



# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: April 11, 2012

SUBJECT: **REPORT OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON TUESDAY, MARCH 27, 2012.**

A meeting of the Neighborhood/Community Affairs Committee was scheduled for Tuesday, March 27, 2012 at 3:00 pm and was held in the City Manager's Large Conference Room, 4<sup>th</sup> Floor of City Hall. **Commissioners in attendance:** Mayor Matti Herrera Bower (*arrived at 3:53 pm / departed at 5:00 pm*), Commissioner Jerry Libbin, and Commissioner Jonah Wolfson. Members from the Administration and the public were also in attendance. Please see the attached sign-in sheet.

### THE MEETING OPENED AT 3:37 PM.

#### 1. STATUS UPDATE REGARDING SUNRISE PLAZA AND BEACHWALK. (3:38 PM)

Public Works Department Director Fred Beckmann explained that the Sunrise Plaza project is on schedule to be operational by August.

Carla Probus spoke.

Mr. Beckmann explained that Phase I of the Beachwalk Project is the construction from the park at Third Street to South Pointe Drive, and the second phase is from Fifth Street to South Pointe Drive. The first phase is moving forward and the target is to be in construction in January 2013. Phase II of this project has an issue with finalizing easements with the upland property owners. Discussions continue with the upland property owners and there is hope that these issues will be resolved in the next 30 to 60 days.

Carla Probus spoke.

**ACTION:** The Committee made no motion, this was a status report.

#### 2. DISCUSSION REGARDING REGULATING THE SPEED OF SEGWAYS IN PEDESTRIAN AREAS. (3:40 PM)

Commissioner Libbin shared a recent conversation he had with an owner of a Segway rental company that is in favor of requiring a limit on the speed of the Segways.

Assistant City Manager Hilda M. Fernandez explained that, in the interest of safety and in response to recurring complaints from residents, as well as observations regarding the use of Segways on the City's Beachwalks, Baywalks, Cutwalks, sidewalks, and interior park pathways, the Administration recommends a two-prong approach to addressing the issue of Segway speeds and use in the City. As a first step, and in the interest of safety due to the proliferation of Segway users

that could endanger and disrupt pedestrian traffic on sidewalks and other pedestrian pathways, the Administration recommends that the City Commission adopt an Ordinance regulating the maximum speed of rental Segways operating in the City to six (6) MPH (the lowest factory setting currently available on Segways).

She suggested that the City Code be amended to require that each Business Tax Receipt (BTR) holder currently providing Segway rentals in the City provide documentation to the City certifying that each Segway used for rental purposes has been pre-set to a maximum speed of six (6) MPH as a condition of obtaining a BTR. It is also recommended that the new Segway regulations be enforced through the City's Code Compliance Division. To facilitate with educating the business community, if the new regulations are adopted, the City would provide all licensed businesses on Miami Beach currently providing Segway rentals and tours with copies of such regulations. In addition, in response to concerns with the use of Segways in interior pathways of South Pointe Park and Collins Park, it is recommended that Segway use not be permitted in interior pathways of South Pointe Park and Collins Park.

Ms. Fernandez added that once the above regulations have been adopted, the City Administration will evaluate if regulating the maximum speed of Segways on sidewalks and pedestrian pathways is an effective safety measure, or if further action is necessary. Such actions may include imposing additional regulations on the use of Segways, such as restricting the use of Segways on certain pathways, etc., during peak periods of pedestrian activity. City staff will be engaging in an analysis of pedestrian use of the Beachwalk, Baywalk, Cutwalk, Lincoln Road and the west sidewalk of Ocean Drive to determine when peak pedestrian use occurs.

Ms. Fernandez explained that recently the Florida Legislature passed House Bill 599 which amended §316.2068 of the Florida Statutes, which authorizes municipalities to regulate the operation of electric personal assistive mobility devices on any road, street, or bicycle path under its jurisdiction if the governing body of the municipality determines that such regulation is necessary in the interest of safety. The recently passed law will become effective on July 1, 2012 and allows municipalities to regulate, but not prohibit, such devices on sidewalks, which wasn't previously allowed.

Commissioner Wolfson made a motion to ask Legal staff to draft an ordinance to limit the speed of approximately 4-6mph. Commission Libbin stated that he likes the idea of considering regulating the hours to avoid the times when there is a heavy use by pedestrians.

City Attorney Jose Smith added that the concerns raised are not only the speed of the Segways but also the reckless driving and large groups of them riding together. Ms. Fernandez stated that a suggestion has been made to limit the size of tour groups. Commissioner Wolfson stated he did not believe that could be regulated.

Commissioner Wolfson asked Mr. Smith how Lincoln Road is classified or defined (ie: sidewalk, mall etc.) and based on that, would there be a way to prohibit Segways on Lincoln Road. He asked Mr. Smith to research that as a possibility.

Frank Fiorentino spoke.

John Hopwood spoke.

Paul Janas spoke.

Ms. Fernandez explained that when these rental companies apply for their BTR they are required to submit insurance that meets our Risk Management standards. She believes that standard can be increased and the City should be requesting and requiring a release of liability. State law does not require a driver's license to rent a Segway. While there is no state law regarding a minimum age,

there is a requirement that Segway operators under age 16 must wear a helmet. Ms. Fernandez suggested that Debora Turner, First Assistant City Attorney, look at whether the City may regulate a minimum age for rental.

Paul Janas spoke.

Commissioner Libbin recapped that Commissioner Wolfson made the motion to move forward with requiring that Segways available for rental in the City be set at a maximum speed between 4-6 MPH (with certification of such provided by the BTR holder/rental company) to which Commissioner Libbin seconded that motion. Ms. Fernandez asked if the prohibition of the use of Segways in interior paths at South Pointe Park and Collins Park should be included. Commissioner Libbin agreed.

Public Works Director Fred Beckmann suggested limiting the speed to six (6) MPH initially and that the speed could be further lowered if necessary in the future.

**ACTION:** The Committee (Commissioners Libbin and Wolfson present) moved to have an ordinance drafted and presented to the full City Commission requiring that Segways available for rental in the City be set at a maximum speed between 4-6 MPH (with certification of such provided by the BTR holder/rental company) and prohibition of the use of Segways in interior paths at South Pointe Park and Collins Park.

**3. DISCUSSION REGARDING LICENSING AND AUTHORIZATION REQUIREMENTS FOR MOBILE FOOD TRUCKS AND PROPOSAL FOR A CITY SPONSORED FOOD TRUCK FESTIVAL. (4:35 PM)**

There was no discussion, item was deferred.

**ACTION:** Discussion deferred to a future meeting of the Neighborhood/Community Affairs Committee.

**4. FOLLOW-UP DISCUSSION REGARDING POTENTIAL POLICIES FOR THE NOMINATION/NUMBER OF MONUMENTS OR MEMORIAL PLAQUES. (5:00 PM)**

Commissioner Libbin suggested that any requests be required to be sponsored by a Commissioner and still limited to one recommendation per elected term. Requests from the public would need to have a Commissioner sponsor their request.

Deputy City Attorney Raul Aguila confirmed that what is being asked is that when the naming ordinance amendment is done, it is done so that any request for naming has to be sponsored by an elected official. Commissioner Libbin confirmed and added that requests such as the naming of the street as in item 8 of this agenda is different.

Commissioner Wolfson made the motion to limit the requests to one per elected term. Motion was seconded by Commissioner Libbin. Mr. Aguila asked if that should apply to the State requests also as these requests need Commission approval by resolution in order to do it on a state road or state facility. Commissioners Libbin and Wolfson and Mr. Aguila concurred that state requests would not count toward the per Commissioner limit of one recommendation per term.

Commissioner Libbin stated that the motion here is to limit the Mayor and Commissioners to one recommendation per elected term of office. This means that the public will not be able to come forward with a request; they must find a sponsor for their request and the sponsor must be a

Commissioner or the Mayor. Commissioner Libbin suggested, since the public will no longer be able to make a request, the language requiring the requestor pay for the memorial or plaque they are requesting should be removed. Ms. Fernandez suggested not removing the language as it may end up being quite costly. Commissioner Libbin asked Commissioner Wolfson if he is satisfied with having, as part of the sponsor's recommendation, their recommendation of how the project would be funded. Commissioner Wolfson agreed.

Ms. Fernandez asked if the Committee would still want a super-majority of the Commission be required for the City to fund the project. Commissioner Libbin suggested that the majority of the Commission would have to agree to the City funding the project, disagree, or modify the request. Commissioner Wolfson agreed.

**ACTION:** The Committee (Commissioners Libbin and Wolfson present) unanimously moved to recommend an amendment to require requests for monuments and memorial plaques be sponsored by an elected official, that elected officials be limited to one naming recommendation per elected term of office, that language be removed that requires someone from the public requesting the honor to pay for the project, and that project funding is to be part of the sponsor's recommendation requiring a majority vote of the Commission for funding by the City.

### **NEW BUSINESS**

#### **5. DISCUSSION REGARDING AMENDING THE CITY CODE TO PROVIDE FOR ALTERNATIVE ENFORCEMENT MEANS AND ESTABLISH A FIXED FINE SCHEDULE FOR CERTAIN PROVISIONS.**

**(5:07 PM)**

Commissioner Libbin stated that he did not think there was sufficient time today to discuss this item and that he did have some comments on the item; he thought some of the fines recommended were too high.

Assistant City Manager Hilda M. Fernandez stated this item will be back next month and may have some additional items.

**ACTION:** Item deferred to a future meeting of the Neighborhood/Community Affairs Committee.

#### **6. DISCUSSION REGARDING A DRAFT ORDINANCE THAT REGULATES PRIVATE PARKING LOTS OR FACILITIES WITH AUTOMATED PAY MACHINES.**

**(4:36 PM)**

Parking Director Saul Frances explained that a number of private parking lots and/or garages are operated with automated parking pay stations, some of which have a close resemblance to the City's parking pay stations. This has caused some confusion with the public. These users have perceived these private parking facilities to be municipal parking facilities and assumed that the penalty for non-payment or overtime parking is an \$18 citation. However, enforcement on private property for non-payment or overtime parking is carried out by towing the vehicle at a cost of over \$200 to the owner.

Commissioner Libbin explained that his desire is to ensure that it is made very clear to the public what they are dealing with and what they should expect.

City Attorney Jose Smith explained that the state allows property owners to tow vehicles from their property. The statute also allows the City to regulate in this arena.

Mayor Bower asked if the State allows someone to tow from their property even if they pay for parking. She asked why, if the State is mute on that, the City can't regulate it.

Mr. Smith stated that if someone does not pay, they can be towed. Mayor Bower asked what if someone pays but runs out of time. Mr. Smith handed out a re-draft of the proposed amendments. Mayor Bower asked for signage to be required.

Mr. Frances suggested using gates although there is a cost involved.

Rafael Andrade, representing M and M Parking, spoke and distributed a draft of some potential signage.

Commissioner Libbin stated that Administration should work to clean up this area to ensure it is clear with signage even on the pay station itself to advise the public. Commissioner Wolfson stated he would make such a motion. He added that he would like this issue to come back to the Committee so that the proposed signage can be reviewed.

Mr. Frances suggested requiring signage at the entrance, exit and pay station. Someone in from the public suggested having the notice on the parking ticket stub itself. Commissioner Libbin agreed.

Commissioner Wolfson made a motion to have the Administration to work out the clearest possible message and to include it on the parking ticket stub and return to the Neighborhood/Community Affairs Committee. Motion seconded by Commissioner Libbin.

Mayor Bower added that she would like to see the signage show "Tow Away Zone".

**ACTION:** The Committee moved to direct Administration to work out the clearest possible message and to include it on the parking ticket stub and return to the Neighborhood/Community Affairs Committee.

**7. DISCUSSION REGARDING COMMUNICATIONS ABOUT THE PROGRESS OF PROJECTS AND CONSTRUCTION TO THE LOCAL RESIDENTS.**

There was no discussion, item was deferred.

**ACTION:** Discussion deferred to a future meeting of the Neighborhood/Community Affairs Committee.

**8. DISCUSSION REGARDING THE NAMING OF THE STREET CORNER AT 69<sup>TH</sup> STREET AND INDIAN CREEK, ACROSS FROM FIRE STATION 4, AFTER FIREFIGHTER LEONARD RUBIN, WHO DIED IN A FIRE AT THE CARILLON HOTEL IN MARCH OF 1962.**

**(5:05 PM)**

Commissioner Wolfson moved the item. Commissioner Libbin stated that he believes the intent of the full Commission was that this is an appropriate naming.

Fire Chief Eric Yuhr clarified that the street being requested is the dead-end street in front of Fire Station 4 westward from Indian Creek Drive.

Deputy City Attorney Raul Aguila stated that there is no provision in the City's Code of Ordinances (Code) for the naming of streets, except for fallen police officers. If this is something the Commission would like to do, then that section of Code can be amended to also include fallen

firefighters. Assistant City Manager Hilda M. Fernandez stated that the section of Code that would need amending is 82-503(d).

Commissioner Libbin asked to refer a request to amend Section 82-503(d) of the City Code to add firefighters fallen in the line of duty with the expressed sentiment that this Committee is in full support of the naming of the street after Firefighter Leonard Rubin. Ms. Fernandez explained that the Code amendment would go to first reading and then the naming request in honor of Mr. Rubin would go to the full Commission at the same time as the Code amendment goes for second reading.

**ACTION:** The Committee unanimously moved the recommendation to amend City Code section 82-503(d) to add firefighters fallen in the line of duty and recommend naming the street after fallen Firefighter Leonard Rubin.

**9. DISCUSSION REGARDING TWO PROPOSALS FOR CHARTER AMENDMENTS THAT WOULD STRENGTHEN THE EXISTING PROTECTIONS FOR HISTORIC PRESERVATION IN MIAMI BEACH.**

1. SHALL THE CHARTER BE AMENDED SO THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO CHAPTER 118, ARTICLE II, DIVISION 4 OF THE CITY CODE (ENTITLED, "HISTORIC PRESERVATION BOARD"), OR TO CHAPTER 118, ARTICLE X, OF THE CODE ("HISTORIC PRESERVATION"), WHICH EITHER REDUCES THE POWERS AND DUTIES OF THE BOARD, OR CREATES LESS STRINGENT HISTORIC PRESERVATION STANDARDS OR REGULATIONS, FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?
2. SHALL THE CHARTER BE AMENDED SO THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO THE LAND DEVELOPMENT REGULATIONS IN THE CITY CODE, EXCEPT FOR CITY-OWNED PROPERTY IN THE GOVERNMENT USE AND CIVIC AND CONVENTION CENTER ZONING DISTRICTS, WHICH ALLOWS INCREASED BUILDING HEIGHTS SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?

(3:56 PM)

Mayor Matti Herrera Bower explained her reason for requesting these charter amendments. Deputy City Attorney Raul Aguila recapped the history behind the desire for restricting the manner in which changes to current land use regulations can be made, to protect the City's Historic Preservation processes.

Commissioner Wolfson asked how to measure less stringent or more stringent when it comes to historic preservation.

Discussion continued regarding this measurement.

Commissioner Libbin passed the gavel and made the motion to move amendment 1 above to the full City Commission. Commissioner Wolfson seconded the motion.

Assistant City Manager Jorge Gomez stated that he would add the composition of the board to the charter amendment. Commissioner Libbin suggested holding off until a review is done of the composition.

Mayor Bower suggested establishing by ordinance that modifications to some of the categories in the composition of the board would be considered as a change that would trigger the referendum

requirements.

Commissioner Libbin suggested pulling charter amendment 2 above for now.

Nancy Liebman spoke.

Mayor Bower is most concerned with height limits in the historic districts. Commissioner Wolfson stated that if the charter amendment 2 above is to hold height limits, it should apply citywide and not exempt City-owned properties.

Commissioner Libbin stated that he is not ready to move charter amendment 2 above so discussion should return to Neighborhood/Community Affairs committee in April and reminded everyone that both are being discussed at the Land Use and Development Committee on March 28, 2012.

**ACTION:** The Committee (Commissioners Libbin and Wolfson and Mayor Bower present) moved to recommend charter amendment 1 to the full City Commission and return to committee to discuss charter amendment 2 above to the Neighborhood/Community Affairs Committee in April.

**10. DISCUSSION REGARDING CREATING A CLEAR MISSION STATEMENT FOR THE PROPOSED AD HOC TENNIS COMMITTEE.**

**(5:08 PM)**

Commissioner Libbin stated that what he believes is that the tennis folks want to do is basically what the golf folks want to do. It seems like Administration is asking why there is a need for a Tennis Committee when there is a Parks and Recreation Board while the tennis folks are wondering why there is a need for a Golf Committee when there is a Parks and Recreation Board.

Assistant City Manager Hilda M. Fernandez explained that the two golf courses are privately managed and compete in the private market. She added that having a Golf Committee instead of a sub-committee can be revisited if the Commission so wishes. Ms. Fernandez explained that the direction given by the Commission to the Administration was to come back with a mission statement for an ad hoc committee which was provided in the agenda. This committee would be created during the construction period of the facility and would sunset after completion.

Commissioner Libbin stated that is not what he recalled at Commission and asked if this that was the understanding of what the tennis advocates wanted. He did not believe they wanted an ad hoc committee that sunsets.

Discussion continued regarding the type of committee to be created.

Jonathon Groff spoke.

Commissioner Wolfson stated that he believes the best thing to do at this point is to have an ad hoc committee.

Gayle Durham spoke.

Commissioner Libbin stated that the item for discussion is regarding an ad hoc committee and explained how recommendations from Committees work.

Assistant City Manager Hilda M. Fernandez read from the minutes of the February 8, 2012 Commission meeting regarding the direction given from the Commission to the Administration.

Commissioner Wolfson made the motion to recommend approval of the mission statement and allow the tennis advocates to work with staff or make any further suggestions to add to the mission statement. Commissioner Libbin seconded the motion and added that the Committee would be for a two year period, pursuant to the discussion held by the City Commission.

Adam Shedroff spoke.

**ACTION:** The Committee (Commissioners Libbin and Wolfson present) moved the mission statement to the full City Commission allowing for the tennis advocates to work with staff or make any further suggestions to add to the mission statement.

**11. DISCUSSION REGARDING THE MIAMI BEACH STAGE DOOR THEATER AT THE BYRON CARLYLE.**

**(4:50 PM)**

Commissioner Libbin explained that the theater company is interested in going into a sub-agreement with another theater company to allow children's programming over the summer and that he has no problem with them doing this.

Dee Bunn, representing the Stage Door Theater at the Byron Carlyle, explained how the rent to be charged to the Miami Children's Theatre was determined.

Cultural Affairs and Tourism Development Director Max Sklar explained the reason for this sub-agreement being in front of the Committee is because the Stage Door Theater at the Byron Carlyle, per their agreement with the City, can only rent to a third party for sixty (60) days and this agreement will go on for more than sixty (60) days.

Commissioner Libbin stated that the intent is to have this theater be used, to bring life to the community, to have theater programs and to have children's programs. It seems that this accomplishes all of those and helps one non-profit cover the costs of their operation. He sees no down-side whatsoever but a good use of the facility.

Commissioner Wolfson moved to recommend approving the agreement. The motion was seconded by Commissioner Libbin. Mr. Sklar advised the Mayor that he would come by to brief her on the programming.

**ACTION:** The Committee (Commissioners Libbin and Wolfson present) moved to recommend approving the agreement.

**THE MEETING ADJOURNED AT 5:25 PM.**

  
JMG/HMF/SS/KT/BH/rfm



# MIAMIBEACH

## NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE MEETING

March 27, 2012

### SIGN-IN SHEET

PLEASE PRINT LEGIBLY

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# MIAMIBEACH

## NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE MEETING

March 27, 2012

### SIGN-IN SHEET

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