MIAMIBEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
November 5, 2008

Mayor Matti Herrera Bower
Vice-Mayor Jonah Wolfson
Commissioner Saul Gross
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Deede Weithorn
Commissioner Vacant Seat Group III

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

*Visit us at **www.miamibeachfl.gov** for agendas and video "streaming" of City Commission Meetings.*

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

Times based on the digital recording in the City Clerk's Office.

PA1 Certificate of Appreciation, "At Your Service Award" Winners, September & October 2008
PA2 Cert. of Recognition; Miami Beach Hispanic Heritage Festival 2008 Winners. (Bower)
PA3 Cert. of Recognition, R. Ovadia & M. Hughes, Old City Hall Contributions. (Bower)
PA4 Cert. of Recognition to Businesses for Contributions to Old City Hall Contributions. (Bower)
PA5 Recognition, Parks & Recreation Department, For Various Accomplishments.

C2A Issue RFP, Implement Call Center for Building Department.
C2B Issue RFQ, Sunset Islands I & II Neighborhood ROW Stormwater Infrastructure Project.
C2C Award Contracts, Oracle Elevator Co., & Eastern Elevators Service, ITB 30-07/08.

C4A Ref: Neighborhoods/Community Affairs Comm., Free Public Parking for Electric Cars. (Tobin)
C4B Ref: Land Use & Dev. Committee, Use of Flamingo Park, Minor League Baseball. (Wolfson)
C4C Ref: Land Use & Dev. Committee, Artists' Presentations At The Palace Food Bar. (Wolfson)
C4D Ref: Land Use & Dev. Committee, Discuss Amendment, So. of 5th Accessory Use. (Wolfson)
C4E Ref: Board of Adjustment, Application of Hardship Standard, Use Variances. (Wolfson)
C4F Ref: Finance & Citywide Projects Committee, City's Management Agmt w/ Live Nation.
C4G Ref: Neighborhoods/Community Affairs Committee, Consider Wendy Wischer's Art Project.

C6A Report: Capital Improvement Projects Oversight Committee Meeting on October 6, 2008.
C6B Report: Finance & Citywide Projects Committee Meeting Of September 16, 2008. **SM**
C6C Report: Finance & Citywide Projects Committee Meeting of October 21, 2008. **SM**
C6D Report: Neighborhoods/Community Affairs Committee Meeting of October 22, 2008. **SM**

C7A Submit Various Grant Funding Requests.
C7B Execute Amendment to South Pointe Park PSA w/ Hargreaves Associates, Inc.
C7C Execute Agmt w/ Raymond Jungles, Inc, for Services for Miami Beach Botanical Gardens.
C7D Amend Normandy Shores Neighborhood Project BODR, Authorize Monument Sign Removal.
C7E Execute One-Time Assignment of Agmt w/ MBCDC: The Allen, LLC, 2001 Washington Ave.
C7F Set Public Hearing, Designation of Flamingo Park Historic District Westward Expansion.
C7G Approve Preconstruction Application, Historic Ad Valorem Tax Exemption, 2312 Bay Avenue.
C7H Execute Agmt w/ MBPD & FSU Board of Trustees for Volunteer Student Internship Program.
C7I Approve Memo of Agmt w/ FDOT, 41st FDOT Pedestrian Corridor Improvement Project.
C7J Appropriate Funds for PTP Administrative & Technical Operating Expenditures.
C7K Approve Upgrade of Yearly Maintenance Agreement for GIS Software from ESRI.

R5A **1:20 p.m. 2nd Rdg** Amend Code, Street Performers & Art Vendors on Lincoln Rd & Ocean. **SM**
R5B **1:15 p.m. 2nd Rdg** Amend Code, Naming of Public Facilities, Monuments Or Memorials.
R5C **1st Rdg** , Create Article Code, Unmanned Cameras/Monitoring Devices, Red Light Violations.

R7A **Joint,** Set Dates for the Year 2009 Commission Meetings.
R7B Approve Mngmt Agmt w/ Boys & Girls Clubs of MDC, Flamingo Park Facility Operation. **5/7 SM**
R7C **W- 1st Rdg,** Approve Lease Agmt w/ Colony Theatre Café, Inc, Segafredo's, RFP 19-07/08.

R9A Board & Committee Appointments.
R9A1 Board & Committee Appointments – City Commission Appointments. **SM**
R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9C Discuss Resolution, Amend Statute 718.116, Condominium Foreclosures. (Libbin)
R9D **5:00 p.m.** Status Update Re: Prairie Avenue Mitigation Measures. (Gross)

R10A Notice of Attorney-Client Session: Frank Otero & Jeffrey Gibbs VS. CMB.
R10B Notice of Attorney-Client Session: 10 Palm, LLC. & Villazo, LLC, VS. CMB.

A City Attorney's Status Report.
B Parking Status Report, August 2008.
C Status Report: Rehabilitation & Construction of the New Fire Station No. 2.
D Status Report: Construction of Normandy Shores Golf Course & Facilities.
E Status Report: Palm & Hibiscus Island Undergrounding Project.
F Informational Report: Federal, State, M-DC, U.S. Communities & All Existing City Contracts.

REDEVELOPMENT AGENCY ITEMS

1A **Joint,** Set Dates for the Year 2009 RDA Meetings.

Meeting called to order at 1:22:32 p.m.

Invocation given by Reverend Dr. Garth Thompson, from the Miami Beach Community Church.

Pledge of Allegiance led by Russell Galbut.

SUPPLEMENTAL MATERIALS:
C6B (Report Corrections), C6C (Report Corrections), C6D (Report Corrections), R5A (Revised Ordinance and Potential Artist Vending Street Performing Zones), R7B (Exhibit A, Insurance Requirements and Management Agreement Amendments), R9A1 (Letter from Steven Hass, VCA Appointment Recommendations).

1:35:45 p.m.
Step 1:
Jose Smith, City Attorney, read the following into the record:
Pursuant to Section 286.011(8), Florida Statutes, as City Attorney, I hereby advise the Mayor and City Commission that I desire advice concerning the following pending litigation matters:

1. Frank Otero and Jeffrey Gibbs v. City of Miami Beach, Florida, La Gorce Country Club, Inc. and DM Fence Corporation. Eleventh Judicial Circuit Court, Case No. 05-17754 CA 30-FERNANDEZ,

and

2. 10 Palm, LLC, a Florida Limited Liability Co. and Villazzo, LLC, Florida Limited Liability Co. v. City of Miami Beach U.S. District Court, Southern District of Florida, Case No.: 07-22752-CIV-Lenard/Torres

Therefore, private Attorney-Client Sessions will be held during the recess of the City Commission in the City Manager's large conference room, fourth floor, City Hall, to discuss settlement negotiations and/or strategy related to litigation expenditures with regard to the above-referenced litigation matters. The Mayor will announce the commencement of the Attorney-Client sessions prior to recessing the Commission meeting.
End

4:02:18 p.m.
Step 2
Mayor Bower read the following into the record:

The Attorney-Client Sessions shall commence and will be held between 4:00 p.m., and 5:00 p.m., in the City Manager's large conference room. The persons attending the Attorney-Client Sessions are as follows: Mayor Matti Herrera Bower; Members of the City Commission: Saul Gross, Jerry Libbin, Ed Tobin, Deede Weithorn and Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, and Special Counsel Jean Olin, regarding the following case:

Frank Otero and Jeffrey Gibbs v. City of Miami Beach, Florida, La Gorce Country Club, Inc. and DM Fence Corporation. Eleventh Judicial Circuit Court, Case No. 05-17754 CA 30-FERNANDEZ;

and,

Mayor Matti Herrera Bower, Members of the City Commission: Saul Gross, Jerry Libbin, Ed Tobin, Deede Weithorn, and Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Debora Turner and First Assistant City Attorney Gary Held, regarding the following case:

10 Palm, LLC, a Florida Limited Liability Co. and Villazzo, LLC, Florida Limited Liability Co. v. City of Miami Beach U.S. District Court, Southern District of Florida, Case No. 07-22752-CIV-Lenard/Torres
End

5:18:32 p.m.
Step 3
Jose Smith, City Attorney, read the following into the record:

The City Commission meeting is hereby re-opened.
The Attorney-Client session announced at the beginning of the recess has terminated.
End

Presentations and Awards

PA1 Certificate Of Appreciation Presented To The September 2008 And October 2008 Employees Of The Month "At Your Service Award" Winners.
(City Manager's Office)

ACTION: Certificates will be presented at the December 10th Commission Meeting.

PA2 Certificates Of Recognition To Be Presented To Moises Bakery, First Place, Tamarind Thai Restaurant; Second Place. And Juices And Bites; Third Place For Best Empanada In North Beach Contest City Of Miami Beach Hispanic Heritage Festival In 2008.
(Requested by Mayor Matti Herrera Bower)

ACTION: Certificates will be presented at the December 10th Commission Meeting.

PA3 Certificates Of Recognition To Be Presented To: Rachael Ovadia And Michael Hughes Of The Washington Avenue Neighborhood Association For Their Efforts And Contribution To The Old City Hall Ribbon Cutting Ceremony On October 22, 2008.
(Requested by Mayor Matti Herrera Bower)

ACTION: Certificates will be presented at the December 10th Commission Meeting.

PA4 Certificates Of Recognition To Be Presented To: Pepper's Burrito Grill, Mattarello Bakery Café, Fratelli La Bufala, Moshi Moshi And Cavas Wine Bar For Their Efforts And Contribution To The Old City Hall Ribbon Cutting Ceremony On October 22, 2008.
(Requested by Mayor Matti Herrera Bower)

ACTION: Certificates will be presented at the December 10th Commission Meeting.

PA5 Recognition Of The Parks And Recreation Department For The Following Accomplishments: 1) For Receiving National Accreditation from the Commission for Accreditation of Park & Recreation Agencies (CAPRA); 2) For Receiving The 2008 Agency Excellence Award By The Florida Recreation and Parks Association (FRPA); 3) Recreation Review Magazine Received The 2007 Media Excellence Award And The Silver Circle In 2008; And 4) Presentation Of A Plaque To The Mayor And City Commission, For The Success Of The Surf Camp For Children With Autism Spectrum Disorders And Media Attention Received Nationwide.
(Parks & Recreation Department)

ACTION: Item deferred to the December 10th Commission Meeting.

CONSENT AGENDA

ACTION: Motion made by Commissioner Weithorn to approve the Consent Agenda; seconded by Commissioner Libbin; Voice vote: 6-0.

C2 - Competitive Bid Reports

C2A Request For Approval To Issue A Request For Proposals (RFP) For The Implementation Of A Call Center For The Building Department.
(Building Department)

ACTION: Request authorized. Gus Lopez to issue the RFP. Alex Rey to handle.

C2B Request For Approval To Issue A Request For Qualifications (RFQ) For Re-Design, Bid And Award, And Construction Management Services For The Sunset Islands I & II Neighborhood Right-Of-Way Improvement Project, To Include Additional Stormwater Infrastructure.
(Capital Improvement Projects)

ACTION: Request authorized. Gus Lopez to issue the RFQ. Jorge Chartrand to handle.

C2C Request For Approval To Award Contracts To Oracle Elevator Company And Eastern Elevators Service, The Lowest And Best Bidders Per Location, Pursuant To Invitation To Bid (ITB) No. 30-07/08 For The Citywide Maintenance Of Elevators, In The Estimated Annual Amount Of $40,560**.**
(Public Works)

ACTION: Request authorized. Fred Beckmann to handle.

C4 - Commission Committee Assignments

C4A Referral To The Neighborhoods/Community Affairs Committee To Discuss Free Public Parking For Electric Cars.
(Requested by Commissioner Tobin)

ACTION: Referred. Randi MacBride to place on the committee agenda. Saul Frances and Patricia Walker to handle.

C4B Referral To The Land Use And Development Committee To Discuss How To Best Utilize Flamingo Park, Including The Possibility Of Minor League Baseball.
(Requested by Vice-Mayor Wolfson)

ACTION: Referred. Jorge Gomez to place on the committee agenda. Kevin Smith to handle.

C4C Referral To The Land Use & Development Committee To Discuss The Performance Artists' Presentations At The Palace Food Bar, Located At 1200 Ocean Drive.
(Requested by Vice-Mayor Wolfson)

ACTION: Referred. Jorge Gomez to place on the committee agenda and to handle.

C4D Referral To The Land Use & Development Committee To Discuss The Attached Proposed Draft Amendment To The South Of Fifth Accessory Use Ordinance Enacted March 12, 2008.
(Requested by Vice-Mayor Wolfson)

ACTION: Referred. Jorge Gomez to place on the committee agenda and to handle.

C4E Referral To The Board Of Adjustment To Discuss Their Application Of The Hardship Standard And Use Variances.
(Requested by Vice-Mayor Wolfson)

ACTION: Referred. Jorge Gomez to place on the committee agenda and to handle.

C4F Referral To The Finance And Citywide Projects Committee A Discussion Regarding Requested Amendments To The City's Management Agreement With Live Nation For The Management And Operation Of The Fillmore Miami Beach At The Jackie Gleason Theater.
(Tourism & Cultural Development)

ACTION: Referred. Patricia Walker to place on the committee agenda. Max Sklar to handle.

C4G Referral To The Neighborhoods/Community Affairs Committee Consideration Of A Public Art Project By The Artist Wendy Wischer To Be Commissioned For Placement In The Third Street And Washington Avenue Plaza, As Recommended By The Art In Public Places Committee.
(Tourism & Cultural Development)

ACTION: Referred. Randi MacBride to place on the committee agenda. Max Sklar to handle

C6 - Commission Committee Reports

C6A Report Of The Capital Improvement Projects Oversight Committee Meeting On October 6, 2008: **1)** Old Business (South Pointe Master Booster Pump Station; Sunset Islands I & II); **2)** Status Report: Normandy Shores Golf Course **3)** Item Referred To CIPOC From September 10, 2008 City Commission Meeting: "Discussion Regarding The Status Of CIP-Related Lighting, Landscaping And Sidewalks In The 1300-1700 Blocks Of Marseille Drive And Calais Drive"; **4)** Additional Item: 44th Street And Royal Palm Avenue Drainage; **5)** Emergency Item: Flooding Conditions In Normandy Shores As Related To Construction.

ACTION:

Item No. 1:
SOUTH POINTE MASTER BOOSTER PUMP STATION
Dwight Kraai presented a written statement based on his investigation of the need for the Master Booster Pump Station at South Pointe. He concluded that there is no immediate need to build the station. **Mr. Kraai** recommends an additional study be made into the actual need for this pump station.

SUNSET ISLANDS I & II
William Goldsmith, 1820 West 25th Street, requested a time-date for a RFQ for the A/E for the Sunset Island I & II. He wants to see that the RFQ contains all the elements for needed repairs that he had requested.

City Clerk's note: See November 5, 2008, Agenda item C2B

Item No. 2:
STATUS REPORT: NORMANDY SHORES GOLF COURSE
A copy of the LTC on the subject was presented in the agenda packet. The item was also discussed in part within the discussion on the Normandy Shores neighborhood project

Item No. 3:
MOTION: To recommend to the City Commission to approve the revised plan to include the additional 32 acorn lights and pavers at the crosswalks. MOVED: Stacy Kilroy 2nd: Fred Karlton PASSED: Unanimous (Rick Kendle recused himself)

STAFF ACTION: Bring final revised plan with formal pricing back to Committee. (Mr. Chartrand added that Mr. Veitia will also be kept apprised of the progress as the plans are finalized).

Item No. 4:
STAFF ACTION: Upon formation of a relevant sub-committee on this matter, Public Works will provide the GIS maps that demonstrate the maintenance.

MOTION ON FORMATION OF SUB-COMMITTEE: Formation of subcommittee to address flooding issues throughout the City and a comprehensive plan to address them, including technical evaluation of areas outside of priority basins. This sub-committee will review current criteria and procedures and will make recommendations for improvements. MOVED: Israel Magrisso 2nd : Fred Karlton, PASSED: Unanimous

Item No. 5:
STAFF ACTION: Meet with Normandy Shores HOA to address flooding issues and present timeline. (Meeting scheduled for October 13 at Normandy Pool). Additional meetings are to be held on a monthly

basis (where applicable) to update residents.

STAFF ACTION: Send regular communication to residents through the HOA on project progress.

STAFF ACTION: In addition to providing updates to Committee on the Normandy Shores Golf Course, also provide updates on the Normandy Shores Neighborhood project.

Supplemental Material – Report Corrections

C6B Report Of The Finance And Citywide Projects Committee Meeting Of September 16, 2008: **1)** Discussion Regarding Sunset Islands 1 & 2 Flooding, Drainage, Capital Improvements And Nautilus Neighborhood Flooding Remediation; **2)** Discussion On CWA Local 3178's Request To Include A Drop Plan In Their Collective Bargaining Agreement; **3)** Discussion Of Water, Sewer And Stormwater Rates For FY 2009; **4)** Discussion Of The Capital Renewal And Replacement Fund Budget And **5)** Emergency Discussion Of The South Pointe Master Wastewater Booster Pump Station And The South Pointe Phase II Streetscape Improvements.

ACTION: City Clerk's note: Report amended via Supplemental Agenda Materials

Amendments:
1 of 1
C6B Correction of minutes (Paragraph 6, Page 103)
Chairman Gross stated that the disadvantage of rejecting all bids **and then re-bidding the same job ~~is~~ is that it ~~will~~ might** discourage ~~**competition and that the contractors will not bid again.**~~ contractors from responding to future bids,. He then asked the Committee as to their expectation if the project goes out to bid again.
End

Item No. 1:

Motion made by Commissioner Weithorn, and seconded by Commissioner Tobin, to draft an RFQ for design and engineering not to exceed $90,000 and to present it to Bill Goldsmith for review and input.

City Clerk's note: See November 5, 2008, Agenda item C2B

Item No.2:
Motion made by Commissioner Weithorn and seconded by Chairman Gross to amend the Pension Ordinance to include a Deferred Retirement Option Plan (DROP) for all members of the Miami Beach Employee Retirement Plan. Commissioner Tobin voted against the motion. **Ramiro Inguanzo to handle.**

Item No. 3:
No action was taken or required. Item was discussed for information purposes only.

Item No. 4:
No action was taken or required**.** Item was discussed for information purposes only.

Item No. 5:
Emergency motion made by Commissioner Tobin and seconded by Commissioner Weithorn to add to the agenda a discussion regarding the rejection of all bids by the Capital Improvement Projects Oversight Committee (CIPOC) for the South Pointe Phase II Streetscape Improvements.

City Clerk's note: See action taken on September 17, 2008 Agenda item R9A and November 5, 2008, Agenda item C2B

Handout or Reference Materials:
1. Correction of minutes (paragraph 6, Page 103) submitted by Commissioner Gross and distributed at the dais.
2. Handwritten corrections made by Commissioner Saul Gross, Agenda Page 103.

Supplemental Material – Report Corrections

C6C Report Of The Finance & Citywide Projects Committee Meeting Of October 21, 2008: **1)** Discussion Of A Management Agreement With The Boys & Girls Club For A Youth Facility At Flamingo Park; **2)** Discussion Regarding Lease Space Availability In Historic Old City Hall And **3)** Discussion Referring The Matter Of Selecting Holiday Decorations For A Not To Exceed Amount Of $125,000.

ACTION: City Clerk's note: Report amended via Supplemental Agenda Materials

Amendments:

1 of 6

C6C Correction of minutes (Paragraph 3, Page 106)

Chairman Gross then inquired as to **whether** ~~**the review of the agreement by**~~ the legal department~~.~~ **had reviewed the Management Agreement and had concluded that it was not a lease of public land which would require a referendum.** City Attorney Jose Smith stated that it's been reviewed by him and Deputy City Attorney Raul Aguila, and that it is comparable to the Unidad agreement which provides for classic ~~**governmental**~~ **management** activities.

*****City Clerk's note: Amended at Afteraction Meeting: management should be changed to governmental and activities should be changed to services.**

2 of 6

C6C Correction of minutes (Paragraph 5, Page 107)

Chairman Gross inquired as to who would occupy the top floors. Ms. Fernandez responded by stating that the Special Investigations Unit will occupy the Eighth floor. Chairman Gross **felt the City was occupying too much space and that an analysis should be done to see if more space could be rented for private business, both to generate revenue to the City and to bring more business to Washington Avenue. ..**

3 of 6

C6C Correction of minutes (Paragraph 6, Page 107)

He then inquired as to how rental fees would be determined and if a market survey has been done. Asset Manager Ana Cecilia Velasco stated that comparables have been done and that research indicates that the average office rental rate per sq. ft. is $34 and that the average **retail rental rate** ~~**triple net cost**~~ **is approximately** $72 per sq. ft., **triple net** and noted parking is not allotted with the leasing of spaces because parking is available on a first-come, first-served basis. Mayor Matti Herrera Bower stated that parking should be studied closely and that more information should be presented to the Commission. **Gross stated that $72 per ft was way over market rate in that location on the west side of Washington Avenue and that $45 ft was closer to market.**

4 of 6

C6C Correction of Minutes (Paragraph 8, Page 107)

Chairman Gross indicated that the overall plan should be brought back to the Committee together with the historical analysis that Commissioner Steinberg requested and that, in the meantime, staff should start working on leasing the space on the first floor which is to be handled internally. **Gross also stated it would be difficult to rent office space without providing parking. Staff said the parking was**

leased to residential tenants in the neighborhood. Gross said it should be analyzed if commercial tenants could park during the day and residential tenants could park at night.

5 of 6
C6C Correction of minutes (Paragraph 6 Page 108)
Chairman Gross inquired as to the sites that were decorated last year to compare the current list of locations and identify the sites that are missing. He then suggested to change the color of the current LED lights on the palms located at the Julia Tuttle entry **to red and green,** eliminate the major display **of gift boxes** at the Tuttle Welcome Sign and to allocate the budget assigned to this component of the program elsewhere.

6 of 6
C6C Correction of minutes (Paragraph 2, Page 109)
It was the Committee's consensus to do the following: reduce the Tuttle Main Entry feature and change the color of the existing LED lighting to holiday colors; reduce the amount of decorations at City Hall; decorate Washington and Collins Avenue in proportion to savings from the City Hall site **and Tuttle Welcome signs plus string lights on palms at 5th Street and Washington;** and change the color of tree well lights on Lincoln Road.
End

Item No. 1:
The Committee recommended the referral of the Boys & Girls Club Agreement to the Commission on November 5, 2008.

City Clerk's note: See November 5, 2008, Agenda item R7B

Item No. 2:
Bring back the item to the Committee and present the City's overall plan for space occupied by City staff and a historical analysis of the space occupied, as requested. In the meantime, start working on leasing the available space on the first floor, to be handled internally.

City Clerk's note: See November 5, 2008, Robert Middaugh and Ana Cecilia Velasco to handle

Item No. 3:
Reduce the Tuttle Main Entry feature and change the color of the existing LED lighting to holiday colors; reduce external lighting at City Hall; decorate Washington and Collins Avenue in proportion to savings from the City Hall site; and change the color of tree well lights located on Lincoln Road.

City Clerk's note: See September 10, 2008, Agenda item C2C

Handout or Reference Materials:
1. Handwritten corrections made by Commissioner Saul Gross, Agenda Page 105-109.

Supplemental Material – Report Corrections

C6D Report Of The Neighborhoods/Community Affairs Committee Meeting Of Wednesday, October 22, 2008; **1)** Discussion On Complaints From Residents Regarding The Towing Companies; **2)** Discussion Regarding The Need To Create A Graffiti Ordinance In The City Of Miami Beach; **3)** Discussion Regarding Request By Hialeah's Representative Eddy Gonzalez To Designate 71st Street In Miami Beach As Rosendo Rosell Way.

ACTION: City Clerk's note: Report amended via Supplemental Agenda Materials
Amendments:
1 of 4
C6D Correction of minutes (Paragraph 5, Page 112)
Commissioner Wolfson stated his concern with this aspect of the issue of towing being discussed because he thought this meeting was to address citizen complaints regarding towing companies. Commissioner Gross raised the issue to Commissioner Tobin that he has previously recused himself on certain issues because he represents ~~**Tremont**~~ **Scott Robbins.** Commissioner Tobin stated that he represents a land owner that is selling land to the city to do a development and he has never represented the tow companies. Commissioner Gross stated that the outcome of whether the deal goes through or not might affect what the committee does.

2 of 4
C6D Correction of minutes (Paragraph 8, Page 112)
Mayor Bower stated that the residents think that Tremont is moving away from the area so she thinks ~~**that it behooves the committee to know what they are planning to do**~~ **the City must advise the residents in advance of committing to the deal with Scott Robbins that Tremont may remain in the neighborhood.**

3 of 4
C6D Correction of minutes (Paragraph 1, Page 113)
site. However, that does not preclude them from foreseeable obtaining another site in the area and operating from there. Commissioner Gross stated that it was **initially** represented by Scott Robbins that they are not going to operate in that neighborhood **and then Scott subsequently advised that Tremont indeed might lease other land in the neighborhood and continue to operate in the neighborhood.** . Commissioner Gross stated that the residents in the neighborhood deserve to know if Tremont plans on continuing to operate in the neighborhood, or whether the city should amend the ordinance to allow tow companies to satisfy the requirement by having a lot across the bay as long as they can deliver the cars within a certain period of time. This is what he thought was going to be discussed at today's meeting.

4 of 4
C6D Correction of minutes (Paragraph 3, Page 113)
Raul Aguila added that he believes that **is what** Commissioner Gross was referring to when the item on Sunset Harbor initially came up; Commissioner Tobin voluntarily recused himself and once you recuse yourself from discussion you cannot participate at all in the discussion involving that particular transaction.
End

Item No. 1:
The committee moved to direct the City Manager to meet with the two towing companies and report back to the November 5, 2008 Commission meeting any and all options they have including staying or going, off-site storage, etc., and to amend the existing contract to include:

- Requiring bumper stickers on tow trucks providing a number for the public to call to report reckless driving.
- Tow trucks will unhook and release a vehicle, at no charge, if the owner arrives prior to the truck leaving the scene of the tow.
- Towing companies will waive storage fees until one hour after banks open on the next banking business day.

Saul Frances to handle.

Item No. 2:
The committee moved to go forward in amending the ordinance as administration has recommended, including the ensuring that the Special Master not have the discretion to eliminate the community service requirement or mitigate fines. **Anna Parekh to handle.**

Item No. 3:
The committee took no action.

Handout or Reference Materials:
1. Handwritten corrections made by Commissioner Saul Gross, Agenda Page 111-114.

C7 - Resolutions

C7A A Resolution Approving And Authorizing The City Manager Or His Designee To Submit The Following Grant Funding Requests: 1) Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation And Hazard Mitigation Funds In An Amount Not To Exceed $1,000,000 For Protective Glass And Shutters At Buildings Throughout The City; 2) Retroactive Approval For The Miami-Dade County Tourist Development Grant Program For Funding, In An Amount Not To Exceed $15,000 For Festival Of The Arts, 2009; 3) Retroactive Approval For The Miami-Dade County Community Grants Program For Funding, In An Amount Not To Exceed $10,000 For Festival Of The Arts, 2009; And, 4) Urban Area Security Initiative (UASI) Funding In An Amount Not To Exceed $500,000 For Homeland Security Needs Citywide; And Approving The Execution Of The Following Two Local Agency Program Agreements: 1) Local Agency Program Agreement With Florida Department Of Transportation, For Funding In An Amount Not To Exceed $490,000 For The Dade Blvd Bike Path; And, 2) Local Agency Program Agreement With Florida Department Of Transportation For Funding In An Amount Not To Exceed $705,000 For The Middle Beach Recreational Corridor Project; Further Appropriating All The Above Grants, Agreements And Matching Funds, If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To These Applications And Agreements By The City Manager Or His Designee.

(Budget & Performance Improvement)

ACTION: Resolution No. 2008-26928 adopted. Patricia Walker to appropriate the funds if approved and accepted. Judy Hoanshelt to handle.

C7B A Resolution Authorizing The Mayor And City Clerk To Execute Amendment No. 5 To The South Pointe Park Professional Services Agreement With Hargreaves Associates, Inc. (Hargreaves), In The Amount Of $361,342, From The Previously Appropriated South Pointe Capital Fund No. 389 For The Completion Of The Design, Permitting, Bidding And Award, And Construction Administration Phases Of The South Pointe Pier Project.

(Capital Improvement Projects)

ACTION: Resolution No. 2008-26929 adopted. Jorge Chartrand to handle.

C7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement For Professional Services With Raymond Jungles Inc., In An Amount Not To Exceed $125,000, For Architecture, Landscape Architecture, And Engineering Services For The Planning, Design, Bid And Award, And Construction Administration Phases, For The Miami Beach Botanical Gardens.
(Capital Improvement Projects)

ACTION: Resolution No. 2008-26930 adopted. Jorge Chartrand to handle.

C7D A Resolution Amending The Normandy Shores Neighborhood Improvement Project Basis Of Design Report (BODR) By Excluding The Requirement Of The Normandy Shores Monument Sign, Located At The Northwest Corner Of The Intersection Of South Shore Drive And Biarritz Drive, And Authorizing Its Removal, At No Additional Cost To The City.
(Capital Improvement Projects)

ACTION: Resolution No. 2008-26931 adopted. Jorge Chartrand to handle.

C7E A Resolution Authorizing The Mayor And The City Clerk To Execute A One-Time Only Assignment Of The October 1, 2008, CDBG Agreement Between The City Of Miami Beach And Miami Beach Community Development Corporation (MBCDC) To MBCDC: The Allen, LLC, A Not-For-Profit Entity Created By MBCDC As A Successor In Interest In Title To The Allen Apartments Property, Located At 2001 Washington Avenue, And Under This Agreement.
(Office of Real Estate, Housing & Community Development)

ACTION: Resolution No. 2008-26932 adopted. Anna Parekh to handle.

1:38:32 p.m.

C7F A Resolution Setting A Public Hearing To Consider The Proposed Designation Of The Flamingo Park Historic District Westward Expansion South Of Eighth Street By Amending The Land Development Regulations Of The City Code By Amending Chapter 118, "Administration And Review Procedures," Division 4, "Designation," Section 118-593, By Expanding The Boundaries Of The Flamingo Park Historic District To Add The Flamingo Park Historic District Westward Expansion South Of Eighth Street, As More Particularly Described Herein; Providing That The City's Zoning Map Shall Be Amended To Include The Flamingo Park Historic District Westward Expansion; Adopting The Designation Report Attached Hereto As Appendix "A"; Providing For Inclusion In The Land Development Regulations Of The City Code, Repealer, Severability, And An Effective Date.
(Planning Department)

ACTION: Item separated for discussion by Commissioner Libbin. First and only Public Hearing schedule for January 28, 2009 and the Item referred to the Land Use and Development Committee. Motion made by Commissioner Libbin; seconded by Vice-Mayor Wolfson; Voice vote 6-0. R. Parcher to notice. Lilia Cardillo to place on the City Commission Agenda. Jorge Gomez to place on the committee agenda and to handle.

Commissioner Libbin stated that he separated the item to set the hearing for January 28th in order to refer the item.

At the Afteraction Meeting it was determined that the referral is a discussion on the potential development of the properties located between 6th Street and 8th Street on both the east and west side of Alton Road to the Land Use and Development Committee.

City Clerk's note: 30 day mailer.

C7G A Resolution Recommending Approval Of A Preconstruction Application For Historic Ad Valorem Tax Exemption For A Single-Family Property At 2312 Bay Avenue, And Authorizing The Miami-Dade County Property Appraiser's Office To Grant Said Tax Exemption For The City's Portion Of Ad Valorem Property Taxes For Qualifying Improvements To The Subject Property Following Substantial Completion Of The Project And Compliance With Certain Conditions.

(Planning Department)

ACTION: Resolution No. 2008-26933 adopted. Jorge Gomez and Patricia Walker to handle.

C7H A Resolution Authorizing The City Manager And City Clerk To Execute An Agreement Between The City, On Behalf Of The Miami Beach Police Department, And The Board Of Trustees Of Florida State University To Participate In A Volunteer Student Internship Program, To Assist The Criminal Investigations Unit Victims Advocate Office.

(Police Department)

ACTION: Resolution No. 2008-26934 adopted. Chief Noriega to handle.

C7I A Resolution Approving And Authorizing The Mayor And City Clerk To Enter Into A Maintenance Memorandum Of Agreement (MMOA) With The Florida Department Of Transportation (FDOT) For The Construction Of Crosswalks On 41st Street From Chase Avenue To Pine Tree Drive As Part Of The FDOT Pedestrian Corridor Improvement Project.

(Public Works)

ACTION: Resolution No. 2008-26935 adopted. Fred Beckmann to handle.

C7J A Resolution Authorizing The Appropriation Of $132,766 From Fiscal Year (FY) 2006/07 People's Transportation Plan (PTP) Funds For Administrative And Technical Operating Expenditures In FY 2007/08 And $144,711 From FY 2007/08 PTP Funds For Administrative And Technical Operating Expenditures In FY 2008/09, As Part Of The 5% Of Administrative Assistance Allowable For PTP Expenditures And As Part Of The 4% Of Technical Assistance Allowable For PTP Expenditures.

(Public Works)

ACTION: Resolution No. 2008-26936 adopted. Patricia Walker to appropriate funds. Fred Beckmann to handle.

C7K Resolution Approving The Upgrade Of The Yearly Maintenance Agreement For The Geographic Information System (GIS) Software From Environmental Systems Research Institute Inc. (ESRI) To A Three Year ESRI Small Municipal And County Enterprise License Agreement (ELA) Starting December 7, 2008, Through December 7, 2011, At A Cost Of $40,907.00 Payable In Three Installments On December 7 Of Each Year.

(Public Works)

ACTION: Resolution No. 2008-26937 adopted. Fred Beckmann to handle.

End of Consent Agenda

REGULAR AGENDA

R5 - Ordinances

1:43:33 p.m.
Supplemental Material – Revised Ordinance & Potential Artist Vending Street Performer Zones

R5A An Ordinance Amending Chapter 18 Of The Miami Beach City Code Entitled "Businesses," By Amending Article XV Thereof, Entitled "Street Performers And Art Vendors On Lincoln Road And Ocean Drive," By Amending Section 18-901 Entitled "Definitions"; By Amending Section 18-902, Entitled "Intent Of Article," To Add Collins Avenue, Washington Avenue And The City's Beachwalks To The List Of Locations Where The Provisions Of Article XV Apply; By Creating Section 18-903, To Be Entitled "Artist Vendor Certificate Required," To Provide Application Requirements, Procedures, Fees, And Regulations For Artist Vendor Certificates For All Artist Vendors In The City And Amending And Renumbering Sections 18-903 Through 18-911 Accordingly; By Amending Section 18-904, Entitled "Permit Application," To Include Collins Avenue, Washington Avenue, And The City's Beachwalks As Locations In The City Where Permits Are Required And Amending Permit Requirements; By Amending Section 18-905, Entitled "Permit Regulations And Prohibitions," To Amend The Provisions Relative To Zone Locations And The Regulations Relative To Artist Vendors And Street Performers; By Amending Section 18-908, Entitled "Disclaimer, Display And Expiration," To Amend The Provisions Relative To Artist Vendor Certificates And Permits; By Amending Section 18-909, Entitled "Enforcement, Suspension/Revocation Of Permit," By Amending The Fines And Penalties For Artist Vendor Permit And Certificate Holders; By Creating Section 18-912, To Be Entitled "No Permit Or Certificate; Penalty," To Provide Penalties For Artist Vendors And Street Performers Without A Permit Or Certificate; Providing For Repealer, Severability, Codification, And An Effective Date. **1:20 p.m. Second Reading, Public Hearing.**

(City Manager's Office)
(First Reading on October 7, 2008)

ACTION: Public Hearing held. Ordinance No. 2008-3619 adopted as amended. Motion made by Commissioner Libbin; seconded by Vice-Mayor Wolfson; Ballot vote: 6-0. R. Parcher to transmit to Municipal Code. **Hilda Fernandez to handle.**

Amendments:
The following amendments were handed out:
Sec. 18-910 (a) Enforcement, suspension/revocation of permit or certificate.
(4) Fourth or subsequent offense in the previous 20-month period: $500.00; immediate revocation of permit; ineligible for application for permit for one year.

(b) (4):
Fourth offense in the previous 24-month period: $500.00; certificate is automatically revoked, and the artist vendor is permanently ineligible for a certificate subject to reinstatement after two years upon showing a good cause as determined by the Special Master.

Sec. 18-911. Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.
(d) Failure of the named violator to pay the civil fine shall disqualify the violator for a certificate until the civil fine is paid.

Change from 18 inches to 24 inches from the sidewalk.
End

Robert Parcher, City Clerk, read the title of the ordinance in the Supplemental Agenda.

Hilda Fernandez, Assistant City Manager, explained the item.

Discussion continued.

Motion made by Commissioner Gross to eliminate Washington Avenue locations; seconded by Commissioner Tobin; discussion continued and no vote was taken.

Mayor Bower requested clarification to the motion because by eliminating the locations then it is open to everybody.

Commissioner Gross clarified his motion by requesting to leave the location on 1600 block and that way there is a location on Washington Avenue which is consistent with being adjacent to Lincoln Road.

Commissioner Tobin stated that they are having the same concerns as Commissioner Gross and requested Administration come up with locations that will pass a constitutional challenge but does place it in front of retail stores that are paying rent. **Hilda Fernandez to handle.**

Jose Smith, City Attorney, stated that there has to be a compelling reason as to why exclude Washington Avenue.

Commissioner Gross elaborated that there is not enough clearance for cars to be able to open the car doors safely in the parking spots without hitting the tables, no vendor should be blocking store fronts and these locations do not have the same distances separation as in Lummus Park., Lincoln Road and other places where they fit more comfortable.

Sherri Sacks, First Assistant City Attorney, stated that unfortunately the Administration had identified locations that do meet the criteria that satisfies public health, safety and welfare and added that the current ordinance is presently under litigation.

Discussion continued.

Commissioner Weithorn stated that 18 inches from the curb is potentially a public safety problem and if 24 inches is safe go back and re-measure and if these locations do not work they should be removed. She stated that 18 inches is not enough room for disabled persons using a walker and this could introduce a new set of problems. With the smaller area the safety of the visitors and residents, and also the vendors will be at risk and their livelihood possible damaged. The Administration needs to look at this issue and go back, not only on Washington Avenue, but Collins Avenue and everywhere, and make sure there is not a public safety issue**. Hilda Fernandez to handle.**

Hilda Fernandez, Assistant City Manager, explained that the majority of the locations on Washington Avenue are on bump-outs that are not next to parking areas. She explained that the parameters are as follows: a 6 ft. by 6 ft. selling area, 18 inches additional outside of the 6 ft. by 6 ft. area and still have 5 ft. of free space for pedestrian flow. In addition, they cannot be next to a fire hydrant, a standing fire pipe, ingress or egress of a building, or next to a curb cut for handicaps, a commercial loading zone, a handicap drop off zone, or a valet ramp.

Discussion continued.

Motion made by Commissioner Gross to switch the 1000 block with the 1100 block. No second offered and the discussion continued.

Amendment No.1:
Motion made by Commissioner Libbin to approve the ordinance with 24 inches from the curb instead of 18 inches and then look at the locations at the Neighborhoods/Community Affairs Committee; discussion continued and no action taken.

Amendment No. 2:
Commissioner Gross added an amendment that the locations could not be closer than 10 ft in front of a retail store front. He is concerned with blocking the visibility of the store front; discussion continued and no action taken.

Steve Ferentz spoke.
Gary Rugg spoke.
Juan Alvarez spoke.
Sherry Roberts spoke.
David Possin spoke.
Fred Lisasso spoke.
Annie Lisasso spoke.

Mayor Bower asked Hilda Fernandez, Assistant City Manager, to make sure that Mr. and Mrs. Lisasso's issues in the area of the Decoplage, 100 Lincoln Road, such as the artists/vendors throwing cigarettes butts on the ground, leaving the trash and garbage or throwing it over the fence, and hanging dirty sheets and towels around the area, are addressed in the ordinance. **Hilda Fernandez to handle.**

Marlo Courtney spoke.
Shawn Hanver spoke.
Kim Pinillos spoke.
Teresa del Solar spoke.

Hilda Fernandez, Assistant City Manager, explained the plan was to begin with the next quarter. The current quarter expires on December 31, 2008 and a drawing of the lottery on December 15, 2008. No one will be affected until the next quarter.

Stu Blumberg spoke.
Pietro Rapisarela spoke.
Katty Eskola spoke.
Blanca Biol spoke.
Mirla Pereira spoke.
Frank Del Vecchio spoke.

Commissioner Gross stated that he looked at the list with Hilda Fernandez and they can come up with seven or eight locations on Washington Avenue that will not endanger the health, safety or welfare of the public. For safety reasons the distance from the sidewalk should be 24 inches**. Hilda Fernandez to handle.**

Motion made by Commissioner Libbin to adopt the ordinance with 24 inches instead of 18 inches from the sidewalk; seconded by Vice-Mayor Wolfson. Hilda Fernandez to handle.

Hilda Fernandez, Assistant City Manager, stated that she will amend the information provided in the Supplemental Agenda. She will provide the list of locations each quarter via LTC. **Hilda Fernandez to handle.**

Hilda Fernandez, Assistant City Manager, read amendments distributed into the record.

Commissioner Libbin amended his motion to include the amendments included in the Supplemental Agenda.

Handout or Reference Materials:
1. Ad in The Miami Herald – Ad # 512 and 514
2. Amendments: Sec. 18-910 (a) (4) and (b) (4). Enforcement, suspension/revocation of permit *or* certificate. Sec. 18-911(d). Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.
3. Article in Sundays Neighbors, dated November 9, 2008 by Tania Valdemoro, titled 'A Great Compromise;' "The City Revises Its Rules On How Artists and Street Performers Can Make Their Living."
4. Speaker's list

1:42:54 p.m.

R5B An Ordinance Amending Article VI Of The City Code, Entitled "Naming Of Public Facilities And Establishment Of Monuments Or Memorials"; Amending Section 82-501(c) Thereof, Entitled "Generally"; Amending Section 82-502 Thereof, Entitled "Definitions"; And Amending Section 82-503 Thereof, Entitled "Naming Of Public Facilities"; Said Amendments Providing And Establishing Criteria For The Co-Naming Of Streets In The City Of Miami Beach In Honor Of Miami Beach Police Officers Who Died Or Were Killed In The Line Of Duty; And Providing For Repealer, Severability, And An Effective Date. **1:15 p.m. Second Reading, Public Hearing.**

(Police Department)
(First Reading on October 7, 2008)

ACTION: Public Hearing held. Ordinance No. 2008-3620 adopted. Motion made by Commissioner Tobin; seconded by Commissioner Weithorn; Ballot vote: 5-1; Opposed: Mayor Bower. R. Parcher to transmit to Municipal Code. **Fred Beckmann to handle.**

Handout or Reference Materials:
1. Ad in The Miami Herald – Ad # 512

3:24:00 p.m.

R5C An Ordinance Creating Article XI, To Be Entitled "Dangerous Intersection Safety," Of Chapter 106, Entitled "Traffic And Vehicles," Of The Miami Beach City Code, By Creating Sections 106 - 480 Through 106 - 494 Providing For Intent And Definitions; Establishing An Enforcement Program Within The City; Authorizing The City To Permit And Implement The Use Of Unmanned Cameras/Monitoring Devices For Red Light Violations; Providing For Enforcement Procedures And Regulations, Including Notice, Violations, Vehicle Owner Responsibilities, Appeal Hearings, Penalties, The Imposition Of Administrative Charges, Fines, And Liens, And The Collection Thereof; Providing For Exceptions; And Providing For Codification; Severability; Repealer; And An Effective Date. **First Reading**.

(Public Works)

ACTION: Ordinance approved on first reading. Motion made by Commissioner Libbin; seconded by Commissioner Tobin; Ballot vote: 5-1; Opposed: Mayor Bower. Second Reading and Public Hearing scheduled for December 10, 2008. R. Parcher to notice. Liliam Hatfield to place on the City Commission Agenda. Robert Middaugh to handle.

Jorge Gonzalez, City Manager, introduced the item.

Commissioner Libbin gave some information regarding the process recently implemented by the City of Aventura to reduce accidents in the City and explained that this is a safety feature that the Police Department has requested at no cost to the City of Miami Beach.

Discussion held.

Jorge Gonzalez, City Manager, stated that the ordinance does not specify which intersections will have cameras; the Administration is suggesting taking into consideration the preponderance of accidents, level of service, the number of red light violations that would yield traffic flow issues, and also the vendors' advice as to the feasibility and practicality of camera installation.

Discussion continued.

Commissioner Weithorn recommended contacting the City of Aventura Police Officer who is in charge of the program for input. **Robert Middaugh to handle.**

Jorge Gonzalez, City Manager, stated that the City will work with the vendor regarding the best use of cameras.

Commissioner Gross stated that on the list of high accident intersections are 12th Street and 13th Street on Collins Avenue where there is not a red light. He requested that the County install traffic lights at one of the intersection. **Fred Beckmann to handle.**

Jorge Gonzalez, City Manager, added that a traffic warrant will be requested on those intersections.

Commissioner Tobin requested the case law that Administration is relying on to suggest that the State can use the City's cameras system in a prosecution. **Robert Middaugh to handle.**

Jose Smith, City Attorney, explained stated that the Legal Department has done some case law studies and an Attorney General opinion in cases from other jurisdictions and Supreme Court cases from other states and typically enforcement of speeding and running of red lights. You don't see blocking-the-box because it is difficult to issue a code violation. He added that in order for a Police Officer to issue a violation he has to witness the violation; therefore, we are not going through a State Statute, but through a code process, which relies on the photograph.

Discussion continued.

Jorge Gonzalez, City Manager, stated that perhaps Commissioner Tobin is right, and if the City crafted language to the ordinance including specific criteria, such as blocking-the-box and speeding, and if it was managed in the same fashion, it probably could be legal and Mr. Smith agreed.

Michael Gruen spoke.

Handout or Reference Materials:
1. Eight 8 ½ x 11 color prints of traffic cameras, circulating traffic and of an accident.
2. Sample of Notice of Violation, City of Aventura.

R7 - Resolutions

1:40:01 p.m.

R7A A Resolution Setting The Dates For The Year 2009 City Commission Meetings. **Joint City Commission & Redevelopment Agency.**

(City Clerk's Office)

ACTION: Item heard in conjunction with RDA-1A. Resolution No. 2008-26938 adopted as amended. Motion made by Commissioner Libbin; seconded by Commissioner Tobin; Voice vote: 6-0. Robert Parcher to handle.

Amendment:

The January City Commission meeting changed from the 21st to the 28th, 2009

End

3:44:03 p.m.

3:57:27 p.m.

Supplemental Material – Exhibit A, Insurance Requirements, & Management Agreement Amendments

R7B Resolution Waiving, By 5/7ths Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City, And Approving And Authorizing The Mayor And City Clerk To Execute A Management And Operation Agreement Between The City And The Boys And Girls Clubs Of Miami-Dade, Inc., A Florida Not-For-Profit Corporation, For The Management, Coordination, Maintenance, And Operation Of A Facility Located In Flamingo Park As A Boys And Girls Club (To Be Known As The Miami Beach Boys And Girls Club) Which Will Provide A Full Range Of Services For Children To Achieve Enhanced Social, Educational, Health, Vocational, Character And Leadership Development Benefits; And In Order To Allow The Boys And Girls Club To Maximize Its Eligibility And Opportunities For Funding Assistance To Ensure That The Boys And Girls Club Achieves And Maintains The Highest Level Of Service And Maximizes Its Goals And Priorities And Programming Opportunities, Said Agreement To Have An Initial Term Of Thirty (30) Years, With Two (2) Ten (10) Year Renewal Options; Provided Further That, As Consideration For The City's Approval And Execution Of This Agreement, And As A Condition Thereof, The Boys And Girls Clubs Of Miami-Dade, Inc., Shall Commit To Manage, Operate, And Maintain The Boys And Girls Club Facility Located In Flamingo Park, At Its Sole Cost And Expense, And Shall Further Commit To Fully Fund, Design, And Construct, At Its Sole Expense, A New Facility In Flamingo Park (To Serve As The Miami Beach Boys And Girls Club In Accordance With City Approved And Permitted Plans And Specifications For The Proposed Improvements) Which (Like The Current Facility) Will Also Be Owned By The City.

(City Manager's Office)

ACTION: Resolution No. 2008-26939 adopted and the Agreement amended as referenced in the Supplemental Agenda. Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Voice vote: 6-0. Robert Middaugh to handle.

Amendments:

1. Section 20. Insurance Requirements:
   20.1(a.) "…. "following limits, subject to adjustment for inflation:…."
   20.1(c.) "…. "following limits, subject to adjustment for inflation:…."
2. Section 4.2.3--after the word "delayed," add "...and provided such proposed program, service, activity and/or use is for a public purpose and is consistent with the approved uses herein."
3. Section 9.7.2--delete the words "be valued at," and replace with the word "cost."
4. Section 21.1--after the word "nature," add "(including, but not limited to, reasonable attorneys fees and costs)"

5. Section 34.8--add the following sentence at end of section:
"Accordingly, BGCM-D hereby agrees and acknowledges that in the event of termination of this Agreement, whether due to a default by BGCM-D or otherwise, BGCM-D shall surrender and yield unto the City the Premises, in accordance with Section 28 hereof, and the City shall in no way be required to evict and/or otherwise remove BGCM-D from the Premises as if this were a tenancy under Chapter 83, Florida Statutes, nor shall BGCM-D be afforded any other rights afforded to nonresidential tenants pursuant to said Chapter (the parties having herein expressly acknowledged that this Agreement is intended to be a management agreement and is in no way intended to be a lease)."

End

3:56:30 p.m.
Mayor Bower stated that although the City Commission already approved the Boys & Girls Club Resolution the children are here to show their appreciation.

Jorge Gonzalez, City Manager, explained that this is an agreement between the City of Miami Beach and the Miami Dade Boys and Girls Club to create a new facility at Flamingo Park to provide services to the children and the children are here today to thank the City Commission. The City is providing the space and the Miami Dade Boys and Girls Club is paying for the building and operating the facility. This is a great program and the children will be well served.

Alex Rodriguez-Roig, from the Boys and Girls Club of South Florida, and the children in attendance came to say “thank you” to the City Commission for approving the item. He also thanked Jorge Gonzalez, City Manager, for his help.

Mayor Bower recognized Alex and the board and their perseverance on this project.

Commissioner Weithorn thanked the Boys and Girls Club and for specifically for addressing working families in Miami Beach.

Handout or Reference Materials:
1. Interoffice Memorandum from Raul J. Aguila, Deputy City Attorney, to Robert Middaugh, Assistant City Manager, dated November 6, 2008, RE: Boys and Girls Club Management Agreement (for operation of Boys and Girls Club in Flamingo Park)

R7C A Resolution Approving, On First Reading, A Lease Agreement Between The City And Colony Theatre Cafe, Inc. (D/B/A Segafredo’s), Pursuant To Request For Proposals (RFP) No. 19-07/08, For Use Of The Facility Known As The Colony Theatre Cafe, Located At 1040 Lincoln Road, Said Lease Having An Initial Term Of Three (3) Years, Commencing Retroactively On November 1, 2008, And Ending On October 31, 2011, With Two (2) Additional Three (3) Year Renewal Terms; Further Setting A Public Hearing On December 10, 2008, For The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading.**
(Office of Real Estate, Housing & Community Development)

ACTION: Withdrawn. Liliam Hatfield to place on the December 10th Commission Agenda, Ana Cecilia Velasco to handle.

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.
(City Clerk's Office)

ACTION: See action below.

Cultural Arts Neighborhood District Overlay (CANDO):
Valerie Nahmad Term ending 2/13/09 Appointed by Mayor Bower TL 2/13/09

Fine Arts Board:
Nathan Korn Tem ending 12/31/08 Appointed by Commissioner Wolfson TL 12/15

Parks and Recreational Facilities Board:
Jonathan Beloff Term ending 12/31/08 Appointed Commissioner Weithorn TL 12/15

Police Citizens Relations Board:
Jared Plitt Term ending 12/31/09 Appointed by Commissioner Weithorn TL 12/15

Sustainability Committee:
Liliam Furst Term ending 12/31/09 Appointed by Commissioner Wolfson TL 12/15
Nicholas (Nick)) Gunia Term ending 12/31/08 Appointed by Commissioner Gross TL 12/15

R9A1 Board And Committee Appointments - City Commission Appointments.
(City Clerk's Office)

ACTION: No action taken.

City Clerk's note: See Supplemental Material – Letter from Steven Haas, VCA Appointment Recommendations

1:24:51 p.m.
R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

ACTION:

1. Janet Grant, representing the Disability Access Committee, spoke about a request regarding the street side of City Hall. The change was from accessible parking spaces to parking for the Mayor and Commissioners. This change was made without any input from this committee. The first letter was ignored because it was assumed that the letter came from her as a citizen and not from the committee. They were told that the proper protocol was to address this concern to the City Manager, which they did, and the response they received from the Assistant City Manager did not answer any of the questions and they are now seeking answer to those questions:
1. By what means can they reinstate the accessible parking spaces along 17th Street beside City Hall?
2. Who and by what means was this decision made?
3. How could this decision be made affecting disabled citizens without input from the Disability Access Committee?
4. How can they impress upon the City that demonstrated need has required the City to provide additional accessible parking spaces in this most congested area of Miami Beach, City Hall.
5. She believes this correspondence is less confusing that the correspondence deviated thru the City Manager. They anticipate a specific and timely response from the Mayor and Commissioners as representatives of all citizens of Miami Beach. It has been almost two years since this issue was first discussed.

Mayor Bower stated that her main concern is that the City's boards and committees should not feel that they do not get their questions answered. She suggested these issues should be discussed at the committee and then brought back to the City Commission with a compromise that will resolve the situation**. Saul Frances to handle.**

Jorge Gonzalez, City Manager, gave a background on the changes to the parking garage and asked Ms. Grant to leave the questions with the City Clerk.

Handout or Reference Materials:
1. Letter to Mattie Herrera Bower, Mayor of Miami Beach … and the City Commissioners of Miami Beach, dated November 5, 2008 from Janet Eileen Grant, Chairperson, Disability Access Committee, RE: Accessible Parking Spaces along 17th Street side of City Hall.

2. Bunny Patchen stated that she is very aware of the City Commission's dedication to preserving the quality of life for single family residents and transient rentals. She is hopeful that they will have the same dedication with regard to single family waterfront homes and transient boaters. She stated that over four years ago the Marine Authority brought forth a resolution, which was approved by the City Commission, to restrict transient boaters from setting their boats behind single family waterfront homes creating a mooring field which is not happening. She added that new State legislation is proposing to give municipalities new rights to limit anchoring to either three consecutive days or ten days in a calendar year. The mooring field is needed now to ensure the integrity and quality of life for the waterfront homeowners from transient boaters.

Commissioner Tobin stated that the City Commission has all the lobbyists in Tallahassee pushing for this new legislation to take care of this problem for the residents. They also had a meeting with the Florida Wildlife Commission to push this legislation and there were subcommittee meetings in Orlando or Tampa and the City sent the lobbyists to that meeting to make sure that his will be in place. **Kevin Crowder to handle.**

Handout or Reference Materials:
1. Article from Southern Boating, November 2008, Page 168 “Scuttlebutt” RE: Florida Moorings Changes?

R9B2 Dr. Stanley Sutnick Citizen’s Forum. (5:30 p.m.)

ACTION: No speakers.

3:45:08 p.m.
R9C Discuss Resolution Urging Florida State Legislature To Amend State Statute 718.116 On Condominium Foreclosures.
(Requested by Commissioner Libbin)

ACTION: Discussion held. Resolution No. 2008-26941 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Tobin; Voice vote: 6-0. Commissioner Libbin to transmit to the State Legislature.

Commissioner Libbin explained the he is asking for the City Commission to consider passing this resolution to be transmitted to the Florida Legislature. This has to do with condominium foreclosures, which is the largest problem facing the State of Florida now. Representative Julio Robaina chairs the committee on condominium law and he will be introducing a bill to modify the statute. He explains that the current statute allows that if a mortgage holder on a condo goes into foreclosure, nothing compels them to complete the foreclosure proceedings. The law now allows that whenever the foreclosure is completed the bank only has to pay the lesser of 1% of the original mortgage, or the past 6 months, prior to foreclosure, of the condominium maintenance fees and regular assessments. He stated most of the foreclosures are for speculators and due to the decline in the value of real estate the mortgages owed is more than the equity of the units so speculators just walk away from the properties. As a result of non-payments of maintenance fees of these units, the associations are forced to pass special assessments to the rest of the owners to cover this deficit. This is to urge the Florida Legislator to make the banks take more responsibility of these payments.

Discussion continued.

In responding to Mayor Bower’s question, Commissioner Gross stated that right now the banks only have to pay six months and what the Commissioner Libbin is suggesting is do the banks have to pay more.

Mayor Bower stated that she is concerned about speeding up the foreclosure process because some people are trying hard to save themselves from losing their homes and she does not want this resolution to do that.

Commissioner Libbin explained that the resolution is not giving direction to the Legislature. They are asking the Legislature to amend the law to make the banks more responsible.

Commissioner Tobin stated that this is terrific.

Commissioner Libbin spoke about tax certificates.

5:19:01 p.m.

R9D Status Update Regarding The Prairie Avenue Mitigation Measures.
(Requested by Commissioner Gross)

ACTION: Discussion held.

Commissioner Gross gave a status report on the Prairie Avenue and the mitigation measures. He stated that there are a series of other items which need to be done including landscaping, traffic calming, and the installation of a gate.

Robert Middaugh, Assistant City Manager, referenced an LTC which explains the issues in detail and gave a status report on the items that Commissioner Gross referred for discussion and a specific status report on the items that were approved by the City Commission in March 2007. There are two landscaping issues which are being worked on: One is on the North side of the high school parking lot where the fence and the par 3 golf course intersect, and a landscaping plan has been worked out with a diversity of native plant species which it is expected they will be installed in about three weeks. Secondly, a redesign has been completed to re-grade the school side of the swale and to do a landscape plan that is more attractive than what the school offered. He explained that the next step will be to review the plan with the Homeowners Association and the school to reconcile the construction budget which will be done in the next week or so. The remaining issue is the special event gate. He also addressed the traffic calming measures.

Commissioner Gross about asked about the timing for the installation of the speed cushions for 34th Street and also for Prairie Avenue.

Fred Beckmann, Public Works Director, stated that the materials are arriving next week and installation should be within three weeks.

Mayor Bower stated that she has had complaints about animals being killed because of fast cars in the 51st Street area.

Fred Beckmann, Public Works Director, stated that this issue was referred to Miami-Dade County because the request was to install stop signs. Miami-Dade County denied the request indicating that the volume of traffic and the speed on that street does not warrant the installation of stop signs. The accident reports were provided to Miami-Dade County.

Commissioner Gross stated that when Kittleson & Associates, Inc. was hired they were asked to develop a traffic calming manual to establish standards so the City would have a way of responding to these issues citywide rather than one at a time and asked on the status of the manual.

Fred Beckmann, Public Works, Director, stated that the manual is ready and the pilot program is being done to certify that the standard and limit are adequate.

Jorge Gonzalez, City Manager, explained that the manual is going to set the warrants and the speed cushions are going to validate that the warrants established in the manual are accurate and then can be applied citywide.

Discussion continued.

Mayor Bower stated that this information needs to be presented to the residents on 51st Street because they are still asking for some type of calming measures. **Fred Beckmann to handle.**

Discussion continued.

Commissioner Gross, answering Commission Tobin's question, stated that it was agreed to look at traffic calming at 23rd Street on both Meridian and Prairie Avenue. **Fred Beckmann to handle.**

Robert Middaugh, Assistant City Manager, answering Commission Tobin's question, explained that traffic calming is part of the neighborhood project and expecting the project to be bid and in construction sometime in 2009 depending on the bonds.

Jorge Gonzalez, City Manager, recommended that the 23rd and Meridian Avenue traffic calming should be done as part of the neighborhood project.

Discussion continued.

Robert Middaugh, Assistant City Manager, responding to Mayor Bower's question, stated that the school has indicated that they will not allow a curb cut to serve as a driveway access although they believe their building official will permit a temporary ramping system. He added that he was told that there is a State Statute that governs bus lanes and curb cuts, although he has not specifically looked into this but he will. **Robert Middaugh to handle.**

Mayor Bower stated that she goes to the school board once a month in another capacity and she could push the issue of the use of the parking lot if she is given the information. **Robert Middaugh to handle. A.C. Weinstein to remind the Mayor.**

Jonathan Kroner spoke.

Commissioner Weithorn asked Robert Middaugh, Assistant City Manager, if a letter has been sent to Miami-Dade County requesting the statute regarding the legal issues and restraints on their parking lot. She requested that a letter be sent so if they deny the request they will have to also do it in writing. A formal correspondence is needed on this issue. **Robert Middaugh to handle.**

John Corey went though the following issues: 1) reducing the width of Prairie Avenue; 2) reduce the entrance of Prairie Avenue; 3) traffic calming devices;

Discussion continued.

Commissioner Weithorn requested the City to ask the County to change the road to a one way street since that road is narrower now. **Fred Beckmann to handle.**

John Corey continued with the following issues: 4) trees and planting;

Robert Middaugh, Assistant City Manager, stated that the planting depends on whether the City does it or the school does it. The most expedient method is for the City to do it and then get reimbursed and this is what is being pursued.

John Corey stated that the planting around the pump station looks fantastic.

John Corey continued with the following issues: 5) gate for the parking lot on Dade Boulevard to be used for special events.

Discussion held regarding the ramp.

Commissioner Libbin asked about the parking lot light shield.

John Corey stated that the light fixtures will not allow for a shield but the school has been very good about turning the lights off by 10 p.m. This seems to be working well.

Jonathan Kroner spoke.
Miguel Rosales spoke.
Sylvia Winitzley spoke.

Commissioner Gross stated that the bike lane on Prairie Avenue stops at 28th Street and asked what the current plan is.

Fred Beckmann, Public Works Director, stated that in the Master Plan, the bike lane was moved to Meridian Avenue, however the street is not wide enough so some land on the west side will need to be used. The Commission previously gave direction not to stripe the street with a bike lane and not to take any of the swale area. He was directed to put signage that this is a bike route. **Fred Beckmann to handle.**

Mayor Bower stated that next week she will look into the gate issue and she will get an answer. She also added that she will find out where it is written that a curb cut cannot be installed. She will send the answer to the City Manager. **A.C. Weinstein to remind the Mayor.**

Commissioner Weithorn requested that when Mayor Bower meets with the school, to discuss with them what they consider to be temporary ramping. **Mayor Bower to handle. A.C. Weinstein to remind the Mayor.**

Sylvia Winitzley requested that the Mayor ask is there is something in writing having to do with the drop off inside the parking lot.

Mayor Bower stated that she would ask if there is a law. **Mayor Bower to handle.**

Discussion continued.

Mihaly Lenart spoke.

Commissioner Gross, responding to Mr. Lenart, stated that signage will be place on Meridian Avenue indicating that it is a bike path and it will not be a dedicated lane.

Handout or Reference Materials:
1. Speaker's List
2. Listed items distributed by John Corey and a Miami Beach Senior High School Study Site Plan, from Bayshore Homeowners files, dated November 5, 2008
3. Copy of LTC 289-2008 Re: Commission Discussion on Bayshore Homeowners Mitigation Measures

R10 – City Attorney Reports

R10A Notice of Attorney-Client Session
Pursuant To Section 286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

Frank Otero And Jeffrey Gibbs V. City Of Miami Beach, Florida, La Gorce Country Club, Inc. And DM Fence Corporation**.** Eleventh Judicial Circuit Court, Case No. 05-17754 CA 30-FERNANDEZ.

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Recess Of The City Commission Meeting On November 5, 2008 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matter.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Saul Gross, Jerry Libbin, Ed Tobin, Deede Weithorn, And Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, And Special Counsel Jean Olin.

ACTION: Announced and held. See the announcements made.

R10B Notice of Attorney-Client Session
Pursuant To Section 286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

10 Palm, LLC. And Villazzo, LLC. VS. City Of Miami Beach, Case No. 07-22752-CIV-LENARD/TORRES, U.S. District Court, Southern District Of Florida

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On November 5, 2008 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matter.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Saul Gross, Jerry Libbin, Ed Tobin, Deede Weithorn, And Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Debora Turner And First Assistant City Attorney Gary Held.

ACTION: Announced and held. See the announcements made.

Reports and Informational Items

A City Attorney's Status Report.
(City Attorney's Office)

ACTION: Written report submitted.

B Parking Status Report.
(Parking Department)

ACTION: Written report submitted.

C Status Report On The Rehabilitation Of The Existing Building And Construction Of The New Fire Station No. 2.
(Capital Improvement Projects)

ACTION: Written report submitted.

D Status Report On The Construction Of The Normandy Shores Golf Course & Facilities.
(Capital Improvement Projects)

ACTION: Written report submitted.

E Status Report on Palm & Hibiscus Island Undergrounding Project.
(Capital Improvement Projects)

ACTION: Written report submitted.

F Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days.
(Procurement)

ACTION: Written report submitted.

End of Regular Agenda

Miami Beach Redevelopment Agency

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
November 5, 2008

Chairperson of the Board Matti Herrera Bower
Member of the Board Saul Gross
Member of the Board Jerry Libbin
Member of the Board Edward L. Tobin
Member of the Board Deede Weithorn
Member of the Board Jonah Wolfson
Member of the Board Vacant Seat Group III

Executive Director Jorge M. Gonzalez
Assistant Director Tim Hemstreet
General Counsel Jose Smith
Secretary Robert E. Parcher

AGENDA

1:40:01 p.m.

1. NEW BUSINESS

A. A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (RDA), Setting The Dates For The Year 2009 RDA Meetings. **Joint City Commission & Redevelopment Agency.**

(City Clerk's Office)

ACTION: Item heard in conjunction with item R7A. Resolution No. 563-2008 approved as amended. Motion made by Commissioner Libbin; seconded by Commissioner Tobin; Voice vote: 6-0. Robert Parcher to handle.

Amendment:
The January Redevelopment Agency meeting changed from the 21st to the 28th, 2009.
End

End of RDA Agenda

Meeting adjourned at 6:15:40 p.m.