



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: September 9, 2009

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON WEDNESDAY, JULY 29, 2009.**

A meeting of the Neighborhoods/Community Affairs Committee was held on Wednesday, July 29, 2009 at 2:30pm in the City Manager's Large Conference Room, 4<sup>th</sup> Floor, City Hall. **Commissioners in attendance:** Mayor Matti Herrera Bower, Commissioners Jerry Libbin, Jonah Wolfson, and Deede Weithorn. **City staff in attendance:** Hilda M. Fernandez, Assistant City Manager; Tim Hemstreet, Assistant City Attorney; Jose Smith, City Attorney; Jean Olin, Special Counsel; Fred Beckmann, Public Works Department Director; Greg Tindle, Code Compliance Director; Saul Frances, Parking Department Director; and see the attached sign-in sheet for additional attendees.

THE MEETING OPENED AT 2:44 PM.

### NEW BUSINESS

#### 1. DISCUSSION REGARDING HOW THE CITY CAN ADDRESS THE GROWING ISSUE OF AGGRESSIVE RACCOONS AND OTHER RODENTS.

Commissioner Wolfson stated that this has been brought to his attention by several residents and with the foreclosure problem; it seems that in some cases raccoons have been able to take up residence in abandoned homes.

Hilda M. Fernandez, Assistant City Manager, explained that the City currently handles this issue by addressing the source of the problem. In the event the source of the problem is an overgrown lot or an abandoned property, then it would be dealt with through the property maintenance section of the Code, which allows the City to issue violations requiring the area to be cleaned. If the area is not cleaned, then the City will go in and cut the grass, clean the area, etc.

Commissioner Weithorn asked for snakes to be added to the list of concerns.

Commissioner Wolfson asked how the City handles the situation when the rats and rodents are still in place after the grass is cut and property cleaned up. Ms. Fernandez explained that the City can require extermination of the rats.

Sandra Edelman spoke.

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Commissioner Wolfson asked whether Building Department funds can be used to trap and remove raccoons if the situation is considered a health and safety issued. Ms Fernandez responded that these funds could be used to board up a building to stop the building from being entered by the animals. Commissioner Wolfson asked if Code Compliance funds can be used to trap and remove the raccoons. Ms. Fernandez explained that if the Commission wishes to start using the Code Compliance funds to pay for a trapper, then the Administration could speak with Procurement about the process to do so. Commissioner Weithorn stated that before deciding on that, the committee needs to know the fiscal impact of such an expense.

Frank Del Vecchio spoke recommending using a public education campaign.

Commissioner Libbin suggested getting the information about preventive methods via City sources, such as MBTV-77.

Dr. Morris Sunshine spoke of his concern, specifically rats, and his belief that they are nesting in dunes and palm trees. He also described the barriers on the palm trees that are used in Hawaii.

Mayor Bower noted that there has recently been a push to reduce the number of cats in Miami Beach, however, the rats increase when the population of cats is reduced.

Ms. Fernandez explained that the trapping of raccoons is likely to be an expense that will not be reimbursed to the City if the animals are simply roaming the neighborhood. However, if it is actually determined that the raccoons are living in the abandoned/vacant property, then the City can require the property owner to have the raccoons removed, the house to be exterminated and boarded. In that event, if the City incurs the expense because the property owner fails to address the issue, the City would then bill the property owner.

Ms. Fernandez recapped what she understood that the committee is asking for, including having staff get estimates from trapping companies, developing a mechanism to report the issue, developing a public service campaign for MBTV-77 and MB Magazine, and bringing the information back to Neighborhoods/Community Affairs Committee. The Committee agreed.

**ACTION:** The committee requested staff obtain estimates from trapping companies, develop a mechanism to report the issue, develop a public service campaign for MBTV-77 and MB Magazine, and return to the Neighborhoods/Community Affairs Committee with this information.

**2. DISCUSSION REGARDING WHETHER THE CITY SHOULD HAVE A GENERAL STANDING RULE TO WAIVE CERTAIN FEES, SUCH AS PARKING AND OTHER, RELATED TO RECONSTRUCTION OF PRIVATE PROPERTY DAMAGED DUE TO A SEVERE STORM EVENT OR SIMILAR NATURE EVENT.**

Mayor Bower introduced this item and explained that this came about after the recent rain event in the City that caused local flooding. It was brought to her attention by the owner of the gym on Alton Road at 15<sup>th</sup> Street when he was required to do emergency repairs for his business as a direct result of the rain event. The owner of the gym was

upset that he was required to pay parking for the construction vehicles after a disaster and wanted the City to have a plan for these types of events to waive certain fees for a limited time.

Mayor Bower added that she also received a number of complaints from people that were towed when their vehicles were disabled from the flooding. She would like to see a plan for the towing companies, and the Police Department, to possibly not tow right away if the vehicle is not obstructing the road. After much discussion, she stated that she would like to see a plan for when an emergency happens again.

Commissioner Wolfson stated he believed the Parking Department Director would be able to use his discretion regarding ticketing. Mayor Bower cannot use the discretion.

Tim Hemstreet, Assistant City Manager, stated that he would want some type of declaration to initiate such a plan.

Saul Frances explained that the gym owner had to pay for the tickets acquired by his workers because the meters were not paid. He added that there is a provision for parking fees for construction which was offered to the gym owner which he declined.

Mr. Hemstreet stated that the question here is whether the Commission would like to extend a level of authority to the City Manager to declare a situation that is short of the Governor's declaration that would allow certain waiver of certain policies and procedures.

Commissioner Libbin stated that he has no problem with the City Manager or Mayor being empowered to make such a declaration. Mr. Hemstreet stated that Administration's recommendation is to have specific criteria. He also stated that members should bear in mind that there are costs involved if parking fees are waived; those fees would need to be reimbursed to the Parking Department from the General Fund.

Commissioner Wolfson made a motion to have staff come back with a recommendation and a draft ordinance.

Mayor Bower explained that she did not bring this up for discussion to address the specific problem of the owner of the gym, however, that issue brought the idea of a plan for future situations to mind.

Mr. Del Vecchio spoke.

Commissioner Libbin suggested directing the Administration to come back to the committee with a limited list of potential scenarios that an ordinance might cover and under what conditions, then if the committee is happy with that list, to develop an ordinance drafted to empower either the Mayor or the City Manager to make a decision on a limited scope for a finite amount of time. Mr. Hemstreet noted that the existing Code limits the declaration of emergency to 72 hours.

Commissioner Weithorn asked to include the towing companies in this process.

**ACTION:** The committee directed the Administration to come back to the committee with a limited list of potential scenarios that an ordinance might cover and under what conditions; if the committee is satisfied with that list, staff would develop an ordinance to empower either the Mayor or the City Manager to make a decision on a limited scope for a finite amount of time.

### 3. DISCUSSION OF AN ORDINANCE RELATING TO A FORECLOSURE REGISTRY.

Ms. Fernandez explained the ordinance implemented last year by the County requiring lenders that hold mortgages that are pursuing foreclosure action to register with the County when they initiate the foreclosure action or Lis Pendens. This covers properties located in unincorporated Miami-Dade County and provides the County with a record of the abandoned property so that the County can monitor the property to make sure that the lender is maintaining the property as it should.

Commissioner Wolfson moved to direct the Administration to draft an ordinance for the City of Miami Beach mirroring the County ordinance. Commission Libbin seconded.

**ACTION:** The Committee moved to direct the Administration to draft an ordinance for the City of Miami Beach mirroring the county ordinance.

### 4. DISCUSSION REGARDING 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, LIMITED EXEMPTION AND DISCLOSURE/ABSTENTION REQUIREMENTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Jean Olin, Special Counsel for the City Attorney's Office opened the discussion.

Commissioner Wolfson expressed his concern regarding the definition of "Campaign Consulting Service" questioning whether the purchase of TV time for a candidate falls into that category.

Robert Meyers, Executive Director of the Miami-Dade Ethics Commission responded that the person who directed the candidate to purchase TV time would be providing the consulting service and the actual media purchase is not consulting.

Commission Libbin stated that the goal here is to prohibit lobbying by the person or people that elected officials had hired to help get them elected.

Ms. Olin explained that this proposed ordinance covers the person that is paid who has only served as campaign strategist or manager in the preceding election and now seeks to represent a third party in front of the City Commission. Jose Smith, City Attorney suggested including the wording "in the ordinary course of their business" to clarify the definition of the term "campaign consulting service". The committee agreed to take the

item back to the September 9, 2009 Commission meeting for 2<sup>nd</sup> Reading with any suggested language from the City Attorney's office.

There was discussion regarding Electioneering Communications Organizations (ECO) and the difference between express advocacy vs. issue advocacy. Ms. Olin reviewed recent court decisions regarding ECOs which decisions have held that since ECOs deal with issue advocacy, legislation restricting such issue advocacy is not constitutionally permissible.

The consensus of the city attorney and the committee was that the City should not, at this time, deal with the issue of ECOs, as the Federal District Court has recently held unconstitutional Florida State Statutes regulating ECOs.

**ACTION:** The committee agreed to take the item back to the September 9, 2009 Commission meeting for 2<sup>nd</sup> Reading with any suggested language from the City Attorney's office.

**ADDENDUM** (Requested by Commissioner Libbin)

**5. DISCUSSION REGARDING THE ESTABLISHMENT OF AN "ADOPT A BEACH" PROGRAM.**

Commissioner Libbin stated that he wanted to discuss this item before it goes to the September commission meeting to work out any questions regarding signage and how the program might work.

Fred Beckmann, Public Works Department Director, explained that the programs in Volusia County and some cities in California have been looked at and determined to have good programs. He recapped the criteria that is planned to be used, that will include volunteers that include citizens, organizations and business groups cleaning the beach in certain areas of the beach that will be assigned to them. The Environmental Division of Public Works will manage the program. There will be a frequency requirement, and the recommendation was to require a clean up at least on a quarterly basis. There will probably have an annual event where all groups will be cleaning.

Commissioner Libbin explained his understanding is that the groups would request a certain area or block that they would like to maintain, and commit to a minimum number of times annually, possibly five or six. The organization would call the staff person to advise of their planned cleanup. Staff would arrange to supply the gloves and garbage bags. The organization would be responsible for recording the number of people participating and work with the Sanitation Division to arrange pick up of the trash collected. The group will be given credit for the amount of trash collected and the City will be able to report on the results. In order to continue participation, the group must commit and meet the requirements. There would be a minimal charge for the group to participate to defray costs of materials and there will be a small sign designating that this area is cleaned by the particular group.

Mr. Beckmann showed a sample of signage used in other communities.

Commissioner Wolfson made the motion to bring the item to the Commission. Commissioner Libbin seconded.

**ACTION:** The committee moved to bring the item to the September meeting of the City Commission.

**THE MEETING ADJOURNED AT 4:33 PM.**

**Note:** The next meeting of the Neighborhoods/Community Affairs Committee is scheduled for Tuesday, September 15, 2009 at 2:30pm in the City Manager's Large Conference Room, 4<sup>th</sup> Floor, City Hall.

JMG/HMF/rfm



# MIAMI BEACH

## NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

July 29, 2009

### SIGN-IN SHEET

PLEASE PRINT LEGIBLY

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