




MEMORANDUM

Date: December 14, 2023

To: Honorable Mayor and Commissioners

Via: Albert P. Childress
City Manager 

From: Todd Stoughton
Assistant City Manager

Subject: **Resolution Rescinding the Lease and Lease amendment of the Duval Pocket Park Located at 1400 Duval Street**

Introduction

In 2018, the City of Key West entered into an agreement with the Southernmost House, LTD, converting the 1400 block of Duval Street from a parking lot to a pocket park in which the lessee would conduct the daily cleaning.

Background

In 2018, The City of Key West entered into a Development Plan, Conditional Use, and Lease with Southernmost House, LTD by and through Michael Halpern to convert the 1400 block of Duval Street that formerly contained angled asphalt parking and a dumpster into a raised pocket park that is paved with brick pavers, along with raised planters, benches, and public art. The area was to contain 2 consumption areas to be used as a "sidewalk café". In exchange for spending over \$800,000.00 on development costs, the Lessee was entitled to have 115 seats in the park as a sidewalk cafe. There was a provision for percentage rent to be paid to the city from the sidewalk café but due to environmental reasons explained herein, the sidewalk café was never launched. It was known to all parties that the constant issues of sargassum seaweed and seawater flooding from the ocean would be formidable ones to contend with. Lessee subsequently agreed to install a seaweed barrier immediately offshore to help combat the issue of seaweed, but Hurricane Ian destroyed the barrier in 2022. Compliance with the terms of the lease from a maintenance perspective has become problematic to the point of impossibility without substantial equipment and resources not available to the Lessee.

In December 2022, the city and Lessee approved a lease amendment that recognized the costs of developing the park as legal consideration for the transfer of the 115 seats from the park into the adjacent Seaside Café at the Mansion owned by Mr. Halpern. The city owns or has contracted with providers to clean and maintain its beaches and is in a better posture keep the park clean.

There is also a conditional use associated with the park's development that I anticipate will likewise be rescinded after the December 12th Planning Board meeting.

An internal meeting was held with the Code Compliance Department, Community Services, City Attorney's Office, and City Manager's Office on November 14, 2023, to discuss the status of the park and how it could be maintained. During that discussion, it was decided that the best course of action was to take full control over the parks to ensure continuous maintenance. The Lessee was contacted after that meeting and he was in full agreement to return the park to the City. The park is located in one of the most visit areas of the City by visitors.

Financial Impact:

This proposal will not impact procurement, but passage will return the financial burden of cleaning and maintaining the area back to the City the way it had been for the years prior to 2018. Community Services manages the contracts for beach cleaning for Smathers and Rest Beach and will include the cleanup of the Duval Street Pocket Park in next year's budget.

Recommendation

The City Manager's Office recommends the Mayor and Commission approve rescinding the lease and lease amendment of the Duval Pocket Park.