



# MIAMI BEACH

## City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
December 10, 2008

Mayor Matti Herrera Bower  
Vice-Mayor Jonah Wolfson  
Commissioner Victor M. Diaz, Jr.  
Commissioner Saul Gross  
Commissioner Jerry Libbin  
Commissioner Edward L. Tobin  
Commissioner Deede Weithorn

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.**

*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.*

- PA1 Cert. of Recognition; Miami Beach Hispanic Heritage Festival In 2008 Winners. (Bower)
- PA2 Cert. of Recognition, R. Ovadia & M. Hughes, Old City Hall Contributions. (Bower)
- PA3 Cert. of Recognition to Businesses for Contributions to Old City Hall Ribbon Cutting. (Bower)
- PA4 Cert. of Appreciation, Maia Litzenberg, Vote Miami Beach Essay Contest Winner. (Bower)
- PA5 Proclamation, Opium Group For Efforts w/ Senior's Halloween Dance at Mansion. (Wolfson)
- PA6 Cert. of Recognition, Paula Walker & Vanessa Menkes, Efforts w/ Halloween Dance. (Wolfson)
- PA7 Cert. of Recognition, Tim Wilcox, For Contributions to Senior's Halloween Dance. (Wolfson)
- PA8 Cert. of Recognition, Kiwanis Int'l; Honoring Kiwanis Family Month (Libbin)
- PA9 Cert. of Recognition, to Volunteers Participants in Litter Awareness Campaign. (Libbin)
- PA10 Cert. of Recognition, MBP Officers Reserve Program for Their Valuable Assistance. (Libbin)
- PA11 Certificates of Appreciation, "At Your Service Award" Winners, September - December, 2008.
- PA12 Recognition of Parks & Recreation Department For Various Accomplishments.
- PA13 Cert. of Recognition to Gary Farmer For His Work As Interim Administrator at The Bass.

- C2A Issue RFP for Building Development Process Fees Study.
- C2B Issue RFP for Investment Advisory Services & Extend MBIA Monthly Agreement.
- C2C Issue RFQ for CEI Services, Indian Creek Drive Resurfacing Improvements.

- C4A Refer: Land Use & Dev. Committee, Rooftop Venues Prohibit/Limit, So. of 5th St. (Bower)
- C4B Refer: Planning Board, Amend, Light Industrial Dist., Cond. Use Towing Service. (Bower)
- C4C Refer: Sustainability Committee, Removal of Private Jet Ski Water Channels. (Bower)
- C4D Refer: Land Use & Dev. Committee, Unwanted Distribution of Literature, Newspapers (Wolfson)

- C4E Refer: Neighborhoods/CAC, Resolution Re: Visual Litter Awareness Campaign. (Libbin)  
 C4F Refer: Neighborhoods/CAC, Resolution Re: Creation of Organic Community Garden. (Libbin)  
 C4G Refer: Sustainability Committee/Create Master Plan Goals for CMB, Pine Tree Park. (Tobin)  
 C4H Refer: Finance & Citywide Projects Committee, Towing Permit Renewal Options.  
 C4I Refer: Land Use & Dev. Committee, Single Family Ad Valorem Tax Exemptions Ordinance.  
 C4J Refer: Planning Board, Land Use Board Application Requirement Ordinance.
- C6A Report: Capital Improvement Projects Oversight Committee Meeting On November 3, 2008.  
 C6B Report: Land Use & Development Committee Meeting Of October 27, 2008.  
 C6C Report: Land Use & Development Committee Meeting Of November 17, 2008.  
 C6D Report: Neighborhoods/Community Affairs Committee Meeting Of November 24, 2008.  
 C6E Report: Finance & Citywide Projects Committee Meeting Of November 18, 2008.
- C7A Submit Grant Fund Request, Knight Foundation, for Sleepless Night 2009 Funding.  
 C7B Accept Recommendation, RFP 01-08/09, RE: Community Satisfaction Survey Services.  
 C7C Execute Amendment to PSA w/ STA Architectural Group, Inc, Fire Station 2.  
 C7D Execute Amendment to A/E Agreement w/ EAC, Biscayne Point ROW Improvement Project.  
 C7E Execute Amendment to Contract w/ EDAA, Oceanfront Coastal Construction Control Line.  
 C7F Approve Amendment to BODR for Neighborhood 4, Normandy Isle & Normandy Sud.  
 C7G Approve to Proceed w/ Upgrades, Little Stage Theater & Appropriate Funds From RDA 365.  
 C7H Execute Strategic Alliance Memorandum w/ USBA for Federal Small Business Adm. Programs.  
 C7I Approve Assignment, Berkowitz Development Group, Inc., Lenox & 6<sup>th</sup> Street Improvements.  
 C7J Approve Sale of One Used Truck and Ladder to Volunteer Firefighters of Peru.  
 C7K Consent & Confirm Appointment of Eric Yuhr as Fire Chief for the City of Miami Beach.  
 C7L Accept Report from Affordable Housing Advisory Committee & Refer to LUDC.  
 C7M Execute HOME Program Agreement w/ MBCDC, Villa Maria Apartments, 2800 Collins Avenue.  
 C7N Approve Affordable Housing Rental Project & Approve Subordination of Mortgage, Villa Maria.  
 C7O Approve HOME Program Agreement Retroactively w/ MBCDC, The Allen House Apts.  
 C7P Submit US HUD & EDI Special Projects Grant Funding for Renovation of London House Apts.  
 C7Q Approve One-Time Assignment of 10/1/07 CDBG Agmt w/ MBCDC, Meridian Pl. Apts, \$160,230.  
 C7R Approve One-Time Assignment of 10/1/08 CDBG Agmt w/ MBCDC, Meridian Pl. Apts, \$69, 894.  
 C7S Accept Concession Agreement of Shared-Car Program, w/ Hertz, per RFP 42-07/08.  
 C7T Execute Parking Lease Agreement with NMMA Boat Show, Feb 2009-2010 for MBCC.  
 C7U Rescind Award of Contract, Club Car, Inc., & Award 2<sup>nd</sup> Bidder E-Z-Go, Bid 38-07/08.  
 C7V Approve & Authorize RFLI, for Development of Public Parking in North Beach Neighborhoods.  
 C7W Execute Voluntary Coop. & Operational Assistance Mutual Aid Agmt w/ MDC School Board.  
 C7X Execute Agmt w/ State Attorney's Office to Reimburse Cost of Criminal Violations Prosecution.  
 C7Y1 Execute Amend. to Agmt w/ IBI Group, Inc., RFQ 19-04/05, Dade Blvd Bike Path Project. **SM**  
 C7Y2 Approve Local Agency Program Agreement w/ FDOT, Bike Path – Washington Court. **SM**  
 C7Z Authorize Admin., to Negotiate w/ Gallagher Risk Management Services, per RFP 32-07/08.  
 C7AA Deaccess Red Sea Road & Speed Love Seat Sculptures.  
 C7BB Request: Law Firm, Waiver of Conflict of Interest for Visas for Sleepless Night 2009 Performers.  
 C7CC Approve Monthly Extension of Agreement w/ Waste Management Inc., from 01/01/09-03/31/09.

#### REGULAR AGENDA

- R2A Award Contract to Horizon Contractors, Inc, per ITB 48-07/08, South Pointe Phase II Program.
- R5A **10:15 a.m. 2<sup>nd</sup> Rdg**, Create Article Code, Cameras/Monitoring Devices, Red Light Violations.  
 R5B **1<sup>st</sup> & Only Rdg**. Emergency Ord., Amend 2008-3609, Operation of Pedicabs.  
 R5C **1<sup>st</sup> Rdg**, Amend Code, Ad Valorem Tax Deferrals for Affordable Rental Housing Properties.  
 R5D **1<sup>st</sup> Rdg**, Amend Ord. 2006-3504, DROP for MB Employee's Retirement Plan Members.  
 R5E **1<sup>st</sup> Rdg**, Amend Code, Planning Board Composition Residency Requirements. **5/7**.  
 R5F **1<sup>st</sup> Rdg**, Amend Code, Division of Land/Lot Split. **5/7**.  
 R5G **1<sup>st</sup> Rdg**, Amend Code, Direct Appointment of Commission Members Leaving Office. **5/7**
- R7A **1<sup>st</sup> Rdg**, Approve Lease Agreement w/ Colony Theatre Café (dba Segafredo's)/RFP 19-07/08.  
 R7B Approve Agreement w/ Scott Robins Companies, Inc/Purdy Partners & 1849 Purdy Partners.

- R9A Board & Committee Appointments.
- R9A1 Board & Committee Appointments – City Commission Appointments.
- R9A2 Nominate Eda Valero-Figueira to Miami Beach Cultural Arts Council. (Wolfson)
- R9A3 Nominate Dr. Andrew Nullman to the Health Advisory Board. (Libbin)
- R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9C Discuss, Substance Abuse Response Guide Partnership Coalition Resolution. (Bower)
- R9D Discuss, Support GMCVB Urge Fla Legislature Re: Local Licensing Tour Guides. (Bower)
- R9E Appoint Member to Metropolitan Planning Organization to Represent Miami Beach. (Bower)
- R9F Discuss, Urge Federal Gov. to Offer Low Interest Loans for Infrastructure Projects. (Weithorn)
- R9G Recognize & Reaffirm Prior Domestic Partner Ordinances. (Libbin)
- R9H Discuss/Refer to F&CYPC Late Payments of City's Bills As Result of Foreclosures. (Libbin)
- R9I Discuss Access to Baywalk, Waverly Condominium & Update on Baywalk. (Tobin)

- A City Attorney's Status Report.
  - B Parking Status Report, September 2008.
  - B1 Parking Status Report, October 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 Minutes From PACT Board Meeting, September 23, 2008.
  - G Informational Report & Existing Contracts for Renewals/Extensions in Next 180 Days.
  - H Minutes From Wolfsonian-FIU Advisory Board Meeting, October 24, 2008
- 
- 1A Report, Itemized Revenues/Expenditures, RDA's City Center & South Pointe, Sept 2008.
  - 1B Report, Itemized Revenues/Expenditures, RDA's City Center & South Pointe, October 2008.

Meeting called to order at 9:28:26 p.m.

Invocation given by Rabbi Zev Katz, Chabad House in Miami Beach

Pledge of Allegiance led by Margarita Cepeda, Executive Director, New Generation Leadership & Workforce Institute.

Mayor Bower welcomed newly appointed Commissioner Victor M. Diaz, Jr.

**9:30:59 a.m.**

Commissioner Diaz stated that first and foremost, he does not need to reinvent the wheel; this great City is already undertaken a number of dynamic and exciting projects, and he wants to tell this Commission and its predecessor Commissions that they have done a wonderful job. His first job as City Commissioner would be to continue to build on the successes that they have already put in place, and to try to reinforce that which makes Miami Beach a wonderful place to live. Secondly, he intends to continue and reinforce the tradition of not only tolerating, but appreciating and celebrating diversity. This is a progressive, tolerant and diverse City. This diversity is one of the community's strengths. Wherever there is discrimination, he will be there to fight against it; and wherever there is an opportunity to encourage and promote diversity, he will be there to support it. A third priority is to plan for the economic future of this community. We know the difficult times the country is going through, and he knows this Commission has already put in place a great deal of initiatives in order to instill fiscal responsibility and the use of taxpayer dollars, but we need to think about growing the pie, not just surviving the next year, we need to ask what kind of City do we want to be in a five to ten year timeframe. We need to continue to do what we do well, find new opportunities to do new and exciting things better and to put Miami Beach at the forefront of economic growth, not only in South Florida, but in the nation. A fourth thing, as a taxpayer in the community for 20 years, will be always to ensure that the taxpayer dollars are spent responsibly. Fiscal responsibility is of outmost importance; he is not only a lawyer, but also an accountant, and he will be scrutinizing every expenditure, as this

Commission has done, with the utmost care, to make sure taxpayers are getting the maximum value for every dollar spent by City government. Lastly, he wants to help put Miami Beach at the forefront of not only ethics, but also good government reform. Miami Beach is the leader in the County and the State of Florida, but he wants people to think of Miami Beach, not only of its exciting nightlife, beautiful beaches, vibrant tourist economy and wonderful diversity, but also for its reputation, for transparency, ethics and good government; so he hopes to reinforce the initiatives that have already been started. He thanked the community in which he has worked for two decades; he explained that he has been inundated with many calls, emails, letter and well wishes, and stated that it is humbled to hear from so many people in the last few days who have said "Thank You" for offering himself for this position. He thanked Unidad for everything they have done for the community and for him personally, and although he has resigned as president, they will always be an important part in his heart. He thanked his family and his partner Joel Duncan. He explained that those who serve on this board know that the greatest sacrifice that is made by anyone who offers themselves for civic service is family; they stand behind them and celebrate their successes and help them get through the rough spots; their families have made many sacrifices. This is a bittersweet moment for him; bitter as he has resigned from a number of activities that he cares about in order to focus on this job, but sweet because it is a fulfillment of the American dream. He emigrated from Cuba with his parents when he was three-years old to the City of Miami Beach, his parents started out from scratch, working hard jobs and living in a small one-bedroom apartment. For him to sit on this Commission even for one day is truly amazing; this speaks to the wonder of this great country; he is grateful for this opportunity and grateful to this country and proud to be an American.

**ADDENDUM:**

Motion made by Commissioner Diaz; seconded by Commissioner Weithorn to add item C4K as emergency item to the Commission Agenda; Voice vote: 7-0.

**SUPPLEMENTAL:**

C7Y1 & 2 – Exhibit A  
R5A – Exhibits A-D

**Presentations and Awards****10:18:27:a.m.**

PA1 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 presented.

Mayor Bower introduced the item.

Daniel Veitia stated that every year the City does an amazing job putting together the Hispanic Heritage Festival at the North Shore Youth Center and every year there is an "empanada contest" with twelve restaurants participating this year, showing the diversity and pride of businesses in this area. Moises, from Moises Bakery brought samples of the winning empanadas for the Commission.

Joaquin Brass, from Moises Bakery, Day Longsomboon from Tamarind Thai and Elena Seipel from Juices and Bites thanked the City Commission.

**10:13:52 a.m.**

PA2 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 presented. Item heard in conjunction with item PA3.

Mayor Bower introduced the item and recognized the efforts from individuals and businesses who generously contributed to the success of the event.

**10:13:52 a.m.**

PA3 Certificates Of Recognition To Be Presented To: Pepper's Burrito Grill, Mattarello Bakery Café, Fratelli La Bufala, Moshi Moshi, Cavas Wine Bar And Lee Ann Drugs & Pharmacy 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 presented. See item PA2 for details.

**10:05:58 a.m.**

PA4 Certificate Of Appreciation To Be Presented To: Maïa Litzenberg, Winner of the Vote Miami Beach Essay Contest  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Certificate presented.

Mayor Bower introduced the item and explained that this essay was initiated by Commissioner Steinberg and she announced this year's winner, Maïa, who attends 5<sup>th</sup> Grade Gifted Class at South Pointe Elementary School.

Maïa Litzenberg spoke.

Rachelle Arkin, South Pointe Elementary teacher, spoke.

Mayor Bower read the essay about the meaning of democracy.

Handout or Reference Material:

1. Essay titled " Democracy" by Maïa Litzenberg

**9:52:33 a.m.**

PA5 Proclamation To Be Presented To The Opium Group For Their Generosity And Efforts In Planning And Hosting The Seniors' Halloween Dance At Mansion On November 1, 2008.  
(Requested by Vice-Mayor Wolfson)

**ACTION:** Proclamation presented. Item heard in conjunction with item PA6.

**9:52:33 a.m.**

PA6 Certificates Of Recognition To Be Presented To Paula Walker And Vanessa Menkes Of The Opium Group For Their Efforts In Planning And Hosting The Seniors' Halloween Dance At Mansion On November 1, 2008.

(Requested by Vice-Mayor Wolfson)

**ACTION:** Certificates presented. Item heard in conjunction with item PA5.

Vice-Mayor Wolfson introduced the item.

Mayor Bower added that there were over 300 elderly who participated and they all had a great time, and she recognized Vice-Mayor Wolfson for coming up with this idea.

**9:57:18 a.m.**

PA7 Certificate Of Recognition To Be Presented To Tim Wilcox Of Bar-B-Que Beach Restaurant For Generously Providing Food And Refreshments At The Seniors' Halloween Dance At Mansion On November 1, 2008.

(Requested by Vice-Mayor Wolfson)

**ACTION:** Certificate to be presented at a later time, as Mr. Wilcox was not in the audience.

Vice-Mayor Wolfson recognized Tim Wilcox for his contributions during this event.

**9:41:47 a.m.**

PA8 Certificate of Recognition To Be Presented To Kiwanis International Of Miami Beach, Honoring Kiwanis Family Month.

(Requested by Commissioner Libbin)

**ACTION:** Certificate presented.

Commissioner Libbin introduced the item in recognition of Kiwanis International Month in November.

Maria Cruz spoke.

**9:47:03 a.m.**

PA9 Certificates of Recognition To Be Presented To Litter Awareness Volunteers, For Their Participation In The "No Litter, No Butts" Weekend Beach Campaign To: ECOMB, Surfriders of Miami Beach, Surfriders of University of Miami, Honey Shine, North Beach Development Corporation, Doctors Charter School of Miami Shores, EF International Language School, Boucher Brothers, Loews Hotel, The Ritz Hotel, Shore Club Hotel, Pelican Hotel, Marriott Hotel, And The Tides Resort.  
(Requested by Commissioner Libbin)

**ACTION:** Certificates presented.

Commissioner Libbin explained the success of the "No Litter, No Butts" Campaign, and read the names of the organizations that sent volunteers to work for two successive weekends, where people were meeting and greeting beachgoers advising them about the litter laws and offering to handout biodegradable litter bags. He added that the cooperation was tremendous from the community and residents as well as the City's Sanitation Department and thanked everyone for their efforts.

A PowerPoint presentation was shown.

**9:59:11 a.m.**

PA10 Certificates of Recognition To Be Presented To Miami Beach Police Officers Reserve Program For Their Valuable Assistance To The Miami Beach Police Department.  
(Requested by Commissioner Libbin)

**ACTION:** Certificates presented.

Commissioner Libbin introduced the item. He explained that these sworn Police Officers, as part of the Reserve Program, provide additional assistance to full-time officers in a volunteer basis, and recognized their dedicated efforts and services.

Police Major William Riley recognized Pat Ryan, Bobby Jenkins and J. C. Pedroso, on behalf of Police Chief Noriega and past and present members of the Reserve Program.

Mayor Bower stated that Bobby Jenkins has been the elected Police Union President for many years and has always been available when she needs him and added that he has done a great job for the Union.

Jorge Gonzalez, City Manager, added that Bobby retired three months ago and has been working on a volunteer capacity handling the Union's business until a new president takes over.

**10:22:59 a.m.**

PA11 Certificate Of Appreciation Presented To The September, October, November And December 2008 Employees Of The Month "At Your Service Award" Winners.  
(City Manager's Office)

**ACTION:** Certificate presented.

Jorge Gonzalez, City Manager, introduced the item and explained the selection process.

Fire Chief Eric Yuhr introduced Judy Hernandez, the award recipient for the month of October. Judy has coordinated Take Your Sons and Daughters to Work Day for several years and has chaired Relay for Life events to benefit the American Cancer Society, as well as other charity events.

Judy Hernandez spoke.

Gregg Tindle, Code Compliance Division Director, introduced Barbara Hawayek, award recipient of the month of November. Barbara is being recognized for her efforts and coordination during the 2008 Election/Goodwill Ambassador program.

Barbara Hawayek thanked the City Commission, volunteers and Simon Carvil for his help.

Jorge Gonzalez, City Manager, introduced the Capital Improvement team as award recipients for the month of December, and asked Jorge Chartrand to introduce the item.

Jorge Chartrand, CIP Director, explained that the CIP staff volunteered time and effort towards a construction site for Habitat for Humanity. Among staff members were: Jorge Cano, Carla Dixon, Javier del Rio, Mario Gonzalez-Pola, Keith Mizell, who was the organizer, Roberto Rodriguez, Hiram Siaba and Thais Vieira. Volunteers spent the day working construction and participating in the building of two homes for needy families, and their efforts are being recognized today.

#### **New Item**

**10:32:46 a.m.**

Commissioner Weithorn stated that this is Jorge Chartrand's last Commission Meeting as he is retiring; he has headed a department which has had the most challenges in the City since she has been in the Commission. She thanked him for his time and effort in making some noticeable progress on the projects. The Normandy Shores Homeowners Association wants Jorge to know that they appreciate his efforts and he will be missed.

Commissioner Diaz stated that he has worked with Jorge in North Beach projects, and he will be sorely missed. He commended him for his efforts and for his incredible staff.

Commissioner Gross stated that during his tenure in the Commission, he has watched Jorge move up from working within the department to leading a department; and he is filled with awe at the number of projects CIP has in the works; he recognized his efforts in reaching out to the community in trying to reach consensus and added that his is a difficult job, but he wished him the best on his retirement. His work with the CIP Office is appreciated.

Commissioner Libbin stated that Jorge's job is really a "thankless" job and explained that at the Normandy Shore Homeowners meeting it was gratifying to see that the residents who were the angriest stood up and thanked the contractors and the CIP Office for addressing their concerns. He thanked him for the hard work done over the years.



Commissioner Tobin added that Jorge is 100% an honest person; he added that Jorge is always consistent in being honest with the information; with an incredible amount of patience, and he wishes him all good things.

Jorge Gonzalez, City Manager, stated that he appreciates everyone's comments for Mr. Chartrand. He stated that Jorge's legacy on Miami Beach will be very visible, from museums to pump stations. He stated that to know Jorge is to love him; he is a philosopher and tells you what he thinks whether or not it is what one wants to hear. He led an organization from its creation to many of its successes, exceeding \$250 million of construction and over 100 projects completed in six or eight years. He will be sorely missed. He wished him good luck on his retirement.

Mayor Bower stated that she has known Jorge for over 12 years; it is true that he is honest and tells you what he thinks. She stated that she appreciates him and she will miss him, not only for his work, but also for the relationship and interaction with Jorge and thanked him for all his hard work.

Jorge Chartrand, CIP Director, asked the Commission to continue helping and respecting his staff, as they are the ones that deserve the recognition, and asked the City Commission to give his replacement also the same support that they have given him.

**10:44:35 a.m.**

**Announcement**

At the request of Commissioner Gross, Jorge Gonzalez, City Manager, announced that the Normandy Shore Golf Club will be open to the public on December 21, 2008. There will be a host of free events for the community to get acquainted with the golf course; shortly thereafter, the South Pointe Park will be completed. He welcomed everyone to the opening of the Golf Course to come and enjoy a great amenity on the North end.

**10:46:24 a.m.**

PA12 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:** Plaque presented.

Robert Middaugh, Assistant City Manager, explained that the Parks and Recreation Department was recently re-accredited by CAPRA, (making them one in 79 agencies awarded in the country); the department also received the 2008 Agency Excellence Award for the first time; they again received national recognition for the Review Magazine. He stated that staff is passionate and dedicated in serving the residents of the community and added that one of the programs that receive national attention and recognition was The Surf Camp For Children With Autism Spectrum Disorders, and a plaque is being presented to the City Commission as a memento from this event.

Mayor Bower stated that when she started nine years ago; the Parks Department was something she focused on because so many children did not use the parks due to lack of programs. She stated that the City Manager understood her requests and understood the needs of the City, and he listened; it

has taken nine years, but the programs are now in place and progress is noted. It has also been brought to the City Manager's attention that applications need to be in English and Spanish for those parents who may require this additional information, and is great to see how the Parks & Recreation Department has benefited so greatly. She thanked everyone for participating and making this happen.

**10:56:17 a.m.**

PA13 Certificate Of Appreciation Acknowledging Gary Farmer For His Work At The Bass As Interim Administrator.

(Tourism & Cultural Development)

**ACTION:** Certificate presented.

Jorge Gonzalez, City Manager, introduced the item and explained that Gary has been instrumental in creating a variety of new initiatives and ideas to get art into the community for their enjoyment; he added that it is fitting to celebrate his contributions upon the conclusions of Art Basel Miami Beach 7<sup>th</sup> edition, which put Miami Beach on the map in the world. The reason he is being recognized today is that for over a year, Gary, in addition to heading the Cultural Arts Council, has graciously served as Interim Director at the Bass Museum of Art while the City was in transition during directors, exceeding all expectations. The City has selected a new director for the Bass Museum, Silvia Cubiña, and we take this time to thank Gary for all his contributions to the City.

Commissioner Gross stated that Gary originated the idea of bringing "Sleepless Night" to Miami Beach and the City was awarded a grant recently to sponsor this event next year.

Commissioner Diaz stated that to get the total grant from the Knight Foundation and to produce Sleepless Night is the kind of creativity that makes the City a wonderful and exciting place to live.

Jorge Gonzalez, City Manager, explained that 31 finalists were selected and Miami Beach was one of the ones that received the full grant; the program is sure to be a huge success next year. The event is scheduled for November 7, 2009.

**New Item****11:02:41 a.m.**

Jorge Gonzalez, City Manager, introduced Silvia Cubiña formally as the new Bass Museum Executive Director. He explained that The Bass Museum Board of Trustees selected Silvia unanimously after a full search and gave a brief background of her experience.

Silvia Cubiña, Bass Museum of Art Executive Director, thanked the staff for their support and cooperation, and invited everyone to see the shows and new exhibition hall.

**New Item****9:58:14 a.m.**

Bunny Patchen presented her annual rum cake to Mayor Bower and members of the City Commission. She also spoke about the boats anchored behind her home.

**CONSENT AGENDA**

**ACTION:** Motion made by Commissioner Libbin to approve the Consent Agenda; seconded by Commissioner Diaz; Voice vote: 7-0.

**C2 - Competitive Bid Reports**

- C2A Request For Approval To Issue A Request For Proposals (RFP) For A Building Development Process Fees Study.  
(Budget & Performance Improvement)

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

- C2B Request For Approval To Issue A Request For Proposals (RFP) For Investment Advisory Services And Extend The Existing Agreement In A Month To Month Basis With MBIA Municipal Investors Service Corp.  
(Finance Department)

**ACTION: Request authorized as amended.** Gus Lopez to issue the RFP. Patricia Walker to handle.

- C2C Request For Approval To Issue A Request For Qualifications (RFQ), For Professional Construction Engineering And Inspection (CEI) Services Of The Water Mains, Sanitary Sewer Mains, And Milling And Resurfacing Improvements Along Indian Creek Drive Between 26<sup>th</sup> And 42<sup>nd</sup> Streets.  
(Public Works)

**ACTION: Request authorized.** Gus Lopez to issue the RFP. Fred Beckmann to handle.

**C4 Commission Committee Assignments**

- C4A Referral To The Land Use And Development Committee A Discussion Regarding The Possible Prohibition Or Limitation On Rooftop Venues, Restaurants, Bars, Lounges, Etc., Open To The Public Located In All Districts South Of Fifth Street.  
(Requested by Mayor Bower)

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

**5:08:42 p.m.**

- C4B Referral To The Miami Beach Planning Board To Consider An Amendment To The Light Industrial District To Make A "Towing Service" A "Conditional Use."  
(Requested by Mayor Bower)

**ACTION: Referred to the Land Use and Development Committee first and then to the Planning Board.** Item heard in conjunction with item R7B. Motion made by Commissioner Diaz; seconded by Commissioner Libbin; Voice vote: 6-0; Commissioner Tobin recused himself. Jorge Gomez to place on the committee agenda and to handle.

## Handout or Reference Materials:

1. Email from Weinstein, A.C. to Parcher, Robert dated December 01, 2008 RE: time-certain

- C4C Referral To The Sustainability Committee A Discussion Regarding The Removal Of All Public And Private Jet Ski Water Channels On The Atlantic Ocean Side Of The Beach Covering The Entire City Of Miami Beach.

(Requested by Mayor Bower)

**ACTION: Referred.** Robert Middaugh to place on the committee agenda. Ana Cecilia Velasco to handle.

- C4D Referral To The Land Use And Development Committee To Discuss The Unwanted Distribution Of Literature, Newspapers In Particular, At Local Residences.

(Requested by Vice-Mayor Wolfson)

**ACTION: Referred.** Jorge Gomez to place on the committee agenda. Hilda Fernandez to handle.

- C4E Referral To The Neighborhoods/Community Affairs Committee To Discuss A Resolution Adopted By The Beach Preservation Committee Urging For A Visual Litter Awareness Campaign.

(Requested by Commissioner Libbin)

**ACTION: Referred.** Randi MacBride to place on the committee agenda. Fred Beckmann to handle.

**11:22:33 a.m.**

- C4F Referral To The Neighborhoods/Community Affairs Committee To Discuss A Resolution Adopted By The Orchard Park Neighborhood Association Requesting The Creation Of An Organic Community Garden In Pine Tree Park.

(Requested by Commissioner Libbin)

**ACTION: Referred.** Item separated by Commissioner Libbin for comments only and approved via the Consent Agenda vote. Randi MacBride to place on the committee agenda. Kevin Smith to handle.

Commissioner Libbin stated that the Orchard Park neighborhood asked about the creation of an organic garden and he is notifying the public that the referral is being made.

C4G Referral To The Sustainability Committee To Create A Sustainability Master Plan For The City Of Miami Beach To Contain Short, Mid And Long Range Goals Towards Reducing The City's Footprint On The Environment

(Requested by Commissioner Tobin)

**ACTION: Referred.** Robert Middaugh to place on the committee agenda and to handle.

C4H Referral To The Finance & Citywide Projects Committee To Discuss Towing Permit Renewal Options.  
(Parking Department)

**ACTION: Referred.** Patricia Walker to place on the committee agenda. Saul Frances to handle.

C4I Referral To Land Use And Development Committee A Proposed Ordinance Dealing With Revisions To Single Family Ad Valorem Tax Exemptions; An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 5, "Single Family Ad Valorem Tax Exemption", Modifying The Requirements And Procedures For City Ad Valorem Tax Exemptions For Single Family Homes; Providing For Repealer, Codification, Severability And An Effective Date.

(Planning Department)

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

C4J Referral To The Planning Board – Application Requirement For Appointment To A Land Use Board An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code, Chapter 118, "Administration And Review Procedures", Article II, "Boards," Division 1 "Generally," By Creating A New Section 118-32, "Application Requirement For Land Use Boards" To Require The Filing Of An Application For Membership On Any Of The Four Land Use Boards Not Less Than Ten Days Before Appointment, Providing For Waiver By The City Commission; And Providing For Repealer, Severability, Codification, And An Effective Date.

(Planning Department)

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

**ADDENDUM:**

C4K Referral To The Finance & Citywide Projects Committee Of A Discussion On Options For Recycling Services.

(Requested by Mayor Bower)

**ACTION: Referred.** Patricia Walker to place on the committee agenda and to handle.

**C6 - Commission Committee Reports**

C6A Report Of The Capital Improvement Projects Oversight Committee Meeting On November 3, 2008 : **1)** Attendance; **2)** Review And Acceptance Of Minutes; **3)** Public Comments; **4)** Old Business; **5)** Sub-Committee Meeting Reports; **6)** Items Referred To CIPOC From October 7, 2008 City Commission Meeting; **7)** Discussion On How City Is To Address Isolated Flooding Conditions In Areas Outside Of Identified Priority Basins; **8)** Status Of Stillwater Drive (Biscayne Point ROW Project) Issues; **9)** Status Report: Normandy Shores Golf Course; **10)** Construction Update: Normandy Shores Neighborhood Improvement Project; **11)** Staff Action Report; **12)** Calendar Of Meetings; **13)** Adjournment.

**ACTION:****Item No. 3:**

Taken according to agenda item, no additional items heard.

**Item No. 4:****Procurement Options**

This information was included in the report of the Unit Pricing Sub-Committee (Item 5c)

**Best Value Procurement Selection Process**

TABLED

**Review of Priority Basins**

This material to be included in sub-committee on flooding.

**Item 5:****SUB-COMMITTEE MEETING REPORTS****South Pointe Master Booster Pump Station**

Another sub-committee meeting will be held before the December 1, 2008 CIPOC meeting.

**Sunset Islands I & II**

The RFQ is on the City Commission agenda for November 5, 2008.

**Unit Pricing Sub-Committee**

The unit pricing sub-committee met on October 21, 2008.

The Unit Pricing Sub-committee came to these conclusions:

- 1) New schedule of values sheet is an improvement over unit pricing sheet that was sent out with the South Pointe Phase II bid.
- 2) Bids are to remain Lump-sum bids to include a unit pricing listing of the top 20 (or so) items for informational purposes. The listing will include quantities of materials with consistent units of measure. Usually 80/20 (The top 20 +/- items to cover 80% of construction costs) included in the bid documents. The prices included on the unit prices sheet could be used when considering pricing for change orders, but are not binding. (This was clarified by Deputy City Attorney, Raul Aguila).

Overall, the Committee is moving in the direction of having the City prepare more than a standard format of scheduled values. This new pricing structure, tailor-made for each project, will first be included in the South Pointe Phase II RFQ. The bids remain as lump-sum bids, but the unit pricing will be used as a guideline for the bidders and can be taken into consideration when deciding on the award. The bid will still be based on lump sum.

All bids will come back to the CIPOC for review.

**Item No. 6:****ITEMS REFERRED TO CIPOC FROM OCTOBER 7, 2008 CITY COMMISSION MEETING Sunset Island I & II Flooding**

The RFQ is on the City Commission agenda for November 5, 2008.

**Royal Palm and 44<sup>th</sup> Street Flooding Remediation**

The consultant who was hired to look at the drainage systems outside of priority basins is expected to be engaged by November 17 and modeling should take an additional 3 weeks.

The information from this consultant will be presented at the January meeting.

STAFF ACTION: Bring preliminary findings from Millian Swain study to the CIPOC meeting in January (tentatively January 12, 2009).

**Item No. 7:****DISCUSSION ON HOW CITY IS TO ADDRESS ISOLATED FLOODING CONDITIONS IN AREAS OUTSIDE OF IDENTIFIED PRIORITY BASINS**

The Committee wants to investigate, neighborhood by neighborhood, areas that experience spot flooding, in order to develop a uniform solution. Commissioner Weithorn asked that this be presented at this meeting, but taken up again at Mr. William Goldsmith's request, as he wishes to be involved.

Fred Beckmann, Director of Public Works explained that the City has a record of complaints that come in, recorded geographically. The Public Works Department is preparing material to bring to a sub-committee, but will also present this GIS map at the December meeting.

STAFF ACTION: Provide copy of the GIS flooding complaint map from PW to the Committee.

Global approach to all flooding includes accepting certain criteria. For example, how quickly should water drain and what type of flooding do we design for? (5- or 10-year floods).

MOTION ON FORMATION OF SUB-COMMITTEE: Sub-committee to address isolated flooding conditions in areas outside of identified priority basins and to suggest a citywide plan of action to address the issues.

**Item No. 8:****STATUS OF STILLWATER DRIVE (BISCAYNE POINT ROW) ISSUES**

The ROW project for Biscayne Point has completed design, but the residents of Stillwater Drive, one sub-neighborhood within the entire Biscayne Point project, protested some of the plans, asked that construction be halted while they ask for significant changes and that the CIPOC consider their requests.

Jorge Chartrand, CIP Director, announced that some progress was made on two of the suggestions from residents that would not significantly affect the scope of the project.

EAC, the engineer of record, is looking at the possibility of increasing the number of pump stations in order to address spot flooding just east of the guard gate. Stillwater Drive is included in Priority Basin #194, although the flooding that occurs in that priority basin is outside of Stillwater Drive. There are two outfalls on the street, which run through easements between properties. Over the years, however, residents have planted material, sometimes at significant cost that would have to be removed in order to upsize the outfalls, which is the tactic approved in the BODR. Now the engineer is considering the less-invasive, albeit more expensive procedure of adding below-ground pump stations. The calculations and plan have not yet been completed. When this is done, it will be

presented to the Committee as an alternative.

The area in front of the guard gate on the north side of the street was originally proposed to be one-way. The residents felt that they would be "trapped" in their driveways and cited other issues why changing the street direction would be a hardship for them. The CIP Office negotiated further with Miami-Dade County to re-design the new street as a two-way, and received approval. CIP is now waiting on the updated drawings from EAC.

The plans to build swales on the street, and to place pedestrian lighting in the swales are still considered the direction to CIP, because these plans are in the BODR. The residents on the street have asked that the City re-think the inclusion of swales in the design. The arguments against the swale are included below in the comments from residents who spoke at the meeting. The consultant is currently evaluating several alternatives:

- 1) Construct carport areas where swale would be that is comprised of open block (honeycomb) through which grass can grow, while cars sit on the block.
- 2) Create concrete strips in swale for parking.
- 3) As mentioned in the BODR, place special mesh fabric under the sod that allows for aeration, but combats some of the compression of the grass when vehicles are parked on the swale.

STAFF ACTION: Status Report of all projects to be presented at January meeting.

**Item No. 9:**

**STATUS REPORT: NORMANDY SHORES GOLF COURSE**

Jorge E. Chartrand, CIP Director, described the improvements being made in the golf course to address water accumulation and flooding.

The pipe installation under the trench along the rear of the homes on South Shore Drive is now complete and the pipes have been connected to the drainage system within the course. The City is now waiting on the sign-off from the regulatory agencies in order to energize the pumps and have them operating on power.

Weep-holes have been bore into the pipes in the retention swale along Fairway Drive. These swales are tied in to the drainage system in the roadway, which is not yet operational during road construction. As road construction is completed, areas of the overall drainage system will come online, including the area connected to the Fairway Drive swale.

Finally, having already received the permit from South Florida Water Management District to operate the pumps in the interior of the course as well as enlarge the size of the weirs, the City is still waiting for the permit from Florida Department of Environmental Protection. There is no problem with this permit, but the agency is using its full allotted time to reply, which is well within the law. All three items are expected to be resolved by the December 1, 2008 CIPOC meeting.

**Item No. 10:**

Written report included in agenda packet.

**Item No. 11:**

Written report included in agenda packet.

**Item No. 12:**

Committee members did not object to proposed calendar. The date for the July meeting may be moved. This calendar will be finalized after the Commission decides on their calendar of meetings for 2009.



**11:48:02 a.m.**

C6B Report Of The Land Use And Development Committee Of October 27, 2008 Meeting: **1)** Discussion Regarding 39th Street-End; **2)** Discussion Pertaining To The Proposal For Collins Park - A) Discussion Regarding The Mayor's CANDO Committee's Proposal For Collins Park Requiring For All The Spaces In The City Projects Or Public/Private Joint Venture Projects In The CANDO District Portion Of The Structure To Include Art Galleries, Artist's Lofts And Live/Work Spaces; B) Discussion Regarding The Mayor's CANDO Committee's Request For Support Of The Artistic Character Of The CANDO District Requiring Participation In A Program Which Requires On-Street Construction Screening To Display Temporary Works Of Arts Created By Local Artists; **3)** New Business: Discussion Of Proposed Ordinance Regarding ADA Lifts And Elevators.

**Item No. 1:**

**After-Action:** The City will continue to ensure compliance from the developer. Status update will be provided via a Letter to Commission.

**City Clerk's note: Tim Hemstreet to handle.**

**Item No. 2A:**

**After Action:** Commission Committee decided that no formal action would be taken but stated that the Commission should consider these types of uses in public buildings.

**CITY COMMISSION ACTION: Item separated for discussion by Commissioner Diaz to discuss item 2A. Item 2A referred back to the Land Use and Development Committee for further discussion.** Motion made by Commissioner Diaz to refer #2A back to the committed; seconded by Commissioner Libbin; Voice vote: 7-0.

Commissioner Diaz stated that the recommendation of the CANDO Committee was that City projects and public/private joint ventures projects have some requirements for art galleries, artist's lofts and live/work spaces. He asked why not reinforce the recommendations of the CANDO Committee and promote artist with work spaces. He believes it would be a good use of taxpayers' dollars to encourage a vision for a neighborhood which has a tremendous buy-in from the community and the Commission. He asked if item 2A could be referred back to the Land Use and Development Committee for further discussion. The Item references only the CANDO district and asked why the recommendation can not be a requirement for future public/private ventures. **Jorge Gomez to place on the committee agenda.**

**Item No. 2B:**

**After Action:** The Committee rejected the proposal but instructed the Administration to reach out to ADShel to explore the possibility of adding directional / advertising structures, similar to those on Lincoln Road, in the Collins Park area.

**City Clerk's note: Kevin Crowder to handle. Cross-reference ADShel**

**Item No. 3:**

**After-Action:** The Committee requested that the ordinance be limited in scope to lifts only and to bring back the ordinance to the Committee for further discussion.

**City Clerk's note: Alex Rey to handle.**

- C6C Report Of The Land Use And Development Committee Of November 17, 2008 Meeting: **1)** Discussion Of The Performance Artists's Presentation On The Right-Of-Way Adjacent To The Palace Food Bar, Located At 1200 Ocean Drive; **2)** Discussion Regarding A Proposed Amendment To The Regulations Dealing With Accessory Use Restaurants In Hotels Located In The P-PS 1, 2, 3 & 4 Districts. (South Of Fifth Street).

**ACTION:**

**Item No. 1:**

**After-Action:** The Committee instructed the Administration to request that the Special Master postpone any further action relative to the violation dealing with the performers on the sidewalk. Furthermore, the Committee asked the attorney for the proponent of the ordinance, the City's Legal Department and Administrative staff to continue to work on preparing a draft ordinance that addresses the issues raised and to bring it back for further discussion.

**City Clerk's note: Jorge Gomez to handle.**

**Item No. 2:**

**After-Action:** The Committee is requesting the following changes be incorporated into the regulations dealing with hotel accessory restaurants in the subject area: Eliminate the Conditional Use process. Limit the size of restaurants to 1.25 seats per hotel unit and the maximum occupancy to 1.5 persons per unit. For hotels of 20 units or more, but less than 32 units, the restaurant may have a maximum of 40 seats. The number of units shall be those that result after any renovation. The proposed ordinance is referred to the Planning Board for their review and recommendation.

**City Clerk's note: Jorge Gomez to handle.**

**11:23:29 a.m.**

- C6D Report Of The Neighborhoods/Community Affairs Committee Meeting Of November 24, 2008: **1)** 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; **2)** Discussion Of Implementing A North Beach Local Bus Route, **3)** Report Regarding The Intersection Related To The Bike Path At 16<sup>th</sup> Street And Alton Road; And **4)** Discussion Regarding Free Public Parking For Electric Cars

**CITY COMMISSION ACTION: Item separated for discussion by Commissioner Gross. Report approved except with the Commission's actions below.**

Commissioner Gross stated that there are two items from the report that he would like to talk about.

**Item 1:** He requested a report at the next meeting of the Neighborhoods/Community Affairs Committee of all the projects being considered by the AiPP, and also asked if AiPP moneys can be used for the iconic lifeguard stands. He also stated that the pump station project in South Pointe (3<sup>rd</sup> and Washington) should be looked at again before the project is rejected. He is not ready to ratify the Committee's decision to scrap the project. **Randi MacBride to place on the committee agenda and Max Sklar to handle.**

**Item 3:** He also expressed his concern with removing the parking spaces on 16<sup>th</sup> Street and at this time he is not in favor of removing parking spaces. **Randi MacBride to place on the committee agenda and Fred Beckmann to handle.**

**Committee Actions:****Item No. 1:**

**ACTION:** The committee unanimously moved to not proceed with this project and asked Mr. Sklar to report back at the December meeting of the Neighborhoods/Community Affairs Committee on the AiPP program, the fund, the projects, and the AiPP process.

City Clerk's note: See City Commission action above

**Item No. 2:**

**ACTION:** The committee moved to have Mr. Beckmann return to the Neighborhoods/Community Affairs Committee in January 2009 with an interim report before going to commission in February and to the extent possible report on the impact of the removal of the R and K routes to the residents and users of these routes. The committee expressed their sentiment to implement, the North-Beach circulator, if nothing else by June 2009.

**Item No. 3:**

**ACTION:** The committee moved to remove the five parking spaces, move the bike lane to the curb, and have two lanes with one lane going straight or right and one lane as a dedicated left.

City Clerk's note: See City Commission action above

**Item No. 4:**

**ACTION:** The committee unanimously moved to table this item and expressed their sentiment to have the Green committee work towards a comprehensive city-wide green and sustainability program to include marketing and education.

**City Clerk's note: Robert Middaugh to handle.**

**11:33:11 a.m.**

C6E Report Of The Finance And Citywide Projects Committee Meeting For November 18, 2008, **1)** Proposed Project For Retail And Garage In The Sunset Harbor Neighborhood; **2A)** Discussion Of Potential Garage Project In The Collins Park Neighborhood. **2B)** Discussion Regarding A Proposed Joint Venture For A Parking Garage Project In The Collins Park Neighborhood; **3)** Discussion Of Potential Garage Project As Part Of The North Beach Town Center Plan; **4)** Discussion Regarding Acorn Lights Located In Normandy Isle, Normandy Sud ROW Project; **5)** Discussion On Additional Pedestrian Lighting For The Nautilus West ROW Neighborhood; **6)** Discussion Regarding The Wing Art Work At The End Of Lincoln Road And Washington Avenue; **7)** Discussion Regarding Limited Improvements To The Little Stage Theater And **8)** Discussion Regarding Implementation Of The Affordable Housing Ad Valorem Tax Deferral Approved By The 2007 Florida Legislature.

**Item No. 1:**

Motion made by Commissioner Weithorn and seconded by Chairman Gross to present the proposed project to the Commission, as it is currently contemplated in the draft agreement and subject to final negotiations, as follows:

Pay \$8.5 million for the Tremont Towing site where Scott Robins would own the ground floor and the City would own the air rights above; proceed with the design from the Arquitectonica contract; secure financing in 3 years; pay an additional \$4.5 million for the remainder of the air rights; bid the project out and build the garage; and if the City could not achieve the financing by the deadline, Scott Robins would provide the City with the fee for the Tremont Towing site, or conversely, provide the City with \$8.5 million and the project does not proceed. Additionally, the Committee requested a cash flow

projection for a medium size garage to be circulated by LTC.

**City Clerk's note: See agenda item R7B.**

**Item No. 2A:**

Bring the item back to the Committee in February to provide an update on the negotiations and the overall cash flow analysis for the Parking System.

**City Clerk's note: Tim Hemstreet to handle.**

**Item No. 2B:**

Bring the item back to the Committee in February to provide an update on the negotiations and the overall cash flow analysis for the Parking System.

**City Clerk's note: Tim Hemstreet to handle.**

**Item No. 3:**

The Committee authorized the Administration to approach City National Bank and to issue a Request for Letters of Interest for the construction of the potential garage project. The boundaries for the RFLI are 72<sup>nd</sup> Street, Collins Avenue, 63<sup>rd</sup> Street, Indian Creek and Dickens Avenue.

**City Clerk's note: See Agenda Item C7V.**

**Item No. 4:**

Motion made by Commissioner Tobin and seconded by Chairman Gross to approve additional improvements in Normandy Isle which includes the installation of approximately 32 acorn lights, uprights in the median at Trouville Esplanade, and pavers on crosswalks at two intersections, as requested by the Normandy Isle North Homeowners Association and as part of the ongoing Normandy Isle Right-of-Way Improvements Program.

**City Clerk's note: See Agenda Item C7F.**

**Item No. 5:**

Relocate the available 15 cobra heads from Orchard Park and look for more cobra heads available in other neighborhoods and in Public Works. Bring the item back to the Committee in January or February and provide a Contingency Analysis, which will determine the funding sources and the available balance. Other locations will be addressed on a spot basis depending on funding availability after the Contingency is analyzed.

**City Clerk's note: Tim Hemstreet to handle.**

**Item No. 6:**

It was the Committee's consensus to approve \$5,000 for the budget component of the proposal, which will also include a cost analysis of the Morris Lapidus design, as well as the maintenance for each proposal presented.

**CITY COMMISSION ACTION: Item separated for discussion by Commissioner Diaz. Report approved. Item C6E and C7AA were discussed together.**

**Report Item #6:** Commissioner Diaz stated that the recommendation of the committee was to approve a grant for \$5,000 to study some alterations to the "Wing" artwork, and he supports the recommendation as long as it is just a study. He stated that there is a problem when the City has to make a choice between the high demands of an artist, in terms of repair of a damaged artwork, and

the City's only choice is to abandon the artwork; this is a waste of taxpayers money and it needs to stop. He will vote against item C7AA and suggested deferring this item. He also suggested exploring other options to save these pieces of sculpture, either by donating to a sculpture garden in North Beach, or restoring pieces by local collectors or raising funds to restore them. He also requested changing the bid procedure in AiPP to impose a condition so that the City is not placed in the position that it finds itself today. He added that he will speak to local art collectors to see if funds can be raised to save these pieces of artwork.

Max Sklar, Tourism and Cultural Development Director, stated that the "Red Sea Road" sculpture was commissioned so long ago that there is no documentation and staff had to rely on the artist, but as a matter of practice today, the City requires all documentation when they commission a piece of work, and if the piece is damaged the City gives the artist the opportunity to either restore or repair the work; if the artist chooses not to do the work, the City has the ability to seek someone who would. This information can be provided at the Neighborhoods Community Affairs Committee meeting.

Hilda Fernandez, Assistant City Manager, explained that Administration needs the plans for the "Red Sea Road" structure, in order to rehabilitate, and the artist would not provide the original plan.

Commissioner Weithorn stated that the committee asked the Administration to also look at insurance options in AiPP. **Max Sklar to handle.**

Commissioner Gross requested that when the report of AiPP projects goes to committee to provide an update on what is happening with the replacement for the "Iceberg." **Max Sklar to handle.**

**Item No. 7:**

Motion made by Commissioner Weithorn and all were in favor to approve up to \$25,000 for a maintenance project consisting of interior upgrades only. Funding to be appropriated from the A&E portion of the comprehensive master plan renovation project, which was previously appropriated.

**City Clerk's note: See Agenda Item C7G.**

**Item No.8:**

The Committee decided that the ordinance should go for its first reading on Dec. 10th at Commission, and to bring the item back to F&CW on December 16th, along with a fiscal analysis to determine the economic impact this will have on the City.

**City Clerk's note: See Agenda Item R5C.**

**C7 - Resolutions**

- C7A A Resolution Retroactively Approving And Authorizing The City Manager Or His Designee To Submit A Grant Fund Request To The John S. And James L. Knight Foundation For Funding In An Amount Not To Exceed \$150,000 For Sleepless Night 2009; Further Appropriating The Above Grant And Matching Funds, If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To This Application.  
(Budget & Performance Improvement)

**ACTION: Resolution No. 2008-26942 adopted.** Judy Hoanshelt to handle. Patricia Walker to appropriate the funds if approved and accepted.

- C7B A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Pursuant To Request For Proposals (RFP) No. 01-08/09, For Community Satisfaction Survey Services; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Proposer, The Center For Research & Public Policy; And Should The Administration Not Be Successful In Negotiating An Agreement With The Top-Ranked Proposer, Authorizing Negotiations With The Second-Ranked Proposer, Profile Marketing Research ; And Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon Conclusion Of Successful Negotiations By The Administration To Not Exceed \$103,000; And Further Authorizing The City Manager To Negotiate And Approve Subsequent Surveys And/Or Focus Group For 2011, 2012, 2013, 2014.  
(Budget & Performance Improvement)

**ACTION: Resolution No. 2008-26943 adopted.** Kathie Brooks to handle.

- C7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 8, To The Existing Professional Services Agreement With STA Architectural Group, Inc., For The Fire Station No. 2 And Hose Tower Refurbishment Projects; Said Amendment, In The Not-To-Exceed Amount Of \$265,640, To Provide Design Services And Construction Administration Services For The Historic Renovation Of The Existing Fire Station No. 2 (Building A); With Funding For Same Available From Previously Appropriated Funding Sources; \$57,618 From The Pay-As-You-Go (Fund No. 302) Appropriated In The Capital Budget Fiscal Year 2006/2007, \$89,087 From The Capital Reserve - Contingency (Fund No. 304) Appropriated In The Capital Budget Fiscal Year 2007/2008, \$76,935 From The Capital Reserve - Design (Fund No. 304) Appropriated In The Capital Budget Fiscal Year 2007/2008; And With Funding For Same Available From Previously Appropriated Hose Tower Refurbishment Project Funding Sources; \$12,000 From The Pay-As-You-Go (Fund No. 302) Appropriated In The Capital Budget Fiscal Year 2006/2007, And \$30,000 From The Capital Reserve - Design (Fund No. 304) Appropriated In The Capital Budget Fiscal Year 2007/2008.  
(Capital Improvement Projects)

**ACTION: Item withdrawn by the Administration.**

- C7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 3 To The Professional Architectural And Engineering (A/E) Services Agreement Between The City Of Miami Beach, Florida And EAC Consulting, Inc. (EAC), For Additional Professional Services, Associated With Signage And Pavement Markings, In The Amount Of \$49,820, For The Biscayne Point Right Of Way Infrastructure Improvement Project, With Funding From G.O. Bond Neighborhoods Fund (384), Previously Appropriated In The Fiscal Year 2003-2004 Capital Budget.  
(Capital Improvement Projects)

**ACTION: Item withdrawn by the Administration.**

**4:07:26 p.m.**

- C7E A Resolution Approving And Authorizing The Mayor And The City Clerk To Execute Amendment No. 9 To The Agreement Between The City And EDAW, Inc., Dated May 16, 2001, In An Amount Not-To-Exceed \$63,247, For Additional Permitting Associated With The Coastal Construction Control Line And For Additional Resident Project Representative / Construction Administration Services For Construction Of Phase 1 (East Of Collins Avenue) Within The Right-Of-Way Infrastructure Improvements Program Neighborhood No. 6 – Oceanfront Project; With Funding From Previously Appropriated 2003 General Obligation Bond Fund 384, Allocated For Construction In Account 384-2340-069357 And To Be Re-Allocated To Design Account 384-2340-061357.  
(Capital Improvement Projects)

**ACTION: Item deferred at the request of Commissioner Tobin who stated that he feels that the soft costs are very high as compared to the private sector. Tim Hemstreet to handle. Lilia Cardillo to place on the January 28, 2009 Agenda.**

- C7F A Resolution Approving An Amendment To The Basis Of Design Report For Neighborhood No. 4, Normandy Isle And Normandie Sud, To Include Pedestrian Lighting On Marseille Drive, Calais Drive, And Trouville Esplanade; Uplighting Of Landscaping In The Median On Trouville Esplanade; And Brick Paver Crosswalks At The Intersections Of Rue Bordeaux And Trouville Esplanade With Marseille Drive.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2008-26944 adopted.** Jorge Chartrand to handle.

- C7G A Resolution Approving And Authorizing The Administration To Proceed With Limited Upgrades To The Little Stage Theater, As A Maintenance Project Through The City's Property Management Division, That Would Allow Its Opening And Use, Prior To The Future Comprehensive Little Stage Theater Complex Project (The Project); And Further Approving And Authorizing Up To \$25,000 To Fund For These Upgrades From The Previously Appropriated Professional Services Portion Of The Project, With Funds Previously Appropriated From The City Center RDA Capital Fund No. 365.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2008-26945 adopted.** Jorge Chartrand to handle.

- C7H A Resolution Authorizing The City Manager To Execute A Strategic Alliance Memorandum Between The City Of Miami Beach And The United States Small Business Administration, For The Purpose Of Enhancing Awareness Of And Access To Federal Small Business Programs By Miami Beach Businesses.

(City Manager's Office)

**ACTION: Resolution No. 2008-26946 adopted.** Kevin Crowder to handle.

- C7I A Resolution Approving The Assignment From Berkowitz Development Group (As Assignor) To The City (As Assignee), Of The Following Agreements Between Berkowitz Development Group, Inc., And **1)** The Firm Of Schwebke-Shiskin & Associates, Inc., For Civil Engineering Services For Off-Site Improvements Along Lenox Avenue And 6<sup>th</sup> Street, In The Amount Of \$90,850; **2)** C. Davis Electric Col, Inc., For The Engineering And Coordination For The Roadway Lighting On 6<sup>th</sup> Street And Lenox Avenue, In The Amount Of \$19,200; And **3)** EGS2 Corporation, For Landscape Architectural Services Related To Off-Site Improvements On 6<sup>th</sup> Street And Lenox Avenue, In The Amount Of \$3,700; With Funding, In The Amount Of \$113,750, From South Pointe RDA Account 379-2330-061357, Previously Appropriated For Flamingo Neighborhood Bid Pack A In The Capital Budget.

(City Manager's Office)

**ACTION: Resolution No. 2008-26947 adopted.** Kevin Crowder to handle.

- C7J A Resolution Approving The Sale Of One (1) Used 1981 Darley Pumper Truck And One (1) Used 1987 Spartan Ladder Truck, In Their "As Is" Condition, To The Cuerpo General De Bomberos Voluntarios Del Peru (Volunteer Firefighters Of Peru), In The Amount Of \$10,000.

(Fleet Management)

**ACTION: Resolution No. 2008-26948 adopted.** Drew Terpak to handle.

**11:07:28 a.m.**

- C7K A Resolution Consenting To And Confirming The Appointment Of Eric Yuhr As The Fire Chief For The City Of Miami Beach

(Human Resources)

**ACTION: Resolution No. 2008-26949 adopted.** Motion made by Commissioner Libbin to approve by acclamation; Voice vote: 7-0. Fire Chief Eric Yuhr was sworn in by Robert Parcher, City Clerk.

Jorge Gonzalez, City Manager, introduced the item and gave background information regarding Eric's achievements. He has been promoted from Fire Fighter I in 1987 to Assistant Chief in 2001. Since March 2008 he has been the Acting Fire Chief and has done an extraordinary job through challenging times, dealing with budget decisions and implementing strategies. He is a firefighter, a paramedic, FEMA certified, has over 20 years of experienced, he has developed the Florida Urban Search & Rescue Team, coordinated deployment and responses during natural disasters and has worked diligently to ensure good labor management relationships; he has a Bachelor's Degree and is pursuing a Masters Degree in Fire Administration. He recognized former fire chief and now State Representative Luis Garcia and former Fire Chief Ed Del Favero, both of whom have worked with Eric.

Fire Chief Yuhr stated that he is honored in being appointed to this position. He recognizes the support from the City's team and his staff. He thanked Representative Garcia; he also thanked Ed



Del Favero, and recognized former Chief Jordan who was unable to attend the meeting. He thanked his parents who flew in from New Mexico, his wife, his children and grandson who were all in the audience.

Handout or Reference Materials:

1. Oath given to Eric Yuhr signed by Robert Parcher, City Clerk

C7L A Resolution Accepting The Recommendations Report From The Affordable Housing Advisory Committee And Referring Same To The Land Use & Development Committee For Discussion And Implementation Considerations.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-26950 adopted.** Report accepted and referred to the Land Use and Development Committee. Jorge Gomez to place on the Agenda. Anna Parekh to handle.

C7M A Resolution Authorizing The Mayor And The City Clerk To Execute A HOME Investment Partnerships (HOME) Program Agreement With The Miami Beach Community Development Corporation (MBCDC), Providing \$185,273 Of Home Program Funds From Fiscal Year 2007/2008 Pursuant To A Notice Of Funding Availability Issued On October 1, 2007, For MBCDC To Continue An Affordable Housing Rehabilitation Program And Provide Rental Housing For Income-Eligible Elderly Participants In The Villa Maria Apartments, Located At 2800 Collins Avenue, Miami Beach, Florida; Further Approving A One-Time Only Assignment Of This Agreement To MBCDC: Villa Maria, LLC, A Not-For-Profit Entity Created By MBCDC As A Successor In Interest In Title To The Property Located At 2800 Collins Avenue.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-26951 adopted.** Anna Parekh to handle.

Handout or Reference Materials:

1. LTC No. 315-2008 dated December 10, 2008 to Mayor Matti Herrera Bower and Members of the City Commission RE: MBCDC Status of City Allocations to Projects Under Development.

**4:09:40 p.m.**

C7N A Resolution Approving The Following Actions With Regard To The Affordable Housing Rental Project Acquired And To Be Rehabilitated By Miami Beach Community Development Corporation (MBCDC), Known As The Villa Maria, And Located At 2800 Collins Avenue: 1) Approving A Subordination Of The City's Interest In Favor Of A New Mortgage In The Amount Of \$2,000,000 Being Made To MBCDC Development Corporation (MBCDC) By The Florida Housing Finance Corporation Special Housing Assistance And Development Program (SHADP); 2) Approving A Subordination Of The City's Interest In Favor Of A New Mortgage In The Amount Of \$1,215,000 Being Made To MBCDC By Miami-Dade County From FY 2007 Home Funds; 3) Approving A Subordination Of The City's Interest In Favor Of A New Mortgage In The Amount Of \$1,000,000 Being Made To MBCDC By Miami-Dade County From FY 2006 Surtax Program Funds; 4) Further Authorizing The City Manager To Execute Any And All Documents To Effectuate The Aforestated Transactions.

(Office of Real Estate, Housing & Community Development)

**ACTION: Item separated by Commissioner Tobin. Resolution No. 2008-26952 adopted. Motion made by Commissioner Diaz; seconded by Commissioner Libbin; Voice vote: 7-0.** Anna Parekh to handle.

Commissioner Tobin stated that the cost of the 34 units at the Villa Maria seem to be very high and there is a subordination agreement and asked Roberto Datorre to explain.

Roberto Datorre, President Of Miami Beach Community Development Corporation, stated that the covenant stays with the land.

Hilda Fernandez, Assistant City Manager, explained that a restricted covenant stays with the property. She stated a correction, for the record, that the Commission Memorandum states there is a 30-year restrictive covenant, in fact, the restrictive covenant for Villa Maria is 50 years. HUD requires for affordability for rehab project in only 15 years. She explained that as long as the property remains affordable the City does not have to return the money to HUD.

Roberto Datorre, President Of Miami Beach Community Development Corporation, spoke.

Commissioner Gross stated that the Commission requests one principle chart showing the capital side; how much was paid, how much is going to be spent to renovate, what are the total costs that are going to be invested, and where is the money coming from. **Anna Parekh to handle.**

Commissioner Tobin asked that Roberto look at the number because he believes they are high.

#### Handout or Reference Materials

##### 1. Updated Sources & Uses List dated 12/8/08 RE: Villa Maria Apartments

C7O A Resolution Retroactively Approving The Attached HOME Investment Partnerships (HOME) Program Agreement Between The City Of Miami Beach And Miami Beach Community Development Corporation, A Florida Not-For-Profit Corporation (MBCDC), In The Amount Of \$192,481 Of Home Program Funds From Fiscal Year 2006/2007 To Continue An Affordable Housing Rehabilitation Program And Provide Rental Housing For Income-Eligible Participants In The Allen House Apartments, Located At 2001 Washington Avenue, Miami Beach, Florida; Further Approving A One-Time Only Assignment Of This Agreement To MBCDC: The Allen, LLC, A Not-For-Profit Entity Created By MBCDC As A Successor In Interest In Title To The Property Located At 2001 Washington Avenue, Miami Beach, Florida.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-26953 adopted.** Anna Parekh to handle.

C7P A Resolution Approving And Authorizing The City Manager Or His Designee To Submit A U.S. Department Of Housing And Urban Development (HUD) Economic Development Initiative (EDI) Special Projects Grant Application For Funding In An Amount Not To Exceed \$514,500 For Renovation Of The London House Apartments; Authorizing The Mayor And The City Clerk To Execute An Agreement Between HUD And The City; And Further Authorizing Execution Of An Additional Agreement Between The City And MBCDC: The London, LLC.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-25954 adopted.** Anna Parekh to handle.

C7Q A Resolution Approving A One-Time Only Assignment Of The October 1, 2007, CDBG Agreement In The Amount Of \$160,230 Between The City And Miami Beach Community Development Corporation (MBCDC), To MBCDC Meridian Place, LLC, A Not-For-Profit Entity Created By MBCDC (And Whose Sole Member Is MBCDC) As A Successor In Interest In Title Of The Meridian Place Apartments, Located At 530 Meridian Avenue.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-26955 adopted.** Anna Parekh to handle.

C7R A Resolution Approving A One-Time Only Assignment Of The October 1, 2008, CDBG Agreement In The Amount Of \$69,894 Between The City And Miami Beach Community Development Corporation (MBCDC), To MBCDC Meridian Place, LLC, A Not-For-Profit Entity Created By MBCDC (And Whose Sole Member Is MBCDC) As A Successor In Interest In Title Of The Meridian Place Apartments, Located At 530 Meridian Avenue.

(Office of Real Estate, Housing & Community Development)

**ACTION: Resolution No. 2008-26956 adopted.** Anna Parekh to handle.

**11:51:53 a.m.**

C7S A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Request For Proposals (RFP) No.42-07/08, For A Concession Agreement Of A Shared-Car Program For Residents And Visitors Of The City Of Miami Beach; Authorizing The Administration To Enter Into Negotiations With Hertz; And Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon Completion Of Successful Negotiations By The Administration.

(Parking Department)

**ACTION: Item separated for discussion by Commissioner Weithorn. Resolution No. 2008-26957 adopted as amended. Issue to be referred to the Finance and Citywide Projects Committee after negotiations are completed.** Motion made by Commissioner Gross; seconded by Commissioner Weithorn; Voice vote 7-0. Saul Frances to handle. Patricia Walker to place issue on the committee agenda. Robert Middaugh to handle.

**Amendment:**

1. Hertz was selected as the company
2. Administration authorized to negotiate the agreement and bring back to the Commission
3. Referral to the Finance and Citywide Project Committee

**End**

Commissioner Weithorn separated this item for transparency and she did not want to pass this item on the Consent Agenda without letting the public know that they will be losing 100 parking spaces.

Commissioner Gross stated that this item authorizes the City Manager to negotiate an agreement. In his review with the City Manager he gave the Manager a number of issues to look into.

Jorge Gonzalez, City Manager, stated that this item is just allowing the Administration to negotiate and the contract will come back for approval of the City Commission.

Commissioner Weithorn requested that 1) the contract that will be brought will provide for the City to be able to control and monitor the use of the parking spaces and 2) do not bring this item on the Consent Agenda in order to allow for public comment. **Saul Frances to handle.**

Jorge Gonzalez, City Manager, stated that before this item comes back to the City Commission the negotiated agreement needs to be referred to the Finance and Citywide Projects Committee.

Handout or Reference Materials:

1. Hertz press kit

**New Item**

**12:01:12 p.m.**

Mayor Bower stated that she would like to have a meeting in January dedicated to appointing Board and Committee members. This was how it was handled last year. The Commission agreed.

Jorge Gonzalez, City Manager, stated that the Administration will advertise a Special City Commission meeting in January to make board appointments.

C7T A Resolution Approving A Parking Agreement Lease With The NMMA (National Marine Manufacturers' Association) Boat Show For The Preferred Parking Lot And Related Space; Additional Storage Space; And Services To Be Provided By The City's Parking Department, For Specific Dates In February 2009 And 2010, Said Lease Running Concurrently With The Boat Show Lease With Miami Beach Convention Center.

(Parking Department)

**ACTION: Resolution No. 2008-26958 adopted.** Saul Frances to handle.

C7U A Resolution Rescinding The Award Of Contract To Club Car, Inc., Pursuant To Invitation To Bid No. 38-07/08, For The Lease Of Golf Carts And Other Miscellaneous Golf Equipment/ Vehicles, For The Normandy Shores And Miami Beach Golf Clubs (The ITB), And Further Approving Award Of The ITB To The Second Bidder, E-Z-Go, (In The Same Amount Of The Original Award To Club Car, Inc.); Further Approving And Authorizing The Mayor And City Clerk To Retroactively Execute An Equipment Lease Agreement And Other Related Documents With E-Z-Go In The Total Amount Of \$209,330.28, For A Period Of Thirty-Six (36) Months, With Monthly Installments Of \$5,814.73 For The Normandy Shores Golf Club; And In The Total Amount Of \$237,850.20, For A Period Of Thirty-Six (36) Months, With Monthly Installments Of \$6,606.95 For The Miami Beach Golf Club.

(Parks & Recreation)

**ACTION: Resolution No. 2008-26959 adopted.** Kevin Smith to handle.

C7V A Resolution Approving The Scope, And Authorizing The Issuance Of A Request For Letters Of Interest (RFLI), For The Development Of Public Parking To Serve Two Neighborhoods In North Beach, Said Areas Generally Defined As The North Beach Town Center From 69 To 72 Street Between Collins Avenue And Indian Creek Drive/Dickens Avenue, And The Collins Avenue Commercial District Between 63 And 69 Street.

(Planning Department)

**ACTION: Resolution No. 2008-26960 adopted.** Jorge Gomez to handle.

C7W A Resolution Authorizing The City Manager And City Clerk To Execute A Voluntary Cooperation And Operational Assistance Mutual Aid Agreement With The School Board Of Miami-Dade County, Florida.

(Police Department)

**ACTION: Resolution No. 2008-26961 adopted.** Chief Noriega to handle.

C7X A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement Between The City And The State Of Florida, The State Attorney's Office For The Eleventh Judicial Circuit In And For Miami-Dade County, Florida, To Reimburse The State For The Cost Of State Attorney Prosecution Of Certain Criminal Violations Of The City Of Miami Beach And Miami-Dade County Codes And Ordinances.

(Police Department)

**ACTION: Resolution No. 2008-26962 adopted.** Chief Noriega to handle.

**Supplemental: Exhibit A**

C7Y1 A Resolution Approving And Authorizing The Mayor And The City Clerk To Execute Amendment No. 1 To The Agreement Between The City And The IBI Group, Inc., Dated April 2, 2007, Pursuant To Request For Qualifications No. 19-04/05 For Design, Engineering, Permitting, And Construction Administration Services For The Dade Boulevard Bike Path Project, In An Amount Not To Exceed \$94,321; Said Amendment For The Provision Of Additional Design, Permitting, And Construction For The Adoption Of Necessary Modifications To The Design Plans Of The Northern Bank Of Collins Canal From The Venetian Causeway To 23<sup>rd</sup> Street; With Funding From Previously Appropriated City Center Redevelopment Agency (RDA) Funds.

(Public Works)

**ACTION: Resolution No. 2008-26963 adopted.** Fred Beckmann to handle.

Handout or References Materials:

1. Aerial map of proposed bike path
2. Color map Neighborhood No. 9 City-Center - Exhibit B

**Supplemental: Exhibit A**

C7Y2 A Resolution Approving A Local Agency Program Agreement With The Florida Department Of Transportation In The Amount Of \$319,000 In Federal High Priority Project Funds For A Bike Path Along Washington Court To Connect To The Dade Boulevard Bike Path.

(Public Works)

**ACTION: Resolution No. 2008-26964 adopted.** Fred Beckmann to handle.

Handout or References Materials:

1. Aerial map of proposed bike path
2. Color map Neighborhood No. 9 City-Center - Exhibit B

C7Z A Resolution Accepting The Recommendation Of The City Manager Pursuant To Request For Proposals (RFP) No. 32-07/08 For An Insurance Broker Of Record For Property And Liability Insurance, As Needed, For The City Of Miami Beach, Florida; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Arthur J. Gallagher Risk Management Services, Inc., And Should The Administration Not Be Able To Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Negotiate With The Second-Ranked Firm Of Willis Of Florida; And Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon The Completion Of Successful Negotiations By The Administration.

(Risk Management)

**ACTION: Resolution No. 2008-26965 adopted.** Cliff Leonard to handle.

**11::11 a.m.**

C7AA A Resolution De-Accessioning Of The "Red Sea Road" Sculpture (Designed By The Artist Barbara Neijna"); And "Speed Love Seat" Sculpture (Designed By The Artist Antoni Miraldi).

(Tourism & Development)

**ACTION: Item separated for discussion by Commissioner Diaz. Item heard in conjunction with item C6E. Item deferred and referred back to the Neighborhoods Community Affairs Committee.** Motion made by Commissioner Tobin to defer the item; seconded by Commissioner Diaz; Voice vote: 7-0. Max Sklar to handle.

See discussion with item C6E.

C7BB A Resolution Regarding Request By The Law Firm Of Greenberg Traurig, P.A., For A Waiver Of Conflict Of Interest In Representing The City Of Miami Beach, On A Pro Bono Basis, Relative To Obtaining Temporary Visas (Or Other Authorizations, As Required) For Foreign National Entertainers Who Will Be Performing In The City's "Sleepless Night 2009" Special Event.

(Legal Department)

**ACTION: Resolution No. 2008-26966 adopted.** Legal Department to handle.

C7CC A Resolution Approving And Authorizing A Month-To-Month Extension Of The Agreement With Waste Management, Inc. Of Florida, Dated December 8, 2004, For Collection And Disposal Of Residential Solid Waste, Yard Trash, Bulk Waste And Operation Of The City's Green Facility, Pending A Determination By The City Commission On Whether Or Not To Exercise The Renewal Term Under Said Agreement; Said Month-To-Month Extension Commencing On January 1, 2009, And Terminating No Later Than March 31, 2009; Further Referring The Issue Of Whether Or Not To Exercise The Renewal Term Under The Agreement To The Finance And Citywide Projects Committee, For Its Recommendation.

(Public Works)

**ACTION: Resolution No. 2008-26967 adopted.** Fred Beckmann to handle.

**End of Consent Agenda**

**REGULAR AGENDA****Competitive Bid Reports****1:27:31 p.m.**

R2A A Request For Approval To Award A Contract, Pursuant To Invitation To Bid No. 48-07/08, For The Construction Of The City Of Miami Beach Right Of Way Infrastructure Improvement Program, Neighborhood No. 12c, South Pointe Phase II, Accepting The City Manager's Recommendation Relative To The Ranking Of Contractors, And Authorizing The Mayor And City Clerk To Execute An Agreement With The Top-Ranked Contractor, Horizon Contractors, Inc., In The Amount Of \$7,683,901 For The Construction Of The Project; With Funding Available From Previously Appropriated South Pointe RDA Fund 379 In The Amount Of \$6,639,811, And South Pointe Capital Fund 389 In The Amount Of \$1,044,090 For Construction, And \$768,390 Available From The South Pointe Capital Fund 389 For Contingency.

(Capital Improvements Project)

**ACTION: Request authorized.** Motion made by Commissioner Gross to approve the contract; seconded by Commissioner Weithorn; Voice vote: 7-0. Tim Hemstreet to handle.

Robert Parcher, City Clerk, stated for the record, that handouts had been distributed to the City Commission.

Jorge Gonzalez, City Manager, introduced the item and explained that there was a timely bid protest received from Acosta Tractors.

Raul Aguila, Deputy City Attorney, stated that the bid protest was responded to and denied.

Alex Acosta, Vice-President from Acosta Tractors, Inc., spoke.

Vice-Mayor Wolfson stated that for fairness the first company is not present to speak.

Gus Lopez, Procurement Director, explained that Horizon Contractor was invited to attend, but they are busy at a job site.

Discussion held.

Jose Smith, City Attorney, opined that the City Commission does not have the authority to overrule the finding that the bid protest is inappropriate and rejected; the City Commission can consider their bid on its merits, but the issue that Acosta is raising now is the item they are considering, which is awarding a contract, and this has been resolved.

Discussion continued.

Alex Acosta, Vice-President from Acosta Tractors Inc., argued their issue and asked for deferral to obtain legal counsel for representation.

Raul Aguila, Deputy City Attorney, objected, as the Legal Department can only respond to issues raised in the bid protest under the City's ordinance. This new issue, which was not raised in his bid protest, is waived according to the law.

Discussion continued.

Jose Smith, City Attorney, stated that their only remedy is to appeal to the Circuit Court.

Commissioner Diaz asked what the due process argument is in regards to the add alternates selection.

Raul Aguila, Deputy City Attorney, stated that in the Invitation to Bid it was clear that the bids would be evaluated based on a lump sum grand total, subsequent to that, the Administration could recommend which or none of the add alternates it would decide, however, the bids were evaluated on grand total base bid. What Horizon did was to submit a base bid and add alternates, but the grand total was the same number as the total bids; and whether or not that constitutes a cost saving to the City, the City cannot substitute the judgment for that of the bidder.

Discussion held.

Stacey Lotspeich, CIPOC subcommittee member, stated that the committee did not review the documents, but the comments issued were incorporated into them to reflect the reason for the rejection.

Discussion continued.

Vice-Mayor Wolfson stated that it would be nice to hear from Horizon in reference to their contract since he has questions.

Commissioner Diaz stated that Horizon Contractor should be present to answer questions and all the concerns upfront.

Jorge Gonzalez, City Manager, suggested that they call the contractor and maybe they can come in. He suggested not taking action right now.

Commissioner Weithorn stated that they could be notified, but this contractor has done other jobs for the City and they know the City very well and there have never been any complaints.

Commissioner Gross stated that there are strict criteria in the bid package in reference of tearing the streets.

Commissioner Diaz stated that he would defer but if the questions could be answered during contract negotiations then he is ready to vote.

Bill Goldsmith spoke.

Frank Del Vecchio spoke.

Handout and Reference Materials:

1. Letter to Mr. Jorge Gonzalez, City Manager from Frank Acosta, Acosta Tractors, Inc., dated December 9, 2008 RE: ITB 48-07/08.
2. Letter to Frank Acosta undated, sent via facsimile and via email from Jorge M. Gonzalez, City Manager, RE: ITB 48-07/08 response to bid protest.



**R5 - Ordinances****12:03:00 p.m.****Supplemental: Exhibits A-D**

R5A 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. **10:15 a.m. Second Reading, Public Hearing.**

(Public Works)

(First Reading on November 5, 2008)

**ACTION: Public Hearing held. Ordinance No. 2008-3621 adopted.** Motion made by Commissioner Libbin; seconded by Commissioner Diaz; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. **Robert Middaugh to handle.**

Robert Middaugh, Assistant City Manager, introduced the item.

Leo Ostreicher spoke.

Frank Del Vecchio spoke.

George Patrick Murphy spoke.

Marian Del Vechio spoke.

Dr. Morris Sunshine spoke.

Commissioner Libbin stated that this issue has been tested at other cities and the Police Chief stated that this is safe.

Commissioner Diaz asked the City Manager to discuss with the Police Chief to look at stricter enforcement on drivers running red lights in the City. He stated that this needs to stop particularly if we are trying to be pedestrian and bicycle friendly on a tourist destination where people are encouraged to walk the streets. **Chief Noriega to handle.**

Mayor Bower reinforced the request that the Police Department prioritize violations of stop signs and red lights in the City. **Chief Noriega to handle.**

Commissioner Tobin requested to allow Leo to do a Public Service Announcement to bring public awareness to this problem.

Mayor Bower stated that due to the request of the citizens she will change her vote to yes, but she does not believe in this process because she feels it is only a "feel good" thing.

Vice-Mayor Wolfson asked if the RFP is under the Cone of Silence and the answer was "yes," but he

could speak on it at a public hearing.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 516
2. Photographs submitted by Leo Ostreicher

**7:42:48 p.m.**

R5B An Emergency Ordinance Amending Ordinance No. 2008-3609, Which Provides Definitions, Regulations, Enforcement Provisions, And Fines And Penalties Regarding The Operation Of Pedicabs, By Amending Section 6 Thereof, Entitled “Effective Date,” To Eliminate The Automatic Sunset Date Of January 1, 2009; Providing For Repealer; Severability; Codification; And An Effective Date. **First & Only Reading – Public Hearing.**

(City Manager’s Office)

**ACTION: Public Hearing held. Ordinance No. 2008-3622 approved on the first and only reading as an Emergency Ordinance.** Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Ballot vote: 7-0. R. Parcher to notice the ordinance in full within 10-days of passage. **Hilda Fernandez to handle.**

Robert Middaugh, Assistant City Manager, explained the basis for the emergency for the record.

Robert Parcher, City Clerk, explained that the entire ordinance will be published in the Miami Herald’s Neighbors.

R5C Ordinance Amending Chapter 102 Of The City Code By Creating Article VI, “Ad Valorem Tax Deferrals For Certain Affordable Rental Housing Properties,” Providing For And Authorizing The Deferral Of A Portion Of Ad Valorem Tax For Properties Used For Affordable Rental Housing Purposes; Providing For Severability, Codification, Severability, And An Effective Date. **First Reading.**

(City Manager’s Office)

**ACTION: Item Administratively withdrawn.**

**4:23:56 p.m.**

R5D An Ordinance Implementing A Deferred Retirement Option Plan For Members Of The Miami Beach Employees’ Retirement Plan Created By Ordinance 2006-3504, As Subsequently Amended; Creating A New Section 2.26, Providing A Definition Of Deferred Retirement Option Plan; Creating A New Section 5.13, Establishing The Deferred Retirement Option Plan And Setting Forth The Features Of The Plan; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. **First Reading.**

(Human Resources)

**ACTION: Ordinance approved on first reading.** Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 28, 2009. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Ramiro Inguanzo to handle.

Jorge Gonzalez, City Manager, explained that this ordinance amends the Miami Beach Retirement Plan and added that over the years the Administration has received inquiries requests urging that the City consider a DROP program for their general employees. This Retirement Option plan means that

those employees who have reached their age of retirement, can begin to retire and begin to collect their pension (funded into an individualized investment account) and those individuals can continue to work for the City for a period of up to three additional years; it's a very popular program from the benefits that it offers and at the same time it provides a certain sense of finality to the City for secessions planning. Currently this DROP program is provided to the Police and Fire employees of the City, and throughout the various opportunities of collective bargaining with the CWA, AFSCME and GSA, this issue was brought to the forefront. This issue was requested early this year and an administratively analysis was done compared to the actuary analysis from the Unions. Commissioner Weithorn was designated by the committee to oversee this, and after a lot of analysis and deliberation, the DROP program being presented is slightly tweaked from what was initially presented, which ends up being a savings to the City. These tweaks were agreed with the Union, and are: an employee must have reached the age of retirement, either 50 or 55, depending on date of hire; this drops the cost; while in the DROP, the COLA provided for in the Pension System would not be eligible, therefore, up to three years, that COLA, which is a 2.5% per year compounded, is not a factor into the equation, and when the actuary did that calculation along with restrictions, essentially in the most worst scenario for the City, assuming no one participates in it, it would end up costing about \$32,000 per year. Different scenarios are included in the package.

Commissioner Weithorn states that this is a win-win program for everyone and she thanked the Finance Committee for putting their faith on her; she also thanked the CWA who brought the issue to their attention. This program makes sense in doing it and it helps the budgeting going forward.

Vice-Mayor Wolfson added that when a program like this can provide benefits and create savings in a time like this with working families, it's a positive thing, and he commended the Administration and CWA for getting this done.

Commissioner Tobin opposes to this; he explained that the Unions are very tough in the City, and this particular Union during election cycles spends thousands of dollars supporting or opposing candidates, and he knows that contract negotiations are coming up soon, and from a business perspective he thought it was the wrong thing to do, from a negotiating standpoint. He asked Commissioner Weithorn about the annual return as stated in the actuary at the bottom of Page 477.

Commissioner Weithorn answered that actuary compute over a long history of time; pensions smooth the numbers over time and average them over time, so these are typical ordinary and normal assumptions that actuaries make.

Discussion held.

Commissioner Tobin stated that the actuary made an assumption of 8.65% return and he wants to know where the City can get 8.65% return on its money.

Steve Palmquist, Actuary with Gabriel, Roeder, Smith & Company, explained that the assumed rate of investment return is the expected long term of return; the way things have been these past 14 months have been terrible in all markets, but they are looking at very long periods of time, and given the asset allocation of the Pension fund, history tells them that that is the rate of return within the realm of reason. The Pension Board sets that rate with guidance from professionals, and this past year the Pension Board adopted a policy that 8.65%, which is going to be reduced gradually to 8% during the next five years.

Discussion continued.

There were questions and answers to and from the Actuary and the City Commission explaining the program and its benefits.

Jorge Gonzalez, City Manager, explained that when the individual enters the DROP, that employee is retired and therefore, does not pay its contribution percentage to the Pension System, nor does the City pay its corresponding share, and that's what the ARC is about. The COLA is one of the benefits.

Discussion continued.

Commissioner Tobin asked if the Actuary is calculating as part of the savings to the City that the City does not have to make the 2.5% contribution for COLA, there needs to be the factor in the fact that as an active employee the City pays 3% for COLA.

Jorge Gonzalez, City Manager, clarified that the way the Pension System is funded, is that the City does an Actuary analysis, we are giving a percentage of payroll, which is a factored number that its funded from the General Fund to the Pension System, which is based on a lot of analysis, including payroll, benefits, performance of stock market investments, and takes into account all of the factors that affect the Pension System. In the Pension System, one of the benefits, among the many, is that retirees receive a 2.5% cost-of-living adjustment to their Pension. When all is factored in, the Pension Board sends a figure to the City, and that is budgeted, which is considered the Annual Required Contribution. The City's normal cost-of-living adjustment is not guaranteed every year and we have not budgeted COLA for next year; it's not a factored number. The ARC saved is the fact that for an employee who is not in the DROP the City pays the full value of the ARC, and for an employee who is in the DROP, the City does not have an ARC for that employee since the employee is officially retired, just like that employee does not have an employee "E" contribution to the Pension.

Commissioner Diaz believes that what Commissioner Tobin is asking is that if there is any assurance if a cost-of-living increases is given greater than 2%, that the overall cost to the City will not be greater, and the bottom line is that Commissioner Weithorn acknowledges that this is a benefit that could be revenue neutral to the City and is something that employees desire; and what he hears from Commissioner Tobin, is that he believes this would not be revenue neutral, and if that is the case, he asked if that is the argument Commissioner Tobin is trying to make.

Commissioner Tobin stated that he has to rely on the experts and he knows the experts were retained by the Union who wanted to receive these benefits, but his primary issue is why give up something that is so good and so wanted for a decade by the Union prior to the negotiations with one of the City's toughest negotiators.

Commissioner Diaz asked the City Manager if in fact this is something that is a win-win situation, and added that this is good personnel practice and good Human Resource practice as it builds morale, and asked the City Manager if he is confident that this would be revenue neutral to the City, but if it is not revenue neutral to the City, at least this Commission should know that before voting on it.

Jorge Gonzalez, City Manager, stated if the City can keep a few employees that he would rather not have stay a while longer, but keep a lot of employees who he really wish would stay with the City, then in the final analysis this is a good thing. The Administration tried to calculate and identify what are the factors that retirees weigh as they leave, and they reviewed actual retirees over the last ten years and after this analysis they found out that there is no discernible pattern. Subsequently, the question was, is this a benefit that is good for the employees, and the answer to that absolutely. When asked if this is it something that is good for the City, the Administration takes into consideration the opinion of the Pension's Actuaries, and the Actuary states that on the least likely scenario (if no one participates) the City will end up spending \$32,000 year over year, and in the most probably scenario, (with 33% of the employees participating), then the City will end up saving over six years, but in the first year along the City would save \$303,000 and that gets his attention.

Discussion continued.

Steve Palmquist spoke.

Discussion continued.

Vice-Mayor Wolfson summarized that more likely this is cost neutral, and in the best case scenario the City will save \$1.8 million, and additionally this is a benefit to the employees of the City.

Commissioner Weithorn stated that all these calculations and questions were discussed. The argument that to get rid of an experienced employee and hire from the bottom is a savings, doesn't usually work; all this was taken into account, but there are other cost that were looked at, and all these calculations were looked at in detail.

Commissioner Tobin asked Mr. Palmquist what the valuation date was referred to on Agenda page 475 and if it reflected the 2008 financial meltdown.

Mr. Palmquist explained that every year they do a report for the Pension Board for the new fiscal year, and the latest done was October 2007. The report is based on facts and circumstances as of October 2007.

Commissioner Tobin stated that they had discussed at Commission Retreat about rolling their Pensions into the Florida Retirement Plan (FRS) and he asked the City Manager what the effect of adding this DROP program would be in regards to the Florida Retirement Plan.

Jorge Gonzalez, City Manager, explained that there have been discussions with FRS. The Florida Retirement System (FRS) currently has a DROP program; it's a five year program, and the matter in which the City might roll employees into FRS is to be negotiated; it is being contemplated that new employees will roll into FRS as new hires, but this is under discussion. He does not think that it would preclude Administration from pursuing FRS as an option.

Commissioner Diaz asked if DROP is more liberal or more restrictive than FRS.

Jorge Gonzalez, City Manager, stated that the DROP program is more restrictive than FRS.

Commissioner Diaz added that if the City rolls into FRS, then the City would be buying into a program with more benefits to the employees than this program.

Commissioner Tobin asked if in their assumptions they had considered any Worker's Compensation Claims arising out of older employees being retained in the workforce.

Steve Palmquist stated that their report was confined to the Pension Plan and not any other effect on people staying longer on any other benefits, but they do know that the employees generally do not leave when they are first eligible to retire. The great majority of people stay on for a few years after they reach their normal retirement age.

**7:45:39 p.m.**

R5E An Ordinance Amending The Land Development Regulations Of The City Code Of The City Of Miami Beach, Florida By Amending Chapter 118, "Administration And Review Procedures," Article II, "Boards," Division 2, "Planning Board," By Amending Section 118-53, "Composition," By Clarifying That Only A Resident Of The City Shall Be Eligible For Appointment; Amending Division 4, "Historic Preservation Board," Section 118-103, "Membership," By Establishing That One Of The At-Large Members Who Must Own Or Manage Property In One Of The Historic Districts Shall Also Reside In The City; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**  
(Planning Department)

**ACTION:** Ordinance approved on first reading as amended. Motion made by Commissioner Wolfson; seconded by Commissioner Diaz; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 28, 2009. R. Parcher to notice. Lilia Cardillo to place on the City Commission Agenda.

**Amendments:**

1. Waive residency requirement by 5/7 vote of the City Commission to those members who meet specific board requirements on the HPB and Planning Board
2. One-year residency requirement
3. Historic Preservation Board include 5/7 vote waiver provision

**End**

Jorge Gomez, Planning Director, explained the ordinance and added that with the amendments, only residents of the City can serve on the Planning Board. With respect to the Historic Preservation Board, one of the At-Large categories also require to be a City resident.

Vice-Mayor Wolfson explained that the genesis of this ordinance were complaints from residents, who felt that at times, the Planning Board or the Historic Preservation Board represented their interests specifically with development, and this would be a way to protect the residents.

Discussion held.

Commissioner Diaz commended Vice-Mayor Wolfson on this initiative, but expressed his concerns on the dilution of the meaning of membership composition criteria on these boards; he proposed an amendment to waive residency requirements by 5/7 of the Commission to those members that meet specific requirements, especially on the Planning Board.

Commissioner Gross suggested a one-year residency requirement as an added amendment.

Vice-Mayor Wolfson accepted both amendments.

Gary Held, First Assistant City Attorney referred to Page 502, regarding a waiver requirement for the HPB and suggested adding a 5/7 vote.

This will be incorporated in second reading.

**7:54:40 p.m.**

R5F An Ordinance Amending City Code Chapter 118, "Administration And Review Procedures," Article VII, "Division Of Land/Lot Split," Section 118-321, "Purpose, Standards And Procedure," By Clarifying That The Review Criteria For Requests For A Division Of Land/Lot Split To Require An Applicant To Submit Massing And Scale Studies Of Possible Structures And Uses On The Lot Or Lots Proposed To Result From Lot Splits; And The Required Opinion Of Title Should Be As Of A Date Not More Than 120 Days Before The Planning Board Meeting; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**  
(Planning Department)

**ACTION: Ordinance approved on first reading and referred to the Land Use and Development Committee and the Planning Board.** Motion made by Commissioner Diaz to approve the ordinance on first reading and to refer to the Land Use and Development Committee and the Planning Board, to add a criteria that states that part of the evaluation is the extent to which the proposed lot split preserves an existing structure and granting lot split to buildings constructed after 1942; seconded by Commissioner Gross; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 28, 2009. R. Parcher to notice. Lilia Cardillo to place on the City Commission Agenda.

**Amendment**

Add criteria including in the evaluation the preservation of existing structure in the proposed lot split  
Granting lot split to buildings constructed after 1942

**End**

Commissioner Diaz stated that he had requested an amendment but was advised by the City Attorney's Office that it was a material amendment and; therefore, could not be captured today, but this was an ordinance initiated when he was Planning Board Chairman, which was to codify in the City Code the actual practices that the Planning Board follow with respect to lot splits, and it's a shame that due to a legal challenge the massing studies were not required. He is concerned that this ordinance only refers to new construction.

Motion made by Commissioner Diaz to approve the ordinance on first reading and refer to the Land Use and Development Committee to add a criteria that states that part of the evaluation is the extent to which the propose lot split preserves an existing structure. This is just a codification of what the Planning Board has been doing.

Gary Held, First Assistant City Attorney, suggested referring this item to the Planning Board as well.

Commissioner Diaz explained that the Planning Board needs to make a recommendation and moved to refer to the Planning Board as well.

Discussion held.

Commissioner Tobin added to the referral the issue of granting lot split to buildings constructed after 1942. **Jorge Gomez to handle.**

**8:00:46 p.m.**

R5G An Ordinance Amending Miami Beach City Code Chapter 2, Article III, Section 2-22(5)(a) Thereof Regarding General Requirements For Membership On City Of Miami Beach's Agencies, Boards And Committees, By Providing That When A Vacancy On The City Commission Exists Beyond December 31 Of The Year An Appointing Commission Member Leaves Office, Direct Appointees Of Said Former Commission Member Shall Hold Over Until The Appointment/Election Of The Successor City Commission Member; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**

(Requested by Legal Department)

**ACTION: Ordinance approved on first reading.** Motion made by Commissioner Gross; seconded by Vice-Mayor Wolfson; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 28, 2009. R. Parcher to notice. Lilia Cardillo to place on the City Commission Agenda.

### **R7 - Resolutions**

**12:42:26 p.m.**

R7A A Resolution Approving, On First Reading, A Lease Agreement Between The City And Colony Theatre Cafe, Inc. (D/B/A Segafredo's), As The Recommended Proposer 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 January 28, 2009, For The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading.**

(Office of Real Estate, Housing & Community Development)

**ACTION: Title of the Resolution read. Resolution No. 2008-26968 approved on first reading with the resolution and Lease Agreement amended.** Motion made by Commissioner Weithorn; seconded by Commissioner Gross; Voice vote: 7-0. Second Reading and Public Hearing scheduled for January 28, 2009. R. Parcher to notice. Lilia Cardillo to place on the City Commission Agenda.

#### **Amendment**

1. Pg 521, 5<sup>th</sup> Whereas language to be added to read "...or 6.5% of annual gross receipts, inclusive of the receipts generated by the Sidewalk Café."

2. Add flexibility in the lease to move tables located west of the facility's entrance to the right of the entrance to the Colony Theater during special events so as not to block entrance to the public

**End**

Jorge Gonzalez, City Manager, introduced the item and added that Segafredo was selected during an RFQ process, and during negotiations the rate of fee for the rent, which goes now from what is about a \$40,000 year rent to \$300,000 for rent, exceeds what was proposed, and he commended staff for their diligence and efforts in making this happen.

Commissioner Tobin stated that it looks like there is a price per square footage or percentage rent, but added that in the agreement the lease premises include only the interior space, but he knows that in this property there is a small inside space and a lot of outside tables, and asked if there is any ambiguity in this document, to clarify that the City has percentage rent gross of the business, and to add this language to the lease. He explained that on Page 521 the fifth Whereas reads: "the leased premises encompass the first (1<sup>st</sup>) floor restaurant/café space, a lobby concession area, and a dumpster/storage area, totaling 1,371 square feet..." He also referred to Page 519, 2<sup>nd</sup> paragraph, where it states that the café currently holds an active Sidewalk Café permit which is nontransferable,



and that the Sidewalk Café is not part of the leased premises.

Jorge Gonzalez, City Manager, stated that in the fifth Whereas language can be added to read "...or 6.5% of annual gross receipts, inclusive of the receipts generated by the Sidewalk Café."

Commissioner Libbin stated that the Administration did a wonderful job and it's a huge improvement.

Commissioner Diaz echoed Commissioner Libbin's comments and commended the Administration for negotiating a better deal for the City. He added as an amendment to the lease, to be flexible when there are special events, such as performances or the Film Festival, and move tables located west of the facility's entrance to the right to another area so as not to block the public.

Mark Soyka spoke.

Grazziano Sbroggio explained that they are flexible to do that.

Mayor Bower agreed that the tables do block the entrance.

Commissioner Gross expressed his appreciation to Segafredo, and added that they epitomize the "character and spirit" of Lincoln Road; with their casual atmosphere which attracts people to stay for so long. He is glad of their success and for contributing this great amount of money to the City, which will be put to good used. He is glad to see this institution continuing on Lincoln Road.

Mayor Bower recognized Mark on the 20th Anniversary of the News Café and added that it's a wonderful legacy on Miami Beach.

Mark Soyka informed the Commission that during venue restorations there was an oversight in the design of the lobby. The lobby is now a concession area located west of the facility's entrance and it is on a slope. It is six to eight feet of handicap accessibility to the theatre, but there is no concession there, as no one is able to come to the window and the theatre does not allow anyone to go in behind the second door during intermissions to get refreshments. He would like to discuss this issue further to see if it can be remedied for patrons to enjoy the concession. **Hilda Fernandez to handle.**

Discussion continued.

Hilda Fernandez, Assistant City Manager, stated that the slope was part of bringing the theatre back to its original historic restoration but the Administration will be happy to discuss with Global Spectrum.

Resolution and Agreement passed on first reading as amended, and the issues will be resolved for second reading.

**5:08:43 p.m.**

R7B A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement Between The City And Scott Robins Companies, Inc., Purdy Partners, LLC., Purdy Partners 1919, LLC., And 1849 Purdy Partners, LLC. (Collectively, "Seller"), For The Purpose Of Purchasing Air Rights And Certain Portions Of The Land For The Development Of An Approximately 458-Space Parking Garage With Ground Floor Retail, In The Not To Exceed Amount Of \$13 Million; Appropriating \$9 Million As Follows: \$4,181,941 From Mid-Beach Parking Impact Fees Fund 155; \$2,481,976.39 From Parking Operations Fund 480, Including Re-Appropriation Of \$1,481,976.39 Previously Appropriated For 16th Street Garage Repairs (\$425,000), 7th Street Garage 2008/09 Repairs (\$360,000), Collins And 84th Street Surface Lot Renovation (\$452,544.45), 13th Street Parking Garage FY 2008/09 Maintenance (\$90,000), 17th Street Parking Garage FY 2008/09 Maintenance (\$135,000), And Design Of The Cultural Campus Parking Garage (\$19,431.94); \$2,336,082.61 From Parking Revenue Bond Fund 481, Including Re-Appropriation Of \$1,812,455.55 Previously Appropriated For Systemwide Meter Acquisition, Installation Of 250 Paystations, And Pay-On-Foot Machines, With Funding To Be Replaced By \$1,812,455.55 In Parking Operations Fund 480 Previously Appropriated For Collins And 84th Street Surface Parking Lot Renovation (\$272,455.55), And 5301 Collins Avenue Surface Parking Lot Renovation (\$1,540,000); Further Appropriating \$425,000 In Anchor Garage Fund 463 To Replace Funding For 16th Street Garage, And \$360,000 From 7th Street Garage Fund 142 To Replace Funding For 7th Street FY 2008/09 Repairs; And Authorizing Appropriation Of Replacement Funding In The Amount Of \$2,509,431.94 For Collins And 84th Street Surface Parking Lot Renovation, 5301 Collins Avenue Surface Parking Lot Renovation, 13th Street Parking Garage FY 2008/09 Maintenance, 17th Street Parking Garage FY 2008/09 Maintenance, And Design Fees For The Cultural Campus Parking Garage, Upon Sale Of Future Parking Revenue Bonds; Further Directing The City Manager, Following Execution Of The Agreement, To Take Any And All Such Actions, As Necessary To Effectuate The Proposed Transaction Including, Without Limitation, The Preparation And Execution Of Any Related Documents; And Further Authorizing The City Manager To Take Such Action As Necessary, And As Related To This Transaction, To Initiate The Relocation Of The Property Maintenance Facility From Flamingo Park To The City Owned Property Located At 1833 Bay Road.

(City Manager's Office)

**ACTION: Item heard in conjunction with item C4B. Resolution No. 2008-26969 adopted.** Motion made by Vice-Mayor Wolfson; seconded by Commissioner Weithorn; Voice vote: 6-0; Commissioner Tobin recused himself. Tim Hemstreet and Jorge Gomez to handle.

- 1. Pursue the parking overlay district.**
- 2. The City to enforce current rules and regulations to regulate towing companies and to come up with new regulations to regulate towing companies citywide.**

Commissioner Tobin recused himself on this matter.

Jorge Gonzalez, City Manager, explained that this is a resolution that accomplishes a series of actions to effectuate the agreement entered into with Scott Robins Companies (SRC) to purchase air rights over a series of parcels in the Sunset Harbor neighborhood, which will ultimately allow the City to build a parking structure in that neighborhood, but he added that it goes beyond that; the project is an effort in trying to accommodate and accomplish a series of long standing desires for multiple neighborhoods in Miami Beach. For many years there has been a long standing request from the Flamingo neighborhood to remove the Property Management Facility from Flamingo Park to use for community recreation; at the same time, in the Sunset Harbor neighborhood, there is a legal non-conforming use of towing services in that neighborhood; that neighborhood has become a thriving community and as the area evolves, a towing company is incompatible. By entering this agreement, the City is able to accomplish moving Property Management Facility from Flamingo Park and

accomplishes an improvement to the towing service situation by moving the facility out of that current location enhancing and improving the area; it allows the City to introduce parking structure which will spur further development and revitalization meeting the needs of the community. He pointed out, for the record, that as part of the process, the Administration received two appraisals, and have secured an independent appraiser, and their valuation for the air rights for what the City is acquiring was in the neighborhood of \$6 million. The total purchase for air rights is approximately \$13 million. There are also costs associated with respect to the accomplishment of the Property Management Facility of the garage; there is the expectation, according to the appraiser, that the City should receive \$2,000 to \$2,200 per space in revenue, and in accomplishing this about 120 spaces are not basically in the mix for public use because that's what helps make the Property Management work. What's important is absent the ability to secure the property, the decision this Commission has to make is if the premium is appropriate. The City would be acquiring two acres of green space, open space recreational in the community, with a \$6 million valuation, and offsetting costs of air rights, it's a decision to be made. One of the concerns is cost of construction; there is no guarantee maximum price, there is no price fixed today; at one time there was the opportunity to accomplish that, but unfortunately because the need to finance the project and because the market for municipal bonds is in such a situation where we can secure the dollars, the Administration had to forego that option; and basically the rest of prices for construction could go up. Our experience in the recent bids is that the prices have come down, but the market dictates those prices. He expects that we would be in the market with liquid financing in 12 months; no sooner than that, and prices could go up or down. While they hope to remove the legal non conforming use from the current side, they don't guarantee that it would be removed from the area, and that's something that it's important that this Commission as it makes this decision solicit the input of those in the neighborhood vicinity. As part of the project approval, this Commission is allocating \$9 million, \$8.5 million will be used to secure the first closing; the Tremont site fee costs the City about \$8 million, additional there is a pre-development cost profit for the developer as part of the initial closing, and an additional ½ million dollars, to make it \$9 million, to allow for any development costs needed. Part of the agreement assigns a contract with the selected architect Arquitectonica to complete the designs. DRB approvals have been secured and drawings will be ready to be implemented as soon as financing is available. In order to secure the funds, certain decisions have been made on capital budget and projects anticipated to be done this year, which will be deferred and brought back in the coming years, and per Commissioner Libbin's request, the following deferred projects are listed: 1) surface parking lot, Collins and 84<sup>th</sup> Street, 2) 13<sup>th</sup> Street garage maintenance, 3) 17<sup>th</sup> Street garage maintenance; 4) 16<sup>th</sup> Street garage and 5) 7<sup>th</sup> Street garage; these last two receive extensive maintenance repairs and each of those garages have been able to secure within the enterprise the funding necessary to supplant. In addition, there are modest design fee costs for the proposed cultural campus garage, which is still under negotiation and is being deferred; and that equals \$1.48 million.

Tim Hemstreet, Assistant City Manager, explained in detail the partnership and the agreement.

Scott Robins presented the Sunset Harbor project which when built will provide the necessary catalyst for the transformation of the Sunset Harbor district, from an area that is predominantly automobile towing, car repair and warehouses, into a thriving community. When built, the garage will provide the neighborhood surrounding residents with neighborhood establishments and parking solutions for special events; it will provide a place for the City to relocate its maintenance facility from the Flamingo Park district, freeing up needed parking and relieving congestion in the Flamingo Park area; and the Sunset Harbor project will free up over an acre of Flamingo Park, which is now occupied by the maintenance department. There have been several community meetings and committee reviews; they worked closely with City staff; he thanked Commissioner Gross and is happy to say that hard work finally paid off. Due to the state of the economy, which arose late in the process, a restructure of the agreement was met, addressing all parties concerned. This agreement calls for two closings, necessitated by the need to purchase the Tremont Towing parcel, before the expiration of the option in less than 20 days; a second closing will occur if and when the City is able

to secure bond financing for the balance of the project. His group will be responsible to carry the cost for these properties while the City and the group wait for the second closing to occur. If the second closing does occur, the City will then build a parking garage, approved by the DRB, and once construction begins, his group will be responsible for paying development and construction costs for retail space below. Should the City be unable to secure financing, either the group will pay the City back all the costs associated with this deal and take the Tremont parcel back, or deed over the rights of Tremont to the City. The important thing to understand is that if no agreement is reached today, the Tremont option will expire and all the benefits would never come to fruition. He urged the City Commission to approve the deal.

Jorge Gonzalez, City Manager, added that the Administration has brought forth the best agreement that can be made, and is an agreement that the City makes choices. He added that Scott has been the outmost gentleman during this process in making sure that the needs were met, and he was very amicable in negotiating as difficult as it was. He added that Commissioner Gross was instrumental as Commission liaison, and he thanked Scott for his efforts.

Commissioner Libbin echoed the City Manager's comments and congratulated Scott for doing an outstanding job and having done everything asked by the Administration. However, for the record, he has some concerns. His initial feeling is that there are certain goals that are commendable which have been stated, i.e., moving the maintenance facility from the park, but the issue of Tremont, unless clear that it will resolve. They are unclear on this deal, or unclear as to what will happen to Tremont. Some of the residents in support of this have urged the Commission to approve with conditions, issues that have not been discussed at DRB level. They continue to hear about the importance of taxpayer dollars and getting the maximum value for taxpayers, and he is not suggesting that is a waste of taxpayer dollars to accomplish these things, but the deal in his personal taste is too rich. When there is an independent appraisal of \$6 million for the value of the total air right over the entire property and the City pays \$13 million, it seems too rich, this is more than doubled. Tremont will probably not disappear from the neighborhood, and that's something else that has to be decided. In regards to the parking garage, there seems to be a significant loss revenue; according to the first five year calculations. There are projects that are being deferred to come up with the \$9 million to do this project. If the City is going to build these garages, they may be looking at an increase in parking rates, and this is an increased rate citywide. Another factor is when we relocate Flamingo Park, a building needs to be built and that's another cost of about \$3 million. In addition there are two closings, and he thinks it is prudent for taxpayers' money to be in an escrow account earning interest from one to three years and he suggested the cost is the additional interest to the taxpayers on the \$8 million. The benefits were noted in terms of moving the maintenance facility; the towing services may or may not be improved, and he recommended accomplishing the goals in a less expensive manner. He suggested having this deal expire, having the City purchase Tremont site for \$8 million and constructing a mechanical garage on that site to build a minimum of 350 parking spaces with ground floor retail and the cost to the City would be significant less. In addition, he added the idea of a parking overlay district in that neighborhood to allow the City under either scenario to provide parking to allow other businesses to purchase spots to pay in for the parking fund. In the interim, SRC may elect to lease back the space to Tremont; if the Commission decides to go that route, he does not see why the City would not participate in that revenue.

Scott Robins explained that this deal was to happen at one time when the City needed an extra three years to secure their financing. Basically there are taxes and insurance to pay. He offered his services to manage those properties while the City sought financing; the reason why he is operating the properties is because he is paying the real estate taxes and the insurance. The cost of monies laid out as of today is about \$500,000 to \$600,000 a year not to do anything on this property, and he is absorbing those costs, and at the same time getting some rent offset; if the City would like to take that responsibility from him, he would be more than happy. Having the deal expire and the City buy the Tremont towing lot and building mechanical parking, 350 spaces including ground retail, it would

cost probably about three times what it would cost to build a normal parking space. He agreed with Commissioner Libbin that in this district a parking overlay district can be created, as there are many buildings in this neighborhood that will begin to change use and don't have the obligation to build parking.

Discussion held.

Commissioner Weithorn asked if mechanical parking is for standard vehicles, since the Property Maintenance vehicles are not standard.

Fred Beckmann, Public Works Director, explained that for privately owned vehicles for employees this is possible, but not for the larger vehicles.

Discussion continued.

Jorge Gonzalez, City Manager, explained that in meetings with Scott, about a year ago, there were discussions about strategic plan for the neighborhood, and in January of this year, a referral was sent to the Finance Committee and authorization was given to negotiate with Scott, and has been discussed three different times and there have been many changes from the first meeting.

Commissioner Diaz stated that it is important to understand this deal, and that it has been a priority of the Administration, this City Commission and its predecessors to relocate the maintenance yard from Flamingo Park. They have asked for other locations as alternatives, and the other alternative were much worse for the community. He thinks that one of the concerns about the overpayment is that if someone can tell him the price of two acres of parkland, there is no price to tag on it, and all of Commissioner Libbin's points are correct and valid; however, what price does one place on the overall community? This is something that is good for Sunset Harbor, for Flamingo Park neighborhood and for the City, and that is the reason he overcame the issue with the appraisal value; it's a value that is not on the table. He added that there is consensus on the idea of parking overlay district, which is a valid point. This will be a benefit to land owners in that district and it will be transformational. He is requesting this item be referred to the Land Use and Development Committee to reconsider the IU uses in that district. He suggested getting this deal done and eliminating the contingency financing. **Jorge Gomez to handle.**

Discussion continued.

**Motion made by Vice-Mayor Wolfson; seconded by Commissioner Weithorn; no vote taken.**

Commissioner Weithorn stated that parking is a service to the residents, businesses and visitors, but every single decision cannot be about money; this is a much needed facility and sometimes with vision it costs a little.

Discussion continued.

Commissioner Gross stated that Commissioner Diaz reminded his colleagues of the history of this project, with the Home Depot and the origin of the 50,000 sq ft rule which was approved via referendum, but it is remarkable to compare this project to that project; the air-rights are expensive but the deal has to work for both parties; but Scott has acted in a way that is commendable and this project will create a neighborhood. His biggest fear is that it will make it harder to build what he considers to be the most important garage to be built, which is under the park at Lincoln Road.

Discussion continued.

Nancy Liebman spoke.

Marilyn Freundich spoke.

Judy Robertson, Co-Chair of the Flamingo Park Neighborhood Association, spoke.

Jack Johnson, Flamingo Park Neighborhood Association, spoke.

Sybil Benorra spoke.

Frank Kruszewski spoke.

Commissioner Libbin stated that according to Mr. Kruszewski's letter and his statement he supports this project subject to the 13 conditions on the letter. His concern is that they need to vote on this today and this will put the City in an impossible position if he will hold the City to the 12 or 13 conditions. He stated that the City will do its best but will not be able to meet all of the conditions, and Mr. Kruszewski's letter says take it or leave it. He asked that this be soften.

Frank Kruszewski stated that the letter from the South Tower Board of Directors is not that that emphatically. The people on the north building have a different idea on this. He stated that their position is those items need to be seriously considered by this Commission. The City needs to start aggressively enforcing rules and regulation that exist today to regulate towing companies. They are asking that the City enforces the existing rules and look at new regulations to regulate towing companies. He stated that his letter has a different tone than the letter from the north building. **Saul Frances to handle.**

Commissioner Libbin stated that this is reasonable.

Commissioner Gross explained that the monies the City will be spending for this project are not coming from the General Fund or from Real Estate taxes, but these are funds coming from the Parking Enterprise Funds. He commended the Commission and the community in the transparent way that this negotiation took place.

Commissioner Libbin requested pursuing the issue of the parking overlay district.

Jorge Gonzalez, City Manager, stated that he appreciates the comments and this deal does not happen without support from staff. He commended staff members who were instrumental in making this happen; Tim Hemstreet, Saul Frances, Kevin Crowder, Kathie Brookes, Patricia Walker, and Raul Aguila. He added that this was a good strong team effort.

Mayor Bower requested a referral to the Land Use and Development Committee before it goes to the Planning Board.

Handout or Reference Materials:

1. Form 8 filled out by Commissioner Tobin

**R9 - New Business and Commission Requests**

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

**ACTION:****Beach Preservation Board:**

Ana Cordero	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/10
Paul (Cork) Friedman	Term ending 12/31/09	Appointed by Commissioner Tobin	TL 12/16
Effective 01/01/09			

**Beautification Committee:**

Maria Koller	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/15
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**Budget Advisory Committee:**

Marc Gidney	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL12/14
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**Committee on the Homeless:**

Lisa Ware	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/13
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**Community Development Advisory Committee:**

Robert Fairless	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
Steven Gonzalez	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/15
Luis Salom	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15

**Community Relations Board**

Laurie Davis	Term ending 12/31/10	Appointed by Jorge M. Gonzalez	TL 12/13
Jacobo Epelbaum	Term ending 12/31/10	Appointed by Jorge M. Gonzalez	TL 12/13

**Disability Access Committee:**

David New	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
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**Fine Arts Board:**

Tamra Sheffman	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
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**Gay Business Development Ad-Hoc Committee:**

C. J. Ortuno	Term ending 03/15/09	Appointed by Mayor Bower	TL 03/15/09
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**Golf Advisory Committee:**

Jeff Blumenthal	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
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**Hispanic Affairs Committee:**

Antonio Hernandez Jr.	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/16
Effective 01/01/09.			
Lucero Levy	Term ending 12/31/10	Appointed by Commissioner Gross	TL12/14

**Loan Review Committee:**

Aaron Swimmer	Term ending 12/31/10	Appointed by Commissioner Gross	TL 12/16
Effective 01/01/09.			

**Marine Authority:**

Eric Goldman	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
Effective 01/01/09			

**Miami Beach Commission for Women:**

Gertrude Arfa	Term ending 12/31/10	Appointed by Commissioner Tobin	TL 12/14
Laura Bruney	Term ending 12/31/10	Appointed by Commissioner Gross	TL 12/13
Effective 01/01/09			
Monica Harvey	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/13
Effective 01/01/09			
Robyn Ragone	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/15
Nikki Weisburd	Term ending 12/31/10	Appointed by Commissioner Tobin	TL 12/15
Effective 01/01/09			

**Parks and Recreational Facilities:**

Jonathon Beloff	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
Leslie Graff	Term ending 12/31/10	Appointed by Commissioner Tobin	TL 12/15
Harriet Halpryn	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/15
Effective 01/01/09.			

**Police Citizens Relations Board:**

Beverly Aberbach	Term ending 12/31/10	Appointed by Commissioner Gross	TL 12/13
Effective 01/01/09.			
Paul Segelman	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/15

**Production Industry Council:**

Allee Newhoff-Mendoza (Fashion)	Term ending 12/31/10	Appointed by Commissioner Gross	TL 12/13
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**Safety Committee:**

Becky Herrup	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/15
Rheta Lastinger	Term ending 12/31/10	Appointed by Commissioner Gross	TL 12/15
Effective 01/01/09.			

**Sustainability Committee:**

Debra Leibowitz	Term ending 12/31/09	Appointed by Commissioner Weithorn	TL 12/15
Mitch Novick	Term ending 12/31/09	Appointed by Mayor Bower	TL 12/16
Patxi Pastor	Term ending 12/31/09	Appointed by Commissioner Libbin	TL 12/16
Luiz Rodrigues	Term ending 12/31/08	Appointed by Commissioner Tobin	TL 12/15

**Transportation and Parking Committee:**

J. P. Morgan	Term ending 12/31/10	Appointed by Commissioner Weithorn	TL 12/14
Jo Asmundsson	Term ending 12/31/10	Representative from the Miami Beach Development Corp.	



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

**ACTION: Item to be heard at a Special Commission Meeting.**

R9A2 Nominate Eda Valero-Figueira To The Miami Beach Cultural Arts Council.  
(Requested by Vice-Mayor Wolfson)

**ACTION: Item to be heard at a Special Commission Meeting.**

R9A3 Nominate Dr. Andrew Nullman To The Health Advisory Board.  
(Requested by Commissioner Libbin)

**ACTION: Item to be heard at a Special Commission Meeting.**

**2:13:22**

R9B1 – Dr. Stanley Sutnick Citizens Forum

**ACTION:**

1. Robert Young congratulated Commissioner Diaz on his appointment and stated that he is a resident of Miami Beach. He asked the Commission to revisit the new visitor's parking notice; he stated that no one was notified of the new program being in effect, where you only can receive ten (10) temporary passes per period. He is in a short term rental business, meaning from a month to six-month lease, you have to have a six month-lease or wait for a utility bill.

Mayor Bower stated that what he is doing is illegal.

Jorge Gonzalez, City Manager, informed Mr. Young that that item was coming before the City Commission and that an existing ordinance already prohibits leases for less than six months.

Commissioner Gross stated that there was a black market for the visitors passes and cars were getting burglarized to steal them, so this was discontinued.

Mayor Bower asked Mr. Young to meet with Saul Frances, Parking Department Director, to address this issue. Saul Frances to handle.

Mr. Young also wanted to address the issue of the taxing from 6<sup>th</sup> Street South. He stated that he confirmed with the County and the Planning Commission that his district has not had any of the redevelopment upgrades. He owns some condo units between 5<sup>th</sup> and 6<sup>th</sup> Streets. He didn't think it was fair to be taxed as a redevelopment area when nothing has being done to the area.

Jorge Gonzalez, City Manager explained that this is not an additional tax. He was taxed as any other citizen in Miami Beach but in that area taxes are collected from City and County is remitted to the City for capital improvement projects.

Commissioner Weithorn believes this area Mr. Young is referring to is part of the Flamingo-Lummas project.

Commissioner Diaz explained to Mr. Young that his area was excluded from the Streetscape project that was funded with RDA money because it was used for the South of Fifth project, but hopefully he will be included as part of the Flamingo Park Project and added that in fairness, then that project may qualify for RDA money.

2. David Bolger informed the City Commission that he was worried about his neighborhood and about the City because a wealthy strip mall developer joined the homeowners association eight months ago and since then he has created chaos at the neighborhood level and chaos at citywide level. He stated that this developer has steamrolled the association board with a show of power. Mr. Bolger said that he has been watching this developer since then. This person uses all of the classic developer tactics to get what he wants. He threatened Mr. Bolger with a one million dollar lawsuit.

Vice-Mayor Wolfson stated that he appreciates Mr. Bolger coming before the Commission and added that he read some the emails sent to him by Mr. Goldsmith; he has sent a lot of emails to the City, and he believes that it is disgusting that Mr. Goldsmith threatened Mr. Bolger with a lawsuit. Mr. Goldsmith does not have a monopoly on free speech.

### **New Item**

**4:01:30 p.m.**

Mayor Bower announced that the Economic Summit date has changed to January 2009. She also decided with the help of the VCA and the Hotel Association to form a Blue Ribbon Committee to address some of the local issues, and Stu Blumberg has graciously accepted to be the Chairperson, as he did before when Mayor Dermer appointed him to a committee after 911.

Stu Blumberg stated that the target date years ago was 911, the new number now is 9/15, or September 15; when the economy in this country fell, and the industry which is very proactive discussed what is the future of tourism in this community five years from now and what is the impact of economic situations taking place; once approved by the Mayor the names will be submitted for panel members. Some of the subject matters have been reviewed with Culture and Special Events, Convention Center and the residents; new markets cultivating the old market, film, fashion, all the things that make up our industry in this community, and he applauds the Mayor for having this panel. They will return in January 2009 and will have a report ready by April.

Mayor Bower added that names will be selected to come up with a good committee. She explained that new input was received from Commissioner Diaz in the economic arena in what should be enhanced, and that is why the date was moved for the Summit, to include some of the ideas that Commissioner Diaz had.

Stu Blumberg informed the City Commission that they are currently hosting 1,800 international association exhibit managers at the Convention Center and hotels here; it's an outstanding group that will look to the future of putting business in the Convention Center and the City. He announced that the last day for the exhibit is today.

### Handout or References Materials:

1. Email from Parcher, Robert to Mejia, Dolores dated December 09, 2009 RE: Blue Ribbon Task Force Committee.

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

**ACTION: No speakers.**

**5:05:26 p.m.**

R9C Discussion Regarding A Resolution Supporting The Substance Abuse Response Guide ("SARG") Partnership, A Multi-Coalition Partnership Campaign For The Prevention Of Underage Drinking In The State Of Florida.

(Requested by Mayor Bower)

**ACTION:** Discussion held. **Resolution No. 2008-26970 adopted.** Motion made by Commissioner Diaz; seconded by Commissioner Weithorn; Voice vote: 7-0. **Chief Noriega to handle.**

Marie Claire Timothee, with The Miami Coalition, expressed her gratitude for this resolution, which gives momentum to this initiative. She added that Mayor Bower has agreed to be the spokesperson, along with other municipalities to be part of a press conference called Mayors on the Move.

Handout or Reference Material:

1. Email from Weinstein, A.C. to Parcher, Robert, RE: Time-certain for Dec. 10 Commission Meeting.

**8:02:17 p.m.**

R9D Discussion Regarding A Resolution Supporting The Greater Miami Convention & Visitors Bureau In Urging The Florida Legislature To Pass Legislation Allowing For The Local Licensing Of Tour Guides.

(Requested by Mayor Bower)

**ACTION:** Discussion held. **Resolution No. 2008-26971 adopted.** Motion made by Commissioner Weithorn; seconded by Commissioner Gross; Voice vote: 7-0.

1. The City Clerk is directed to transmit certified copies of this Resolution to the Governor, Senate President, and the House Speaker for the State of Florida, the Chair and members of the Miami-Dade State Legislative Delegation, and to the President and Chief Executive Officer of the Greater Miami Convention & Visitors Bureau. **R. Parcher to handle;**
2. The City's state lobbyists are directed to advocate for the issues identified in section 1. **Kevin Crowder to handle; and**
3. The City Manager is directed to include this item in the City of Miami Beach's 2009 state legislative package. **Kevin Crowder to handle.**

**8:03:32 p.m.**

R9E A Resolution Appointing A Voting Member To Serve On The Metropolitan Planning Organization For Miami-Dade County, Florida, To Represent The City Of Miami Beach.

(Requested by Mayor Bower)

**ACTION:** Discussion held. **Resolution No. 2008-26972 adopted.** Motion made by Vice-Mayor Wolfson to appoint Mayor Bower as representative of the MPO; seconded by Commissioner Gross; Voice vote: 7-0. **Fred Beckmann to transmit to the Metropolitan Planning Organization.**

**8:03:35 p.m.**

R9F Discussion Regarding A Resolution Urging The Federal Government To Offer Low Interest Loans To Municipalities For Infrastructure Projects.

(Requested by Commissioner Weithorn)

**ACTION:** Discussion held. **Resolution No. 2008-26973 adopted.** Motion made by Commissioner Weithorn; seconded by Vice-Mayor Wolfson; Voice vote: 7-0. **Kevin Crowder to handle.**

Robert Parcher, City Clerk, stated for the record that there was an amended resolution handed out this morning.

Commissioner Weithorn stated that there was an update that everyone should have received. She explained that this is all about the federal government starting to say that in order to have construction projects in place they are looking to states and the cities have weighed in. She thinks that the City of Miami Beach is really a good example of having projects ready to go and having construction projects that actually can occur and occur very quickly within the next 60 to 180 days. She requested passing this resolution so that it can be given to the City's federal and state lobbyists and let them know that cities like Miami Beach are ready to go, and in our case the infrastructure place to do the oversight, really should be considered for federal money and for loans.

Vice-Mayor Wolfson added that if funds are received for infrastructure perhaps water and sewer rates do not have to increase.

Handout or Reference Materials:

1. Amended Resolution distributed at the dais

**12:27:22 p.m.**

R9G Resolution Recognizing And Reaffirming Prior Domestic Partner Ordinance Nos. 98-3127 And 2001-3339 Which Provided Certain Benefits To City Employees Who Have Registered A Domestic Partnership, And Ordinance No. 2004-3451, Which Provided Certain Rights To Those Who Register A Domestic Partnership.

(Requested by Commissioner Libbin)

**ACTION:** Discussion held. Motion made by Commissioner Diaz; seconded by Commissioner Libbin to defer this issue to the February 25, 2009 Commission Meeting and Commissioners Diaz and Libbin and the Legal Department will work to strengthen the City's ordinance; Voice vote: 7-0.

Commissioner Libbin explained that Amendment 2 in recent election passed on statewide basis, and subsequent to that, City employees have inquired about their rights as far as domestic partners ordinance. From a legal standpoint he was advised that the City's ordinance is fine as far as being able to be defended, but he felt it was important to reaffirm the resolution. The City's current domestic partners ordinance was passed in 1998 and in 2001 reaffirmed by citywide referendum, and then again an ordinance was passed in 2004. In 1998, no one sitting at this dais voted on this ordinance. He stated that it is relevant and pertinent to have this Commission reaffirm the actions taken in the past.

Babak Movahedi, Chairperson of the Gay Business Development Ad-Hoc Committee, stated that he is not in opposition to the law, but stated that the law remains the same, nothing is changing; there are thousands of legislations in this country and jurisdiction that the City has not voted on. The Gay Business Development Committee, after the passage of Amendment 2, addressed these concerns and asked Legal to see if the law can be made stronger. To reaffirm for purposes of symbolism, the

committee has voted against it. The fight for equality will continue. He asked to table this matter until such time until there is actual response from the City Attorney to see how this ordinance can be made stronger.

Ray Breslin spoke.

Discussion held.

Commissioner Weithorn stated that it is appealing to have the ordinance strengthened and asked the City Attorney if the Commission is better off waiting for action.

Jose Smith, City Attorney, stated that the actions taken today do not affect what can be done in the future. If changes are being proposed, he needs to see them and he will give a recommendation at that time.

Commissioner Diaz commended Commissioner Libbin for his commitment to human rights and his desire to see this ordinance reaffirmed, but he is not sure that they will be accomplishing anything by reaffirming the ordinance, and would like Commissioner Libbin to make a motion to bring back an ordinance to strengthen the current Domestic Partnership Ordinance. He asked the Legal Department to look at other communities across the nation to see what other rights can be secured, not only for same sex couples, but for heterosexual couples as well. He applauded Commissioner Libbin's advocacy for equal rights, and asked Commissioner Libbin, at the request of the Gay Business Development Committee, to table this matter and for him to bring back an ordinance to strengthen the Domestic Partnership Ordinance, which he pledges to help work with him and the Legal Department to develop.

Commissioner Tobin stated that he is happy to second Commissioner Libbin's motion to defer.

Commissioner Libbin added that he is disappointed that members of several organization who he have met with and pledge their support, are not in attendance today, therefore, he will defer to those who turned out to speak, and will bring back a stronger ordinance.

Motion made by Commissioner Diaz to table this issue to the February 25, 2009 meeting; seconded by Commissioner Libbin; Voice vote: 7-0.

**8:05:50 p.m.**

R9H Discussion And Referral To The Finance & Citywide Projects Committee The Issue Of Late Payments To the City of Water, Sewer And Stormwater Bills As A Result Of Mortgage Foreclosures, For A Study And Development Of Acceptable Payment Plans To Assist Condo Associations Adversely Affected.

(Requested by Commissioner Libbin)

**ACTION: Discussion held. Item referred.** Motion made by Commissioner Libbin to refer to the Finance and Citywide Projects Committee; seconded by Commissioner Tobin: Voice vote: 7-0; **Patricia Walker to place on the committee agenda and to handle.**

Commissioner Libbin stated that the idea here is similar to the foreclosure issue on condominiums. If they could analyze condominium associations that are late paying their water, sewer or stormwater bills and they have mitigating circumstances, then they should try to spread the payment with the 10% penalty over a period of time, if they meet the criteria. They will pay the percentage on the units that are not in foreclosure and work out a payment schedule for the units that are in foreclosure but not with a 10% penalty but a lower percentage over a period of time.

Motion made by Commissioner Libbin to refer the item to the Finance and Citywide Projects Committee to review this process; seconded by Commissioner Tobin; Voice vote 7-0. Patricia Walker to place on the committee agenda and to handle.

## Handout or Reference Materials:

1. Memorandum from Jorge M. Gonzalez, City Manager, to Commissioner Jerry Libbin, RE: Water and Sewer Receivables for Condominium Buildings

**7:07:10 p.m.**

R9I Discussion Regarding Access To The Baywalk Behind The Waverly Condominium, And A General Status Update On The Entire Baywalk.

(Requested by Commissioner Tobin)

**ACTION:** Discussion held. Motion made by Commissioner Diaz to refer to the Land Use and Development Committee to implement a requirement that when property owners ask for any approval from the City they must provide a linked public access baywalk and that the City identifies its location; seconded by Commissioner Gross; Voice vote: 7-0. Jorge Gomez to place on the committee agenda and to handle.

Commissioner Tobin introduced the item and requested a detailed status report on the Baywalk. He recognized Mike Burke for his activism on this issue along with Harry Cherry who provided photographs of the area. He asked the City Attorney for a time frame as to when the residents will be able to walk on their baywalk.

Jose Smith, City Attorney, stated that the City is dealing with multiple properties; the first property, The Waverly, the City was successful in the Appellate Courts in opening up the baywalk behind the Waverly; as to the Flamingo; the City is in litigation but is hopeful to win this case. In regards to hours of operations, he added that in the Waverly, the DRB back in 2004 discussed opening the baywalk between sunrise and sunset for safety reasons. He asked Jorge Gomez and Gary Held to speak on the other buildings.

Mike Burke read a letter.

Jorge Gomez, Planning Board Director, clarified that this is private property; the upland owners are granting public access onto their private property.

Discussion held.

Mike Burke spoke.

Commissioner Diaz stated that there is an invaluable lesson to be learned; in a positive way this is a failure of the planning process to not have stipulated as part of the orders on design review and approval of these projects; and that responsibility can be shared at staff level, planning board level, committee, etc. He requested referral to the Land Use and Development Committee to implement a requirement that when asking for any project approval from the land use boards, whether asking for variances or approvals, that they must provide a linked public access baywalk and that the City identifies the corridors where they should exist. Secondly, there should be a policy in place so that when they come back for modification, they get it then. Thirdly, until then, we can use comprehensive vision and advocacy, but it should not be transferred back to the citizenry; they need to make this a specific review criteria from any of the boards that are part of the review process. **Jorge Gomez to handle.**

Discussion continued.

Commissioner Gross stated that there should be a Commission Liaison to work with the Planning Board and the property owners to come up with a solution. **Jorge Gomez to handle.**

Commissioner Diaz stated that he is happy to be the Commission Liaison and will to work with Planning and the Legal Department.

Jose Smith, City Attorney, asked Commissioner Diaz if he would be interested in attending a mediation next month. **Legal Department to handle.**

Commissioner Diaz accepted. He added that in areas such as South Pointe, there is enormous investment of City resources in order to make that possible in order for the City to pay for lighting and paving, but explained that in opening the bay and maintaining the corridors, there will probably be a need for financial contribution from the City in order to implement that comprehensive vision.

Mike Burke spoke.

Jose Smith, City Attorney, stated that the City should be celebrating the huge victory they had with The Waverly, and not try to find something sinister about it. The City did everything humanly possible and invested time and financial resources and the City had excellent results.

Commissioner Gross volunteered the services of Arthur Marcus, who has been extremely active in this issue as well, and secondly, in addition to meeting with property owners and exploring the legal issues, an integral part is obtaining the required approval from the State. **Jorge Gomez to handle.**

Jorge Gomez, Planning Department Director, stated that they are working with Public Works and as part of their work plan, there is funding for the preliminary studies for the analysis of overwater baywalk systems and will deal with the State and the Governor.

Discussion held.

Commissioner Gross asked for a timeline for that process to monitor and have at least some milestones that they can benchmark against to at least have some accountability along the way. **Jorge Gomez to handle.**

Commissioner Diaz requested all the development orders be gathered for this corridor. **Jorge Gomez to handle.**

Jorge Gomez, Planning Department Director, stated that this information will provided via an LTC.

Mike Burke spoke regarding Fire House No. 4 and the Church of Latter-Day Saints and submitted photos of both locations.

Commissioner Gross nominated Commissioner Tobin as the Commission Liaison to work with the property owners on the north side and Commissioner Diaz to work with the south side. **Jorge Gomez to handle.**

Commissioner Tobin accepted.

Motion made by Commissioner Diaz to refer to the Land Use and Development Committee; seconded by Commissioner Gross; Voice vote; 7-0.

Handout or Reference Materials:

1. Several black and white copies of photographs of baywalk (Bentley Bay, the Floridian and Waverly) submitted by Mike Burke and Harry Cherry.

### **Reports and Informational Items**

A City Attorney's Status Report.

(City Attorney's Office)

**ACTION: Written report submitted.**

B Parking Status Report (September 2008).

(Parking Department)

**ACTION: Written report submitted.**

B1 Parking Status Report (October 2008).

(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.**



**12:59:17 p.m.**

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

**ACTION: Written report submitted.**

Jorge Chartrand, CIP Director, introduced the item.

Brad Meltzer, representing the Palm, Hibiscus, and Star Island Homeowners Association, explained that their association received a final estimate from FPL with an increase of 6.6 times the value from 2001. FPL prices have gone up almost seven times and would like the City Commission's assistance in helping them get through the Public Service Commission. When they asked for a price breakdown, this was not given. In addition, AT&T confirmed that they can provide cable television services; in 2001 Charter Communications were going to give them the undergrounding portion for free; now Atlantic Broadband is charging \$645,000; they would like to have the option to acquire their cable service through AT&T since they have to pay for the underground. He commended City staff for their efforts. From the City's perspective, there was G.O. money set aside for them to do undergrounding for new sewage, roads, etc; and one of the components of FPL is the resurfacing and milling of the roads, which is a significant number approximately to the tune of \$600,000, and they would like to use that money to have the work done at the same time.

Jorge Chartrand, CIP Director, gave an oral report of the progress of the project. He stated that in discussions with FPL what has been decided is that utilities will do their own trenching back filling and compacting and they will provide a patch on the trench only, which is not a large amount. The City will then do one surface asphalt while the ROW project is completed. If that trenching and patching is done in a decent way and they can try to make it happen, they may be able to negotiate that with the City, and that's an option that may have to be explored, but they are not spending double money to completely pave and then come back and destroy again, as this does not make sense. The ROW project is still awaiting new procurement of a designer and procurement of a contractor. The City envisions having that construction start towards the end of next year after utilities complete their part.

Commissioner Libbin asked about the request to go in front of the Public Service Commission (PSC) and stated that to not get any price explanation and to have the prices go from \$584,000 to \$2.5 million is outrageous.

Jorge Chartrand stated that if the City, residents and FPL work together they might be able to get successful in obtaining the information needed.

Raul Aguila, Deputy City Attorney, in answering Commissioner Libbin's question about the PSC process, stated that the City would have to file a Public Service complaint which is a lengthy administrative proceeding which takes up to a year; he added that Mr. Chartrand's suggestion is probably the most expedient option. He suggested talking to FPL first to get a breakdown of the cost and then get that information back to the City Commission.

Discussion held.

Brad Meltzer spoke.

Commissioner Gross asked if a resolution can be prepared requesting FPL to submit the breakdown of the pricing.

Discussion continued.

Commissioner Diaz stated that after Hurricane Wilma other communities in South Florida have been experiencing the same problems. Those communities have filed complaints against FPL. He asked the Legal Department to research what other communities are doing. **Legal Department to handle.**

Raul Aguila, Deputy City Attorney, stated that there is the Municipal Undergrounding Consortium and the City of Miami Beach is a member. He added that the mechanism Legal is pursuing is through a PSC complaint mechanism.

Commissioner Diaz asked the City Attorney's Office to follow up whether the City has the flexibility to have AT&T do that component of the project, and when their contract comes up for renegotiations, perhaps this is something that can be considered.

Raul Aguila, Deputy City Attorney, responded to Commissioner Diaz's question regarding the City's cable provider and indicated that the cable franchise is a non-exclusive franchise but any new provider would need to go through a specific requirement and due process, which would have to be opened up as a bid.

Discussion continued.

Mr. Meltzer informed the Commission that FPL offers 25% discount but only if 100% of residents end up connecting to the system.

Discussion continued.

Jorge Chartrand stated that CIP and the residents will meet with FPL to see if FPL will provide the hard cost figures and will then try to negotiate to see if the price can be reduced. **Jorge Chartrand to handle.**

#### Handout or Reference Materials

##### 1. Palm and Hibiscus Islands Utility Undergrounding Estimated Payments per Property

#### F Non-City Entities Represented By City Commission

1. Minutes From The Adrienne Arsht Center For Performing Arts Center Trust Board Meeting On September 23, 2008 And Agenda For The November 18, 2008 Meeting.

(Requested by Mayor Bower)

**ACTION: Written report submitted.**

G 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.**

- H Non-City Entities Represented By City Commission  
1. Minutes From The Wolfsonian-Florida International University Advisory Board Meeting On October 24, 2008.

(Requested by Mayor Bower)

**ACTION: Written report submitted.**

**End of Regular Agenda**

## **Miami Beach Redevelopment Agency**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
December 10, 2008**

Chairperson of the Board Matti Herrera Bower  
Member of the Board Victor M. Diaz, Jr.  
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

Executive Director Jorge M. Gonzalez  
Assistant Director Hilda M. Fernandez  
General Counsel Jose Smith  
Secretary Robert E. Parcher

### **AGENDA**

1. OLD BUSINESS

- A. Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency's City Center District And South Pointe (Pre-Termination Carry Forward Balances) For The Month Of September 2008.  
(Finance Department)

**ACTION: Written report submitted.**

- B Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency's City Center District And South Pointe (Pre-Termination Carry Forward Balances) For The Month Of October 2008.  
(Finance Department)

**ACTION: Written report submitted.**

**End of RDA Agenda**

Meeting adjourned at 8:09:34 p.m.