



MIAMI BEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
November 17, 2010

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

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher Absent
Assistant City Clerk Maria E. Martinez

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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 Presentation/Sister Cities Plaque, Chairman George Neary. (Bower)
- PA2 Certificate Of Appreciation/Las Maraqueras, Little Havana Activities & Nutrition Ctrs. (Góngora)
- PA3 Presentation/Ability Explosion, Disability Access Committee Chairman David New. (Bower)
- PA4 Presentation/Miami Beach S.M.I.L.E. Campaign, Barbara Montero. (Bower)
- PA5 **New Item:** Certificates of Appreciation/Veterans Day Ceremony Efforts. (Libbin)
- PA6 **New Item:** Certificate of Appreciation/Officer Of The Month (October) Awardee. (Exposito)
- C4A Ref: NCAC - Require Restaurants To Post Scores Given By Health Department. (Weithorn)
- C4B Ref: NCAC - Special Event Permit And Charitable Donations. (Weithorn)
- C4C Ref: FCWPC - Options For Financing The Convention Center Renovation. (Weithorn)
- C4D Ref: NCAC - Overgrown Shrubs On Dunes And Beach Walks In Miami Beach. (Góngora)
- C4E Ref: NCAC - Monument Island's Current And Future Operations & Management Options.
- C4F Ref: LUDC - Conditional Use Procedure For Second Hand Stores. (Góngora)
- C4G Ref: LUDC - Return Sections Of Pine Tree & La Gorce Drives To Two-Way Lanes. (Bower)
- C4H Ref: LUDC - Proposed Flamingo Park Skate Park. (Bower)
- C6A Report: Capital Improvement Projects Oversight Committee Meeting On Sept. 13, 2010.
- C6B Report: Neighborhoods/Community Affairs Committee Meeting On October 5, 2010.
- C6C Report: Land Use And Development Committee Meeting On October 25, 2010.
- C6D Report: Finance And Citywide Projects Committee Meeting On October 14, 2010.
- C7A Submit Grant Applications To Several Funding Agencies.
- C7B Execute Specifications For Agreement With FPL, North Shore Bandshell Park.
- C7C Accept Recommendation (RFP No. 49-09/10), Benefit Consultant Services.
- C7D Confirm Appointment Of Richard G. Lorber As Acting Director Of Planning Department.

- C7E Confirm Appointment Of Cynthia W. Curry As Acting Director Of Building Department.
- C7F Approve Amendment To Agreement w/ School Board, North Beach Elementary Parking.
- C7G Approve Application For Historic Ad Valorem Tax Exemption, 2740 North Bay Road.
- C7H Accept Recommendation (RFQ 42-09/10), Noise, Acoustic, And/Or Sound Services.
- C7I Set First Reading PH, Allow Low Impact Car Washing And Detailing In CPS-2 District.
- C7J Accept Recommendation (RFQ 48-09/10), West Avenue Bridge Project.
- C7K Execute Perpetual Utility Easement To FPL, Miami Beach Soundscape (Lincoln Park).
- C7L Submit Grant Application To U.S. Department Of HUD, NSP3 Funds.
- C7M Execute Amendment To Lease Agreement w/ Mystery Park Arts Company, Inc.
- C7N Accept Donation From Miami Beach Arts Trust, New Dedicated Cultural Grants Program.
- C7O Approve Contract Award (ITB 43-09/10), ROW Improvement Program - Star Island.
- R2A Award Contract (ITB 25-09/10), ROW Infrastructure Improvement Program - City Center.
- R5A **11:00 a.m. 1st Rdg**, Alton Road Historic District Buffer Overlay. **5/7**
- R5B **11:00 a.m. 2nd Rdg**, Amend Pension System For Disability & Retirement Of Police & Fire.
- R5C **11:10 a.m. 2nd Rdg**, Amend Miami Beach Employees' Retirement Plan - CWA.
- R5D **11:30 a.m. 2nd Rdg**, Use Of Consultants For Development Approval. **5/7**
- R5E **11:31 a.m. 2nd Rdg**, Amend Litter Ordinance - Leaf Blowers And Yard Maintenance Debris.
- R5F **11:32 a.m. 2nd Rdg**, Amend Police Vehicle Towing, Ordinance.
- R5G **1st Rdg**, Amend Agencies, Boards And Committees Ordinance - Safety Committee.
- R5H **1st Rdg**, Amend Procedures For Adoption Of Specific NCD Overlay Districts. **5/7**
- R5I **3:00 p.m. 1st Rdg**, Alcoholic Beverages And Nudity Regulations - Applicant: Leroy Griffith.
- R5J **11:00 a.m. 1st Rdg**, Amend Off-Street Parking Ordinance - Parking District No. 5. **5/7**
- R7A **10:20 a.m.** Grant Or Deny Appeal Request By Euroamerican Group, 31 Venetian Way.
- R7B **11:40 a.m. 1st & Only**, Approve Lease Agreement w/ Syanna, LLC, 22 Washington Ave. **5/7**
- R7C **Joint**, Set Dates For Year 2011 City Commission Meetings.
- R7D Accept Recommendation (ITB 40-09/10), Sunset Harbour Parking Garage & Retail Project.
- R7E **Joint**, Execute New Sovereignty Submerged Land Lease, Miami Beach Marina.
- R7F Approve Settlement Agreement w/ Nancy Bona, Mary Michel, And Robert & Rita Swedroe.
- R9A Board And Committee Appointments.
- R9A1 Board And Committee Appointments - City Commission Appointments.
- R9A2 Nominate Rachel Schuster To The Health Advisory Board. (Góngora)
- R9B1 **12:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9C **1:00 p.m.** Committee Of The Whole: Discuss The Audit Committee.
- R9D Discuss: Shift To iPad From Printed Agenda. (Exposito)
- R9E Discuss: Revenue Generating Opportunities / Miami Air Show. (Exposito)
- R9F Discuss And Refer, Allow Selling Police Vehicles To Other Municipalities. (Exposito)
- R9G Discuss: Mega Yacht Complex. (Exposito)
- R9H Discuss: Resolution No. 2010-27314, Miami Dolphins' Initiative. (Wolfson)
- R9I Discuss: Veterans Day Parade And Picnic 2011. (Libbin)
- R10A **1:00 p.m.** Attorney Client Session: Bona, Michel, Swedroe & Altos Del Mar V. CMB.
Reports and Informational Items (see LTC #302-2010)
- 1A **Joint**, Set Dates For Year 2011 Redevelopment Agency Meetings.
- 1B **Joint**, Execute New Sovereignty Submerged Land Lease, Miami Beach Marina.

Meeting called to order at 9:46:48 a.m.

Inspirational Message given by Reverend Chris McNeill from St. John's United Methodist Church.

Pledge of Allegiance led by David New.

ADDENDUMS:

Motion made by Commissioner Weithorn to add items C4H, R9A2, and R9I to the Agenda as emergency items; seconded by Commissioner Libbin; Voice vote: 5-0; Absent: Commissioners Tobin and Wolfson.

10:43:35 a.m.

New Item

Mayor Bower acknowledged Maria Martinez, Assistant City Clerk, and explained that they will work with her to make her feel welcome.

Supplemental Materials:

1. R5B Ordinance
2. R5C Ordinance

Presentations and Awards

09:39:49 a.m.

PA1 Presentation Of Sister Cities Plaque By Sister Cities Committee Chairman George Neary.
(Requested by Mayor Matti Herrera Bower)
(Deferred from October 27, 2010)

ACTION: Presentation made.

George Neary explained that Miami Beach has had a 51 year relationship with Sister Cities International, beginning with Fujisawa, Japan; and Mayor Bower wanted to revive this committee. He introduced the committee members and presented a plaque with all ten sister cities engraved and the year in which their membership began.

Ray Breslin, Brampton, Canada Representative, spoke and presented a proclamation to Mayor Bower.

Jessica Londono, Ica, Peru, spoke.

Roberto Da Torre, Ica, Peru, spoke.

Michael McNamee, Fujisawa, Japan, representative, spoke.

Nuccio Nobel, Cozumel, Mexico, representative spoke.

Elaine Roden spoke.

Veronika Pozmentier, Other, representative spoke.

Gary Twist, Fortaleza, Brazil, representative spoke.

Antwon Thomas, Santa Marta, Colombia, representative, spoke.

Bruce Reich, Nahariya, Israel, representative, spoke. He introduced Mr. Jacky Sebag, Mayor; Mrs.

Claudia Markov, Member of the City Council; Mr. Zohar Hatan, Member of the City Council; Mrs.

Galia Mor, Culture and International Relations Manager.

Mayor Sebag spoke and his message was translated to English.

Vice-Mayor Góngora recognized Diana Fontani for her efforts on behalf of Sister City.

George Neary also thanked Diana on behalf of Sister Cities.

10:28:34 a.m.

PA2 Certificate Of Appreciation To Be Presented To "Las Maraqueras," From The Little Havana Activities & Nutrition Centers Of Dade County.

(Requested By Commissioner Michael Góngora)

(Deferred from October 27, 2010)

ACTION: Certificate presented.

Vice-Mayor Góngora stated that there is a group of residents, entertainers and performers from Little Havana known as "Las Maraqueras," who travel around the County performing and entertaining residents. He recognized Isabel Daubar, Martina Gonzalez, Irma Gonzalez, Amparo Ron, Juana Diaz, Zenaida Alvarez, Dalia Lopez Visiedo, Josefina Bouquet, Silvia Gallardo, Dolores Castro, Dolores Gonzalez, Mercedes Betancourt, Maria Alfonso, Sarah Santana, Vinicio Hernandez, Manuel Pinilla and Armando Diaz. He also spoke in Spanish.

Dolores Gonzalez spoke.

10:13:56 a.m.

PA3 Presentation On Ability Explosion By Disability Access Committee Chairman David New.

(Requested By Mayor Matti Herrera Bower)

ACTION: Presentation made and a video titled ABILITY EXPLOSION was shown.

David New explained what Ability Explosion project is all about.

Commissioner Libbin recognized Mr. New for his participation in the Disability Access Committee (DAC) events.

Vice-Mayor Góngora also recognized David and the members of the DAC for the event.

David New thanked the City for their support and he distributed gift bags from the event's sponsors. He thanked Phyllis Resnick from Access Now, the Miami Beach Chamber of Commerce, Jerry Libbin, Ceci Velasco, the VCA, GMCVB and his committee members.

10:05:31 a.m.

PA4 Presentation On The Miami Beach S.M.I.L.E. Campaign By Community Relations Board Chairwoman Barbara Montero.

(Requested By Mayor Matti Herrera Bower)

ACTION: Presentation made.

Brad Fleet, Community Relations Board Chair, introduced the item.

Barbara Montero stated that this program is important for the entire county. She distributed a PowerPoint presentation and explained the SMILE...Pass It On! Program. The acronyms stand for "Service Manners Ideals Leadership and Excellence," and the information is up on the City's website. She thanked Barbara Hawayek and Lynn Bernstein for helping along with the IT Department for their efforts; Nannette Rodriguez, Hilda Fernandez and Jorge Gonzalez, City Manager. This is a community collateral project. She added that the project has been endorsed by the Hispanic community as well and they are working on translating to Spanish.

Handout or Reference Materials:

1. Color PowerPoint titled Miami Beach S.M.I.L.E. PASS IT ON Service. Manners. Ideals. Leadership. Excellence, car sticker and business cards.

10:34:51 a.m.**New Item**

PA5 Certificates of Appreciation/Veterans Day Ceremony Efforts.

(Requested by Commissioner Libbin)

ACTION: Certificate presented.

Commissioner Libbin introduced the item and explained that at the Veterans Day parade last week, there were over 2,000 participants, which is about a 50% increase from last year. It was a gratifying experience and the veterans appreciated the ceremony. He recognized Chief Carlos Noriega for his leadership, Edwin Gonzalez, Jr., who provided about 13 cars for the parade, the reserve officers, John Wishman, Gilbert Aguila, Andrew Plotkin, Miami Beach Senior High Key club, Senior High Leo Club, Debra Ruggiero and Teen Job Corp Kids, Hands On Miami, Captain Mark Causey who not only arrange the flyover but he heard that he is already working on the 2011 parade; and VFW Dave Patlack, Commander Doug Morris; and last but not least his aide Enid Rodriguez.

Commander Morris thanked the City of Miami Beach for taking care of the veterans.

New Item**10:39:12 a.m.**

PA6 Certificate of Appreciation/Officer Of The Month (October) Awardee.
(Requested by Commissioner Exposito)

ACTION: Certificate presented.

Commissioner Exposito recognized Detective Rick Arias for receiving the award for Officer of the Month for October and explained that during the Miami Electronic Task Force Meeting, Officer Arias was awarded the International Case of the Year for his involvement in the arrest and investigation of a case in 2010. He explained the case in detail and added that Detective Arias also coordinated the information flow with London authorities, and they were able to arrest and seize properties, credit cards and solve a banking fraud, dismantling a criminal group outside the USA targeting our financial infrastructure. Further the investigation led to a San Francisco bank account with over \$1.5 million acquired from illicit activities. From these funds, \$12,420 is going to be forfeited to the City. Detective Arias displayed dedication, professionalism and thoroughly saw this case through its fruition. Through his complete understanding of the enterprise involved within international fraud and money laundering, he was able to coordinate and serve as a liaison with other agents to see this case through. On behalf of the City of Miami Beach, he was recognized for his valuable contribution and presented with a Certificate.

Police Chief Carlos Noriega spoke.

CONSENT AGENDA

ACTION: Motion made by Commissioner Weithorn; to approve the Consent Agenda; seconded by Commissioner Libbin; Voice-vote: 5-0; Absent: Commissioners Tobin and Wolfson.

C4 - Commission Committee Assignments

C4A Referral To The Neighborhoods/Community Affairs Committee - Discussion Regarding Requiring Miami Beach Restaurants To Post Scores Given By The Health Department.
(Requested by Commissioner Deede Weithorn)

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

C4B Referral To The Neighborhoods/Community Affairs Committee - Discussion Regarding The Relationship Between Organizations Applying For A Special Event Permit And Any Charitable Donations They Claim Will Be Generated By The Event, Including Tracking Actual Funds Donated.
(Requested by Commissioner Deede Weithorn)

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

- C4C Referral To The Finance And Citywide Projects Committee – Discussion Regarding An Economic Impact Study And Options For Financing The Convention Center Renovation.
(Requested by Commissioner Deede Weithorn)

ACTION: Referred. Patricia Walker to place on the committee agenda. Hilda Fernandez to handle.

- C4D Referral To The Neighborhoods/Community Affairs Committee – Discussion Concerning Overgrown Shrubs On Dunes And Beach Walks In Miami Beach.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Referred. Randi MacBride to place on the committee agenda. Kevin Smith and Fred Beckmann to handle.

- C4E Referral To The Neighborhoods/Community Affairs Committee To Discuss Various Issues Related To Flagler Memorial (Monument) Island, Its Current And Future Operations And Management Options.
(Parks & Recreation)

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

- C4F Referral To The Land Use And Development Committee – Discussion To Tighten The City Ordinance Involving Conditional Use Procedure For Second Hand Stores.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Referred. Richard Lorber to place on the committee agenda and to handle.

- C4G Referral To The Land Use And Development Committee – Discussion Regarding A Request By Members Of The La Gorce Neighborhood To Return Sections Of Pine Tree And La Gorce Drives To Two-Way Lanes.
(Requested By Mayor Matti Herrera Bower)

ACTION: Referred. Richard Lorber to place on the committee agenda. Fred Beckmann to handle.

ADDENDUM:

- C4H Referral To The Land Use And Development Committee – Discussion Regarding The Proposed Flamingo Park Skate Park.
(Requested by Mayor Matti Herrera Bower)

ACTION: Referred. Richard Lorber to place on the committee agenda. Kevin Smith to handle.

C6 - Commission Committee Reports

C6A Report Of The Capital Improvement Projects Oversight Committee Meeting On September 13, 2010: **1)** Attendance. **2)** Review And Acceptance Of Minutes. **3)** Public Comments. **4)** Commission Items: A) A Resolution Authorizing The Mayor And The City Clerk To Execute An Amendment To The Construction Services Agreement Between The City Of Miami Beach And M. Vila & Associates, Inc. (MVA), Dated June 3, 2009, For The Construction Of The Historic City Of Miami Beach Right Of Way Infrastructure Improvements Project, Neighborhood No. 9A, City Center; In The Negotiated Not To Exceed Amount Of \$874,193.54, To Provide Construction Services For Right Of Way And Infrastructure Improvements Surrounding The New World Symphony Campus (NWS), Pennsylvania Avenue Garage, And Lincoln Park Projects Located Within The Adjacent City Center Commercial District Bid Package 9B Project Area; And Further Authorizing \$87,419.35 As A Project Construction Contingency; With Funding Available From The Previously Appropriated Funds In The City Center Bid Package 9B RDA Construction Fund 365. B) A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Authorizing Additional Funding In The Amount Of \$335,000 For Construction Contingency For Sanitary Sewer Main Improvements Along Indian Creek Drive Between 26th And 41st Streets Construction Project; Funding For This Has Been Previously Appropriated From The Water And Sewer Gulf Breeze Fund 423. **5)** Requested Reports. **6)** Discussion. **7)** A) Old Business: Construction Update: Normandy Shores Neighborhood Improvement, B) Status Report: Venetian Island Neighborhood Improvement Project, C) Status Report: Royal Palm Avenue And 44th Street Flooding Mitigation, D) Status Report: Palm & Hibiscus Island Undergrounding, E) Status Report: Flamingo/West Avenue Neighborhood ROW, F) Status Report: South Pointe Phase II Neighborhood Improvement Project, G) Status Report: South Pointe Phase 3, 4 And 5 Neighborhood Improvement Project, H) Flamingo Park.

ACTION:**Item No. 1:**

See attendance sheet copy attached.

Item No. 2:**The following revisions were requested to the May 12, 2010 Meeting Minutes:**

Saul Gross noted that the minutes stated that the Chair approved items 1 and 2 of the May 12, 2010 meeting. Chairman Gross noted that the Committee approved the items and that the minutes should reflect that.

The following revision was requested to the July 12, 2010 Meeting Minutes:

- 1) Eleanor Carney stated that Commission item pertaining to South Pointe 3, 4 and 5 (page 5) was not approved by the Committee. The July 12, 2010 minutes reflect that statement.
- 2) Eleanor Carney stated that the minutes should reflect that the Commission Item pertaining to Fire Station No. 2 (page 5) state "negotiate unit pricing for spalling on a linear foot basis for beams, under stairs, etc., prior to the issuance of Notice to Proceed 2 for Fire Station 2."
MOTION: AMEND MAY AND JULY MINUTES - MOVED: Christina Cuervo 1st, Eleanor Carney 2nd PASSED: Unanimous

Item No. 3:

No public comments were provided.

Item No. 4(A):

MOTION: Committee agrees with/approves the direction that the project is following.

MOVED: Stacy Kilroy 1st, Eleanor Carney 2nd

PASSED: 5 – 1 (Objected by Fred Karlton)

Item No. 4(B):

MOTION: : Committee agrees with/approves the direction that the project is following

MOVED: Stacy Kilroy 1st, Christina Cuervo 2nd

PASSED: Unanimous

Item No. 5:

Public Works to Report on process to request a one-way street.

Fernando Vazquez from Public Works invited Jeff Cohen and Dr. Chen from Miami-Dade County to present in reference to the traffic flow study on Sunset I, II, III and IV. Mr. Cohen stated that the County conducted a study to see what was feasible. The alternative that the County observed was that the existing width of the street would be retained and converted into one 10ft. lane in one direction and a paved shoulder using the remainder of the pavement which is about 4ft. This paved shoulder would function for pedestrians and possibly the disabled. Fernando Vazquez stated that the County is requiring the City to implement the 10ft. street.

Jeff Cohen replied by saying that the County is suggesting this to the City not requiring the City to do so. Saul Gross asked if the disability police have looked into this. Mr. Vazquez replied, "No". Saul Gross asked Mr. Vazquez to look into this further with the disability police.

Public Works to Provide Stormwater Management Master Plan Report for the Flamingo Neighborhood

Fernando Vazquez reported that the plan is on track. Packages will go out in December of this year. CDM is finalizing the model calibration for Flamingo. Mr. Vazquez reported that they are trying to get it into a Design Build package so it may go out to bid in the beginning of the year.

Public Works to Report on Age and Condition of Pipes in the Bayshore Neighborhood

Mike Alvarez from Public Works reported that CIP will be replacing 80-90% of the pipes that are 6" inches and below, 8" inches and above stay. The 12" inch, 16" inch and 2" inch pipes remain. Saul Gross recommended using a chart of the different water lines, concerning their age and updates, a chart that the Committee would be able to easily read. The 6" pipes are being replaced to larger diameter pipes for system pressure, not due to interior or exterior corrosion.

Staff Action: Mike Alvarez to return to next meeting with report using as a an example the chart shown on page 75 of the September 13, 2010 CIPOC Agenda for South Pointe 3, 4 and 5.

Public Works to Present Large Map Showing the Outfall Cleaning Schedule for the Venetian Islands

Mike Alvarez from Public Works reported that the outfall pipes were cleaned in November 2009. CIP thru JOC gave Envirowaste the contract to clean the outfalls in February 2010. Eleanor Carney stated that when the engineers went out after the report was done they saw barnacles in the outfall pipes. Saul Gross suggested Public Works to look into a material that will reduce subsequent maintenance.

Item No. 6:

South Pointe Phase II – Verify ADA Compliance in areas where minimum clearances are being met with sidewalk/tree pit surface material.

Charlie Carreño from CIP reported that the appropriate City staff reviewed the sidewalk installations and found them to be in compliance with applicable codes.

Item No. 7:

CIP Website

Under Construction

Item No. 7(A):

Construction Update: Normandy Shores Neighborhood Improvement Project

A Status Report was provided in the Agenda. Charlie Carreño reported that the project is approaching final completion. A ribbon cutting ceremony is being scheduled and will be held in the Normandy Shores Clubhouse.

Item No. 7(B):

Status Report: Venetian Island Neighborhood Improvement Project

A Status Report was provided in the Agenda. Charlie Carreño reported that watermain work has begun. Eleanor Carney asked where we stand with the encroachments. Raul Aguila reported that the street ends are primarily owned by the homeowner. The City has an easement for street and sidewalk purposes and for utility placement. With regard to any encroachments pertaining to the street ends the City's position is that if it's not blocking the City's access to any existing City easements that may be located in the street ends it would be up to the homeowner's who own the street ends to initiate any encroachment removal process and not the City. Greg Carney, HOA President for the Venetian Islands mentioned that the engineer for the improvement of the islands wants to use those streetends for the purpose of putting in outfalls. Saul Gross asked does the easement that the City have give the City the ability to put the drainage outfalls? Fred Beckmann, Director of Public Works believes the answer is yes. Raul Aguila stated that if the design involves new outfalls then the City needs to have access to get to those outfalls. If the homeowner objects legally then the City can't litigate it. Mr. Aguila continued to explain that the City's established policy is if an encroachment exists the City will send the homeowner a notice advising them that there is an encroachment and to remove it.

Item No. 7(C):

Status Report: Royal Palm Avenue and 44th Street Flooding Mitigation.

A verbal report was provided by Fernando Vazquez and it was reported that the City received the DERM permit and is finalizing the South Florida Water Management permit; once that is done we are hoping to be in construction by the end of September and be done by February.

Item No. 7(D):

Status Report: Palm & Hibiscus Island Undergrounding

A Status Report was provided in the Agenda. Aurelio Carmenates reported that the Miami-Dade Board of County Commissioners deferred the issue to September 21, 2010.

Item No. 7(E):

Status Report: Flamingo /West Avenue Neighborhood ROW

A verbal report was provided by Fernando Vazquez and noted that this project is dependent on the Stormwater Masterplan. Small projects are being done within this project, on 7th, 8th and 9th Streets.

Item No. 7(F):

Status Report: South Pointe Phase II Neighborhood Improvement Project

A Status Report was provided in the Agenda.

Item 7(G):

Status Report: South Pointe Phase 3, 4 and 5 Neighborhood Improvement Project

A Status Report was provided in the Agenda.

Item No. 7(H):

Flamingo Park

A Status Report was provided in the Agenda.

C6B Report Of The Neighborhoods/Community Affairs Committee Meeting On October 5, 2010: **1)** Update Regarding The Status Of Efforts Made By The Administration To Encourage FDOT To Re-stripe The Lanes In The Mid Beach Area Along Alton Road. **2)** Discussion Regarding An Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article III Thereof, Entitled "Litter," By Amending Section 46-92 To Clarify And Provide For Additional Prohibitions And Definitions For Litter With Regard To Leaf Blowers And Yard Maintenance Debris, And Clarifying Penalties For Certain Litter Violations; Providing For Repealer; Severability; Codification; And An Effective Date. **3)** Discussion Regarding Stalled Construction Projects And Code Violations. **4)** Consideration Of A Public Art Project By The Artist Tobias Rehberger To Be Commissioned For Placement In South Pointe Park, As Recommended By The Art In Public Places Committee. **5)** Discussion Regarding The Renaming Of The Handball Courts At Flamingo Park To Richard Bower, Mayor Bower's Late Husband.

ACTION:

Item No. 1:

The committee (Commissioners Libbin and Góngora present) moved to direct staff to move forward with working with FDOT to re-stripe and widen those parking lanes on Alton Road from Michigan Avenue to 63rd Street that do not meet the minimum required width of seven (7) feet, at the cost of FDOT. **(Vote 2-0)**

City Clerk's Note: Fred Beckmann to handle.

Item No. 2:

The committee (Commissioners Libbin and Góngora present) moved the proposed ordinance amendment forward to the next meeting of the full City Commission. **(Vote 2-0)**

City Clerk's Note: See Agenda Item R5E.

Item No. 3:

The committee (Commissioners Libbin and Góngora present) moved to refer this discussion to the Land Use and Development Committee, adding it to that committee's discussion on bonding for future projects. **(Vote 2-0)**

City Clerk's Note: Richard Lorber to place on the agenda. Jorge Gomez to handle.

Item No. 4:

The committee (Commissioners Libbin and Góngora present) moved to recommend moving the project forward for now and requested a briefing in more detail regarding the project and the artist, asked that the Administration return to the NCAC in November to provide ideas for what to do with the off-leash area for dogs during construction, as well as a detailed report to the Commission as a whole regarding all the other issues/problems at the park with timelines and objectives for correcting the problems. **(Vote 2-0)**

City Clerk's Note: Max Sklar to handle. Referred to the NCAC the issue of what to do with the off-leash area for dogs during construction. Randi MacBride to place on the committee agenda. Kevin Smith to handle.

Item No. 5:

The committee (Commissioners Libbin and Góngora present) moved to direct Legal to craft language to amend the naming ordinance to remove certain components of parks from the referendum requirement and return to the NCAC with that recommended language. **(Vote 2-0)**

City Clerk's Note: Legal Department to handle. Randi MacBride to place on a future NCAC

agenda.

01:23:08 p.m.

C6C Report Of The Land Use And Development Committee Meeting On October 25, 2010: **1)** Discussion Regarding A Request From The GLBT Committee To Allow Extended Hours Of Operation Of Certain Nightlife Venues During Four Major GLBT Tourism And Fundraising Weekends – Winter Party, White Party, Gay Pride And Aqua Girl. **2)** Discussion On The Issuance Of A Request For Proposal (RFP) To Conduct A Study For The Development Of A City-Wide Transportation And Parking Plan.

COMMISSION ACTION:

No action taken on Item 2 since Commissioner Tobin is absent, per Mayor Bower's request.

Item 2:

Commissioner Weithorn explained the reason why she separated the item.

Jorge Gonzalez, City Manager, explained that the right approach for this might be to involve Miami-Dade County.

*Commissioner Weithorn suggested talking to Miami-Dade County and see if they give the City some ideas. **Fred Beckmann to handle.***

Jorge Gomez, Assistant City Manager, spoke.

Mayor Bower explained that since Commissioner Tobin is absent, no action will be taken.

End of Commission Action

Item No. 1:

Góngora/Tobin (vote 2-0)

Move the proposal to the full City Commission, with the extension of hours for only the White Party and Winter Party.

City Clerk's Note: Max Sklar to handle.

Item No. 2:

MOTION: Tobin/Gongora (vote 2-0)

Return in one month with additional information on how the proposal should be further developed and structured.

City Clerk's Note: Fred Beckmann to handle. Richard Lorber to place on a future agenda.

C6D Report Of The Finance And Citywide Projects Committee Meeting On October 14, 2010: **1)** Discussion Regarding An Amendment To A Resolution Regarding Assignment Of A Police Officer To The Police Athletic League (PAL). **2)** Request For Approval To Issue A Request For Proposals (RFP) To Provide Parking Cashiers/Attendants And Supervisors For The City's Parking Garages; A) Criteria For Evaluations; B) Add A Labor Peace Clause. **3)** Discussion Regarding A Proposed Lease Agreement With Miami Police Federal Credit Union, For Use Of 196 Square Feet Of Office Space Within The Miami Beach Police Department Building. **4)** Discussion Of A Request From ECOMB, Inc., For An Amendment To Its Lease. **5)** Discussion Of A Request From Miami Beach Film Society, Inc., For An Amendment To Its Lease Agreement. **6)** Discussion Regarding The Miami Beach Festival Of The Arts And Potentially Contracting With A Professional Art Festival Company To Produce The Festival For The City. **7)** Discussion Regarding Parity For Future Sidewalk Café Fee Increases. **8)** Discussion Regarding Recent Billing Of Parking Impact Fees And The Possibility Of A Moratorium Due To Present Economic Market Conditions. **9)** Discussion Of Lincoln Road/Washington Collins Median.

ACTION:

Item No. 1:

Item Deferred

City Clerk's Note: Patricia Walker to place on the committee agenda.

Item No. 2:

The Committee recommended:

- not adding a labor peace clause to the RFP
- staff to define "corporate responsibility" and bring it back to the November 3, 2010 Finance & Citywide Projects Committee meeting
- changing the weight of the evaluation criteria
- the revised RFP be brought to the November 17, 2010 Commission meeting

City Clerk's Note: RFP to be placed on Commission Agenda. Saul Frances and Gus Lopez to handle.

Item No. 3:

The Committee approved the proposed lease and recommended that the lease be brought to the full Commission.

City Clerk's Note: See October 27, 2010 Agenda item R7A.

Item No.4:

The Committee approved the proposed lease amendment and recommended that the lease be brought to the full Commission

City Clerk's Note: See October 27, 2010 Agenda item C7M.

Item No. 5:

The Committee approved the proposed lease amendment and recommended that the lease be brought to the full Commission.

City Clerk's Note: See October 27, 2010 Agenda item C7N.

City Clerk's Retrieval aid: Cinematheque

Item No. 6:

The Committee recommended not issuing a Request for Proposal (RFP), moving forward with Howard Alan Events for the 2011 Festival of the Arts, and that a report on the Festival be brought back to the May 2011 Finance & Citywide Projects Committee.

City Clerk's Note: Max Sklar to handle. Patricia Walker to place the report on the Festival on the May 2011 Agenda.

Item No. 7:

The Committee recommended the Administration continue to do research and that the item be brought back to the Finance & Citywide Projects Committee.

City Clerk's Note: Patricia Walker to place on a future Agenda.

Item No. 8:

The Committee asked the Administration to work on the following and recommended that the item be brought back to the Finance & Citywide Projects Committee meeting on December 16, or when ready:

- amending the map for parking districts
- provide suggestions for lowering the percentage paid per year
- review the full fee of \$35,000
- analyze applying a credit toward the fee for providing valet parking service
- what the revenue from the fee is used for
- balances of customer accounts

City Clerk's Note: Patricia Walker to place on the December 16 Committee Agenda.

Item NO. 9:

The Committee recommended that the item be presented at the next Beautification Committee Meeting and a report be brought back to a future Finance & Citywide Projects Committee meeting.

City Clerk's Note: John Oldenburg to place on the Beautification Committee Agenda. Patricia Walker to place on a future FCWPC meeting Agenda. Jorge Gomez to handle.

C7 - Resolutions

- C7A A Resolution Approving And Authorizing The City Manager Or His Designee To Submit Grant Applications To: 1) Miami-Dade County Homeless Trust For Funding From The Hotel/Motel And Homeless Management Information System (HMIS) Program In An Amount Not To Exceed \$40,000 For The City's Homeless Outreach Program; 2) Miami-Dade County Emergency Medical Services For Funding In An Amount Not To Exceed \$20,000 For The City's Fire Rescue Initiatives; 3) Department Of Homeland Security For Emergency Food And Shelter Funds In An Amount Not To Exceed \$20,000 For Food Vouchers And Emergency Assistance; And, 4) Approval Of A Local Agency Program Agreement With Florida Department Of Transportation (FDOT) For Funding Appropriated By The Florida Legislature In An Amount Not To Exceed \$534,000; Appropriating The Above Funds, And Matching Funds As Necessary, If Approved And Accepted By The City, And Authorizing The Execution Of All Necessary Documents Related To These Applications.
(Budget & Performance Improvement)

ACTION: Resolution 2010-27540 adopted. Patricia Walker to appropriate the funds if accepted by the City. Judy Hoanshelt to handle.

C7B A Resolution Approving And Authorizing The Mayor And City Clerk To Execute The Specifications For Precast Transformer Location Agreement With Florida Power And Light Company (FPL); And Further Granting FPL An Easement Over A Portion Of North Shore Bandshell Park For A Transformer And Underground Conduits That Will Serve The North Shore Bandshell Park And Facilities.

(Capital Improvement Projects)

ACTION: Resolution 2010-27541 adopted. Charles Carreño to handle.

C7C A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Request For Proposals (RFP) No. 49-09/10, For Benefit Consultant Services To Provide Assistance In Determining The City's Employee Benefits Program; And Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm, Gallagher Benefit Services, Inc; And Should The Administration Not Be Able To Successfully Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Negotiate With The Second-Ranked Firm, Bolton Partners, Inc.; And Further Authorizing The Mayor And Clerk To Execute An Agreement Upon Conclusion Of Successful Negotiations.

(Human Resources Department)

ACTION: Resolution 2010-27542 adopted. Ramiro Inguanzo to handle.

Handout or Reference Materials:

1. Email to Jorge Gonzalez, dated November 16, 2010 RE: RFP 49-09/10 Benefit Consultants Services Protest Letter with bid protest letter attached from Bolton Partners, Inc., dated November 15, 2010 to Mr. Gus Lopez, CPPO, Procurement Director, Re: Health Insurance Broker/Consultant Services RFP No. 49-09/10
2. Letter from Kay Moran, CEBS, Senior Consultant, Bolton Partners, Inc., dated November 15, 2010 to Mr. Gus Lopez along with letter of response to Mr. Kay Moran dated November 16, 2010 Via E-mail: KMoran@boltonpartners.com Re: Request for Proposal (RFP) No. 49-09/10, for Benefit Consultant Services to Provide Assistance in Determining the City's Employee Benefits Program (the "RFP")

C7D A Resolution Consenting To And Confirming The Appointment Of Richard G. Lorber As The Acting Director Of The Planning Department For The City Of Miami Beach.

(Human Resources)

ACTION: Resolution 2010-27543 adopted. Ramiro Inguanzo to handle.

01:28:02 p.m.

C7E A Resolution Consenting To And Confirming The Appointment Of Cynthia W. Curry As The Acting Director Of The Building Department For The City Of Miami Beach.
(Human Resources)

ACTION: Item separated by Commissioner Wolfson. Motion made by Commissioner Libbin; seconded by Commissioner Exposito; Voice-vote: 3-3; Opposed: Vice-Mayor Góngora and Commissioners Weithorn and Wolfson; Absent: Commissioner Tobin. Motion failed. Ramiro Inguanzo to handle.

Commissioner Wolfson explained the reasons why he separated the item and asked to have a discussion regarding the appointment of Ms. Curry as the Building Department Director.

Jorge Gonzalez, City Manager, explained that Ms. Curry was brought into the organization to assist at an executive level. Having a need in the Building Department, given the recent departure of the Director and Assistant Director, Ms. Curry was detached to serve in the capacity of the Acting Building Department Director. He typically seeks someone in the organization to act in the director capacity while recruiting for the position and has had acting directors in the past. Ms. Curry has been involved in local government for 30 years and is a candidate for another position within the City that has not been finalized. While the recruitment process continues for the other position there was a need to have someone guide and lead the Building Department and the changes begun by her predecessor, and Ms. Curry was willing to serve as the acting Building Department Director. The changes are focused on process improvements rather than the technical side.

The technical aspect of the Building Department, reviewing of plans, issuing of certificate of occupancy, the issuing of permits, etc, are handled by the Building Official Richard McConachie. The criticisms of this department are clear and they are working towards improvements both on the technical side through information technology and process improvements through administrative improvements. The technical review of a building plan remains unchanged. Ms. Curry is working towards making the process improvements.

Commissioner Wolfson stated that he has not seen progress in the Building Department or any actions taken to become more user friendly or receive a fair and consistent response to an inquiry. He added that he has seen small steps but no significant changes. He stated that this is not a strong move to correct the problems and he does not think it is the right choice to lead the Building Department at this time.

Jorge Gonzalez, City Manager, stated that he respectfully disagrees and feels that progress has been made.

Vice-Mayor Góngora explained that he learned about Ms. Curry's hiring in The Miami Herald. This is a very important position. He added that Ms. Curry has a very impressive resume and has worked in a number of different departments in Miami-Dade County; however, she has no Building Department experience and wonders if she is the right fit for this department. He stated that he has concerns with the appointment and the process by which the Administration hired Ms. Curry without input from the Commission.

Commissioner Weithorn stated that at a Finance and Citywide Projects Committee meeting, the committee was told that the increases in services were to cover the City's cost. She stated that the City's charge to pull permits for doing work is outrageous. The fact that the Building Department is so inefficient is not the community's fault but this Commission's fault. She added that the City Manager has done a good job in getting rid of the corruption, but she echoes the concerns expressed by her fellow Commissioners. She added that while Ms. Curry does have great public administration

experience whether or not she has the ability to make the City's costs in line with what they should be and make this department function in a way that residents and businesses deserve is a risk this Commission must consider.

Jorge Gonzalez, City Manager, stated that he can assure this Commission that Ms. Curry has the talent.

Commissioner Exposito agreed with what his fellow Commissioners expressed, and he added that he had asked the City Manager why he was hiring someone in that position that does not have building background; what the City Manager told him is that what is being discussed is that the process needs fixing, and to that extent, Ms. Curry has excellent qualities to do that, but he agrees that the Commission should have been part of the process.

Commissioner Libbin stated that the City Manager chooses who he wants to run his departments and Ms. Curry is his pick to run the Building Department. The previous Building Department Director was also an administrator and started the City down a better track to solve some of the problems. He spoke about the separation of responsibilities into two (2) roles, one of administrative activities and the other is the technical activities. The previous Building Department Director started the City on the right track. He stated that Ms. Curry should be given a chance to further the efforts based on the judgment of the City Manager and ultimate it is the responsibility of the City Manager.

Commissioner Wolfson added that the City Charter specifically states that the City Manager appoints department directors with the City Commission's consent. He added that he thinks the City Manager is one of the best Managers in the Country but thinks he could do better in the Building Department.

Discussion continued regarding separation of powers and experience in the Building Department.

Vice-Mayor Góngora stated that Ms. Curry has been in the Building Department for a month and a half and asked her what ideas she has to make the department better and how is she going to make the Building Department more efficient if her position is confirmed.

Cynthia Curry, Acting Building Director, gave a summary of her 30 years of experience in government. While in the department for the last couple of months there are process and procedure driven issues that have caused problems with the delivery of services. She added that personnel in the department are generally good personnel, but because there are no written and acknowledged policies and procedures, employees make decisions to do things their way which it is supposedly the right way. To improve the Building Department's processes and procedures she is taking up where the previous department director left off. The Watson Rice study indicated that there are no policies and procedures and the department has started this process. FIU is working on developing policies and procedures and there will be staff training involved. There are customer service issues and they are being worked on. In general, the Building Department in Miami Beach is no different than other Building Departments. A new fee structure also needs to be addressed and it causes customers service related issues. She added that the one word to talk about the Building Department is "consistency" in how policies and procedures are implemented, both in Building and Code Enforcement. Over the past two months she proudly stated that she has built great momentum; she has an excellent rapport with Mr. McConachie and she has built a good team.

Jorge Gonzalez, City Manager, added that Ms. Curry has been actively engaged in the selection process to transfer from Permits Plus to a new computer permitting system, an enterprise system, and Ms. Curry is leading the evaluation committee and doing the technical review to make sure that what the City purchases is the right tool. The person they are looking for is someone who knows how to manage these processes, which are not technical in nature.

Vice-Mayor Góngora stated that the calls he is receiving are that the Building Department is the same or worse.

Mayor Bower stated that this has never been the process and this is not the correct process.

Discussion continued regarding Ms. Curry's appointment between Mayor Bower and Commissioner Wolfson.

Mayor Bower added that if the Commission is going to be involved in selecting department directors, then they should be involved from the beginning, but it is hard for her to do it in this manner.

Commissioner Wolfson read an email from a resident and contractor, Miami Roofing System, complaining about the Building Department permitting counter and lack of customer service. He stated that he sees this as a bureaucratic process.

Commissioner Weithorn stated that the Watson Rice report is about two (2) years old and the report indicated that there were no policies and procedures in place, and two years later there are still no policies and procedures. The City is no better after two years. She added that she wants someone who has done this before. It is not fair to blame Ms. Curry. She asked the City Manager that if this Commission does not confirm Ms. Curry as the Acting Building Director because the Commission is not happy with the process, not Ms. Curry herself, does she stay as an executive assistant.

Jorge Gonzalez, City Manager, stated that is a decision to be made. He stated that the Watson Rice Report had a number of items to do and progress has been made, in fact, Ms. Curry suggested doing an interim report and have Watson Rice come back to find out what progress still needs to be made. The fact that the Building Department is or is not performing to their standards, has a lot to do with staff in this department and the people who are serviced by this department. Change is not easy, change is messy and some people do not like change. He added that the email Commissioner Wolfson read was forwarded to him and to Ms. Curry and she responded. That's what a director is supposed to do. Ms. Curry is a good manager to manage this organization and she holds staff accountable. If an employee is not living up to the standard that person will be terminated. He added that one of his responsibilities is to appoint directors and for the Commission to consent. This Commission does not want to deal in human resources. This Commission has tasked him with using his judgment to hire the right people for this organization. He has tasked Ms. Curry with this job and this responsibility and he believes she is the right person for this job; she has the ability, the qualifications, and if she didn't, he would not be recommending her for the position. They heard a lot of positive feedback when Mr. Rey was appointed Building Director and if Ms. Curry is given the chance they will hear more positive feedback.

Motion made by Commissioner Libbin; seconded by Commissioner Exposito; Voice-vote: 3-3; Opposed: Vice-Mayor Góngora and Commissioners Weithorn and Wolfson; Absent: Commissioner Tobin. Motion failed.

- C7F A Resolution Approving A First Amendment To The Use Agreement With The School Board Of Miami-Dade County, Florida, Dated October 18, 2000, Providing Parking Spaces For North Beach Elementary Faculty And Staff; Said Amendment Reducing The Number Of Parking Spaces Available For Use By The Board To 30; Approving The Next Five (5) Year Extension Of The Agreement, Commencing On July 23, 2011, And Expiring On July 22, 2016; Amending The Annual Rent Paid By The Board To The City From \$4,320.00 To \$3,150.00 (Or From \$360.00 Per Month, To \$262.50 Per Month); And Adding A New Article Entitled, "Legal Fees And Court Costs."
(Parking Department)

ACTION: Resolution 2010-27544 adopted. Saul Frances to handle.

- C7G A Resolution Approving A Preconstruction Application For Historic Ad Valorem Tax Exemption For A Single-Family Property At 2740 North Bay Road, And Authorizing The Miami-Dade County Property Appraiser's Office To Grant This Tax Exemption For The City's Portion Of Ad Valorem Property Taxes For Qualifying Improvements To The Subject Property Following Substantial Completion Of The Project And Compliance With Certain Conditions.
(Planning Department)

ACTION: Resolution 2010-27545 adopted. Richard Lorber to handle.

- C7H A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Architectural And Engineering Firms, Pursuant To Request For Qualifications (RFQ) No. 42-09/10, For Noise, Acoustic, And/Or Sound Services, On An "As-Needed Basis", For Projects In Which The Basic Construction Cost Does Not Exceed \$2 Million Or For Study Activities When The Fee For Such Professional Services Does Not Exceed \$200,000; Authorizing The Mayor And City Clerk To Execute Professional Services Agreements Upon Completion Of Successful Negotiations With The Six (6) Top-Ranked Proposers: Sieben Associates, Inc , Arpeggio Acoustic Consultant, LLC, The Audio Bug, Inc, Langan Engineering And Environmental Services, Inc, Edward Dugger + Associates, P.A., And Kinsella-Marsh Group, Inc.
(Planning Department)

ACTION: Resolution 2010-27546 adopted. Richard Lorber to handle.

- C7I A Resolution Setting A First Reading Public Hearing To Consider An Amendment To Chapter 142, "Zoning Districts And Regulations," Article II "District Regulations," Division 18 "PS Performance Standard District," Amending Section 142-693 "Permitted Uses," By Permitting Low Impact Car Washing And Auto Detailing In The CPS-2 District, When Completely Contained Within A Parking Garage Structure, And Not Visible From The Street Or Public Right-Of-Way.
(Planning Department)

ACTION: Resolution 2010-27547 adopted. R. Parcher to notice. Lilia Cardillo to place on the December 8, 2010 Commission Agenda. Richard Lorber to handle.

01:22:31 p.m.

C7J A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Request For Qualifications (RFQ) No. 48-09/10, For The Project Development And Environment Study For The West Avenue Bridge Project; And Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm, Gannett Fleming, Inc.; And Should The Administration Not Be Able To Successfully Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Negotiate With The Second-Ranked Firm, T.Y. Lin International; And Should The Administration Not Be Able To Negotiate An Agreement With The Second-Ranked Firm, Authorizing The Administration To Negotiate An Agreement With The Third-Ranked Firm, The Corradino Group, Inc.
(Public Works)

ACTION: Item separated by Commissioner Libbin. Resolution 2010-27548 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn; Voice-vote: 5-1; Opposed: Commissioner Libbin; Absent: Commissioner Tobin. Fred Beckmann to handle.

C7K A Resolution Granting And Authorizing The Mayor And City Clerk To Execute A Perpetual Utility Easement To Florida Power And Light (FPL) To Provide Electrical Service For A Feeder Vault On The Site Of The New Miami Beach Soundscape (Lincoln Park).
(Public Works)

ACTION: Resolution 2010-27549 adopted. Fred Beckmann to handle.

C7L A Resolution Approving And Authorizing The City Manager Or His Designee To Submit A Grant Application To The U.S. Department Of Housing And Urban Development (HUD) For Neighborhood Stabilization Program Round Three (NSP3) Funds In An Amount Not To Exceed \$1,475,088 For The Acquisition And Rehabilitation Of Eligible Properties For Affordable Housing For Income-Eligible Residents; Further Authorizing The Appropriation Of The Above Funds, The Incurring Of Reimbursable Pre-Award Costs; And Authorizing The Execution Of All Necessary Documents Related To This Application.
(Real Estate, Housing & Community Development)

ACTION: Resolution 2010-27550 adopted. Anna Parekh to handle.

C7M A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Amendment No. 1 To That Certain Lease Agreement By And Between The City And Mystery Park Arts Company, Inc., Dated January 13, 2010, For The 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 Amendment Providing For A Reduction In Tenant's Payment Of Monthly Additional Rent, For A Period Of Five (5) Months, Commencing On December 1, 2010, And Ending On April 30, 2011.
(Real Estate, Housing & Community Development)

ACTION: Resolution 2010-27551 adopted. Anna Parekh to handle.

10:45:56 a.m.

- C7N A Resolution Authorizing The Acceptance Of Sixty Two Thousand Five Hundred Dollars (\$62,500) Donation From The Miami Beach Arts Trust Resulting From The Proceeds Of The First Annual Miami Beach Arts Gala; And Further Appropriating Said Funds For The Creation Of A New Dedicated Cultural Grants Program Which Will Be Administered By The Cultural Arts Council Consistent With The City's Established Policies And Procedures.
(Tourism & Cultural Development)

ACTION: Item separated by Commissioner Libbin for comment. Resolution 2010-27552 adopted via Consent Agenda. Max Sklar to handle.

Commissioner Libbin recognized Bobby Goodman, Harvey Burnstein and Ray Breslin and explained that they will be making a presentation of a check to the City, which is a result of the funds raised from the Miami Beach Arts Gala program. He thanked Bob Balsam from Global Spectrum, Eric Payne, Centerplate, and the honorees Judy Drucker for Lifetime Achievement Award, Michael Tilson Thomas for Visionary Award, and Dr. Sanford L. & Dolores Ziff as Cultural Arts Champions. He also thanked the entire committee for their valuable efforts.

Ray Breslin, Miami Beach Arts Trust Chair, explained how that the Miami Beach Gala idea began as a means to raise funds and explained his involvement on the committee. He proudly presented a \$62,500 donation check to the City and thanked the Mayor and City Commission for their support.

- C7O A Resolution Approving A Contract Award, Pursuant To Invitation To Bid No. 43-09/10, For The Right-Of-Way Infrastructure Improvement Program – Neighborhood No. 13A – Star Island, Authorizing The Mayor And City Clerk To Execute An Agreement With Trans Florida Development Corp., At The Not-To-Exceed Amount Of \$696,887.45, For The Construction Of The Project, Plus Approve A Project Contingency In The Amount Of \$69,688.75 For A Grand Total Of \$766,576.20; \$563,131.54 From Funds Previously Appropriated In The Capital Budget; And Further Appropriating \$203,444.66 From Fund 429 Stormwater Projects Line Of Credit, With Such Funds To Be Repaid From Proposed Future Storm Water Bonds; Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project.
(Capital Improvement Projects)

ACTION: Resolution 2010-27553 adopted. Charles Carreño to handle.

End of Consent Agenda

REGULAR AGENDA**R2 - Competitive Bid Reports****12:47:26 p.m.**

R2A Request For Approval To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 25-09/10, For Right Of Way Infrastructure Improvement Program City Center Neighborhood #9c (Lincoln Road), Authorizing The Mayor And City Clerk To Execute An Agreement With M. Vila & Associates, Inc. In The Amount Of \$1,171,208.25, Plus Approve A Project Contingency Of Ten Percent In The Amount Of \$117,120.83, For A Total Project Amount Of \$1,288,329.08; Funding In The Amount Of \$1,171,208.25 For Construction Has Been Previously Appropriated In The City Center RDA Capital Fund 365; Funding In The Amount Of \$117,120.83 For Contingency Has Been Previously Appropriated In The City Center RDA Fund 365; Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project.
(Capital Improvement Projects)

ACTION: Request authorized. Motion made by Commissioner Libbin; seconded by Vice-Mayor Góngora; Voice vote: 5-1; Opposed: Commissioner Wolfson; Absent: Commissioner Tobin. Charles Carreño to handle.

Jorge Gonzalez, City Manager, introduced the item.

Discussion held.

Jorge Gonzalez, City Manager, explained that at the last Finance and Citywide Projects Committee, they were asked to proceed to try to reach consensus with the community. The Administration is recommending the second lowest bidder, as the Administration did not feel comfortable with the lowest bidder due to the nature of the work contemplated. M. Vila and Associates is the second lowest bidder and they are already doing much of the work in the City Center already.

Commissioner Wolfson asked if the lowest bidder was present in the audience and if they had any communications with them.

Jorge Gonzalez, City Manager, explained the Cone of Silence.

Mayor Bower asked how much work is being covered by M. Vila and Associates, as she is concerned about giving too much work to one company and not giving the same chance to new firms.

Commissioner Wolfson asked what other projects M. Vila and Associates are working on in the City.

Jorge Gonzalez, City Manager, explained that in looking at the bids, M. Vila and Associates, one year ago, was one of the new companies coming in; Horizon was a new company two or three years ago. M. Vila and Associates are doing the City Center and the area around the park, but no other work.

Motion made by Commissioner Libbin; seconded by Vice-Mayor Góngora; Voice vote: 5-1; Opposed: Commissioner Wolfson; Absent: Commissioner Tobin.

Commissioner Libbin asked the Administration to follow up on the Procurement Seminar/Public Workshop. Gus Lopez to handle.

Jorge Gonzalez, City Manager, explained that it is on the agenda of items to do.

R5 – Ordinances**11:25:16 a.m.**

R5A Alton Road Historic District Buffer Overlay

An Ordinance Amending Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts," Creating Division 8 "Alton Road - Historic District Buffer Overlay," By Including Section 142-858 "Location And Purpose," And Section 142-859 "Development Regulations,: Including Among Other Provisions Regulations On Maximum Floor Area Ratio; Maximum Building Height; Minimum Setbacks; Building Separation; Demolition Or Additions To Contributing Buildings In An Historic District; And Land Use Regulations For Location Of Retail Uses, Restaurants, Bars, Entertainment Establishments, Alcoholic Beverage Establishments And Similar Uses; Requiring Conditional Use Approval Of Such Uses In Excess Of 20,000 Sq. Ft.; And Prohibiting Alcoholic Beverage And Entertainment Establishments In Open Areas With Exceptions As Prescribed In The Ordinance.

11:00 a.m. First Reading Public Hearing.

(Planning Department)

ACTION: Title of the Ordinance read into the record. Item opened and continued to the January 19, 2011 Commission Meeting and referred in the meantime to the Land Use and Development Committee. Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Voice vote: 5-0. Absent: Commissioners Tobin and Wolfson. Lilia Cardillo to place on the Commission Agenda. Richard Lorber to place on the committee agenda and to handle.

Commissioner Weithorn stated that in her Agenda review, there is no zoning in progress; therefore, she still has questions and issues. Her preference is to send the item to the Land Use and Development Committee for review.

Mayor Bower added that she also has a lot of questions on the parking issues and the size of the buildings. She also requested a comparison of 10,000 square foot buildings next to a residential single family home. Richard Lorber to handle.

Discussion held.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 633
2. Alton Road Overlay Mailing labels

Supplemental Materials: Ordinance**11:37:38 a.m.**

R5B An Ordinance Amending Part I, Subpart B, Article IX, Related Special Acts, Of The Miami Beach City Code Entitled "Pension System For Disability And Retirement Of Members Of Police And Fire Departments"; Implementing Provisions Of The 2009-2012 Collective Bargaining Agreements Between The City And Fire Fighters Of Miami Beach, IAFF Local 1510, And Miami Beach Fraternal Order Of Police, William Nichols Lodge No. 8; Amending Section 65 Entitled "Computation Of Creditable Service; Service Record", Providing For The Purchase Of Additional Creditable Service Upon Completion Of Ten Years Of Service With The City; Amending Section 66 Entitled "Service And Disability Benefits Generally," Providing For The Inclusion Of Compensation For Certain Off Duty Services In A Member's Salary For Pension Purposes, And Providing For The Sale Of Unused Sick And/Or Vacation Time For Inclusion In A Member's Final Average Monthly Earnings, Subject To Certain Limitations; Revising The Limitation On Overtime Pay Included In Salary For Pension Purposes; Amending Section 67, Entitled "Cost-Of-Living Adjustment", Providing For An Annual Adjustment On The Anniversary Date Of A Member's Retirement Or Separation From Employment; "Amending Section 79 Entitled "Deferred Retirement Option Plan", Providing For A Maximum Drop Period Of Sixty Months And A Modified Cost Of Living Adjustment During The Drop Period; Creating A New Section 87 Entitled "Benefits For Employees Hired On Or After July 14, 2010"; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing For An Effective Date.

11:00 a.m. Second Reading Public Hearing.

(Human Resources)

(Continued from October 27, 2010)

ACTION: Public Hearing held. Ordinance 2010-3705 adopted as amended. Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn; Ballot vote: 5-1; Opposed: Commissioner Libbin; Absent: Commissioner Tobin. Ramiro Inguanzo to handle.

AmendmentChange language "*normal retirement*" to "*retirement*"**End**

Jorge Gonzalez, City Manager, introduced the item.

Ramiro Inguanzo, Human Resources Director, explained that there is a minor correction in the agreement whereby "*normal retirement*" should be replaced with "*retirement*."

Mayor Bower asked for a legal opinion.

Jose Smith, City Attorney, stated that the City Attorney's Office has opined that there is no referendum required for the adoption of this ordinance. He distributed Mr. Linn's legal opinion which clearly states that there is no such requirement.

David Miller, Outside Labor Counsel, added that a referendum would potentially expose the City to further litigation, and this could be viewed if turned down by the voters, a challenged by any member of the bargaining unit.

Mayor Bower welcomed Adonis Garcia, IAFF President.

Discussion held.

Stephen Cypen, Attorney for the Pension Board, explained that throughout the years, there were 13 referendums amending the Pension Plan, as required by the law. The Florida Statute states how the plan is to be amended. He added that in order for their opinion to be right, the court has to declare

that the Statute is unconstitutional. For the record, he explained that he has practice law for over 30 years. He reiterated that the Statute can only be amended by referendum.

Adonis Garcia, IAFF President, spoke.

Discussion continued.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 626

Supplemental Materials: Ordinance

12:04:27 p.m.

- R5C An Ordinance Amending The Miami Beach Employees' Retirement Plan; Implementing Provisions Of The 2009-2012 Collective Bargaining Agreement Between The City And The Communications Workers Of America, Local 3178 (CWA), Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. **11:10 a.m. Second Reading Public Hearing.**
(Human Resources)
(First Reading on October 27, 2010)

ACTION: Public Hearing held. Ordinance 2010-3706 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn; Ballot vote: 6-0; Absent: Commissioner Tobin. Ramiro Inguanzo to handle.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 634

12:06:20 p.m.

- R5D Use Of Consultants For Development Approval
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article 1, "In General," Section 118-6, "Use Of, And Cost Recovery For, Consultants For Applications For Development Approval," By Specifying Requirements For Reports To Be In Writing, To Be Submitted By A Specified Deadline, And For The Author Of Said Reports To Be Present At Public Hearing; Providing For Repealer; Codification; Severability; And An Effective Date. **11:30 a.m. Second Reading Public Hearing.**
(Planning Department)
(First Reading on October 27, 2010)

ACTION: Public Hearing held. Ordinance 2010-3707 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn; Ballot vote: 6-0; Absent: Commissioner Tobin. Robert Parcher to transmit to Municipal Code. Richard Lorber to handle.

Dr. Morris Sunshine suggested that written consultant reports be submitted in a timely manner, and that the consultant should be present in the hearing room when the report is being discussed and explained the reasons why the person who writes the report should be in attendance during discussion.

Discussion held.

Vice-Mayor Góngora explained that this ordinance came about because of good ideas from the residents and to strengthen the system; it is a good ordinance.

Mayor Bower asked if the 5/7 waiver can be removed.

Vice-Mayor Góngora suggested adopting the ordinance as written, and sending it back to the Land Use and Development Committee for further discussion if needed; no second offered.

Discussion continued.

Gary Held, First City Attorney explained the 5/7 provision, and added that there has to be some flexibility by the Land Use Boards to deal with these matters.

Mayor Bower asked about the written report.

Gary Held, First Assistant City Attorney, stated that the written report is a requirement that is not subject to waiver, in subsection (i), the 10-day rule is subject to waiver; and the last one is appearance at the hearing, and not everyone can appear at hearings.

Discussion continued.

Richard Lorber, Acting Planning Director, in answering Commissioner Exposito's question, explained that when issues come up regarding the study, if the board feels this is key and the consultant is not there, it would be highly unlikely that they would waive the requirement that the person has to appear.

Discussion continued.

Mayor Bower asked if the process gives the residents five days to contact an expert and counteract the report.

Discussion held.

Gary Held, First Assistant City Attorney, stated that a resident can always ask for a continuance and these are minimal standards. Citizens have now more opportunities to begin reviewing projects further in advance.

Discussion continued.

Richard Lorber, Acting Planning Director, explained the process (complete application and its requirements) to the Commission, and clarified that at times when reports are done and City consultants review, supplemental reports are made, but no time past ten days before the meeting can any supplemental reports be included. The required reports must be filed at least 45 to 60 days in advance.

Discussion continued.

Mayor Bower suggested adding the word Supplemental but no action was taken.

Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn to adopt the ordinance; Ballot vote: 6-0; Absent: Commissioner Tobin.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 634

12:20:59 p.m.

R5E An Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article III Thereof, Entitled "Litter," By Amending Section 46-92 To Clarify And Provide For Additional Prohibitions And Definitions For Litter With Regard To Leaf Blowers And Yard Maintenance Debris, And Clarifying Penalties For Certain Litter Violations; Providing For Repealer; Severability; Codification; And An Effective Date. **11:31 a.m. Second Reading Public Hearing.**
(Public Works)
(First Reading on October 27, 2010)

ACTION: Public Hearing held. Ordinance 2010-3708 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Tobin. Robert Parcher to transmit to Municipal Code. Fred Beckmann to handle.

Ward M. Wilson stated that he would like to get involved with the Committee that handles this issue and is in favor of the ordinance.

Commissioner Wolfson requested that Mr. Wilson leave his phone number with his staff and he will be happy to call him and discuss this issue with him.

Ward M. Wilson stated that maybe Commissioner Wolfson could come to his neighborhood and he can show him the proximity from leaf blowers to people's bedrooms.

Dr. Morris Sunshine suggested that the City Manager instruct City staff not to use leaf blowers when cleaning City streets and not permit Sanitation Department subcontractors to use leaf blowers either, due to their toxic fumes. He thanked Vice-Mayor Góngora for raising this issue.

Commissioner Exposito asked what kind of notices are being given to the residents and suggested sending e-mail blasts and notifying the Homeowner's Association. **Fred Beckmann to handle.**

Jorge Gonzalez, City Manager, clarified that the notices will be in magazines, MBTV 77, blast e-mails, neighborhood association's notification, and will implement warnings and/or violations to achieve compliance. **Fred Beckmann to handle.**

Commissioner Weithorn stated the concern is with flooding with the drains being clogged by the material blown into them. She agrees that there needs to be warnings but does not want to lessen that warning and maybe they need to start citing violations to people at about the first of the year. **Robert Santos-Alborna to handle.**

Vice-Mayor Góngora stated that the hours of usage are already restricted. He wanted to restrict them further but was advised against it at the Sustainability Committee meeting.

Motion made by Vice-Mayor Góngora to adopt the ordinance; seconded by Commissioner Libbin.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 634
2. Zero air Pollution (ZAP) website <http://www.zapla.org> along with resume and business card from Ward M. Wilson, Fifth to First Street Home owners & Residents Association.

12:34:01 p.m.

R5F An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, "Traffic And Vehicles," Article V, "Police Vehicle Towing," Division 2, "Permit," Section 106-213, "Application," To Reduce The Number Of Police Vehicle Towing Permits From Three To Two, Providing For Codification, Repealer, Severability And An Effective Date. **11:32 a.m. Second Reading Public Hearing.**

(Parking Department)
(First Reading on October 27, 2010)

ACTION: Public Hearing held. Ordinance 2010-3709 adopted. Motion made by Commissioner Wolfson; seconded by Commissioner Weithorn; Ballot vote: 6-0; Absent: Commissioner Tobin. Robert Parcher to transmit to Municipal Code. Saul Frances to handle.

Commissioner Wolfson stated that the light industrial district issues will be discussed at the next Land Use and Development Committee meeting.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 634

12:35:33 p.m.

R5G An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Amending Division 14, Entitled "Safety Committee," By Amending Sec. 2-176(E) To Require That One Of The Two Direct Appointments Made By The Mayor And Each City Commissioner Be Citizen Emergency Response Team (CERT) Certified; Providing For Codification, Repealer, Severability, And An Effective Date. **First Reading.**

(City Clerk's Office)

ACTION: Ordinance approved on first reading and referred to the Neighborhood/Community Affairs Committee. Motion made by Commissioner Libbin; seconded by Commissioner Wolfson; Ballot vote: 6-0; Absent: Commissioner Tobin. Second Reading and Public Hearing scheduled for December 8, 2010. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Robert Parcher to handle.

Commissioner Libbin stated that at committee a few months ago, discussion was held to find another place to keep the members of the CERT committee active, and he recommended that one of each of the two appointments made be CERT certified.

Commissioner Weithorn suggested referring back to the Neighborhood/Community Affairs Committee to discuss membership in terms of the transition.

Discussion continued.

12:43:25 p.m.

R5H An Ordinance Amending The Land Development Regulations Of The City Code By Amending Chapter 118, "Administrative And Review Procedures," Article II, "Boards," Division 5, "Board Of Adjustment," Section 118-134, "Notification Of Hearings"; Article IV, "Conditional Use Procedure," Section 118-193. "Applications For Conditional Uses"; Article VI, "Design Review Procedures"; Section 118-254, "Decision Of Design Review Board," And Section 118-257, "Deferrals, Continuances And Withdrawals," Article X, "Historic Preservation"; Section 118-563, "Review Procedure," And Section 118-591, "Historic Designation Procedure," And Article XI. "Neighborhood Conservation Districts (NCD)"; Section 118-705, "Procedures For Adoption Of Specific NCD Overlay Districts," To Expand The Public Notice Period For All Four Land Use Boards From 15 Days To 30 Days; Providing For Repealer; Codification; Severability And An Effective Date. **First Reading**
(Planning Department)

ACTION: Ordinance approved on first reading. Motion made by Commissioner Weithorn; seconded by Vice-Mayor Góngora; Ballot vote: 5-0; Absent: Commissioners Tobin and Wolfson. Second Reading and Public Hearing scheduled for December 08, 2010. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Richard Lorber to handle.

Richard Lorber, Acting Planning Director, introduced the item.

Discussion held.

4:06:49 p.m.

R5I Alcoholic Beverages And Nudity Regulations - Applicant: Leroy Griffith
An Ordinance Amending Chapter 6, "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, By Amending Sections 6-40 And 6-41 "Total Nudity And Sexual Conduct Prohibited," And "Provisions Pertaining To Establishments Permitting Partial Or Total Nudity," To Allow Establishments Licensed As Alcoholic Beverage Establishments To Offer Partial And Total Nude Adult Entertainment; Providing For Codification, Repealer, Nonseverability, And An Effective Date. **First Reading.**

(Planning Department)
(Continued from October 27, 2010)

ACTION: No motion offered.

Gary Held, First Assistant City Attorney, stated that the item before this Commission is a private application to amend Chapter VI of the City Code to allow adult entertainment establishments with total nudity to sell alcohol. Presently the City Code limits alcohol sales by adult entertainment establishments to those displaying partial nudity. In addition to limiting alcohol sales to establishments displaying partial nudity, the City Code also imposes certain restrictions such as restricting contact with performers, for example. This ordinance also seeks to revise these restrictions to allow lap dancing in partial and total nudity establishments. He introduced the following items into the record: 1. Memo from Scott Berthgold dated November 14, 2010. Mr. Berthgold was hired as a consultant to help the Legal Department to understand the issues of the proposed amendment presents; 2. Mr. Berthgold's bio; 3. a list of 28 documents which include cases, reports, studies and other related materials on which the City can rely in regulating adult entertainment establishments and protect against the adverse secondary effects that such establishments have been known and proven to cause. He provided the City Clerk with a disc containing these records. These documents were collected by Mr. Berthgold and reviewed by the City Attorney's Office. These documents establish the adverse secondary effects caused by adult entertainment establishments. Some of these documents have been reviewed by the United States Eleventh Circuit Court of Appeals in the Daytona Grand case; 4. A list of those items from the 28 documents that specifically address the issue of alcohol and nudity. Mr. Held also referred to the

memorandum from the City Manager dated October 27, 2010, mentioned by Mr. Aaronson at the last City Commission meeting concerning certain crime reporting data, otherwise known as CAD or 911 call data. Mr. Held explained that this data has been known to typically underreport crime data, as explained by the US Eleventh Circuit in the Daytona Grand case, quoting from the court's opinion. He added that this ordinance, as presently adopted, is working and introducing alcohol at adult establishments will present the same problems as that of alcohol beverage establishments reflected in the crime data, and referred to the staff report discussion reflecting the unreliability of this data.

Danny Aaronson, Esq., representing Club Madonna, responded to the presentation by Mr. Held, asserting that some of the reports Mr. Berthgold presented have been discredited. He stated that he had presented 45 studies showing that alcohol in adult entertainment does not cause adverse secondary effect. He added that most of the studies presented by Mr. Held are very old. He explained why Club Madonna is different from other clubs.

Gary Held, First Assistant City Attorney, added that studies criticized by Mr. Aaronson were accepted by the US Eleventh Circuit, which is the controlling court in this jurisdiction, and made other remarks in rebuttal.

Richard Lorber, Planning Director, spoke.

Leroy Griffith, owner Club Madonna, spoke.

Commissioner Libbin stated that if there is alcohol and nudity going on in violation of the law, the Administration should look into it and everyone should be treated fairly.

Discussion continued.

Richard Lorber, Planning Director, explained that the City Code permits alcohol with partial nudity.

No motion offered.

Gary Held, First Assistant City Attorney stated for the record that if there is no motion the application fails.

Handout or Reference Materials:

1. Memorandum from Law Office of Scott D. Bergthold, P.L. L. C., to Gary Held, First Assistant City Attorney, dated Nov. 14, 2010 RE: Consideration of Amendments to Miami Beach City Code, Chapter 6
2. Studies and opinions supporting regulation of alcohol at establishments displaying nudity.
3. Miami Beach, Florida, Index of Documents submitted to City Commission regarding negative secondary effects of sexually oriented businesses and CD Regarding Negative Secondary Effects of Sexually Oriented Businesses.
4. Scott Bergthold Summary of Practice and Publications with List of Business Law clients
5. Letter from the desk of Luis R. Garcia, Jr., RE: Club Madonna in support.
6. Email from Gary Held to Martinez, Maria RE: Commission Agenda Item R5I, Club Madonna, alcohol plus nudity, dated November 16, 2010 with email tracking from qualityoflife@the-beach.net email dated November 15, 2010 opposing approval.
7. Email from drmwk@juno.com (Jo Manning) to Mayor Bower and City Commission RE: Agenda Item R5I
8. Email from Gary Held to Martinez, Maria RE: Commission Agenda Item R5I, Club Madonna, alcohol plus nudity, dated November 16, 2010 with email tracking from jdgross@hotmail.com (Jane Gross) dated November 16, 2010 RE: Notes on Alcohol/Full Nudity Issue to Mayor Bower and City Commission.
9. Email from Gomez, Jorge with email tracking from qualityoflife@the-beach.net dated November 15, 2010 RE: Commission Agenda Item R5I, Club Madonna, alcohol plus nudity, to Mayor Bower and Members of the City Commission.
10. Letter from Richard Finvarb dated November 15, 2010 to Mayor Bower and Members of the City Commission Re: Proposed Ordinance Amending Chapter 6 of the City Code to allow establishments licensed as alcoholic beverage establishments to offer partial and total nude adult entertainment.
11. Green folder to Bob Parcher from Club Madonna Re: R5I including Analysis of Club Madonna Issue and informative materials.

12. Ad in The Miami Herald

City Clerk's Note: See Item R5L, from the October 27, 2010 Afteraction

11:31:42 p.m.

R5J An Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 130 Off-Street Parking, Article II "Districts; Requirements," Section 130-31 "Parking Districts Established," Creating A New Parking District No. 5, And Section 130-33 "Off-Street Parking Requirements For Parking Districts Nos. 2, 3 And 4," By Adding New Parking Regulations For Parking District No. 5, For Properties With A Lot Line On Alton Road From 5th Street To Dade Boulevard, Including A Reduction In Off-Street Parking Requirements For Certain Land Uses And Bicycle Parking Requirements; Providing For Codification; Repealer; Severability; And An Effective Date. **First Reading**
(Planning Department)

ACTION: Item deferred to the January 19, 2011 Commission Meeting and referred to the Land Use and Development Committee. Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Voice vote: 5-0; Absent: Commissioners Tobin and Wolfson. Lilia Cardillo to place on the Commission Agenda. Richard Lorber to place on the committee agenda and to handle.

Discussion held.

Commissioner Weithorn wants this item to go to the Land Use and Development Committee first and the Planning Board after.

Discussion continued.

Mark Needle stated that the only danger to open and continue this item is the FAR issue, and if it would create zoning in progress.

Jorge Gomez, Assistant City Manager, explained.

R7 - Resolutions**10:55:27 a.m.**

R7A A Resolution [Granting Or Denying] An Appeal Request By The Euroamerican Group Pertaining To A Decision Of The Design Review Board, Pursuant To Miami Beach City Code Section 118-262, For The Property Located At 31 Venetian Way (DRB File No. 22347) **10:20 a.m. Public Hearing**
(Planning Department)

ACTION: Public Hearing held. Resolution No. 2010-27554 adopted denying the appeal. Motion made by Vice-Mayor Góngora to deny the appeal; seconded by Commissioner Weithorn; Voice-vote: 5-0; Absent: Commissioners Tobin and Wolfson. Richard Lorber to handle.

Jorge Gonzalez, City Manager, introduced the item.

Jose Smith, City Attorney, explained the standard of review and added that this is an appeal from an order entered by the Design Review Board (DRB) involving an application to redevelop property in the Venetian Islands. The standard of review for the Commission as judges is to determine whether the actions of the DRB comported with standard of due process, which means whether the applicant was afforded reasonable notice and an opportunity to be heard; however, this is not in question today. What is in question is 1) whether the decision of the DRB observed the essential requirements of the law, and if the correct legal principles of the law were applied, and 2) whether the decision of the DRB is supported by substantial competent evidence. He explained that this is not a new hearing, but a case bound by the record in the DRB proceedings, and Counsel for the applicant will have an opportunity to present the argument, staff will respond and the Commission shall make the decision whether to approve or deny.

Gary Held, First Assistant City Attorney, commented that although this is advertised as a public hearing, only the appellant and their representatives as well as representative on behalf of the City will be allowed to speak.

Neisen Kasdin, Esq., representing Euroamerican Group, explained the reasons for the appeal and summarized that the facts are opposed to the conclusion reached in the Planning staff report used by DRB in rendering its decision since the buildings across the street are higher, therefore, the rules are not being applied fairly. The Planning staff report was founded to be generally consistent with all criteria in the City's ordinance, except for one criterion which is not in the City Code, which was used to justify further reduction on the height of the building from five stories to four. In this instance, the facts are beyond dispute, that it has been applied unfairly and not uniformly. He showed an aerial rendering of the building and added that since there are no factual bases for the determination of the DRB and there is no criterion in the Code regarding the height reduction, and since all neighboring properties are much higher, they ask that the Commission reverse the decision of the DRB and remand or modify the order to provide that the fifth story on the east building be permitted as it was applied for.

Gary Held, First Assistant City Attorney, explained that due process, the essential requirements of law, and competent substantial evidence were provided. The Appellant cites the City of Tampa case, but Miami Beach regulations are different than those applicable in other cities. The Miami Beach City Code, Section 118.254 provides that: *The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations...* The DRB by imposing these conditions acted in accordance with the applicable law, the City Code, and thus complied with the essential requirements of the law. He

added that staff recommendations based on accompanied materials on the record, is competent substantial evidence supporting the decision. He referenced to similar cases of appeals in other municipalities and added that similarly situated buildings are primarily on the South side of Belle Isle, where the high-rise buildings are located, and the North side of Belle Isle is the low scale neighborhood, into which this project had to be placed. He gave an overview of the staff report in Page 455 and stated that it is competent substantial evidence for the imposition of the condition on which the DRB based its decision.

Neisen Kasdin, Esq., made his rebuttal case by stating that height is not established in the City Code. The section of the City Code read by Mr. Held does not mention anything about height, in fact, the underlying height allows five stories, and in fact taller buildings have been allowed in that same zoning district on that side of the causeway as well as across the street and asked that the fifth floor be restored.

Discussion held.

Motion made by Vice-Mayor Góngora to deny the appeal, and explained that although Mr. Kasdin made an excellent presentation, he believes the applicant received due process, the DRB complied with the essential requirements of the law acting with adequate authority and that there was substantial competent evidence for their decision; seconded by Commissioner Weithorn; Voice-vote: 5-0; Absent: Commissioners Tobin and Wolfson.

Commissioner Libbin asked Legal, for the record, if the decision made was appropriate based on the criteria.

Jose Smith, City Attorney, explained that the motion is appropriate and is in compliance with the discretion and authority as an appellate body, and there is competent substantial evidence in the record and the DRB complied with the essential requirements of the law.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 635

12:38:44 p.m.

R7B A Resolution Approving, Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And Syanna, LLC. (Tenant), For The Lease Of Approximately 2216 Square Feet Of City Owned Property, Located At 22 Washington Avenue, Miami Beach, Florida, For The Purpose Of An Outdoor Café Associated With The Restaurant To Be Operated By The Tenant At 816 Commerce Street, Which Is Directly Adjacent To And West Of The Subject City Property; Said Lease Having An Initial Term Of Five Years, With An Option To Renew For Four Years And 364 Days, At The City's Sole Discretion; Further Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code. **11:40 a.m. First and Only Public Hearing.**

(Real Estate, Housing & Community Development)

ACTION: First and Only Public Hearing held. Resolution No. 2010-27555 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Weithorn; Voice vote: 6-0; Absent: Commissioner Tobin. Anna Parekh to handle.

Hilda Fernandez, Assistant City Manager, introduced the item.

Morris Sunshine spoke.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 636

10:52:44 a.m.

- R7C A Resolution Setting The Dates For The Year 2011 City Commission Meetings. **Joint City Commission Redevelopment Agency.**
(City Clerk's Office)

ACTION: Item heard in conjunction with RDA item 1A. Resolution No. 2010-27556 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Weithorn; Voice vote: 5-0; Absent: Commissioners Tobin and Wolfson. Robert Parcher to handle.

12:46:03 p.m.

- R7D A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Invitation To Bid (ITB) No. 40-09/10, For The Construction Of The Sunset Harbour Parking Garage And Retail Project; And Authorizing The Mayor And City Clerk To Execute An Agreement With Boran Craig Barber Engel Construction Company, Inc. (BCBE), In The Not-To-Exceed Amount Of \$9,267,556.00, For The Construction Of The Project, Plus Approve A Project Contingency In The Amount Of \$926,755.60 (For A Grand Total Of \$10,194,311.60), And Execution Subject To And Contingent Upon Satisfaction Of The Following Conditions: 1.) Proceeds Of The Bond Financing For The Garage Being Available To The City; 2.) Occurrence Of The "Second Closing" For The Remaining Property Being Acquired By The City For Assembly Of The Land To Develop/Construct The Project; And 3.) Concurrent With The "Second Closing," Execution Of An Agreement Between The City And The Developer/Owner Of The Retail Portion Of The Project For Set Aside Of The Developer's Contribution; And Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project.
(Capital Improvement Projects)

ACTION: Resolution No. 2010-27557 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Exposito; Voice vote: 5-0; Absent: Commissioners Tobin and Wolfson. Charles Carreño to handle.

Jorge Gonzalez, City Manager, explained the item.

10:59:49 a.m.

- R7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A New Sovereignty Submerged Land Lease (BOT File No. 130765469) For The Miami Beach Marina By And Among The City And The Miami Beach Redevelopment Agency (RDA), As Lessee, And The Board Of The Internal Improvement Trust Fund Of The State Of Florida, As Lessor. **Joint City Commission Redevelopment Agency.**
(City Attorney's Office)

ACTION: Item heard in conjunction with RDA item 1B. Resolution No. 2010-27558 adopted. Motion made by Vice-Mayor Góngora; seconded by Commissioner Exposito; Voice vote: 5-0; Absent: Commissioners Tobin and Wolfson. Legal Department to handle.

4:03:23 p.m.

R7F A Resolution Approving The Settlement Agreement Between Nancy Bona, Mary Michel, And Robert And Rita Swedroe, And The City Of Miami Beach, And Authorizing The Mayor And City Clerk To Execute A Settlement Agreement, 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: Title of the resolution read into the record. Resolution No. 2010-27559 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Exposito; Voice vote: 6-0; Absent: Commissioner Tobin. Legal Department to handle.

Gary Held, First Assistant City Attorney, stated that the proposed settlement is the lawsuit brought by four homeowners in the Altos Del Mar area fronting on the beach, adjacent to the North Beach Recreation Corridor completed last year. The claims that the homeowners made were that the corridor impaired their riparian rights, which are the rights all waterfront homeowners have; rights of view; rights of access; rights of navigation. They also claimed that the corridor itself, just a pathway on the sand to provide access and to protect the dunes from erosion, was a taking of their property. The corridor was built on State-owned beachfront land. Mediation was ordered by the court and it was agreed at mediation that a proposed settlement will be taken to the City Commission, which addresses the issue of the connection between their properties and the corridor. This is of minimal cost to the City and provides for other agreed monitoring of activities on the corridor, so that it does not adversely affect the homeowners. The City Attorney and the City Manager recommend the approval of the agreement.

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.
(City Clerk's Office)

ACTION: The following appointments were made:

Gay, Lesbian, Bisexual, and Transgender (GLBT):

Ivan G. Cano	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/31/17
Jorge Richa	Term ending 12/31/11	Appointed by Mayor Bower	TL 12/31/17

Health Advisory Committee:

*Kathryn Abbate CEO MB Beach Community Health Center City Commission Appointment

*** Re-instated**

Rachel Schuster	(ACLF) Term ending 12/31/12	City Commission Appointment	TL12/31/15
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Hispanic Affairs Committee:

*Antonio Purriños	Term ending 12/31/10	Appointed by Commissioner Wolfson	TL 12/31/16
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*** Appointment Effective 01/01/2011**

Police Citizens Relations Committee:

*Steven Oppenheimer	Term ending 12/31/12	Appointed by Commissioner Wolfson
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TL12/31/17

Appointment effective 01/01/2011

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

ACTION: No appointments made.

ADDENDUM:

12:55:59 p.m.

R9A2 Nominate Rachel Schuster To The Health Advisory Board.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Motion made by Vice-Mayor Góngora to nominate Rachel Schuster to the Health Advisory Board. Appointed by acclamation.

12:55:33 p.m.

R9B1 Dr. Stanley Sutnick Citizen's Forum. (12:30 p.m.)

ACTION: No speakers.

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

ACTION: Not reached.

Approximately 3:00 p.m.

R9C The Committee Of The Whole Will Meet During Lunch Recess Of The November 17, 2010 City Commission Meeting At The City Manager's Office Large Conference Room To Discuss The Audit Committee.

(Budget & Performance Improvement)

ACTION: Discussion held.

FINANCE & CITYWIDE PROJECTS COMMITTEE REFERRAL:

Vice-Mayor Góngora suggested sending the findings by the external auditors as contained in the report to those charged with governance dated 9/30/2009 pages 627-675 of the November 17, 2010 agenda to the Finance and Citywide Projects committee regarding all items done incorrectly.

Patricia Walker to place in the committee agenda and to handle.

Jorge Gonzalez, City Manager, introduced the item by providing the background for this meeting. Previously it was recommended by the Finance and Citywide Projects Committee to utilize the Committee of the Whole as the City's Audit Committee. This committee would meet twice a year. Once in the first quarter, whereby the results of Internal Audit's prior reports could be discussed along with the current audit plan. The second meeting to be held in the third quarter to meet with the external auditors to discuss their final reports along with an interim report on the internal audit findings to date. Due to the difficulties of scheduling these meeting last year, this meeting covers items from both meetings. The next meeting is planned for the later this fiscal year.

Patricia Walker, Chief Financial Officer, introduced Mr. Donovan McGladrey from McGladrey & Pullen, LLC. She added that this is the external auditing firm contracted to audit the City's financial statements.

Mr. Donovan McGladrey gave background information on the procedures and stated that the City is required by Florida Statute to have audits performed. He explained that this audit report is included in the City's Comprehensive Annual Financial Report (CAFR). The audit includes auditing Federal and State grants. The audit is executed by looking at items in a quantitative and qualitative form.

Patricia Walker, Chief Financial Officer, stated that the City's Comprehensive Annual Financial Report (CAFR) is required for bond requirements disclosures and the City has one year to file the CAFR.

Mr. Donovan McGladrey stated that the City adopted Government Accounting Standards Board Statement (GASB) No 49 and also (GASB) No. 54. He added that the City of Miami Beach is the only City in the State of Florida that has adopted GASB No. 54, as suggested by Commissioner Weithorn.

Patricia Walker, Chief Financial Officer, explained that, in plain language, the GASB No. 54 makes the "different buckets" of money consistent from one balance sheet to another. She also thanked Commissioner Weithorn for helping them implement GASB No. 54 for the first time and added that next time it will be easier.

Discussion continued.

Patricia Walker, Chief Financial Officer, stated that there are no significant transactions because all transactions had supporting language.

Commissioner Weithorn explained Adjusting Journal Entries (AJE) and explained that they are necessary to account for items coming in late. It does not mean that anything is wrong.

Commissioner Libbin stated that everything looks good but that they need to focus on the Oversights. See page 658 of the Commission Agenda. He had a question on page 659 in reference to "Questionable Costs: Undeterminable." He is concerned as to how much grant monies will the City have to give back and if this is a risk.

Mr. Donovan McGladrey explained that this report goes to the State and two things happen; 1) the Management Response is evaluated and 2) they will see the corrections. If not corrected, the following year, then the State will follow up.

Commissioner Libbin asked about the missing Environment Report and that it cannot be corrected.

Vice-Mayor Góngora suggested sending the findings by the external auditors as contained in the report to those charged with governance dated 9/30/2009 pages 627-675 of the November 17, 2010 agenda to the Finance and Citywide Projects committee all items done incorrectly. **Patricia Walker to place in the committee agenda and to handle.**

Commissioner Weithorn agreed and added that the Administration needs to work on the response.

Commissioner Libbin referred to page 673 of the City Commission Agenda, Self Insurance Fund deficit and asked for Mr. Gladrey's opinion and if the city should be alarmed.

Jorge Gonzalez, City Manager, explained that this fund is accounted over the years and historically there has been a deficit. He added that they were making progress and then the economy hit them.

Mr. Donovan McGladrey explained that investments supporting this liability took a hit.

Commissioner Libbin asked if 1) is it normal to have a deficit and 2) is the \$9 million a little more than normal.

Mr. Donovan McGladrey answered "yes" to both questions.

Kathie Brooks, Budget and Performance Improvement Department Director, added that there was a \$2 million increase in the budget this year to offset this deficit.

Patricia Walker, Chief Financial Officer, added that the claims are evaluated by the Actuary Board.

Jose Smith, City Attorney, explained that several of the claims were with the City for over five years and they were all settled at the same time.

Commissioner Libbin asked about the single audit in Housing.

Hilda Fernandez, Assistant City Manager, explained that the findings for 2008 are expected to clear in 2009, the audits need to assess that the 2009 findings will be cleared next year. She explained that for the 2007 findings, Housing and Urban Development (HUD) has been notified and they have reviewed them and that the same will be done for the 09 findings.

Commissioner Weithorn explained that the repeat findings are due to the audit report coming in at the end of the year. In this case, since they came at the beginning of the year the City should be able to clear them and there will not be repeated findings.

Hilda Fernandez, Assistant City Manager, explained that the issue of no Environmental Clearance is due to the fact that it was not done timely, but there was an Environmental Clearance after the report.

Commissioner Libbin referred to page 623, Resort Tax Audits 229. He asked how many more audits could have been performed and still be cost effective.

Jim Sutter, Internal Auditor, stated that out of 686 businesses, they audited 229 or about 1/3 of them. They do 1/3 each year and go for the "high risk factors."

Commissioner Weithorn explained that Internal Auditing uses the "risk based approval method." It means that they look at the highest risk factors first.

Jim Sutter, Internal Auditor, stated that they audit all new establishments. They audit every three years looking back three years. There is the possibility that some of the new establishments no longer exist.

Commissioner Exposito asked if they found a pattern of errors, and where are the errors occurring.

Jorge Gonzalez, City Manager, stated that the Department of Revenue is the "cross check" on these matters.

Discussion continued on the composition of the bond debt.

Commissioner Weithorn thanked Jim Sutter for all the reports.

Discussion continued on the FY 2010/11 Internal Audit plan and which areas were scheduled to be audited. Reference was made to Exhibit 2 "Audit Areas" attachment to the Committee of the Whole Memorandum provided for this meeting. Those areas highlighted under "Last Audit" column are subject to audit for the current year.

Kathie Brooks, Budget and Performance Improvement Department Director, explained that the “risk area departments” are audited. For example, the Parking Department is monitored continually in addition to the audits. Also audited are the Building Department, the Recreation Departments, and the warehouse.

Patricia Walker, Chief Financial Officer, added that for the Information Technology Department, they hire experts to review fire walls, security, internal controls, etc.

Commissioner Libbin asked about the P-cards.

Mr. Donovan McGladrey stated that the use of P-cards is very common. The use is established for certain item by certain employees in certain places and for a certain amount. They did not find anything wrong in this area.

Patricia Walker, Chief Financial Officer, explained that the P-cards are tied to specific vendors and purchase orders, they are basically preapproved. She added that the Finance Department uses P-cards to make payments for two reasons; 1) it eliminates producing checks, and 2) the City receives a rebate. Since the vendors that are being paid by P-cards have to pay a 3 % charge to the bank, the bank shares that amount with the City. Last year’s rebate was \$148,000.

Commissioner Weithorn asked if the vendors that the Finance Department pays via P-card have been preapproved by the Procurement Department.

Patricia Walker, Chief Financial Officer, stated that “yes”, they have vendor approval first. She also explained that the statement from the credit card company has to be signed by the authorizing person and each charged is backed up with the signed receipt.

Commissioner Weithorn asked if there have been P-card abuses and how have they been handled.

Patricia Walker, Chief Financial Officer, stated that there has not been many, maybe a handful for the entire time they have been using the P-card. She stated there is disciplinary action depending on the amount and frequency of the abuse. Sometimes, it can be an honest mistake in using the card and the person can reimburse the City.

Meeting adjourned at approximately 4:00 p.m.

12:56:29 p.m.

R9D Discussion Regarding The Shift To iPad From Printed Agenda.
(Requested by Commissioner Jorge R. Exposito)
(Deferred from October 27, 2010)

ACTION: Discussion held. **Item referred to the Finance and Citywide Projects Committee.**

Commissioner Exposito explained that in meetings with the IT Department all functionalities needed with this iPad are available, and reported that it seems like this software might make this Commission more efficient.

Mayor Bower asked budget issues regarding the iPad.

Item referred to the Finance and Citywide Projects Committee by Commissioner Exposito.

Discussion held.

Commissioner Weithorn explained that she uses this iPad in her private office, it is an adjustment but there has been a 20% decrease of delivery and paper; it is more efficient and is not that hard to learn.

Mayor Bower asked if they could get an iPad for hands-on and also asked to understand security issues.

Commissioner Exposito suggested that each Commissioner buy their own iPads and the City maintain their use, upgrades and upkeep.

01:10:06 p.m.

R9E Discussion Regarding Revenue Generating Opportunities/Miami Air Show.
(Requested by Commissioner Jorge R. Exposito)
(Deferred from October 27, 2010)

ACTION: Discussion held.

Commissioner Exposito asked the Administration to look into opportunities regarding the Miami Air Show, as it is a great revenue enhancer, including the possibility of holding seminars at the Miami Beach Convention Center. Dolores Mejia to handle.

01:13:12 p.m.

R9F Discussion And Referral To Finance And Citywide Projects Committee A Change In City Ordinance To Allow The City Of Miami Beach To Sell Police Vehicles To Other Municipalities, Instead Of Selling Them Through The Auction Process.
(Requested by Commissioner Jorge Exposito)

ACTION: Discussion held. Item referred to the Finance and Citywide Projects Committee. Patricia Walker to place on the committee agenda. Gus Lopez to handle.

Commissioner Exposito instructed the Administration to look forward into it to obtain revenues.

01:11:48 p.m.

R9G Discussion Regarding The Mega Yacht Complex.
(Requested by Commissioner Jorge R. Exposito)

ACTION: Discussion held.

Commissioner Exposito introduced the item and stated that he wants the Administration to be aware and follow up on any impacts from the Tunnel Project in regards to the Mega Yacht Complex. Fred Beckmann to handle.

01:14:16 p.m.

R9H Discussion Regarding Resolution No. 2010-27314, In Which The City Commission Voted Against Supporting The Miami Dolphins' Initiative To Get Public Funding For Their Stadium.
(Requested by Commissioner Jonah Wolfson)

ACTION: Item deferred.

01:14:45 p.m.**ADDENDUM:**

R9I Discussion Regarding Veterans Day Parade And Picnic 2011.
(Requested by Commissioner Jerry Libbin)

ACTION: Discussion held. Item referred to Finance & Citywide Projects Committee. Motion made by Vice-Mayor Góngora; seconded by Commissioner Libbin; Voice-vote: 6-0; Absent: Commissioner Tobin. Patricia Walker to place on the committee agenda. **Max Sklar to handle.**

Commissioner Libbin introduced the item. He added that he would like to see if the Commission would support the idea to celebrate Veterans Day Parade as a City event in the future.

Discussion held.

Commissioner Libbin asked for the cost for the 4th of July celebration.

Hilda Fernandez, Assistant City Manager, explained how the 4th of July funds are obtained; the City raises sponsorship to reduce allocation and \$25,000 is for fireworks. The actual cost paid is over \$78,000.

Commissioner Libbin explained that funding for the Veterans Day Parade event would be significantly lower than the 4th of July event, perhaps \$20,000.

Discussion continued regarding funding and cost to the City.

Mayor Bower stated that the Art Deco Weekend Parade takes intense effort, and she recognized Commissioner Libbin for doing a yeoman's job this year organizing the Veterans Day Parade, but it is costly and also takes time from staff.

Discussion continued.

Motion made by Vice-Mayor Góngora to refer the item for discussion to the Neighborhood/Community Affairs Committee. No second offered.

Discussion held.

Mayor Bower requested to refer the item to the Finance & Citywide Projects Committee to see how it will work financially and bring back to Commission. Motion made by Vice-Mayor Góngora to refer the item to Finance and Citywide Projects Committee; seconded by Commissioner Libbin.

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:

Nancy J. Bona, Mary Michel, Robert M. Swedroe, Rita Swedroe And Altos Del Mar Realty Corp. V. City Of Miami Beach Eleventh Judicial Circuit Court, General Jurisdiction Division Case No. 07-32876 CA 21

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission On November 17, 2010 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: Jorge Exposito, Michael Gongora, Jerry Libbin, Ed Tobin, Deede Weithorn, And Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Gary Held, And Senior Assistant City Attorney Aleksandr Boksner.

ACTION: Attorney-Client session announced and held.

Handout or Reference Materials:

1. Memorandum to Mayor Matti Herrera Bower and Members of the City Commission, City Manager Jorge Gonzalez, from City Attorney, Jose Smith, RE: Attorney-Client Session dated November 17, 2010.

10:51:18 a.m.

Jose Smith, City Attorney, read at the beginning of Commission Meeting:

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 pending litigation:

Nancy J. Bona, Mary Michel, Robert M. Swedroe, Rita Swedroe And Altos Del Mar Realty Corp. V. City Of Miami Beach
Eleventh Judicial Circuit Court, General Jurisdiction Division
Case No. 07-32876 CA 21

Therefore, a private closed Attorney-Client session will be held during the lunch recess of the City Commission on November 17, 2010 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. The Mayor will announce the commencement of the attorney-client session at the appropriate time.

02:12:51 p.m.

Mayor Bower read into the record before recess of Commission Meeting:

The Attorney-Client session shall commence and will be held between p.m. and approximately 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: Jorge Exposito, Michael Góngora, Jerry Libbin, Ed Tobin, Deede Weithorn, and Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Gary Held, and Senior Assistant City Attorney Aleksandr Boksner regarding the following case:

Nancy J. Bona, Mary Michel, Robert M. Swedroe, Rita Swedroe And Altos Del
Mar Realty Corp. V. City Of Miami Beach
Eleventh Judicial Circuit Court, General Jurisdiction Division
Case No. 07-32876 CA 21

4:03:14 p.m.

Mayor Bower read into the record when Commission reconvenes after recess:

The City Commission meeting is hereby re-opened.

The Attorney-Client session announced at the beginning of the recess has terminated.

Reports and Informational Items

Reports and Informational Items (see LTC #302-2010)

End of Regular Agenda

Miami Beach Redevelopment Agency

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

November 17, 2010

Chairperson of the Board Matti Herrera Bower

Member of the Board Jorge Exposito

Member of the Board Michael Góngora

Member of the Board Jerry Libbin

Member of the Board Edward L. Tobin Absent

Member of the Board Deede Weithorn

Member of the Board Jonah Wolfson Absent

Executive Director Jorge M. Gonzalez

Assistant Director Jorge Gomez

General Counsel Jose Smith

Secretary Robert E. Parcher Absent

Assistant City Clerk Maria E. Martinez

AGENDA

10:52:44 a.m.

1. NEW BUSINESS

- A A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (RDA), Setting The Dates For The Year 2011 Redevelopment Agency Meetings. **Joint City Commission Redevelopment Agency.**

ACTION: Item heard in conjunction with Item R7C. Resolution No. 574-2010 adopted. Motion made by Board Member Libbin; seconded by Board Member Weithorn; Voice vote: 5-0; Absent: Board Members Tobin and Wolfson. Robert Parcher to handle.

- B A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (RDA), Approving And Authorizing The Chairperson And Members To Execute A New Sovereignty Submerged Land Lease (BOT File No. 130765469) For The Miami Beach Marina By And Among The City And The Miami Beach Redevelopment Agency (RDA), As Lessee, And The Board Of The Internal Improvement Trust Fund Of The State Of Florida, As Lessor. **Joint City Commission Redevelopment Agency.**

(City Attorney's Office)

ACTION: Item heard in conjunction with Item R7E. Resolution No. 575-2010 adopted. Motion made by Board Member Libbin; seconded by Board Member Góngora; Voice vote: 5-0; Absent: Board Members Tobin and Wolfson. Legal Department to handle.

End of RDA Agenda

Meeting adjourned at 4:44:32 p.m.