



Special City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
December 3, 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

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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.

Meeting called to order at 5:22 p.m., with all members present.

REGULAR AGENDA

R9A A Resolution Appointing Victor M. Diaz, Jr. As A Replacement City Commissioner For Commission Group III In Accordance With Miami Beach City Charter Section 2.07.
(Requested by Mayor Bower)

ACTION: The meeting was recessed to Thursday, December 4, 2008 at 4:30 p.m.

Mayor Bower introduced the item and stated that the purpose of today's meeting is to make a decision as to whether to appoint or call for a special election to replace the Group III seat vacated by Commissioner Steinberg who was election to the State House of Representative in November. On March 12, 2008 the Commission expressed the sentiment that if an appointment was made it would be former Mayor David Dermer. She added that she believes an appointment is in order. The estimated costs for a special candidate election and a run-off election would be in the \$400,000 range. Today's meeting is only to discuss an appointment.

Vice-Mayor Wolfson, after expressing his thoughts, made a motion to appoint former Mayor David Dermer; seconded by Commissioner Gross.

Discussion continued.

1. David Kelsey spoke.
2. Bill Farkas spoke.

3. Lee Weiss spoke.
4. Jo Manning spoke.
5. Ada Llerandi spoke.
6. Marco Lerra spoke.
7. Gerald K. Schwartz spoke.
8. Robert Wennett
9. Harold Rosen
10. Leonor Hernandez
11. Frank Del Vecchio
12. Alex Annunziato
13. Steve Polisar
14. Judy Robertson

The City Commission held a lengthy discussion; a motion was made by Vice-Mayor Wolfson to appoint former Mayor David Dermer and a vote was taken; Ballot vote: 3-3; Opposed: Commissioners Libbin, Tobin and Weithorn. Motion failed.

The City Commission continued to discuss the appointment.

A second motion was made by Vice-Mayor Wolfson to appoint former Mayor David Dermer; seconded by Commissioner Gross. Since this was the same motion which failed, the motion was ruled out of order because the same motion would need to be made by one of the Commissioners on the prevailing vote. No motions were offered.

At 6:45:50 p.m. Mayor Bower had a video segment of the March 12, 2008 City Commission meeting replayed where the City Commission gave an expression of sentiment that former Mayor David Dermer fill the vacancy if an appointment was made.

The City Commission continued the discussion.

Pursuant to the City Charter, the last day to appoint a replacement City Commissioner does not expire until Thursday, December 4, and at the request of Mayor Bower, this meeting was recessed to Thursday, December 4 at 4:30 p.m.

Meeting adjourned at approximately 7:02 p.m.

Handout and Reference Materials:

1. Ballot vote
2. Memorandum to Members of the City Commission, Jorge Gonzalez, City Manager, Jose Smith, City Attorney dated October 14, 2008 from Mayor Matti Herrera Bower RE: Special Meeting.
3. Email from Tara C. Smith, Chief Deputy Supervisor of Elections, dated November 20, 2008 RE: Early Voting.
4. Email from Robert Parcher, City Clerk to Maria Saboya dated March 10, 2008 RE: Cost for Special election in November 2008.
5. Email from Mike Burke dated November 26, 2008 RE: fewer elections = less democracy.
6. Email from Marco Lerra dated December 2, 2008 RE: Appointment please.
7. Email from Frank Del Vecchio dated December 2, 2008 RE: Appointment v. Election.
8. Email from Mike Burke dated December 2, 2008 RE: i was wrong



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Meeting called to order at 5:00:57 p.m. with all members of the City Commission present.

Mayor Bower stated that today's Commission Meeting is the continuation of the Commission Meeting that was recessed yesterday. She stated that at yesterday's meeting there was a motion which failed (motion to appoint former Mayor David Dermer to replace the Group III seat vacated by Commissioner Steinberg who was election to the State House of Representative in November); and asked if there were any other motions for an appointment.

Commissioner Gross stated that although he supported former Mayor David Dermer, in an effort to reach consensus, he nominated Victor Diaz. He gave a brief history of Mr. Diaz's accomplishments and his involvement in the community.

Motion made by Commissioner Gross to appoint Victor Diaz to fill the remainder of the Commission Group III term; seconded by Vice-Mayor Wolfson.

Vice-Mayor Wolfson explained that yesterday he stated that he had two criteria for the appointment. One, that the person selected will not run for the seat in November, which is non-negotiable. The second criterion is the person to fill the seat had to have been previously elected. He added that he asked former Mayor Gelber to fill the seat; however, he was unable to do it and the Commission could not agree on former Mayor Dermer. He added that in the spirit of compromise he thought his position and will support Victor Diaz. Victor is a community activist who has been totally involved in the community.

Victor Diaz stated that he is deeply humbled and honored by the nomination and added that he absolutely and unequivocally will not seek reelection and will serve as a caretaker Commissioner.

Commissioner Weithorn stated that she is committed to changing the City's Charter and if this situation occurs again, an election can be held. Although she would like to have an election, she is willing to compromise for the sake of consistency of this government and will support the appointment of Victor Diaz. His service to this community has been civic as well as philanthropic; he has the knowledge and vision to help build on the success of this Commission. Victor understands our City, our government, our business, and residents. His integrity is without question.

Commissioner Libbin stated that yesterday his vote was not against former Mayor Dermer, in fact, he would have made an excellent appointment and he feels the same way about Victor who served three (3) years with him on the Planning Board. He stated that the proper approach is to hold an election, on the other hand, he stated that if four or five of his fellow Commissioners were willing to appoint, he would join in their support.

Commissioner Tobin stated that when he heard that Victor Diaz was interested in being appointed to fill the vacancy, he did not know that much about Victor. He talked about the Capital Improvements Program projects. He stated that he did not vote for former Mayor Dermer because he didn't think it would be wise to have the City Manager's friend on the Commission. He knows that Victor was very instrumental in getting the City Manager hired and he feels that a friend of the City Manager, being one of his bosses, is not the best way to get the most out of the City Manager. He believes the City should hold an election.

5:22:08 p.m.

Voice vote: 5-1; Opposed: Commissioner Tobin.

Robert Parcher, City Clerk, administered the Oath of Office to Victor M. Diaz, Jr.

Meeting adjourned at 5:24:56.

Handout or Reference Materials

1. Email from Marco Lerra dated December 3, 2008 to Jose Smith, Jean Olin and City Commission, RE: Appointment please
2. Memo from William Goldsmith to City of Miami Beach Commissioners and Mayor Bower dated December 4, 2008 RE: Selection vs. Election of Vacated Commission Seat City Commission – City of Miami Beach.
3. Email from Marco Lerra dated December 4, 2008 to taxpayersofmiamibeach RE: Appointment please
4. Oath of Office signed by Victor Diaz
5. Election Chart, Draft
6. The Miami Herald article, "City will decide how to fill seat" written by Tania Valdemoro, Neighbors Section, November 30, 2008.
7. The Miami Herald Soapbox, "Holding elections proper thing to do" by Jerry Libbin, Commissioner, Miami Beach and "Special Election Unfair to Candidates" by Frank Del Vecchio, Miami Beach.
8. Ad in The Miami Herald, November 20, 2008.

End of Regular Agenda