

City Commission Meeting

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

June 3, 2009

Mayor Matti Herrera Bower
Vice-Mayor Edward L. Tobin
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

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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.

REGULAR AGENDA

R2 - Competitive Bid Reports

- R2A Request For Approval To Award Contracts Pursuant To Invitation To Bid (ITB) No. 30-08/09, For Concrete Curbing/Sidewalk Construction And The Purchase Of Asphaltic Concrete Related Materials, And The Striping Of City Streets And Parking Lots; Awards Shall Be Based On Firms' Unit Prices As Follows: Group I: For Concrete Curbing/Sidewalk Construction, F&L Construction, Inc. As Primary Vendor And GC Works As Secondary Vendor; Group II: For Milling And Resurfacing Of Asphalt Concrete And The Purchase Of Asphaltic Related Materials, H& R Paving, Inc. As Primary Vendor And Metro Express As Secondary Vendor; Group III: For Asphaltic Concrete/Related Material To Be Picked-Up Or Delivered To The City, H&R Paving, Inc. As Primary Vendor And Community Asphalt As Secondary Vendor; And Group IV: For Striping Of City Streets And Parking Lots, High Tech Striping, Inc. As Primary Vendor And GC Works As Secondary Vendor In The Estimated Total Annual Amount Of \$1,000,000. (Page 209)
(Public Works)
- R2B Request For Approval To Reject All Bids Received Pursuant To Invitation To Bid No. 17-08/09, For The Construction Of The City Of Miami Beach Right Of Way Infrastructure Improvement Program, Neighborhood No. 12D/E/F, South Pointe Phase III, IV, And V; And The Re-Issuance Of A New Invitation To Bid. (Page 215)
(Capital Improvement Projects)

R5 - Ordinances

- R5A An Ordinance Amending Miami Beach City Code Chapter 2, Article III, Division 27 Entitled “Beach Preservation Committee” By Changing The Committee’s Name To The “Waterfront Protection Committee” And Expanding Upon The Committee’s Advisory Powers So As To Include Baywalk, Beachwalk And Cutwalk Review/Recommendation Within Its Jurisdiction; Providing For Repealer, Severability, Codification, And An Effective Date. **10:20 a.m. Second Reading Public Hearing** (Page 231)
(Requested by Commissioner Saul Gross/City Attorney’s Office)
(First Reading on May 13, 2009)
- R5B An Ordinance Amending Miami Beach City Code Chapter 2, Article III, Section 2-22 Thereof Regarding General Requirements Related To Membership On City Of Miami Beach’s Agencies, Boards And Committees, By Adding Thereto Subsection (19) To Provide That At-Large Appointment Of Board Members To Fill Categories Shall Be By Separate Vote For Each Category; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 235)
(Requested by Commissioner Victor M. Diaz, Jr./City Attorney’s Office)
- R5C An Ordinance Amending Miami Beach City Code Chapter 2, Article III, By Adding Section 2-27 Entitled: “Commission Committee Draft Minutes -- City Commission Approval,” Reciting Applicable Parliamentary Procedure Concerning City Commission Review And Acceptance Of Draft Minutes From Commission Committee Meetings; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 239)
(Requested by Mayor & Commission/City Attorney’s Office)
- R5D An Ordinance Amending Section 82-385(L) Of The City’s Sidewalk Café Ordinance, As Codified In Chapter 82, Article IV, Division 5, Sections 82-366 Through 82-385 Of The City Code; Said Amendment Allowing Sidewalk Café Operators/Permittees For Sidewalk Cafes On Lincoln Road Mall To Maintain Tables, Chairs, And Closed-Up Umbrellas Within The Permit Area When The Café Is Not In Operation; And Closed-Up Umbrellas Within The Permit Area When The Café Is Not In Operation; Also Creating And Adding A New Section 82-387, Entitled “Prohibited ‘No Table’ Zones,” And Subsection (A) Thereof, Prohibiting Sidewalk Cafes From Being Permitted And Placed In A Pre-Defined Area On The 1100 Block Of Lincoln Road, Between Lenox Avenue And Alton Road; Providing For Repealer, Codification, Severability, And An Effective Date. **First Reading** (Page 245)
(Requested by Mayor Matti Herrera Bower/City Attorney’s Office/Public Works)

R5 - Ordinances (Continued)

- R5E Ethics Proposal Ordinances (Page 259)
1. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII Thereof, By The Addition Of City Code Section 2-450.1 To Be Entitled “AC Weinstein Service Above Profit Act: Prohibited Employment Or Compensation Of Mayor And City Commissioners With City Vendors, Bidders Or Proposers,” Prohibiting Said Elected Officials From Directly Or Indirectly Having An Employment Relationship With Or Receiving Compensation From Any City Vendor, Bidder Or Proposer, Prohibiting City Vendors, Bidders Or Proposers From Directly Or Indirectly Having An Employment Relationship With Or Providing Compensation To Any Member Of The City Commission; Establishing Definitions, Waiver Of Prohibition And Prospective Application; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**
 2. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Section 2-458 Thereof Entitled “Supplemental Abstention And Disclosure Requirements” By Requiring Public Officers To Disclose Compensation Received By Public Officer And/Or Public Officer’s Employer Or Firm Related To Subject Conflicting Relationship, Said Disclosures To Be Made From Three Years Preceding Original Date Of Election/Appointment Of Public Officer; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**
(Requested by Commissioner Jonah Wolfson/City Attorney’s Office)
- R5F An Ordinance Amending In Part Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled “Campaign Finance Reform”, Sections 2-487 Through And Including 2-490, By Prohibiting “Vendors” And “Real Estate Developers” From Soliciting Campaign Contributions For Candidates For The Office Of Mayor Or Commissioner, Expanding Upon The Definitions Of “Vendor” And “Real Estate Developer” And Conforming As Housekeeping Matter Certain Language To Existing Text; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 267)
(Requested by Commissioner Saul Gross/City Attorney’s Office)
(Deferred from May 13, 2009)
- R5G An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled “Campaign Finance Reform,” By Adding Thereto Section 2-491 Entitled “Prohibited Lobbying By Campaign Consultants,” Prohibiting Campaign Consultants And Certain Affiliated Persons Or Entities From Lobbying City Commission For 12 Months Subsequent To Swearing In Of Subject Elected Official(S), Establishing Definitions And Prospective Application Of This Ordinance; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 277)
(Requested by Commissioner Deede Weithorn/City Attorney’s Office)
(Deferred from May 13, 2009)
- R5H An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, By Adding Section 2-461 Entitled: “City Commission: Automatic Removal Due To Excessive Recusals,” Providing That Commencing December 1, 2011, Any Member Of The City Commission Who Has Not Voted On Any Commission Matter Due To Conflict More Than Four Times Within A One Year Period Shall Be Automatically Removed From Office; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 281)
(Requested by Commissioner Jonah Wolfson/City Attorney’s Office)

R5 - Ordinances (Continued)

- R5I An Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article III, Entitled "Litter," By Amending Section 46-92, Entitled "Throwing Litter In Public Places; Possession Of Glass Or Metal Containers On Beaches Unlawful; Sweeping Or Throwing Litter In Gutters; Garbage Containers Required For Take-Out Restaurants; Rebuttable Presumptions; Civil Fines For Violations; Seizure; Removal; Definition Of Litter," By Clarifying The Prohibitions On Litter And Amending The Definition Of Litter, Amending The Fines And Penalties For A Violation Of Section 46-92, And Amending The Provisions Regarding Enforcement By Code Compliance Officers; By Repealing Division 2 Entitled "Handbills," But Incorporating Provisions Relative To Special Master Appeals And Additional Means Of Enforcement Into Section 46-92; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading** (Page 285)
(Requested by Commissioner Jerry Libbin/City Attorney's Office)

R7 - Resolutions

- R7A A Resolution Following A Duly Noticed Public Hearing To Hear Public Comment On Same, And Having Considered The City Administration's Recommendation And The Criteria Pursuant To Section 82-94 Of The Miami Beach City Code, Granting A Revocable Permit To Mr. Ira M. Elegant, As Owner Of The Residential Property (Single Family Residence) Located At 1360 North View Drive; Said Permit To Retain The Northeastern Portion Of A Carport, Built Within And Over A Portion Of The Public Right-Of-Way Along North View Drive; Further Approving A One-Time Only Assignment Of Said Permit To Sun Trust Bank As Trustee For Land Trust U/A/D 01/01/2003 Trust Agreement, As The Buyer/New Owner Of The Property At 1360 North View Drive; Such Assignment Subject To And Contingent Upon The Closing Of The Sale Of The Property Occurring On Or Before June 5, 2009. **10:15 a.m. Public Hearing** (Page 295)
(Public Works)
- R7B A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, An ATM Lease Agreement Between The City And SunTrust Bank, For Use Of Approximately Sixteen (16) Square Feet Of City-Owned Property, Located At 1700 Convention Center Drive (A.K.A. City Hall), Miami Beach, Florida; Said Lease Having An Initial Term Of Five Years, With An Additional Renewal Term Of Four (4) Years And Three Hundred Sixty Four (364) Days, At The City's Sole Discretion; Authorizing The Mayor And City Clerk To Execute The Lease Agreement. **10:30 a.m. Second Reading Public Hearing** (Page 313)
(Real Estate, Housing & Community Development)
(First Reading on May 13, 2009)
- R7C A Resolution Waiving The Development Regulations For An Addition To A Temporary Parking Lot In Collins Park To Temporarily Replace Lost Parking While The East Parking Lot, Located On Collins Avenue Between 21st And 22nd Streets, Is Renovated, Pursuant To Section 142-425(D) Of The City Code. **10:35 a.m. Public Hearing** (Page 333)
(Capital Improvement Projects)

R7 - Resolutions (Continued)

- R7D A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And Damian J. Gallo & Associates, Inc. (D/B/A Permit Doctor), For Use Of 1,802.89 Square Feet Of City-Owned Property, Located At 1701 Meridian Avenue, Unit 2 (A/K/A 767 17th Street), Miami Beach, Florida; Said Lease Having An Initial Term Of Three Years, With An Additional Three Year Renewal Term, At The City's Sole Discretion; Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code And Authorizing The Mayor And City Clerk To Execute The Lease Agreement. **10:45 a.m. Second Reading Public Hearing** (Page 343)
(Real Estate, Housing & Community Development)
(First Reading on May 13, 2009)
- R7E A Resolution Approving, Following Second Reading And Public Hearing On June 3, 2009, A First Amendment To That Certain Development Agreement Between The City Of Miami Beach, Florida, And UIA Management, LLC (Developer), Dated April 11, 2007, As Required Pursuant To Sections 163.3220-163.3243, Florida Statutes (The "Florida Local Government Development Agreement Act"); Said Amendment Pertaining To The Developer's Art In Public Places (AIPP) Contribution And Prescribing Further Terms And Conditions For The Design, Fabrication, Installation And Maintenance Of The Artwork. **11:50 a.m. Second Reading Public Hearing** (Page 373)
(Tourism & Cultural Development)
(Firs Reading Public Hearing on May 13, 2009)
- R7F A Resolution Approving On First Reading, A Lease Agreement Between The City And Roma Waxing, Inc. (D/B/A Uni.K Wax), For Use Of 1,290.59 Square Feet Of City-Owned Property, Located At 1701 Meridian Avenue, Unit 3 (A/K/A 771 17th Street), Miami Beach, Florida; Said Lease Having An Initial Term Of Three Years, With An Additional Three Year Renewal Term, At The City's Sole Discretion; Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code; Further Setting A Public Hearing On July 15, 2009, For The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading** (Page 399)
(Real Estate, Housing & Community Development)
- R7G A Resolution Authorizing An Amendment To The FY 2008 One Year Action Plan To Include The Use Of Federal Community Development Block Grant Funds From Title Xii Of Division A Of The American Recovery And Reinvestment Act Of 2009 ("CDBG-R") To Be Used For The Following Two Activities: 1) The North Beach Senior Center Project Capital Improvements; And 2) The Teen Job Corps Program, As Approved By HUD; Authorizing That In The Event That HUD Disapproves Of The Aforestated Uses Of The CDBG-R Funding, Then The City Manager Is Authorized To Identify, With The Assistance Of The Local HUD Field Office, HUD-Eligible Project(s) Which Will Be Reported Back To The City Commission By Letter To The Commission; Authorizing The City Manager To Execute An Agreement And Any And All Necessary Documents Between The City And The Department Of Housing And Urban Development In Order To Receive The Grant Funds; Authorizing The Mayor And City Clerk To Execute Agreements With Providers Of Activities; And Further Authorizing The Appropriation Of CDBG-R Federal Funds In The Amount Of \$467,896. (Page 429)
(Real Estate, Housing & Community Development)

R7 - Resolutions (Continued)

- R7H A Resolution Approving (Following The Expiration Of The Initial Term On July 12, 2009), A Month To Month Extension Of The Contract With Standard Parking, Inc. For Parking Meter Collection Services For The City's Parking System; Said Extension Is Not To Exceed Six (6) Months, Commencing On July 13, 2009, And Terminating No Later Than January 12, 2010. (Page 485)
(Parking Department)
- R7I A Resolution Approving And Authorizing The City Manager To Execute A Letter Agreement Between The City And 1 Washington Avenue Corp. (Smith And Wollensky Restaurant) Granting The Restaurant A Temporary Revocable Use Of An Approximately 581 Square Foot Paved Area In South Pointe Park, Adjacent To The Restaurant Building, For The Operation Of A Food And Beverage Concession And Outdoor Dining Area; With The Term Of Said Agreement Commencing On May 13, 2009, And Terminating On The Earlier Of 1.) Final Action By The City Commission As To A Proposed Concession Agreement Between The City And 1 Washington Avenue Corp. For The Use Of Said Area, Or 2.) September 30, 2009. (Page 491)
(Real Estate, Housing & Community Development)
- R7J A Resolution Authorizing The Installation Of A "Dog Park" In South Pointe Park As Recommended By The Neighborhoods/Community Affairs Committee, To Be Located In The Area Of The Park West Of The Washington Avenue Fountain/Plaza And South Of Apogee, As Delineated In The Attached Concept Plan (See Attachment); And Further Appropriating \$60,836 From The South Beach Quality Of Life Fund - 161 (To Be Repaid In The Future From The South Pointe Capital Fund 389) For The Design And Construction Of The Dog Park And Amenities. (Page 503)
(Parks & Recreation)
- R7K A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Management Agreement With Altos Del Mar Sculpture Park, Incorporated, A Florida Not-For-Profit Corporation, As The Successful Proposer In Response To Request For Proposals No. 02-07/08 For Establishing A Cultural Arts Themed And/Or Passive Recreational Activities Program In Altos Del Mar Park; Said Agreement Having An Initial Term Of Ten (10) Years With Two (2) Additional Five (5) Year Renewal Options, At The City's Sole And Absolute Discretion. (Page 513)
(Tourism & Cultural Development)

R9 - New Business and Commission Requests

- R9A Board And Committee Appointments. (Page 571)
(City Clerk's Office)
- R9A1 Board And Committee Appointments - City Commission Appointments. (Page 577)
(City Clerk's Office)
- R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.) (Page 597)
R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)
- R9C Discussion Regarding A Proposed Settlement Agreement Between Club Madonna, Inc., The City Of Miami Beach, And Certain Named Individual Defendants, Involving Litigation Between These Parties In The U.S. District Court, Southern District Of Florida, Case No. 08-23469-CIV-MOORE/TURNOFF. (Page 599)
(City Attorney's Office)
- R9D Discussion And Status Update On The 2009/10 Budget. (Page 609)
(Requested by Commissioner Deede Weithorn)
- R9E The Committee Of The Whole Will Meet During Lunch Break In The City Manager's Large Conference Room To Discuss The City Attorney's Performance Evaluation. (Page 611)
(City Attorney's Office)
- R9F The Committee Of The Whole Will Meet During Lunch Break In The City Manager's Large Conference Room To Discuss Fiscal Year (FY) 2009/10 Proposed Operating Budget Request For The Office Of The Mayor And City Commission. (Page 613)
(Budget & Performance Improvement)
- R9G Discussion Regarding A Request For A Special City Commission Meeting Re: Expansion Of Ethics Reform/Transparency In Government. (Page 615)
(Requested by Commissioner Victor M. Diaz, Jr./City Attorney's Office)
(Deferred from May 13, 2009)
- R9H Discussion Regarding A Resolution Urging Florida Department Of Education To Maintain The Existing Training Requirements For Teachers Of English Language Learners. (Page 617)
(Requested by Mayor Matti Herrera Bower)

R10 - City Attorney Reports

R10A Notice Of Closed Executive Session. (Page 621)
Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held At The Lunch Recess On Wednesday, June 3, 2009 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For A Discussion Relative To Collective Bargaining.

R10B Attorney-Client Session (Page 623)
Pursuant To Section 286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

MCZ/Centrum Flamingo II, LLC, Et Al. V. City Of Miami Beach U.S. District Court, Southern District Of Florida, Case No.: 08-22419-CIV-Altonaga/Brown

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On June 3, 2009 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matter.

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

Reports and Informational Items

- A City Attorney's Status Report. (Page 625)
(City Attorney's Office)
- B Parking Status Report. (Page 629)
(Parking Department)
- C Status Report Of The Normandy Shores Golf Course Club House. (Page 651)
(Capital Improvement Projects)
- D 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. (Page 653)
(Procurement)

- E Status Update On Wireless Miami Beach Project. (Page 655)
(Finance Department)

Reports and Informational Items (Continued)

- F Report On The 2009 Florida Legislative Session. (Page 659)
(City Manager's Office)

- G Status Report On Palm And Hibiscus Islands Underground Utilities Project. (Page 673)
(Capital Improvement Projects)

H Non-City Entities Represented By City Commission:

1. Minutes From The Miami-Dade County League of Cities Meeting On February 5, 2009.
(Page 677)
(Requested by Commissioner Deede Weithorn)
2. Minutes From The Wolfsonian-Florida International University Advisory Board Meeting On
April 3, 2009. (Page 691)
(Requested by Commissioner Deede Weithorn)
3. Minutes From The Miami-Dade Metropolitan Planning Organization (MPO) Meeting On April
30, 2009. (Page 699)
(Requested by Commissioner Deede Weithorn)

End of Regular Agenda