

**MINUTES OF MEETING
MIDTOWN MIAMI
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Midtown Miami Community Development District's Board of Supervisors was held on Tuesday, November 14, 2017 at 1:00 p.m., at the offices of the CDD, Shops at Midtown Miami, 3401 N. Miami Avenue, 2nd floor parking garage, Suite 132, Miami, Florida 33127.

Present and constituting a quorum were:

Jon Samuel	Chair
Alex Miranda	Vice Chair
Joseph Padula	Assistant Secretary
Michelle Jorge	Assistant Secretary
Angelo Masarin	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Ginger Wald	District Counsel
Deborah Samuel	Operations Manager
Alex Vadia	Public

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Cerbone called the meeting to order at 1:07 p.m. All Supervisors were present, in person.

SECOND ORDER OF BUSINESS

Public Comments

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Discussion: Tesla Proposal

Ms. Samuel stated that she met with Tesla representative yesterday. Ms. Wald was working on Agreement verbiage and some of the points are being reviewed, such as placement of the Florida Power & Light (FPL) transformer. FPL wanted to locate the transformer in a grassy area in front of the South Block garage, where Mr. Samuel and Mr. Miranda did not want to put

the Deco bikes, since it was a nice grassy area. Ms. Samuel asked FPL if they could relocate it to 31st Street but FPL was not sure if they could approve that and if it would be close enough to run the electric up to the units. During the discussion, Tesla stated that they were looking at roughly 20 spaces and, at one point she got Tesla down to ten spaces but nothing was finalized. The length of the term would be for a ten-year minimum, which Mr. Samuel and some other Board Members felt that was a sticking point. Her personal opinion was that it would add to Midtown Miami but it must be less of an impact to the District to make it positive. Regarding FPL and installation of the equipment, the CDD must ensure that the garage would not be shut down, since it only had one entrance and exit and it is a 24-hour garage. DDR previously had charging stations there but they never worked properly; it was difficult to get anyone to service them, people were unhappy because they wanted to use them and decommissioning the equipment was very expensive, upwards of \$20,000. A Board Member asked if people would pay to use the charging stations or would it be free. Ms. Samuel replied that Tesla pays and their old business model was that they would share a profit center with whoever owned the garage. Their business model now is, because they are a traffic driver, some people pay them. Regardless, Ms. Wald and Ms. Samuel spoke about not being able to charge a fee to use the charging station; however, the District might allow Tesla to share in some management of the garage or maybe invest in streetscapes or trees, as a way of participating. In response to Mr. Padula's question, Ms. Samuel replied that the charging stations were only for Tesla vehicles, which was a sticking point for her; she hoped that Tesla would open a percentage for other cars but Tesla would not do it. Tesla's navigation or app would direct people to come here, which Ms. Samuel liked. She did not like that Tesla wanted to install infrastructure for 20 spaces, as she thought 10 would be sufficient. If Tesla showed usage, then she would give them 20 spaces. Ms. Wald was working out some of the details on the language that the CDD cannot have in the Agreement and Ms. Samuel was working on the logistics. At the next meeting she would have more concrete information.

Ms. Wald stated that Tesla came to the CDD in February or March. She identified some of the issues in the Agreement and had to involve Bond Counsel because of the length of time of the arrangement and because it would be a utilization of the CDD's garage. The District had the bond funding for the garage and ticket revenues for that too; therefore, she had to ensure that the District was in compliance with all those issues. She had to make it clear to Tesla that they could not exclusively utilize "X" number of parking spaces; those types of things must be reviewed,

prior to bringing it to the Board for consideration. This matter involved addressing issues with the language that she received late yesterday and she would speak with Tesla on Friday and hopefully reach agreement so a contract could be presented for Board consideration.

Ms. Samuel stated that Tesla wanted to be on the second floor but she advised them that the spaces would be on the third floor; Tesla would tell her how many spaces they wanted. In response to a question, Ms. Samuel stated that the spaces would be exclusive to Tesla; anyone could park in those spaces. Ms. Ward stated that the original signage proposed was Tesla exclusive but she advised them that the signage would not work; in the last incarnation, as reflected in the Exhibit to the Agreement, the signage that it is a “Tesla charging station”; it does not say “Tesla vehicles only” or prohibit other vehicles; the spaces could be used by any vehicle in the garage.

FOURTH ORDER OF BUSINESS

Discussion: Employee Health Care Benefits

Ms. Cerbone stated that the CDD’s employees do not have health care benefits or any other compensation in their base pay to purchase health coverage. She reached out to one of the insurance agents Management works with to inquire if there were any options for a three-person District. In order to have a group plan, there must be four employees. She prepared a spreadsheet of the costs comparing four providers and questioned if the Board wanted to discuss or consider a health care reimbursement or a health care plan for the CDD employees. Mr. Masarin wanted to discuss it, as he thought it was important but, with only three employees, the District would not meet the qualifications for plan; therefore, he suggested giving employees a reimbursement for coverage rather than providing coverage.

Ms. Wald stated that, from a legal standpoint and with the legal agreements the District already had, she would prepare an amendment thereto to provide for the additional benefit, which would be a reimbursable amount for the employee’s health care insurance, not to exceed a specified amount. The amount must be budgeted. Discussion ensued regarding payroll taxes on additional compensation for this type of purpose. The Board consensus was to provide \$10,000, per employee. Ms. Cerbone would amend the Employment Agreements. Ms. Cerbone would make the necessary arrangements with her office; benefits might start as early as the next pay cycle, as long as the money was provided for.

On MOTION by Mr. Padula and seconded by Mr. Masarin, with all in favor, amending each District Employee's Employment Agreement to include reimbursement for health care expenses, in a not-to-exceed amount of \$10,000, was approved.

FIFTH ORDER OF BUSINESS

Consideration of Agreement with Rostan Solutions, LLC to Provide Disaster Recovery Services

Ms. Cerbone stated that Rostan Solutions, LLC (Rostan) provides Disaster Recovery Services, for funding pursuits, consulting, guidance and assistance through the entire disaster recovery process, as it relates to seeking reimbursement through the Federal Emergency Management Agency (FEMA). Ms. Cerbone suggested engaging Rostan to file a FEMA claim to determine if the District could obtain reimbursement for the hurricane-related damages. Based upon the District's insurance deductible, it would be unable to recover any insurance proceeds related to Hurricane Irma. Rostan's rates for service and to file a FEMA claim, on the District's behalf, were fairly reasonable; the highest rate was \$175 per hour and Rostan did not anticipate taking more than five or six hours, start to finish. After that, Ms. Cerbone could take over. A majority of Rostan's business came from this type of administration and debris removal. The estimated damages were \$260,000.

Discussion ensued regarding FEMA, Rostan and their services, filing a FEMA claim, debris removal, the City of Coral Springs using Rostan since 2013 and checking the references for Rostan.

Ms. Wald suggested finding out exactly what the District needed and obtaining a smaller, simpler Agreement. Ms. Cerbone stated that Ms. Wald would incorporate the legalese regarding public records, public entities, special entities and Miami-Dade specifics, from a letter she received from Rostan and provided to Ms. Wald. Changes therein would be incorporated into the Agreement and Ms. Wald would review the same.

On MOTION by Mr. Padula and seconded by Mr. Samuel, with all in favor, the Rostan Solutions, LLC Agreement to Provide Disaster Recovery Services, in substantial form, as amended to change the fee to a not-to-exceed amount of \$5,000 and subject to District Counsel’s final edits and review, was approved.

SIXTH ORDER OF BUSINESS

Approval of Unaudited Financial Statements as of September 30, 2017

Ms. Cerbone presented the Unaudited Financial Statements as of September 30, 2017. Assessment revenue collections were at 100% and expenditures were at 88%. A few more expenses were still being paid, as a result of Hurricane Irma.

On MOTION by Mr. Samuel and seconded by Mr. Padula, with all in favor, the Unaudited Financial Statements as of September 30, 2017, were approved.

SEVENTH ORDER OF BUSINESS

Approval of September 25, 2017 Rescheduled Public Hearing and Special Meeting Minutes

Mr. Wrathell presented the September 25, 2017 Rescheduled Public Hearing and Special Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Padula and seconded by Mr. Samuel, with all in favor, the September 25, 2017 Rescheduled Public Hearing and Special Meeting Minutes, as presented, were approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Operations Manager

i. Monthly Report

Ms. Samuel reported the following:

- Holiday lights would be completed by Friday and looked good. They were the same as last year but a little more were placed in the park and on Buena Vista Avenue.

- Parking/Way Finding: The new parking signage was in and people liked it.
- Hurricane Irma: The \$15,000 elevator drives were completed. With the exception of the landscaping, everything was up-to-date. She was still sourcing and seeking the best pricing on trees. She was recommended doing 75 of the 150 trees, only in high visibility areas for now, since construction would be occurring.
- Girard: Did a good job cleaning up the District quickly.
- Landscaping: Exhibit B listed the locations where Ms. Samuel thought the trees should be replaced. The cost to replace the damaged trees is \$151,570 and \$75,000 will be spent on trees to be planted in high visibility areas.
- Capital Projects: Painting of the North and South Block, pipes, elevator and garage floors commenced. Ms. Samuel would keep the Board apprised, as projects are completed.
- Infrastructure Punch List: It has become a full-time job to manage all the MOT projects.
- Midtown 5: The building was completed. She conducted a final walkthrough for the landscape and requested replacement of five palm trees and that two be put on a watch list. It was not the best decision to transplant the trees.
- Midtown 3: Construction is ongoing and an ongoing Punch List to document damages was created and owners would be notified. The life safety issues are addressed and the others are deferred to the end of the job. A lot of time is being spent managing traffic debris and MOT plans. The District agreed on a Remediation Plan with Midtown 3 but she was having an issue with them regarding the nine mahogany trees that were supposed to be replaced on 34th Street. They opted not to transplant trees but to just dispose of them and replace them at the end of the job; however, City of Miami (City) informed them that the guidelines changed for the planters and they could not put in mahogany trees and were provided with a list of approved trees. Those trees are very small and not part of the Master Plan. She would meet with the City and try to get the trees grandfathered in. This is important, since the District is starting Midtown 6 and 8 and, if the City's position is that the District must adhere to the new guidelines for the planters, the District may want to leave them and not have them transplanted. If the trees die, they could be replaced.
- Midtown 8: Construction was underway. An ongoing Punch List was created to document damages and to notify owners.

- Midtown 4: A large crane was onsite to pick up two HVAC units to put on the roof, 30 stories high. The initial plan was to close 34th street intersection in all four directions, for five days, which would impact the District. She worked with the condominium association to create a strategy where the Entertainment Block would be used as a staging area. The intersection would be closed for 12 hours.
- Miscellaneous Punch List: A Punch List to address the utility and after-infrastructure work was started.

ii. Parking Information:

- Executive Summary
- Transient Parking Year Over Year Comparison
- Revenue By Lane Report

These items were presented for informational purposes.

iii. Update: Enterprise Fund Major Projects

This item was not addressed.

B. District Counsel

Ms. Cerbone stated that she received a letter, via email, last week, from the former parking garage operator, ABM Parking Services, Inc. (ABM), which Ms. Wald would explain.

Ms. Wald stated that the letter was dated, November 9, 2017 and was from Mr. Richard LeBlanc III, Assistant General Counsel to ABM. In essence, ABM is making a demand, in the amount of \$69,260.75, for the insurance reimbursement that was originally withheld because ABM did not provide evidence of insurance, as requested, nor did they provide information that they were self-insured, which, if they were self-insured, they were not entitled to the premiums, pursuant to the contract. Contrary to that, AMB provided a Certificate of Liability Insurance and Mr. LeBlanc’s letter stated that ABM is not self-insured and had commercial liability insurance and that “ABM did list you as an additional insured, as required by the contract” and to see the enclosed Certificate of Insurance.

Ms. Wald noted that the City of Miami and Miami Parking Authority were listed as additional insureds on the Certificate of Insurance; however, it did not specifically state that Midtown Miami Community Development District (MMCDD) is. The location states that it is MMCDD. ABM is making its demand, stating the amounts it paid pursuant to the contract and that ABM is entitled to them. The end of ABM’s letter stated:

“We will withhold further collection efforts until 5:00 p.m., Eastern Time, on November 20, 2017 to allow sufficient time for satisfactory arrangements to be made for the payment of this debt. Absent payment in full of the amount due and received by ABM by this date, ABM will file suit against Debtor and seek attorneys’ fees associated with the lawsuit. If a lawsuit becomes necessary to assure collection, Debtor, and any guarantor, may be liable not only for the principal amount due, but also for interest, court costs and attorneys’ fees, as allowed by law.

ABM would prefer, however, to settle this matter amicably without litigation in court. We hope you view this as a good faith, conservative effort on our part to expeditiously resolve this matter on amicable terms.

We trust you will respond, in writing, to this letter, and/or schedule a mutually convenient time and date to discuss this matter.”

Mr. Samuel asked if ABM ever responded to Mr. Wrathell’s letter in August. Ms. Cerbone replied no; this was ABM’s response, three months later.

Ms. Wald stated that ABM would not file a lawsuit two days prior to Thanksgiving. The last sentence of the letter basically says, “let’s talk”. She thought that it made sense to reach out to Mr. LeBlanc to discuss this in more detail and attempt to figure out exactly what ABM was talking about. She would have ABM provide specific proof and, if the insurance company showed that MMCDD was an additional insured, it would take care of that portion of the issue. Ms. Wald would have ABM show the amount for the operating expenses that were paid and to show the proof of what they would be entitled to, under the contract, which was what the District has requested, all along. If it is due and owing, then the District should pay it; if it is not, ABM should not get paid.

Discussion ensued regarding ABM’s eight years and the parking garage operator, showing proof for eight years, the District already paying it for eight years and ABM’s demand to the District. If a suit was filed, the District would want to talk in a closed door session to determine the next steps. Discussion further ensued regarding Management’s letter in August regarding payments, ABM’s self-insured status, meeting the requirements set forth in the contract, Ms. Wald providing a written response to Mr. LeBlanc, breaching the contract and

making a decision concerning approximately \$69,000. The Board concurred that Ms. Wald should make contact with ABM and send a letter of response to Mr. LeBlanc.

C. District Engineer

There being no report, the next item followed.

D. District Manager

There being no report, the next item followed.

ii. NEXT MEETING DATE: December 12, 2017 at 1:00 P.M.

Ms. Cerbone stated that the next meeting will be held on December 12, 2017 at 1:00 p.m., at this location.

NINTH ORDER OF BUSINESS

Audience Comments/Supervisors' Requests

There being no audience comments or Supervisors' requests, the next item followed.

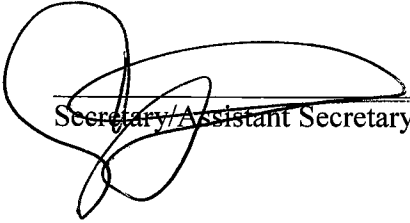
TENTH ORDER OF BUSINESS

Adjournment


There being no further business to discuss, the meeting adjourned.

On MOTION by Mr. Padula and seconded by Mr. Miranda, with all in favor, the meeting adjourned at 1:52 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair