



# MIAMI BEACH

## City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
March 2, 2009 at 1:00 p.m. continued from February 25, 2009

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

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

Visit us at [www.miamibeachfl.gov](http://www.miamibeachfl.gov) for agendas and video "streaming" of City Commission Meetings.

### ATTENTION ALL LOBBYISTS

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

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

### Items deferred to the Monday, March 2, 2009 Commission Meeting at 1:00 p.m.

R5D **1<sup>st</sup> Rdg**, Amend General Requirements for Agencies, Boards & Committees. (Diaz)

R7D Adopt First Amendment, General, Enterprise & Internal Services Fund Budgets (FY 07/08).

R7E Establish CMB Other Post-Employment Benefits ("OPEB") Trust.

R7F Adopt First Amendment to the CMB Capital Budget for FY 2008/09.

R9A1 Board & Committee Appointments - City Commission Appointments.

R9G Discuss: Consideration to Cancel the Parking Contract Issued to Impark. (Libbin)

R9I Discuss: Impact of M-DC's Financing Plan for Marlins Stadium on MBCC. (Diaz)

Meeting called to order at 3:01:06 p.m.

**REGULAR AGENDA****R5 - Ordinances****Monday, March 2, 2009 – 3:01:27 p.m.**

R5D An Ordinance Amending Section 2-22, Entitled "General Requirements," Of Division I, Entitled "Generally," Of Article III, Entitled "Agencies, Boards And Committees," Of Chapter 2 Entitled "Administration," Of The Miami Beach City Code To Require An Annual Reporting To The City Commission With Regard To City Agency, Board, And Committee Appointments And City Workforce Diversity Statistics; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**

(Requested by Commissioner Victor M. Diaz, Jr.)

(Deferred from January 28, 2009)

**ACTION: Ordinance approved on first reading as amended.** Motion made by Commissioner Diaz to approve the ordinance; seconded by Commissioner Weithorn; Ballot vote: 6-0; Absent: Vice-Mayor Tobin. Second Reading and Public Hearing scheduled for April 22, 2009. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

**Amendments:**

1. List the Land Use Board separately.
2. Report by City Commission Committee and report by individual elected official.
3. Add to the report the percentage of resident population in the City
4. Change the City Manager or the City Clerk to City Manager or the City Manager's Designee
5. Report to be generated on November 1<sup>st</sup> of each year.

**End**

Commissioner Diaz stated that a resolution was distributed from the Commission on the Status for Women supporting and urging the passage of this ordinance and the minutes from the February 2, 2009 meeting of the Hispanic Affairs Committee endorsing and urging the approval of this ordinance. He referenced for historical purposes the final report on boards and committees of the Mayor's Blue Ribbon Task Force on diversity issues done under the leadership of Mayor Gelber in 1994.

Discussion held.

Commissioner Diaz, at the request of Commissioner Libbin, requested to add to the report the percentage of resident population in the City.

Mayor Bower suggested an amendment to include the percentage of the land use boards or power boards to be reported separately. **R. Parcher to handle.**

Commissioner Diaz accepted Mayor Bower's friendly amendment.

Discussion continued.

**Amendment:**

Robert Parcher suggested that on the ordinance where it reads "the City Manager and the City Clerk" be changed to read "the City Manager or the City Manager's designee."

Commissioner Diaz accepted the amendment.

The consensus was to have the report prepared annually on November 1<sup>st</sup>.

#### Handout or Reference Materials

1. Copies of email from Dona Zemo to Diaz, Victor re: diversity resolution
2. Draft Minutes from the Hispanic Affairs Committee meeting of February 2, 2009
3. Letter from Laurence Feingold, City Attorney, to Victor Diaz, Esq., dated May 3, 1994
4. Outside legal fees from 05/92 to 03/94
5. Final Report on boards and Committees Overview and Recommendations
6. Memorandum from Mayor Seymour Gelber to Jose Garcia-Pedrosa, City Manager dated December 6, 1995.

### R7 - Resolutions

#### **Monday, March 2, 2009 – 3:28:41 p.m.**

R7D A Resolution Adopting The First Amendment To The General, Enterprise And Internal Services Fund Budgets For Fiscal Year (FY) 2007/08 To Appropriate Prior Year Encumbrances And Amend Certain Budgets.

(Budget & Performance Improvement)

**ACTION: Resolution No. 2009-27023 adopted as amended with the referral to the Finance and Citywide Projects Committee as to what to do with the \$4.5M from the Building Department.** Motion made by Commissioner Gross with the referral; seconded by Commissioner Wolfson; Voice vote: 3-2: Opposed: Mayor Bower and Commissioner Diaz; Absent: Vice-Mayor Tobin and Commissioner Libbin. Patricia Walker to place on the committee agenda. Kathie Brooks to handle.

#### **Amendment:**

Commissioner Gross referred to the Finance and Citywide Projects Committee the \$4.5 million of excess building permit collections which yielded a surplus, in order to come up with programs as far as what the City can do to encourage some type of construction in the City; there is a general sense in the community that is hard to obtain permits from the Building Department and what's more, the fees exceed the budget, and this will probably result in the reduction of fees. He also added that incentives for green projects can be offered for 50,000 ft or more and offer reduction in building department fees for those projects. Lastly, he would like to come up with some kind of project to create goodwill between users and the Building Department. He moved the item with that amendment.

#### **End**

Kathie Brooks, Budget and Performance Improvements Director, introduced the item.

Commissioner Libbin asked the Commission to consider an amendment to the way the funds are allocated. He agrees with the \$2.25 million allocation because of the General Accounting Standards Board (GASB) requirement because it is an unfunded liability; however, there are projects that the Commission would like to do but are unable to do because of the lack of funding. He requested setting aside \$500,000 for neighborhood projects. No second offered.

Discussion continued.

Commissioner Gross explained that most of the surplus is from the Building Department and it coming from the permit fee increases, which represents \$4.5 million of the surplus. Funds

generated by the Building Department needs to stay in the Building Department's projects.

That was not done last years and the consultant analyzing the Building Department recommended that the City write an IOU to the Building Department for the \$6 million from last year and to take \$4.5 million this year. The City owes \$10.5 million to the Building Department. He stated the following:

- 1) Since the Building Department money is considered an Enterprise Fund it should not be considered part of the general surplus. It cannot be used by the General Fund.
- 2) For the last two years we have set aside \$2 million a year for General Accounting Standards Board (GASB) compliance and this year we are creating a trust and starting to fund that trust. This makes sense because it lowers the liability.

Jorge Gonzalez, City Manager, spoke about the retirees' health insurance costs.

Commissioner Gross asked what is going to be the mechanism to decide what to do with the \$10 million in capital reserve.

Jorge Gonzalez, City Manager, stated that the capital reserve was created to cover any capital projects bids which exceeded the project budget. Recently, capital bids have been coming in under the budget allocated. The capital reserved at the end of this year will be around \$12 million. The Commission can change its policy regarding the capital reserve funds which would convert the capital reserves funds into pay-as-you-go funds. He stated that he would not take the \$4.5 million at this time and put them in capital reserve.

Discussion continued.

**Amendment:**

**Motion made by Commissioner Gross to refer the \$4.5 million of excess building permit collections which yielded a surplus to the Finance and Citywide Projects Committee to come up with several projects for the user community, to give LEED project incentives, and type of goodwill program for the users of the Building Department; seconded by Commissioner Wolfson.**

Discussion held.

**Vote on the motion; Voice vote: 3-2; Opposed: Mayor Bower and Commissioner Diaz; Absent: Vice-Mayor Tobin and Commissioner Libbin.**

Jorge Gonzalez, City Manager, stated that there is \$6.75 million in excess revenues over expenditures. \$2.25 million will be put into the trust to fund the General Accounting Standards Board (GASB) requirements, and \$4.5 million will be put into the fund balance reserved for future Building Department needs. There is a referral to the Finance and Citywide Projects Committee a discussion of what, if anything will be done with the \$4.5 million. Any expenditure needs to be eligible expenses within the Building Department.

Mayor Bower asked if the State law allows the City to owe the Building Department \$6 million.

Jose Smith, City Attorney, stated that he can not answer the question at this time the question regarding borrowing against the building fund.

Discussion continued.

Jorge Gonzalez, City Manager, explained that last year at this time there was an excess of revenues over expenditure of about \$13 million. At that time before the City did the cost allocation, the policy of the Commission was to take half of the money and put it into the capital reserve. When the cost allocation was done, after the fact, and the Building Department was due about \$10 million over the years including this year, The City took \$4.5 million and put it into the Building Department for future expenses. He added that the remaining \$6 million, could be paid back from the capital reserve and put back to the Building Department, but he thinks those funds are needed for projects. The funds were not used to pay for salaries or COLA. The funds were placed in the capital reserve as our policy calls for and the City now knows more about what the State's cost allocation requirement is.

Discussion continued.

Commissioner Diaz stated that now that the City has a cost allocation study that shows the City owes the Building Department approximately \$10.5 million, whether the City can fund \$4.5 million and be in compliance or whether we are out of compliance with State Statute and requested a legal opinion. **Legal Department to handle.**

Commissioner Weithorn requested the Finance Department to find out if this action may adversely affect an opinion from our auditors. **Patricia Walker to handle.**

**Monday, March 2, 2009 – 4:10:41 p.m.**

R7E A Resolution Establishing The City Of Miami Beach Other Post-Employment Benefits ("OPEB") Trust, And Authorizing The Mayor To Execute The City Of Miami Beach OPEB Trust Document.

(Budget & Performance Improvement)

**ACTION: Resolution No. 2009-27024** adopted. Motion made by Commissioner Diaz; seconded by Commissioner Weithorn; Voice vote: 5-0; absent: Vice-Mayor Tobin and Commissioner Libbin. **Kathie Brooks to handle.**

**Monday, March 2, 2009 – 4:10:56 p.m.**

R7F A Resolution Adopting The First Amendment To The City Of Miami Beach Capital Budget For Fiscal Year (FY) 2008/09 And Declaring The Intent Of The City To Issue Debt Of The City To Reimburse Itself For Funds Advanced For Certain Stormwater Expenses.

(Budget & Performance Improvement)

**ACTION: Resolution No. 2009-27025.** Motion made by Commissioner Weithorn; seconded by Commissioner Wolfson; Voice vote: 4-1; Opposed: Commissioner Diaz; Absent: Commissioners Libbin and Tobin. **Kathie Brooks to handle.**

Jorge Gonzalez, City Manager, explained the item.

Commissioner Diaz asked what happens if the City's bonding capacity does not materialize and the City has taken out the letter of credit. He added that he agrees with keeping the projects going. When the letter of credit comes due, interest expense will be incurred.

Jorge Gonzalez, City Manager, stated that the strategy is to have a letter of credit to enter into the contract. Contracts can not be entered into unless there is available cash. The letter of credit gives the City the ability to continue to fund projects and award contracts. It is

anticipated that by the time the money on hand is used up and projects need to be funded from the letter of credit, the bonds will be ready to sell.

Commissioner Diaz stated that if the strategy does not work out the Commission is authorizing the Administration to borrow \$7,140,847.

Discussion continued.

Kathie Brooks, Budget and Performance Improvement Director, spoke.

Patricia Walker, Chief Financial Officer, spoke.

Discussion continued.

Motion made by Commissioner Weithorn, seconded by Commissioner Wolfson; Voice vote: 4-1; Opposed: Commissioner Diaz; absent: Vice-Mayor Tobin and Commissioner Libbin.

### **R9 - New Business and Commission Requests**

#### **Monday, March 2, 2009 – 5:19:40 p.m.**

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

#### **ACTION:**

#### **Design Review Board:**

Commissioner Victor Diaz nominated Marilys Nepomechie.  
Commissioner Gross nominated Jason Hagopian.

#### **Ballot Vote:**

Jason Hagopian: 3 votes  
Marilys Nepomechie: 2 votes  
Absent: Vice-Mayor Tobin and Commissioner Libbin. No appointment made.

Handout or Reference Materials:

1. Ballots

#### **Monday, March 2, 2009**

R9G Discussion Regarding A Consideration To Cancel The Parking Contract Issued To Impark.  
(Requested by Commissioner Jerry Libbin)

**ACTION:** Item deferred to the March 18, 2009 City Commission meeting.

Handout or Reference Materials

1. See LTC 051-2009 – Impark's Labor Contract Deficiencies
2. Email from [citydebate@gmail.com](mailto:citydebate@gmail.com) on behalf of J.P. Morgan to Hatfield, Liliam dated February 19, 2009 RE ImPark Doc Request, RRE 4474, copies of Deposit bag dated 09/14/08, and Parking Attendant Shift Report, Deposit bag dated 01/30/09 and SUNTRUST Consolidated Activity dated February 3, 2009



**Monday, March 2, 2009, 4:23:57 p.m.**

R9I Discussion Regarding The Impact Of Miami-Dade County Financing Plan For Marlins Stadium On The Miami Beach Convention Center.

(Requested by Commissioner Victor M. Diaz, Jr.)

**ACTION:** Commissioner Diaz introduced the item and stated that the County has indicated that there will be no money to fund non-recurring maintenance needs, or new capital needs for the Convention Center. In addition, when the Convention Center was built, it was the fourth largest Convention Center in the country, today it is the 28<sup>th</sup> largest in the country and it is increasingly slipping in its competitive capacity. Lastly, the City has a draft of a study performed by the City consultants which show that there are significant new dollars needed for expansion for the Convention Center if it is to return to being competitive, which include 25,000 square feet of additional exhibit space, the rooftop exhibit venue and the possibility of needing another major Convention Center hotel. Let it be clear that this is not about baseball; this is about funding the Convention Center. He added that he is seeing projections that show through the year 2048 the primary source of funding improvements for the Convention Center are being fully committed for a baseball stadium. Miami Beach needs to get the true facts to be known by the entire community. He asked the City Manager, based on these projections, if there are CDT monies available through 2048 to fund the needs of the Convention Center as assessed by the City's consultants.

Jorge Gonzalez, City Manager, gave an oral report. He clarified that in the County's memorandum, \$260 million has been identified of CDT funds available for the Convention Center. In 1996 an Interlocal Agreement with the County was entered into seeding the CDT resources and giving it to the County at that time for the building of the Performing Art Center. At that time it was contemplated that the County would grant to the City \$46.5, but the reality is that \$11.5 million was provided back to the County for paying off the bonds, so it really was a net of \$35 million. In 2002 an amendment was made to the Interlocal agreement where \$15 million was provided to the County of CDT monies to meet the needs of on going capital and renewal of the Convention Center; which was netted out by \$2 million that went to pay for books when the library was built; so in net, \$48 million was received under those two agreements, which was intended to provide for the ongoing capital routine maintenance of the Convention Center, such as roof replacement, chiller replacement, etc; not necessarily structural major enhancement or expansion of the Convention Center. In addition, the agreements contemplated funds that would come to the City, \$4.5 million per year of contribution, over 45 years it's close to \$260 million, but the reality is that the \$4.5 million was and continues to be intended to fund any annual operating losses associated with operating the Convention Center and the Gleason. We average somewhere between \$4 and \$7 million per year in capital expenses and about \$2 to \$2.5 million per year in operating losses when the Convention Center and the Gleason operated in a combined fashion. \$55 million earmarked in the County's GO Bond for expansion and enhancement of the Convention Center is the only amount that he recognized to be identified for the expansion, enhancement, structural improvement of the facility, and this \$55 million has been the subject of discussion for several years. The County's projections appear to be optimistic, it does not allow for any major significant downturn whether natural or economic in nature, in the out years with a 5% growth each year after the first five years and this downturn is palpable in our community and calculated as a negative 2%, for the year end, and immediately starts to recover. From the County's projections, those optimistic growths are needed to achieve the bond capacity necessary to fund the baseball stadium. He summarized by saying that the \$260 million is misleading in its calculation, and the \$55 million earmarked in addition are not available since the County has not sold the bonds.

Discussion continued.



Erika Brigham spoke.

Jorge Gonzalez, City Manager, stated that Miami-Dade County Mayor Carlos Alvarez has given assurances that the County can do both, the stadium and the expansion of the Convention Center. They haven't stated it would be with CDT funds and have not identified where the money would come from. The City should continue with the design and let the County know what the City's demands are.

Commissioner Diaz stated that if the County agrees to use CDT money it will go over his strenuous objection. Will the City have any leverage in the future to get \$200 or \$100 million in the future to create a world class convention center?

Jorge Gonzalez, City Manager, stated that he does think the City has any resolution today. The leverage was given away in 1996.

Discussion continued.

Frank Del Vecchio spoke.

Mayor Bower stated that County Chairman Moss, County Mayor Alvarez and County Commissioners Barreiro and Heyman will move forward with the issue of the Convention Center and what is missing is the source of funding. If the County is willing to give the City their portion of the redevelopment area money to fund the Convention Center she will be happy.

Discussion continued.

Mike Burke spoke.

Jorge Gonzalez, City Manager, recommended adding to the motion that the County commit to amend the plan to include the Convention Center.

Motion made by Commissioner Diaz to send another letter to Miami-Dade County and ask Mayor Bower to speak with both County Commissioner Heyman and Barreiro requesting that as part of the vote to again put on the record the securing of the \$55 million, to reserve at minimum \$50 million beyond the \$55 million for the ballroom expansion, for the future expansion of the Miami Beach Convention Center or as a condition of voting in favor of any stadium financing deal offer an amendment that the county's portion of the City Center Redevelopment area tax revenue be returned to the City of Miami Beach and extended the date to from 2026 to 2048 and if necessary, include to commit to amend the plan to include the Convention Center; seconded Commissioner Weithorn; Voice Vote: 5-0; absent: Vice-Mayor Tobin and Commissioner Libbin.

Handout or Reference Materials:

1. "Say No To Bailing Out The Marlins" flyer from the Coalition Against Marlins Bailout [www.nomarlinsbailout.com](http://www.nomarlinsbailout.com)

Meeting adjourned at 5:25:47 p.m.

**End of Regular Agenda**