



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: Kathie G. Brooks, Interim City Manager

DATE: November 14, 2012

SUBJECT: **REPORT OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE HELD ON MONDAY, OCTOBER 15, 2012.**

A meeting of the Neighborhood/Community Affairs Committee was scheduled for Monday, October 15, 2012 at 3:00 pm and was held in the City Manager's Large Conference Room, 4th Floor of City Hall. **Commissioners in attendance:** Commissioners Jerry Libbin, Jorge Exposito and Jonah Wolfson (arrived at 4:50pm). Members from the Administration and the public were also in attendance. Please see the attached sign-in sheet.

THE MEETING OPENED AT 4:35 PM.

1. **Discussion Regarding Landscape Encroachments in Single Family Neighborhoods. (5:15 PM)**

Public Works Department Director Fred Beckmann explained the process for handling complaints regarding encroachments and that, as a matter of policy, the City has enforced encroachments on public right of ways on a complaint-driven basis. He also reviewed how the City handles encroachments when they are determined to interfere with a City capital project.

Alan Fishman spoke.

Commissioner Libbin asked why this item is on the agenda if the issue for Mr. Fishman has been resolved. Chief Deputy City Attorney Raul Aguila responded that it may have been originally referred to address Mr. Fishman's problem, which is now resolved and that there is no recommendation for policy changes at this time.

Commissioner Exposito stated that at some point, residents must take responsibility to maintain what they plant and it may include trimming it back on a regular basis to prevent encroachment into the right of way. He asked if a routine neighborhood round could be coordinated by the City or Code. Code Compliance Division Director Robert Santos-Alborná replied that in the case of Mr. Fishman, a courtesy notice was issued due to a complaint received and reiterated that current policy is to address encroachments as complaints are received unless a policy change is directed. Mr. Aguila added that the current policy was set due to resource limitations so encroachments are addressed when complaints are received or they impact capital projects.

Interim City Manager Kathie Brooks added that it is important to differentiate between encroachments like hedges that are impeding sidewalk access versus other encroachments of which there are a lot throughout the City on swales.

Commissioner Libbin stated that he believes dealing with this on a complaint basis is probably the best way to deal with it. Commissioner Wolfson concurred with Commissioner Libbin.

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Paul Janas spoke.

Mr. Santos-Alborná clarified that if a life-safety issue is identified then Code Compliance will address it proactively.

Mr. Fishman spoke regarding his feeling that he was put into an untenable situation. Mr. Aguila advised Mr. Fishman that he had assumed the risk by maintaining the hedge on a public right-of-way. He responded to Mr. Fishman clarifying for him that the notice was issued as a result of a complaint.

Carla Probus spoke.

Commissioner Exposito suggested Administration implement an education campaign to the community regarding resident responsibility to maintain plantings so they do not encroach into the public right of way; to include a segment on MBTV77. Mr. Fishman suggested putting the information in the water bill and Mr. Sklar suggested utilizing the MB Magazine.

ACTION: The Committee (Commissioners Libbin, Exposito, and Wolfson present) directed the Administration to implement an education campaign to the community regarding resident responsibility to maintain plantings so they do not encroach into the public right of way; to include a segment on MBTV77, possible inclusion in the water bills and MB Magazine.

2. Discussion Regarding Proposed Amendments To The City's Film And Print Guidelines. (6:28 PM)

Acting Assistant City Manager Max Sklar explained that after the last meeting of the NCAC with three (3) hours of public comment on this issue, this item is back for direction from the committee.

Commissioner Libbin suggested establishing a program that would allow residents to register for a "do not contact" list that would prevent them from being contacted for an approval to allow filming next to their property. Registration would be allowed during a specified window each year and no one would be able to remove themselves from the list during that year. This would allow the industry to know which houses are clear to work around.

Commissioner Exposito prefers that the registry be to prevent contact to request extensions of time for film permits at neighboring properties. This would mean that permits would only be up to five (5) days and no extensions can be requested of the neighbors. Commissioner Libbin stated that he would be agreeable to that.

Mr. Sklar suggested those that had signed the list could be contacted for extensions beyond the permitted five (5) days however if they declined then the production company would not have the right to appeal.

Commissioner Wolfson questioned whether allowing someone to sign off to waive someone else's right to appeal would violate due process.

Film and Print Production Manager Graham Winick reviewed the current appeal process.

Christina Labuzetta spoke.
Ethan Weissman spoke
Noreen Legault spoke.

Mr. Sklar advised that Commissioner Tobin had expressed a desire to be part of this conversation

so Mr. Sklar offered to, with the Committee's direction, to bring discussion back to the NCAC in November with some drafted alternatives, based on the discussion today, for the committee's review.

ACTION: The Committee (Commissioners Libbin, Exposito and Wolfson present) concurred to bring this discussion back to the November meeting of the NCAC with some drafted alternatives from the Administration for their review.

3. **Discussion Regarding A Review Of The City's Special Event Permit Policy, Which Does Not Allow For Any New Events During Spring Break And Ultra Festival. (5:52 PM)**

Acting Assistant City Manager Max Sklar reviewed the history behind the current policy to decline requests for new events during the spring break period. He added that some successful events held on private property the past several years are outgrowing the capacity of the property and are asking the City to consider allowing them to expand onto public property or run the risk of losing these events and the revenue generated by them to areas outside of Miami Beach. Mr. Sklar explained that the Administration believes it is critical to be able to successfully manage public special events in enhanced staffing periods, like March. However, in an effort to maintain existing business, the City may wish to consider additional criteria not previously addressed. He then reviewed some revisions to the policy to be considered. The two questions to the committee are whether the City should amend the policy and if so what criteria would be used in determining which events would be allowed to use public property during these peak periods of time.

Commissioner Exposito expressed that he likes the criteria laid out in the memo. Commissioner Libbin clarified that this is allowing an applicant to be considered and yet does not give an applicant a right to be approved.

Commissioner Wolfson asked for clarification in the criteria to ensure that the event cannot coexist in both the former private property and the public property.

Frank Del Vecchio spoke.
Carla Probus spoke.
Christina Labuzetta spoke.
Paul Janas spoke.

Commissioner Wolfson made the motion to recommend approval to the City Commission with the clarification that the event on public property cannot coexist on private property. Motion seconded by Commissioner Libbin. Commissioner Exposito had stepped out for a moment just before the motion.

ACTION: The Committee (Commissioners Libbin and Wolfson present at the time of the motion) moved to recommend approval to the City Commission with the clarification that the event on public property cannot coexist on private property.

4. **Discussion Regarding An Ordinance Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Amending Chapter 82, Of The Code Of The City Of Miami Beach, Entitled "Public Property," By Amending Article VI, Entitled "Naming Of Public Facilities And Establishment Of Monuments Or Memorials," By Amending Section 82-504, Entitled "Monuments Or Memorials," By Adding Criteria To Provide That: A) Only The Mayor Or A Member Of The City Commission May Propose The Establishment Of A Monument Or Memorial; B) The Mayor And City Commissioners Shall Each Be Limited To Proposing The Establishment Of One Monument Or Memorial Per Term Of Elected Office; C) Any Person**

To Be Recognized By The Establishment Of A Monument Or Memorial Must Be In Good Standing In The Community And If, After The Honor Is Bestowed, The Person Is Convicted Or Adjudicated Guilty Of A Felony, The Name Of The Person Shall Be Removed From Such Monument Or Memorial Or The Monument Or Memorial Itself May Be Removed, Without Any Resulting Liability To The City; And Providing For Repealer, Severability, Codification, And An Effective Date. (6:18 PM)

Chief Deputy City Attorney Raul Aguila reviewed the amendments proposed in the ordinance attached in the agenda which incorporates suggestions from previous meetings.

After a lengthy discussion regarding the Stanley Levine memorial and how it fits in with the timeline of this proposed ordinance amendment Commissioner Wolfson made the motion to move this discussion to Commission. Motion was seconded by Commissioner Exposito.

Commissioner Libbin added his desire to do something to honor Mr. Tony Goldman. He would like to possibly rename Eighth Street after Mr. Goldman. Mr. Aguila explained that he believes that street is a City street and it would require an ordinance change to allow a City street to be named after a person. Commissioner Libbin asked the Administration to consider options and ideas as to how to honor Mr. Goldman.

ACTION: The Committee (Commissioners Libbin, Exposito, and Wolfson present) unanimously moved to bring this item to the full Commission. Commissioner Libbin requested the Administration to consider options and ideas as to how to honor Mr. Tony Goldman.

5. Discussion Regarding The Water Feature At The Washington Avenue Entry Of South Pointe Park. (5:37 PM)

Capital Improvement Projects Director Fernando Vazquez reviewed the background on this issue, delineated three options and asked the committee for direction.

Meredyth Cooper, outside counsel for the City, spoke on the litigation against Hargreaves and Associates

Carla Probus spoke on behalf of a group of residents (mothers) in the neighborhood stating the consensus from them is they do not want an interactive water feature.

Capital Improvements Assistant Director David Martinez presented the three (3) alternatives outlined in the agenda memo.

Frank Del Vecchio, spoke.

Commissioner Exposito made the motion to recommend to the City Commission the approval of Alternative 2 for the reconstruction of the water feature as a non-interactive water park. Commissioner Wolfson seconded the motion.

ACTION: The Committee (Commissioners Libbin, Exposito, and Wolfson present) unanimously moved to the City Commission the approval of Alternative 2 for the reconstruction of the water feature as a non-interactive water park.

6. Discussion Concerning The Timing Of The Usage Of The City Of Miami Beach's Leaf Blowers. (6:09 PM)

Parks and Recreation Department Director Kevin Smith explained that City employees and contracted landscape maintenance service providers utilize leaf blowers on a daily basis and are abiding by the City Code.

Commissioner Exposito explained that Commissioner Góngora had referred this item for discussion and believes that in addition to his concern regarding the hours of operation that leaf blowers are being used, he is concerned with cuttings being blown into the storm drains.

Commissioner Libbin stated that the litter ordinance had already been amended to make it a violation to use leaf blowers to blow the material out to the street and into the drains. He added that he believes that 7am is too early to allow leaf blowers in residential areas.

Mr. Smith clarified that his crews are out on Monday – Friday with shifts starting at 7:30am which means they are not out in the field until 8:00am. There are Sanitation crews that also use leaf blowers.

Commissioner Libbin asked that since no more complaints seem to have come in since May 2012 if the committee prefers to monitor the situation and should more complaints be made, then the issue can be revisited.

ACTION: The Committee (Commissioners Libbin, Exposito, and Wolfson present) concurred to monitor the situation and should more complaints be made, then the issue can be revisited.

7. Follow-Up Regarding A Proposal To Honor The Extensive Community Legacy Of Stanley Levine With A Memorial Bench On Lincoln Road. (4:36 PM)

Acting Assistant City Manager Max Sklar recapped the history of this discussion. Concerns had been raised regarding the choice of material to be used and the cost of the maintenance of the proposed memorial bench, which the City estimated at \$7,500 annually.

Robert Levine (Mr. Levine's son) described the process he has gone through since coming to the City with the idea of placing a memorial bench honoring his father on Lincoln Road; almost two (2) years ago. He explained that concrete was considered as a material for the proposed bench. However the estimated cost for construction became prohibitive, although the maintenance cost might be reduced.

Mr. Sklar explained how the cost, which included cleaning and repairs, was estimated. Public Art Coordinator Dennis Leyva explained that the fabricator had advised that he was unable to estimate the cost of repairing just a section of the 25-foot long bench.

Agustina Woodgate, the artist, spoke regarding the design and materials that she plans on using for the proposed bench.

Commissioner Wolfson arrived. (4:50pm)

Lisette Goldstein from the Art in Public Places (AiPP) Committee spoke regarding the Committee's concern with the potential cost for maintenance.

Frank Del Vecchio spoke.

Chief Deputy City Attorney Raul Aguila explained that, pursuant to a recent amendment to the City's Naming Ordinance, which was initially prompted by the instant request by the Levine family, the City had amended the section of the Naming Ordinance pertaining to the establishment of monuments and memorials to: 1) limit the number of monuments and memorials that can be brought to the Commission by limiting the Mayor and Commissioners to one (1) per term of office and 2) unless the Resolution approving a monument or memorial provides otherwise, requiring that the City would be responsible for the maintenance of any approved monument/memorial.

Commissioner Libbin stated that he sees the options for a decision here are whether to move this memorial forward, with the City being responsible for the maintenance; or move it forward with the Levine family being responsible.

Commissioner Exposito stated that he could support the proposed memorial if there is a fund established for maintenance, should it be broken or in need of repairs. He suggested that the City might be able to fine tune the maintenance cost estimate and maybe have a one-time deposit (and; as that money is exhausted, with proper documentation, it would be agreed that the deposit would have to be replenished). He added that he likes the concept for the bench.

Commissioner Wolfson made the motion to recommend to the Commission to approve the proposed memorial bench, and to direct the Administration to work out an appropriate maintenance fund, not to include routine cleaning, Commissioner Wolfson asked Robert Levine, if in the event the piece should become damaged; he would be willing to repair it. Mr. Levine responded that he imagines that he would. Commissioner Libbin added to direct staff to work with the Levine family to determine an appropriate amount for such a "reserve" maintenance account. Motion was seconded by Commissioner Exposito.

ACTION: The Committee (Commissioners Libbin, Exposito and Wolfson present) unanimously moved to recommend to the Commission to approve the proposed memorial bench and directed the Administration to work with the Levine family to determine an appropriate amount to establish a maintenance fund.

8. **Resolutions Authorizing Agreements With Various External Entities To Assist The City In Implementing The Action Plan To Address Potential Corruption And Misconduct:**
 - A. **A Resolution Approving And Authorizing The City Manager And City Attorney To Negotiate An Agreement With Miami-Dade County, On Behalf Of The Miami-Dade County Office Of The Inspector General (MDCOIG), To Authorize The MDCOIG To Provide Independent Investigations Into City Practices And Operations In Order To Prevent And Detect Fraud, Waste, Financial Mismanagement, Employee Misconduct, Or Other Abuses.**
 - b. **A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement In The Not To Exceed Amount Of \$45,000, With Miami-Dade County, Florida, On Behalf Of The Miami-Dade County Commission On Ethics And Public Trust, To Develop And Provide A Comprehensive Ethics Training Program For City Employees Who Hold Positions That Are In Regulatory Areas Of The City.**

ACTION: Discussion of this item was deferred.

THE MEETING ADJOURNED AT 6:58 PM

KGB/MAS/BH/rfm

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NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE

October 15, 2012

SIGN-IN SHEET

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