



MIAMI BEACH

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COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: December 9, 2009

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON THURSDAY, NOVEMBER 12, 2009.**

A meeting of the Neighborhoods/Community Affairs Committee was held on Thursday, November 12, 2009 at 2:30 pm in the City Manager's Large Conference Room, 4th Floor, City Hall. **Commissioners in attendance:** Jerry Libbin, Edward L. Tobin, Vice-Mayor Victor Diaz, and Saul Gross. **City staff in attendance:** Hilda M. Fernandez, Assistant City Manager; Robert C. Middaugh, Assistant City Manager; Jose Smith, City Attorney; Eric Yuhr, Fire Chief; Fred Beckmann, Public Works Department Director; Raul Aguila Deputy City Attorney; Kevin Smith, Parks and Recreation Department Director, Randi MacBride, Code Compliance Division. Please also refer to the attached sign-in sheet.

THE MEETING OPENED AT 2:53PM.

OLD BUSINESS

1. **DISCUSSION REGARDING: A) A PROPOSAL BY MR. JONAS MEYERS AND MS. CARLA PROBUS (SOUTH POINTE NEIGHBORHOOD RESIDENTS) FOR THE PLACEMENT OF A MEMORIAL PLAQUE IN THE DOG PARK IN MEMORY OF MS. PROBUS' MOTHER, 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 PARK. (3:06 PM)**

Vice-Mayor Diaz asked if anyone was opposed to accepting the gift from Jonas Meyers and Carla Probus including the memorial plaque and the memorial bricks. There was no opposition. Vice-Mayor Diaz made the motion to accept the gifts. Commissioner Tobin seconded.

ACTION: The committee unanimously moved to accept the gift from Jonas Meyers and Carla Probus including the memorial plaque, as well as the memorial bricks.

2. **DISCUSSION REGARDING RENAMING AND RESTRUCTURING THE SAFETY COMMITTEE AS THE CERT COMMITTEE. (2:53 PM)**

Eric Yuhr, Fire Chief, clarified that the committee being discussed is the Public Safety Advisory Committee (PSAC) which should not be confused with the Safety Committee. The PSAC has had very few meetings and it has been suggested to re-task the committee and rename it the Community Emergency Response Team (CERT) committee.

Agenda Item CGE

Date 12-9-09

After some discussion, Commissioner Libbin asked if the Safety Committee and the Public Safety Committee could combine their functions. Hilda M. Fernandez, Assistant City Manager, explained that they have two completely different functions. The Safety Committee is a Risk Management function and deals with potential public safety hazards or issues vs. CERT which is dealing with emergency preparedness. Commissioner Libbin stated that he still thinks the committees could be consolidated.

Mr. Gordon suggested that the current members of the Public Safety Committee remain and maybe appoint an Ad hoc chairperson and he could be a liaison for CERT members to the committee.

Lucia Greer spoke.

Commissioner Tobin made the motion to appoint Jeff Gordon as a liaison to the Safety Committee to share information between this committee and the CERT trained people. Commissioner Libbin seconded.

ACTION: The committee moved to appoint Jeff Gordon as a liaison to the Safety Committee to share information between this committee and the CERT trained people.

3. DISCUSSION OF PROCESS IMPROVEMENT AND MANAGEMENT STUDIES.

Discussion was deferred to a future meeting.

ACTION: The committee deferred the discussion of this item to a future meeting of the Neighborhoods/Community Affairs Committee.

4. DISCUSSION REGARDING PROPOSED AMENDMENTS TO ARTICLE XV "STREET PERFORMERS AND ARTIST VENDORS". (3:50PM)

Hilda M. Fernandez, Assistant City Manager reviewed the proposed amendments are to add locations for permits on Lincoln Road and on the Beachwalk to increase the opportunity for artist vending in the City. There is also a recommendation for the committee to consider looking at the premium permit locations on Lincoln Road, Ocean Drive, and the Beachwalk at Lincoln Road to make these spots "split permits" to again, provide more opportunity for additional artist vending in the City. The recommendation is to add eight (8) spots on lower Lincoln Road by changing the definition of Lincoln Road to now include the two blocks (200 and 300) of Lincoln Road that were inadvertently left out of the ordinance. In addition, staff is recommending four spots be added to the Beachwalk, with two each at 21st and 22nd Street.

Commissioner Libbin recapped with Ms. Fernandez translating into Spanish.

Ms. Fernandez explained that additional changes proposed include adding the Cutwalk to the definition of Beachwalk; and the manner in which lottery day absences are handled. The lottery process currently requires that the applicant be present on the day of the lottery, otherwise they are included in a supplemental lottery. As part of the process to streamline how the program is managed, there will no longer be a supplemental lottery. In the event the applicant is unable to attend on the actual day of the lottery, they may submit a proxy and have someone else make the selection for them or at the end of the lottery spots will be randomly assigned from the remaining available locations to those not present. There will be no alternate list developed for those that are not selected or choose not to select on the day of the lottery.

The meeting had an intermission from 4:00 – 4:15pm. At 4:15pm Commissioner Libbin returned to restart the meeting; however, there was no quorum. Commissioner Libbin stayed to take comments and continue the discussion with the understanding that no decision could be made without a quorum.

Ms. Fernandez explained that when locations are determined by Code staff, they are determined by safety standards. She invited people to offer suggestions for locations they may feel would work well and staff will review the safety issues for it to be considered in the future.

The following concerns were heard at the meeting:

- Number and locations of the newly proposed spots on the 200 and 300 blocks of Lincoln Road. Ms. Fernandez explained that although thirteen potential locations have been identified, the proposal is to utilize no more than eight locations during any one quarter and thus allow for the locations to be rotated.
- The music level of some of the street performers. Commissioner Libbin explained that everyone is governed by the Noise Ordinance and complaints regarding the music level would be handled under that ordinance.
- Desire for at least two tables at each crosswalk on Ocean Drive to allow artist vendor/street performers to watch out for one another. Ms. Fernandez explained that Ocean Drive currently has twelve locations but not at all crosswalks. There are some locations where there is nowhere to place the artist vendors/street performers or there may already be non-profit vendors in other locations.
- Desire to add more locations on Ocean Drive. Ms. Fernandez advised that would be a decision for the Commission.
- Desire for an additional category for artist versus craftsperson. Ms. Fernandez explained the definition of “art”.
- Desire to have a representative of the artist vendors/street performers included when decisions are made regarding the establishment of locations and during meetings when other changes are being considered. Commissioner Libbin responded that all meetings are in the sunshine. Ms. Fernandez explained the process for determining the cost to the City for managing the program.
- Desire to provide a preference to local residents that apply for the lottery. Ms. Fernandez explained that since this is a First Amendment protected activity, it cannot be handled as a commercial activity is handled. Jose Smith also stated that the City is allowed to enact limitations on Free Speech that are reasonable as to time, place and manner. Commissioner Libbin asked for the Legal Department to revisit to see if something creative can be drafted to give some advantage to the residents of the City.
- Desire to perform wherever they want and to not be required to have a permit. Ms. Fernandez and Commissioner Libbin explained that the City initiative to regulate locations for artist vendors/street performers was for public safety reasons.
- Suggestion to auction the locations instead of using a lottery. Jose Smith, City Attorney responded that there are legal ramifications when auctioning someone’s First Amendment protected activities.
- Suggestion was made to split the permits as Monday, Wednesday, Friday and Tuesday, Thursday, Saturday and then alternate the Sundays. There was no consensus by the attendees at the meeting.
- Concern regarding the vendors that are selling items they have not made. Ms. Fernandez reviewed the certification process that includes review by the Fine Arts Board, which has been revised and the enforcement improvements.

- Concern that the rates are increasing to \$50 for the upcoming lottery and some people that applied before the rate change will only be paying the \$15. Manuel Marquez, Revenue Manager responded that there three applicants that had paid in the beginning of the year for all four lotteries at the rate that was in effect at that time, which will include the one coming up in December 2009. There was an additional suggestion to charge \$15 for application and the balance of \$135 when you are selected via the lottery. Ms. Fernandez stated that staff is in the process of automating the process and once that is complete, the plan is for the rate to decrease.
- Suggestion made to charge different fees for those who chose a three day permit over a four day permit. Ms. Fernandez explained that the additional day balances out for not having Friday or Saturday.
- Desire for access to City electricity adding that they would be willing to pay for it. Commissioner Libbin stated that he is not against the idea and he is willing to consider this as long as there are no Legal or Fire Department concerns.
- Suggestion to remove useless locations. Ms. Fernandez stated that if we remove the spots that are not popular, there will be fewer locations in the lottery.
- Desire to add the location at 6th Street at Ocean Drive back into the lottery. There was no consensus from those in attendance.

Ms. Fernandez explained that the proposed recommendations to add several locations and have split permits at premium locations would increase the number of spots for artist vendors alone from 48 to 88. Although some people requested removing the Collins and Washington Avenue locations, she recommended leaving those locations in the mix. With the increase in the premium locations people will not be forced to select those locations they feel are not as interesting to them.

Commissioner Libbin explained that notes have been taken of the concerns and suggestions expressed at this meeting and he understands their desire to not have these regulations but he knows they understand that the City has costs to cover. He stated that the proposed amendments will go to commission on December 9, 2009 with no recommendations since there is no quorum.

ACTION: Due to a lack of a quorum, the item will move forward to the City Commission for further discussion with no recommendation.

5. SUSTAINABILITY MASTER PLAN. (3:08 PM)

Commissioner Gross introduced the item and recommended its adoption. Fred Beckmann, Public Works Department Director, explained the document includes program areas that can be modified or added.

Vice-Mayor Diaz moved to accept the plan. Commissioner Tobin seconded.

ACTION: The committee unanimously moved to accept the plan.

6. DISCUSSION REGARDING 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.

Discussion was deferred to a future meeting.

ACTION: The committee deferred the discussion of this item to a future meeting of the Neighborhoods/Community Affairs Committee.

7. DISCUSSION REGARDING 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 AMEND 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.
(3:10 PM)

Vice-Mayor Diaz introduced the item explaining that when the amendment to the Human Rights Ordinance was passed on first reading there was some discussion about one aspect that was not finalized in the ordinance which was the creation of a Human Rights Commission. He strongly advocated for this along with Save Dade. He explained that Raul Aguila, Deputy City Attorney has been working with Save Dade to look at different models of Human Rights Commissions around the country to see how they might work within our existing statutory framework and reviewed what is proposed.

Commissioner Libbin asked Mr. Aguila how this would differ from the County which already has a human rights board. Mr. Aguila explained that there are two options proposed; one with and one without a committee. He explained that the language with the City with regard to gender identity is broader and more progressive than that of the County. Mr. Aguila explained the procedural differences between the City and the County for Commissioner Libbin and assured him that someone would not be able to file concurrently with both the City and the County.

CJ Ortuno, from Save Dade, spoke in favor of the Human Rights Commission.

Vice-Mayor Diaz explained a recent incident of a hate crime and what happened when the victim experienced in their attempt to report the incident to the City.

Commissioner Libbin suggested bifurcating this decision by first establishing the commission and tasking them with educating the community. Then, should the result be that so many complaints are received and the Manager does such a poor job, that it seems necessary to have the commission available to override his decisions that can be added as a second phase.

Vice-Mayor Diaz explained that the idea of having a group available to hear complaints that is sensitive to the issues is an important aspect to this proposal. Mr. Aguila added that there will be a form to complete to file the complaint to assist the victim in reporting the incident.

Vice-Mayor Diaz made the motion to recommend passing the item with "option B" to the City Commission. Commissioner Tobin seconded. Commissioner Libbin noted that he is in favor of moving the item forward, however, he prefers the human rights commission begin with the education role only for now.

ACTION: The committee moved the item forward to the City Commission with its recommendation to pass the item with "option B".

8. DISCUSSION REGARDING CONSIDERATIONS RELATING TO THE ENVIRONMENTAL COALITION OF MIAMI BEACH (ECOMB) LEASE OF A CITY-OWNED BUILDING LOCATED AT 210 2ND STREET. (3:53 PM)

Vice-Mayor Diaz made the motion to approve the lease agreement with no public restroom facilities. Commissioner Libbin seconded and confirmed that staff has placed the additional considerations including the markers and bars that they must achieve. He noted that one of the things that ECOMB is tasked with is to administer the Adopt-a-Beach program completely.

ACTION: The committee moved to recommend to the City Commission to approve the lease agreement with no public restroom facilities.

THE MEETING ADJOURNED AT 5:55 PM.

Note: The remaining meeting of the Neighborhoods/Community Affairs Committee for 2009 is scheduled for Monday, December 14, 2009 at 2:30pm in the City Manager's Large Conference Room, 4th Floor of City Hall.

JMG/HMF/rfm



MIAMI BEACH

NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

November 12, 2009

SIGN-IN SHEET

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