

City Commission Meeting

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

Mayor Matti Herrera Bower
Vice-Mayor Deede Weithorn
Commissioner Jorge Exposito
Commissioner Michael Góngora
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Jonah Wolfson

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

Visit us at www.miamibeachfl.gov for agendas and video "streaming" of City Commission Meetings.

ATTENTION ALL LOBBYISTS

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

REGULAR AGENDA

R5 - Ordinances

- R5A 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. **10:15 a.m. Second Reading Public Hearing** (Page 375)
(Requested by Former Commissioner Saul Gross/City Attorney's Office)
(First Reading on October 14, 2009)
- R5B Proposed Ordinance Amendment – Flags & Flagpoles
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 82, "Public Property," Article IV, "Uses In Public Rights-Of-Way," Division 6, "Prohibited Signs Over Public Property," Section 82-411 To Add An Exemption For Flags And Flagpoles; And Amending Chapter 138, "Signs," Article III, "Prohibited Signs," Section 138-72 "Pennants, Banners, Streamers, Flags And Flagpoles" To Create A Procedure For Temporary Flags And Flagpoles And To Clarify That The Section Applies To Flags Of Nationally Or Internationally Recognized Symbols Of Cultural Diversity; Providing For Codification, Repealer, Severability And An Effective Date. **10:35 a.m. Second Reading Public Hearing** (Page 383)
(Planning Department)

(First Reading on October 14, 2009)

R5 - Ordinances (Continued)

- R5C 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. **10:40 a.m. Second Reading Public Hearing**
(Page 395)
(Tourism & Cultural Development)
(First Reading on October 14, 2009)
- R5D 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. **10:45 a.m. Second Reading Public Hearing** (Page 403)
(Planning Department)
(First Reading on October 14, 2009)
- R5E 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. **10:50 a.m. Second Reading Public Hearing** (Page 413)
(Code Compliance)
(First Reading on October 14, 2009)
- R5F An Ordinance Amending Chapter 62 Of The City Code, Entitled, "Human Relations;" Amending Article II, Section 62-32 Therein ,To Formally Name And Also Hereinafter Refer To The Provisions Of Said Article (And Sections Thereto) As The "City Of Miami Beach Human Rights Ordinance;" Further Amending Article II, Sections 62-31 Through 62-66, To Amending The Existing Provisions And, Where Noted, Creating New Provisions Pertaining To The Procedures For Filing And Investigating Complaints, Mediation Of Complaints, Hearing Procedures, And Penalties; And Providing Further For Codification, Severability, And An Effective Date. **11:00 a.m. Second Reading Public Hearing**
(Page 421)
(Requested by Former Commissioner Victor M. Diaz, Jr./City Attorney's Office)
(First Reading on October 14, 2009)

R5 - Ordinances (Continued)

- R5G 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 Members Of City Commission And City Employees For A Period Of Two Years After Leaving City Service/Employment; Providing For Penalties; Repealer, Severability, Codification And Effective Date. **11:30 p.m. Third Reading Public Hearing** (Page 441)
(Requested by Former Commissioner Victor M. Diaz, Jr./City Attorney's Office)
(Second Reading on October 14, 2009)
- R5H 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 Reduction Of A Fine Cap Due To Partial Compliance; By Amending Section 30-76, Entitled "Rehearings; Mitigation," By Requiring That Mitigation Must Be Requested Within Three Years From The Filing Of An Affidavit Of Compliance From A City Inspector With The Clerk Of The Special Master; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading** (Page 445)
(City Manager's Office)
- R5I An Ordinance Amending Chapter 18 Of The Miami Beach City Code Entitled "Businesses," By Amending Article XV, Entitled "Street Performers And Art Vendors" By Amending Section 18-901, Entitled "Definitions," By Expanding Geographical Definitions And Areas Relating To Street Performers And Artist Vendors; By Amending Section 18-903, Entitled "Artist Vendor Certificate Required," By Amending The Procedures For The Processing Of Applications; By Amending Section 18-905, Entitled "Permit Application," By Amending The Procedures Relative To Permits, The Payment Of Fees, And Lottery Procedures; By Amending Section 18-906, Entitled "Regulations And Prohibitions" By Amending The Provisions Concerning Lottery Proxies, Zone Locations, Expanding The Number Of Zones And Splitting Permit Assignments In Certain Areas Of The City, And Amending Provisions Regarding The Maintenance Of Artist Vendor Or Street Performer Zones; By Amending Section 18-909, Entitled "Disclaimer, Display, And Expiration Permit Or Certificate" To Correct A Typographical Error And To Require That Permits Be Displayed On The Permittees' Tables; Providing For Repealer, Severability, Codification, And An Effective Date." **First Reading**
(Page 451)
(Code Compliance)
- R5J An Ordinance Amending Chapter 2, Article III, Division 28, Of The City Code, Entitled "Capital Improvement Projects Oversight Committee;" Amending Section 2-190.127 Thereof, Entitled "Establishment; Purpose; Membership;" By Amending Section 2-190.127(1) Thereof To Provide That One Of The Committee Members Shall Be A Sitting Member Of The City Commission Who Shall Be Appointed By Majority Vote Of The City Commission And Who Shall Also Serve As Chair Of The Committee; And Providing For Codification; Repealer; Severability; And An Effective Date. **First Reading**
(Page 475)
(Requested by Commissioner Edward L. Tobin/City Attorney's Office)

R5 - Ordinances (Continued)

- R5K Ordinances Amending Building Development Process Fees (Page 479)
1. An Ordinance Amending Chapter 14 Of The City Of Miami Beach Code By Deleting Division I Section 14-31 Thru 14-38 Thereof In Its Entirety; And Amending Division 2 Thereof Entitled, "Permit Fees"; Amending Sections 14-61 Through 14-70 Thereof; And Amending Appendix A Thereto, Entitled "Fee Schedule"; Said Amendments Providing For A Modification In Permit And Inspection Fees, Effective February 1, 2010 For Building, Plumbing, Electrical, And Mechanical Work, And For Other Building Department Activities; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 499)
(Building Department)
 2. An Ordinance Amending Chapter 50 Of The City Of Miami Beach Code By Amending Section 50-1, Entitled "Adoption By Reference; Short Title," By Amending Section 50-2 Entitled "Life Safety Code Adoption By Reference," By Amending Section 50-3, Entitled "Plans Examination, Inspection, Permits", And By Amending Appendix A, Entitled "Fee Schedule" By Modifying Fee Schedule For Fire Department; Providing For A Repealer, Severability, Effective Date, And Codification. **First Reading** (Page 545)
(Fire Department)
 3. An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 14, Article II, Division 2, Section 14-430 "General Information," Section 14-430(5) To Reference A Separate Zoning Review Fee Associated With The Building Process Being Created In Chapter 15; Creating Chapter 15, To Add A Zoning Review Fee Associated With The Building Process; And Amending Appendix A Thereof To Include Charges For Zoning Review Associated With The Building Process And To Adjust And Revise Fees For Administration Of Land Development Regulations, Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 567)
(Planning Department)
 4. An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 98, Streets And Sidewalks, Article III "Excavations" Division 2, "Permit" Section 98-92. "Application; Amount Of Deposit; Use Of Deposit To Replace Surface; Permit Fees;" By Amending, Section 98-92 To Add A Surcharge For Permit Processing, Plans Review And Inspection Services Rendered By The Department Of Public Works; And Amending Appendix "A" Thereto; Providing For Repealer, Codification, Severability And An Effective Date. **First Reading** (Page 585)
(Public Works)

R7 - Resolutions

- R7A A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And Gemcor, Inc., For Use Of Approximately 1,518 Square Feet Of City-Owned Property, Located At 1130 Washington Avenue, 6th Floor, Miami Beach, Florida; Said Lease Having An Initial Term Of Three Years, With Two Additional Three Year Renewal Terms, At The City's Sole Discretion; Authorizing The Mayor And City Clerk To Execute The Lease

Agreement. **10:20 a.m. Second Reading Public Hearing** (Page 599)
(Real Estate, Housing & Community Development)
(First Reading on October 14, 2009)

R7 - Resolutions (Continued)

- R7B A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And The Miami Beach Film Society, Inc. (D/B/A Miami Beach Cinematheque), For Use Of Approximately 2,523 Square Feet Of City-Owned Property, Located At 1130 Washington Avenue, 1st Floor South, Miami Beach, Florida; Said Lease Having An Initial Term Of Three Years, With Two Additional Three Year Renewal Terms, At The City's Sole Discretion; Authorizing The Mayor And City Clerk To Execute The Lease Agreement. **10:25 a.m. Second Reading Public Hearing** (Page 627)
(Real Estate, Housing & Community Development)
(First Reading on October 14, 2009)
- R7C A Resolution Approving On Second Reading (And Final Approval), Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And The Miami Beach ECOMB, Inc., For Use Of Approximately 1,251 Square Feet Of City-Owned Property, Located At 210 Second Street, Miami Beach, Florida; Said Lease Having An Initial Term Of Three Years And Sixteen Days, With One Additional Three Year Renewal Term, At The City's Sole Discretion; Authorizing The Mayor And City Clerk To Execute The Lease Agreement. **10:30 a.m. Second Reading Public Hearing** (Page 657)
(Real Estate, Housing & Community Development)
(First Reading on October 14, 2009)
- R7D A Resolution Approving, Following A Duly Noticed Public Hearing, The Placement Of A Memorial Plaque In The Washington Avenue Dog Park, Located At 225 Washington Avenue, Miami Beach, Florida, Honoring The Late Rebecca Probus In Accordance With Section 82-504 Of The Miami Beach City Code And Accepting The Arts In Public Places (AIPP) Committee's Recommendations Regarding The Memorial Plaque At The Committee's October 27, 2009 Meeting; Further Authorizing The Acceptance Of A Donation From Carla Probus And Jonas Meyers (South Pointe Neighborhood Residents) In The Amount Of \$10,000 For The Placement Of The Memorial Plaque Honoring The Late Rebecca Probus And Accepting Additional Funds In The Estimated Amount Of \$30,000.00 From Other Interested Individuals Wishing To Make Donations To The Washington Avenue Dog Park Project By Purchasing Bricks And/ Or Concrete Slabs In The Walkway Of The Dog Park For A Total Estimated Donated Amount Of \$40,000 To Be Appropriated To The Previously Allocated \$60,836 Budget For The Washington Avenue Dog Park Project, To Be Used For Improvements To Said Park. **11:45 a. m. Public Hearing** (Page 689)
(Parks & Recreation)
- R7E A Resolution Approving On First Reading, A Lease Agreement Between The City And Mystery Park Arts Company, Inc., For Use Of The Two City-Owned Buildings, Commonly Known As The Carl Fisher Clubhouse And Little Stage Theater, Located At 2100 Washington Avenue, Miami Beach, Florida; Said Lease Having A Term Of Five Years; Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City; And Further Setting A Public Hearing On January 13, 2010, For The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading** (Page 709)

(Real Estate, Housing & Community Development)

R7 - Resolutions (Continued)

R7F Independent Contractor Agreements (Page 745)

1. A Resolution Authorizing The City Manager, On Behalf Of The City, To Enter Into Certain Independent Contractor Agreements For Professional And Other Services, As Required And As The City Manager Deems In The Best Interest Of The City, Subject To And Contingent Upon The Following Parameters: 1) The City Manager Shall Only Enter Into Contracts For Such Professional And Other Services To Provide Services And/Or Work Related To Vacant Budgeted Positions, As Identified In The City's Approved Fiscal Year (FY) 2009/2010 Annual Budget; 2) The Amount Of The Fee And/Or Other Compensation To Be Paid By The City Under Such Contract(s) Shall Not Exceed The Authorized Amount For The Respective Position/Classification, As Set Forth, Respectively, In The City's Classified Or Unclassified Salary Ordinance (As The Case May Be); 3) The Term Of Any Independent Contractor Agreement Authorized Herein Shall Not Extend Beyond The End Of FY 2009/2010 (September 30, 2010); 4) At A Minimum, The City Manager Shall Require That Any Independent Contractor Agreement Entered Into Pursuant To This Resolution Shall Utilize The City's Standard Form For Independent Contractors (As Attached To This Resolution), Provided That The City Manager May Incorporate Additional Terms, Which May Be More Stringent Than The City's Form, But Not More Lenient; And 5) Providing That The Authority Granted To The City Manager Pursuant To This Resolution Shall Be Brought To The City Commission For Renewal Annually As Part Of The Annual Operating Budget Approvals.

2. A Resolution Authorizing The City Manager, On Behalf Of The City, To Enter Into Certain Independent Contractor Agreements For The Following Services, As Required And As The City Manager Deems In The Best Interest Of The City: Dance Instruction; Ice Skating Instruction; Athletics Instruction/Coaching; Aerobics Instruction; Fitness Instruction; Literacy, Math And S.A.T. Tutoring; School Liaison Officers; Television Production Services; Videographer Services; Graphic Designer Services; Program Monitor Services; And Auditors; Provided Further That The City Manager Shall Be Authorized To Negotiate, Enter Into, And Execute The Aforestated Agreements Subject To The Following Minimum Parameters: 1) The Amount Of The Fee And/Or Other Compensation To Be Paid By The City Under Such Agreement(s) Shall Not Exceed The Authorized Amount For The Respective Services, As Set Forth In The City's Approved Fiscal Year (FY) 2009/2010 Annual Budget; 2) The Term Of Any Services Agreement Authorized Herein Shall Not Extend Beyond The End Of FY 2009/2010 (September 30, 2010); 3) At A Minimum, The City Manager Shall Require That Any Agreement Entered Into Pursuant To This Resolution Shall Utilize The City's Standard Form Independent Contractor Agreement (As Attached To This Resolution), Provided That The City Manager May Incorporate Additional Terms, Which May Be More Stringent Than The City's Form, But Not More Lenient; And 4) Providing That The Authority Granted To The City Manager Pursuant To This Resolution Shall Be Brought To The City Commission For Renewal Annually As Part Of The Annual Operating Budget Approvals.

(Human Resources)

R7 - Resolutions (Continued)

- R7G 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, In Substantial Form, A Management Agreement Between The City And Miami Design Preservation League, Inc., A Florida Not-For-Profit Corporation, For The Maintenance, Management, Operation, And Programming Of The Ocean Front Auditorium, Also Commonly Referred To As The 10th Street Auditorium, Located At 1001 Ocean Drive, Miami Beach, Florida, For An “Art Deco Welcome Center”; Said Agreement Having An Initial Term Of Five (5) Years, Commencing On January 1, 2010, And Ending December 31, 2014, With Two (2) Additional Five (5) Year Renewal Options; Further Authorizing The City Manager To Negotiate And Finalize Any Remaining Terms With MDPL (Based On And Consistent With The Substantive Terms Set Forth In The Attached Agreement, And Which Final Agreement Shall Also Incorporate The Final Recommendations Of The Finance And Citywide Projects Committee Meeting); And Authorizing The Vice-Mayor And City Clerk To Execute The Final Negotiated Agreement.
(Page 761)
(Real Estate, Housing & Community Development)
- R7H A Resolution Setting The Dates For The Year 2010 City Commission Meetings. **Joint Redevelopment Agency Item** (Page 805)
(City Clerk’s Office)
- R7I A Resolution Approving And Authorizing The Re-Allocation Of \$950,000 In Un-Used Funds From Citywide Pump Station Landscaping Project, Fund 424-2516, To The Flamingo Right-Of-Way Neighborhood Improvements Bid Package 10A Project, Fund 424-2330. (Page 813)
(Capital Improvement Projects)
- R7J A Resolution Approving The City’s State Legislative Agenda For The 2010 Session Of The Florida Legislature. (Page 817)
(Economic Development)
- R7K A Resolution Creating New Artist Vendor/ Street Performer Permit Zones To Be Located On The Beachwalk At The Street Ends Of 21st And 22nd Streets For A Total Of Four New Locations To First Become Available During The Lottery To Be Held On December 22, 2009 As To Permits Issued For The First Quarter Of 2010 (January 1 – March 31) And In Lotteries To Be Held Thereafter..
(Page 823)
(Code Compliance)

R9 - New Business and Commission Requests

- R9A Board And Committee Appointments. (Page 831)

(City Clerk's Office)

- R9A1 Board And Committee Appointments - City Commission Appointments. (Page 837)
(City Clerk's Office)

R9 - New Business and Commission Requests (Continued)

- R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.) (Page 843)
R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

- R9C Discussion Regarding Establishing The Mayor And Commission Arts Ball. (Page 845)
(Requested by Commissioner Jerry Libbin & Mayor Matti Herrera Bower)

- R9D A Follow-Up Discussion Concerning The Potential Operational Issues Related To The Newly
Constructed South Pointe Park. (Page 849)
(Parks & Recreation)
(Deferred from September 9, 2009)

- R9E Discussion Regarding The Following Board Of Adjustment Related Issues: 1) Consideration Of
Alteration Of Variance Criteria; And 2) Review Of Types Of Applications Which May Be Heard By The
Board. (Page 859)
(Requested by Commissioner Jonah Wolfson)

- R9F Discussion And Briefing, On The Mayor's Meeting With County Mayor Alvarez Regarding Various
Issues Affecting Miami Beach Residents. (Page 861)
(Requested by Mayor Matti Herrera Bower)

- R9G Discussion And Referral To The Finance And Citywide Projects Committee Regarding Issues
Related to The Port Dredging Project. (Page 863)
(Requested by Commissioner Jerry Libbin)

- R9H Discussion Regarding An Ordinance Amending The Miami Beach City Code By Amending Chapter 2,
Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By
Creating Division 33, To Be Entitled "Tennis Advisory Committee," And By Creating Sections 2-
190.148 Through 2-190.153 Thereto To Create A Tennis Advisory Committee And Provisions
Establishing The Committee And Its Mission, Powers, Duties, Composition, And Supporting
Department; And Providing For Repealer, Severability, Codification, And An Effective Date.
(Page 865)
(Requested By Commissioner Michael Góngora)

- R9I Discussion Regarding An Ordinance Amending The Miami Beach City Code By Amending Chapter 2,
Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By
Creating Division 13 Entitled "Parks and Recreational Facilities Board," By Amending Section 2-171,
Entitled "Established; Purpose; Composition;" By Amending The Composition Of The Board To
Include The Chairperson Of The Tennis Advisory Committee As A Non-Voting, Ex Officio Member;

And Providing For Repealer, Severability, Codification, And An Effective Date. (Page 869)
(Requested By Commissioner Michael Góngora)

Reports and Informational Items

- A City Attorney's Status Report. (Page 875)
(City Attorney's Office)

- B Parking Status Report – September 2009. (Page 889)
(Parking Department)

- C Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days. (Page 911)
(Procurement)

- D Status Report On Palm And Hibiscus Islands Underground Utilities Project. (Page 915)
(Capital Improvement Projects)

- E Status Report On The Biscayne Point Island Entryway Feature. (Page 917)
(Capital Improvement Projects)

- F Non-City Entities Represented By City Commission:
 - 1. Minutes From The Miami-Dade Metropolitan Planning Organization (MPO) For The Miami Urbanized Area Governing Board Meeting On July 23, 2009. (Page 921)
(Requested by Mayor Matti Herrera Bower)

 - 2. Minutes From The Adrienne Arsht Center For The Performing Arts Of Miami-Dade County (PACT) Meeting On September 29, 2009. (Page 933)
(Requested by Mayor Matti Herrera Bower)

 - 3. Minutes From The Miami-Dade County Tourist Development Council Meeting On August 18, 2009. (Page 943)
(Requested by Mayor Matti Herrera Bower)

 - 4. Minutes From The Miami-Dade Metropolitan Planning Organization (MPO) For The Miami Urbanized Area Governing Board Meeting On October 29, 2009. (Page 953)
(Requested by Mayor Matti Herrera Bower)

End of Regular Agenda