



MEMORANDUM
Harvey Ruvin
Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners
Miami-Dade County, Florida
(305) 375-5126
(305) 375-2484 FAX
www.miami-dadeclerk.com

TC
Agenda Item No. 4(A)

TO: Honorable Chairman Dorrin D. Rolle
and Members, Transit Committee

DATE: July 9, 2008

FROM: Kay M. Sullivan
Director, Clerk of the Board Division

SUBJECT: Approval of Commission
Committee Minutes

The Clerk of the Board is submitting the following Clerk's Summary of Minutes for approval by the Transit Committee:

June 11, 2008

KMS/as
Attachment



Stephen P. Clark
Government Center
111 N.W. 1st Street
Miami, FL 33128

CLERK'S SUMMARY OF Meeting Minutes Transit Committee

Dorrin D. Rolle (2) Chair; Barbara J. Jordan (1) Vice Chair; Commissioners Audrey M. Edmonson (3), Sally A. Heyman (4), and Katy Sorenson (8)

Wednesday, June 11, 2008

2:00 PM

COMMISSION CHAMBERS

Members Present: Sally A. Heyman, Barbara J. Jordan, Dorrin Rolle, Katy Sorenson.

Members Absent: None.

Members Late: None.

Members Excused: Audrey M. Edmonson.

Members Absent County Business: None.

INVOCATION

1 MINUTES PREPARED BY:

Report: *Alicia Stephenson, Commission Reporter, (305)
375-1475*

1A PLEDGE OF ALLEGIANCE

1B **ROLL CALL**

Report: *The following staff members were present:
Assistant County Manager Ysela Llort; Assistant
County Attorneys Steven Bass and Gerald
Sanchez; and Deputy Clerks Judy Marsh and
Alicia Stephenson.*

*Assistant County Manager Gerald Sanchez noted
the following changes to the day's (6/11) agenda
pursuant to the June 11, 2008 County Manager's
memorandum of changes: Agenda Items 1D1
Supplement, 2B, 3G, and 3H were added to the
day's agenda; a scrivener's error in Agenda Item
2A should be corrected as follows: On
handwritten page 10 the Manager's signature was
inadvertently omitted.*

*It was moved by Commissioner Heyman that the
Committee approve the foregoing changes to the
June 11, 2008 Transit Committee Agenda, as
requested by the County Attorney. This motion
was seconded by Vice Chairwoman Jordan and
upon being put to a vote, passed by a vote of 3-0
(Commissioners Edmonson and Sorenson were
absent).*

1C **CHAIRMAN ROLLE'S REMARK(S)**

1D **PUBLIC HEARING(S)**

1D1

081468 Ordinance **Dorrin D. Rolle**

ORDINANCE AMENDING SECTION 30B-4 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ALLOWING FOR THE CONSUMPTION OF FOOD AND BEVERAGES AT TRANSIT STATION PLATFORMS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Deferred to no date certain
Mover: Rolle
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Attorney Gerald Sanchez read the foregoing proposed ordinance into the record.*

Chairman Rolle relinquished the Chair.

Chairman Rolle noted the intent of this ordinance was for Miami-Dade Transit (MDT) to determine whether the use of vending machines on transit platforms would generate revenue for MDT.

The public hearing was opened by Chairman Rolle; however, it was closed after no one appeared in response to Chairman Rolle's call for persons wishing to be heard in connection with this proposed ordinance.

Commissioner Heyman expressed concern that the proposed vending machines may raise issues regarding security, maintenance, and cleanliness. She noted the vending machines should be considered, however she was in opposition to implementing operation of the machines.

Mr. Harpal Kapoor noted that a pilot program involving the vending machines would be launched, and that after the operations had been evaluated, recommendations would be made regarding costs, cleaning services, security, and other issues.

Commissioner Sorenson expressed concern regarding issues with cleanliness and the potential for pests as related to food and beverages on the transit platforms.

It was moved by Chairman Rolle that the foregoing ordinance be amended to include language indicating that food and beverages would be permissible at six stations for a set period of time.

In response to Commissioner Heyman's request for clarification regarding her concern about food sales, 24 hour access to vending machines, and

insufficient security at Metrorail Stations, Mr. Clinton Forbes, MDT Assistant to the Director, noted that the Chicago Transit Authority (CTA) was one of the largest transit authorities in the nation and had vending machines at the ground level of transit stations, but not at the platform level. He noted the CTA was pleased with profit from their machines and the Tri-Rail authorities allowed food consumption on platforms and the ground and had vending machines. Mr. Forbes noted the pilot project was an attempt to gauge effectiveness in terms of profit for the vendor. He noted efforts would not proceed if the amount of debris at transit stations increased and that in order for the vendor to effectively gauge the benefit of the machines, the project would have to run for eight months to a year.

Commissioner Heyman noted she was interested in figures regarding security and inquired regarding posting security personnel.

Chairman Rolle noted he would like to defer the item in order to address the concerns of his colleagues.

Vice Chairwoman Jordan spoke in opposition to deferral. She indicated quarterly reports on the pilot program could be submitted.

Commissioner Sorenson also spoke in opposition to deferral and in support of a one year pilot project to determine if the operation of vending machines was feasible.

Commissioner Heyman stated she also wanted this ordinance to go forward, however, she was asking whether tangible statements which had been noted in today's meeting would be provided if the ordinance went forward.

There being no further questions or comments, the Committee proceeded to vote on the foregoing ordinance.

1D1 SUPPL.

081865 Supplement

FISCAL IMPACT TO ORDINANCE RELATING TO AMENDING SECTION 30B-4 OF THE CODE OF MIAMI-DADE COUNTY ALLOWING FOR THE CONSUMPTION OF FOOD AND BEVERAGES AT TRANSIT STATION PLATFORMS

Deferred to no date certain
Mover: Rolle
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

2 COUNTY COMMISSION

2A

081660 Resolution Dennis C. Moss

RESOLUTION RETROACTIVELY AUTHORIZING IN-KIND SERVICES FROM THE MIAMI-DADE TRANSIT AGENCY FOR THE APRIL 18, 2008 "GOULDS MARCH AGAINST CRIME" SPONSORED BY GREATER GOULDS OPTIMIST CLUB INC., A NOT-FOR-PROFIT ORGANIZATION, IN AN AMOUNT NOT TO EXCEED \$396.00 TO BE FUNDED FROM THE DISTRICT 9 IN-KIND RESERVE FUND

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Sorenson
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing resolution.

2B

081863 Resolution Sally A. Heyman

RESOLUTION DIRECTING THE MAYOR OR DESIGNEE TO SUBMIT WITHIN THIRTY (30) DAYS A PLAN TO IMPLEMENT A DISTANCE-BASED FARE STRUCTURE FOR SPECIAL TRANSPORTATION SERVICES

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Sorenson
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

Vice Chairwoman Jordan asked Assistant County Manager Ysela Llorca to ensure that a PowerPoint presentation on the Transit Agency's review of Special Transportation Services which she requested at the May 7, 2008 Committee workshop be presented as soon as possible.

In response to Chairman Rolle's request for an update on the impact of fuel charges on Special Transportation Services, Mr. Miguel DeGrandy, appeared in connection with the foregoing resolution. He noted the impact was significant and that relief was needed immediately.

There being no further questions or comments, the Committee proceeded to vote on the foregoing resolution.

3 DEPARTMENTS

3A

081633 Resolution

RESOLUTION AUTHORIZING THE FILING AND EXECUTION OF A TRANSPORTATION DISADVANTAGED TRUST FUND TRIP AND EQUIPMENT GRANT APPLICATION AND AGREEMENT WITH THE FLORIDA COMMISSION FOR THE TRANSPORTATION DISADVANTAGED IN THE AMOUNT OF \$7,284,502; AUTHORIZING THE RECEIPT AND EXPENDITURE OF FUNDS; AUTHORIZING THE FILING AND EXECUTION OF ANY ADDITIONAL AGREEMENTS, REVISIONS OR AMENDMENTS AS REQUIRED TO CARRY OUT THE PROJECTS FOR AND ON BEHALF OF MIAMI-DADE COUNTY; AND AUTHORIZING THE RECEIPT AND EXPENDITURE OF ANY ADDITIONAL FUNDS SHOULD THEY BECOME AVAILABLE (Miami-Dade Transit Agency)

Forwarded to BCC with a favorable recommendation
Mover: Sorenson
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing resolution.

3B

081723 Resolution

RESOLUTION APPROVING A CONTRACT AWARD RECOMMENDATION IN THE AMOUNT OF \$88,996.00 BETWEEN REPOR BROTHERS, INC. AND MIAMI-DADE COUNTY FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED COUNTRY WALK RIGHT-OF-WAY IMPROVEMENTS, LOCATED WITHIN COMMISSION DISTRICT 11 (PROJECT - CICC 7040-0/07 RPQ NO. 20070793) (Public Works Department)

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Jordan
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

Commissioner Sorenson expressed concern that issues involving Repor Brothers, Inc. had previously arisen and the contractor's performance rating was 2.8, which was a guarded rating and not satisfactory. She asked Ms. Ester Calas, Public Works Department (PWD) Director, to ensure that staff closely monitored the proposed contractor's performance.

Ms. Calas noted that this project would be funded from People's Transportation Plan (PTP) monies.

Commissioner Sorenson noted, for the record, that the ballot language for approval of the PTP included funding for PWD. She noted Agenda Item 3C on today's agenda also involved funding from PTP dollars.

There being no further questions or comments, the Committee proceeded to vote on the foregoing resolution.

3C

081761 Resolution

RESOLUTION APPROVING A CONTRACT AWARD RECOMMENDATION IN THE AMOUNT OF \$24,060,890.52 BETWEEN THE DE MOYA GROUP, INC. AND MIAMI-DADE COUNTY FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED ROADWAY IMPROVEMENTS ALONG NW 74 STREET, FROM NW 107 AVENUE TO NW 87 AVENUE AND NW 74 STREET, FROM NW 87 AVENUE TO NW 84 AVENUE, LOCATED WITHIN COMMISSION DISTRICT 12 (PROJECT NO. 20070575) (Public Works Department)

Deferred to no date certain

Mover: Jordan

Seconder: Heyman

Vote: 4-0

Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

Earlier in the meeting, Commissioner Sorenson noted this project would be funded from PTP dollars. She asked Ms. Ester Calas, Public Works Department (PWD) Director, to ensure that staff closely monitored the company's performance.

Ms. Penelope Townsley, Department of Small Business Development Director, noted that the contractor, De Moya Group, Inc., had challenged the accuracy of the County's determination regarding a violation committed by the company for approximately \$95,000; this amount was reduced to approximately \$79,000 upon examination of additional documentation submitted by De Moya; however, De Moya was now challenging the accuracy of the reduced amount.

Vice Chairwoman Jordan expressed concern that the challenge had been an issue for seven years and asked whether this resolution could be deferred until the issue had been resolved.

Ms. Townsley noted staff believed that moving this resolution forward was appropriate because staff was working to resolve the issue.

Commissioners Heyman and Sorenson spoke in support of deferral.

Chairman Rolle spoke against deferral. He noted it had taken other companies longer than seven years to resolve their violations.

The Committee proceeded to vote on the foregoing resolution.

Chairman Rolle asked Ms. Calas and Ms. Townsley to resolve the issues regarding the open violation involving the De Moya Group, Inc. and this company's challenge to the accuracy of the violation.

Vice Chairwoman Jordan asked that this issue be resolved by the next Committee meeting.

3D

081722 Change Orders

APPROVAL OF RETROACTIVE CHANGE ORDER NO. 2 AND FINAL CONTRACT BETWEEN GENERAL ASPHALT CO., INC. FOR ROADWAY IMPROVEMENTS ON NW 62 STREET FROM 27 AVENUE TO NW 12 AVENUE PHASE I PROJECT NO. 20060186- CICC 7360-0/08 (Public Works Department)

Forwarded to BCC with a favorable recommendation

Mover: Heyman

Seconder: Jordan

Vote: 4-0

Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

The Committee proceeded to vote on the foregoing resolution.

Chairman Rolle asked for clarification regarding agenda items which indicated that companies committed violations.

Ms. Penepole Townsley, Department of Small Business Development (SBD) Director, noted in April 2008, a policy was implemented to post violations only after they had been substantiated and gone through due process. She noted SBD posted open violations and violations resolved in the last three years. Ms. Townsley explained that this policy was an effort to be consistent and fair in issuing and posting violations, better position SBD to address appeals to the violations, and ensure firms were afforded due process.

3E

081762 Resolution

RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THREE TEQUESTA POINT CONDOMINIUM ASSOCIATION, INC., FOR THE PURPOSES OF INSTALLING HOMELAND SECURITY SURVEILLANCE EQUIPMENT; AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY, AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS AND ALL OTHER RIGHTS CONFERRED THEREIN (Seaport Department)

Forwarded to BCC with a favorable recommendation

Mover: Sorenson

Seconder: Heyman

Vote: 4-0

Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

Vice Chairwoman Jordan asked whether the Homeland Security Surveillance equipment would be monitored by a remote system and whether it would be safe from vandalism.

Mr. Bill Johnson, Seaport Director, noted the equipment would be monitored 24/7 from the Port of Miami's command center, which he concurred was a remote system.

In response to Vice Chairwoman Jordan's questions as to whether images were stored, Mr. Louis Noriega, Chief of Information Technology, Seaport, noted the monitoring system used radar to issue alerts regarding unauthorized vessels. Upon the issuance of an alert, he explained, a security officer would be dispatched to intercept the unauthorized vehicle. He noted the system recorded alerts starting 15 seconds prior to the issuance of the alerts.

In response to Vice Chairwoman Jordan's question regarding penalties or warnings for intercepted vehicles, Mr. Johnson noted that depending on the nature of the violation, the intercepted vehicle would be subject to consequences imposed by the Coast Guard and/or other entities.

Mr. Noriega noted that the potential for residents of Three Tequesta Point Condominium to tamper with the equipment had been addressed.

There being no further questions or comments, the Committee proceeded to vote on the foregoing resolution.

3F

081766 Resolution

RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TRANSYSTEMS CORPORATION TO EXTEND THE CONTRACT TERM TO PROVIDE FOLLOW-ON SERVICES RELATED TO SEAPORT CAPITAL DEVELOPMENT (Seaport Department)

Forwarded to BCC with a favorable recommendation
Mover: Sorenson
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing resolution.

3G

081764 Resolution

RESOLUTION APPROVING THE RECISSION OF A CONTRACT AWARD TO U.S BRIDGE & DREDGE, INC. FOR THE OLETA RIVER STATE PARK MITIGATION, CONTRACT NO. 2007.013; APPROVING CONTRACT AWARD TO THE SECOND LOWEST BIDDER, SOLO CONSTRUCTION CORP. IN THE AMOUNT OF \$2,221,744.10; AND AUTHORIZING THE MAYOR OR DESIGEE TO EXECUTE AN AGREEMENT WITH SOLO CONSTRUCTION CORPORATION FOR AND ON BEHALF OF MIAMI-DADE COUNTY; AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN (Seaport Department)

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Rolle
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing resolution.

3H

081834 Resolution

RESOLUTION AUTHORIZING EXECUTION OF (I) A TERMINAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TERMINAL LINK (MIAMI) LLC FOR TERMINAL OPERATIONS AT THE PORT OF MIAMI; AND (II) A TERMINATION, RELEASE AND RESERVATION OF RIGHTS AGREEMENT BETWEEN MIAMI-DADE COUNTY AND MAERSK, INC., TERMINATING EXISTING TERMINAL AGREEMENT, RESOLVING DISPUTED CLAIMS, AND RESERVING CERTAIN RIGHTS; AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE EACH SUCH AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY, TO EXERCISE ANY RESPECTIVE CANCELLATION AND RENEWAL PROVISIONS; AND TO EXERCISE ALL OTHER RIGHTS CONFERRED IN EITHER AGREEMENT (Seaport Department)

Forwarded to BCC with a favorable recommendation
Mover: Sorenson
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing resolution into the record.*

Commissioner Sorenson asked Mr. Bill Johnson, Seaport Director, to note for the record the history of this agreement and why it was beneficial to the County.

Mr. Bill Johnson noted that approximately 18 months ago, the Port commenced discussions with its three existing Cargo partners, Seaboard Marine, Maersk, and POMTOC. Five to six months into the discussions, he continued, his staff was approached by Maersk and CMA, an existing cargo tenant, about Maersk and CMA negotiating an agreement relating to the Port. Mr. Johnson noted that over the last year, Port staff worked with the County Attorney's Office under the oversight of the Inspector General's Office to develop the proposed agreement. He also noted the importance of providing the same opportunity to all three existing cargo partners at the Port.

Mr. Johnson noted for the record that the proposed agreement would generate \$15.5 million annually for the Port, \$11.9 of which was guaranteed; foster an open and competitive environment at the Port; and enhance the Port's competitive position with two of the three largest cargo lines in the world. He added that as he understood it, this agreement would provide support regarding two lawsuits currently facing the Port with regard to openness and competitiveness. He further noted this agreement

would put the Port financially "in the black".

Vice Chairwoman Jordan noted for the record that a letter from POMTOC noted Port Administration offered key assurances regarding cargo terminal operations at the Port and seemed to be deviating from the assurances. She asked what assurances had been offered.

Mr. Johnson noted that the proposed agreement took into consideration obligations to Port Cargo tenants, including POMTOC.

Assistant County Attorney Steven Bass noted that the letter vaguely referred to key assurances made by Port Administration headed by former Port Director Carmen Lunetta. The POMTOC agreement was submitted to the Commission during Mr. Lunetta's administration, he added, and did not specify the assurances. Since the POMTOC agreement was approved in written form by the Commission, Mr. Bass further noted, under Florida law, all verbal communication between Mr. Lunetta and POMTOC's principals would have been merged into the agreement. Mr. Bass added that the written agreement signed by representatives of the Port and POMTOC and approved by the Commission was the manifestation of the final agreement.

In response to Vice Chairwoman Jordan's inquiry regarding violation of assurances, Mr. Bass noted he did not believe contractual provisions in the POMTOC agreement would be violated by approval of the proposed agreement.

In response to Vice Chairwoman Jordan's concern regarding a statement in the letter that over the past few weeks, the Port Administration had actively engaged in direct efforts to lure POMTOC's largest customers away for the benefit of another terminal operator, Mr. Johnson noted for the record this statement was false.

Vice Chairwoman Jordan asked Mr. Johnson to respond, for the record, to four issues raised in the Inspector General's report.

In addressing the first issue, Mr. Johnson noted the Inspector General was correct in pointing out that the proposed agreement was a new agreement, not an extension of the existing agreement. He added that the participation and involvement of Maersk were needed in the

proposed agreement, Florida law allowed this type of agreement, and other agreements were negotiated in the same manner.

The second issue, Mr. Johnson noted, was regarding which entity would backstop the proposed agreement. He noted that staff's efforts to establish CMA as the guarantor were not unusual, but that CMA refused to be the guarantor. Mr. Johnson added that the proposed agreement included protection for the Port with regard to certification of Terminal Link's net worth and CMA stepping in as the guarantor or providing a letter of credit.

Mr. Johnson noted the concerns of Mr. Chris Mazzella, Inspector General, that Maersk may not have sufficient financial strength and his recommendation that the parent company serve as the guarantor had been addressed. He noted that usually subsidiaries served as the guarantors and he referred to page 3 of the Inspector General's report, which he noted contained a flow chart related to organizational structure.

Assistant County Manager Llord noted that a supplement responding to the Inspector General's report would be submitted to this Committee.

Mr. Johnson noted responses to the report would be available by tomorrow evening.

Addressing the third issue, Mr. Johnson noted Mr. Mazzella's concern was regarding the Port's commitment for up to \$16 million for capital improvements. Mr. Johnson noted this commitment was not problematic.

Mr. Johnson noted that the fourth issue dated to Mr. Lunetta's administration and was regarding settlement of a previous debt. This issue would be resolved by approval of the proposed agreement, Mr. Johnson noted.

Commissioner Heyman noted issues related to the proposed agreement were unusual.

In response to her question regarding Mr. Mazzella's recommendation that a guarantee be provided by the parent company involved with the proposed agreement, Assistant County Attorney Bass concurred that the best protection for the Port would be for the parent company, CMA, to be the guarantor. He added that CMA had refused to

be the guarantor and subsequently, the Port sought an irrevocable letter of credit in the amount of approximately \$30 million to serve as a bond backstopping CMA's performance and their payment obligations to the County in the event of a default. CMA was unwilling to provide this letter, he noted, but was willing to have Terminal Link (France) serve as the guarantor. Terminal Link (France) was one of CMA's subsidiaries and ultimately owned Terminal Link (Miami), he explained. Mr. Bass also noted that Port staff had received and evaluated documents regarding Terminal Link's financial strength; however, since Terminal Link was controlled by the parent company, its financial condition could vary from year to year. Therefore, he continued, section 42 of the proposed agreement included provisions regarding reporting certification requirements for Terminal Link regarding its financial health and solvency.

In response to Commissioner Heyman's questions regarding protection for the County in the event of a default, Assistant County Attorney Bass noted in the event of a default, and in the event the default was not addressed in a timely fashion by Terminal Link (Miami), the County would have the right to make a claim on the guarantor, Terminal Link (France). He added that if Terminal Link's net worth was insufficient to handle liabilities as applicable, the County would be at risk. Mr. Bass further explained that no guarantee from CMA existed that would backstop Terminal Link (France). He also explained that section 42 included provisions for a heightened guarantee in the event that problems arose regarding the certifications.

Mr. Bass noted he believed \$30 million for the letter of credit was calculated by Port staff based on CMA's potential liabilities to the County should CMA terminate the proposed agreement prematurely without cause. According to termination provisions, Mr. Bass explained, the amount owed to the County would be slightly less than \$30 million.

Commissioner Heyman expressed concern that CMA would not provide a guarantee and noted that perhaps the cost of reviewing the certifications should be included in the proposed agreement.

Chairman Rolle recognized Mr. Miguel

DeGrandy, representing Terminal Link, who noted that CMA was not refusing to provide a guarantee, but was providing a full guarantee. He also noted that in similar agreements, the contracting agency was usually not the parent company, but a wholly owned subsidiary.

In response to Mr. DeGrandy's comment regarding subsidiaries, Commissioner Heyman noted her concern regarding the subsidiary was that it was newly created.

In response to Commissioner Heyman's concerns regarding Mr. Mazzella's recommendation pertaining to valuation of land rents, Mr. Mazzella noted that the Port's current refrigeration revenue would no longer be available and therefore the difference between the revenue being eliminated and the current rent was not \$1.25, but \$1.00. He noted that perhaps the land rent should be increased in response to the increased land value. He noted he was not satisfied that the mechanism to determine values related to the land had been established.

In response to Commissioner Heyman's inquiry regarding the Mr. Mazzella's third recommendation regarding the \$16 million commitment for capital improvements, Mr. Mazzella noted that guarantees should be higher.

Discussion ensued regarding guarantees and cargo shifting.

Mr. Juan Kuryla, Assistant Director for Inter-Governmental Affairs, Port of Miami, noted new revenue going to the Port would be \$3.9 million, and guaranteed revenue would be \$12 million.

In response to Commissioner Heyman's inquiry regarding legal obligations to old agreements, Mr. Mazzella noted a side agreement gave credit to Maersk. He also noted that if the Commission approved the proposed agreement, approximately \$879,000 in arrears would be eliminated. Commissioner Heyman expressed concern and initiated discussion regarding this.

Mr. Johnson noted he would attempt to outline the issue to the best of his knowledge and asked staff to assist him. He noted that in 1993 the Port entered into an agreement which was not submitted for formal approval by the County

Commission until 1995. Maersk, Mr. Johnson further noted, indicated to Mr. Lunetta that the two year gap cost Maersk approximately \$1.2 million in terms of lost discount. In 1995, Mr. Johnson continued, Mr. Lunetta entered into a side letter signed by the committee of the Port regarding a \$1.2 million credit. He noted it was agreed Maersk would invoice the credit amount monthly and then receive a credit of 50%. Mr. Johnson noted that this practice stopped in 1997, but was, according to Mr. Mazzella's Office, uncorrected. Port staff was working with the County Attorney's Office, the Office of Strategic Business Management, Ms. Rachel Baum, Finance Department Director, and Ms. Cathy Jackson, Audit Management Services Director to resolve the issue, Mr. Johnson pointed out.

In response to Commissioner Heyman's concerns regarding guarantees and approval of the proposed agreement, Mr. Mazzella noted he was satisfied that guarantees were sufficiently identified in the proposed agreement and in his opinion, nothing in the proposed agreement excluded POMTOC from competition at the Seaport.

Mr. Johnson noted if the Commission did not approve the proposed agreement, the Port would lose over \$11,000 per day until September 30, 2008.

Mr. Johnson and Mr. Bass responded to Commissioner Sorenson's concerns regarding violations and rent payment.

Mr. Johnson noted he did not believe the proposed agreement violated any agreements with POMTOC.

Mr. Bass noted the current agreement with POMTOC allowed POMTOC to use approximately 113 acres for cargo terminal operation; cargo lines chose from available terminals, including POMTOC's terminal, and this practice would continue; that under the original agreement with Maersk, Maersk paid a blended rate; and that under the proposed agreement a square footage rate in addition to the box rate was a new concept.

In response to Commissioner Sorenson's concern regarding competition at the Port, Assistant County Manager Ysela Llort, noted that

competition was beneficial at the Port and in general; those concerned with how competition would impact them could address their concerns by becoming more competitive and improving their service.

Mr. Bass noted the proposed agreement provided additional options which fostered greater competition than currently existed.

Commissioner Sorenson spoke in support of the proposed agreement.

Chairman Rolle recognized Mr. Mike Abrams, Akerman Senterfitt, representing POMTOC.

Mr. Abrams noted that the proposed agreement was not appropriately vetted, that the agreement may not be a good business agreement, and that Mr. Mazzella's concerns had not been incorporated into the agreement. He asked what assurances existed that changes related to this agreement would be made. Mr. Abrams noted that a year earlier, the Commission directed members of the County Administration to develop an extension of POMTOC's lease and noted no meetings had been held with the Port Director, a meeting had been canceled, one meeting was held with the Assistant County Manager and that progress was not made in other meetings which were held. Mr. Abrams noted that the proposed agreement had serious implications for the viability of POMTOC. He noted if the agreement was approved today, he hoped to continue dialogue regarding issues related to the agreement.

In response to Commissioner Rolle's comment that this resolution was included in the agenda which he approved for today and was not an add-on item, Assistant County Manager Llort noted it was duly posted that this resolution would be considered today.

Vice Chairwoman Jordan asked staff to comment on a statement that staff had not responded to a directive to negotiate for an agreement with POMTOC.

Mr. Johnson referred to Stephen Erb of P&O Ports North America, which he noted was a 50% owner of POMTOC. Mr. Johnson noted that although he had asked Mr. Erb to identify POMTOC's negotiation team, Port staff currently

did not know who was on the team. Mr. Johnson also noted he had repeatedly asked Mr. Jorge Rovirosa of Florida Stevedoring, Inc. to work with him to develop an agreement.

There being no further questions or comments, the Committee proceeded to vote on the foregoing resolution.

4 CLERK OF THE BOARD

4A

081687 Report

CLERK'S SUMMARY MEETING MINUTES FOR MAY 14, 2008 TRANSIT COMMITTEE MEETING (Clerk of the Board)

Approved
Mover: Heyman
Seconder: Sorenson
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing report.

5 REPORTS

5A

081682 Report

MONTHLY REPORT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION ON THE PORT OF MIAMI TUNNEL (County Manager)

Report Received
Mover: Jordan
Seconder: Rolle
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing report.

5B

081683 Report

MONTHLY INVOICING AND DBE STATUS REPORT ON THE PROGRAM MANAGEMENT CONSULTANT (PMC) CONTRACT (County Manager)

Report Received
Mover: Jordan
Seconder: Rolle
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing report.

5C

081684 Report

MONTHLY ORANGE LINE UPDATE (County Manager)

Report Received
Mover: Jordan
Seconder: Rolle
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing report.

5D

081767 Report

INTERSECTION IMPROVEMENTS REPORT (County Manager)

Report Received
Mover: Jordan
Seconder: Rolle
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

There being no questions or comments, the Committee proceeded to vote on the foregoing report.

5E

081443 Report

INTERIM STATUS REPORT -RESOLUTION NO. R-302-08 -ORANGE LINE NEW STARTS APPLICATION REVIEW (County Manager)

Report Received
Mover: Jordan
Seconder: Heyman
Vote: 4-0
Absent: Edmonson

Report: *Assistant County Manager Gerald Sanchez read the foregoing report into the record.*

Ms. Isabel Gonzalez-Jettinghof of the Planning and Economics Group, Inc., noted she was part of the IMG financial team. She presented the Orange Line New Starts Application Review Interim Status Report Summary.

Chairman Rolle requested clarification as to what information Ms. Gonzalez-Jettinghof had not received from staff, Ms. Gonzalez-Jettinghof noted the financial plan had not yet been distributed and was the key document in the application for New Starts funds for the Orange Line/North Corridor Metrorail project.

Assistant County Manager Ysela Llort noted that the financial plan was not yet available and would be discussed at the June 17, 2008 Commission meeting. She noted another important element to be discussed on the 17th was whether the Commission felt it was important to increase fares to fill the gap in the current financial plan.

Assistant County Manager Llort noted for the record that this resolution was drafted at the request of Chairman Rolle, who asked Ms. Llort to indicate this in the resolution.

There being no further questions or comments, the Committee proceeded to vote on the foregoing report.

Vice Chairwoman Jordan asked Ms. Gonzalez-Jettinghof to include working dates for the Orange Line New Starts application in the foregoing report.

5F

081124 Report

Presented

DEPARTMENTAL BUDGET PRESENTATIONS (County Manager)

Report: *Ms. Ester Calas, Public Works Department (PWD) Director, noted she had made a departmental budget presentation before the Governmental Operations and Environment Committee meeting, and today's PWD budget presentation would focus on the People's Transportation Plan (PTP) portion of funding. Ms. Calas proceeded to make the presentation.*

In response to Chairman Rolle's inquiry as to why PWD was receiving less PTP funding, Assistant County Manager Ysela Llord noted in a letter from Mayor Alvarez to Commissioner Gimenez a proposition was made to redirect some funding from PWD to Miami-Dade Transit (MDT).

In response to Commissioner Sorenson's request for clarification regarding whether this shift in funding was related to policy direction from the County Commission, Assistant County Manager Llord noted the Commission adopted a resolution requesting that the funds be redirected in this way.

Commissioner Sorenson noted the result of redirecting the funds would be that approximately one half of PWD PTP projects would remain incomplete, which she noted would raise issues in Commission Districts.

Ms. Calas noted the general fund allocation for PWD was being reduced by 3% and the savings were related to electricity for the Light Emitting Diode (LED) project. She also noted that after reworking PWD estimates, the estimates were reduced, and PWD was short \$102 million. Ms. Calas further noted that the reduced estimates were a result of receiving more competition and that in the last several months, bids received were 20% to 30% lower.

In response to Commissioner Sorenson's inquiry regarding PWD reductions last year, Ms. Calas noted PWD staff was reviewing its figures, working with Office of Strategic Business Management, and may be able to make further

reductions this year.

Chairman Rolle asked Assistant County Manager Llord to submit to him a report on the amount of PTP funds redirected from the PWD to MDT to fund the Orange Line and outlining how the funds would be used.

Assistant County Manager Llord stated that the difference in estimates noted by Ms. Calas was not from estimates in the Surtax ordinance, but from previous estimates.

Ms. Calas concurred, noting that the estimates were from the last pro forma.

Chairman Rolle noted the Seaport Department's budget presentation was deferred.

082097 Report

JUNE 11, 2008 TRANSIT COMMITTEE NON-AGENDA
REPORT

Report: *Chairman Rolle asked Assistant County Attorney Gerald Sanchez to draft legislation addressing his concern that items considered and waived by committees after Tuesday of Committee week could be four-day-ruled, which created uncertainty regarding these items.*

6 ADJOURNMENT

Report: *There being no further business to come before the Committee, the meeting was adjourned at 4:49 p.m.*