



MIAMI BEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
September 9, 2009

Mayor Matti Herrera Bower
Vice-Mayor Victor M. Diaz, Jr.
Commissioner Saul Gross
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Deede Weithorn Out at 11:19 p.m.
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.

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	Certificates Of Completion/CMB Neighborhood Leadership Academy Graduates
C2A	Issue RFQ, Property Management Facility Project
C2B	Issue RFQ, Sunset Islands III and IV Neighborhood Right-Of-Way Improvement Project
C2C	Reject All Bids (ITB 39-08/09), 35th Street Restroom Facilities and Street End Improvements
C2D	Request For Approval, To Purchase (1) 2010 Ford Chassis w/ Water Tank Body, \$44,117.50
C2E	Award Contracts (ITB No. 38-08/09), Playground and Parks Equipment, \$35,215
C2F	Award Contracts, (ITB No. 35-08/09), Removal Of Construction Debris and Asphalt, \$116,000
C2G	Award Contract (ITB No. 44-08/09), Purchase And Delivery Of Bike Racks, \$81,550
C2H	Award Contracts (ITB No. 15-08/09), Purchase Of Bulk Concrete, \$90,000
C2I	Issue RFQ, Real Estate Broker To Service Leaseable City-Owned Properties
C4A	Ref: Land Use and Development Committee - Status Of The Par 3 Golf Course. (Wolfson)
C4B	Ref: CIP Oversight Committee - Flooding On Chase Between 34th and 37th Streets. (Wolfson)
C4C	Ref: Finance and Citywide Projects Committee - Impact Of Waiving Party Reservation Fee. (Gross)
C4D	Ref: Neigh./Community Affairs Comm. - Naming A Portion Of 71st St. After R. Rosell. (Bower)
C4E	Ref: Neighborhoods/Community Affairs Comm. - Fundraising Event To Benefit The Arts. (Libbin)
C4F	Ref: Land Use and Dev. Comm. - Offer Swimming Pool Facilities To The Nadadores. (Wolfson)
C4G	Ref: Land Use and Development Comm. - State Legislature On Building Permits. (Gross)
C4H	Ref: Neighborhoods/Community Affairs Comm. - Refurbished Parking Meters,
C4I	Ref: Neighborhoods/Community Affairs Comm. - Street Performers and Art Vendors
C4J	Ref: Finance and Citywide Projects Committee - False Claims Ordinance. (Gross)
C6A	Report: Finance and Citywide Projects Committee Meeting On June 25, 2009
C6B	Report: Finance and Citywide Projects Committee Meeting On July 6, 2009

C6C Report: Finance and Citywide Projects Committee Meeting On July 7, 2009
 C6D Report: Finance and Citywide Projects Committee Meeting On July 8, 2009
 C6E Report: Capital Improvement Projects Oversight Committee Meeting On July 13, 2009
 C6F Report: Land Use and Development Committee On July 27, 2009
 C6G Report: Neighborhoods/Community Affairs Committee Meeting On July 29, 2009
 C6H Report: Finance and Citywide Projects Committee On August 24, 2009
 C6I Report: Finance and Citywide Projects Committee On July 21, 2009
 C6J Report: Finance and Citywide Projects Committee Meeting On July 9, 2009
 C7A Execute (2) Agreements w/ M-DC, Building Better Communities G.O. Bond Program
 C7B Submit Application For (ARRA) Funding to Several Funding Agencies
 C7C Execute Amendment, Multipurpose Municipal Parking Facility Project
 C7D Execute Amendment, City Center Right-Of-Way Neighborhood Improvement Project
 C7E Execute Amendment, S. Pointe Phase III, IV, and V ROW Neighborhood Improvement Project
 C7F Execute Agreement, Venetian Islands Bid Package 13C Neighborhood RO Improvement Project
 C7G Adopt Administrative Guidelines for Special Masters
 C7H Accept Donations, Dog Park In Washington Avenue Park
 C7I Set Public Hearing, Designation Of The 1600 Lenox Avenue Historic Site
 C7J Execute Interlocal Agreement w/ M-DC, Vehicles For Hire Regulations
 C7K Adopt Second Budget Amendment, Police Special Revenue Account For FY 2008/09
 C7L Adopt Fourth Amendment, Police Confiscation Trust Fund Budget For FY 2008/09
 C7M Execute New Mutual Aid Agreement w/ State Attorney's Office, Money Laundering Investigations
 C7N Issue Purchase Orders, Pennsylvania Avenue Garage (NWS Garage)
 C7O Execute Agreement, Improvements Along Indian Creek Drive, Between 26th and 41st Streets
 C7P Proceed In Concept, Develop A (1) Year Adopt-A-Beach Pilot Program In The City. (Libbin)
 C7Q Execute Amendment, GIS Data Conversions (CDM)
 C7R Execute Amendment to Agmt w/ Omarcio Cleaning Services, Inc, Janitorial Services
 C7S Retroactively Issue Certification Of Consistency w/ MBCDC, London House Apartments
 C7T Execute SHIP Program Agreement w/ MBCDC, Homebuyer Activities For Eligible Households
 C7U Execute Federally-Funded Subgrant Agreement For Neighborhood Stabilization Program Funds
 C7V Approve Amendment, Lease Agreement w/ JCC, 4221 - 4229 Pine Tree Drive
 C7W Waive Competitive Bidding, Execute Concession Agmt w/ Smith and Wollensky Restaurant
 C7X Approve Selection Of Public Art Commission, SW Corner Of Washington Avenue and 3rd Street
 C7Y Accept \$105,000 and In-Kind Donations (Including Sponsorships), Sleepless Night 2009
 C7Z Waive City's Required Art In Public Places (AiPP) Contribution, New World Symphony
 C7AA Adopt Amendment, Housing Assistance Plan For SHIP Program FY 2007/08, 2008/09 and 2009/10
 C7BB Accept \$75,000 Donation From Audi, Construction Of A Tot Lot at 46th Street and Collins Avenue
 C7CC Approve Settlement Of A City Lien On Real Property Located At 1235 Alton Road
 C7DD Approve Release and Disbursement, \$20,440.19 From The Miami-Dade County Trust Fund
 C7EE Approve Settlement Of A City Lien On Real Property Located At 6600 Collins Avenue
 C7FF Enter Into Agreements For The City's Voluntary Benefit Program
 R2A Reject All Bids (ITB No. 45-08/09), Sanitary Sewer System Improvements / Rehabilitation
 R5A 10:20 a.m. 2nd Rdg, Amend Animals Ordinance
 R5B 11:15 a.m. 2nd Rdg, Increase Time Period For Jurisdiction Of Special Master to Mitigate Fines
 R5C 11:20 a.m. 2nd Rdg, Amend Jurisdiction Of The Special Master (Appeals)
 R5D 3:00 p.m. 2nd Rdg, Amend Supplemental Abstention and Disclosure Requirements. (Wolfson)
 R5E Expansion of Ethics Reform/Transparency in Government Ordinances. (Diaz)
 R5E-1 3:00 p.m. 2nd Rdg, Automatic Removal from Office. (Diaz)
 R5E-2A/B 3:00 p.m. 2nd Rdg, Supplemental Abstention and Disclosure Requirement. (Diaz)
 R5E-2C 3:00 p.m. 2nd Rdg, Disclosure of Certain Business Relationships. (Diaz)
 R5E-3B 3:00 p.m. 2nd Rdg, Prohibiting Certain Post-Service Contracts with City. (Diaz)
 R5E-3C 3:00 p.m. 2nd Rdg, Prohibiting Certain Post-Service/Employment Relationships. (Diaz)
 R5E-4 3:00 p.m. 2nd Rdg, Prohibited Vendor Campaign Contributions. (Diaz)
 R5F 3:00 p.m. 2nd Rdg, Amend Campaign Finance Reform (Campaign Contributions). (Gross)
 R5G 3:00 p.m. 2nd Rdg, Amend Campaign Finance Reform (Lobbying). (Weithorn)
 R5H 5:01 p.m. 1st Rdg, Historic Designation (Morris Lapidus /Mid 20th Century Historic District)
 R5I 5:05 p.m. 1st Rdg, Proposed Changes To The I-1 Urban Light Industrial District
 R5J 5:10 p.m. 2nd Rdg, Commercial Rooftop Venues South Of 5th Street
 R5K 1st Rdg, Amend Miami Beach Employees' Retirement Plan

- R5L 1st Rdg, Allow Establishments w/ Nude Entertainment To Serve Alcoholic Beverages
- R5M 1st Rdg, Temporary Parking Lots - Amendment To The 10-Year Limit
- R5N 1st Rdg, Short Term Rental Of Apartment Units Or Townhomes
- R5O 1st Rdg, Naming Of Public Facilities and Establishments Of Monuments and Memorials
- R5P 1st Rdg, Amend Graffiti Ordinance
- R5Q Repeal and Replace Chapter 54 "Floods."
- R7A 10:30 a.m. 2nd Rdg, Approve Lease Agmts w/ Various Agencies, S. Shore Community Center
- R7B 10:31 a.m. 2nd Rdg, Approve Lease Agmt w/ Klara Gershman M.D. PA, 1701 Meridian Avenue
- R7C Call For General Election On November 3, 2009, To Elect a Mayor and (3) City Commissioners
- R7D Designation Of CMB Canvassing Board For November 3, 2009 General Election
- R7E Adopt Revised Master Plan For The Flamingo Park Project (Project)
- R7F Amend Resolution No. 2003-25376, BODR for Biscayne Point ROW Project
- R7G Negotiate Energy Performance Contracts w/ Ameresco
- R7H Approve Term Sheet, MCZ/Centrum Flamingo II and III, LLC, Morton Towers Apartments and CMB
- R7I Approve Settlement Of City Liens On Real Properties Located At 960, 950 and 946 Bay Drive
- R7J Accept Recommendation, Parking Cashiers, Attendants and Supervisors For CMB Parking System
- R7K Accept Recommendation, Federal Neighborhood Stabilization Program Funds (NSP1)
- R9A Board And Committee Appointments
- R9B1 1:30 p.m. Dr. Stanley Sutnick Citizen's Forum
- R9C Discuss: Administration Policies For Soliciting Community Input. (Diaz)
- R9D Discuss: Parking Department Policies re: Public Use Of Certain Public Parking Space. (Diaz.)
- R9E Discuss: Operational Support for Miami Gay and Lesbian Chamber Of Commerce. (Diaz)
- R9F Discuss: Donate 911 Emergency Telephone Equipment To Sister City, Ica, Peru. (Diaz/Bower)
- R9G Discuss: Potential Operational Issues Related To The Newly Reconstructed S. Pointe Park
- R9H Discuss: Accept \$400 For "Celebrate Women's Equality Day 2009." (Bower/Weithorn)
- R9I Discuss: Urge Fla. State Legislature, Amend Statute On Condominium Foreclosures. (Libbin)
- R10A Attorney-Client Session: MCZ/Centrum Flamingo II, LLC, Et Al. V. CMB
- A City Attorney's Status Report
- B Parking Status Report – June 2009
- C Parking Status Report – July 2009
- D Informational Report: Federal, State, M-DC, U.S. Communities and All Existing City Contracts
- E Status Report On Palm And Hibiscus Islands Underground Utilities Project
- F1 Minutes: MPO Governing Board Meeting On May 28, 2009. (Bower)
- F2 Minutes: Miami-Dade County Tourist Development Council Meeting On June 2, 2009. (Bower)
- 1A Report: Itemized Revenues/Expenditures of RDA's City Ctr. District and S. Pointe - June 2009
- 1B Report: Itemized Revenues/Expenditures of RDA's City Ctr. District and S. Pointe - July 2009
- 2A Execute Amendment To Lease Agreement w/ Cadiac, Inc., Suites D and E In The Anchor Shops

Meeting called to order at 9:32:27 a.m.

Invocation given by Father Gabriel from St. Francis.

Pledge of Allegiance led by Representative Gus Barreiro.

SUPPLEMENTAL MATERIALS:

- C7Q - Resolution
- C7DD - Resolution
- R5J - Revised Ordinance
- R5Q - Ordinance
- R7G - Resolution

Presentations and Awards**9:44:43 a.m.**

PA1 Certificates Of Completion To Be Presented To The City Of Miami Beach Neighborhood Leadership Academy Graduates.

(City Manager's Office)

ACTION: Certificates presented. The NLA alumni presented the City Manager with a signed Jersey of the newly created baseball league "The Graduates."

Jorge Gonzalez, City Manager, stated that the Neighborhood Leadership Academy (NLA) is in its 8th year of service and gave a brief overview of the classes. He acknowledged that the City is in the midst of the first Spanish language version of the NLA classes with very positive reviews. He recognized the recent graduates of one of the largest classes ever: Carmen De Jesus, Maria Elena Alvarez, Leeor Bar Haim, James Buehner, Neil Butterfield, Henry Castillo, Marcella Cohen, Vincent Corbett, Dom Corpora, Glenn Costales, Barbara Cowen, Kaiphus Cox, Ahmed Cruz, Vivian Cruz, Alexandre Debouvries, Francesco D'Ulisse, Joel Duncan, Olga Rocio Echeverry, Durrett Evans, Aimee Fried, Stacey Gormezano, Isaac Hernandez, Daniel Hoffman, Suzanne Hollander, Elizabeth Jambor, Kamil Kelpetin, Rick Kendle, Anne Litzenberg, Sandra Malek, Ruth Marks, Jennifer Massolo, Ellen Penchansky, Lourdes Peters, Francisco Purisaca, Debi Quade, Anja Randegger, Andria Rivero, Sherry Roberts, Anne-Sophie Sayman, Michael Schad, David Siegel, J Sobel, Michelle Thomas, Pietro Tondini, Richard Towers, Monica Tracy, Marcelo Turbiner, Doris Ugarriza, Charles Urstadt, Yaritza Velez, Rebecca Wakefield, Erick Wallhofer, Eric Wheeler and Jeremy White. He congratulated them for the commitment to the course and thanked them for their efforts. He recognized the Commission for their support and Caroline Defreze for coordinating the classes.

Vice-Mayor Diaz congratulated all the graduates of the NLA, which is a magnificent program created by the City Manager and executed by Caroline Defreze. He congratulated the City Manager and added that he is particularly proud of one of the graduates, his partner Joel.

Jorge Gonzalez, City Manager, announced that the next class will start September 21, and those interested can sign up on the website at www.miamibeachfl.gov or call Caroline Defreze at 305.673.7000 Ext 6752.

Michelle Thomas spoke on behalf of the NLA graduates and thanked the City Manager, Mayor Bower and City Commissioners. She read a poem dedicated to the City employees to show their appreciation and especially Caroline Defreze for her leadership.

10:03:22 a.m.

PA2 Certificates Of Appreciation To Be Presented To Abigail Garcia And Emily Witt, For Representing Miami Beach Children In The Exchange Of Peace Between Miami Beach And Sister City Cozumel And To Bob Christoph For Donating Dock Space At The Miami Beach Marina.

(Requested By Mayor Matti Herrera Bower)

ACTION: Certificates presented.

Mayor Bower introduced the item and explained that a handmade wooden sail ship came from Sister City Cozumel and brought a "child of peace," who will be travelling all over the world. The ship was moored on the Miami Beach Marina and during this event, it was decided that there will be essays written by local students. There were over 100 essays written and the selected ones were from Emily Witt, Fisher Feinberg School and Abigail Garcia, Nautilus School. She presented each student with certificates and recognized all the individuals involved.

PA3 Proclamation To Be Presented To Stephen Zack, First Hispanic Florida Bar President And First Hispanic President Of The American Bar Association.

(Requested by Vice-Mayor Victor M. Diaz, Jr.)

ACTION: Item deferred.

9:56:50 a.m.

PA4 Proclamation To Be Presented In Honor Of Hispanic Heritage Month.

(Requested by Vice-Mayor Victor M. Diaz, Jr.)

ACTION: Proclamation presented.

Vice- Mayor Diaz explained that Hispanic Heritage Month begins September 15 and gave background summary of its historic background. He added that there are over 35 million Hispanics living in the United States, and this figure is expected to constitute the largest minority group in the country in 2013. He also added that not only Miami Beach benefits from the Hispanic culture and Hispanic-American citizens, but the entire nation. He stated that the City has Hispanic-Americans that have served with distinction, such as the City Manager, City Attorney, and for the first time in the history, a Mayor and Vice-Mayor. He proudly declared the month of September 2009 as Hispanic Heritage Month.

The following members of the Hispanic community were recognized: Raymond Adrian and staff from the *Hispanic Community Center*, Grace Calvani, Executive Director, from the *Miami Beach Latin Chamber of Commerce*, Chair Victor Hugo and Vice-Chair Julio Fable, from the *South Florida Hispanic Chamber of Commerce* Liliam Lopez, and from the City's *Hispanic Affairs Committee*, Francis Trelleque, Ida Percal, Jeannette Egozi, Lucero Levy and Patty Hernandez.

10:07:27 a.m.

PA5 Certificate Of Appreciation To Be Presented To City Personnel In Assisting Antonio Hernandez, When He Suffered A Heart Attack At The August 27, 2009 Budget Advisory Committee Public Hearing.

(Requested By Mayor Matti Herrera Bower & City Commission)

ACTION: Certificate presented. Item heard in conjunction with item PA6.

Mayor Bower introduced the item and stated that when Leonor's husband was in heart failure, she went to the hospital, and the courage and positive attitude demonstrated by Leonor during these difficult times, was impressive.

Leonor Hernandez read a letter thanking everyone involved especially Adonis Garcia, Javier Otero and Alex Bello, who went above and beyond the call of duty to save Tony's life; Mt. Sinai Hospital staff, all the elected officials, and Administration staff. She presented heart-shape plaques to members of the Fire Department Adonis Garcia, Javier Otero and Alex Bello

All Commissioners, Mayor Bower and Jorge Gonzalez, City Manager, expressed their sentiment and gratitude to staff involved in saving a life, and they wished Tony a speedy recovery.

10:07:27 a.m.

PA6 Leonor Hernandez Will Be Speaking To Thank All The People Involved In Saving Her Husband, Antonio Hernandez, When He Suffered A Heart Attack At The August 27, 2009 Budget Advisory Committee Public Hearing.

(Requested by Commissioner Deede Weithorn)

ACTION: Item heard in conjunction with item PA5. See details with item PA5.

9:37:21 a.m.

PA7 Certificate Of Appreciation To Be Presented To The Eden Roc, The Ardid Family And Greg Cook For Beach Clean Up Efforts, And Renovating The Beach Volleyball Courts.

(Requested by Commissioner Jerry Libbin)

ACTION: Certificate presented.

Commissioner Libbin recognized Greg Cook, General Manager of The Eden Roc Hotel. He gave a summary of the beach clean up campaign and added that many businesses and residents have taken up the challenge and clean up the beaches. The Eden Roc, in addition to having done a magnificent renovation of their property with the Ardid Family, Jose and Diego, they have also organized a beach clean up event. The Hotel also generously donated \$12,000, or four brand new beach volleyball courts, which are public amenities and he thanked them for that.

Greg Cook, General Manager of The Eden Roc Hotel, spoke.

9:40:41 a.m.

- PA8 Certificate Of Recognition To Be Presented To Camilo Rojas, Winner Of The Miami Beach "Keep Our Beaches Clean" Poster Contest.
(Requested by Commissioner Jerry Libbin)

ACTION: Certificate presented.

Commissioner Libbin stated that Camilo Rojas is one of many people in the community who participated in a program initiated through his office to create a poster contest to be displayed at various concession areas on the beach to prevent beach litter. Camilo's design poster was selected among 40 or so participants by the committee. He displayed the poster which reads "*Show Some Love To Your Beaches, Don't Litter.*" He mentioned that Miami-Dade County was so impressed that they have decided to have the poster made to fit the size of the beach clean up trucks. He read the certificate.

Camilo Rojas spoke and introduced all his professors in the audience today.

CONSENT AGENDA

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

New Item:**10:45:25 a.m.**

Jorge Gonzalez, City Manager, announced that Audi, Sleepless Night event sponsor, is giving a donation to the City and he would like them to be recognized.

Max Sklar, Cultural Affairs & Tourism Development Director, recognized Isabel Chattas, representing Audi, and he thanked them for their generous support of both Sleepless Night as their title sponsor and for the contribution they are making towards the construction of a tot lot on 46th Street east of the parking lot adjacent to the Eden Roc.

Isabel Chattas, representing Audi, spoke.

C2 - Competitive Bid Reports

- C2A Request For Approval To Issue A Request For Qualifications (RFQ) For Design, Bid, Award, And Construction Administration Services For The Property Management Facility Project.
(Capital Improvement Projects)

ACTION: Request authorized. Gus Lopez to issue the RFQ. Charles Carreño to handle.

- C2B Request For Approval To Issue A Request For Qualifications (RFQ) For Design Completion, Bid And Award, And Construction Management Services, For The Sunset Islands III & IV Neighborhood Right-Of-Way Improvement Project.
(Capital Improvement Projects)

ACTION: Request authorized. Gus Lopez to issue the RFQ. Charles Carreño to handle.

- C2C Request For Approval To Reject All Bids Received Pursuant To Invitation To Bid No. 39-08/09, For The Construction Of The 35th Street Restroom Facilities And Street End Improvements, To Include The Construction Of Two (2) 256 Square Feet Structures Connected By A Concrete Paved Plaza, New Landscaping And Irrigation, Installation Of A 250 Linear Feet Sanitary Sewer Line, And Milling And Resurfacing Of 35th Street; And Utilizing Job Order Contracting For The Construction Of The Project.
(Procurement/Capital Improvement Projects)

ACTION: Request Authorized. Gus Lopez to notify bidders.

- C2D Request For Approval To Purchase One (1) 2010 Ford F-450 4x2 Chassis With Water Tank Body, From Hub City Ford, Inc., Pursuant To Florida State Contract No. 071-000-09-1, In The Amount Of \$44,117.50.
(Fleet Management)

ACTION: Request Authorized. Drew Terpak to handle.

- C2E Request For Approval To Award Contracts To Highland Products Group LLC., And Site Development Concepts, Inc., Pursuant To Invitation To Bid (ITB) No. 38-08/09, For The Purchase And Delivery Of Playground And Parks Equipment, In The Amount Of \$35,215.
(Parks & Recreation Department)

ACTION: Request Authorized. Kevin Smith to handle.

11:23:13 p.m.

- C2F Request For Approval To Award Contracts To Metro Trucking Company Inc. As Primary Vendor, And Solution Construction Inc. As Secondary Vendor, Pursuant To Invitation To Bid (ITB) No. 35-08/09, For Removal And Disposal Of Construction Debris And Asphalt, In The Estimated Annual Amount Of \$116,000.
(Procurement/Public Works)
(Deferred from July 15, 2009)

ACTION: Item separated for discussion by Commissioner Tobin. Request authorized. Motion made by Commissioner Tobin; seconded by Commissioner Gross; Voice vote: 6-0: Absent: Commissioner Weithorn. **Fred Beckmann to handle.**

Commissioner Tobin stated that there were two bidders on this item.

Jorge Gonzalez, City Manager, stated that Administration is recommending both bidders.

Motion made by Commissioner Tobin; seconded by Commissioner Gross; Voice vote: 6-0:

Absent: Commissioner Weithorn.

- C2G Request For Approval To Award A Contract To Condo Electric Motor Repair, Corp., Pursuant To Invitation To Bid (ITB) No. 44-08/09, For The Purchase And Delivery Of Bike Racks, In The Estimated Annual Amount Of \$81,550.
(Procurement/Public Works)

ACTION: Request Authorized. Fred Beckmann to handle.

- C2H Request For Approval To Award Contracts To A-1 Construction And Renovation LLC, And Central Concrete Supermix Pursuant To Invitation To Bid No. 15-08/09, For The Purchase Of Bulk Concrete, In The Estimated Annual Amount Of \$90,000.
(Public Works)

ACTION: Request Authorized. Fred Beckmann to handle.

8:48:16 p.m.

- C2I Request For Approval To Issue A Request For Qualifications (RFQ) For A Real Estate Broker To Service Leaseable City-Owned Properties.
(Real Estate, Housing & Community Development)

ACTION: Request authorized. Item separated for discussion by Commissioner Gross. Motion made by Commissioner Gross to **refer the issue of the Byron Carlyle Theater to the Neighborhood/Community Affairs Committee** and to approve the balance of the item; seconded by Vice-Mayor Diaz; Voice vote: 7-0. Randy McBride to place on the committee agenda. Anna Parekh to handle.

Amendment

Approve the balance of this item and to refer the Byron Carlyle portion to the Neighborhood/Community Affairs Committee and obtain an assessment of the Byron Carlyle
End

Jorge Gonzalez, City Manager, introduced the item.

Commissioner Gross stated that a decision needs to be made as to whether the City needs to hire a broker to either sell the property or find a long term lease deal to encourage retail use.

Commissioner Tobin stated that the City should not get rid of a sizable piece of real estate since is close to the parking garage assemblage.

Discussion continued.

Commissioner Weithorn stated that this should go back to committee to get input from the cultural community.

Discussion continued.

Commissioner Gross suggested removing the issue of the Byron Carlyle and refer to a committee and approve the balance of the item.

Motion made by Commissioner Gross to approve the balance of this item and to refer the

Byron Carlyle portion to the Neighborhood/Community Affairs Committee; seconded by Vice-Mayor Diaz; Voice vote: 7-0.

Discussion continued.

Commissioner Gross requested an opinion on the value of the property. **Anna Parekh to handle.**

C4 - Commission Committee Assignments

C4A Referral To The Land Use And Development Committee - Discussion Regarding The Status Of The Par 3 Golf Course.

(Requested by Commissioner Jonah Wolfson)

ACTION: Referred. Jorge Gomez to place on the committee agenda. Charles Carreño to handle.

C4B Referral To The Capital Improvement Projects Oversight Committee To Discuss The Issue Of Flooding On Chase Avenue Between 34th And 37th Streets.

(Requested by Commissioner Jonah Wolfson)

ACTION: Referred. Charles Carreño to place on the committee agenda and to handle.

C4C Referral To The Finance And Citywide Projects Committee - Discussion Regarding The Economic Impact Of Waiving The \$50 Party Reservation Fee At Normandy And Flamingo Pool For Income Eligible Miami Beach Residents.

(Requested by Commissioner Saul Gross)

ACTION: Referred. Patricia Walker to place on the committee agenda. Kevin Smith to handle

C4D Referral To The Neighborhoods/Community Affairs Committee - Discuss Naming A Portion Of 71st Street After Rosendo Rosell.

(Requested by Mayor Matti Herrera Bower)

ACTION: Referred. Randi MacBride to place on the committee agenda. Hilda Fernandez to handle.

C4E Referral To The Neighborhoods/Community Affairs Committee – Discussion Regarding A Fundraising Event To Benefit The Arts (Mayor And Commissioner's Ball).

(Requested by Commissioner Jerry Libbin)

ACTION: Referred. Randi MacBride to place on the committee agenda.

- C4F Referral To The ~~Land Use And Development~~ Neighborhood/Community Affairs Committee - Discussion Regarding Whether The City Can Offer Swimming Pool Facilities To The Nadadores Of South Florida/U.S. Master Swim Team.
(Requested by Commissioner Jonah Wolfson)

ACTION: Referred. Randi McBride to place on the committee agenda. Kevin Smith to handle.

Robert Parcher, City Clerk, stated that the Agenda Item List has listed a correction.

- C4G Referral To The Land Use And Development Committee - Discussion Regarding The Portion Of SB 360 Recently Adopted By The State Legislature On Building Permits.
(Requested by Commissioner Saul Gross)

ACTION: Referred. Jorge Gomez to place on the committee agenda. Alex Rey to handle.

- C4H Referral To The Neighborhoods/Community Affairs Committee - Discussion Of The Miami-Dade County Homeless Trust's Campaign To Use Refurbished Parking Meters In Miami Beach In An Effort To Give People An Alternative To Giving Money To Panhandlers.
(Real Estate, Housing & Community Development)

ACTION: Referred. Randi MacBride to place on the committee agenda. Anna Parekh to handle.

- C4I Referral To The Neighborhoods/Community Affairs Committee - Discussion On Proposed Amendments To Article XV "Street Performers And Art Vendors."
(City Manager's Office)

ACTION: Referred. Randi MacBride to place on the committee agenda. Hilda Fernandez to handle.

- C4J Referral To The Finance & Citywide Projects Committee – Discussion Regarding An Ordinance Amending Chapter 70 Of The Miami Beach City Code Entitled "Miscellaneous Offenses"; By Amending Article V Entitled "False Claims Ordinance"; By Amending Section 70-304 Entitled "Intervention By Third Parties In Civil Actions For False Claims" For The Purpose Of Further Establishing The Authority For Persons To Bring An Action For Violation Of The False Claims Ordinance; By Amending Section 70-305 Entitled "Rights Of The Parties In Civil Actions" Which Grants A Person Who Brings An Action Notification Of, And An Opportunity To Be Heard Before The City Voluntarily Dismisses The Action; By Amending Section 70-307 Entitled "Expenses; Attorney's Fees And Costs" To Allow Defendant The Authority To Recoup Reasonable Attorney's Fees In Defending An Action Under The False Claim Ordinance; And Providing For Repealer; Severability; Codification; And An Effective Date.
(Requested by Commissioner Jerry Libbin & Commissioner Saul Gross)

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

C6 - Commission Committee Reports

C6A Report Of The Finance And Citywide Projects Committee Meeting On June 25, 2009: **1)** Presentation Of Flamingo Park Revised "Draft" Master Plan For Approval; **2)** Status Of A Land Easement Purchase Agreement With The Miami Beach Housing Authority For The Proposed West Avenue Bridge; **3)** Discussion Of A Retiree Pension Issue Regarding City Of Miami Beach Retiree Aldo Rodriguez And His Widow Olga R. Rodriguez; **4)** Discussion Regarding The Implementation Of A Municipal Marketing (Corporate Sponsorship) Program For The City; **5)** Discuss Proposed Agreements Governing Use Of Space In The South Shore Community Center; **6)** Discussion Regarding Proposed Changes To The Rental Rates At The Byron-Carlyle And Colony Theaters; **7)** Report On The Par 3 Golf Course; **8)** Discussion Regarding A Proposed Ordinance Expanding The Use Of The Parking Impact Fees Monies To Have More Flexibility; **9)** Job Order Contracting (JOC) System; **10)** Discussion Regarding Possible Funding Sources And Strategies That The City May Employ To Assist Condominiums In Miami Beach; **11)** Discuss Scheduling Details, Timing And Location For Public Involvement To The FY 2009/10 Proposed Operating Budget; **12)** Discussion Regarding A Lease Agreement Between The City And Mystery Parks Arts Company Inc. (D/B/A Sobe Institute Of The Arts) For The Use Of The Carl Fisher Clubhouse And Little Stage Theater For A Term Not Less Than Five Years; **13)** Discussion Regarding Towing Permit Options; **14)** Discussion Regarding A Shared Car Program.

ACTION:**Item No. 1:**

Chairman Gross asked the Administration to check with the Florida High School Athletic Association for the tennis court requirements.

The Committee directed staff, as well as the architect, to proceed with Option L with the following modifications:

- Have an enclosed room integrated/adjacent to the pro shop
- Incorporate the shade kiosks and bump out the fence line (approx. 3 ft) if necessary, but do not remove tennis courts to include the shade structures
- Incorporate a practice wall on the south side of the tennis center
- Explore including a skate park/plaza between the basketball courts and hand ball courts
- Include a 6 foot fence on the around the soccer field on the north side of the park

City Clerk's Note: See Agenda item R7E.

Item No. 2:

The Committee recommended that the revised Master Plan be brought to the September 9, 2009 Commission meeting.

City Clerk's Note: Tim Hemstreet to handle.

Item No. 3:

Item Deferred.

Item No. 4:

The Committee directed staff to discuss the fees that the City would be charged and bring the fee proposal back to a subsequent Finance & Citywide Projects Committee Meeting.

Item No. 5:

The Committee supports the Administration's recommendation that the Agreements should be

presented as proposed to the full City Commission on July 15th, 2009, for approval on first reading, and waiver, by 5/7th vote, of the competitive bidding and appraisal requirements.

City Clerk's Note: See Agenda Item R7A.

Item No.6:

The Committee recommends:

- Increasing the House Fees to \$475 and \$425 for the Colony and Byron-Carlyle respectively
- Keep the rental rates for show days the same in order to have a greater separation in the rental rates between the Byron and Colony Theater.
- Adding three (3) additional hours to the base rental period
- A modest increase to the rental rates for non-profit and commercial producers for mid-week/summer performances, mid week film screenings, to the overtime rate, and simplify the rates for extended runs at the Byron.
- The City is to make periodic CPI adjustments to the House Fees to keep up with associated costs.

The Committee asked staff to return at the July 21st Finance and Citywide Projects Committee meeting with recommendations and a summary of the visioning for the Byron-Carlyle Theater.

City Clerk's Note: See July 15, 2009 – C7T.

Item No. 7;

The Committee accepts the report and placed this project on the Capital Improvements list as a project between \$2.6 million and \$4.0 million.

City Clerk's Note: Kathie Brooks to handle.

Item No. 8:

The Committee accepted recommendation and referred the item to the Planning Board.

City Clerk's Note: Jorge Gomez to place on the Planning Board Agenda.

Item No. 9:

Status Update

Commissioner Ed Tobin and Bill Goldsmith to get together before the July 15th Commission meeting to look at the unit pricing.

Commissioner Tobin and the Administration will review the pricing before the July 15th Commission meeting.

City Clerk's Note: See July 15, 2009 – R2A

Item No. 10:

Item Deferred

Item No. 11:

Budget advisory committee will hold one or more public meetings in late August to discuss the proposed Operating Budget which will be held in the commission chambers.

Item No. 12:

The Committee recommends that the tenant's current agreement be extended to a month-to-month not to exceed 6 months.

Staff was also directed to negotiate a new lease for 5 years and to work with SoBe Institute of the Arts to create performance measures/benchmarks and public benefits.

The Committee recommended that a Committee Report be given at the July 15th Commission Meeting.

City Clerk's Note: Anna Parekh to handle.

Item No. 13:

The Committee recommends extending the permit for a period of two years or the start of construction, whichever comes first, with the understanding that if the conditions of the extension are not met the City may shorten it.

City Clerk's Note: See July 22, 2009 – C7A.

C6B Report Of The Finance And Citywide Projects Committee Meeting On July 6, 2009: **1)** Discussion Item: Budget Briefing.

ACTION:

Item No. 1:

The Committee recommends not funding the Pay-As-You-Go Capital fund for FY 2009/10.

The Committee recommended the projects listed for FY 2009/10 with the following changes:

- Office of Budget & Performance Improvement (OBPI) to include in FY 2009/10 Capital Budget the reprogramming of up to \$1 million in Capital Reserve Funds (CR) to be used for Pay-As-You-Go Capital (PG)
- Parks & Recreation to spread the restorative tree well treatments over several years doing the minimal in FY 2009/10 – to be funded from North Beach Quality of Life (NB QOL)
For Example
 - FY 09/10 Collins to Dickens North side
 - FY 2010/11 Collins to Dickens South side
- Public Works (PW)/Construction In Progress (CIP) to further reduce funding requirements for the Obelisk stabilization – to be funded from PG (reprogrammed from CR)
- CIP to add a project for West Avenue Baywalk with funding amount TBD – either as a new project or by amending the existing Baywalk project
- OBPI to include the following projects as funded for FY 2009/10
 - Bridge Light (77ht Street/Hawthorne Ave) – to be funded from NB QOL
 - Mid-Beach Community Garden – to be funded from PG (reprogrammed from CR)
 - North Shore Open Space Park – Dog Park Annex – to be funded from NB QOL
 - Fisher Park Tot Lot and Play Ground Structure – to be funded from Mid Beach Quality of Life (MB QOL)
 - Normandy Shores Park Tot-lot Playground and Shade Structure – to be funded from PG

(reprogrammed from CR)

- OBPI to fund the following projects in FY 2010/11 and beyond
 - Par 3 Golf Course – to be funded from MDC CDT/RT (approx. \$4 million per year available)
 - Lummus Park/Serpentine Walkway (CIP to try to re-engineer to reduce additional funding need of \$1.8 million – to be funded from MDC CDT/RT (approx. \$4 million per year available)
 - Fitness Course Lummus Park – to be funded from MDC CDT/RT (approx. \$4 million per year available)
- OBPI/PW to rename all seawall projects so that they begin with “Seawall” and automatically group together
- OBPI to fund Convention Center projects in priority order subject to projected availability of funds from FY 2008/09 year-end
- CIP/Economic Development/RDA to accelerate North Beach Parking Garage as part of the anticipated Parking Bond issue

C6C Report Of The Finance And Citywide Projects Committee Meeting On July 7, 2009: **1)** Discussion Item: Budget Briefing.

ACTION:

Item No. 1:

The Committee requested:

- *Tracking the amount of spending for outsourced/contracted services for positions that have been eliminated.*
- *Analyze Resort Tax Collections from special events*
- *Fire Chief to provide recommendations of changes to scheduling hours, what lifeguard towers could be eliminated, if any on the least used beaches.*
- *Determine if it is cost effective to add pages to MB magazine to include the Recreation Review so that the magazine could be self sufficient*

The Committee recommended:

- *The potential service reduction alternatives listed for the Police Department*
- *The proposed service reduction alternatives for the Fire Department with the exception of the items related to minimum staffing, elimination of lifeguard stands, and changing the lifeguard schedules to 5/8's year-round, which will be further discussed at a later date*
- *Eliminating a Code Administrative Aide II*
- *Eliminating the vacant position of Office Associate III in the Office of Community Services.*
- *The potential service reduction alternatives listed for the Parks & Recreation department*
- *Reducing the funds allocated for Professional Services in the CIP department.*
- *Eliminating the Asset Manager position and replacing with a part-time field monitor position*
- *Exploring outsourcing the Permit Clerk function in the Building department*
- *Reducing Arts in the Parks from 8 to 6 events annually*
- *Pursuing replacement funding for 2010 Sleepless Nights so that the event would be fully funded by private sponsors*
- *Replacing a Field Monitor position with a part-time position.*
- *Transferring the Agenda Coordinator position from the City Manager's office to the City Clerk's*

office

- *Replacing full-time office support with a part-time position in the Communications department and eliminating the citypage.*
- *Eliminating one Management Consultant in the Office of Budget and Performance Improvement.*
- *Eliminating the Labor Relations Director position in the Human Resources department.*
- *Eliminating an Office Associate V, as of December, in the City Clerk's office.*
- *Eliminating a Legal Secretary position and further reducing the hours of the part-time First Assistant City Attorney from 40 hours per pay period to 20 hours per pay period.*
- *Reducing Capital Investment & Upkeep Account so that reforestation is reduced from \$200,000 to \$100,000*
- *Eliminating funding for Vote Miami Beach*
-
- *Reducing Professional Services by \$5,000 from Applications and by \$5,000 from the Support divisions, eliminating one (1) Information Technician I, and replacing one (1) Senior Systems Analyst and one (1) Systems Analyst with an entry-level position.*
- *Eliminating one (1) Central Services Administrative Aide I and one (1) Duplicating Equipment Operator.*
- *Eliminating one (1) Administrative Aide I, one (1) MSW-III, which will be replaced by contracted temporary labor when needed, and eliminating one (1) vacant A/C Mechanic position in the Property Management Department*

The Committee recommended against the following:

- *Reducing the funding for various citywide programs*
- *Closing the Byron Carlyle Theater or eliminating the funding for the Arts Education Program.*
- *Eliminating the funding for the Arts Education Program*
- *The potential service reduction alternative for the Fleet Management department.*

C6D Report Of The Finance And Citywide Projects Committee Meeting On July 8, 2009: **1)** Discussion Item: Budget Briefing.

ACTION:**Item No. 1:**

Present employee and union suggestions for budget cuts at the Finance and Citywide Projects Committee meeting on July 21, 2009.

Staff is to:

- Analyze employee salaries that are under the proposed minimum to determine how many are grossly under compensated.
- Analyze employees' salaries compared to Plan A salary grades
- Analyze how many employees are over 115% the maximum for their pay range
- Do analysis at 2.5% increments
- Bring the Committee the number of employees who are fully compensated over \$150,000, including benefits
- Bring the Committee examples of employees who are over the proposed maximum for their pay range
- Check the legality of having various levels of pension contributions
- Analyze fire transport fees and determine what portion of the uncollected fees are from Miami Beach residents and non-residents

The Committee recommended:

- Freezing merits/steps
- Not charging for crossing guards at private schools
- Increasing the fee for lien statements, the charge for uncertified statements would now be \$75, certified statements would be \$100 for single family homes, and \$150 for condominiums
- Implementing a \$15 application fee for a Business Tax Receipt for first-time applicants
- Increasing the lottery application fee from \$35 to \$50
- Not raising the fee for Special Master appeals
- Increasing the lobbyist fee to Miami-Dade County levels, from \$125 to \$490 annually, and increasing the fee per issue to \$100 per issue

C6E Report Of The Capital Improvement Projects Oversight Committee Meeting On July 13, 2009: **1)** Attendance; **2)** Review And Acceptance Of Minutes; **3)** Public Comments; **4)** Sub-Committee Meeting Reports; 4a) Unit Pricing Sub-Committee; 4b) Flamingo Neighborhood Project Sub-Committee; **5)** Public Works Presentation; 5a) Waterline Replacement Prioritization; 5b) Overview Of GIS System For Use In Identifying Flooding Hot Spots; 5c) Use Of Flex Valves At Outfalls; **6)** Procurement Presentation: Job Order Contracting (JOC); **7)** Old Business; 7a) CIP Project Status Report: CIP Projects; Public Works-Managed Capital-Funded Projects; 7b) Construction Update: Normandy Shores Neighborhood Improvement Project; 7c) Status Report: Venetian Islands Neighborhood Improvement Project; 7d) Status Report: Sunset Islands I & II; **8)** Staff Action Report; **9)** Calendar; **10)** Adjournment.

ACTION:

Item No.1:

See attendance form at end of summary

Item No. 2:

MOTION: Acceptance of Minutes of the June 1, 2009 CIPOC Meeting. PASSED (Accepted by Acclamation)

Item No. 3:

William Goldsmith (1829 West 25th Street) presented several items:

- **Royal Palm & 44th Street:**

Mr. Goldsmith asked that permits be in place prior to issuance of the RFQ since the project is intended to be a design/build project.

Fred Beckmann, Director of Public Works, said that the Design Criteria Package has been completed; some additional components are to be added, including modifications to Muss Park and its parking area. The permits are obtained by the design/build firm. At this time, the City cannot obtain those permits until the firm is selected. The funding for this project is included in the budget for the next fiscal year, and that budget has not yet been approved by Commission. The earliest the money could be available is October. In the meantime, an ITB will be issued.

Mr. Goldsmith's request is that the CIPOC gives the direction that the City initiates permitting now and sends the ITB out now. The ITB can be issued without the funding in place.

- **Sunset I & II:**

The comments on the 50% design documents from Mr. Goldsmith and the HOA engineer were submitted to the City.

Mr. Goldsmith has been working with Public Works on immediate repairs to outfalls. He is optimistic that he can expedite the process for the permits of those two outfalls at the entrance as well. He is asking the City to provide him with the plans so he can walk them through the permit process.

Mr. Beckmann said that Public Works was able to unplug the outfall at the south side of the entrance bridge, which should alleviate some of the flooding problems. Mr. Beckmann suggests that the designer of record design the entire system and permitting should be handled from there.

- **Sunset 3 & 4**

Residents and Mr. Goldsmith met with Mr. Carreño and went over the designs from CH2MHill. There seems to be an existing consensus that a scope change is possible without an RFQ. Even so, CIP has worked on a draft RFQ in case the changes requested of CH2MHill are not accepted.

A letter is going out to FPL from the City Manager's Office asking for coordination of undergrounding with the CIP project.

- **Venetian Islands**

Gus Lopez, Procurement Director, confirmed that a Commission item on the July 15 agenda is to award the A/E contract for Venetian islands ROW to Schwebke Shiskin, the engineer recommended by the evaluation committee.

Erick Schlein, (525 Fairway Drive), President of the Normandy Shores HOA, addressed several issues of concern to the HOA.

- **Parking on North Shore Drive adjacent to Fairway Park**

Previously, there was angle parking on the west side of the street and the new configuration within the ROW project now provides perpendicular parking. This results in a narrow street. There are many complaints about long vehicles causing obstructions.

Rick Saltrick, CIP, explained that the BODR identified more parking for the multi-family buildings. The two-way traffic also makes angle parking more difficult.

Charlie Carreño suggested that the City pursue this as an enforcement issue, and place signage that would restrict the size of cars that park in certain spaces.

- **Dewatering on North Shore Drive Pumped to Fairway Drive Swale**

Mud and material is building up due to dewatering. Mr. Schlein asked that the material be removed before the ground is re-sodded.

The area will be restored to pre-existing conditions before the dewatering is done.

STAFF ACTION: CIP will send out a status report to residents of Normandy Shores.

Alfredo Rey, (610 South Shore Drive) Vice President of the HOA, had a concern about the bump out constructed at the corner of Ray Street and South Shore Drive. He says that this is a hindrance to traffic.

Rick Saltrick and Charlie Carreño will meet with Mr. Rey to address this issue.

Item No. 4A:

Unit Pricing Sub-Committee

Stacy Kilroy stated that it is likely that the next Sub-Committee meeting for Unit Pricing will be the last as the Sub-committee has achieved its goals. The Sub-Committee has implemented a breakdown in the bids, with a move toward incorporating unit pricing in all bids. The City still utilizes lump-sum bids, but has incorporated unit pricing. This information will be included within the newly-implemented tracking list of revised processes.

The majority of Change Orders within construction contracts are within 4%.

The City is still not at the point of implementing electronic submission of breakdown information, as the data is too large and varied from project to project. Estimating each project involves using the most current pricing. The current economy allows for lower unit pricing, but the market continues to change.

Item No. 4B:

Flamingo Neighborhood Sub-Committee

The Sub-committee is pursuing completing the Flamingo Neighborhood project as Design/Build, sending out a Design Criteria Package (DCP) for the stormwater component. The stormwater system in the neighborhood runs from the ocean to the bay. The City is seeking a schematic design to look at what is needed for the entire system, then to break down the design into smaller packages and bid those out to build portions of the system incrementally.

A copy of the *draft* RFQ with comments by the Sub-committee was distributed. Now the stormwater component needs to be added so that this can go out to bid.

Mayor Bower asked about pulling coupons in the City. She reiterated that since the process was changed to include the pulling of coupons in order to assess the condition of the waterlines in neighborhoods like Venetian Islands, this should be done in subsequent neighborhoods pending CIP project implementation.

Fred Beckmann explained that the City had already taken coupons for the Flamingo neighborhood, but additional coupons would have to be done to test the remainder since the area is so large.

Item No. 5A:

PUBLIC WORKS PRESENTATIONS

Waterline Replacement Prioritization

This presentation explained the history of how the City identified water main replacement, based upon limited funding. The presentation also explained the water quality testing procedures.

Dr. Donald Thompson, Assistant Director of Miami-Dade County Water and Sewer Department, presented the information about water treatment and testing

Item No. 5b:

Overview of GIS System for Use in Identifying Flooding Hot Spots

Bert Dorrestyn, GIS Manager, presented an overview of Geographical Information Systems (GIS) and specifically how this technology is used to identify flooding problems in the City. The Public Works Department uses this technology for a variety of work, including stormwater system layout, maintenance and reports/resolution of problems.

The full Public Works presentation is available in video format on the City Web Site.

Much of this GIS information, showing many systems at once will soon be available online for the general public. For Homeland Security reasons, some information, such as locations of water lines and sewer pipes, would not be made available.

Item No. 5C:

Use of Flex Valves at Outfalls

This information was included within the GIS presentation.

Item No.6:

PROCUREMENT PRESENTATION**Job Order Contracting**

Gus Lopez, Procurement Director, presented. The City has completed over 300 projects under the JOC system – which has been in place since 2003 – with no change orders or litigation. In October 2008, the Unit Pricing Sub-Committee recommended that the JOC catalog be revised. The Gordian Group revised the catalog and the new results will be presented to Commission July 15. The price factors submitted are reduced from previously included price factors.

This is an example of changes that have been implemented by the CIPOC and its sub-committees.

Emanuel Mayer, Special Assistant to the City Manager, met with the Gordian Group in Atlanta and worked with them on the adjustments to pricing. The pricing will be monitored and the JOC catalog will be revised no less than annually, according to the new contract.

The JOC system, it was noted, is just a tool. The City continues to use additional options, including traditional bidding.

Item No. 7:

CIP Project Status Report

Construction Update: Normandy Shores Neighborhood Improvement Project

Status Report: Venetian Island Neighborhood Improvement Project

Status Report: Sunset Islands I & II

- C6F Report of The Land Use And Development Committee On July 27, 2009: **1)** Discussion Regarding A Proposed Ordinance Expanding The Use Of The Parking Impact Fees Monies To Have More Flexibility; **2)** An Ordinance Relating To The Jurisdiction Of The Special Master; Amending Chapter 30, "Code Enforcement," Article III, "Enforcement Procedure," Section 30-73, "Powers Of The Special Master," By Clarifying That The Special Master Lacks Jurisdiction Over Appeals From Or Challenges To Interpretations Or Actions Of The Building Official, Planning Director And Fire Marshall, Or Claims That An Act Of The City Is Unconstitutional, Which Are By Applicable Law Vested In Other Authorities, Providing For Repealer; Codification; Severability, Applicability And An Effective Date; **3)** Discussion Regarding The Maintenance Around The Storage Facility In Lummus Park. (Requested At The July 1, 2009 LUDC Meeting); **4)** Referral To The Land Use And Development Committee – Discussion Regarding The 4th Quarter 2008 And 1st Quarter 2009 Noise Reports; **5)** Referral Of An Ordinance Amending Chapter 30, Code Enforcement, And The Size Of A Mandatory Cap On Fines That May Be Imposed.

ACTION:**Item No. 1:**

Jorge Gomez, Planning Director and Richard Lorber, Planning and Zoning Manager introduced the item. The committee discussed the proposed ordinance, and the existing fee in-lieu of parking program. The City Attorney's Office clarified that the new ordinance would only apply to the fees collected after the effective date of the ordinance; fees collected prior to this date would remain limited to being used only for parking facilities, following current legal practice with respect to municipal fee collection and capital improvement expenditures. The Committee then affirmed the concept of the ordinance in general, but recommended removing transit operational funding from the list of transportation and mobility projects included in the ordinance, and clarifying that the funds should continue to be linked to the three sub-areas of North, Middle and South Beach.

Motion: Gross / Weithorn (vote 3-0) Refer the proposed ordinance, as amended by the Committee, to the Planning Board for their review and recommendation.

City Clerk's Note: Jorge Gomez to handle.**Item No. 2:**

Gary Held, First Assistant City Attorney introduced the item. The Committee considered the matter and requested that contact information for the other boards with jurisdiction over appeals be added to citations and violations issued by the City.

The Committee asked the Administration to place on the Commission Agenda for consideration.

City Clerk's Note: See Agenda item R5C.**Item No. 3:**

The Committee received a follow up report of the current conditions concerning litter produced in that area. Ana Cecilia Velasco, the Asset Manager, presented the item and explained that the litter was derived from the County vehicles used to empty the trash containers into the dumpsters located within the enclosure. It was explained that the vehicles use a mechanism that lifts the garbage cans overhead, and with the breeze from the ocean, the lighter trash items often float over into the park area. The County has stated that they will monitor the litter after the collection of trash. Photographs of the area were presented to the Committee for review. It was clarified that the Beachfront Concessionaires did not have any trash receptacles in the enclosure and therefore was not a concern in regard to the addition of space for their use.

Item No. 4:

Hilda Fernandez, Assistant City Manager, introduced the item and presented the Quarter 3 2008, Quarter 4 2008 and Quarter 1 2009 Noise Reports. Several members of the public spoke and commented on the report.

Motion Gross / Weithorn (vote 3-0) Affirm the administration's suggestion of conducting a performance audit of the Code Compliance Division, following the completion of the Capital Improvement Projects Office performance audit.

The Committee also requested the Noise Report for commercial incidents be varied by the following:

1. Provide the number of times the noise case was opened for each location for non-valid calls.
2. Place all noise calls per quarter on a map broken up by time, in order to see where the calls are coming from across the City.
3. Provide a breakdown of length of time to arrive by valid versus non-valid by time.
4. Provide a breakdown of valid versus non-valid by officer.
5. Provide the number of times an incident was declared non-valid when multiple calls were received for the same incident.

The Administration is also to look at rotating the radio channels used for dispatches to deter any possible monitoring of radio frequencies.

City Clerk's Note: Hilda Fernandez to handle.

Item No. 5:

Robert Middaugh, Assistant City Manager, presented the proposed ordinance. The Committee requested that the ordinance stipulate that the Special Master will decide what the appropriate cap should be based on the fact pattern before him or her.

Motion: Gross / Weithorn (Vote 3-0) - The Committee supports the ordinance as amended and instructs the Administration to place on the Commission agenda for its consideration.

City Clerk's Note: See Agenda item R5B.

- C6G Report Of The Neighborhoods/Community Affairs Committee Meeting On July 29, 2009: **1)** Discussion Regarding How The City Can Address The Growing Issue Of Aggressive Raccoons And Other Rodents; **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; **3)** Discussion Of An Ordinance Relating To A Foreclosure Registry; **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.

ACTION:**Item No. 1:**

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.

City Clerk's Note: Hilda Fernandez to handle.

Item No.2:

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.

City Clerk's Note: Tim Hemstreet to handle.

Item No. 3:

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

City Clerk's Note: Hilda Fernandez to handle.

Item No. 4:

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

City Clerk's Note: See Agenda item R5G

Item No. 5:

ADD AS AN ADDENDUM (Requested by Commissioner Libbin)

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

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

City Clerk's Note: See Agenda item C7P

C6H Report Of The Finance And Citywide Projects Committee On August 24, 2009: **1)** Review And Discussion Of The Ameresco Final Report And List Of Energy Savings Projects.

ACTION:

Item No. 1:

The Committee recommended:

- Energy Conservation Measure (ECM) 1 - Facility Lighting and Lighting Control Upgrades; ECM 3 - Domestic Water Conservation; ECM 5 - HVAC Controls; ECM 7 - Geothermal Cooling – Police Station; ECM 10 - Power Transformer Replacement; ECM 6a - Geothermal Cooling – Convention Center; ECM 6b - Chiller Plant Optimization; ECM 6c - District Cooling Plant
- Neighborhoods/Community Affairs Committee discuss ECM 4 - Irrigation Water Conservation: Scalping Plant
- Ameresco to include a schedule of savings achieved per year for the City when they present to the Commission.
- Ameresco share information with staff on the selected bidders and if the lowest and best bidder, based on Ameresco's determined criteria for qualifications, was not selected, bring item back to commission for discussion if the price differential between low bid and the contract desired is over by two (2) percent, with a \$10,000 minimum threshold on contract pricing.
- Ameresco include local bidders
- not doing ECM 8 – Ice Arena Cooling Savings and ECM 12 – Renewable Energy – Scott Rakow Center due to the payback period.

The Committee asked the Finance Department to give Ameresco the anticipated water rate increases given to the City by the County and that Ameresco rework their model to include these rate increases.

City Clerk's Note: See Agenda item R7G

C6I Report Of The Finance And Citywide Projects Committee On July 21, 2009: **1)** Status Update On Business Tax Process Improvement; **2)** Discussion Regarding The Approval To Issue A Request For Proposal (RFP) For Parking Enforcement Services For The City Parking Systems; **3)** Discussion Of Employee Suggestions For Budget Cuts; **4)** Discussion Of Union Suggestions For Budget Cuts; **5)** Discussion: Follow-Up To July 6-10 Budget Briefings; **6)** Discussion Regarding Classification And Compensation Plan; **7)** Discussion On Early Adoption Of New Fund Balance Designations As Part Of The FY 2009/10 Budget.

ACTION:

Item No.1:

The Administration is recommending the following:

- Modify City Code to reflect current practices and to eliminate Certificate of Use (CU) inspections where not necessary:
 - Modify code requirements to eliminate Building Department annual CU renewal inspections
 - Modify code to eliminate the need for Building Department inspections when there is not a change in use, and only a change in owner; with the exception of restaurants and bars.
 - Modify code requirement for Fire inspections pursuant to Section 50-5(c) and City Code Section 14-66 (3) for new applications related to change of ownership but no change in use – to clarify City’s internal process that no new inspection is required as long as there is no change in use:
 - ✓ Limited to within six months from last valid CU. May require self-certification by business that there is no change in intended use from the use in the City’s records. Need to develop mechanism that allows departments to confirm change of ownership/no change in use.
 - ✓ Applies to all businesses except for food, beverage or entertainment establishments - restaurants, bars, and nightclubs – use specific occupational license codes
 - ✓ Discrepancies in information identified by the departments may require a new CU to be issued
 - Evaluate code for possible changes to authorize current practice of background checks for fortune tellers (not conducted by the State, but not required by City Code), gun dealers and pawn brokers
 - Note: Padi cab driver background check is already required by City Code
 - Clarify interpretation of City Code regulations to ensure that certificate of occupancy or completion will automatically result in a waiver of Building Department inspections for CU for a period of six months from the date of a certificate of occupancy/certificate of completion
 - Clarify interpretation of City Code Chapters 14-66 and 118-2 that the City can hold CU for non-payment of City fees
- Improve relationship between CU and BTR Process
 - Short term – Use the existing Permits Plus software to monitor and track process for Certificate of Use, automatically schedule CU inspections, and inquiries to web site. The Building department will be responsible for interface between Eden and Permits Plus
 - Mid term- Finance and Building will coordinate for the call center to handle BTR /CU calls after call center pilot program is complete (anticipated for summer 2009)
 - Long term – pursue integrated system/automated interface with ability for customer to submit and track applications on-line
- Create a Business Liaison function to be assumed in the Building Department using existing resources
- Revise CU categories to more accurately reflect Planning/Zoning requirements
- Increase CU Fees
 - Preliminary analysis reflects current revenues are significantly less than costs
 - Incorporate comprehensive review as part of Building Development Fees Study
- Implement streamlining improvements including increased use of automation

Item No. 2:

The Committee recommended deferring the evaluation of the issuance of a Request for Proposal (RFP) for contracted parking enforcement services until the July 2010 Finance and Citywide Projects meeting.

Item No.3:

The Committee recommended the following:

- The Administration include the IT department for consideration of a performance review/internal audit at the Neighborhoods Committee meeting.
- The City website create a page for Budget items which include handouts from the budget meetings and allow for public comment/suggestions.
- The \$0.50 parking meter rate increase for mid and north beach be included in the FY 2009/10 Proposed Operating Budget.

Item No. 4:

Staff is to provide the top 100 fire and police employee's salaries including years of service, amount of off duty time, and amount of overtime and the top 100 police and fire pensions for the W-2 period.

Item No. 5:

The Committee decided no to discuss any further potential service reduction alternative since the budget is balanced.

Item No. 6:

The Committee is recommending:

- Pay Scale B implemented when all union contracts are ratified or April 1, 2010, whichever is later.
- Moving employees more than 7.5% below the minimum of Plan B to 7.5% below the minimum n FY 2009/1- and any subsequent adjustments will be on a year-by-year basis made during the budget process.
- Moving employees greater than the maximum of Pay Scale B will be brought down to the maximum of Pay Sale B over 3 years in thirds (1/3).
- No Cost of Living Adjustments (COLA) would be provided in FY 2009/10 and FY2010/11. The City will review the market periodically for increases which would be limited to the Consumer Price Index for Miami-Fort Lauderdale area an should only be implemented when appropriate and deemed desirable.
- No merit/step increases be provided FY 2009/10 and FY 2010/11.
- The City should conduct a salary survey every four (4) to five (5) years to make sure that the City's pay structure remains in a competitive position.
- Further discuss overtime policies in an executive session.

Staff is to analyze the impact of the salary increases on the unfunded pension liability and the effects of the implementation in subsequent years.

Item No. 7:

The Committee recommends early adoption of a new fund balance designations as part of the FY 2009/10 Budget and to review the fund balance designation as part of the budget process each year.

Item No. 8: NOT ON THE AGENDA

Discussion regarding a concession agreement with One Washington Avenue Corp., for concession in South Pointe Park adjacent to the Smith & Wollensky Restaurant to be used as an auxiliary dining area.

The Committee recommended that a Concession Agreement be approved with Smith & Wollensky

for an outdoor café area with terms as outlined in Attachment C, while ensuring that the public access through the space remains unimpeded as intended.

City Clerk's Note: See item C7W.

Item No 8: NOT ON THE AGENDA

Discussion regarding possible solutions to keep public restrooms along our beaches opened until midnight.

The Committee did not recommend keeping public restrooms along our beaches opened until midnight.

C6J Report Of The Finance And Citywide Projects Committee Meeting On July 9, 2009: **1)** Discussion Item: Budget Briefing.

ACTION:

Item No. 1:

The Committee recommended:

- Increasing fees for Planning, Fire and Public Works Departments related to the Building process for FY 2009/10., *as per the consultant (Maximus) recommendations*
- Decreasing fees in Building Department fees for FY 2009/10 to offset the above fee increases, so that, in the aggregate, the total combined fees charged to the development community remain at current levels and that the resulting decreases in Building department revenues be replaced by approximately \$1.5 million in previously set aside Building Department Operating reserves.
- *reconsider increasing Building Department fees beyond FY 2009/10 after changes in the Building department are complete*
- *adopting Plan B of the Condrey Study at 7.5% over the maximum*
- *on April 1, 2010 (or when bargained with all employee groups) bring employees who are greater than 7.5% under the minimum to 7.5% below the minimum and reducing by one-third the salaries of employees greater than 7.5% over the maximum of the proposed Plan B salary ranges*
- *on April 1, 2011 bring employees who are greater than 5% below the minimum to 5% below the minimum and reducing employees 7.5% or greater than the maximum by one-third*
- *on April 1, 2012 bring all employees under the minimum up to the minimum of their salary range and reduce the final third those employees greater than 7.5% above the maximum to bring their salaries to 7.5% above the maximum of their range*

City Clerk's Note: Kathie Brooks to handle.

C7 - Resolutions

C7A A Resolution Authorizing The City Manager To Execute The Following Agreements With Miami-Dade County, For Funding From The Building Better Communities General Obligation Bond Program: 1) Band Shell Park, In The Amount Of \$1,500,000; And 2) Flamingo Park, In The Amount Of \$3,099,000; Further Authorizing The City Manager To Execute Any And All Other Necessary Documents Related To These Agreements.

(Budget & Performance Improvement)

ACTION: Resolution No. 2009-27156 adopted. Kathie Brooks to handle.

C7B A Resolution Authorizing The City Manager Or His Designee To Submit The Following Application For American Recovery And Reinvestment Act Of 2009 (ARRA) Funding: 1) U.S. Department Of Transportation, For Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant Funds, In An Amount Not To Exceed \$10,000,000 For A Citywide Bridges Program; And For The Following Non-ARRA Funds: 2) Tourist Development Council Grant Funds, For Funding In An Amount Not To Exceed \$25,000 For The City's Sleepless Night 2009 Event; 3) The Miami Beach Visitor And Convention Authority (VCA) For Funding, In An Amount Not To Exceed \$50,000 For The City's Sleepless Night 2009 Event; And For The Following Appropriation: 4) U.S. Department Of Justice, Office Of Justice Programs For Funding In An Amount Not To Exceed \$200,000 For The City Of Miami Beach Teen Club, Gang And Drug Prevention Program; And, 5) Approval Of The Following Local Agency Program Agreement With Florida Department Of Transportation, For Funding In An Amount No To Exceed \$570,000 For The Middle Beach Recreational Corridor; Further Appropriating The Above Funds, If Approved And Accepted By The City, And Authorizing The Execution Of All Necessary Documents Related To These Applications.
(Budget & Performance Improvement)

ACTION: Resolution No. 2009-27157 adopted. Patricia Walker to appropriate the funds. Judy Hoanshelt to handle.

C7C A Resolution Authorizing The Mayor And City Clerk To Execute Amendment No. 4, To The Agreement Between The City And Perkins + Will, Inc., Dated April 14, 2004, For Extended Professional Architectural And Engineering Services And Construction Administration For The Multipurpose Municipal Parking Facility Project, In A Negotiated Not-To-Exceed Amount Of \$103,865, With Previously Appropriated Funding From Parking Operating Fund 480.
(Capital Improvement Projects)

ACTION: Resolution No. 2009-27158 adopted. Charles Carreño to handle.

C7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 7 To The Professional Services Agreement Between The City And Chen & Associates, Inc., Dated September 8, 2004, For The City Center Right-Of-Way Neighborhood Improvement Project Bid Packages 9A And 9B, In The Negotiated Not-To-Exceed Amount Of \$560,924, Plus An Additional Amount Of \$19,500 For Approved Reimbursables; To Provide Construction Administration And Resident Project Representation During Construction Of The Project; With Previously Appropriated Funding From The City Center RDA Fund 365.
(Capital Improvement Projects)

ACTION: Resolution No. 2009-27159 adopted. Charles Carreño to handle.

- C7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 2 To The Agreement Between The City And Chen And Associates, Inc., Dated May 18, 2005, In The Negotiated Amount Of \$94,320, Plus An Additional Amount Of \$13,000, For Approved Reimbursables, For The Provision Of Additional Design Services For The Reconstruction Of Roadways And Alleyways, Provision Of Stormwater Collection And Disposal System At Alleyways And Drainage "Hot Spots," And Additional Water Main Replacements, For The South Pointe Phase III, IV, And V Right-Of-Way Neighborhood Improvement Project; With Previously Appropriated Funding From South Pointe Capital Fund 389.
(Capital Improvement Projects)

ACTION: Resolution No. 2009-27160 adopted. Charles Carreño to handle.

11:15:19 p.m.

- C7F A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement With Schwebke - Shiskin & Associates, Inc. For Re-Design, Bid And Award, And Construction Management Services, In The Negotiated Not-To-Exceed Amount Of \$530,160, (Plus An Additional Amount Of \$55,500 For Approved Reimbursables), For The Venetian Islands Bid Package 13C Neighborhood Right-Of-Way Improvement Project, Pursuant To Request For Qualifications (RFQ) No. 42-08/09; Provided, However, That The Aforestated Approval And Execution Of Agreement Is Subject To The City's Termination Of An Existing A/E Agreement With Edwards & Kelcey, Dated November 13, 2002; And Further Approving Previously Appropriated Funding.
(Capital Improvement Projects)

ACTION: Item separated for discussion by Commissioner Libbin. Resolution No. 2009-27161 adopted. Motion made by Commissioner Libbin; seconded by Vice-Mayor Diaz: Voice vote: 6-0; Absent: Commissioner Weithorn. Charles Carreño to handle.

Commissioner Libbin separated this item in response to ongoing resident complaints in the Belle Isle area regarding a manhole backing up foul odor water. He needs to know what can be done now to remedy the situation expeditiously.

Charles Carreño, CIP Director explained that it can be repaired with a custom-made gasket which will take about six weeks for the City to receive. Other measures are being looked at to remedy the problem.

- C7G A Resolution Adopting Administrative Guidelines for The Administration Of Article II Entitled "Special Masters" And Article III Entitled "Enforcement Process" Of Chapter 30 Of The Miami Beach City Code.
(City Manager's Office)

ACTION: Item withdrawn by the Administration.

C7H A Resolution Authorizing The City Manager To Accept, On Behalf Of The City, Donations Made To The City For The Purpose Of Making Improvements Including, Without Limitation, The Purchase And Installation Of Certain Amenities To The Recently Approved Dog Park In Washington Avenue Park (The "Dog Park"); Authorizing The City Manager To Take Such Actions, As He May Deem Necessary And In The Best Interest Of The City Including, Without Limitation, Making Expenditures And/OR Reimbursements From The Donations To Implement Any Of The Aforestated Improvements To The Dog Park; And Further Referring To The Neighborhoods And Community Affairs Committee: A) A Proposal By Mr. And Mrs. Probus (South Pointe Neighborhood Residents) For The Placement Of A Memorial Plaque In The Dog Park In Memory Of Mrs. Probus's Mother, In Conjunction With A Donation To The City By Mr. And Mrs. Probus In The Amount Of \$10,000, To Be Used For The Aforestated Improvements To The Dog Park And B) The City's Proposed Memorial Brick Walkway In The Dog Park.

(Parks & Recreation Department)

ACTION: Resolution No. 2009-27162 adopted. Kevin Smith to handle.

C7I A Resolution Setting A Public Hearing To Consider The Proposed Designation Of The 1600 Lenox Avenue Historic Site By Amending The Land Development Regulations Of The Miami Beach City Code; Amending Section 118-593, "Historic Preservation Designation"; Amending Section 118-593(E), "Delineation On Zoning Map"; Amending Section 118-593(E) (1), "Historic Preservation Sites (HPS)" By Designating The 1600 Lenox Avenue Historic Site.

(Planning Department)

ACTION: Resolution No. 2009-27163 adopted. Robert Parcher to notice. Lilia Cardillo to place on the City Commission Agenda. Jorge Gomez to handle.

C7J A Resolution Authorizing The Mayor And The City Clerk To Execute An Interlocal Agreement Between The City And Miami-Dade County, Florida, Permitting Miami Beach Police Officers And Parking Enforcement Specialists I And II To Enforce Provisions Of The Miami-Dade County Code, Specifically Regarding Vehicles For Hire Regulations.

(Police Department)

ACTION: Resolution No. 2009-27164 adopted. Chief Noriega to handle.

C7K A Resolution Adopting And Appropriating The Second Budget Amendment To The Police Special Revenue Account For Fiscal Year 2008/09 In The Amount Of \$5,000, Such Account Funded By Unclaimed Evidence Currently Held In The Police Special Revenue-Account.

(Police Department)

ACTION: Resolution No. 2009-27165 adopted. Patricia Walker to appropriate the funds. Chief Noriega to handle.

- C7L A Resolution Adopting And Appropriating The Fourth Amendment To The Police Confiscation Trust Fund Budget For Fiscal Year 2008/09 In The Amount Of \$79,772 To Be Funded From The Proceeds Of State Confiscated Funds.

(Police Department)

ACTION: Resolution No. 2009-27166 adopted. Patricia Walker to appropriate the funds. Chief Noriega to handle.

- C7M A Resolution Authorizing The City Manager And City Clerk To Execute A New A Mutual Aid Agreement Between The City Of Miami Beach, On Behalf Of The Miami Beach Police Department, And The State Attorney's Office For The Eleventh Judicial Circuit In And For Miami Dade County For The Purpose Of Utilizing The South Florida Money Laundering Strike Force To Facilitate State And Local Money Laundering Investigations.

(Police Department)

ACTION: Resolution No. 2009-27167 adopted. Chief Noriega to handle.

- C7N A Resolution Authorizing The City Manager, Or His Designee, To Issue Purchase Orders To Sub-Contractors, And Equipment And Material Suppliers Selected By KVC Constructors, Inc., The Design/Build Contractor Selected By New World Symphony, Inc. For The Construction Of The Pennsylvania Avenue Garage (Also Referred To As The NWS Garage), As Required To Implement Cost Savings From The City's Tax Savings Program For Construction Projects Through Direct Purchase Of Equipment, Materials And Supplies.

(Procurement)

ACTION: Resolution No. 2009-27168 adopted. Gus Lopez to handle.

- C7O A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement With Bermello Ajamil & Partners, Inc., For Professional Construction Engineering And Inspection (CEI) Services For The Florida Department Of Transportation (FDOT) Work Included In The Water Mains And Sanitary Sewer Mains, And Milling And Resurfacing Improvements Along Indian Creek Drive, Between 26th And 41st Streets, Pursuant To Request For Qualifications (RFQ) No. 03-08/09, In The Amount Of \$129,942.74, To Be Fully Funded By FDOT Pursuant To A Joint Participation Agreement (JPA) Between The City And FDOT (And Approved And Executed Per Resolution No. 2007-26694).

(Public Works)

ACTION: Resolution No. 2009-27169 adopted. Fred Beckmann to handle.

1:12:05 p.m.

C7P A Resolution Authorizing The Administration To Proceed In Concept To Develop A One (1) Year Adopt-A-Beach Pilot Program In The City Of Miami Beach Subject To All Applicable Federal, State, And Local Government Approvals.

(Requested by Commissioner Jerry Libbin/Public Works)

ACTION: Item separated for discussion by Commissioner Libbin. Resolution No. 2009-27170 adopted as amended. Motion made by Commissioner Libbin; seconded by Commissioner Wolfson; Voice vote 7-0. Fred Beckmann to handle.

Motion made by Commissioner Libbin to approve this pilot program for a year, minimum of four (4) times a year, without the signs; and the Administration will bring back recommendations on the signs; seconded by Commissioner Wolfson; Voice vote: 7-0.

Amendment

1. Approve pilot program (clean up minimum of four (4) times a year) without the signs and Administration will bring back recommendations for the signs,
2. Reach out to corporate entities to partner with not-for-profit organizations

End

Commissioner Libbin separated the item just to comment that the write up on the agenda book indicates 17 potential beaches or areas to be adopted, and clarified that there are 87 blocks that can be adopted, and multiple organizations can adopt the same beach.

Discussion held.

L. Powers, representing the Dolphin Foundation, spoke.

Commissioner Gross stated that the fee should be added to the fee ordinance. He stated that the fee should be discussed at tomorrow's meeting. **Hilda Fernandez to handle.**

Discussion continued.

L. Powers, representing the Dolphin Foundation, spoke.

Commissioner Tobin requested the Administration to look at the City's process of how donations are given to not-for-profit organizations, so that there is transparency in the process. **Hilda Fernandez to handle.**

Discussion continued.

Fred Beckmann, Public Works Director, recommended approving the program without the signs and they will come back with a sign recommendation.

Motion:

Motion made by Commissioner Libbin to approve this pilot program for a year, minimum of four (4) times a year, without the signs; and the Administration will bring back recommendations on the signs; seconded by Commissioner Wolfson; Voice vote: 7-0.

Amendment

Commissioner Weithorn suggested the non-for-profit organizations to partner with other businesses.

Supplemental Materials - Resolution

C7Q A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 2 In An Amount Not-To-Exceed \$47,121 To The Existing Agreement Between The City Of Miami Beach And Camp Dresser & McKee, Inc., Dated June 8, 2005, For The Installation, Configuration, Start-Up, And Training Of A Computerized Maintenance Management System (CMMS); With Previously Appropriated Funding From The Stormwater And Water And Sewer Operating Funds Account No. 427-0427-000312, 425-0410-000312 And 425-0420-000312.
(Public Works)

ACTION: Resolution No. 2009-27171 adopted. Fred Beckmann to handle.

C7R A Resolution Authorizing The Mayor And City Clerk To Execute Amendment No. 1, In A Negotiated Not-To-Exceed Amount Of \$33,894, To An Existing Agreement Between The City Of Miami Beach And Omarcio Cleaning Services, Inc.; Dated July 16, 2008, For Janitorial Services.
(Procurement/Public Works)

ACTION: Resolution No. 2009-27172 adopted. Fred Beckmann to handle.

C7S A Resolution Retroactively Approving And Authorizing The City Manager To Issue A Certification Of Consistency With The City's Consolidated Plan To Miami Beach Community Development Corporation (MBCDC) For Its Application To Florida Housing Finance Corporation 2009 Universal Application For The London House Apartments Rehabilitation Project.
(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27173 adopted.

Handout or Reference Materials:

1. Email from Miami Dream Homes Investment Group, Inc [miamidreamhomes@bellsouth.net] dated September 8, 2009 RE: Commission Memo, Miami Beach Consolidated Plan.PDF

C7T A Resolution Authorizing The Mayor And The City Clerk To Execute A State Housing Initiatives Partnership (SHIP) Program Agreement Between The City Of Miami Beach Community Development Corporation (MBCDC), In A Form Acceptable To The City Manager And City Attorney, Which Provides SHIP Program Funds, In The Amount Of \$39,321.90, From Fiscal Year 2009/10, For First Time Homebuyer Activities For Income-Eligible Households.
(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27174 adopted. Anna Parekh to handle.

C7U A Resolution Authorizing The Mayor And The City Clerk To Execute The Attached Federally-Funded Subgrant Agreement For Neighborhood Stabilization Program Funds Between The City And The State Of Florida, Department Of Community Affairs, In Order To Receive \$2,549,551; Authorizing The City Manager To Sign Any And All Necessary Related Documents; And Further Authorizing The Appropriation Of Federal Funds In The Amount Of \$2,549,551.
(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27175 adopted. Patricia Walker to appropriate the funds. Anna Parekh to handle.

C7V A Resolution Approving A Seventh Amendment To That Certain Amended And Restated/ Consolidated Lease Agreement By And Between The City Of Miami Beach And The Miami Beach Jewish Community Center, Inc (JCC), For A Parcel Of Land And Facilities Located At 4221 – 4229 Pine Tree Drive, Miami Beach, Florida, Amending The Agreement To Allow The JCC To Apply To The Design Review Board For Review And Approval Of The Redesigned Project And Extend The Time Period For The JCC To Obtain A Building Permit To Be No Later Than June 30, 2011; Further Authorizing The City Manager, In His Sole Discretion, To Extend The Deadline To Obtain A Final Building Permit Under The Lease, Or Refer The Request To Extend The Deadline To The City Commission For Approval.

(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27176 adopted. Anna Parekh to handle.

12:03:10 p.m.

12:52:27 p.m.

C7W A Resolution Waiving By 5/7ths Vote The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City, And Approving And Authorizing The Mayor And City Clerk To Execute The Concession Agreement Between The City And 1 Washington Avenue Corp. (Smith And Wollensky Restaurant) For The Use Of An Approximately 581 Square Foot Paved Area In South Pointe Park (Adjacent To The Restaurant) For An Outdoor Dining Area; With The Term Of Said Agreement Commencing On October 1, 2009, And Terminating On November 6, 2025.

(Real Estate, Housing & Community Development)

ACTION: Item separated for discussion by Commissioner Tobin. Resolution No. 2009-27177 adopted as amended, subject to the audit procedures being reviewed and amended by Commissioner Weithorn. Motion made by Commissioner Wolfson; seconded by Commissioner Gross; Voice vote: 7-0. Anna Parekh to handle.

Amendment

Commissioner Weithorn to review and amend the Audit Procedures

End

Commissioner Tobin stated that the term of this lease is very long and between now and then this contract needs to be looked at for the percentages the City will be receiving. He suggested a ten-year term lease.

Jorge Gonzalez, City Manager, stated that the date coincides with the lease renewal for the restaurant.

Discussion held.

Commissioner Weithorn stated that Exhibit 5 in the audit procedures need a lot of work and suggested that the audit goes back to Finance and Citywide Projects Committee for review.

Hilda Fernandez, Assistant City Manager, reported the June and July sales for Smith & Wollensky.

Motion made by Commissioner Wolfson to approve the item, subject to the audit procedures being reviewed and amended by Commissioner Weithorn; seconded by Commissioner Gross.

C7X A Resolution Approving The Selection Of A Public Art Commission For The Southwest Corner Of Washington Avenue And Third Street, Entitled "Liquid Measures," As Recommended By The Art In Public Places Committee And The Neighborhoods And Community Affairs Committee; Further Approving And Authorizing The Mayor And City Clerk To Execute A Contract With The Artist, Wendy Wischer; And Appropriating Funds, In An Amount Not To Exceed \$32,362, For Design, Creation, And Installation Of The Aforestated Work Of Art; From Fund – 147 Art In Public Places
(Tourism & Cultural Development)

ACTION: Resolution No. 2009-27178 adopted. Patricia Walker to appropriate the funds. Max Sklar to handle.

C7Y A Resolution Authorizing The Acceptance Of One Hundred And Five Thousand Dollars (\$105,000) In Cash And In-Kind Donations (Including Sponsorships) Made To The City For Sleepless Night 2009, A Free Citywide Arts And Cultural Event; And Further Appropriating Said Funds For Sleepless Night; And Accepting And Appropriating Future Donations For This Purpose, Subject To Ratification By The Mayor And City Commission; And Authorizing The City Manager Or His Designee To Make Such Expenditures And/Or Reimbursements From The Aforestated Donations, In Furtherance Of And Consistent With The Aforestated Event.
(Tourism & Cultural Development)

ACTION: Resolution No. 2009-27179 adopted. Patricia Walker to appropriate the funds. Max Sklar to handle.

C7Z A Resolution Waiving The City's Required Art In Public Places (AiPP) Contribution For The New World Symphony (NWS) Garage (Hereinafter Referred To As The Pennsylvania Avenue Garage), Finding Such Waiver To Be In The Best Interest Of The City; Provided, However, That The Subject Waiver For The Garage Is Contingent Upon And Subject To The City Increasing Its Required AiPP Contribution For The Park Project (As Such Term Is Defined In The Development Agreement Between The City And NWS), Which Increase Would Be In An Amount Equal To What The Estimated AIPP Contribution Would Have Been For The Garage.
(Tourism & Cultural Development)

ACTION: Resolution No. 2009-27180 adopted. Max Sklar to handle.

C7AA A Resolution Approving And Adopting An Amendment To The Local Housing Assistance Plan In Substantially The Attached Form, For The State Housing Initiatives Partnership (SHIP) Program For Fiscal Years 2007/08, 2008/09, And 2009/10, To Incorporate The Florida Homebuyer Opportunity Program (FLHOP), The Initiative That Provides Up To \$8,000 In Purchase Assistance To First Time Homebuyers Eligible To Receive The Federal First Time Homebuyer Tax Credit Established Through The American Recovery And Reinvestment Act Of 2009; And Authorizing The Necessary Certifications By The Mayor And The City Clerk; And Authorizing Submission Of The Amendment To The Local Housing Assistance Plan For Review And Approval By The Florida Housing Finance Corporation.
(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27181 adopted. Anna Parekh to handle.

C7BB A Resolution Authorizing The Acceptance Of A Seventy-Five Thousand Dollar (\$75,000) Donation From Audi Of America Toward The Design, Construction And Installation Of A Tot Lot In Or About The Area Of The 46th Street And Collins Avenue Public Parking Lot; And Further Appropriating Said Funds For This Purpose.

(Tourism & Cultural Development)

ACTION: Resolution No. 2009-27182 adopted. Patricia Walker to appropriate the funds. Max Sklar to handle.

C7CC A Resolution Approving The Settlement Of A City Lien On Real Property Located At 1235 Alton Road, Miami Beach, Florida Owned By Alexander Lopez, Resulting From Special Master Case No. JB07000158 And Providing That The Lien In The Amount Of \$104,572.79 Plus Interest, Be Settled By Dismissing The Amount In Its Entirety, And Further Authorizing The City Manager To Take Such Action(s) And Execute Any And All Necessary Documents To Complete Such Lien Releases And Settlements.

(City Manager's Office)

ACTION: Resolution No. 2009-27183 adopted. Robert Parcher to release the lien. Robert Middaugh and Patricia Walker to handle.

Supplemental Materials - Resolution

C7DD A Resolution Approving And Authorizing The Release And Disbursement In The Amount Of \$20,440.19 From The Miami-Dade County Trust Fund No. 643TSF/643001 To The City Of Miami Beach.

(Human Resources)

ACTION: Resolution No. 2009-27184 adopted. Ramiro Inguanzo to handle.

C7EE A Resolution Approving The Settlement Of A City Lien On Real Property Located At 6600 Collins Avenue, Miami Beach, Florida, Owned By 6600 Collins LLC, Resulting From Special Master Case No. JB05000268 In The Amount Of \$340,200 Plus Interest Be Settled For The Amount Of \$34,000, And Further Authorizing The City Manager To Take Such Action(s) And Execute Any And All Necessary Documents To Complete Such Lien Releases And Settlements.

(City Manager's Office)

ACTION: Resolution No. 2009-27185 adopted. Robert Parcher to release the lien. Robert Middaugh and Patricia Walker to handle.

10:46:36 a.m.

C7FF A Resolution Authorizing The City Administration To Enter Into Agreements For The City's Voluntary Benefit Program, Fully-Funded By Employee Contributions, With Preferred Legal Plans, For A Discount Legal Program; Unum, For An Accident Plan And Long-Term Care Policy; And Trustmark, For A Critical Illness And Universal Life Program; With Trustmark And Unum Providing Electronic Enrollment And Customized, Printed Benefit Enrollment Communication Materials For All Of The City's Benefit Programs, At No Cost; Commencing On January 1, 2010, Pursuant To The Request For Proposals Issued By Gallagher Benefits Services, The City's Consultant Of Record.

(Human Resources)

ACTION: Item separated for discussion by Mayor Bower and Commissioners Tobin, Weithorn and Wolfson. Item withdrawn by the Administration and to bring back with detailed information. The Cone of Silence is reinstated. Lilia Cardillo to place in the October Commission Agenda. Ramiro Inguanzo to handle

Stuart Rose, Vice-President, U.S. Legal Services, spoke.
Charles Citrin, Citrin Financial, spoke.

Jorge Gonzalez, City Manager, explained the benefits.
Ramiro Inguanzo, Human Resources Director, spoke.

Discussion held.

Richard Shell, Consultant with Gallagher Benefit Services, spoke.

Vice-Mayor Diaz stated that going forward when using a consultant, he prefers that their process be as transparent as the City's process; and added that the City needs to look at imposing Freedom of Information Act obligation on them. He added that he is troubled by overturning the Administration's recommendation.

Discussion continued.

Commissioner Weithorn stated that the Commission needs more detailed information to make a decision today, and asked that the item be withdrawn and brought back with adequate details.

Jorge Gonzalez, City Manager, reiterated that the item is being withdrawn and the Cone of Silence is reinstated.

Charles Citrin spoke.

Handouts or Reference Materials:

1. Letter from Charles A. Citrin, President, Citrin Financial & Insurance, Inc., dated September 8, 2009
RE: Consent Agenda Item C7FF
2. Letter from U.S. Legal Services to Gus Lopez, Procurement Director, dated September 9, 2009 hand delivered to the City Clerk's Office for distribution 09/14/2009.
3. Letter from Charles A. Citrin, Citrin Financial & Insurance, Inc., dated September 11, 2009 date stamped Sept. 15, 2009 to Ivette Irizarry, Account Coordinator, Gallagher Benefit Services, Inc., RE: CITY OF MIAMI BEACH REQUEST FOR PROPOSAL ("RFP") Voluntary Worksite Benefits for Employees and Dependents for the City of Miami Beach RFP # 10-1291.

REGULAR AGENDA**R2 - Competitive Bid Reports****11:38:08 a.m.**

R2A Request For Approval To Reject All Bids Received Pursuant To Invitation To Bid No. 45-08/09, For City Of Miami Beach Sanitary Sewer System Improvements - Sanitary Sewer Rehabilitation (Basins 11, 19, 27B, 28D, 29, 31A And 31B), And Utilizing Job Order Contracting For The Construction Of The Project.

(Public Works)

ACTION: Request authorized. Motion made by Commissioner Tobin; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Weithorn. **Fred Beckmann to handle.**

Fred Beckmann, Public Works Director, explained the item.

Commissioner Gross commended the City for renewing the Job Order Contracting "JOC."

Commissioner Libbin stated that he had asked the City Manager to prepare a schedule to be sent via LTC regarding all savings and the different sources of funding. **Fred Beckmann to handle.**

Commissioner Tobin stated that he has heard from the Army Corps of Engineers or one of the residents that some people are putting their docks over the outfalls, *so it's sort of a cork in the end of the drain*, and there is not proper drainage. He added that one of the outfalls on Sunset Island was found to be completely concreted over. He understands from the Administration that they are making a concerted effort to check all the outfalls, particularly the Nautilus Neighborhood, as well as Sunset Island, Palm, Star, Hibiscus and anywhere else that the City is fixing drainage. **Fred Beckmann to handle.**

Discussion continued.

Commissioner Tobin asked if Public Works had checked the outfalls in the Nautilus Neighborhood before construction started and requested a report as to where the outfalls are located, who checked the outfalls and if they are open or concreted over by someone's dock. **Fred Beckmann to handle.**

Commissioner Gross stated that if some of the neighborhoods that are covered in this bid are neighborhoods that are undergoing capital improvements, specifically South Pointe phase III, IV and V, and City Center; and part of this work includes tearing up streets and putting new sanitary sewer lines; in addition to looking at it through JOC, he suggested also including it as change order to the work that the contractor will do. **Fred Beckmann to handle.**

Discussion continued.

Fred Beckmann, Public Works Director, stated that they will do an analysis next year.

R5 - Ordinances**12:53:47 p.m.**

R5A An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" By Providing That The City Commission May Designate Dog Parks In Public Park Areas; Amending Section 10-11, Entitled "Running At Large Prohibited" By Providing That The City Commission May Designate Specific Off-Leash Areas For Dogs In Public Parks; And Providing For Repealer, Severability, Codification, And An Effective Date. **10:20 a.m. Second Reading Public Hearing.**

(City Attorney's Office)

(First Reading on July 15, 2009)

ACTION: Public Hearing held. Ordinance 2009-3646 adopted as amended. Motion made by Vice-Mayor Diaz; seconded by Commissioner Gross; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. Kevin Smith to handle.

Amendments

1) Clarify that the trial period is for six months commencing if Miami-Dade County adopts the ordinance and sunsets with a report back to Commission regarding whether the Commission decides to extend it or not.

2) Ordinance shall not come into effect until such time as the County amends its dog leash law, and if their regulations are inconsistent with the City of Miami Beach, that the matter will return to the City Commission.

End

Discussion held.

Jose Smith, City Attorney, opined that this Commission can approve the item subject to whatever Miami-Dade County approves, and if that is inconsistent with this ordinance, then this Commission would need to come back and revisit this issue.

Discussion continued.

Robert Parcher, City Clerk, stated that the Administrative recommendation is to open and continue.

Motion made by Vice-Mayor Diaz to open and continue the item to December 9, 2009 at 10:20 a.m., seconded by Commissioner Libbin. No vote taken and discussion continued.

Commissioner Gross explained that this ordinance is the product of consensus achieved of probably five Committee Meetings and two long City Commission meetings. He thinks it's unfair to the public to leave this issue to be made by a new City Commission.

Mayor Bower stated that Commissioner Gross has worked very hard on this item and she would like to hear it now.

Motion made by Commissioner Gross to hear the item; seconded by Commissioner Wolfson.

Vice-Mayor Diaz withdrew his motion.

Commissioner Libbin withdrew his second and stated that they play by the majority rule, but added, for the record, that he has serious reservations about the rights of those people who are afraid of

dogs and whose children play in the park and could also be afraid of dogs. He hopes that for a trial period and would go along with the majority with great reservation.

Discussion continued.

Hilda Fernandez, Assistant City Manager, read language to be included so it is clear that once this is passed today, it is not in effect. The original recommendation was for a six (6) months pilot program. She stated that it is important to read the language into the record

Debbie Turner, First Assistant City Attorney, read into the record the following language: 1) Add at the end of the sentence instead of a period, a coma, and 2) Add the following language *“as permitted by section 5-20 of Miami-Dade County Code and if it not provided it does not go into effect.”*

Vice-Mayor Diaz suggested adding the following language: *“This Ordinance shall not come into full force and effect until such time as the Miami-Dade County amends its leash law. He requested to avoid ambiguity adding the following language at the end of the sentence: *“This is a six months trial period, which unless extended, expires.”**

Hilda Fernandez, Assistant City Manager, stated that it could be sunset it if the Commission wishes.

Vice-Mayor Diaz stated the direction was to have a six months trial period and report back to the Commission.

Hilda Fernandez, Assistant City Manager, stated that a sunset provision will be added at six months and that will require the item to be brought back to the City Commission for further action.

Motion made by Vice-Mayor Diaz; seconded by Commissioner Gross to move the item with the two amendments; that it will be clarified that the trial period is for six months commencing if Miami-Dade County adopts their ordinance; and that it sunsets with a report back to the City Commission to decide if they want to extend it or not. Voice-vote: 7-0.

12:22:42 p.m.

R5B An Ordinance Amending Chapter 30, Entitled "Code Enforcement," By Amending Article III Thereof, Entitled "Enforcement Procedure," By Amending Section 30-74, Entitled "Fine," By Amending The Provisions Relating To The Mitigation Of Fines And The Imposition Of A Fine Cap; By Amending Section 30-76, Entitled "Rehearings; Mitigation," By Increasing The Time Period For The Jurisdiction Of The Special Master For The Mitigation Of Fines To Three Years And Providing Criteria Relative To Fine Mitigation; Providing For Repealer; Severability; Codification; And An Effective Date. **11:15 a.m. Second Reading Public Hearing.**

(City Manager's Office)
(First Reading on July 15, 2009)

ACTION: Public Hearing held. Ordinance No. 2009-3647 adopted and the guidelines as amended. Motion made by Commissioner Weithorn; seconded by Commissioner Gross; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code.

Amendment

- 1) Sunset provision on cap after two (2) years and when the fine schedule is set by Statute, the Special Master does not have the authority to impose a CAP.
- 2) Clarify language in Section d, page 633 of the Agenda, should read "the Special Master shall at the time of imposition of a fine impose a cap on the total amount of the fine which may accrue and at a subsequent hearing the Special Master shall reduce the fine cap to reflect partial compliance."
- 3) Language to be reworded in Subsection 30-74(d)

End

Vice-Mayor Diaz is concerned about the trend of converting the Special Master into a quasi-legislative body. He added that the City Commission sets the standards and the City Commission should set the rules and the fines. To give the Special Master the ability to mitigate the fines is good, but leave to the Special Master the discretion to set the amount of the fine or the amount of a cap on a fine is moving the Special Master into a quasi-legislator which he thinks is a mistake. He strongly supports the decision of the City Attorney to amend the jurisdiction of the Special Master. They are supposed to be quasi-judicial.

Discussion held.

Motion made by Commissioner Weithorn; seconded by Commissioner Libbin.

Commissioner Weithorn explained that sometimes the person does not even know they have a violation. Some violations are very minor and others are not, but it is very difficult to establish guidelines when every case is different and sometimes they have several violations. She recommends having a sunset period of time to see how it goes.

Discussion continued.

Commissioner Gross stated that the minimum and the maximum fines are already detailed in the Ordinance what is being defined here is how much the fines can accumulate.

Discussion continued.

Commissioner Weithorn stated that fines can only be mitigated if the violation is in compliance or partial compliance.

Discussion continued.

Vice-Mayor Diaz stated that guidelines and a due process need to be implemented, but he views this from the perspective of unintended consequences leading to the discretion of the Special Master the ability to cap the amount of fines imposed on a building. He agrees with a sunset period for these guidelines since the City is giving the Special Master too much discretion.

Commissioner Libbin stated that a two year period will be established for it to sunset for only the cap. [Sunset date October 19, 2011.]

Commissioner Gross suggested an amendment that when the fine schedule is set by Statute, the Special Master does not have the authority to impose a CAP.

Amendment accepted by the maker of the motion.

Commissioner Gross stated that in Section d, page 633, should read “the Special Master shall at the time of imposition of a fine impose a cap on the total amount of the fine which may accrue and at a subsequent hearing the Special Master shall reduce the fine cap to reflect partial compliance.” He asked that this change be incorporated in the motion.

Amendment accepted by the maker of the motion.

Robert Middaugh, Assistant City Manager, stated for the record that the new guidelines will be imposed on the current case load.

Jose Smith, City Attorney, stated that this issue was discussed and he agrees that this amendment should be applied to those cases presently in the pipeline.

Vice-Mayor Diaz asked if that meant applying to those that have already been penalized and have accumulated penalties or does it mean citations as of this date.

Jose Smith, City Attorney, stated this is applied before the fines have accumulated.

Discussion continued.

Commissioner Tobin stated that Subsection 30-74(d) should be reworded.

Vice-Mayor Diaz stated that a discussion will be held regarding amending the language to retroactively apply to fines already accumulated which may be another issue to be brought back.
Robert Middaugh to handle.

Jose Smith, City Attorney, stated that there needs to be a more through discussion.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

12:42:02 p.m.

R5C An Ordinance Relating To The Jurisdiction Of The Special Master; Amending Chapter 30, "Code Enforcement," Article III, "Enforcement Procedure," Section 30-73, "Powers Of The Special Master," By Clarifying That The Special Master Lacks Jurisdiction Over Appeals From Or Challenges To Interpretations Or Actions Of The Building Official, Planning Director And Fire Marshal, Or Claims That An Act Of The City Is Unconstitutional, Which Are By Applicable Law Vested In Other Authorities, Providing For Repealer; Codification; Severability; And An Effective Date. **11:20 a.m. Second Reading Public Hearing.**

(City Attorney's Office)
(Continued from July 15, 2009)

ACTION: Public Hearing held. Ordinance No. 2009-3648 adopted as amended. Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. Legal Department to handle.

Amendment

- 1) Include administrative interpretations of the Code in the administrative guidelines
- 2) Interpretation reports be brought to the upcoming City Commission Meetings or on a quarterly basis, depending on volume.

End

Tammy (Young) Taboltz spoke.

Gary Held, First Assistant City Attorney, clarified that this ordinance is only codifying existing law that exists in other codes and case law that if an appeal is correctly within the jurisdiction of either Miami-Dade County Board of Rules and Appeals, the Fire Safety Board and Board of Adjustment the Special Master has no jurisdiction over those issues. If there is a challenge based upon the constitutionality of a code provision that belongs in the Circuit Court.

Jose Smith, City Attorney, stated that when a violation arises from an administrative interpretation by the Planning Director, that it is noticed specifically, so that the alleged violator knows that it is in fact an administrative ruling by the Planning Director, which can only be appealed by the Board of Adjustment. He recommends this change be made on the Ordinance to inform the public as to their right to contest the violation.

Discussion held.

Jorge Gomez, Planning Director, stated that from now on, the administrative interpretation to clarify the City Code are posted online and on an annual basis these interpretations will be brought to the City Commission for review and consideration and further instructions.

Commissioner Gross stated that this notice is excellent and suggested that these interpretations be also included in the administrative guidelines.

Commissioner Libbin suggested that the interpretations report be given to the City Commission on a quarterly basis rather than annually and if they do not happen very often then give it to them at the next available City Commission meeting. **Jorge Gomez to handle.**

11:31:28 p.m.

R5D 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 The Subject Vote; Providing For Repealer; Severability; Codification; And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

(Requested by Commissioner Jonah Wolfson/City Attorney's Office)
(First Reading on July 22, 2009)

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Gross; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:31:57p.m.

Jose Smith, City Attorney, opined that the Ethics Reform items could be opened and continued and be read by number in its entirety, rather than individually by title.

Motion made by Vice-Mayor Diaz; seconded by Commissioner Libbin to open and continue the following items to the City Commission Workshop of September 21, 2009 at 4:00 p.m.: R5E, R5E1, R5E2A/B, R5E-2C, R5E-3B, R5E-3C, R5E-4, R5F, and R5G. Voice-vote: 6-0; Absent: Commissioner Weithorn.

11:34:51 a.m.**11:31:57 p.m.**

R5E Expansion Of Ethics Reform/Transparency In Government Ordinances.

Robert Parcher, City Clerk, stated that there are corrections on this item.

R5E-1 An Ordinance Amending Miami Beach City Code Chapter 2, Article IV, Division 1, Section 2-194 Thereof Entitled "Removal From Office", By Limiting Grounds For Suspension/Removal To Those "Specified Offenses" Set Forth Within Florida Statute Section 112.3173 (As Amended), And Establishing Procedure Prior To Suspension/Removal; Providing For Repealer, Severability, Codification, And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:33:46 p.m.

R5E-2A/B

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2, Section 2-458 Thereof Entitled "Supplemental Abstention And Disclosure Requirements", Establishing Additional Disclosure Requirements For Pubic Officials Of Any Family Or Business Relationship With Party Who Is Directly Benefitted By Agency Vote; Providing For Repealer, Severability, Codification, And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Robert Parcher, City Clerk, announced that an amended ordinance was distributed at the dais.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:02 p.m.

R5E-2C

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2, Section 2-450 Thereof Entitled "Disclosure Of Interest In/Relationship With Business Entity," By Requiring Elected Official's Disclosure Of Certain Business Relationships Established Within 24 Months After Contracting Party's Appearance Before City Commission; Providing For Repealer, Severability, Codification, And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:10 p.m.

R5E-3B

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Thereof By Creating Section 2-462 Entitled "Prohibiting Elected Officials From Having Certain Post-Service Contracts With City", Prohibiting Former City Elected Officials From City Employment Or Contracts On Matters In Which City Commission Approval Is Required; Providing For Repealer, Severability, Codification, And Effective Date. **3:00 p.m. Second Reading Public Hearing.**

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:17 p.m.

R5E-3C

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Thereof By Creating Section 2-463 Entitled "Prohibition Of Certain Post-Service/Employment Relationships", Prohibiting Certain Post-Service/Employment Activity Of City Elected Officials And City Employees For A Period Of Two Years After Leaving City Service/Employment; Providing For Repealer, Severability, Codification, And Effective Date. **3:00 p.m. Second Reading Public Hearing.**

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:25 p.m.

R5E-4

An Ordinance Amending In Part Miami Beach City Code Chapter 2, Article VII, Division 5 Thereof Entitled "Campaign Finance Reform," Sections 2-487 "Prohibited Campaign Contributions By Vendors," 2-488 "Prohibited Campaign Contributions By Lobbyists On Procurement Issues," 2-489 "Prohibited Campaign Contributions By Real Estate Developers," And 2-490 "Prohibited Campaign Contributions By Lobbyists On Real Estate Development Issues," By Prohibiting Campaign Contributions From Vendors, Real Estate Developers And Their Respective Lobbyists To Candidate/Incumbent Members Of The City Commission Seeking Any Non-Federal Elected Office; Providing For Repealer, Severability, Codification, And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

(Requested by Commissioner Victor M. Diaz, Jr./City Attorney's Office)
(First Readings on July 22, 2009)

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:33 p.m.

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. **3:00 p.m. Second Reading Public Hearing.**

(Requested by Commissioner Saul Gross/City Attorney's Office)
(First Reading on July 22, 2009)

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

11:34:37 p.m.

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, Limited Exemption And Disclosure/Abstention Requirements; Providing For Repealer, Severability, Codification, And An Effective Date. **3:00 p.m. Second Reading Public Hearing.**

(Requested by Commissioner Deede Weithorn/City Attorney's Office)
(First Reading on July 22, 2009)

ACTION: Item opened and continued to the September 21, 2009 City Commission Workshop at 4:00 p.m. Motion made by Vice-Mayor Diaz to open and continue the item; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Lilia Cardillo to place on the Commission Agenda.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553
2. Letter from Commissioner Jonah Wolfson to Jose Smith, Miami Beach City Attorney, undated, RE: September 9, 2009 Regular Commission Agenda Item R5G Sponsored by Commissioner Weithorn & the City Attorney; Questions requiring answers by the City Attorney (together the City Attorney & Sponsor/requestor will be referred as "advocates")

5:55:37 p.m.

R5H Historic Designation

An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code; Amending Section 118-593, "Historic Preservation Designation"; Amending Section 118-593(E), "Delineation On Zoning Map"; Amending Section 118-593(E)(2), "Historic Preservation Districts (HPD)" By Designating The Morris Lapidus / Mid 20th Century Historic District, As More Particularly Described Herein; Providing That The City's Zoning Map Shall Be Amended To Include The Morris Lapidus/Mid 20th Century Historic District; Adopting The Designation Report Attached Hereto As Appendix "A"; Providing For Inclusion In The Land Development Regulations Of The City Code, Repealer, Severability, And An Effective Date. **5:01 p.m. First Reading Public Hearing**
(Planning Department)

ACTION: First Reading Public Hearing held. Ordinance approved. Motion made by Vice-Mayor Diaz; seconded by Commissioner Weithorn; Ballot vote: 7-0. Second reading and Second Public Hearing scheduled for October 14, 2009. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

William Cary, Assistant Director, Planning Department, introduced the item. He read a letter from Richard Lapidus, the son of Morris Lapidus, dated July 8, 2009, written to the Planning Board. He also recognized Deborah Tackett, Senior Planner and Carolyn Klepser for their research and input.

A PowerPoint presentation was shown.

Commissioner Libbin recognized staff for a great job done.

Handout or Reference Materials:

1. Book: "Morris Lapidus/Mid 20th Century Historic District" Designation Report. Prepared by the City of Miami Beach Planning Department July 14, 2009. Revised July 28, 2009, Revised September 9, 2009.
2. Morris Lapidus / Mid 20th Century Historic District Proposed District Boundaries PowerPoint presentation.

6:06:28 p.m.

R5I Proposed Changes To The I-1 Urban Light Industrial District

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Division 11, "I-1 Urban Light Industrial District," By Amending The List Of Permitted, Conditional And Prohibited Uses; And By Amending Section 142-487 "Setback Requirements;" Providing For Repealer, Severability, Codification And An Effective Date." **5:05 p.m. First Reading Public Hearing.**
(Planning Department)

ACTION: First Reading Public Hearing held. Ordinance approved. Motion made by Commissioner Gross; seconded by Commissioner Libbin; Ballot vote: 7-0. Second reading and Second Public Hearing scheduled for October 14, 2009. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Frank Del Vecchio spoke. He read a letter on behalf of Marilyn Freundlich for the record.

Handout or Reference Materials:

1. Letter from Marilyn Freundlich <mfmfex@bellsouth.net> to Mayor and Commissioners sent via email on August 28, 2009 RE: Notice Public Hearing I-1 Light Industrial District, Sept. 9, 2009 City Commission.

6:10:20 p.m.

Supplemental Materials – Revised Ordinance

R5J Commercial Rooftop Venues South Of 5th Street
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II "District Regulations," Division 18 "PS Performance Standard District," Amending Section 142-693 "Permitted Uses," By Restricting Or Prohibiting Commercial Rooftop Venues South Of 5th Street; Providing For Repealer, Codification, Severability And An Effective Date. **5:10 p.m. Second Reading Public Hearing**
(Planning Department)
(First Reading Public Hearing on July 15, 2009)

ACTION: Public Hearing held. Ordinance No. 2009-3649 adopted as amended. Motion made by Vice-Mayor Diaz; seconded by Commissioner Tobin; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. Jorge Gomez to handle.

Robert Parcher, City Clerk, announced that the ordinance is in the Supplemental Agenda.

Amendment

- 1) Allow restaurants by pool decks with exception of 40 seats or less before 8 pm to be open to the public
- 2) No amplified music

End

Morris Sunshine spoke.
Frank Del Vecchio spoke.

Discussion held.

Motion made by Vice-Mayor Diaz to move the item; seconded by Commissioner Tobin.

Commissioner Gross offered an amendment to allow restaurants by the pool deck with no more than 40 seats and no amplified or backup music.

Amendment accepted by the maker of the motion

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 553

R5K An Ordinance Amending The Miami Beach Employees' Retirement Plan Created By Ordinance 2006-3504; Amending Article 9, Entitled "Investments," To Require Divestment Of All Assets Invested In Companies Doing Business With The Countries Of Sudan And Iran; Repealing All Ordinances In Conflict Therewith; Providing For Severability; And Providing An Effective Date. **First Reading**
(Requested by Commissioner Saul Gross/City Attorney's Office)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

4:41:00 p.m.

R5L An Ordinance Amending Chapter 6, "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, By Amending Section 6-40 "Total Nudity And Sexual Conduct Prohibited," To Allow Establishments Licensed To Provide Total Nude Entertainment To Serve Alcoholic Beverages To Their Customers; Providing For Codification, Repealer, Nonseverability, And An Effective Date.

First Reading

(City Attorney's Office)
(Deferred from July 15, 2009)

ACTION: Ordinance denied without prejudice. Motion made by Vice-Mayor Diaz to deny the ordinance without prejudice; seconded by Commissioner Tobin; Ballot vote: 7-0.

Gary Held, First Assistant City Attorney, introduced the item.

Freddy Balsera, Balsera Communications, Inc., explained the survey.

Jeffrey Garcia, Balsera Communications, Inc., spoke.

Daniel Aaronson, Esq, representing Club Madonna, spoke.

Gary Held, First Assistant City Attorney, spoke.

Stanley Shapiro spoke.

Jane Gross spoke.

David Kelsey spoke.

Donna Zemo spoke.

Morris Sunshine spoke.

Bill Farkas spoke

Frank Del Vecchio spoke.

Barry Ragone spoke.

Tammy (Young) Tabolts spoke.

Leroy Griffith, Club Madonna owner, spoke.

Discussion held.

Motion made by Vice-Mayor Diaz to deny the ordinance without prejudice; seconded by Commissioner Tobin; Ballot-vote: 7-0.

Handout or Reference Materials:

1. Copy Westlaw 490 F.3d 860, 490 F.3d 860, 20 Fla. L. Weekly Fed. C 778 (Cite as 490 F.3d 860) United States Court of Appeals, Eleventh Circuit, DAYTONA GRAND, INC., a Florida corporation doing business as Lollipo's Gentlemen's Club, Miles Weiss, Plaintiffs-Appellants Cross-Appellees, v. CITY OF DAYTONA BEACH, FLORIDA, a municipal corporation, Defendant-Appellee Cross-Appellant. **No. 06-12022**. June 28, 2007.
2. MIAMI BEACH, FLORIDA, INDEX OF DOCUMENTS SUBMITTED TO CITY COMMISSION REGARDING NEGATIVE SECONDARY EFFECTS OF SEXUALLY ORIENTED BUSINESSES
3. Studies and opinions supporting regulation of alcohol at establishments displaying nudity.

- R5M Temporary Parking Lots - Amendment To The 10-Year Limit
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 130, "Off Street Parking," Article III, "Design Standards", By Amending Section 130-70(7), To Allow For Additional Extensions Of Time For Temporary Parking Lots; Providing For Repealer, Codification, Severability And An Effective Date. **First Reading**
(Planning Department)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

9:00:24 p.m.

- R5N Short Term Rental Of Apartment Units Or Townhomes
An Ordinance Amending Chapter 142 Of The City Code, "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations," Division 3, "Supplementary Use Regulations," By Creating New Ordinance Section 142-1111, "Short Term Rental Of Apartment Units Or Townhomes," Providing For Repealer, Nonseverability, Codification, And An Effective Date. **First Reading**
(Planning Department)

ACTION: Motion made by Vice-Mayor Diaz; seconded by Commissioner Gross; Voice vote: 7-0. Jorge Gomez to place on the committee agenda and to handle.

Motion made by Vice-Mayor Diaz to refer to Land Use and Development Committee (LUDC), but first, whether it's through an NCD or an overlay district, for Administration to study the specific areas under consideration – North Beach and Flamingo Park Neighborhood - bring back a proposal to LUDC; and in the interim that the complaint-driven current policy remains in effect.

Amendment:

- 1 Refer to Land Use and Development Committee (LUDC), but first, whether it's through an Neighborhood Conservation District (NCD) or an overlay district, for Administration to study the specific areas under consideration – North Beach and Flamingo Park Neighborhood and bring back a proposal to LUDC.
- 2 That the current complaint driven policy remains in effect

End

11:47:07 a.m.

Jorge Gonzalez, City Manager, announced that the item will be heard after 5:00 p.m.

Jorge Gomez, Planning Director, introduced the item.

Discussion held.

Richard Lorber, Planning and Zoning Manager, listed the requirements for short term rentals.

Jorge Gomez, Planning Director, listed the requirements of the Building and Fire Departments.

Carter McDowell, Esq., spoke.

Gerald K. Schwartz, Esq., spoke.

Tammy (Young)Taboltz spoke.

Ernesto Arguello spoke.

Eric Harari spoke.

Carter McDowell spoke.
Marsha Fabre spoke.
Gabriel Torres spoke.
Virginia Mastrapa spoke.
Frank Del Vecchio spoke.
Aaron Sugarman spoke.
Michael Schad spoke.
Nancy Wolcott spoke.
Richard Cava spoke.
Bernard Supsestein spoke.
Jeff Donnelly spoke.
Erika Brigham spoke.
Jack Johnson spoke.
Carter McDowell spoke.

Commissioner Weithorn expressed her opposition to this ordinance and stated that she believes the City did not do the proper outreach to the community.

Commissioner Libbin stated that the reality is that short-term rentals is happening, and suggested developing a Neighborhood Conservation District and a neighborhood by neighborhood mechanism to find out what the community wants.

Discussion continued.

Motion made by Vice-Mayor Diaz to 1) refer to the Land Use and Development Committee, with instructions to the Administration to not put it on the Land Use agenda until such time as the use of the Neighborhoods Conservation District (NCD) is reviewed, 2) have direct community input before it is implemented, and 3) incorporating the requirements for onsite management, either in the building or within blocks from the facility. No second offered.

Motion made by Commissioner Gross to adopt the Planning Board recommendation to grandfather the residents in Flamingo Park; seconded by Commissioner Libbin; Voice-vote: 3-4. Opposed: Mayor Bower, Vice-Mayor Diaz and Commissioners Wolfson and Weithorn. Motion failed.

Motion made by Vice-Mayor Diaz; seconded by Commissioner Gross, to refer to Land Use and Development Committee (LUDC), but first, whether it's through an NCD or an overlay district, for Administration to study the specific areas under consideration – North Beach and Flamingo Park Neighborhood - bring back a proposal to LUDC; and in the interim that the complaint-driven current policy remains in effect; seconded by Commissioner Libbin; Voice vote: 7-0.

- R5O An Ordinance Amending Chapter 82 Of The City Code, Entitled "Public Property," By Amending Article VI, Entitled "Naming Of Public Facilities And Establishments Of Monuments And Memorials," By Amending Section 82-501, Entitled "Generally," To Provide That The Portion Of The City Owned Property Within Altos Del Mar Park (Located On Collins Avenue Between 76 And 77 Streets) To Be Known As The "Altos Del Mar Sculpture Park," Shall Be Exempt From The Provisions Of Said Article VI, For So Long As Said City- Owned Property Continues To Be Operated By Altos Del Mar Sculpture Park, Inc., A Not For Profit Corporation, As A Sculpture Park Which Is Free And Open To The General Public, And In Accordance With The Terms And Conditions Of That Certain Management Agreement Between The City And ADMSP, Dated June 3, 2009; Providing For Repealer, Severability, Codification And Effective Date. **First Reading**
(Tourism & Cultural Development)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda. Max Sklar to handle.

- R5P An Ordinance Amending Chapter 70 Of The Miami Beach City Code Entitled "Miscellaneous Offenses"; By Amending Article III, Entitled "Graffiti"; By Amending Division I, Entitled "Generally"; By Amending Section 70-126, Entitled "Responsibility Of Property Owner(s) To Remove Graffiti; Graffiti Removal And Notice; Enforcement" By Amending The Responsibilities Of Property Owners With Regard To The Abatement Of Graffiti And Amending Enforcement Provisions; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**
(Neighborhood Services)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda. Hilda Fernandez to handle.

11:29:18 p.m.

Supplemental Materials - Ordinance

- R5Q An Ordinance Repealing Chapter 54 Of The City Code, Entitled "Floods," In Its Entirety And Replacing It With A New Section, As Required To Comply With The Participating Criteria Of The National Flood Insurance Program (NFIP) And The Floodplain Management Related Requirements Of The State Of Florida, As Required By FEMA; Providing For Severability, Repealer, And An Effective Date. **First Reading.**
(Building Department)

ACTION: Ordinance approved. Motion made by Vice-Mayor Diaz; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Weithorn. Second reading and Second Public Hearing scheduled for October 14, 2009. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Alex Rey to handle.

R7 - Resolutions**12:16:16 p.m.**

R7A A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, Lease Agreements Between The City And 1) Jewish Community Services Of South Florida, Inc.; 2) Little Havana Activities And Nutrition Centers Of Dade County, Inc.; 3) Miami Dade County Community Action Agency, Inc.; And 4) UNIDAD Of Miami Beach, Inc.; All Agreements Being For Use Of The South Shore Community Center, Located At 833 6th Street, Miami Beach, Florida; Said Agreements Having An Initial Term Of Four Years And Three Hundred Sixty Four Days, With An Additional Five Year Renewal Term, At The City's Sole Discretion; Authorizing The Mayor And City Clerk To Execute The Lease Agreements. **10:30 a.m. Second Reading Public Hearing**
(Real Estate, Housing & Community Development)
(First Reading on July 15, 2009)

ACTION: Title of the resolution read into the record. Public hearing held. Resolution No. 2009-27186 adopted as amended. Motion made by Commissioner Libbin; seconded by Vice-Mayor Diaz; Voice vote: 7-0. Anna Parekh to handle.

Amendment:

- 1) Agencies that do not execute the lease within 90 days cannot occupy the building.
- 2) Send notes reminding when CAM payments are due.

End

Vice-Mayor Diaz is concerned about those agencies that have not executed the lease and asked the Administration if the City is committed to remove them from the facility if they do not execute the lease.

Hilda Fernandez, Assistant City Manager, explained that these agencies have indicated that they have no reason to believe that the lease will not be approved, but the delay is the internal process that they have to go through.

Vice-Mayor Diaz offered an amendment to motion to include that all non-profit agencies that do not execute the lease can no longer occupy space at the 6th Street Community Center within 90 days.

Commissioner Libbin accepted the amendment.

Commissioner Gross explained the item for public interest and clarified that the charge for not-for-profit organizations in City buildings is not rent, but to cover the costs that the City incurs.

Vice-Mayor Diaz suggested sending a reminder to agencies that the CAM payments are due and what the first due date is.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 552
2. Letter of Intent from Julie Edwards, Executive Director, Miami-Dade County Community Action Agency, to Ms. Hilda M. Fernandez, Assistant City Manager, dated September 8, 2009, RE: Lease Agreement for South Shore Community Center Located at 833 Sixth Street for the Community Action Agency Property Number: 02-4203-009-4820

11:24:11 p.m.

R7B A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And Klara Gershman M.D. PA, For Use Of Approximately 1,926 Square Feet Of City-Owned Property, Located At 1701 Meridian Avenue, Suite 400, 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; Authorizing The Mayor And City Clerk To Execute The Lease Agreement. **10:31 a.m. Second Reading Public Hearing**
(Real Estate, Housing & Community Development)
(First Reading on July 15, 2009)

ACTION: Title of the resolution read into the record. Public hearing held. Resolution No. 2009-27187 adopted. Motion made by Commissioner Gross; seconded by Vice-Mayor Diaz; Voice vote: 6-0; Absent: Commissioner Weithorn. **Anna Parekh to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 551

11:25:36 p.m.

R7C A Resolution Calling For A General Election To Be Held On November 3, 2009 In The City Of Miami Beach For The Purpose Of Electing A Mayor And Three City Commissioners (Groups I, II, And III); Providing For Conduct Of Same By The Miami-Dade County Elections Division; Providing That Voting Precincts Shall Be Those As Established By Miami-Dade County; Providing For Notice Of Elections; Providing For The Form Of Ballot And Registration Of Voters In Accordance With State Law; Providing For Payment For Conducting Election To Miami-Dade County.
(City Attorney's Office)

ACTION: Resolution No. 2009-27188 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Weithorn. Robert Parcher to handle.

11:25:56 p.m.

R7D Designation Of The City Of Miami Beach Canvassing Board For November 3, 2009 General Election.
(City Attorney's Office)

ACTION: Motion made by Commissioner Libbin appointing Robert Parcher, City Clerk, a County Court Judge to be appointed by the Chief Judge of the 11th Judicial Circuit, and a County elector to be appointed by the Chief Judge -- City Commission suggested Judge Peter Lopez and Judge Shirley Kravitz as recommended names for appointment; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Weithorn. **Robert Parcher to handle.**

Discussion held regarding nominations to the Canvassing Board.

Commissioner Wolfson nominated Judge Peter Lopez.
Mayor Bower recommended Judge Shelley Kravitz.

Jean Olin, Deputy City Attorney, explained the process.

Mayor Bower recommended appointing County Court Judge Shelley Kravitz.

Jean Olin, Deputy City Attorney, stated that the Chief Judge can take recommendations from the City Commission and will consider which Circuit Judges to appoint. If no members of the City Commission can serve on the Canvassing Board, then the Chief Judge can appoint two (2) Circuit

Court Judges.

6:29:38 p.m.

R7E A Resolution Approving And Officially Adopting The Revised Master Plan For The Flamingo Park Project (Project).

(Capital Improvement Projects)

ACTION: Resolution No. 2009-27190 adopted and the Master Plan amended. Motion made by Commissioner Gross; seconded by Vice-Mayor Diaz; Voice vote: 6-0; Absent: Commissioner Wolfson. Charles Carreño to handle.

Amendment:

1. Remove one of the dog parks to push the handball court further to the north and create more space between the basketball courts; the skate park and handball courts; reduce skate park if necessary
2. Landscape buffer along the west side of the dog park
3. Fence off handball court, including skate park if feasible
4. Move practice courts to the north and flip it around and keep the same size with the building
5. Along the path on the north, create a path for that area and a buffer to the homes
6. Have walkway from the parking lot along the northern boundary to the corner of the soccer field
7. Analyze the two different types of lighting for the tennis courts

Commissioner Gross suggested conversing with the tennis community in reference to reducing the number of courts.

End

Charles Carreño, CIP Director, introduced the item. He pointed out revisions on Page 1016 of the Agenda, 2nd paragraph under Option L, where there is a reference that the option includes 17 tennis courts, and breaks them down as 12 clay and five hard courts, and the correct reference is 17 clay courts. Also the attachment two presented today did not include the five off-site hard courts that were requested to be incorporated at the last CIP committee.

Discussion held.

Aris Garcia showed a PowerPoint presentation.

Rebecca Boce spoke.

Michael Sosa spoke.

Commissioner Gross suggested choosing landscaping materials that will acts as a buffer, both visual and noise wise to protect the residential neighborhood to the west of the active area of the park, and added that there is a need to provide lightning. He stated that the placement of trees in the passive quadrant was a good move and they made a nice connection between Michigan Avenue coming into the park. He recommended the purchase of mature trees to replace the ones removed.

Discussion continued.

Vinnie Valentin spoke.

Jack Johnson, Co-Chair from the Flamingo Park Association, spoke.

Tammy (Young) Taboltz spoke.

Rebecca Boyce spoke.

Motion made by Commissioner Gross; seconded by Vice-Mayor Diaz to adopt the plan as revised with the following changes:

1. Remove one of the dog parks to push the handball courts to the north; and shrink the skate park if needed to leave some space in between functions
 2. Landscape buffer along the west side of the dog park
 3. Fence off handball, considering the skate park
 4. More practice court to the north, flip it around
 5. Along the path on the north, create a path for that area and a buffer to the homes
 6. Have walkway from the parking lot east to edge of soccer field
 7. Analyze the two different types of lighting for the tennis courts
- Voice-vote: 6-0; Absent: Commissioner Wolfson.**

Vice-Mayor Diaz thanked the architect for his passport and Commissioner Tobin thanked Mario Gonzalez-Pola, Senior Capital Projects Coordinator for their efforts.

Handout or Reference Materials:

1. FLAMINGO PARK Proposed Neighborhood Capital Improvements Program Presentation to City Commission dated September 9, 2009 designed by WOLFBERG ALVAREZ.

7:46:35 p.m.

R7F A Resolution Amending Resolution No. 2003-25376, Which Approved The Basis Of Design Report (BODR) For The Biscayne Point Right-Of-Way Project; Said Amendment Amending The BODR As Follows: 1.) On Stillwater Drive, Substituting The Swales With A Two-Foot Wide Strip Of Permeable Pavers And Reduced Planting Areas; 2.) For The Biscayne Point Island 77th Street Entryway, Keeping And Restoring The Existing Obelisk And Its Median, Providing Up-Lighting To The Obelisk, Eliminating The Four Proposed Pergolas And Proposed Walls; 3.) For The Tatum Waterway Bridge, Providing Pedestrian Lighting And Enhancing Bridge Barrier Walls With A Colored Concrete Nautical Theme Mosaic; And 4.) Providing Neighborhood Signage On 77th Street, Between Dickens Avenue And Tatum Waterway Drive, And At Crespi Park.

(Capital Improvement Projects)

ACTION: Resolution No. 2009-27191 adopted as amended. Motion made by Commissioner Weithorn to approve the retention of the obelisk, take away the pergolas and move the pavers to the location as specified to both sides of the bridge, ask that there be a meeting for consensus with regard to the wall or some similar uniform approach entry that all the neighbors can agree to; and also address any encroachments issues; if consensus cannot be reached by the next City Commission Meeting, bring item back; seconded by Vice-Mayor Diaz; Voice vote: 7-0. Charles Carreño to handle.

Commissioner Weithorn clarified the motion which is to approve the retention of the obelisk; to take away the pergolas and move the pavers to the locations as specified, which are both sides of the bridge, and to meet with neighbors to reach consensus in regards of a uniformed approach to the entryway; address the issue of encroachments; and if unable to reach consensus by the next Commission Meeting, to bring item back; seconded by Vice-Mayor Diaz; Voice-vote: 7-0.

Amendment

- Approve the retention of the obelisk
- Remove pergolas and relocate pavers to location as specified to both sides of the bridge
- Hold a meeting for neighborhood consensus regarding uniformed entryway approach
- Address the issue of encroachments
- Bring item back to the Commission if consensus cannot be reached

End

Charles Carreño, CIP Director, introduced the item.

Eva Berman spoke.
Maria Koller spoke.
Leonor Hernandez spoke.
Ted Berman spoke.

Discussion held.

Motion made by Commissioner Weithorn to move this item forward with the obelisk, with the landscaping, with everything they requested; subject to consensus on what will be on the entryway. If consensus cannot be reached, bring the issue back to the City Commission. Motion seconded by Vice-Mayor Diaz. No vote taken and the discussion continued.

Commissioner Gross asked to give the neighbors what is necessary to move forward.

Discussion continued.

Amendment:

Commissioner Gross proposed an amendment to the motion to include that when the architects are studying the treatment at the approach to the bridge, whether it is planter boxes or a wall, that they also look at the path of the wall and study the encroachment and bring that back to City Commission as a package. Amendment accepted by the maker of the motion.

Commissioner Weithorn clarified the motion which is to approve the retention of the obelisk; to take away the pergolas and move the pavers to the locations as specified, which are both sides of the bridge, and to meet with neighbors to reach consensus in regards of a uniformed approach to the entryway; address the issue of encroachments; and if unable to reach consensus by the next Commission Meeting, to bring item back; seconded by Vice-Mayor Diaz; Voice-vote: 7-0.

Discussion continued.

Handout or Reference Materials:

1. Proposed Resolution adopted by the Biscayne Point Homeowner's Association Board of Directors, from Ted Berman, President, BPHA, and attachments: FIGURE ES-24, FIGURE ES-25, copy of aerial view picture of location from Google; Table ES-10 Biscayne Point Island, Proposed Improvements, and General Comments.
2. Black and White Copy of aerial view picture of location from Google

11:46:55 a.m.

Supplemental Materials - Resolution

R7G A Resolution Finding That Recommended Energy Conservation Measures (ECM's) Are Deemed Feasible And Authorizing The City Manager To Solicit Specific Project Proposals For The Recommended ECM's And Further To Negotiate Energy Performance Contracts With Ameresco, Inc. Detailing The Terms And Conditions Related To The Implementation Of The Project Proposal As Stipulated In That Energy Audit Agreement Between The City Of Miami Beach And Ameresco, Inc.
(City Manager's Office)

ACTION: Resolution No. 2009-27192 adopted. Motion made by Vice-Mayor Diaz; seconded by Commissioner Libbin; Voice vote: 7-0. Fred Beckmann to handle.

Bob Middaugh, Assistant City Manager, introduced the item and explained the savings.

Discussion held.

Commissioner Libbin requested Ameresco to look into the possibilities of desalination.

Discussion continued.

Commissioner Gross thanked the Finance and Citywide Projects Committee and the Sustainability Committee. He also thanked Robert Middaugh, Assistant City Manager, for his efforts and thanked him for all his hard work.

4:13:56 p.m.

R7H A Resolution Approving The Term Sheet Between MCZ/Centrum Flamingo II, LLC, MCZ/Centrum Flamingo III, LLC, Morton Towers Apartments, L.P., And The City Of Miami Beach, And Authorizing The Mayor And City Clerk To Execute A Settlement Agreement Based Upon The Term Sheet In A Form Acceptable To The City Manager And City Attorney, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof.
(City Attorney's Office)

ACTION: Resolution No. 2009-27193 adopted. Motion made by Vice-Mayor Diaz; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Weithorn. Legal Department to handle.

Gary Held, First Assistant City Attorney, explained the lawsuit and summarized the term sheet of the settlement negotiated between MCZ/Centrum Flamingo II, LLC, MCZ/Centrum Flamingo III, LLC, Morton Towers Apartments L.P., and the City of Miami Beach.

Arthur Marcus spoke on behalf of the Miami Design Preservation League and the Lincoln Market Neighborhood Association.

Mike Burke spoke.

Jose Smith, City Attorney, stated that regarding the liability issue, language was inserted in the agreement that anything happening from sunset to sunrise is the responsibility of the Flamingo and the City has no liability; and it is the responsibility of the Flamingo to repair and maintain the baywalk and the seawall in a reasonably safe condition. As to the issue of the lock, this needs to be resolved at the DRB hearing.

City Clerk's note: See Agenda item R10A.

Handout or Reference Materials:

1. Term Sheet signed by Eric L. Hilty, Senior Vice-President and Assistant General dated August 18, 2009.

11:35:32 p.m.

R7I A Resolution Approving The Settlement Of City Liens On Real Properties Located At 960, 950 & 946 Bay Drive, Miami Beach, Florida Owned By Bay Drive Villas LLC, Resulting From Special Master Case Nos. JC06000483 In The Amount Of \$368,374 And JF06000309 In The Amount Of \$214,863 On 960 Bay Drive; And JC06000945 In The Amount Of \$74,249 On 950 Bay Drive; And JC06000470 In The Amount Of \$282,065 On 946 Bay Drive Plus Interest Be Settled For The Amount Of \$90,000; And Further Authorizing The City Manager To Take Such Action(s) And Execute Any And All Necessary Documents To Complete Such Lien Releases And Settlements.

(City Manager's Office)

ACTION: Item deferred to the September 10, 2009 Special City Commission meeting at 6:00 p.m. Robert Parcher to handle.

Vice-Mayor Diaz moved that when this meeting adjourns the following items RDA 2A, R7I and R7J will be deferred to the September 10, 2009 Special City Commission meeting at 6:00 p. m; seconded by Commissioner Libbin; Voice Vote: 6-0; Absent: Commissioner Weithorn.

11:35:32 p.m.

R7J A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Request For Proposals (RFP) No. 41-08/09, To Provide Parking Cashiers, Attendants, And Supervisors For The City Of Miami Beach Parking System; Authorizing The Administration To Enter Into Negotiations With Lanier Parking Solutions Of Florida ("Lanier"), And Should The Administration Not Be Able To Negotiate An Agreement With Lanier, Authorizing The Administration To Enter Into Negotiations With Impark.

(Parking Department)

ACTION: Item deferred to the September 10, 2009 Special City Commission meeting at 6:00 p.m. Saul Frances to handle.

Motion made by Vice-Mayor Diaz that when this meeting adjourns, items RDA 2A, R7I and R7J will be deferred to the September 10 Special Commission Meeting at 6:00 p. m; seconded by Commissioner Libbin; Voice Vote: 6-0; Absent: Commissioner Weithorn.

Jorge Gonzalez, City Manager, explained that this item is being deferred as the City has extended the bid protest window to the end of the day today.

Handout or Reference Materials:

1. Letters from Gus Lopez, CPPO, Procurement Director to Manuel Chavez, Sr., Parking Company of America; Mr. Herbert Anderson, Impark; to Mr. Luis Macedo, Laz Parking; to Mr. Joe Wenderoth; Lanier Parking Solutions of Florida, to Mr. Sam Cherkaoui, Ampco System Parking, Mr. Michell Liss, Double Park LLC, Mrs. Maria Alejandra Diaz, Sereca, and Mr. Joseph Padovano, U.S. Parking, dated September 3, 2009, **RE: REQUEST OF PROPOSALS (RFP) NO. 41-08/09 TO PROVIDE PARKING CASHIERS, ATTENDANTS, AND SUPERVISORS FOR THE CITY OF MIAMI BEACH PARKING SYSTEM.**
2. Copy of letter stamped Sep 8, 2009 dated September 8, 2009 from Jason Gordon, Arnstein & Lehr, LLP to Mr. Jorge Gonzalez, City Manager, RE: Formal Protest by Impark to Time Requirement to Object to Request for Proposal # 41-08/09 (Parking Contract for the City of Miami Beach).
3. Email from Chester Escobar [CEscobar@impark.com] dated September 8, 2009 RE: Formal Protest – time requirement, with attached letter to Mr. Herbert Anderson dated September 3, 2009 from Gus Lopez, CPPO, Procurement Director.
4. Email from Lopez, Gus to 'JTGordon@arnstein.com'; 'CEscobar@impark.com' dated September 8, 2009 RE: Formal Protest – time requirement, with attached document dated September 8, 2009 to Mr. Jason Gordon RE: CITY'S RESPONSE TO IMPARK'S BID PROTEST TO TIME REQUIREMENT RFP NO. 41-08/09.

11:18:55 a.m.

R7K A Resolution Accepting The Recommendation Of The City Manager, Pursuant To A City Request For Proposals From Affordable Housing Development Entities Regarding Federal Neighborhood Stabilization Program Funds (NSP1) For Purchase And Rehabilitation Of Foreclosed And/OR Abandoned Residential Property; Authorizing The Mayor And The City Clerk To Execute An Agreement With Miami Beach Community Development Corporation (MBCDC), As The Successful Proposer, Subject To The Approval Of The Recommended Use By MBCDC By U.S. Department Of Housing And Urban Development (HUD) And The State Of Florida Department Of Community Affairs (DCA), And Contingent On The City-Procured Appraised Value Being In Accordance With NSP1 Rules; Provided Further, However, That In The Event That HUD Or The DCA Does Not Approve The Recommended Use By MBCDC, Then Authorizing The City Manager To Reject All Proposals Pursuant To This RFP For NSP1 Funds And Issue A New Request For Qualifications From Developers For Use Of The NSP1 Funds.

(Real Estate, Housing & Community Development)

ACTION: Resolution No. 2009-27194 adopted. Motion made by Vice Mayor Diaz; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Commissioner Wolfson. Anna Parekh to handle.

Hilda Fernandez, Assistant City Manager, introduced the item.

Discussion held.

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.

(City Clerk's Office)

Budget Advisory Committee:

Regina Suarez Term ending 12/31/2009 Appointed by Commissioner Diaz TL 12/31/16

Committee for Quality Education in Miami Beach:

Beverly Heller Term ending 12/31/2010 Appointed by Mayor Herrera Bower TL 12/31/16

Mark Piazza Term ending 12/31/2009 Appointed by Commissioner Wolfson TL 12/31/16

Debarment Committee:

Anthony Broad Term ending 12/31/2010 Appointed by Commissioner Tobin TL 12/31/16

Disability Access Committee:

Wendy Unger Term ending 12/31/2010 Appointed by Mayor Herrera Bower TL12/31/16

R9A1 Board And Committee Appointments - City Commission Appointments.

(City Clerk's Office)

ACTION: Item not reached.

11:28:47 p.m.

R9A2 Appointment Of Mitchell Kaplan To The Performing Arts Center Trust.
(Requested by Mayor Matti Herrera Bower)

ACTION: Motion made by Vice-Mayor Diaz to appoint Mitchell Kaplan to the Performing Arts Center Trust; seconded by Commissioner Libbin; Voice vote 6-0: Absent: Commissioner Weithorn. Rebecca Wakefield to handle.

Handout or Reference Materials:

1. Letter copied to Robert Parcher, City Clerk; original mailed to The Honorable Matti Bower, Mayor, City of Miami Beach, dated September 1, 2009, RE: City of Miami Beach Appointment to the Performing Arts Center Trust, with biography of Mitchell Kaplan and Exhibit B, Second Amended and Restated Articles of Incorporation of Performing Arts Center Trust, Inc., signed by Parker D. Thomson, Chair and Stanley Levine, Secretary, May 30th, 2006.

1:30:55 p.m.

R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

ACTION:

- 1) Enrique Faustino Luna stated that as a disabled American he deals with different government agencies in reference to employment, and he has found that to obtain a home-based license or permit requires that the applicant has a written instrument of the residence. He referred to Florida Statute Chapter 83 "Landlord and Tenant", Section 2 indicates that if there is no rental agreement, tenancy is weekly, monthly or yearly, paid on the first of the month; and a receipt does not constitute tenancy; you are required to bring a lease. He explained that the gentleman he lives with refuses to sign a rental agreement and has numerous problems with him. He needs to obtain a license but needs help with the residential issue.

Jorge Gonzalez, City Manager, suggested leaving his name and phone number and Occupational License will get in touch with him.

- 2) Tammy (Young) Taboltz commented on increased transparency and communications with the public on items that the public may want to be informed about. She applauded Vice-Mayor Diaz for his tireless efforts to increase transparency in city government. She suggested a code tracker type of database software for public viewing and availability. This software is readily available and in use by many attorneys, and other organizations.

- 3) Harry Cherry is following up on the issue of single family residence. He asked the City attorney if there was any news.

Jose Smith, City Attorney, stated that he spoke to the Building Official whose jurisdiction is it to look into and he did not believe he could be helpful in this situation and had several reasons for it. He referred Mr. Cherry to speak to the Building Department.

Alex Rey, Building Department Director, explained the process. The Florida Building Code has a process for changing the use of a property and Mr. Cherry needs to follow that process. Staff has been trying to work with him and they have set up meetings with the Miami-Dade County Office of Code Compliance Office, which is the office which overviews the interpretations of the Building Official. The Office of Code Compliance agreed with the Building Official that there is a process stipulating State law for the Change Of Use on a property and Mr. Cherry most follow that process.

Discussion held.

Commissioner Wolfson requested a written response from the Administration detailing the exact law that Mr. Cherry needs to follow and stated that he will be glad to help Mr. Cherry. **Alex Rey to handle.**

4) Sebastian Calcedo, SEIU Local 32351 Florida, introduced Security Alliance officers.

Suzette Emile, Security Alliance employee, stated they have not received an answer to their problem yet and that co-workers are still being fired.

Commissioner Weithorn requested Administration to provide an LTC with information regarding Security Alliance contract terms, what monitoring has been done and any data available in order to make a decision in advance of the next meeting. **Chief Noriega to handle.**

Handout or Reference Materials:

1. Flyer title "**We protect the public. Who protects us?**" from Security Alliance.

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

ACTION: Item not reached.

R9C Discussion Regarding Administration Policies For Soliciting Community Input.
(Requested by Vice-Mayor Victor M. Diaz, Jr.)

ACTION: Item not reached.

11:34:22 a.m.

R9D Discussion Regarding Various Parking Department Policies For Removing From Public Use Of Certain Public Parking Space.

(Requested by Vice-Mayor Victor M. Diaz, Jr.)

(Deferred from July 15, 2009)

ACTION: Item deferred by Vice-Mayor Diaz to the October City Commission Agenda.

R9E Discussion Regarding How Miami Gay And Lesbian Chamber Of Commerce Can Receive Operational Support As The Other Chambers That Miami Beach Supports.

(Requested by Vice-Mayor Victor M. Diaz, Jr.)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda.

10:39:38 a.m.

- R9F Discussion Regarding A Resolution Authorizing The Miami Beach Police Department To Donate An Obsolete 911 Emergency Telephone Equipment In "As Is" Condition To It's Sister City, Ica, Peru.
(Requested by Vice-Mayor Victor M. Diaz, Jr. & Mayor Matti Herrera Bower)

ACTION: Discussion held. Resolution No. 2009-27195 adopted. Motion made by Vice-Mayor Diaz; seconded by Commissioner Libbin; Voice vote: 7-0. Gladys Acosta to handle.

Jorge Gonzalez, City Manager, introduced the item.

Vice-Mayor Diaz thanked Roberto Da Torre who brought this issue to his attention and stated that Roberto is one of those residents that for many years has volunteered tirelessly and is a proud member of Miami Beach's Peruvian/American community. He and his family have done so much for our City.

Roberto Datorre spoke.

State Representative Luis Garcia spoke.

- R9G A Follow-Up Discussion Concerning The Potential Operational Issues Related To The Newly Reconstructed South Pointe Park.
(Parks & Recreation)
(Deferred from July 15, 2009)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda.

- R9H Discussion Regarding A Resolution Retroactively Approving And Authorizing The Acceptance Of A Four Hundred Dollar (\$400) Cash Donation Made To The City For "Celebrate Women's Equality Day 2009," A Free Arts And Cultural Event; And Further Retroactively Approving The Appropriation Of The Donation For The Event.
(Requested by Mayor Matti Herrera Bower & Commissioner Deede Weithorn)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda.

- R9I Discussion Regarding A Resolution Urging Florida State Legislature To Amend State Statute 718.116 On Condominium Foreclosures.
(Requested by Commissioner Jerry Libbin)

ACTION: Item not reached. Lilia Cardillo to place on the Commission Agenda.

R10 - City Attorney Reports

R10A Attorney-Client Session

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:

ACTION:**10:37:57 a.m.**

Jose Smith, Assistant City Attorney read into the record the following:

Pursuant To Section 286.011(8), Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning the following:

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission On September 9, 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, Richard Sharpstein And Jason Kairalla.

1:56:07 p.m.

Mayor Bower announced the Attorney/Client Session and read the following into the record:

The Attorney-Client session shall commence and will be held between 2:00 p.m. and approximately 3:00 p.m. in the City Manager's Large conference room. The persons attending the Attorney-Client session are as follows: 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, co-counsel for the City of Miami Beach Richard Ovelmen, Richard Sharpstein and Jason Kairalla regarding the following case:

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

1:57:28 p.m.

Robert Parcher, City Clerk, announced that immediately following the Attorney/Client Session there will be an Executive Session pertaining with Executive Bargaining issues in the City Manager's Large Conference Room.

4:13:45 p.m.

Jose Smith, City Attorney, stated that the Attorney-Client Session announced at the beginning of the recess has terminated.

The City Commission meeting is hereby re-opened.

Reports and Informational Items

- A City Attorney's Status Report.
(City Attorney's Office)

ACTION: Written report submitted.

- B Parking Status Report – June 2009.
(Parking Department)

ACTION: Written report submitted.

- C Parking Status Report – July 2009.
(Parking Department)

ACTION: Written report submitted.

- 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.
(Procurement)

ACTION: Written report submitted.

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

ACTION: Written report submitted.

- F Non-City Entities Represented By City Commission:
1. Minutes From The Miami-Dade Metropolitan Planning Organization (MPO) Governing Board Meeting On May 28, 2009.
(Requested by Mayor Matti Herrera Bower)

ACTION: Written report submitted.

2. Minutes From The Miami-Dade County Tourist Development Council Meeting On June 2, 2009.
(Requested by Mayor Matti Herrera Bower)

ACTION: Written report submitted.

End of Regular Agenda

Miami Beach Redevelopment Agency

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
September 9, 2009**

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 Tim Hemstreet
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 & South Pointe (Pre-Termination Carry Forward Balances) For The Month Of June 2009.
(Finance Department)

ACTION: Written report submitted.

- B Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency's City Center District & South Pointe (Pre-Termination Carry Forward Balances) For The Month Of July 2009.
(Finance Department)

ACTION: Written report submitted.

2. NEW BUSINESS

11:35:27 p.m.

- A A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (RDA), Approving And Authorizing The Chairman And Secretary To Prepare And Execute An Amendment To An Existing Retail Lease Agreement With Cadiac, Inc. (Tenant), Involving Suites D And E In The Anchor Shops, Located At 1550 Collins Avenue, Miami Beach, Florida; Providing For The Tenant's Rent To Remain At \$55 Per Square Foot For A Period Of Two (2) Years, Upon Which Market Conditions Will Be Re-Evaluated And The Rent Shall Be Modified Accordingly For The Remaining Term Of The Lease, Which Is Set To Expire On September 31, 2014.

(Redevelopment Agency)

ACTION: Item deferred to the September 10, 2009 Special City Commission meeting at 6:00 p.m. Tim Hemstreet to handle.

Vice-Mayor Diaz moved that when this meeting adjourns, items RDA 2A, R7I and R7J will be moved to the September 10, 2009 Special City Commission meeting at 6:00 p.m.; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Commissioner Weithorn.

Meeting adjourned at 11:37:08 p.m.

End of RDA Agenda