosky
Commissioner Bernie Parness
Commissioner Ben Preston
Vice Mayor Michael Hudak
Mayor Bill Ganz

Also Present: 3 – City Manager David Santucci
City Attorney Anthony Soroka
Assistant City Clerk Heather Montemayor

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Thereafter was a moment of silence, followed by the Pledge of Allegiance.

APPROVAL OF THE AGENDA

December 15, 2022

MOTION was made by Commissioner Preston, seconded by Vice Mayor Hudak, to approve the agenda as submitted. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Preston, Commissioner Parness, Vice Mayor Hudak and Mayor Ganz

Nays: 0

DEPARTMENTAL BUSINESS

1. Resolution 2022/211 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Award of Invitation to Negotiate #22-41-PC for the sale of city property located at 1045 SW 11th Way to the top ranked firm, MBA Development Partners of Florida, LLC; approving the key business terms for the purchase and sale contract, which shall be subject to referendum approval; providing for implementation and an effective date.

The Resolution was read by title only.

DEPARTMENTAL BUSINESS - CONTINUED

David Santucci, City Manager, said on December 6, 2022, the City Commission approved the ranking and recommendation of MBA Development Partners of Florida, LLC. During the meeting, staff stated that the negotiation of the key business terms is required to ensure appropriate ballot language was submitted to the Supervisor of Elections Office by the first day of qualifying. Thereafter, he thanked staff, Ken Krasnow, Colliers International, and MBA Development for their quick turnaround. Mr. Santucci said the key business terms will be highlighted this evening, as well as the ballot language, but the items will be voted on separately.

Mr. Krasnow displayed a brief presentation. Thereafter, he provided an overview of the item that was approved on December 6th. The key business terms include the property located at 1045 SW 11th Way, which is 3.75 acres; the seller is the City of Deerfield Beach and buyer is MBA Development Partners of Florida; the purchase price for the land is $6.5 million plus an additional $7.5 million for public improvements to area infrastructure and parks/community space. Currently, there is a $105,000 deposit, which includes the $25,000 ITN (Invitation to Negotiate) submittal and $80,000 referendum deposit; whereas, an additional 5%, $325,000, deposit that will be payable to the City within three business days of referendum approval. Additional key business terms include a due diligence period of 60-days from execution and approval of the Purchase and Sale Agreement; within 120-days of referendum approval, a site plan shall be submitted for approval; and closing will occur 60-days following the final, non-appealable site plan approval by the City of Deerfield Beach, as well as the final site plan and plat approvals. Lastly, Mr. Krasnow said the referendum language is based on the key business terms and project.

Commissioner Drosky asked that the Purchase and Sale Agreement include a better definition of public improvements and enhancements; a possible increase to the 5% deposit; and a public service announcement (PSA), especially regarding the additional $7.5 million for public improvements/enhancements. Further, he suggested an additional deposit for community improvements.

Mr. Krasnow stated that there has been discussion regarding additional deposits especially with the $7.5 million for community improvements, which will be outlined in the PSA.

In response to Commissioner Drosky's question, Mr. Krasnow replied that Mario Caprini is not the equity of the development group; whereby, MBA Partners is a joint venture between Robert Sherman, MBA, and Hensel Phelps Capital Partners. Further, Mr. Caprini is the spokesperson and partner in the project, but the majority of capital and equity for this project will come from Hensel Phelps.

In response to Commissioner Parness' question, Anthony Soroka, City Attorney replied that the $7.5 million was not included as it is not the purchase price of the property, nor has the usage of funds been fully vetted; nevertheless, the public will be notified through various marketing strategies. Further, per State Law, there is a 75-word limit on ballot questions. Lastly, Mr. Soroka reiterated that the Purchase and Sale Agreement will outline more details and will be available for public inspection prior to the election.

Mayor Ganz opened the public hearing; however, there was none to speak and the public hearing was closed.

MOTION was made by Vice Mayor Hudak, seconded by Commissioner Parness, to approve Item 1, adopted Resolution 2022/211. Roll Call:

Prior to roll call, Mr. Soroka stated that the Commission is not approving the project this evening, nor will the Commission be approving the project during the approval of the Agreement; whereas, the project will go through the appropriate land use, zoning, and other processes.

Yeas: 5 - Commissioner Drosky, Commissioner Preston, Commissioner Parness, Vice Mayor Hudak and Mayor Ganz

Nays: 0

DEPARTMENTAL BUSINESS - CONTINUED

2. Resolution 2022/212 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, submitting to the City Electors a referendum question regarding the sale of approximately 3.75 acres of real property owned by the City located at 1045 SW 11th Way pursuant to Section 7.09(2) of the City Charter; providing for a referendum election to be held in conjunction with the regular municipal election on March 14, 2023; providing for requisite ballot language; providing a procedure for balloting; providing for notice; providing for implementation and an effective date.

The Resolution was read by title only.

Mayor Ganz opened the public hearing; however, there was none to speak and the public hearing was closed.

> **MOTION was made by Commissioner Parness, seconded by Commissioner Preston, to approve Item 2, adopted Resolution 2022/212. Roll Call:**
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> **Yeas:** 5 - Commissioner Drosky, Commissioner Preston, Commissioner Parness, Vice Mayor Hudak and Mayor Ganz
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> **Nays:** 0

COMMENTS BY ADMINISTRATION AND LEGAL

3. Discussion regarding the pier restaurant lease.

David Santucci, City Manager, provided a brief PowerPoint presentation regarding the current pier restaurant lease. Thereafter, he thanked Kris Mory, Director of Economic Development for her assistance. He explained that the current lease expires on April 30, 2023 but has a five-year renewal option to continue operations. If the renewal is approved, he recommended renegotiating a new lease based on the current market. Another option is to explore the market further by releasing a competitive solicitation, which could include the current lessee, if desired. Mr. Santucci said if the Commission decides to explore other opportunities, he can terminate the lease on April 30th, or extend the lease for 180-days; nevertheless, if this option is chosen, there would be a transition period causing a short closure of the restaurant.

Furthermore, Mr. Santucci said based on restaurant patrons, current lessee, and area restaurateur input, the new lease could include the observation deck, allow a fixed roof over the outdoor boardwalk patio, and allow liquor sales. Thereafter, photographs were displayed of the current pier restaurant conditions, as well as the observation deck, which is a passive public amenity. The observation deck recently had a fixed roof upgrade that was funded by the Community Redevelopment Agency, $153.000; whereby, there were four rentals in 2022, yielding $2,000 in revenue. Thereafter, photographs were displayed of other restaurants throughout the County with elevated deck seating. The pros for elevated beachfront deck dining include: 1,311 square feet of additional restaurant space; activation will increase underutilized asset; lessee will be responsible for regular cleaning and maintenance; venue will enhance beach tourism destination; activation of the area will improve Crime Prevention Through Environmental Design (CPTED) compliance; and a larger overall service area will attract interest from more restaurateurs. The cons would be a reduction of passive public space, but public use could be incorporated into the lease agreement, and alteration of original intended use.

Continuing, Mr. Santucci displayed photographs of Oceans 234 and JB's fixed awnings. The pros of installing a fixed roof outdoors include: 740 square feet of outdoor dining space sheltered from weather; lessee being responsible for capital improvement, and regular cleaning/maintenance; venue will enhance beach tourism destination; more reliable use of outdoor service area will attract interest from more restaurateurs; and the structure will more clearly define the restaurant area. The con is there could be a potential alteration of the pier buildings original architectural style. Further, the pros for liquor sales include a greater restaurant revenue, lease rate; consistency with surrounding restaurants; and would attract a

COMMENTS BY ADMINISTRATION AND LEGAL - CONTINUED

wider variety of restaurants. The con would be the perception of liquor service not being consistent with a family friendly amenity. Lastly, Mr. Santucci asked for direction on whether the Commission would like to renew the lease or test the market and possibly include the observation deck in restaurant, allow fixed roof over boardwalk patio, and/or allow liquor sales.

In response to Commissioner Parness' question, Mr. Santucci replied that some of the equipment, i.e. walk in refrigerator is owned by the City.

Commissioner Parness spoke in support of exploring the market, as he wants to stay competitive. Further, he spoke in favor of the covered patio and enhancing the restaurant. Lastly, he asked if parking will be expanded.

Mr. Santucci replied not at this time, as the City is limited in real estate.

Commissioner Preston spoke in support of renewing the lease and allowing them the option to include the fixed awning, observation deck and sale of liquor. Thereafter, he commented on the approval of the original lease agreement, which did not allow a lot of options. Further, Commissioner Preston said the parking lot, which was originally for pier fishermen, was recently redone and spaces were eliminated; therefore, he does not believe parking can be expanded.

Vice Mayor Hudak commended the current lessee but spoke in support of exploring the market with the addition of the fixed awning and observation deck but not the sale of liquor, as Deerfield is a family-friendly beach. He also asked for the hours of operation for the restaurant and the probable outcome for a citation.

Mr. Santucci replied that upon direction of the City Commission, staff would move forward with getting a competitive solicitation out, but the process would not be completed, negotiated, and awarded by April 30th; however, the 180-day extension would provide continuity of operations.

Vice Mayor Hudak reiterated his support of exploring the market and extending the current lease for 180 days.

Commissioner Drosky said he has no issue with the current lessee but spoke in support of exploring the market with the addition of the fixed awning, observation deck and liquor sales; whereas, the current lease cannot be renewed with those additional terms.

Mayor Ganz disagreed with the current lessee not having options, as the rules were the rules. He explained that the original renderings included a grab and go concept, which is not what the City got. Mayor Ganz said he is not opposed to liquor sales and although it was never the intention to compete with Ocean's 234 and JB's, times have changed. Further, he spoke in support of the current lessee having the opportunity to bid on the project and agreed with allowing an awning for outdoor seating. Mayor Ganz expressed concerns with including the observation deck but suggested allowing the restaurant to use the area for special occasions. Lastly, he reiterated his support for exploring the market and including the fixed awning and liquor sales.

Commissioner Preston agreed that rules are rules, but the current lessee wanted additional amenities, i.e. an outdoor awning, which was not possible at that time, and reiterated his support to include the additional amenities.

Vice Mayor Hudak said if the proper vendor is chosen, he would not be opposed to liquor sales.

Mayor Ganz said although direction has been given regarding the pier lease, he said additional discussion will be needed for the parking.

Mr. Santucci advised that he has enough information to finalize a request for proposals, but would like to have additional discussions with the Mayor regarding creative ways to preserve the public use of the observation deck; nevertheless, items can be changed/updated throughout the process based on additional feedback from the Commission and restaurateurs. Further, he understands the concerns regarding the

COMMENTS BY ADMINISTRATION AND LEGAL - CONTINUED

liquor sales, but will highly depend on the quality of the restaurateur. Mr. Santucci reminded the Commission that it is a city facility, so enforcement mechanisms can be implemented. He reiterated that changes can be made throughout the process, and as components are added to the RFP it will provide a better understanding of the restaurateur's proposal and proposed revenue.

In response to Mayor Ganz's question, Anthony Soroka, City Attorney, replied that the lease will expire unless it's renewed, which can be done by the City Manager, so he is seeking input on whether that's the Commission's desire. Further, the Commission does not approve the RFP documents prior to them being released, but general direction and input has been given as to what should be included. Thereafter, he provided a brief overview of the RFP process.

In response to Commissioner Parness' question, Mayor Ganz replied that businesses who do not have adequate parking have a parking agreement with the garage.

Commissioner Parness suggested that information be added to the RFP.

ADJOURNMENT

There was no additional business to discuss.

MOTION was made by Commissioner Parness, seconded by Commissioner Preston, to adjourn the meeting at 8:10 p.m. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Preston, Commissioner Parness, Vice Mayor Hudak and Mayor Ganz

Nays: 0

CITY OF DEERFIELD BEACH

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BILL GANZ, MAYOR

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Heather Montemayor, CMC, Assistant City Clerk