

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 21, 2009

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: letter of approved changes to Concessionaire Service Agreement with Tennis Insights, Inc. (R2008-1867), amending the hours of operation and allowing the installation of park signage directly related to Tennis Insights, Inc.'s operations at South County Regional Park.

Summary: The Parks and Recreation Department entered into a Concessionaire Service Agreement on October 21, 2008, with Tennis Insights, Inc. for the purpose of operating the Tennis and Racquetball Center at South County Regional Park. Tennis Insights requested changes to said Agreement, and the Parks and Recreation Department, in accordance with the terms of the Agreement, approved certain changes. The approved changes include changing the hours of operation to be consistent with competing facilities, changes to holiday hours, and allowing the installation of park signage related to the operations of Tennis Insights, Inc. District 5 (AH).

Background and Policy Issues: The Parks and Recreation Department entered into a Concessionaire Service Agreement with Tennis Insights for the operation of a Tennis and Racquetball Center at South County Regional Park. The Concessionaire Service Agreement provides upon written approval by the Parks and Recreation Department, minor changes may be approved, including changing the hours of operations and placing signage in the leased area. The approved changes in the hours of operation include Monday –Wednesday, 7:30 a.m. -10:00 p.m.; Thursday –Friday 7:30 a.m. - 8:00 p.m.; Saturday –Sunday 7:30 a.m. - 6:00 p.m., and reduced holiday hours upon approval. The changes in hours of operation and for holidays will allow cost savings to Tennis Insights while reducing hours during times currently not used by patrons. Requested park signage will be at Tennis Insights' expense and will be approved on an individual basis. Tennis Insights requested new signage for purposes of directions, to entice new customers visiting South County Regional Park and to be equal in number of signs to other facilities located within the park. Such changes were approved in writing via a letter to Tennis Insights, which is now being presented to the Board to receive and file.

Attachments:

1. Tennis Insights, Inc. Letter of Requested Changes
2. Department Letter of Approved Changes

Recommended by:


Department Director

6/29/09
Date

Approved by:


Assistant County Administrator

7/13/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No _____
Budget Account No.: Fund _____ Department _____ Unit _____
Object _____ Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

OFMB 7/8/09
7/6/09 07/02/09 CN 7/1/09

Contract Development and Control 7/9/09
6/26/09 7/8/09

B. Legal Sufficiency:

Anne Delgant 7/10/09
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/2003
ADM FORM 01

This summary is not to be used as a basis for payment

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March 9, 2009

FROM: Peter Davis, Tennis Insights, Inc.

TO: Palm Beach County Parks and Recreation Department
Palm Beach County Property and Real Estate Management

RE: Operation of Tennis Facility at South County Regional Park

To Whom It May Concern,

As you may know, tennis/golf/recreational facilities in our area are cutting back on staff, raising prices, and reducing services in an effort to remain financially viable in these difficult economic times. Like many industries, tennis has seen a steady erosion of customers. Those customers who remain cannot or choose not to spend as much on leisure activities as they have in better economic times. Falling revenues have impacted nearly every segment of our economy, and I am aware that county administrators have likewise been forced to make tough budget decisions about staffing departments, improvements, and providing services. And while states, counties, municipalities, and big businesses may appeal for relief from taxpayers and stimulus plans, no such relief is forthcoming for my small business. To the contrary, if trends continue as they have over the last several years, small businesses will be shouldered with higher taxes, more regulation, and greater burdens.

To be specific, Tennis Insights has not made a monthly profit in over a year because of this difficult economy, but also because of a highly competitive local tennis market, and because prior to November 2008 there was so much doubt and rumor about the future management of the facility. As I warned would happen starting in Summer 2007, the unresolved contract situation at this facility going into Spring 2008 caused all those ladies who might have re-signed onto one of our teams for the following year to join teams elsewhere. We will spend at least a few years trying to recapture those lost customers and that lost income. In the meantime, despite having tightened our belts in every conceivable way, our monthly costs and overhead continue to outweigh our income. In the last year, I have personally maintained Tennis Insights' ability to pay our staff and employees, vendors, utilities, taxes, insurance, etc., by loaning the business nearly \$80,000.00 from savings.

In the midst of these challenges, a new contract for management of the tennis facility was written with some rather onerous new terms. Admittedly, I signed that new contract with the expectation that Tennis Insights could rebound, just as I expected the economy to rebound. A recent letter from a gentleman, perhaps a Palm Beach County resident, was forwarded to my attention and gave me occasion to refresh my memory on certain, key terms of that contract. In the spirit of cooperation, common sense, and basic fairness, I want to

point out various fundamentally unfair aspects of the agreement between Palm Beach County and Tennis Insights with the hope that interested parties can come to a more equitable arrangement, one which will allow Tennis Insights not only an opportunity to survive as a business, but to improve and enhance its services to the public. Further, I will make targeted recommendations for specific changes to the current agreement.

Thank you in advance for your thoughtful consideration.

Items At Issue/Potential Changes (in order of highest priority):

1. **Courtesy Courts:** Tennis Insights is obligated to provide at all times three tennis courts free of charge to non-permit holders. This policy is a direct disincentive to purchase a permit or to spend money at the facility in general because it creates the attitude among some that the County is subsidizing the operating expenses of the facility. That attitude leads to vandalism, abuse, confusion, and resentment. **Solution:** Make the public aware that every other tennis court in the County Park system is free of charge, but that this facility, being run by a full-time, professional management company, requires participants to pay a small user fee, similar to every other managed municipal facility in the area, each of which is subsidized by their respective municipality, i.e. Patch Reef Park Tennis. This change would greatly enhance Tennis Insights' ability to manage expenses, return to profitability, and would not diminish the public's access to and enjoyment of the tennis facility.

2. **Hours of Operation:** The new contract states that the facility's hours of operation are 6:30am to 10:00pm, seven days per week. Like most businesses and facilities, this one has prime times, slow times, and completely dead times, based on the usage patterns and habits of the public and our customers. To be frank, nobody plays tennis before 8:00am except senior citizens, who play on clay courts inside their private communities. Nighttime play on Saturday and Sunday are unheard of except for special events. Late-night play might occur twice a week at a typical public tennis facility, while many private tennis clubs do not even offer night play. South County Regional Park is a very quiet place after dark, possibly due in part to posted signs which read, "Hours of Operation: Sunrise to Sunset" (smaller signs read "except for lighted athletic facilities"). **Solution:** Hours of operation at the tennis facility should be from 7:30am to 10:00pm Monday through Wednesday; 7:30am to 8:00pm on Thursday and Friday; and from 7:30am to 6:00pm Saturday and Sunday, with the option to stay open later for special events. The most comparable facility to ours is Patch Reef Park, whose hours are:

Monday - Thursday	7:30 am - 10:00 pm
Friday	7:30 am - 9:00 pm
Saturday	7:30 am - 6:00 pm
Sunday	7:30 am - 5:00 pm

This change will greatly enhance Tennis Insights' ability to manage expenses and return to profitability, and better focus its resources on customer service and quality programming.

Also, it is simple common sense that no person needs to be on duty at the tennis courts at times when no players are active.

3. **Electric Bill:** Tennis Insights pays Florida Power and Light between \$1500.00 and \$2000.00 per month for electricity for the pro shop interior and exterior, for tennis court lights, for walkway lights located around the facility, for the racquetball lights, and for parking lot lights going all the way to the STOP sign on Park Access Rd. Tennis Insights has no issue with paying a phone bill, cable bill, or Internet access bill since all of those services we purchase directly for the operation of our business. We do, however, consider it unfair that we are paying to power walkway and parking lot lights that stay lighted throughout the night, when the park is closed and we obviously have no opportunity to run our business. Likewise, since the ON/OFF switches for the racquetball courts are located next to those courts themselves rather than inside the pro shop, we cannot prevent a kid on a skateboard from rolling by and turning on twelve bays of lights—that's 24,000 watts of wasted and expensive energy for which Tennis Insights must pay. Needless to say, this arrangement is grossly unfair. **Solution:** The County should ask its electrical engineers and/or FPL to assign to circuit boxes and electrical meters those lights that Tennis Insights uses directly for tennis operations separate from those lights more generally provided for safety, parking, and public, non-tennis use. This change would greatly enhance Tennis Insights' ability to manage expenses, return to profitability, and better focus its resources on customer service and quality programming.

4. **Monthly Lease Payment:** While the typical public tennis facility receives financial support from its municipality in the forms of retainers for the director, salaries for key support personnel, assumption of 100% of utility and repair expenses, Palm Beach County asks the vendor, Tennis Insights, to shoulder those expenses, while at the same time asking the vendor to pay a hefty monthly leasing fee for the pleasure. This is a blatantly lopsided arrangement, completely out of the norm for municipal tennis operations. **Solution:** Palm Beach County should reduce the monthly lease payment requirement to a nominal fee of \$100.00 per month, in line with the previous contract. This change would greatly enhance Tennis Insights' ability to manage expenses, return to profitability, and better focus its resources on customer service and quality programming.

5. **Holidays:** The new contract states that the facility will remain open 365 days a year. Since, historically, we have received no complaints from the public when we closed early on holidays, and since everyone deserves a little time off of work to celebrate major holidays, staying open for the full day on Christmas Eve, Christmas Day, New Year's Day, and Easter is not necessary. **Solution:** The tennis facility will post reduced holiday hours of operation for the holidays mentioned above.

6. **Signage:** As I have illustrated in previous discussions, the County's posture toward Tennis Insights' requests to post signage in and around South County Regional Park has been one of resistance. Given the numerous signs inside and outside the park featuring both the Water Park and Nature Center, putting up a few signs promoting the tennis facility seems like

a modest and reasonable request. In eleven years, the County granted Tennis Insights one such request, which allowed me to pay for one attractive blue sign to be posted at the front of the parking area, literally on top of the tennis courts. **Solution:** The County should allow the tennis facility to post, at Tennis Insights' expense, signage 100% equal to that of the Water Park and Nature Center inside the park, and 50% equal to that of the Water Park and Nature Center outside the park. This change would greatly enhance the tennis facility's visibility and would attract more participants to the facility.

Taken individually, each of these items—all favorable to the County--warrants consideration for change, but taken in combination, these terms create a set of conditions that is, frankly, hostile and detrimental to the business efforts of the vendor. For example, asking us to assume so many operating expenses, while simultaneously insisting that we provide free access and services to the public, puts Tennis Insights in an almost impossible position. If the County cannot accept that Tennis Insights is a business, and that we have to make money in order to continue providing services, programming, a full-time presence, and cannot similarly create conditions that allow us a fighting chance to survive economically, then it will have killed the Golden Goose. I do not assume that the authors of the current contract have intentionally set out to extract the maximum amount of fees from Tennis Insights, to shoulder us with so much of the facilities operating expenses, and insist that we provide free services to the public simply because they are merely shrewd business minds with no thought or consideration for their partner/vendors. Rather, I assume that they have fashioned the contract as such because they do not fully understand how independently contracted tennis operations (as opposed to municipally-funded operations) function.

I would like to request a meeting as soon as possible with the appropriate individuals from PREM and/or Parks and Recreation so that we might discuss these issues in more detail and to arrive at a more equitable arrangement. Thank you very much.

Peter Davis



Department of
Parks and Recreation
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Official Electronic Letterhead

May 14, 2009

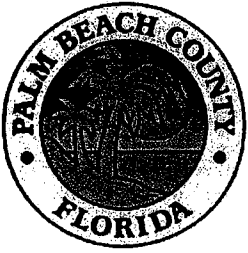
Mr. Peter Davis
President
Tennis Insights, Inc.
11341 Woodchuck Lane
Boca Raton, FL 33428

Dear Mr. Davis,

The Palm Beach County Parks and Recreation Department has reviewed your letter of requested changes to the South County Regional Park Tennis Center Lease Contract. Since the contract was competitively bid, the County cannot make any changes that would give you, the concessionaire, an unfair competitive advantage. However, most of the changes requested are addressed in the contract, and section 4.02(o) of the contract does allow for minor changes to be approved by the Department.

After much consideration and consultation with the County Attorney's office, the Department has the authority to approve the following without creating an unfair competitive advantage:

- **Hours of Operation:** Section 4.02(b) provides for changes to be effective upon written approval by the Department. Your requested change in the hours of operation is approved. The hours of operation at the tennis facility can now be: Monday – Wednesday, 7:30 a.m. – 10:00 p.m.; Thursday – Friday, 7:30 a.m. – 8:00 p.m.; and Saturday – Sunday, 7:30 a.m. – 6:00 p.m, upon proper notification to the public.
- **Holidays:** Section 4.02(b) provides for changes to be effective upon written approval by the Department. Your requested change in the holiday hours are approved. You can post reduced holiday hours of operation at the tennis facility for Christmas Eve, Christmas Day, New Years Day and Easter, upon final approval by the Department.
- **Signage:** All park signage is approved by the Department. You may post, at concessionaire's expense, signage inside and outside the park, pending the approval of each sign specifications and location by the Department. Please forward sign specification and location information for final approval to the Department.



The Department continues to investigate the electricity charges associated with the tennis center operations. Outlined changes contained in your request are considered a substantial change that creates an unfair competitive advantage; however, alternatives to the current situation will continue to be considered.

All other items contained within your request are not approved because each is considered a material change providing an unfair competitive advantage to you, the concessionaire.

The County appreciates your service and dedication to South County Regional Tennis Center and looks forward to our continued partnership providing tennis services, in accordance with the lease contract.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kimberly McNeeley".

Kimberly McNeeley
Director of Recreation Services

CC: Eric Call, Assistant Director of Parks and Recreation
Cliff Battles, Athletic Project Coordinator