



MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Matti H. Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager 

DATE: March 12, 2008

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON WEDNESDAY, FEBRUARY 27, 2008.**

A meeting of the Neighborhoods/Community Affairs Committee was held on Wednesday, February 27, 2008 at 2:30 pm in the City Manager's Large Conference Room. Commissioners in attendance: Mayor Matti H. Bower, Ed Tobin, Jonah Wolfson, Jerry Libbin, Deede Weithorn, and Saul Gross. City staff in attendance: Jorge M. Gonzalez, City Manager; Hilda M. Fernandez, Assistant City Manager; Robert Middaugh, Assistant City Manager; Tim Hemstreet, Assistant City Manager; Jose Smith, City Attorney; Raul Aguila, Deputy City Attorney; Jean Olin, Special Counsel, City Attorney's Office; Vivian P. Guzmán, Neighborhood Services Department Director; Max Sklar, Cultural Affairs and Tourism Development Director; Robert Reboso, Redevelopment Specialist; Dolores Mejia, Special Project Administrator; Officer Alejandro Bello, Police Department; John Heffernan, A. C. Weinstein, Anthony Broad, Mayor and Commissioner's Office; and Randi MacBride, Neighborhood Services Department.

1. DISCUSSION REGARDING AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 2 THEREOF ENTITLED "OFFICERS, EMPLOYEES AND AGENCY MEMBERS," SECTION 2-459 "CERTAIN APPEARANCES PROHIBITED" BY ESTABLISHING POST PUBLIC SERVICE LOBBYING RESTRICTIONS FOR AGENCY MEMBERS.

Commissioner Libbin explained the reason for this amendment is to try to prevent the appearance of undue influence of committee members. Elected officials have a two-year period where we are not allowed to lobby at any level. Our ordinance currently states that a committee member cannot lobby for one year after they leave service and it only pertains to the committee they sit on. He added that the county has a two-year prohibition for employees and elected officials but is silent as far as committee members. He stated that he would like to look at expanding the prohibition of lobbying to two years for committee members. This would be a bifurcated plan with those that hold commission appointed seats being prohibited from lobbying at all levels for two years while those that are direct appointments would also be prohibited for two years but only from the committee for which they had served.

Jean Olin, Special Counsel to the City Attorney's Office, added that the rationale here is that there is some greater influence that at-large members have as opposed to directly appointed members.

Ms. Olin reminded the committee that there is an existing ordinance in the city code that prohibits all board members from lobbying the board that they had sat on.

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Commissioner Libbin added that he believes that members that are appointed by the commission have greater access and stature. He stated that his original thought was to apply this to land use boards as these are the "power boards" that people would be more likely to have the ability to use their influence.

Commissioner Gross asked what was driving this amendment. Commissioner Libbin explained he is concerned that since commission appointments have access to a lot of high-level decision making processes he would hate to see someone resign from a board to become a lobbyist and utilize that knowledge.

Commissioner Weithorn expressed her concern and stated that a referendum was approved that states any changes in the Code of Conduct which is less stringent require a vote and she wants to be sure that time is spent to think this through so there are no unintended consequences.

Commissioner Tobin stated that he has heard that it is difficult to get great volunteers because some of the more successful people in our community do not want to volunteer because it would preclude them from attending to their own business.

Commissioner Gross explained that a problem is the definition of lobbyist includes going to the Planning Department with a set of plans and asking them whether this is something that can be approved.

Ms. Olin added that under this ordinance, once the at-large member leaves their appointed board, he/she will be prohibited from directly lobbying however an associate may lobby.

Commissioner Tobin asked to defer this item to another meeting. Commissioner Weithorn again expressed her concern regarding unintended consequences. She suggested getting a group of people to look at this holistically along with other issues up for discussion.

Commissioner Libbin suggested deferring the second and third items on this agenda until a "super committee" can be formed.

Ms. Olin stated that she can legally recommend this as it does not conflict with any ethics ordinances either state, local or county.

Commissioner Wolfson made a motion to move this discussion to the commission. No vote was taken. Commissioner Libbin asked what process is being envisioned to create a task force to review these issues.

Commissioner Gross asked what brought this on and stated that he believes that one year is long enough. Mayor Bower stated this is overkill and these are all good ideas however it is going to become even more difficult to get good, qualified people on the boards.

Commissioner Libbin asked if there is a consensus to extend the lobbying prohibition for at-large board members to include all levels within the city instead of just their former board.

Commissioner Gross stated that he would be willing to pass this now with one year however he is not in favor of creating a task force to solve a problem that we do not even know exists.

Commissioner Libbin made a motion to send to the Commission a recommendation that the committee approves a one year prohibition for all commission appointed committee members from lobbying the board they were on, any other boards, the administration, or the commission. No vote taken.

Commissioner Libbin made a motion to have the administration devise a committee/taskforce format to be considered at the March 12, 2008 commission meeting and defer items 2 and 3 of this agenda to be referred for discussion at that committee yet to be created. Commissioner Tobin seconded.

Commissioner Gross stated he would still like to discuss item 2.

Initially this motion passed unanimously however during discussion of item #2 Commissioner Libbin made a motion to defer items 1-3 of this Neighborhoods/Community Affairs Committee agenda to be discussed at a special Neighborhoods/Community Affairs Committee meeting to be scheduled after the City Commission's retreat this May. Commissioner Tobin seconded.

ACTION: The committee unanimously moved to defer this item for discussion at a special meeting of the Neighborhoods/Community Affairs committee to be scheduled after the City Commission's retreat this May.

2. DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE CITY'S CAMPAIGN FINANCE LAWS.

Jean Olin explained that vendors and real estate developers are only prohibited from making campaign contributions while lobbyists for vendors and real estate developers are prohibited from making campaign contributions as well as soliciting for campaign contributions. This ordinance proposes to add the additional prohibition to vendors and real estate developers for soliciting campaign contributions that presently only applies to the lobbyists. Legally, the City Attorney's office feels this is defensible. Ms. Olin then explained the proposed amendment to the definition of "vendor" which would address the issue of non-profit vendor entities and managing agent stating that the managing agent of a non-profit entity would now be prohibited from making a campaign contribution.

Commissioner Libbin made a motion to refer this to the same committee discussed in item 1.

Mayor Bower stated that this should be discussed by the Commission.

Initially during discussion of item 1 the committee moved to defer this item to be discussed as part of the yet to be formed committee/taskforce however during the discussion of this item Commissioner Libbin made the motion to defer discussion of items 1 through 3 to a special meeting of the Neighborhoods/Community Affairs Committee to be scheduled after the May City Commission retreat. Commissioner Tobin seconded the motion.

ACTION: The committee unanimously moved to defer this item for discussion at a special meeting of the Neighborhoods/Community Affairs committee to be scheduled after the May City Commission retreat.

3. DISCUSSION REGARDING THE ISSUE OF CAMPAIGN CONTRIBUTIONS.

During discussion of item #1 the committee initially moved and seconded to defer this item to be discussed as part of a yet to be formed committee/taskforce, however during discussion of item #2 Commissioner Libbin made a motion to defer items 1-3 of this Neighborhoods/Community Affairs Committee agenda to be discussed at a special Neighborhoods/Community Affairs Committee meeting to be scheduled after the City Commission's retreat this May. Commissioner Tobin seconded.

ACTION: The committee unanimously moved to defer this item for discussion at a special meeting of the Neighborhoods/Community Affairs committee to be scheduled after the City Commission's retreat this May.

4. DISCUSSION REGARDING AN ORDINANCE AMENDING CHAPTER 10 OF THE MIAMI BEACH CITY CODE ENTITLED "ANIMALS," BY AMENDING SECTIONS 10-1 THROUGH 10-5, 10-11, 10-13, AND 10-14 TO PROVIDE FOR THE ENFORCEMENT OF VIOLATIONS OF CHAPTER 10 VIA NOTICES OF VIOLATIONS AND SPECIAL MASTER PROCEDURES; AMENDING THE DEFINITIONS, FINES, PENALTIES, AND ENFORCEMENT PROVISIONS IN CHAPTER 10; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Commissioner Libbin refreshed everyone on the history and purpose of this ordinance. He explained that this proposed ordinance was recommended to try to address a number of different issues. The overriding issue is to create the mechanism to enforce our animal laws. The way the existing ordinance was written, the complaint had to be sent to the county court. This is an attempt to look at our existing ordinance and make it enforceable via the special master process and broaden the ability to issue a code violation for animal offenses by a code officer and eventually by a security guard. He added that if these violations would go to special master or a hearing we would have to contemplate having additional dollars that the city would have to pay the security guards to defend these as well, which would be significantly less expensive than sending a police officer. This would provide the ability to enforce the ordinance and it would be the least expensive way to do so.

Debora Turner, First Assistant City Attorney, explained that sections of this chapter had not been updated for quite some time and with this proposed ordinance, the chapter will be brought up-to-date and any portion of this chapter can be brought to the special master, as would any other code enforcement issue.

Commissioner Tobin stated that he read the proposed ordinance and he is ok with it.

Mr. Derr, a resident, spoke of his concern for using private security guards. He added that anyone with a service dog should be exempt from the pooper-scooper law, not just sight-impaired and that Section 10-10 should be changed from "dogs accompanying a disabled person" to "service dogs".

Commissioner Tobin added that the amendments provide for the authority to farm out the enforcement capability; although it is not being done at this time.

Commissioner Libbin added that the reason the issue of dog behavior that was included in an earlier version of this proposed ordinance is not included now is because the city is not ready to move forward at this time and more community input is needed.

Commissioner Libbin asked how non-resident violations are to be handled. Jose Smith, City Attorney, explained that this ordinance allows for a misdemeanor arrest if someone fails to identify themselves. Beyond that, the process would be once a person is cited, special master would adjudicate that person guilty, a judgment would be reported and it is that judgment that can be enforced regardless of whether or not you live in the city. As long as someone owns non-homestead property in the state of Florida, the city can enforce that judgment in Circuit Court and actually collect. It may not be feasible to collect a \$100 fine however if you have a habitual violator this could make a point.

ACTION: The committee unanimously moved to take this item to the next meeting of the City Commission for approval and include the amendments stated regarding service dogs.

5. DISCUSSION TO DEASSESS THE "RED SEA ROAD" SCULPTURE DESIGNED BY ARTIST BARBARA NEIJNA, AS RECOMMENDED BY THE ART IN PUBLIC PLACES COMMITTEE.

Hilda M. Fernandez, Assistant City Manager, explained that the memo submitted at the meeting from the attorney for the artist was just received about one hour prior to this meeting today. The artist states that a funding source may have been identified and asked to defer this discussion to the next meeting of the Neighborhoods/Community Affairs Committee. Commissioner Tobin made the motion to defer one last time. Commissioner Libbin seconded the motion.

Max Sklar, Cultural Affairs and Tourism Development Director stated he will advise the artist and her attorney that this is the final deferral.

ACTION: The committee unanimously moved to defer this item one last time to the next meeting of the Neighborhoods/Community Affairs Committee.

6. DISCUSSION REGARDING NORTH BAY ROAD AND 23RD STREET PARK.

Kevin Smith, Parks and Recreation Department Director, explained that this item was last heard at the October 2007 meeting of this committee where the question was asked if a park could be developed at 23rd Street and North Bay Road. Staff was asked to come back with a cost analysis and that is what has been submitted.

Commissioner Tobin asked how much it would cost to put a pocket park in this location.

Mr. Smith answered that it would be approximately \$366,000 to get this to be a structurally sound facility as there is damage to the seawall that needs to be addressed.

Commissioner Gross asked if the city is already in the process of repairing the seawalls as part of a infrastructure improvement.

Mr. Gonzalez responded that there is not a lot of resources attached to it, but it is part of the G.O. Bond program; it is a small amount.

Commissioner Libbin stated that he had discussed with Public Works a concept similar to what was done in Punta Gorda, Florida, where they repaired seawalls as part of a public/private program and this may be something to look into. He also recalled that there was an assessment of the seawalls approximately ten years ago around Miami Beach.

Mr. Middaugh explained that the cost list was assembled as a discussion tool, because there was no money appropriated for this project. This would allow the committee to look at the options, see if it is at all feasible and advise if staff should speak with the community about what they might want.

Commissioner Gross asked about just cleaning up the street-end and making it presentable so the neighborhood doesn't have to look at an eyesore.

Commissioner Wolfson suggested doing everything except what is included as part of the seawall.

Rhonda Gracie, the city's landscape architect, explained that there may be some DERM issues. She also stated that irrigation is needed to maintain turf and she strongly recommended that if improvements are to be done, the seawall should be repaired so as to not create an attractive

nuisance. She noted that there is a lot of undermining out there and an additional concern is that if the city should lose the seawall it does not get to reclaim that property because wherever the wall comes down is the new property line.

Mr. Gonzalez stated that although the residents were asking for a park, the city can sod it, make it nicer, protect the seawall so that no one can go out there and get into a dangerous situation and it can figure out the costs; however, it doesn't mean that this is a park. It is a street-end that is grassed and cleaned up.

Commissioner Gross asked, if the city cleaned up this street-end, is the city prepared to do the other thirty or so street-ends.

Mayor Bower stated that this street-end was damaged by construction trampling the area. Because the city hadn't really maintained it the residents got very upset. The people that she has spoken with in the area were more concerned with cleaning this property up than actually getting a park. She added that she knew the city would not have money to do all of the items on the list, however, the city should clean and maintain the property.

Commissioner Libbin made the motion to allocate up to \$50,000 to sod, add irrigation and trees with an appropriate fence to protect people from the seawall at this location and give the neighborhood the opportunity, if they want to add playground equipment, to work with Kevin Smith and pay for it. Commissioner Wolfson seconded the motion.

ACTION: The committee unanimously moved to allocate up to \$50,000 to sod, add irrigation and trees with an appropriate fence to protect people from the seawall at this location and give the neighborhood the opportunity, if they want to add playground equipment, to work with Kevin Smith, and pay for it themselves.

7. DISCUSSION REGARDING RENAMING OF THE NORTH SHORE YOUTH CENTER.

Mr. Middaugh explained that this item was discussed at the end of last year right before the election. After the process to rename the center was discussed, committee members raised the concern at that time that if you ask the voters to approve the renaming of the building and they say no, it would be uncomfortable to turn around and name an interior portion of the building after Mr. and Mrs. Fontana.

Mr. Gonzalez stated that the question is whether the committee wants to have a referendum and risk the pass/fail, or maybe secure a room within the building in the honor of the Fontana's.

Raul Aguila, Deputy City Attorney, stated that the reason this is back to the committee is to have the committee decide which direction it wants to proceed.

A discussion ensued regarding the naming options. Mr. Middaugh added that Mr. Fontana's interest was the performance room or the theater.

Commissioner Libbin made a motion to name an interior room after Joe and Flora Fontana. Commissioner Tobin asked if it was necessary for the vote of the committee be unanimous in order to refer this to the commission. Mr. Aguila advised that is correct.

There was no consensus reached so the item would not proceed.

Note: After the meeting, it was determined that the proposal did not need to be approved by a unanimous vote of the committee to proceed to the commission and that only a majority vote of

the committee is necessary, so the item will return to the next meeting of the Neighborhoods/Community Affairs Committee for a vote.

ACTION: The item will return to the next Neighborhoods/Community Affairs Committee meeting for a vote.

8. DISCUSSION REGARDING RETAIL ISSUES AND REQUEST FOR CITY SERVICES AT 73RD – 75TH STREETS AND COLLINS AVENUE.

Commissioner Libbin explained that he had a meeting with business owners in North Beach and there is a general feeling that they are treated differently and not receiving the same level of service as other areas. He stated that he wanted to allow some of the owners to express their concerns at this meeting and provide some answers as to how their concerns will be addressed.

Jay Rittenberg, owner of Surf Med Pharmacy, spoke regarding his concern with need for lighting.

Luis deJesus, from Ayuda spoke regarding his concern of the criminal element and the need for light .

Daniel Veita explained that although the area is still in need, it is progressing in the right direction.

Commissioner Tobin stated that on behalf of the commission he wanted to thank everyone for recognizing that everyone in the commission is concerned about the North Beach area. He added that he has spoken with Chief Noriega and he is doing his best to put an officer in the area.

Diana Susi from Happy Kids requested more efforts from Public Works. The sidewalks and trash receptacles are all in need of cleaning.

Commissioner Libbin added that the scooter store has told him that he feels singled out by parking enforcement as to how his vehicles are parked. He has a decorated commercial truck parked where he has pays the meter and has been cited and was advised he could not park there and would be towed in the future yet he sees others with commercial vehicles parked similarly with no action being taken.

Commissioner Tobin stated that while he was campaigning for commissioner, he had spoken with the city manager regarding the concerns of North Beach and the manager was able to list the things that the city commission, at that time, had done for North Beach as well as the money that had been spent and it was a lot. He agrees that the area is in need of cleaning and there are a lot of problems in the area. He asked the manager what can be done and how often are the sidewalks cleaned.

Mr. Gonzalez, City Manager explained that there is a cleaning cycle; however, it seems it is not often enough. He added that staff has been meeting with the folks in the area to really refocus, as maybe it is not the level of service but the frequency of service or when it is being done. Mr. Gonzalez said that he is aware that staff is working to repackage the level of service in a manner that might be more effective. There have been some positive results and what is heard is the hunger for more. He added that the city is grappling with how it can do more without throwing off the resource cost. The resources are pretty limited and the city is trying to maintain a balance. A significant amount of additional dollars would require a much longer discussion as to how to pay for that.

Commissioner Tobin asked for a proposal from administration for the next commission meeting regarding police, sidewalk cleaning and lighting for this area including the area around the fountain and Ayuda to give the commission some idea of the costs involved, what is being done and the frequency of the cleaning along with some recommendations. He also asked for a timeline as to how long some of these items will take to be addressed so that information can be shared with the business community.

Commissioner Libbin stated that instead of telling the commission what can be done, he asked that the report tell the commission what should be done and allow the commission to figure out where the resources will come from. He added that we need to get the place properly lit. Commissioner Libbin made a motion that the report should tell the commission what has to be done, what resources are needed and the timeframe. The police have already stepped up the enforcement.

Ray Breslin spoke regarding the need to react faster to graffiti and suggested the use of security cameras.

Mr. Gonzalez noted that during the budget process last year, while trying to make the necessary cuts, one of the items cut was approximately \$100,000 that was to be spent to address graffiti.

Commissioner Weithorn asked the police officers in attendance if they believe that lighting would help. Officer Blanco answered that when lighting was added to Ocean Terrace, the homeless moved along and as activity increases, the questionable activities move.

Commissioner Libbin stated that the budget is a working document and if staff sees that graffiti has become rampant then we should find the \$100,000.

Commissioner Tobin recapped Commissioner Libbin's earlier motion to have administration prepare a proposal for the commission at its March meeting regarding lighting, police, and sidewalk cleaning; include the amount being spent, what resources are needed and a timeline. Commissioner Libbin added to the motion to include an assessment of the level of graffiti on public property to be presented at the April commission meeting. Commissioner Tobin seconded.

ACTION: The committee unanimously moved to have administration prepare a proposal for the commission at its March meeting regarding lighting, police, and sidewalk cleaning; include the amount being spent, what resources are needed and a timeline. The committee also moved, unanimously to have administration provide an assessment of the level of graffiti on public property to be presented at the April commission meeting.

JMG/HMF/RFM

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