

MIAMI BEACH

Special City Commission Meeting

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

September 27, 2012

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

Interim City Manager Kathie G. Brooks
City Attorney Jose Smith
City Clerk Rafael E. Granado

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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 lobbyist 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.

Meeting called to order at 5:18:26 p.m.

SUPPLEMENTAL MATERIAL

C7D – Memorandum and Resolution

CONSENT AGENDA

ACTION: Motion made by Commissioner Libbin to approve the Consent Agenda; seconded by Commissioner Weithorn; Voice-vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson

C4 - Commission Committee Assignments

- C4A Referral To Neighborhood/Community Affairs Committee A Discussion To Enhance The Capital Project Entitled Normandy Shores Golf Course Aluminum Picket Security Fence.
(Requested by Commissioner Jerry Libbin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Fernando Vazquez to handle.**

C7 - Resolutions

C7A A Resolution Adopting And Appropriating Funds For The Fiscal Year 2012/13 Police Special Revenue Account Budget In The Amount Of \$55,000 For The Purchase Of Those Items Set Forth In Exhibit "A," And Such Account Funded By Unclaimed Evidence Currently Held In The Police Special Revenue Account.

(Police Department)

ACTION: Resolution 2012-28009 adopted. Patricia Walker to appropriate the funds. **Chief Martinez to handle.**

C7B A Resolution Adopting And Appropriating Funds For The Police Confiscation Trust Fund Budget For Fiscal Year 2012/13 In The Amount Of \$1,202,100, To Be Funded From State Confiscated Funds In The Amount Of \$1,019,300 And Federal Justice Confiscated Funds In The Amount Of \$182,800, For The Appropriation And Expenditure Of Those Items Set Forth In Exhibit "A," Which Shall Be Funded Through The Police Confiscation Trust Fund.

(Police Department)

ACTION: Resolution 2012-28010 adopted. Patricia Walker to appropriate the funds. **Chief Martinez to handle.**

C7C A Resolution Adopting And Appropriating Funds For The Fiscal Year 2012/2013 Police Training & School Resources Fund Budget In The Amount Of \$35,000.

(Police Department)

ACTION: Resolution 2012-28011 adopted. Patricia Walker to appropriate the funds. **Chief Martinez to handle.**

SUPPLEMENTAL MATERIAL: Memorandum and Resolution

C7D A Resolution Adopting And Appropriating The Third Amendment To The Police Confiscation Trust Fund Budget For Fiscal Year 2011/12 In The Amount Of \$41,692.00 To Be Funded From The Proceeds Of State Confiscated Funds.

(Police Department)

ACTION: Resolution 2012-28012 adopted. Patricia Walker to appropriate the funds. **Chief Martinez to handle.**

End of Consent Agenda

REGULAR AGENDA**R5 – Ordinances****6:04:15 p.m.**

R5A Ordinances Modifying The Building, Fire, Planning And Public Works Departments Fees Related To The Building Development Process Implemented On February 1, 2010.

(Requested by Finance & Citywide Projects Committee)

(Legislative Tracking: Building Department)

(First Reading on September 12, 2012)

1. An Ordinance Amending Section 14-61 “Permit Fees”; Section 14-62 “Building Permits”; And That Portion Of Appendix A Of The City Code By Modifying Inspection Fees For Building, Plumbing, Electrical, And Mechanical Work, And For Other Building Department Activities; Providing For Repealer, Severability, Codification, And An Effective Date. **5:05 p.m. Second Reading Public Hearing**

ACTION: Title of the ordinance read into the record. Public Hearing held. Ordinance No. 2012-3776 adopted. Motion made by Commissioner Libbin to approve the ordinance; seconded by Commissioner Tobin; Ballot vote: 6-0; Absent: Vice-Mayor Exposito. **Stephen Scott to handle.**

Kathie G. Brooks, Interim City Manager, introduced the item.

Commissioner Tobin, referring to Page 49, “residential permitting dwelling” and asked if the fees are increasing.

Jorge Gomez, Assistant City Manager, explained that this is the CPI increase approved by the Finance and Citywide Projects Committee, which is built into the ordinance and the City Commission suspended it since 2010.

Discussion held.

Commissioner Tobin stated that he was concerned with some of the fees, and he wanted the public to know that all the Commissioners were concerned about that, but that the Administration has addressed the issue.

Jorge Gomez, Assistant City Manager, stated that the concerns have been addressed, as there is a 10% limitation on the fee, and a special review is done; it is an ongoing process and will continue to be refined.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #744

6:18:37 p.m.

2. An Ordinance Amending Section 50-3 “Plans Examination, Inspections, Permits” And That Portion Of Appendix A Of The City Code By Modifying Inspection Fees For Building, Plumbing, Electrical, And Mechanical Work, And For Other Fire Department Activities; Providing For Repealer, Severability, Codification, And An Effective Date. **5:05 p.m. Second Reading Public Hearing**

ACTION: Title of the ordinance read into the record. Public Hearing held. Ordinance No. 2012-3777 adopted. Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Góngora; Ballot vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Stephen Scott to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #744

6:19:53 p.m.

3. An Ordinance Amending Section 15-40 “Refunds”; 15-42 “Adjusted Rates”; And That Portion Of Appendix A Of The City Code By Modifying Zoning Fees For Building, Plumbing, Electrical, And Mechanical Work, And For Other Planning Department Activities; Providing For Repealer, Severability, Codification, And An Effective Date. **5:05 p.m. Second Reading Public Hearing**

ACTION: Public Hearing held. Ordinance No. 2012-3778 adopted. Motion made by Commissioner Libbin to approve the ordinance; seconded by Commissioner Góngora; Ballot vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Stephen Scott to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #744

6:21:03 p.m.

4. An Ordinance Amending Section 98-94 “Refunds”; And That Portion Of Appendix A Of The City Code By Modifying Inspection Fees For Building, Plumbing, Electrical, And Mechanical Work, And For Other Public Works Department Activities; Providing For Repealer, Severability, Codification, And An Effective Date. **5:05 p.m. Second Reading Public Hearing**

ACTION: Title of the ordinance read into the record. Public Hearing held. Ordinance No. 2012-3779 adopted. Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Góngora; Ballot vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Stephen Scott to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #744

R7 - Resolutions**5:19:06 p.m.**

R7A1 A Resolution Adopting: 1) The Final Ad Valorem Millage Of 6.0909 Mills For General Operating Purposes, Which Is Eight And Four-Tenths Percent (8.4%) More Than The "Rolled-Back" Rate Of 5.6184 Mills; And 2) The Debt Service Millage Rate Of 0.2568 Mills For Fiscal Year (FY) 2012/13.

5:01 p.m. Second Reading Public Hearing

(Office of Budget & Performance Improvement)

ACTION: Title of the Resolution read into the record. Public Hearing held. Resolution 2012-28013 adopted. Motion made by Vice-Mayor Exposito; seconded by Commissioner Góngora; Voice vote: 7-0. **Kathie G. Brooks to handle.**

Kathie G. Brooks, Interim City Manager, introduced the item and showed a PowerPoint Presentation. [Click this link to access PowerPoint presentation.](#)

5:35:23 p.m.

Ms. Brooks explained that there are some fiscal challenges as they look forward to Fiscal Years 2013-2014. She mentioned the loss of the one-time pension credit being used in 2012-2013, which is \$2.2 million in the General Fund, but they have the issues of property values, and there is concern in regard to Amendment Four which is on the ballot for November, which among other things, includes a cap on commercial property, increases in assessed value for non-homesteaded property, currently at ten percent (10%) and reducing that cap to five percent (5%), and provides a credit for first time home buyers, which would be half of the market value for the home that would then be phased out over five years. That impact could be significant to the City's budget.

Ms. Brooks continued explaining that while the City is pushing for wage concessions, they are not yet negotiated, so that could be a challenge for 2013-2014, and the City does not have pension reform yet implemented. Even if there is growth in property values, reduction in millage will be a challenge because of pension costs. 2013-2014 will be the last of five years in recognizing the major market decline of fiscal year 2007-08. The Administration is recommending maintaining the surplus of \$0.8 million to be carried forward to 2013/14.

Presentation continued.

Commissioner Tobin stated that one of the services enhancements is adding twelve police officers and he explained that one of the ways the Police Department has been balancing the budget is by not filling funded positions, and using the money for other things such as overtime. He gave an overview of the statistics and explained that he does not want to fund positions in this budget if those individuals are not going to be hired. He added that crime statistics have increased during the first six months of 2012, not including the robberies in residential areas. He proposed not giving the funds for the 12 new police positions until they hire police officers to protect the City's streets.

Discussion held.

Kathie G. Brooks, Interim City Manager, explained that there are no vacancies at this moment and the twelve positions budgeted as of this year will be hired.

Discussion continued.

Chief Ray Martinez, in answering Commissioner Wolfson's questions, stated that the Police Department will hire the twelve sworn officers.

Alberto Machado spoke regarding bus benches and drilling oil impact on the beach.

Mayor Bower stated that some of the bus routes were cut, and she asked for input in regards to transportation issues.

Fred Beckmann, Public Works Director, stated that the South Beach Local continues to operate as the City approved it last year; the budget increased minimally because of the CPI, but the hours are the same. The County is making some arrangements for next year, but he does not have the details. Some improvements are underway, but there are a few that have decreased in service. As of now, he does not have the final information, but when they do, they will inform via an LTC. **Fred Beckmann to handle.**

Mayor Bower requested information on the money that comes from PTP dollars.

Mr. Beckmann explained that they are receiving the PTP funds, but there is no final decision by the County to reduce the amount that comes to the municipality. As the new municipalities come in, one of the County's intentions appears to be to reduce the funding for existing municipalities, but that has not been decided.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #726
2. Ads in the Miami Herald – Budget Summary and Notice of Proposed Tax Increase – Sunday, September 23, 2012.
3. PowerPoint presentation

5:57:03 p.m.

R7A2 A Resolution Adopting Final Budgets For The General, G.O. Debt Service, RDA Ad Valorem Taxes, Enterprise, And Internal Service Funds For Fiscal Year (FY) 2012/13. **5:01 p.m. Second Reading Public Hearing**

(Office of Budget & Performance Improvement)

ACTION: Title of the Resolution read into the record. Public Hearing held. Resolution 2012-28014 adopted as amended. Motion made by Commissioner Weithorn; seconded by Commissioner Góngora; Voice vote: 7-0. **Kathie G. Brooks to handle.**

Amendment

The \$800,000 dedicated to the 2013 Pension is to be used to pay the Unfunded Pension only
End

Commissioner Weithorn explained that she likes that the \$800,000 is going towards next year's pension; however, in the event the City Commission makes pension changes and they get to count them, can they stipulate that those funds goes to pay down the unfunded pension liabilities, so that those dollars are pension and pension only. She added that she fought for the \$800,000 to go towards something meaningful, and if the funds cannot go to residents, then she wants it to go for pension.

Kathie G. Brooks, Interim City Manager, stated that they will make additional transfer.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #726
2. Ads in the Miami Herald – Budget Summary and Notice of Proposed Tax Increase – Sunday, September 23, 2012.

5:58:39 p.m.

R7B1 A Resolution Of The Board Of Directors Of The Normandy Shores Local Government Neighborhood Improvement District Adopting The Final Ad Valorem Millage Of 1.1444 Mills For Fiscal Year (FY) 2012/13 For The Normandy Shores Local Government District, Which Is Thirteen And Seven-Tenth Percent (13.7%) More Than The "Rolled-Back" Rate Of 1.0063 Mills. **5:02 p.m. Second Reading Public Hearing**

(Office of Budget & Performance Improvement)

ACTION: Title of the Resolution read into the record. Public Hearing held. Resolution 2012-28015 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Góngora; Voice vote: 7-0. **Kathie G. Brooks to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #726

5:59:55 p.m.

R7B2 A Resolution Of The Board Of Directors Of The Normandy Shores Local Government Neighborhood Improvement District Adopting The Final Operating Budget For Fiscal Year (FY) 2012/13. **5:02 p.m. Second Reading Public Hearing**

(Office of Budget & Performance Improvement)

ACTION: Title of the Resolution read into the record. Public Hearing held. Resolution 2012-28016 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Weithorn; Voice vote: 6-0; Absent: Commissioner Wolfson. **Kathie G. Brooks to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad #726

6:01:14 p.m.

R7C A Resolution Approving The Capital Improvement Plan For Fiscal Years (FY) 2012/13-2016/17 And Appropriating The City Of Miami Beach Capital Budget For FY 2012/13. **Joint City Commission and Redevelopment Agency**

(Budget & Performance Improvement)

ACTION. Item heard in conjunction with RDA Item 1A. Resolution 2012-28017 adopted. Motion made by Commissioner Weithorn; seconded by Vice-Mayor Exposito; Voice vote: 6-0; Absent: Commissioner Wolfson. **Kathie G. Brooks to handle.**

6:07:57 p.m.

R7D A Resolution Adopting Fiscal Year (FY) 2012/13 Budgets For Special Revenue Funds For Resort Tax; The 7th Street Parking Garage Operations; The 5th & Alton Parking Garage Operations; Art In Public Places (AiPP), Tourism And Hospitality Scholarship Program, Green/Sustainability Funds, Waste Hauler Additional Services And Public Benefit Funds, Education Compact Funds, Red Light Camera Funds, And Emergency 911 Funds.
(Budget & Performance Improvement)

ACTION: Resolution 2012-28018 adopted as amended. Motion made by Commissioner Wolfson; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Vice-Mayor Exposito. **Kathie G. Brooks to handle.**

Amendment

- 1) Add language to the agreement that the facility will be made more accessible to the public
- 2) That the \$10 million be spent within Miami Beach.

End

Kathie G. Brooks, Interim City Manager, introduced the item.

Commissioner Tobin informed that he had met with Cathy Leff, Director of The Wolfsonian Museum, and she assured him, and is in the audience to confirm, that the \$10 million from Miami-Dade County will be used to make the Wolfsonian on Washington Avenue more accessible to the public. He asked the City Attorney to draft an item so that the City is assured that the \$150,000 that the City is giving for the planning, as well as the \$10 million The Wolfsonian is also receiving from Miami-Dade County is to be used to make that facility more accessible. **City Attorney's Office to handle.**

Discussion held.

Jorge Gomez, Assistant City Manager, clarified that the \$10 million capital bonds the Wolfsonian is getting from the County is to be spent in Miami Beach, and the main goal is to create (with funds from the City of Miami Beach) the facilities master plan so that they can increase the size of the public exhibition space in The Wolfsonian.

Jose Smith, City Attorney, thought that the concern expressed at Finance committee was whether the \$75,000 or \$150,000 was necessary in order to obtain the \$10 million from the County.

Commissioner Tobin explained that in corresponding with the County's Cultural Arts Department he was informed that plans are underway, and that there is \$1.7 million allocated for soft costs out of the \$10 million, so the \$150,000 is not necessary, and could come from the Wolfsonian itself. He thinks the Wolfsonian needs to be made into more of a public amenity; however, he is satisfied if there is a tight agreement in place that \$10 million will be spent on making that facility more accessible to the public.

Jose Smith, City Attorney, clarified that the two conditions the City is asking are: 1) add language to the agreement that the facility is to be more accessible to the public, and 2) that the \$10 million be spent within Miami Beach.

Discussion held.

Commissioner Libbin asked Ms. Leff if the bonds have actually been sold already.

Ms. Cathy Leff, Director, The Wolfsonian Museum, explained that the money will not be available until September 2013, so there might be funds for bonds already sold that could be used for the project. She clarified that they are eligible to apply for the funds in September 2013.

Discussion continued.

Commissioner Libbin stated that the goal in mind was to have a great project for \$10 million and helping to address sorely needed improvements in the Washington Avenue vicinity, and he hopes this project will be a catalyst to other owners on Washington Avenue to make improvements.

Ms. Leff explained that some of the money might be spent in the annex, and she did not want everyone to think it will be only spent on 10th Avenue, but the idea is to turn the 10th Avenue into a more much publicly accessible place and it will be a great catalyst for Washington Avenue.

Discussion continued.

Commissioner Weithorn asked the Administration if administrative expenses including administrative fees, if those are transferred to Internal Service Funds.

Kathie G. Brooks, Interim City Manager, explained that those are transferred to the General Fund for administrative support provided by the City Manager's Office and other departments.

Commissioner Weithorn asked about the Special Events Goodwill Ambassador for \$2.8 million.

Ms. Brooks explained that those funds are for Memorial Day, Spring Break, New Year's Eve, Fourth of July, and include staffing by police and fire, which are primarily overtime dollars, rental and/or security contracts, etc.

Commissioner Weithorn requested a detailed by event list. **Kathie G. Brooks to handle.**

6:21:58 p.m.

R7E Independent Contractor Agreements

1. A Resolution Authorizing The City Manager, On Behalf Of The City, To Enter Into Certain Independent Contractor Agreements For Professional And Other Services, As Required And As The City Manager Deems In The Best Interest Of The City, Subject To And Contingent Upon The Following Parameters: 1) The City Manager Shall Only Enter Into Contracts For Such Professional And Other Services To Provide Services And/Or Work Related To Vacant Budgeted Positions, As Identified In The City's Approved Fiscal Year (FY) 2012/2013 Annual Budget; 2) The Amount Of The Fee And/Or Other Compensation To Be Paid By The City Under Such Contract(s) Shall Not Exceed The Authorized Amount For The Respective Position/Classification, As Set Forth, Respectively, In The City's Classified Or Unclassified Salary Ordinance (As The Case May Be); 3) The Term Of Any Independent Contractor Agreement Authorized Herein Shall Not Extend Beyond The End Of FY 2012/2013 (September 30, 2013); 4) At A Minimum, The City Manager Shall Require That Any Independent Contractor Agreement Entered Into Pursuant To This Resolution Shall Utilize The City's Standard Form For Independent Contractors (As Attached To This Resolution), Provided That The City Manager May Incorporate Additional Terms, Which May Be More Stringent Than The City's Form, But Not More Lenient; And 5) Providing That The Authority Granted To The City Manager Pursuant To This Resolution Shall Be Brought To The City Commission For Renewal Annually As Part Of The Annual Operating Budget Approvals.

ACTION. Resolution 2012-28019 adopted as amended. Motion made by Commissioner Weithorn; seconded by Commissioner Góngora; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Rafael E. Granado to handle.**

Amendment

The City Commission must be notified via LTC when hiring an Independent Contractor

End

Kathie G. Brooks, interim City Manager, introduced the item.

Commissioner Weithorn asked if there is a list for the Independent Contractors positions providing professional services for vacant budgeted positions at the present time, and if there are any such Independent Contractors working at this time. She will vote against this item, as she does not know who these individuals are.

Ms. Brooks explained that the vacant positions are presently attached to the budget, on page 173, lists all the vacant positions currently, but many of them are not the ones they would fill with Independent Contractors. Generally the intent is that if there is a vacant position, it provides the authority that one may choose to fill it with an independent contractor instead of permanent individual; therefore, giving the flexibility, and this has been done for the last three years. Ms. Brooks stated that the Administration can provide a list of individual contractors.

Kathie G. Brooks to handle.

Commissioner Weithorn explained that she has no problem going forward, as long as the Administration informs the City Commission how many individual contractors are hired.

Ms. Brooks made a correction, and clarified that the grievance officer is not filling a vacant position, but is hired in the second set of specialty agreements, so at this time, there are no vacant budgeted positions that are being filled with Independent Contractors.

Discussion held.

Ms. Brooks stated that the intent is that if something comes up there is the flexibility to fill a vacancy, and she will be happy to notify via LTC when that occurs.

Commissioner Tobin stated that department heads will hire through a Temporary Employment Agency, and asked how that is controlled and who authorizes the hiring.

Kathie G. Brooks, Interim City Manager, informed that there is an existing list of authorized vendors.

Discussion continued.

6:28:19 p.m.

2. A Resolution Authorizing The City Manager, On Behalf Of The City, To Enter Into Certain Independent Contractor Agreements For The Following Services, As Required And As The City Manager Deems In The Best Interest Of The City: Dance Instruction; Ice Skating Instruction; Athletics Instruction/Coaching; Aerobics Instruction; Fitness Instruction; Literacy, Math And SAT Tutoring; Computer (IT) Services; School Liaison Officers; Resident Project Representatives (RPR); Community Information Services; Construction Cost Estimating/ Consulting Services; Television Production Services; Videographer Services; Graphic Designer Services; Program Monitor Services; Cost Allocation Service; Job Audits; Step III Disciplinary Grievance Hearing Officer; Auditors; Historical Researcher; And Latent Examiner Services; Provided Further That The City Manager Shall Be Authorized To Negotiate, Enter Into, And Execute The Aforestated Agreements Subject To The Following Minimum Parameters: 1) The Amount Of The Fee And/Or Other Compensation To Be Paid By The City Under Such Agreement(s) Shall Not Exceed The Authorized Amount For The Respective Services, As Set Forth In The City's Approved Fiscal Year (FY) 2012/2013 Annual Budget; 2) The Term Of Any Services Agreement Authorized Herein Shall Not Extend Beyond The End Of FY 2012/2013 (September 30, 2013); 3) At A Minimum, The City Manager Shall Require That Any Agreement Entered Into Pursuant To This Resolution Shall Utilize The City's Standard Form Independent Contractor Agreement (As Attached To This Resolution), Provided That The City Manager May Incorporate Additional Terms, Which May Be More Stringent Than The City's Form, But Not More Lenient; And 4) Providing That The Authority Granted To The City Manager Pursuant To This Resolution Shall Be Brought To The City Commission For Renewal Annually As Part Of The Annual Operating Budget Approvals.
(Human Resources)

ACTION. Resolution 2012-28020 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Góngora; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Rafael E. Granado to handle.**

6:28:35 p.m.

- R7F A Resolution Re-Affirming The New Living Wage Rates For Fiscal Year (FY) 2012-2013, In Accordance With The Three Year "Phase-In" Approved Pursuant To Ordinance No. 2010-3682; With Such Rates To Be Effective October 1, 2012 As Follows: \$11.28 Per Hour With Contributions Towards Health Benefits Of At Least \$1.64 Per Hour, And \$12.92 Per Hour Without Benefits.
(Procurement)

ACTION. Resolution 2012-28021 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Libbin; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Raul Aguila to handle.**

6:28:53 p.m.

- R7G A Resolution Authorizing The Appropriation Of \$1,200,000 From Fiscal Year 2012/13 People's Transportation Plan Funds And \$49,515 From Fiscal Year 2012/13 South Beach Concurrency Mitigation Funds, To Fund The Operating Budget For The South Beach Local In Miami Beach; And Further Appropriating \$275,000 From Fiscal Year 2012/13 People's Transportation Plan Funds For Administrative And Technical Operating Expenditures, As Part Of The Five Percent (5%) Allowable For Administrative Assistance And Technical Assistance.
(Public Works)

ACTION. Resolution 2012-28022 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Góngora; Voice vote; 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson Patricia Walker to appropriate the funds. **Fred Beckmann to handle.**

6:29:29 p.m.

R7H A Resolution Amending Resolution 2010-27326, Increasing The Present Fire Rescue Transport Fees From \$500.00 To \$800.00 For Basic Life Support, From \$600.00 To \$800.00 For Advanced Life Support 1, \$800.00 For Advanced Life Support 2 To Remain The Same, From \$10.00 To \$ 15.00 For Mileage Per Mile Or Fraction Thereof, Implementing New Fees Of \$175.00 For Auto Pulse Lifebands, \$100.00 For Rescue Pods, \$100.00 For Defibrillation Pads, \$100.00 For EZ-IO Needles, And \$25.00 For Calls Requiring Special Handling (I.E. Extrication, Etc.), Charging Current Fees For All Expendable Medical Supplies, With Services Not To Be Withheld Due To A Person's Inability To Pay; Amending Resolution No. 2003-25306 Which Established The Current Schedule Of User Fees For Various Parks And Recreation Programs And Services, Facility Admissions And Rentals And Other Related Activities By Modifying Specific Fees For The Daily Rental Of A Pavilion In North Shore Open Space Park From \$75.00 To \$125.00 For Residents And \$250.00 For Non-Residents; Modifying The Current Hourly Fee Charged For City Of Miami Beach Parks And Recreation Department Staff Assigned To Parties, Events And Rentals From \$25.00 To \$35.00; And Further Amending Resolution No. 2007-26594, Which Established Rental Rates For The Byron Carlyle, Colony And Little Stage (ACORN) Theaters; To Establish A \$1.00 Per Ticket Facility Surcharge And A Ticket Revenue Share Program, As Set Forth In This Resolution.

(Fire, Parks and Recreation And Tourism & Cultural Development Departments)

ACTION. Resolution 2012-28023 adopted. Motion made by Commissioner Góngora; seconded by Commissioner Libbin; Voice vote: 4-1*; Opposed: Commissioner Tobin; Absent: Vice-Mayor Exposito. **Max Sklar, Javier Otero and Kevin Smith to handle.**

6:30:00 p.m.

City Clerk's Note: *Commissioner Tobin changed his vote to "No" in opposition of the item

6:03:38 p.m.

R7I A Resolution Adopting The Miami Beach Cultural Arts Council's Fiscal Year 2012/13 Budget In The Amount Of \$1,164,000.

(Tourism & Cultural Development)

ACTION. Resolution 2012-28024 adopted. Motion made by Commissioner Góngora; seconded by Commissioner Libbin; Voice vote: 7-0.** **Max Sklar to handle.**

6:03:07 p.m.

City Clerk's Note: **Commissioner Wolfson was away from the dais during the voice-vote, but later requested to include his vote in support of items R7I and R7J

6:03:49 p.m.

R7J A Resolution Accepting The City Manager's Recommendation, And Approving The Cultural Arts Council's Funding Recommendations, And Awarding \$650,000 In Cultural Arts Grants, For Fiscal Year 2012/13, As Identified In The Attached Exhibit "A"; And Further Authorizing The Mayor And City Clerk To Execute Said Grant Agreements, And Make The Award Of Said Grant Monies Subject To And Contingent Upon The Approval Of The Cultural Arts Council's Budget For The Fiscal Year 2012/13.

(Tourism & Cultural Development)

ACTION. Resolution 2012-28025 adopted. Motion made by Commissioner Libbin; seconded by Vice-Mayor Exposito; Voice vote: 7-0^{**}; Absent: Commissioner Wolfson. **Max Sklar to handle.**

6:03:07 p.m.

City Clerk's Note: ^{**}Commissioner Wolfson was away from the dais during the voice-vote, but later requested to include his vote in support of items R7I and R7J

6:02:17 p.m.

R7K A Resolution Adopting And Approving The Miami Beach Visitor And Convention Authority (MBVCA) FY 2012/13 Budget, In The Amount Of \$2,594,692.

(Tourism & Cultural Development)

ACTION. Resolution 2012-28026 adopted. Motion made by Commissioner Góngora; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Commissioner Wolfson. **Max Sklar and Grisette Roque to handle.**

R7L A Resolution Approving An Allocation, In The Amount Of \$585,501, From FY 12/13 General Fund Account No. 011.0930; Said Allocation To Be Provided And Utilized By The Friends Of The Bass Museum, Inc., For The Purpose Of Continuing To Fund And Provide Certain Operating Expenses At The Bass Museum Of Art, Through September 30, 2013; And Further Authorizing The City Manager To Execute A New Letter Agreement With The Friends Of The Bass Museum, Inc. Memorializing The Parties' Respective Obligations With Regard To Certain Management And Operation Responsibilities Of The Bass Museum Through September 30, 2013.

(Tourism & Cultural Development)

ACTION. Resolution 2012-28027 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Góngora; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Max Sklar to handle.**

6:29:56 p.m.

R7M A Resolution Authorizing A Loan In An Aggregate Principal Amount Not To Exceed \$50,000,000 Outstanding At Any Time From JPMorgan Chase Bank, N.A., To Pay Costs Of Capital Projects; Authorizing The Execution And Delivery Of A Loan Agreement And Promissory Notes To Evidence The Obligation Of The City To Repay Such Loan; Providing Security For The Repayment Of The Loan; Authorizing Other Actions In Connection With The Loan And The Financing Program; And Providing For An Effective Date.

(Finance Department)

ACTION. Resolution 2012-28028 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Góngora; Voice vote: 5-0; Absent: Vice-Mayor Tobin and Commissioner Wolfson. **Patricia Walker to handle.**

R9 - New Business and Commission Requests

6:55:18 p.m.

R9A Discussion Regarding Update On The Negotiations With Former City Manager Jorge Gonzalez.
(City Attorney's Office)

ACTION: Discussion held. **Item deferred to the October 24, 2012 Commission Meeting.**

Mayor Bower introduced the item regarding the negotiation with former City Manager, Jorge Gonzalez, and explained that they have not been able to reach an agreement, so she disclosed that they are going to arbitration.

Commissioner Tobin asked for a status of the negotiations.

Jose Smith, City Attorney, explained that he met with Jorge Gonzalez four or five times. Mr. Smith feels strongly about his position and Jorge Gonzalez feels strongly about his position. Mr. Smith stated that the \$420,000 number is a reasonable number. Mr. Smith recommended it before and is recommending it again. There was an issue involving the cost of the one year worth of pension that the City Manager believes he is entitled to as part of aggregate compensation. Jorge Gonzalez believes that the number is \$150,000. Mr. Smith believes that the number is zero.

Discussion continued.

Mr. Smith continued explaining that the argument is that if Jorge Gonzalez had been allowed to stay an extra year, as his contract provided, Jorge Gonzalez would have secured one more year of pensionable credit to him. Reduced to present value, and it depends what numbers are used, but roughly after speaking with the Pension Board, that number came to about \$150,000 over Mr. Gonzalez's lifetime. Mr. Smith's position, after consultation with outside counsel, and having spoken to the Pension Board is that they do not believe Mr. Gonzalez is entitled to that one year worth of credit. It is a basically what Mr. Smith calls "a roll of the dice." Either Mr. Gonzalez is right or the City is right; we both cannot be right on that issue, so in order to avoid the uncertainty and the cost of litigating that issue and putting the matter to rest, Mr. Smith came to an understanding with Jorge Gonzalez, the former City Manager, and prepared a term sheet that allows for the sum of \$35,000 as that piece of the claim in order to resolve that one issue. Mr. Smith believes that is a reasonable amount and that saves the City money, because they would not have to spend that amount of money in litigation, and it would avoid uncertainty. The former City Manager also has asked for additional health care insurance through May, and that is part of the conversation that they had, and that is about \$2,000 a month.

Commissioner Tobin would like to know what the City Attorney thinks Jorge Gonzalez is entitled to.

Jose Smith, City Attorney, explained that as part of the aggregate compensation package Jorge Gonzalez gets one year's worth of health insurance, and Mr. Gonzalez is asking for additional insurance from now through May.

Discussion continued.

Jose Smith, City Attorney, explained that originally Jorge Gonzalez was asking for \$62,000, equivalent to the City's ARC payment for Gonzalez's pension for the one year, and when that was rejected by the City, Mr. Gonzalez then raised the number from \$62,000 to \$150,000. Mr. Gonzalez believes that it is a viable claim based on the fact that it is the present value of one year's worth of pension credit.

Commissioner Tobin suggested having outside counsel do this arbitration, if they are going to go to arbitration.

Discussion continued.

Commissioner Libbin stated that all he wants is to understand the numbers. Right now, if the City Commission agreed that the number originally believed by Legal should have been \$389,000, and the City Manager's number was \$501,000, and \$420,000 was negotiated, what is additional to that is \$35,000, which Mr. Gonzalez has agreed to. Commissioner Libbin asked if it was fiscally prudent to arbitrate over \$51,000, when legal fees, and outside counsel and miscellaneous at minimum is about \$25,000 to \$30,000, which is not reimbursable no matter who wins. He asked for this Commission to make a business decision insofar as how much the City could lose and gain.

Discussion continued.

Commissioner Tobin asked if this is everything, since he heard that Jorge was asking for two parking stickers for life.

Jose Smith, City Attorney, stated that he was listing some of the larger terms; however, Jorge Gonzalez also wants to buy his car for \$15,000, he wants his laptop and iPad at \$250 each, and Mr. Gonzalez is requesting one citywide parking decal for life, and Mr. Gonzalez would cooperate with any litigation or other pending matters.

Commissioner Tobin requested to see Jorge Gonzalez's demand in writing, and asked if Jorge Gonzalez has given the City Attorney a demand letter. Jose Smith, City Attorney, stated that he has not received anything in writing, and most probably will not.

Commissioner Weithorn stated that she is not comfortable with making the decision with two of their colleagues missing. She suggested bringing the item back in October.

Commissioner Góngora asked if there is a will towards a settlement.

Mayor Bower recognized the Commission for discussing this item in a respectful matter.

Commissioner Tobin explained that previously he had asked the former City Manager by email how much money he earned, because a lot of people were saying that Jorge Gonzalez made close to \$500,000; and Jorge Gonzalez responded to him via email stating that with all the benefits he earned about \$300,000. So for Jorge Gonzalez to now, six months or a year later, claim that he is so confident that he earned half a million dollars a year, when Jorge Gonzalez told him in writing that he makes \$300,000 a year, it bothers Commissioner Tobin.

Mayor Bower asked about those items that are "buy back" such as the laptop and the iPad; and added that what is important to her is how much they are giving him bottom line.

Jose Smith, City Attorney, summed it up by saying that it is \$420,000, minus \$15,500 which pays for the car, laptop and iPad, which is \$405,000, then the City pays him \$35,000, so the total amount owed is \$440,000 plus insurance.

Mayor Bower stated that then the total amount he is asking for is \$440,000, plus \$2,000 for six additional months for the insurance.

Commissioner Tobin explained that he also sent Jorge Gonzalez an email when they separated ways, and told him that he did not think it was right for Mr. Gonzalez to accept and take the trip to Europe on the City's money, and he told Jorge Gonzalez that he should reimburse the City.

Commissioner Góngora recognized the inconsistencies pointed out by Commissioner Tobin, but stated that at this point it is in the best interest of the City that they move forward, and decide to make a deal in the next month, and leave this issue in the past moving forward focusing on hiring the new City Manager, and making Miami Beach better by getting past this issue. He asked if they want to continue discussing this and try to make a settlement in the best interest of the City or just talk about it?

There was consensus to bring back the item to the October 24, 2012 Commission Agenda.

End of Regular Agenda

Miami Beach Redevelopment Agency

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

September 27, 2012

Chairperson of the Board Matti Herrera Bower

Member of the Board Jorge Exposito Absent

Member of the Board Michael Góngora

Member of the Board Jerry Libbin

Member of the Board Edward L. Tobin

Member of the Board Deede Weithorn

Member of the Board Jonah Wolfson Absent

Interim Executive Director Kathie G. Brooks

Assistant Director Jorge Gomez

General Counsel Jose Smith

Secretary Rafael E. Granado

AGENDA

1. NEW BUSINESS

6:32:16 p.m.

- A A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency, Adopting And Appropriating The Miami Beach Redevelopment Agency Capital Budget For Fiscal Year (FY) 2012/13 And Adopting The Capital Improvement Plan For 2012/13 Through 2016/17. **Joint City Commission and Redevelopment Agency**
(Budget & Performance Improvement)

ACTION: Item heard in conjunction with Item R7C. Resolution 587-2012 adopted. Motion made by Board Member Góngora; seconded by Board Member Libbin; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. Patricia Walker to appropriate the funds. **Anna Parekh to handle.**

RECOMMENDATION

- Mayor Bower stated that the item is approved but, with respect to the Euclid Avenue street end project, it needs to come back to Commission.
- Commissioner Góngora stated that, with respect to the Euclid Avenue street end project, it needs to come back when the funds are allocated.
- Commissioner Tobin stated that he discussed with Administration about a year ago, the possibility of adding pavers on Lincoln Lane and even maybe close the street at night for pedestrians use. This should be considered when they discuss Lincoln Road.

End

Commissioner Tobin requested Administration to look into the amount of money spent on the Anchor Garage. It looked like the amount of money spent to operate it was close to 70%, and he asked that Administration look at the expenses to see why the operating budget is so high for that property to manage a garage. On another item, he is aware that the City has \$416,000 expenditure in reserves to improve Euclid Avenue on Lincoln Road, in front of Mel Schlessler's building. He does not necessarily oppose it, but they believe the method by which they determine to spend this \$416,000, plus annual maintenance needs to be re-evaluated. There are many things on Lincoln Road that need to be addressed, more police officers, some sort of shade structure to provide shade during the summer months; he just does not think that Euclid Avenue project may merit this expenditure. He favors not doing an assessment on Lincoln Road. The City Commission should get together and decide the best way to spend the

money, as he does not think that there has been an opportunity to look at Lincoln Road holistically.

Discussion held.

Commissioner Weithorn stated that this issue was discussed at Finance and Citywide Projects Committee, and they recommended putting a place holder there, but at no time could the Administration move forward, unless this was discussed further.

Discussion continued.

Commissioner Góngora explained that this was also discussed at Land Use and Development Committee, and the recommendation was to open this area up from Flamingo Park Neighborhood as a Gateway to Lincoln Road.

Commissioner Libbin requested a list of RDA eligible items.

Discussion continued.

Commissioner Libbin stated that it is fair to say, and should be acknowledged, that Mel Schlessler is putting up over \$100,000 of his own money and is also managing the project out of his own pocket; to make something happen for the betterment of the property.

Discussion held.

6:40:41 p.m.

Commissioner Tobin suggested approving the item with the proviso that the money is not spent until the City Commission is well informed. **Kathie G. Brooks to handle.**

Jorge Gomez, Assistant City Manager, stated that when the project is shown to the Design Review Board they can bring back to the Commission to ratify the construction.

Commissioner Tobin wants to know if there are other things needed on Lincoln Road, and he knows that Mel and Mr. Gomez have discussed this, but he does not know if that is the way they want to spend funds and maintenance on Lincoln Road.

Discussion continued regarding improvements and enhancements possible on Lincoln Road.

Jorge Gomez, Assistant City Manager, explained that there is a program identified called the Lincoln Road Street Connect, with \$10 million earmarked for that but the funding has not been programmed yet.

Discussion continued.

Jorge Gomez, Assistant City Manager, explained the process that was held and explained that there were discussions held at committees for over a year.

Discussion continued.

Mayor Bower stated that the item is passed but it needs to come back.

Commissioner Góngora stated that it needs to come back when the funds are allocated.

Commissioner Tobin stated that he discussed with Administration about a year ago, the possibility of adding pavers on Lincoln Lane and even closing the street at night for pedestrians use. This should be considered when they discuss Lincoln Road.

6:48:08 p.m.

B A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency Adopting And Appropriating The Operating Budget For The City Center Redevelopment Area, The Anchor Shops And Parking Garage And The Pennsylvania Avenue Shops And Parking Garage For Fiscal Year 2012/13.

(Budget & Performance Improvement)

ACTION. Resolution 588-2012 adopted. Motion made by Board Member Góngora; seconded by Board Member Libbin; Voice vote: 5-0; Absent: Vice-Mayor Exposito and Commissioner Wolfson. **Anna Parekh to handle.**

RECOMMENDATION

Staff to review, analyze and provide findings of capital moneys spent in the Anchor Garage for equipment replacements via an LTC

No capital dollars will be spent until detailed information is provided

End

Saul Frances, Parking Department Director, explained that in the anchor garage capital 2012/2013, there is a little over \$86,000 for AC replacements, \$357,000 for elevator replacements and \$95,000 for roof replacement, for a total of approximately \$545,000.

Discussion held.

Commissioner Tobin explained that it is tough to do the figures on the floor, and requested that the Parking Director provide the capital moneys spent in the Anchor Garage for the AC, roof and elevator replacements in writing.

Commissioner Weithorn would like to know the last time the roof, elevators or air conditioners was replaced, and suggested approving the item with the understanding that they provide this information in writing.

Commissioner Tobin requested staff to look at the RDA moneys spent, analyze it, and attach a summary with a front page stating that staff has reviewed it.

Commissioner Weithorn made a motion to approve the item, with the understanding that no capital dollars be spent until the LTC is transmitted with the analysis and review of moneys spent. **Anna Parekh to handle.**

6:50:24 p.m.

Kathie G. Brooks, Interim City Manager, thanked Mayor Bower and the City Commission for their hard work and efforts in adopting this year's budget. In addition, she thanked her Assistant City Managers, Department Directors, Patricia Walker, who stepped in to coordinate this through, and especially those who bring the budget to fruition on a daily basis from the staff. She recognized and thanked them all.

Mayor Bower expressed her gratitude to Ms. Brooks and her staff, as well as her colleagues.

Ms. Brooks also thanked the City Attorney's Office for their support.

Commissioner Weithorn expressed gratitude, on behalf of the City Commission, to Ms. Brooks for her dedication and hard work, and to her colleagues for attending meetings and discussing budget issues, and thanked Kathy as well for providing them with that forum.

Commissioner Góngora thanked the Administration for making the budget easy for him to understand. He also thanked Commissioners Tobin and Weithorn.

Commissioner Tobin thanked Ms. Brooks for a great job and for the good job done by staff.

End of RDA Agenda