

MIAMI BEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
February 6, 2013

Mayor Matti Herrera Bower
Vice-Mayor Michael Góngora
Commissioner Jorge R. Exposito
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 lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date, which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

Meeting called to order at 9:51:23 a.m.

Inspirational Message given by Rabbi Shmuel Stein, of the Miami Beach Kollel.

Pledge of Allegiance led by Gerald K. Schwartz, Esq.

9:54:04 p.m.

Announcement of Passing of Judy Evans

Mayor Bower announced the passing of Judy Evans, who worked in Miami Beach for a long time. She explained that the Miami Design Preservation League early on realized that in order to have a successful preservation organization, they needed to ensure historic buildings were not demolished to build parking garages. Therefore, some sort of public transportation mode was needed, and that is how the initial idea for the Electric Shuttle project commenced. Judy was very much involved from the onset.

Gerald K. Schwartz, Esq., gave a brief background history of the beginning of the Transportation Management Association, which he chaired, and Judy Evans became Director of the organization in 1998. There were 11 electric vehicles circulating on Miami Beach, and during the time it operated, the Electrowave had over four million riders and it was very popular. The system was transferred to Miami-Dade County due to the cost to the City. Judy Evans is the person who started the process and did a wonderful job, she was a very special person, and will be missed.

Mayor Bower asked for a moment of silence in memory of Judy Evans.

Commissioner Tobin agreed that there is a need to increase public transportation around the City, and if that many riders were on the Electrowave, public transportation ideas should be reinvigorated. It is time to have this conversation again.

The City Commission will recess for lunch at approximately 1:00 p.m.

SUPPLEMENTAL MATERIAL:

C7H Resolution
C7J Resolution and Draft Letter Agreement
R7C Resolution and Agreement
R7E Resolution

ADDENDUM MATERIAL 1:

C4N C4O C4P C4Q C4R
R9H R9I

ADDENDUM MATERIAL 2:

C4S, R9J

ADDENDUM

Motion made by Commissioner Exposito to add items C4N, C4O, C4P, C4Q, C4R, C4S, R9H, R9I, and R9J to the Agenda as emergency items; seconded by Commissioner Tobin; Voice vote 7-0.

Presentations and Awards

10:02:14 a.m.

PA1 Certificates Of Completion To Be Presented To The City Of Miami Beach Neighborhood Leadership Academy Graduates.

(City Manager's Office)

ACTION: Certificates presented to Alexandra Serra, Anne-Hope Johnson, Ashley Swanson, Barry Meltz, Barry Beschel, Candice Shaw, Christi Cvijanovic, Christine Florez, Cosette Hirschfeld, Cristina Dominguez, Damian Narvaez, Darlene Viverette, David Hundley, Drazen Cvijanovic, Gina Davidson, Glenda Phipps, Hector Pinol, Howard Reed, Itziar Gonzalez, Kevin Smith Martin, Kimberly Brown, Madeleine Romanello Madelyn Alvarino Mar Rodriguez Melissa Mokha Melissa Burley, Melvin Kimmel, Michael Silverman, Patricia Valderrama, Seth Feuer, Sonia Conserva, William Rosa, Yanilka Dipp, Franziska Medina, Carlos Alvarino and Kris Puryear.

Kathie G. Brooks, Interim City Manager, stated that the Miami Beach Leadership Academy is a program designed to give residents an insider's look at how city government works, and in turn empower them to educate others in the community about the public process. This is the 23rd Leadership Academy session, typically there are done in English and one in Spanish, with over 700 graduates to date, and that has enabled them to transition into community based projects, including serving on City boards and committees and assisting in the City's selection and evaluation process for Procurement. At least 40% of all board members consist of alumni. There are representatives from the alumni on the City Commission, Jorge Exposito, and State Representative David Richardson, also a former alumni graduate. In the fall of 2013 there are three alumni graduates running for City office, which shows that they want to get involved. Ms. Brooks read the names of graduates.

Melissa Mokha spoke on behalf of herself and her classmates, and thanked those who made the Leadership Academy possible and for their continued support, as well as the City Manager's Office who conceptualized the program in 2002. This is a unique opportunity to learn about City government. She explained that the program empowers community members who at time feel that they do not have a voice, by creating a bridge between the local government and the residents. She stated that Caroline DeFreze has a unique ability to create a warm and welcoming atmosphere; and because of Caroline, students feel comfortable interacting with City employees and department heads, who by the way, stay after hours and taught them with care and enthusiasm, and that was really remarkable to her. This program has inspired her and her classmates to serve.

10:10:07 p.m.

PA2 Certificates Of Recognition To Be Presented To Jesus Martinez And PNP Beach Restaurant.
(Requested by Commissioner Jonah Wolfson)
(Deferred from January 16, 2013)

ACTION: Certificates presented.

Commissioner Wolfson introduced Mr. Martinez and representatives from UNIDAD. He explained that UNIDAD specializes in senior job placement and added that Mayor Bower, Victor Diaz and Margarita Cepedo founded the program and has had a tremendous positive impact on the City's senior population.

Mr. Martinez stated that he works four hours daily, studies English and has learned many computer related programs thanks to UNIDAD and the City's support. He expressed his gratitude.

Raymond Adrian, Director of Operations at UNIDAD, explained that Jesus was trained with job skills during workshops and he showed an interest in seeking work. He went looking for a job every day, and is still looking for a second job, with the goal of opening an Herbal Life store.

10:16:49 a.m.

PA3 Certificates Of Recognition To Be Presented To The Principal, Vice Principals And Teachers Of Nautilus Middle School In Miami Beach.
(Requested By Vice Mayor Michael Góngora)

ACTION: Certificates presented to Jose Alvarez, Eric Arguello, Jorge Betancourt, Judyth Billig, Mary Blair, Ana Bolt, Braxton Boundy, Paul Robert, Dorothy Brochey, Josette Brooks, Patricia Brown, Lissette Burns, Joe Carrenard, Ana Careaga, Elsa Ciriano, Christian Cotabarren, Jolie Cunningham, Emily Davis, Elizabeth Deju, Armand Diaz, Robert Dyson, Frank Farray, Rick Fernandez, Keslere Ferrier, Lilliam Fonseca, Gwen Foote, Harold Glatzer, Arlene Gonzalez-Funes, Rosxana Gutierrez, Raphael Henri, Peter Hickey, Gabriela Iglesia, Gary Kadesh, Renette Lafrance, Abigail Laurence, Mesac Laurent, Rosa Lemas, Averlyn Lightbourne, Yolette Linwood, Gloria Miyares, Raimundo Modia, John Monda, Robin Porter, Eduardo Quesada, Vivian Randin, Andie Rosen, Margareth Schreiber, Eileen Schussler, Lera Smith, Michael Smith, , Bernetta Storr, Alton Strachan, Jorge Suarez, Alverta Tucker, Eleanor Watson, Darnell Wenze, Kim Werner, Richard Zuckerman and Ricardo Zulueta.

Vice-Mayor Góngora explained that as he mentioned last month, in light of the Connecticut school shootings, he started thinking about teachers and the people that provide education and safety to Miami Beach student; therefore, he will be honoring schools on a monthly basis. This month they are honoring Nautilus Middle School. He introduced Allyn G. Bernstein, Ph.D., and three teachers representing the entire staff, Dr. Gloria Linares, Science Teacher, Mr. John Monda, Exceptional Student Education Teacher and Mr. Michael Smith, Activities Director and Special Instruction Educator. Nautilus Middle School strives and succeeds in providing students with a safe, academically challenging, culturally diverse environment that fosters their development, builds strong character and strong adults. The school accomplished these goals through many different competitions, among them the Fairchild Challenge Competition in Botany, the Green School Challenge, and the Stem Fair to name a few. Recently the school was awarded a plaque from the National Engineer Society for the most holistic approach to schooling. He explained about the formation of the Safety Committee Corridor, composed of volunteer parents working closely with the school and the community. Dr. Bernstein, as he learned, is working her last semester, as she will be leaving, and he thanked her on behalf of the Mayor and City Commission.

Dr. Allyn G. Bernstein, Principal, Nautilus Middle School, stated that she is very proud of not only the staff, but also is proud of the students, and is proud to say that Nautilus is the best kept secret on Miami Beach. She thanked the Commission.

Commissioner Tobin expressed his gratitude to the teachers, and stated that we all owe them a great debt.

Mayor Bower also stated that the teachers are the role models, and they are underappreciated.

- PA4 Proclamation To Be Presented To Joe's Stone Crab For Their 100th Year Anniversary.
(Requested By Vice Mayor Michael Góngora)

ACTION: Deferred.

10:22:06 a.m.

New Item

- PA5 Certificate Of Recognition To Be Presented To Jairo Fuentes For Being A Good Samaritan.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Certificate presented. The City of Miami Beach would like to recognize Mr. Fuentes for his heroic efforts in the tragic hit and run accident that occurred on January 28, 2013 on Collins Avenue. His brave and courageous act assisted the Miami Beach Police Department. He is truly a Good Samaritan that this Commission is honored to have as a resident of Miami Beach.

Vice-Mayor Góngora stated that he read about a hit and run incident on January 28, 2013, where a Miami Beach Chef was struck and killed, and explained that this gentleman, who was driving to work at 6:00 a.m., followed the hit-and-run driver down Collins Avenue, dialed 911 and called the police until he caught up with her. Thanks to his involvement and heroic efforts, he is awarded with a Certificate of Recognition for his brave, unselfish act as a Good Samaritan.

Mark Overton, Deputy Police Chief, explained that this was a tragic event, but thanks to Jairo Fuentes, the Miami Beach Police was able to stop the driver immediately and obtained the evidence needed. What makes a City is great is when the community supports the Police and understands that their mission is to keep the City safe.

Jairo Fuentes stated he was glad that he was able to help.

Commissioner Libbin expressed that all citizens are encouraged to get involved and congratulated Mr. Fuentes.

CONSENT AGENDA

ACTION: Motion made by Commissioner Weithorn to approve the Consent Agenda; seconded by Vice-Mayor Góngora; Voice-vote: 7-0.

C2 - Competitive Bid Reports

- C2A Request For Authorization To Issue A Request For Proposals (RFP) For The Comprehensive Professional Tennis Management And Operations Services At The City's Flamingo And North Shore Park Tennis Centers.
(Parks & Recreation/Procurement)

ACTION: Request authorized. Kevin Smith and Alex Denis to handle.

- C2B Request For Approval To Issue A Call To Artists To Commission A Permanent, Outdoor Art Installation, Which Will Have A Revitalizing Effect On Washington Avenue.
(Tourism & Cultural Development)

ACTION: Request authorized. Max Sklar to handle.

1:39:25 p.m.

- C2C Request For Approval To Award A Contract, Pursuant To Invitation To Bid No. 015-2013TC, For The Design And Installation Of Beach Access Gate Arms, Authorizing The Mayor And City Clerk To Execute An Agreement With Alm Machine, Inc., In The Amount Of \$89,900.00, For The Construction Of The Project, Plus A 10% Project Contingency, For A Not-To-Exceed Grand Total Of \$98,890.00 From Funds Previously Appropriated In The Capital Budget; Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project.
(Property Management/Procurement)

ACTION: Item separated for discussion by Vice-Mayor Góngora. Request authorized. Motion made by Commissioner Tobin; seconded by Commissioner Weithorn; Voice vote: 6-0; Absent: Commissioner Wolfson. **Alex Denis and Jay Fink to handle.**

Vice-Mayor Góngora stated that until reading this item, he did not realize that they were taking barricades and closing areas of the beach in the evenings, and now the Police Department is requesting to spend \$100,000 to place beach access gate arms. Before voting on this, he

would like to have some questions answered: are the barricades helping; are they reducing crime; does the City Commission want to close the beach at night, where do the barricades go, are we preventing people from having fun and are we trying to prevent crime?

Police Deputy Chief Overton explained and emphasized that the barricades and gate arms will allow the Police Department to uniformly enforce the Ordinance in place that closes the beach at night.

Discussion held.

Handouts and Reference Materials:

1. Response to letter of protest received from Marlene Valdes and Eduardo I. Valdez d/b/a Artemisa Fence & Ornamental, Inc., 1111 Lincoln Road, 4th Floor, Miami Beach.

C4 - Commission Committee Assignments

3:13:46 p.m.

- C4A Referral To The Finance And Citywide Projects Committee - Discussion Regarding Renewal Of The Professional Services Agreement Between The City Of Miami Beach And The Superlative Group For Professional Services In Corporate Sponsorship Marketing Pursuant To Request For Proposals No. 06-04/05.
(City Manager's Office)

ACTION: Item separated for discussion by Commissioner Weithorn. Referred. Motion made by Commissioner Weithorn; seconded by Commissioner Exposito: Voice vote: 5-0; Absent: Vice-Mayor Góngora and Commissioner Wolfson. Patricia Walker to place on the committee agenda. **Max Sklar to handle.**

Commissioner Weithorn stated that every time this concept of corporate sponsorship marketing comes to the Finance and Citywide Projects Committee, the feeling is that they do not want to do this; they do not want to sell the City. If the Commission does not want to do this, the fair thing to do is to tell the Superlative Group that they do not want to do it. She asked the entire City Commission to come to the Finance and Citywide Projects Committee or let their feelings be known. She has no problem sending it to the committee, but a decision needs to be made, either here or at the committee meeting.

Mayor Bower stated that she does not hate the idea, but the City should make sure that it is a good product.

Commissioner Weithorn stated that this is done at the committee meeting where quality control is discussed.

Commissioners Exposito stated that they need to document the cost of the advertising in term of dollar value to them to make sure that the City is getting the proper amount of revenues. **Max Sklar to handle.**

- C4B Referral To The Neighborhood/Community Affairs Committee - Discuss Amending Procedures For Appeals To The Special Master For Certain Frequent Code Enforcement Violations.
(City Attorney's Office)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **City Attorney's Office to handle.**

- C4C Referral To The Land Use And Development Committee And Thereafter To The Planning Board - An Amendment To The Land Development Regulations To Regulate Religious Institutions In Multi-Family Residential, Commercial And Industrial Districts In The Same Manner As Other Assembly Uses With Similar Occupancy.
(City Attorney's Office/City Manager's Office)

ACTION: Referred. Richard Lorber to place on the committee agenda. **City Attorney's Office and Jorge Gomez to handle.**

- C4D Referral To The Neighborhood/Community Affairs Committee Requesting To Consider The Removal Of The Four (4) Public Parking Spaces On Sunset Drive At The Entrance Of Sunset Harbor Island.
(Requested By Commissioner Jorge R. Exposito)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Saul Frances to handle.**

- C4E Referral To The Neighborhood/Community Affairs Committee - Discuss And Evaluate The Current Policy Against Bullying And Harassment In Miami-Dade Public Schools And Begin Planning For A Citywide Youth Anti Bullying Outreach Program.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Leslie Rosenfeld to handle.**

- C4F Referral To The Finance And Citywide Projects Committee, A Discussion To Consider Additional Community Input For The Sunset Harbor Neighborhood Improvements Project.
(Public Works)

ACTION: Referred. Patricia Walker to place on the committee agenda. **Jay Fink to handle.**

C4G Referral To Neighborhood/Community Affairs Committee - Discussion Of The Following Matters:

1) Amendments To Land Development Regulations Sections 142-109, 142-905 And 142-1111. **2)** The Amendments Shall Prohibit, And Set Forth The Appropriate Penalties, For Individuals And/Or Entities That Advertise The Transient Occupancy (Short-Term Rental) Of Those Properties Which Are Located Within A Single Family Or A Multi-Family Zoning District, As Specifically Delineated In Sections 142-905 And 142-1111. **3)** The Amendment To Section 142-109 Shall Prohibit The Advertisement Of Those Single Family Residential Properties For The Purpose Of Allowing The Commercial Use Of The Premises, And The Advertisement Of Those Events, Gatherings Or Promotions At The Single Family Residential Property, Consistent With The Prohibitions Set Forth Within Section 142-109.

(Requested by Commissioner Edward L. Tobin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Alex Boskner and Stephen Scott to handle.**

10:40 a.m.

3:25:31 p.m.

C4H Referral To The Planning Board - Proposed Ordinance Amendment Pertaining To Mechanical Parking Systems.

(Requested By Land Use & Development Committee)

(Legislative Tracking: Planning Department)

ACTION: Item separated for discussion by Mayor Bower and referred. Motion made by Commissioner Tobin; seconded by Commissioner Weithorn; Voice vote: 6-0; Absent: Vice-Mayor Gónzora. Richard Lorber to place on the committee agenda. **Saul Frances to handle.**

MOTION FOR RECONSIDERATION OF VOTE ON C4H

Motion made by Commissioner Weithorn to reconsider item approved via Consent Agenda vote, in order to pull for discussion by Mayor Bower; seconded by Commissioner Exposito; Voice vote: 7-0.

Mayor Bower separated this item to ask if by doing this, the developers are gaining Floor Area Ratio (FAR).

Richard Lorber, Acting Planning Department Director, stated that developers are not gaining FAR, nor height; only density. In answering further questions, Mr. Lorber explained that developers are able to provide the required parking; sometimes, it is not the FAR or the height that is the limiting factor, but the parking requirement, so in the case where they have the FAR and/or the height, but they can only physically fit a certain number of cars on the lot, that is the limiting factor. If they can get more cars, they can get more units or square footage.

Discussion held.

Mayor Bower stated that she was in favor of the mechanical parking when the ordinance was brought in front of the City Commission; however, the issue of underground parking was not taken in consideration at that time. Specifics and direction were given not to give a developer any density, height or FAR, except for if they wanted to have more parking or a smaller pedestal for the building, they could have that.

Jorge Gomez, Assistant City Manager, explained that the ordinance states that a developer has to give the City a conventional parking layout, show how the parking requirements are met for the development, without the use of mechanical lifts or elevators and no variance. What Mr. Lorber noticed is that people were showing the conventional layout utilizing underground parking, and he began discussions with the Land Use and Development Committee over two years ago, so there is a loophole and this needs to stop.

Mayor Bower suggested referring the item to the Planning Department for discussion. Discussion continued.

3:32:53 p.m.

- C4I Referral To The Planning Board - Proposed Ordinance Amendments Pertaining To The Streamlining Of The Development Review Process.
(Requested by Land Use & Development Committee)
(Legislative Tracking: Planning Department)

ACTION: Item separated for discussion by Mayor Bower and item referred. Motion made by Commissioner Weithorn; seconded by Commissioner Exposito; Voice vote: 6-0; Absent: Vice-Mayor Góngora. **Richard Lorber to place on the committee agenda and to handle.**

Richard Lorber, Acting Planning Director, explained the item.

- C4J Referral To The Finance And Citywide Projects Committee - Discussion Regarding Advertising Panels On Lincoln Road.
(Public Works)

ACTION: Referred. Patricia Walker to place on the committee agenda. **Jay Fink to handle.**

- C4K Referral To The Land Use And Development Committee - Discussion Regarding Participation Of The City Clerk's Office In The 2013 Legends Ball, Sponsored By Unity Coalition/Coalicion Unida, April 11, 2013, At The Art Deco Welcome Center, To Conduct Domestic Partnership Registry.
(City Clerk's Office)

ACTION: Referred. Richard Lorber to place on the committee agenda. **Rafael E. Granado to handle.**

- C4L Referral To The Finance And Citywide Projects Committee, A Discussion To Consider Replacement Of The City's Public Safety Radio System With A New P25 Compliant System Before The Federally Mandated 2016 Timeframe.
(Information Technology)

ACTION: Referred. Patricia Walker to place on the committee agenda. **Gladys Gonzalez to handle.**

- C4M Referral To The Neighborhood/Community Affairs Committee - Discuss The Conditions Of South Pointe Park.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Kevin Smith to handle.**

ADDENDUM 1

- C4N Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding Forming A Corporate Partnership With City Of Miami Beach And Barry University.
(Requested By Commissioner Edward L. Tobin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Carla Gomez to handle.**

ADDENDUM 1

- C4O Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding Criminal Background Checks For Employees Of City Contractors And Spot Check Updates For Those Background Checks.
(Requested By Commissioner Edward L. Tobin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Alex Denis, Fernando Vazquez, and Chief Martinez to handle.**

ADDENDUM 1

- C4P Referral To The Land Use And Development Committee To Discuss Adding Surprise Lake To "No Wake Zones" On Miami Beach.
(Requested By Commissioner Edward L. Tobin)

ACTION: Referred. Richard Lorber to place on the committee agenda. **City Attorney's Office to handle.**

ADDENDUM 1

- C4Q Referral To The Neighborhood/Community Affairs Committee Requesting To Place An Informational Plaque At The Base Of The Sculpture Of Jackie Gleason.
(Requested by Commissioner Jorge R. Exposito)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Max Sklar and Kevin Smith to handle.**

ADDENDUM 1

C4R Referral To The Neighborhood/Community Affairs Committee Requesting To Set Up Maintenance Standards For All City Plaques.
(Requested by Commissioner Jorge R. Exposito)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Jay Fink to handle.**

ADDENDUM 2

C4S Referral To The Neighborhood/Community Affairs Committee A Discussion Regarding Bringing The Junior Orange Bowl Tennis Tournament To Miami Beach.
(Requested By Commissioner Edward L. Tobin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Max Sklar to handle.**

C6 - Commission Committee Reports

C6A Report Of The Capital Improvement Projects Oversight Committee Meeting On October 22, 2012: **1)** Attendance. **2)** Review And Acceptance Of Minutes. **3)** Public Comments. **4)** Old Business/Requested Reports: **4A)** North Beach Neighborhoods: **4A1)** Status Report: Normandy Isle Neighborhood; **4A2)** Status On Biscayne Point Neighborhood Improvement Project; **4B)** Middle Beach Neighborhoods: **4B1)** Status Report: Central Bayshore Improvements; **4B2)** Status Report: Lake Pancoast Improvements; **4B3)** Status Report: Sunset Islands I & II; **4B4)** Status Report: Sunset Islands III & IV; **4B5)** Status Report: Lower North Bay Road; **4C)** South Beach Neighborhoods: **4C1)** Status Report: Venetian Island Neighborhood Improvement Project; **4C2)** Status Report: Palm & Hibiscus Island Neighborhood Improvements & Utilities Undergrounding; **4C3)** Status Report: South Pointe Phase III, IV & V Neighborhood Improvement Project. **5)** Commission Items: The Commission Items Discussed Were Deferred To A Future Commission Meeting.

ACTION:**Item No.1: Attendance.**

See attendance sheet copy attached.

Item No. 2: Review And Acceptance Of Minutes.

MOTION: Acceptance of Reports (Minutes) of the September 10, 2012 CIPOC Meeting.

MOVED: T. Trujillo 2nd. R. Rabinowitz

PASSED: Unanimous

Item No. 3: Public Comments.

Michael Lefkowitz, of the Bayshore Neighborhood (2995 Flamingo Drive) came forward to speak about the current CIP construction in his neighborhood.

He offered that he considered communication with the City was very good, and thanked Maria Palacios, Public Information Specialist, for her efforts in keeping him and other neighbors informed.

Mr. Lefkowitz asked for explanation why the Flamingo Drive properties would still have their water services transferred. This was based on information stated earlier in the meeting, that the 6" water main on Pine Tree Drive was not in good condition, and therefore the water services on Pine Tree Drive would not be connected to that line until the City conducted further review and decided on the next course of action. Chair Saul Gross reiterated the difference in the lines, stating that the water line on Flamingo Drive was installed only a few years ago.

His concern was about the impact of the directional drilling. Maria Hernandez explained that the directional drilling, as is being done on the water service transfers on Sunset Islands I & II, is very accurate and can be directed deep below roots and structures. The entire process of directional boring and reconnecting service is relatively quick.

Mr. Lefkowitz also wanted to relay some comments from his neighbors. Residents wanted to know why the water line work was not done concurrently with the storm water drainage work. Maria Hernandez, Senior Capital Projects Coordinator explained that contractors typically perform the water line installation first because doing both at the same time would be more difficult to manage and would be more intrusive. The work would likely block residents' driveways for extended periods of time. David Martinez, Assistant Director of CIP, added that by putting in the water services first, there is no need to protect the old service while crews perform the heavy work of storm drainage construction.

Comment about road closure advisory...Mr. Lefkowitz asked if an app for cellphones was available as it is difficult to download and read all of the information while driving. The new map feature will be rolled out when the CIP web site is launched later this year, but will not be available as a mobile app until all the pages are up.

Mr. Lefkowitz offered that the contractor crews have been very nice and polite during this project.

Item No. 4: Old Business/Requested Reports.

Item No. 4A: North Beach Neighborhoods.

Item No. 4A1: Status Report: Normandy Isle Neighborhood.

Item No. 4A2: Status On Biscayne Point Neighborhood Improvement Project.

Status Report: Normandy Isle Neighborhood

Mattie Reyes, Senior Capital Projects Coordinator reported that landscaping is well underway. The Royal Palms were removed, the tree wells have been set and wheel stops are being placed at the street end of Rue Notre Dame. Final negotiations based on the proposal submitted by Lockwood, Andrews & Newman (LAN) are pending as of this meeting for the swales, aprons and pavers along Marseilles drive. Construction is expected to commence in March of 2013, to be completed in November 2013, to include minor storm water drainage remedies to address standing water along the edge of pavement.

Status on Biscayne Point Neighborhood Improvement Project

Carla Dixon discussed the status of the project. Water main installation on Biscayne Point Island are complete, the installation of structures addressing the three storm water "hot spots" on the island has been completed. As of the meeting, the City was waiting for FPL to energize the lights on Biscayne Point Island, as all the light poles were installed.

Saul Gross asked when the drainage improvements on Biscayne Point Island would be in working order. Carla Dixon explained that the wells need to be certified, cleaned, and pass

DERM inspections. The island and Stillwater Drive are expected to both be online at the same time, which could be as early as the end of November. The project team will coordinate the testing concurrently with Biscayne Point Island. The City has moved forward with the certification process on the island while Stillwater is under construction, then the inspections will be done for both areas.

Sidewalks, where needed, have been replaced. Landscaping is to begin in early November. Construction on the entrance feature will begin in early November. Once the entrance is completed, crews will mill and resurface the roadways in Biscayne Point Island.

In addition to the storm drainage work on Stillwater Drive, conduits for lighting have been installed, and the light pole bases are to follow in November. Landscape plans are in the review process. Stillwater Drive improvements should be complete in early 2013.

Water mains have been installed in Biscayne Beach. The plans for the storm water drainage in Biscayne Beach are currently under agency review.

The entire project, to include the drainage work in Biscayne Beach, is to be completed in September 2013.

Item No. 4B: Middle Beach Neighborhoods.

Item No. 4B1: Status Report: Central Bayshore Improvements.

Item No. 4B2: Status Report: Lake Pancoast Improvements.

Item No. 4B3: Status Report: Sunset Islands I & II.

Item No. 4B4: Status Report: Sunset Islands III & IV.

Item No. 4B5: Status Report: Lower North Bay Road.

Status Report: Central Bayshore Improvements

Maria Hernandez, Senior Capital Projects Coordinator said that overall, the project is 35% complete. About 20% of the drainage work is complete. All the water main work is complete with the exception of the meter relocations (back to front), which will happen in December. Saul Gross asked if all the permission letters were signed. There are a few pending, but now this work has been eliminated from the project for meter relocation on the houses that were on Pine Tree Drive. There will be a credit, of sorts on the contract for those untouched meters. The work was not included in the original contract and was added. Now that the homes on Pine Tree Drive are not included, the add-on is substantially less than anticipated, and will cost approximately \$200 thousand. The existing water line on Pine Tree Drive is not in good condition, so it would not be wise to connect the meters at this time. The line on Flamingo Drive and in the Lake Pancoast area is new. Eventually, work will be done to replace and upsize the six-inch line on Pine Tree Drive, a County Road, and the switch to service will take place then. Work on Pine Tree Drive will be a separate project, at significant cost. Saul Gross stated that he remembered that when priority water lines were identified, the pipe on Pine Tree Drive was identified as one that needed to be replaced. Fernando Vazquez said that staff would research the topic and bring back information. They were not included in the Bayshore project.

Saul Gross noted here a memo from the Interim City Manager, Kathie Brooks, dated July 9, to the Finance and Citywide Projects Committee. This memo was included in the CIPOC agenda packet (page 419) on the overview of the Neighborhood Right-of-Way Improvement projects. He commended the Office of CIP on their approach to construction and management of the projects as being done in a measured and comprehensive way. Mr. Gross asked about the status of the 2011 Storm water Bonds. The Office of CIP works with the Finance Department

to utilize the funding from older issuances before using the newer bonds. Mr. Gross asked for a report to the Committee on the total funding approved in the 2012-2013 Capital Budget.

Maria Hernandez brought the discussion back to the Central Bayshore project. The team is now moving ahead with the redesign of Phase 2 of the project. This includes added storm water design for the south portion of the project (south of 34 Street), road widening, valley gutters and landscaping. This was a result of a concurrency review by Public Works, in order to bring active projects up to date with the new storm water master plan. Saul Gross asked about the contingency funds for the Bayshore accounts, and whether they have held in the face of change orders. Maria Hernandez answered that they had, with the exception of the back to front water meter relocations, which was an engineering omission from the plans.

Robert Rabinowitz asked for specifics on the “unforeseen utility conflicts” that caused a redesign of the pump station at 40 Street and Flamingo Drive. These were AT&T lines in a duct bank that ran to Mount Sinai Hospital. The issue of utility conflicts has proven to be a detailed and complicated issue. Saul Gross opined that although these cause delays, even prior to construction, it is wise to address them.

Status Report: Lake Pancoast Improvements

Maria Hernandez, Senior Capital Projects Coordinator said that water and drainage is complete. Temporary asphalt is in place, the sidewalks are being built. The pump stations should be completed by January 2013. Once complete, the neighborhood will be transformed. There is a huge piece of equipment that is needed to be in place to complete the 24 Street pump station. Once that work is done, the median will be installed. After that, the first lift of asphalt will be placed. Rain has caused some delays and some complications with construction.

Status Report: Sunset Islands I & II

Maria Hernandez, Senior Capital Projects Coordinator said all valley gutters are installed and 85% of Island II is complete. The crews are waiting for better weather in order to complete the first lift of asphalt. AT&T continues to work on patching, after relocating some utilities. Because of all the utility conflicts, there are several different contractors on site at the same time. AT&T has not been as responsive to the City’s requests, as FPL and TECO gas has.

The current schedule shows completion for the project in May, 2013. First lift of asphalt is expected on Sunset Island II by the end of November. DERM certifications for the drainage structures are pending, but will happen soon. The system is connected. In a heavy rainfall, because there are screens currently blocking the inlets, as per DERM regulations, the water ponds on the street. The team monitors the situation and works to mitigate standing water when there are heavy downpours.

MOTION: Recommend to the Mayor and Commission to pass the resolution.
MOVED: T. Trujillo 2nd: S. Kilroy
PASSED: UNANIMOUS

6th and 53rd Street Restrooms Project

MOTION: Recommend to the Mayor and Commission to pass the resolution.
MOVED: S. Kilroy 2nd: R. Rabinowitz
PASSED: UNANIMOUS

Status Report: Sunset Islands III & IV

Sunset Islands III & IV were not discussed.

Rick Saltrick, Acting City Engineer, was not available for the meeting, as he was in a meeting with a commissioner to explain the Stormwater Master Plan.

Status Report: Lower North Bay Road

Senior Capital Projects Coordinator Maria Hernandez said that the second notice to proceed was issued to TransFlorida on September 28, 2012. The contractor has begun filling potholes and has ordered structures. Materials are expected to arrive on site so construction can start. The team has been in contact with the HOA (Mr. Mike Hammond and Mr. Mark Balzli), and Lauren Firtel is the Public Information Officer (PIO) for the project.

Brian Erlich inquired about the duties of the PIO. Maria explained that they act as liaison between the residents and the contractor and project team, addressing concerns and complaints, send out alerts and notices, meet with residents on encroachment issues and are generally the resident point of contact for projects. Fernando added that they cover the whole information component, and the City gauges the performance of the PIO based on resident input.

The discussion moved into the Commission item; see the item below at 6:31 p.m.

MOTION: Recommend to the Mayor and Commission to pass the resolution.
MOVED: E. Camargo 2nd: T. Trujillo
PASSED: UNANIMOUS

Item No. 4C: South Beach Neighborhoods.

Item No. 4C1: Status Report: Venetian Island Neighborhood Improvement Project.

Item No. 4C2: Status Report: Palm & Hibiscus Island Neighborhood Improvements & Utilities Undergrounding.

Item No. 4C3: Status Report: South Pointe Phase III, IV & V Neighborhood Improvement Project.

Status Report: Venetian Island Neighborhood Improvement Project

Roberto Rodriguez, Capital Projects Coordinator, explained that the project is under the cone of silence, but could be discussed in a public meeting such as this. The project is now in the bidding phase. The bid was extended from July 31 to October 30. Schwebke Shiskin was hired as a consultant to perform an analysis of existing utilities and identify conflicts. This information is now included in the contract. The City has contacted the utility companies so that they can start any relocation before construction starts. TECO has responded with a new design and it is under review. The utilities will pay for the conduits for their lines.

One bidder, DMSI, submitted over 60 questions that required response from the City. About five contractors attended the pre-bid conference on October 9.

Elizabeth Camargo asked who the Engineer of Record is for the project. It is Schwebke Shiskin. Their surveying company was hired separately to do the utility analysis.

Status Report: Palm & Hibiscus Island Neighborhood Improvements and Utilities Undergrounding

Mattie Reyes, Senior Capital Projects Coordinator, said that Public Works is reviewing the design criteria package. An item to approve the RFQ has gone to Commission.

NO VOTE. Saul Gross said there was not enough information to make a recommendation.

Status Report: South Pointe Phase III, IV & V Neighborhood Improvement Project

Carla Dixon, Capital Projects Coordinator, said that a new 12" water main was added on Ocean Drive, and is now connected to the 20" line on 5 Street. The certification of the water lines is being completed. The County's emergency force main installation at Washington Avenue and South Pointe Drive has forced the City to halt the completion of the installation of a pump station in that area. 30% of the testing of the storm water system on Collins and Ocean Drive remains as of this meeting. The work on Alton Road has been tested and approved.

The contractor is changing their electrical subcontractor, so there is no work at this time on the street lighting. Landscaping is moving on schedule.

The project is expected to be completed in the summer of 2013.

Tony Trujillo stated that he sees big improvements in South Pointe.

Item No. 5: Commission Items: The Commission Items Discussed Were Deferred To A Future Commission Meeting.

The Commission items discussed were deferred to a future Commission meeting.

C6B Report Of The Land Use And Development Committee Meeting Of January 23, 2013: **1)** Alton Road Districts. **2)** Reduced Parking Rates For Hotel Employees. **3)** Discussion Of The Miami Beach Current City Code Chapter 6-4 (3) Relating To Alcoholic Beverage Sales That Requires A 300 Foot Distance Between Liquor Stores And Ask That The City Look Into Adopting The County Requirement Of 1500 Feet. **4)** Review Of Miami Beach Land Use Boards To Improve The City Of Miami Beach Building And Planning Department Processes. **5)** Discussion Concerning The Miami Beach Human Rights Committee Resolution Regarding The Posting Of Public Notices. **6)** Discussion Regarding Food Trucks On Private Property. **7)** Discussion Regarding The City's Current Plan To Contain Rising Seas And Destructive Storm Surges. **8)** Discussion Pertaining To "Smarter Materials For Next Generation Infrastructure," Such As Eliminating The Disposal Of Tires In Global Landfills And Incinerators. **9)** An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 66, Entitled "Marine Structures, Facilities And Vehicles," By Amending Article II, To Be Entitled "Restricted Wake Zones," To Create Regulations For Restricted Wake Zones; Providing For A Purpose; Providing For Definitions; Providing For Restricted Areas; Providing For Posting Of Regulatory Markers; Providing For Exemptions; Providing For Enforcement And Penalties. **10)** Discussion Of The 6th And 53rd Street Restrooms Project. **11)** Hotel Parking Requirements Ordinance.

ACTION:

Item No. 1: Alton Road Districts.

Libbin/Góngora: (2-0) Move both a) the Administration's recommendation, and b) Parking District #6, forward to the full Commission.

Item No. 2: Reduced Parking Rates For Hotel Employees.

DEFERRED TO FEBRUARY LUDC MEETING

Item No. 3: Discussion Of The Miami Beach Current City Code Chapter 6-4 (3) Relating To Alcoholic Beverage Sales That Requires A 300 Foot Distance Between Liquor Stores And Ask That The City Look Into Adopting The County Requirement Of 1500 Feet.

DEFERRED TO FEBRUARY LUDC MEETING

Item No. 4: Review Of Miami Beach Land Use Boards To Improve The City Of Miami Beach Building And Planning Department Processes.

Libbin/Góngora: (2-0) Refer to the Planning Board with a positive recommendation. The Committee requested that the item be kept on the LUDC agenda to discuss other aspects of the original referral.

Item No. 5: Discussion Concerning The Miami Beach Human Rights Committee Resolution Regarding The Posting Of Public Notices.

Góngora/Libbin: (2-0) Move approval of the proposed ordinance amendment.

Item No. 6: Discussion Regarding Food Trucks On Private Property.

DEFERRED TO FEBRUARY LUDC MEETING

Item No. 7: Discussion Regarding The City's Current Plan To Contain Rising Seas And Destructive Storm Surges.

Libbin/Góngora: (2-0) Approve #2 of Morris Sunshine's proposals.

Item No. 8: Discussion Pertaining To "Smarter Materials For Next Generation Infrastructure," Such As Eliminating The Disposal Of Tires In Global Landfills And Incinerators.

DEFERRED TO FEBRUARY LUDC MEETING

Item No. 9: An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 66, Entitled "Marine Structures, Facilities And Vehicles," By Amending Article II, To Be Entitled "Restricted Wake Zones," To Create Regulations For Restricted Wake Zones; Providing For A Purpose; Providing For Definitions; Providing For Restricted Areas; Providing For Posting Of Regulatory Markers; Providing For Exemptions; Providing For Enforcement And Penalties.

DEFERRED TO FEBRUARY LUDC MEETING

Item No. 10: Discussion Of The 6th And 53rd Street Restrooms Project.

Refer to the full Commission without recommendation.

Item No. 11: Hotel Parking Requirements Ordinance.

Libbin/Góngora: (2-0) Move the Planning Department staff recommendation to full Commission, and request more information on employee parking, potential for additional amendments, and on possibilities for achieving public benefits in return for additional parking reductions.

The Committee also guided the proponent of the proposed hotel development at 17th Street and West Avenue to continue to meet with residents, and to present his suggestion dealing with hotels outside historic districts, which limit accessory commercial uses to the full Commission for possible referral to the Planning Board as a separate ordinance.

City Clerk's Note: See R5H 1st Reading

C7 - Resolutions

- C7A A Resolution Approving And Authorizing The City Manager Or Her Designee To A Submit Grant Applications To: 1) The State Of Florida, Division Of Emergency Management (FDEM), For Federal Funding From The U.S. Department Of Homeland Security, Federal Emergency Management Agency (FEMA), Hazard Mitigation Grant Program In The Approximate Amount Of \$120,000 For The Window Replacement Project At The Miami Beach Botanical Garden; 2) The Florida Department Of Environmental Protection, Recreational Trails Program For Federal Funding In The Approximate Amount Of \$200,000 For The Middle Beach Recreational Corridor; And, 3) The Florida Office Of The Attorney General For Victims Of Crime Act (VOCA) Funding In The Approximate Amount Of \$100,000 For The Police Department's Criminal Investigation Division; Appropriating The Above Grants If Approved And Accepted By The City, And Authorizing The Execution Of All Documents Related To These Applications.

(Budget & Performance Improvement)

ACTION: Resolution No. 2013-28130 adopted. Patricia Walker to appropriate the funds if approved and accepted. **Judy Hoanshelt to handle.**

- C7B A Resolution Electing Commissioner Jonah Wolfson, Group IV, As Vice-Mayor For A Term Commencing On March 1, 2013, And Terminating On June 30, 2013, Or On Such Date When A New Vice-Mayor Is Thereafter Elected.

(City Clerk's Office)

ACTION: Resolution No. 2013-28131 adopted. Rafael E. Granado to handle.

- C7C Appointment Of Chief Special Master

1. A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Section 30-36 Of The Code Of The City Of Miami Beach, Concerning The Reappointment Of Abraham Laeser, Esq., To Serve As Chief Special Master, For A Term Commencing On March 15, 2013 And Ending On September 14, 2013; Provided Further That Chief Special Master Laeser Shall Be Authorized To Hold Hearings And Impose Fines, Liens And Other Non-Criminal Penalties Against Violators Of The City And County Codes And Ordinances, And Shall Also Be Authorized To Appoint Such Other Special Masters As May Reasonably Be Required To Conduct The Subject Hearings; And Further Incorporating All Other Matters Set Forth Within Chapter 30 Of The City Code, Including, Without Limitation, Sections 30-37 And 30-38 Thereof, Concerning The Compensation And Duties Of The Chief Special Master.

ACTION: Resolution No. 2013-28132 adopted. Rafael E. Granado to handle.

2. A Resolution Approving And Appointing, Pursuant To Section 102-356 Of The City Code, Abraham Laeser, Esq. (Chief Special Master Appointed Pursuant To Resolution No. 2013-28132 As The City Manager's "Designee" Under Section 102-356 Of The City Code; Said Designation Commencing With Mr. Laeser's Term As Chief Special Master On March 15, 2013 And Ending On September 14, 2013.
(City Clerk's Office)

ACTION: Resolution No. 2013-28133 adopted. Rafael E. Granado to handle.

- C7D A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee Not To Pursue Naming Rights For Publicly Owned Facilities And Parks And To Further Research The Development Of A Miami Beach Parks Foundation.
(City Manager's Office)

ACTION: Resolution No. 2013-28134 adopted. Kevin Smith to handle.

- C7E A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee At Its December 17, 2012 Meeting To Place A Plaque Honoring Rose Weiss Near The Flag Pole Located At The North Entrance To City Hall.
(Parks & Recreation Department)

ACTION: Resolution No. 2013-28135 adopted. Kevin Smith to handle.

- C7F A Resolution Accepting An Amended And Restated Grant Of Easement From La Gorce Country Club, Inc. As Set Forth In Resolution Number 2009-26995, For The Construction, Installation, Maintenance, Repair, And Replacement Of City Utilities.
(Public Works)

ACTION: Resolution No. 2013-28136 adopted. Jay Fink to handle.

- C7G A Resolution Accepting The City Manager's Recommendation, And Approving The Cultural Arts Council's Funding Recommendations, Awarding \$30,000 In Cultural Grants Known As Miami Beach Arts Gala 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.
(Tourism & Cultural Development)

ACTION: Resolution No. 2013-28137 adopted. Max Sklar to handle.

2:23:43 p.m.

SUPPLEMENTAL MATERIAL - Resolution

C7H A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee, Approving A Month-To-Month Extension, Retroactive To January 1, 2013, For A Voluntary Employee Loan Program, Through The BMG Money Loans-At-Work Program, To Make Available Loans To Interested Active Employees Of The City Of Miami Beach; With A Discussion Item Referred To The Finance And Citywide Projects Committee To Explore What Potential Loan Alternatives May Be Available.

(Human Resources)

ACTION: Item separated for discussion by Mayor Bower. Resolution No. 2013-28138 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Exposito; Voice vote: 4-2; Vice-Mayor Góngora recused himself; Opposed: Mayor Bower and Commissioner Wolfson. **Carla Gomez to handle.**

Kathie G. Brooks, Interim City Manager, explained that this resolution accepts the recommendation of the Finance and Citywide Projects Committee approving a month-to-month extension, retroactive, to January 2013, for the voluntary employee loan program.

Discussion held.

Commissioner Wolfson stated that he had the opportunity to meet with the representatives from BMG but he will continue voting against approving the item.

Commissioner Weithorn stated that she brought the item back because she found out that the interest rate was far worse than what is offered by BMG. The options are worse. Employees should be given better options when available. No one gets a BMG loan without first being counseled to get a better loan; the other option are payday loans and advance loans on income tax, but the rates are close to 29%. BMG offers between 13 and 19%.

Commissioner Wolfson explained that even though it is 29%, when making scheduled payments (interest), at the end of the year the effective interest rate one pays is 13%. He still has not changed his position.

Discussion continued.

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

Mayor Bower asked Mr. McCormick what the interest rates are.

Tom McCormick, BMG Money Loan-At-Work Program, explained that the interest rate varies based on the size of the loan, with the highest possible interest rate being at 29% and the lowest at 23%. It does not compound interest; these loans are from six months to two-years, with \$500 minimum and \$5,000 the maximum. Discussion held.

Commissioner Wolfson agreed that the interest rate is a better product than credit cards, although he is not changing his vote and discussion continued.

Mr. McCormick explained that sometimes some people have nowhere to turn and they have this program to help, most employees ignore the program, but the ones who do turn to it, pay BMG 1/10 the cost of their best fiscal alternative. They would like to continue serving the employees.

Commissioner Weithorn moved the item; opposed Mayor Bower and Commissioner Wolfson.

Voting Conflict Disclosure:

Vice-Mayor Góngora disclosed a voting conflict on this item. (Note, at the time the vote was taken, Vice-Mayor Góngora had left to attend a previous commitment.)

Handout or Reference Materials:

1. Form 8B "Memorandum of Voting Conflict" filed by Vice Mayor Góngora.

3:17:57 p.m.

C71 A Resolution Approving And Authorizing The Following Actions With Regard To The City's Neighborhood Stabilization Program 1 (NSP1) Agreements: 1) Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 5 To The Subgrant Agreement Between The State Of Florida Department Of Economic Opportunity (DEO) And The City, Modifying The Expiration Date Of The Subgrant Agreement From February 15, 2013, To August 15, 2013; 2) Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 9 To The NSP1 Agreement Between The City And Miami Beach Community Development Corporation (MBCDC), Dated January 21, 2010, Modifying The Expiration Date Of Such Agreement From February 15, 2013 To August 15, 2013; And Further Authorizing The City Manager To Execute Such Amendments And Any Subsequently Approved Extensions By US HUD Or DEO.

(Real Estate, Housing & Community Development)

ACTION: Item separated for discussion by Commissioners Libbin and Tobin. Resolution No. 2013-28139 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Weithorn; Voice vote: 5-1: Opposed: Commissioner Tobin; Absent: Vice-Mayor Góngora. **Anna Parekh to handle.**

TO DO:

In the future, agenda items shall include, in a very clear manner, the income-eligibility requirements.

Commissioner Libbin explained the reason he separated the item is because in the Agenda it stated that there were 1,651 qualified applicants for units, yet after the project gets done only 39 are filled with 21 that having no residents for. After the grant is received and the work is done, he wants to know why are the units not filled, if it so needed.

Max Sklar, Acting Assistant City Manager, explained that the 13 vacant units, they had been informed by MBCDC that the applicants applied for either a studio or one or two bedrooms, which separates them from the list. They have exhausted the list, because many of the applicants are on Section 8, and cannot afford the rents they are charging on the remaining units.

Discussion continued.

Anna Parekh, Housing and Community Development Director explained that there were applicants that did not qualify because of income and others because they did not want the units on Miami Beach, instead preferring other cities/locations.

Commissioner Libbin stated that if the City allocates funds and applies for grants to build

these units, he does not understand why they allow people that do not apply for properties on Miami Beach to be included on the list.

Anna Parekh, Housing and Community Development Director, explained that the stimulus money was on a formula basis; the City applied for the money, produced 60 units of affordable housing, of which 13 remain vacant as of today. At State level Miami Beach is not the only one that has vacant units because the eligibility requirements are so tricky. When MBCDC advertised the list, 2,000 people applied, not all of which are eligible.

Commissioner Libbin referred to Page 210, where it states that MBCDC received more than 2,000 applications, of which 1,652 were deemed eligible. Ms. Parekh clarified that this means that they are "*deemed income-eligible*."

Discussion continued.

Commissioner Tobin is not voting in favor of this item because the cost to revitalize these properties is way above market.

Commissioner Libbin will vote for it, but wants a change in process. He requested clarification for next agenda items.

SUPPLEMENTAL MATERIAL – Resolution and Draft Letter Agreement

C7J A Resolution Waiving By 5/7th Votes, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager To Execute A Letter Of Agreement With Jewish Community Services Of South Florida, Inc. In The Amount Of \$40,000, For The Jewish Community Services Hope Program.
(Public Works)

ACTION: Resolution No. 2013-28140 adopted. Jay Fink to handle.

End of Consent Agenda

REGULAR AGENDA**R5 - Ordinances****12:19:28 p.m.**

R5A Second Hands Goods Stores – Precious Metals

An Ordinance Amending The City Code, By Deleting Chapter 18, "Businesses," Article XII, "Secondhand Goods," Division 3, "Pawnshops"; And Division 4, "Secondhand Dealers"; And By Amending Chapter 102, "Taxation," Article V, "Local Business Tax," Section 102-356, "Construction Of Article; Definitions"; In Order To Conform City Code Provisions On Pawnshops And Secondhand Goods With Applicable Florida Statutes; And By Amending Chapter 142, "Zoning Districts And Regulations," Article II "District Regulations," Division 4 "CD-1 Commercial, Low Intensity District," Section 142-273, "Conditional Uses" And Division 5 "CD-2 Commercial, Medium Intensity District," Section 142-303 "Conditional Uses" By Including Second Hand Dealers Of Precious Metals As A Conditional Use In The CD-1 And CD-2 Zoning Districts; And Division 6, "CD-3 Commercial, High Intensity District," Section 142-335 "Prohibited Uses" And Division 18 "PS Performance Standard District," Section 142-693(c) "Permitted Uses," By Including Second Hand Dealers Of Precious Metals As Prohibited Uses In The CD-3 And PS Districts, Providing For Repealer, Severability, Codification And An Effective Date. **10:30 a.m. Second Reading Public Hearing**

(Requested by Vice-Mayor Michael Góngora)

(Legislative Tracking: Planning Department)

(First Reading on January 16, 2013)

ACTION. Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3791 adopted.** Motion made by Vice-Mayor Góngora to approve the ordinance; seconded by Commissioner Weithorn; Ballot vote: 7-0. Rafael E. Granado to transmit to Municipal Code. **Richard Lorber to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 762

1:21:59 pm

R5B An Ordinance Amending Chapter 102 Of The Miami Beach City Code, Entitled "Taxation," By Creating Section 102-2, To Be Entitled "Homestead Exemption For Low-Income Senior Citizens Who Are Long-Term Residents"; Providing For An Additional Homestead Exemption For Certain Low-Income Qualifying Senior Citizens Who Are Long-Term Residents To Be Applied To Millage Rates Levied By The City Of Miami Beach; Requiring Delivery Of Ordinance To The Miami-Dade County Property Appraiser; Providing For Repealer, Severability, Codification, An Effective Date, And Requiring A Majority Plus One Vote Of The Members Of The City Commission.

10:45 a.m. Second Reading Public Hearing

(Requested by Matti Herrera Bower & Vice-Mayor Michael Góngora)

(Legislative Tracking: Finance Department)

(First Reading on January 16, 2013)

ACTION. Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3792 adopted.** Motion made by Commissioner Libbin to approve the ordinance; seconded by Vice-Mayor Góngora; Ballot vote: 5-0; Absent: Commissioners Tobin and Wolfson. Rafael E. Granado to transmit to Municipal Code and the Miami-Dade County Property Appraiser. **Victoria Kroger to handle.**

Kathie G. Brooks, Interim City Manager, explained that this ordinance is approving implementation of Amendment 11 of the Florida Constitution, approved by referendum last year, which provides up to \$50,000 Homestead Exemption for qualifying low-income seniors. The impact to the City for 2013 is estimated under \$17,000.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 762

1:46:23 p.m.

R5C An Ordinance Amending The Miami Beach City Code By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Creating Division 34, To Be Entitled "Bicycle-Pedestrian Facilities Advisory Committee," And Sections 2-190.149 Through 2-190.153 Therein To Provide Provisions Establishing The Committee And Its Purpose, Powers And Duties, Composition, And Supporting Department; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**

(Requested by Neighborhood/Community Affairs Committee)

(Legislative Tracking: Public Works)

ACTION: Title of the ordinance read into the record. Public Hearing held. **Ordinance approved on first reading.** Motion made by Commissioner Libbin to approve the ordinance; seconded by Commissioner Weithorn; Ballot vote: 6-0; Absent: Commissioner Wolfson. Second reading and Public Hearing scheduled for March 13, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Fred Beckmann and Jose R. Gonzalez to handle.**

Commissioner Libbin stated that months ago he requested a Comprehensive Master Plan of the bicycles, and believes the City is doing an amazing job in making good things in the community to make the City more sustainable and pedestrian and bicycle friendly, and thinks this committee is worth having.

1:48:03 p.m.

R5D An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Through And Including June 30, 2013; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**

(Requested by the City Commission)
(Legislative Tracking: Parks & Recreation)

ACTION: Title of the ordinance read into the record. Public Hearing held. **Ordinance approved on first reading.** Motion made by Vice-Mayor Góngora to approve the ordinance; seconded by Commissioner Libbin; Ballot vote: 5-1; Opposed: Commissioner Weithorn; Absent: Commissioner Wolfson. Second reading and Public Hearing scheduled for March 13, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Kevin Smith to handle.**

Amendment

Amend the DRB application to raise the height of the hedge at least 3 to 3½ feet in height.

Kathie G. Brooks, Interim City Manager, explained that the program will be extended until June 30th, and is scheduled to go back to Design Review Board on March 5, 2013.

Commissioner Weithorn stated that she is in support of dog parks, but she has witnessed bicycles having near accidents due to dogs running through the catwalk; it is exacerbated with the extra activities in the park, and she does not think it should be allowed due to the danger. She is very concerned about what is going on at the park. Commissioner Weithorn stated that they have to put people before dogs.

Vice-Mayor Góngora agreed that this issue has gotten out of hand, but suggested approving the extension through June and see if the DRB makes the right decision.

Commissioner Libbin stated that if the City moves forward and creates a hedge, and dog owners do not respect the area, then he will vote to get rid of the dog off-leash program in the park. He suggested raising the height of the hedge.

Mayor Bower requested raising the height of the hedge at least three feet or three and one half feet. Mayor Bower stated that they have to suffer because some people do not control their dogs.

Discussion held.

Motion made by Vice-Mayor Góngora to approve the ordinance; seconded by Commissioner Libbin to approve the extension of the program until June 30th.

Max Sklar, Acting Assistant City Manager, suggested that the application be amended to make the fence/hedge higher.

Commissioner Libbin recommended making the hedge at least three feet or three and one-half feet higher as part of the motion.

1:24:17 p.m.

R5E CD-2 Self Storage

An Ordinance Amending The Code Of The City Of Miami Beach, Florida, Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 5, CD-2 "Commercial, Medium Intensity District," By Permitting "Self-Storage Warehouses" As A Conditional Use In This Zoning District; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading**

(Requested by Commissioner Jerry Libbin)

(Legislative Tracking: Planning Department)

ACTION: Title of the ordinance read into the record. Public Hearing held. **Ordinance approved on first reading as amended. Item referred to the Land Use and Development Committee.** Motion made by Commissioner Libbin to approve the ordinance as amended; seconded by Vice-Mayor Góngora; Ballot vote: 6-0; Absent: Commissioner Wolfson. Second reading and Public Hearing scheduled for March 13, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Richard Lorber to place on the committee agenda and to handle.**

Amendment

Approve ordinance to add CD-2 storage in the area of lower Alton Road

Add a distance separation between storage areas to avoid conglomeration of storage

Apply in the CD-1 district as well

Referral

Refer to the Land Use and Development Committee

Commissioner Weithorn stated that she will vote against it because in her opinion the item is not ready.

Discussion held.

Wayne Pathman, Esq., explained, on behalf of the applicant, that even if the zoning change is approved, they still need to present to the Land Use Boards, and they have plans, already started in design, that require approval.

Mayor Bower has no problem approving the CD-2 zoning in that area, but if this creates a spot zoning in other areas, and neighborhoods do not want it, she will vote against it. Otherwise, she is in agreement in this particular area.

Discussion continued.

Wayne Pathman, Esq., in answering Mayor Bower's questions, stated that neighbors were notified and they are in support.

Discussion continued regarding limitations.

Commissioner Libbin stated that this item was discussed at committee and the neighbors support it. There are a couple of ways this can be handled: 1) The City Attorney opined that the area can be approved now; 2) the other areas can come back to Commission separately, and/or the other sections of the City could consider a neighborhood conservation district. He

thinks this should be approved on this district.

Vice-Mayor Góngora agrees, and is in support of approving the item for this district.

Commissioner Weithorn explained that to put something on the same street where there are issues for traffic makes no sense to her.

Discussion held.

Christine Florez, representing the West Avenue Corridor Neighborhood Association, stated that at meetings she was told that it was specific to that area. She asked to make it clear that this is going to be specific to the area as long as there is support from the neighborhood.

Mayor Bower requested that between first and second reading to add language to have distance separation between storage areas and avoid a conglomeration of storage. **Richard Lorber to handle.**

Motion to approve the ordinance to add CD-2 storage in the area of lower Alton Road and add a distance separation to apply in the CD-1 district as well.

Commissioner Weithorn suggested referring item to the Land Use and Development Committee and bring back to Commission.

5:48:08 p.m.

R5F An Ordinance Amending Chapter 12 Of The Miami Beach City Code, Entitled "Arts, Culture And Entertainment," By Amending Article I Thereof, Entitled "Film And Print Production Permits," By Amending Section 10 Entitled "Enforcement"; And Providing For Repealer, Codification, Severability And An Effective Date. **First Reading**
(Requested by Neighborhood/Community Affairs Committee)
(Legislative Tracking: Tourism & Cultural Development)

ACTION: Title of the ordinance read into the record. Public Hearing held. **Ordinance approved on first reading as amended.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Libbin; Ballot vote: 7-0. **Second reading and Public Hearing scheduled for April 17, 2013.** Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Max Sklar to handle.**

Amendment

- Add language to allow for enhanced penalties to productions that do not obtain permits.
- Add language to allow penalties to homeowners that rent property for film and production without permits.

Referral

Neighborhood/Community Affairs Committee

Max Sklar, Acting Assistant City Manager, introduced the item and explained that the ordinance solely focuses on penalties and enforcement provisions to mirror other sections of the City Code. It also sets forth enhanced penalties for fourth and fifth offenses and explained the fines.

Jose Smith, City Attorney, stated that as suggested by Commissioner Weithorn for those productions that do not have a permit, that the penalties be enhanced further, and perhaps be banned for one year before they can obtain a permit.

Commissioner Weithorn stated that her concern is on individuals that do not follow rules; they should be fined with severe penalties, in order to obtain full compliance. Jose Smith, City Attorney, explained that between first and second reading, language will be added to the ordinance to allow for enhancement of the schedule of penalties. **City Attorney's Office to handle.**

Discussion continued regarding penalties to the homeowners that rent houses for film and print productions without permits.

Mayor Bower requested that penalties be enforced to homeowners that rent properties as well as promoters.

Motion made by Commissioner Weithorn to approve on first reading as amended, and refer to the Neighborhood/Community Affairs Committee; seconded by Commissioner Exposito.

1:56:18 p.m.

R5G An Ordinance Amending The Miami Beach City Code By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Amending Division 29, Entitled "Debarment Committee," By Amending The Purpose, Powers, And Duties Of The Committee To Include Authority To Consider The Suspension Of Contractors In Addition To Debarments; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**

(Requested by Mayor Matti Herrera Bower)

(Legislative Tracking: City Attorney's Office)

ACTION: Title of the ordinance read into the record. Public Hearing held. **Ordinance approved on first reading. Item referred to NCAC between first and second reading.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Vice-Mayor Góngora and Commissioner Wolfson. Second reading and Public Hearing scheduled for March 13, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **City Attorney's Office to handle.**

Referral

Neighborhood/Community Affairs Committee

Jose Smith, City Attorney, explained that this item has to be referred, as the item has to go to committee first and then come back to Commission since he is not allowed to bring forth an ordinance to the Commission.

Motion made by Commissioner Weithorn; seconded by Commissioner Exposito to refer the item.

Jose Smith, City Attorney, in answering Mayor Bower's questions, explained that there is a proposed ordinance amendment to allow the Debarment Committee to suspend contractors. Commissioner Wolfson sponsored an ordinance a couple of years ago clarifying the process.

Jorge Gomez, Assistant City Manager, clarified that according to the City Code, the City Manager and the City Attorney cannot bring an ordinance for public hearing without the City Commission's prior consent, so there needs to be a consent action by the Commission and it can be heard, but it is not required to go through committee first.

Discussion continued and Mayor Bower offered to sponsor this item.

Motion was made by Commissioner Weithorn to approve the ordinance on first reading, and refer to Neighborhood/Community Affairs Committee; seconded by Commissioner Exposito.

6:35:51 p.m.

R5H Hotel Parking Requirements

A Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 130 "Off-Street Parking," Article II, "Districts; Requirements," By Amending The Off-Street Parking Requirements For Hotels In All Districts; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading**

(Requested by Land Use & Development Committee)

(Legislative Tracking: Planning Department)

(Deferred on January 16, 2013/Referred to LUDC)

ACTION: Title of the ordinance read into the record. Public Hearing held. Motion made by Commissioner Wolfson to approve Ordinances Versions A and B as amended; seconded by Commissioner Weithorn; Ballot vote: 5-2 (Mayor Bower and Commissioner Libbin voting against); Second reading and Public Hearing scheduled for March 13, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Richard Lorber to handle.**

Amendment

Sunset/look back provision in one year for both version of the ordinance.

In the Planning version of the ordinance, include the proffers made by Michael Larkin, Esq.

Richard Lorber, Acting Planning Director, explained that the ordinances reduce parking requirements for hotels in Miami Beach. If this ordinance passes, there is an amount that will be returned to some of these projects, as parking requirements will be reduced, and there is about \$2.5 million of parking impact fees currently in escrow that will not be required, and must be returned, if this is adopted. There is one proposed project not located in the historic district that has been discussed at length, and Mr. Finvarb will address later. The LUDC Committee's recommendation was to keep it to 0.5 per room for historic district and targeted areas in North Beach. He also made reference to a letter received from Michael Larkin, Esq., representing Mr. Finvarb, with a proposal seeking to have the 0.5 apply to projects that meet certain criteria; those that do not have accessory commercial uses or outdoor rooftop entertainment type uses. In summary, the Planning and Administration recommends staff version at 0.75, which equals to three parking spaces per four rooms.

Discussion held regarding adding parking requirement in overlay districts.

Commissioner Weithorn stated that in North Beach there has been discussion about converting small units into hotels and she asked that if someone wants to do a conversion and the City decides to make an overlay district, can this be changed without impacting the ordinance? Discussion continued.

Jorge Gomez, Assistant City Manager, explained that rehabilitating an existing building that has no parking, there is parking credit that goes along with the ordinance; if they add FAR (Foot Area Ratio) to the building, that would have a parking requirement and the ordinance will create an incentive.

Motion made by Commissioner Wolfson at half a space for every room, which is the Planning Board's recommendation of 0.5 per room; seconded by Commissioner Weithorn. No voice taken.

Mayor Bower requested to know if the City keeps reducing parking in buildings, where are they parking the working people in Miami Beach. They are subsidizing the developers to give incentives to develop in Miami Beach, but for the record, she added that the citizens of Miami Beach are paying for the dense population.

Mayor requested for an assessment as to where hotel employees park. **Saul Frances to handle.**

Discussion continued regarding parking hotel requirements.

Commissioner Tobin stated that there is a traffic and congestion problem in Miami Beach and would like a discussion to address these problems. This is strictly a smaller boutique hotel, and most people staying there do not have cars. He asked the Planning Department for statistics regarding visitors and car rentals. He asked for commitment from everyone on the dais, that in a year from now they will do something about traffic, maybe discuss dedicated lane or a tram on wheels.

Discussion continued.

Commissioner Weithorn suggested sun setting this after one year. Discussion continued.

Ron Finvarb spoke. Discussion continued.

Steve Wernick, representing the Wyndham Garden Hotel, stated that this is really about historic buildings, and very few of guests have vehicles, and adding rooms does not increase the number of parking. Discussion continued regarding impact fees and requirements.

Richard Lorber, Acting Planning Department Director, stated that historic districts are categorized by a lot of buildings that do not have parking requirements; which historically fostered the redevelopment of South Beach and retention of historic buildings. This project on 11th and Washington is an area that has not had investment of this type in a long time; and to have a corporation invest in rooftop additions approved by HPB for five buildings in the heart of the Washington Avenue corridor is positive for the City.

Commissioner Tobin explained that this is creating a loophole, and more congestion without the ability to address what is considered the most fundamental concerns in the City, which is the residents are being held hostage by the congestion.

Discussion continued.

Mayor Bower stated that the parking issue has to be revisited because there is a problem.

Commissioner Tobin requested that the ordinance be revised to address issues discussed. He

requested that Richard Lorber, Tom Mooney and Jorge Gomez meet to tweak language. **Richard Lorber to handle.**

Commissioner Weithorn requested that the ordinance be amended to include a sunset provision of one year.

Gary Held, First Assistant City Attorney, explained that due to lag time between sunset and the new adoption, he would like the sunset provision to say what the parking ratio would be after it sunsets.

Commissioner Weithorn suggested adding the sunset provision between first and second reading and he asked the maker of the motion if he approved the amendment. Discussion continued.

Christine Florez stated that they need to address parking impact in a holistic manner as Commissioner Tobin requested. Discussion held.

Michael Larkin, Esq., representing Mr. Finvarb, stated that they are in support of the Planning Board Version of 0.5 and in support of the language in the letter, Mr. Lorber made reference to.

Commissioner Tobin suggested that Mr. Larkin meet with Richard Lorber, Tom Mooney and Jorge Gomez to see if there is a way that it can be limited to these hotels? The problem is that historic districts have many rooms with no parking and that adds to the parking congestion. Commissioner Tobin explained that he is hard pressed to vote for 0.5 if it applies all over the City. Please try to fashion something that does not create big congestion, between first and second reading. **Richard Lorber to handle.**

Michael Larkin, Esq., stated that he will work with staff to come up with some type of traffic issues resolutions. Discussion continued regarding surveys done through hotel association to determine how many visitors rent or utilize vehicles.

Perry Martino, Belle Island resident, stated that his neighborhood has had no opinion on this issue at this moment. Discussion held.

The following individuals spoke:

Ben Waters
Harold Rosen
John Leyva
Gail Durham
Russ Root

Ron Finvarb has been operating the hotel for five years on Washington Avenue, and they have no issues with the residents. They are proposing a state-of-the-art hotel and are confident that it will complement the area, which has been vacant and believes the neighborhood will approve.

Richard Lorber, Acting Planning Director, suggested approving the 0.5 with Mr. Larkin's recommendation, which are limiting the bars on the roof and entertainment. Discussion continued regarding proffers benefitting neighborhoods.

Commissioner Libbin suggested doing a study that can verify the parking needed, and stated

that the 0.75 he thinks is the way to go. He will not support this item today.

Vice-Mayor Góngora explained that this item was discussed at length at LUDC Committee and he is comfortable with 0.75 and feels comfortable with the sun setting in one year. He believes that there will be an increased traffic use. At the last Committee meeting he asked to give a public benefits back to the residents if this project is approved, and asked what they can do to benefit the City.

Michael Larkin, Esq., stated that they can make improvements to the parking lot south of Lincoln Road next to the Washington Mutual, and asked Mayor Bower if she is comfortable with the 0.5 with the proffers and limitation on intensity, to which she replied that she will not vote in support. Discussion continued.

Vice-Mayor Góngora recommended adopting both versions of the ordinance on first reading, and between first and second reading, to make recommendations as to what it is that they want to do; seconded by Commissioner Weithorn. Discussion held regarding the issues and concerns by the City Commission.

Richard Finvarb stated that parking is not required in the historic district. They are building a new hotel, providing adequate parking; they have experience and data has been collected. Discussion continued.

Motion made by Commissioner Wolfson to approve both ordinances, Version A, the Planning Board version, and Version B, the Planning Department staff, as amended with the one year sunset provision and all the proffers on the Planning Department version, second by Commissioner Weithorn; Ballot vote 5-2; Opposed Mayor Bower and Commissioner Libbin.

Gary Held, First Assistant City Attorney, explained that between first and second reading the proffer language will be edited. He reiterated the motion of the adoption on first reading of both versions.

Richard Finvarb spoke and discussion continued.

Commissioner Exposito requested Administration to obtain correct data regarding hotel occupancy rate for hotels in Miami Beach. **Richard Lorber to handle.**

Handout or Reference Materials:

1. Versions A and B

R7 - Resolutions**5:57:39 p.m.**

R7A A Resolution Amending The "Film And Print Production Guidelines," And Hereby Permitting And Restricting Further Uses On Public Property.
(Tourism & Cultural Development)

ACTION: Resolution No. 2013-28141 adopted as amended. Motion made by Commissioner Libbin to approve the resolution as amended; seconded by Vice-Mayor Góngora; Voice-vote: 6-1; Opposed: Commissioner Tobin. **Max Sklar to handle.**

Amendments:

- Radius restriction within 500 feet of a hospital where film and print activity would be restricted to no more than five (5) days per month without neighbor consent; ten (10) days per month everywhere else without neighbor consent.
- Bring back to Commission for review in six (6) months.

Max Sklar, Acting Assistant City Manager, introduced the item.

Mayor Bower asked for the definition of low impact and of each category.

Max Sklar, Acting Assistant City Manager, stated that they are defined on page 330 in the Commission Agenda packet.

Commissioner Wolfson asked if there are a number of crewmembers that the Commission will feel comfortable not requiring a permit.

Max Sklar, Acting Assistant City Manager, explained that permits are not required for student projects, but they require they obtain insurance and indemnification.

Graham Winick, from Tourism and Cultural Development Department, spoke.

Discussion held.

Vice-Mayor Góngora asked what triggers a low impact use.

Graham Winick, from Tourism and Cultural Development Department, explained.

Commissioner Wolfson stated that this issue should be discussed at another meeting.

Teresa Davis spoke.

Motion made by Vice-Mayor Góngora approving the Production Industry Council recommendation of up to ten (10) days, with the caveat that they exempt the 500 feet from a hospital for emergencies. No second offered.

Discussion continued.

Kevin Sharply, Chairman of the Miami Dade Entertainment Advisory Board, spoke.

Graham Winick, from Tourism and Cultural Development Department, explained.

Bruce Orosz, member of the Miami Beach Production Industry Council, spoke.

Discussion continued.

Vice-Mayor Góngora asked if there was consensus to pass the Production Industry Council recommendation with the exception of 500 feet from a hospital to no more than five (5) days per month. Motion by Commissioner Libbin; seconded by Vice-Mayor Góngora. No vote taken and discussion continued.

Amendment:

Commissioner Exposito requested review in six months and Commissioner Libbin accepted the amendment.

A voice vote was taken; 6-1; Opposed: Commissioner Tobin.

Commissioner Wolfson clarified the motion: radius restriction within 500 feet of a hospital where film and print activity would be restricted to no more than 5 days per month without neighbor consent; and ten (10) days per month everywhere else without neighbor consent.

New Item

6:34:17 p.m.

Introduction Of Greenville's Mayor

Vice-Mayor Gongora introduced Greenville's Mayor White, who has been a Mayor since 1995.

Knox White, the Mayor of Greenville, South Carolina, spoke.

12:21:39 p.m.

R7B A Resolution Endorsing The Mayors' Climate Action Pledge, Affirming Support For The Southeast Florida Regional Climate Change Compact, Agreeing To Consider Implementing The Regional Climate Action Plan In Whole Or In Part As Appropriate For Each Municipality, And Urging All Mayors Of Miami-Dade County To Support The Mayors' Climate Action Pledge.

(Requested by Mayor Matti Herrera Bower)
(Legislative Tracking: Public Works)

ACTION: Resolution No. 2013-28142 adopted. Item referred. Motion made by Vice-Mayor Góngora to approve the resolution with the referral to the Finance and Citywide and Projects Committee; seconded by Commissioner Tobin; Voice-vote: 7-0. Patricia Walker to place on the committee agenda. **Elizabeth Wheaton to handle.**

Referral:

Finance and Citywide Projects Committee to review the 28 rules to determine what can be done when performing City projects, to avoid doing double work and increasing the cost.

TO DO:

1. Bring back a program for the City Commission to approve.
2. Quarterly report available to everyone.
3. Quarterly performance benchmarks in order to have some objective performance criteria

Fred Beckmann, Public Works Director, introduced the item and introduced Nichole Hefty from Miami-Dade County. He announced that Kathie G. Brooks was selected to be the Miami Beach representative on the steering group, and she is being nominated by Miami-Dade County to be municipal representative for Miami-Dade County.

Elizabeth Wheaton, Environmental Manager from Public Works, distributed a copy of the action plan.

Nichole Hefty, Miami Dade County Sustainability Office Chief, gave a PowerPoint presentation.

Fred Beckmann, Public Works Director, spoke.

Discussion held.

Commissioner Exposito stated that he is in agreement with this, and added that in moving forward with the GO Bond projects he is concerned that there may be adaptations that we may need to retrofit. He asked that as we go through these projects we look at the twenty-eight rules, looking at what changes we need to make to incorporate. Bring back to us for discussion a program to decide if there is anything that we should be doing now, as we do these projects. He does not want to do double work and increase the cost, by not doing things that should be done now. **Fred Beckmann to handle.**

Commissioner Weithorn requested that Commissioner Exposito refer it to the Finance and Citywide Projects Committee.

Discussion held.

Motion made by Vice-Mayor Góngora to approve the resolution and the plan with the referral to the Finance and Citywide Projects Committee; seconded by Commissioner Tobin; Voice vote 7-0.

Commissioner Tobin stated that on the climate initiative he requested adding a procedure to monitor and track the progress made.

Kathie G. Brooks, Interim City Manager, explained that at the Land Use and Development Committee it was requested to have a quarterly report. This quarterly report can be made available to everyone. **Kathie G. Brooks and Fred Beckmann to handle.**

Commissioner Tobin stated that in addition to the quarterly report, we should set quarterly performance benchmarks so that we have some objective performance criteria. **Kathie G. Brooks and Fred Beckmann to handle.**

Kathie G. Brooks, Interim City Manager, explained that working with the committee setting up the quarterly benchmarks may take a little longer.

1:59:51 p.m.

8:36:40 p.m.

SUPPLEMENTAL MATERIAL – Resolution and Agreement

R7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Amendment To The Professional Services Agreement Between The City Of Miami Beach And Strategic Advisory Group Dated October 19, 2011 For Consulting Services Relative To The Expansion And Enhancement Of The Miami Beach Convention Center Campus/District In An Amount Not To Exceed \$198,835, Including All Reimbursable Expenses, With Previously Appropriated Funds From FY 2012/2013 Operating Budget Fund 168 RDA City Center Operations.

(City Manager's Office)

ACTION: Resolution rejected. Motion made by Commissioner Libbin to pay the monthly average for the Phase II in January; seconded by Commissioner Exposito; Voice vote 6-0 Absent: Commissioner Libbin. **Max Sklar and Jorge Gomez to handle.**

To Do:

1. Resolution rejected.
2. Authorization to pay the monthly average for Phase II in January.
3. Obtain a Scope of work or an understanding by letter of agreement of the work to be performed. It has to be specific.
4. Commissioner Tobin to meet with Jorge Gomez next week and finalize the contract/agreement to be brought back at the next City Commission meeting.

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

Discussion held.

Commissioner Tobin suggested that the way this agreement should be negotiated is on a lump sum basis with a well-defined scope.

Commissioner Libbin suggested having Commissioner Tobin meet with Strategic Advisory Group and bring back recommendations for consideration.

Discussion continued.

Jorge Gomez, Assistant City Manager, explained the terms.

Amendment:

Commissioner Tobin stated that he will not negotiate on behalf of the City unless he has full power, and suggested getting an all-in price, define the scope and accept it. He would like to postpone the final vote on this until the mayoral election to take the politics out of it.

Discussion continued.

Commissioner Weithorn seconded the amendment.

Discussion continued.

Motion made by Weithorn to table the item to a later time today; seconded by Commissioner Tobin. Approved to table the item by acclamation.

8:36:40 p.m.

Max Sklar, Acting Assistant City Manager, distributed a cost analysis from SAG and stated that the cost is \$307,223 and it will go until June 2014.

Commissioner Tobin stated that he does not want it to go to June.

Max Sklar, Acting Assistant City Manager, explained that it is 2014, eighteen months of work from January 2013 thru June 2014.

Discussion continued.

Commissioner Tobin stated that this gets us a lot closer, and he would like to review the new figures, and make a decision later. He requested a scope or an understanding by letter of agreement that we get from Mr. Jeff Sachs detailing the work to be performed. It has to be specific. **Max Sklar and Jorge Gomez to handle.**

Discussion continued.

Commissioner Tobin requested to discuss this with Jorge Gomez next week and finalize the agreement, at bring back the item the next City Commission meeting. **Max Sklar and Jorge Gomez to handle.**

Discussion continued.

Motion made by Commissioner Tobin to authorize payment of the monthly average for Phase II work performed in January; seconded by Commissioner Exposito; Voice vote 6-0; Absent: Commissioner Libbin.

Handouts and Reference Materials:

1. Strategic Advisory Group work sheet on costs analysis.

10:44:42 a.m.

R7D Resolution Approving A Modification To Settlement Agreement Between 120 Ocean Drive LLC, And The City Of Miami Beach, And Authorizing The Mayor And City Clerk To Execute The Modification, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof.

(City Attorney's Office)

ACTION: Resolution No. 2013-28143 adopted. Motion made by Commissioner Wolfson to approve the resolution; seconded by Commissioner Weithorn; Voice-vote: 6-1; Opposed by Commissioner Tobin. **City Attorney's Office to handle.**

To Do:

Look at the Comprehensive Plan Amendment.

Kathie G. Brooks, Interim City Manager, explained that R7D is to approve the modification to the settlement agreement with 120 Ocean Drive, LLC.

Jose Smith, City Attorney, distributed materials to give the Commission a background on what lead to the settlement agreement, which is the subject of consideration today; some of those documents go back to the late 1990's. Those documents show that board orders were issued sometime in the late 1990's, approving the original construction by Mickey Biss. There's a 1999 building permit that is marked Tab One, there is a 2001 building permit marked Tab

Two; there is a Board Of Rules And Appeals Decision under Tab C, which was entered in December 2003. That decision was appealed to the 11th Judicial Circuit in 2004. The Third District Court of Appeals decision was in 2005. These decisions essentially kept the building permit in effect. The last tab is Section F, which is a brief summary of a series of lawsuits that Mickey Biss had filed, not only against the City, but against City elected officials as well, and those were lawsuits settled in 2006. He is sure the applicant will refer to those matters in their presentations, and he is happy to answer any questions they may have.

Commissioner Tobin would like to know, from a legal point, why is it that they are hearing this modification to the settlement agreement before the Planning Board, and by what legal authority Mr. Held has for having the Commission hearing this matter before the Planning Board gets a chance to analyze this thing inside and out?

Gary Held, First Assistant City Attorney, stated that it is his understanding that the Historic Preservation Board has already approved the project, and the reason why is going to the Planning Board is for conditional use for mechanical parking. The property owner requested that it go to the Planning Board first. Discussion held and Mr. Held explained that the Administration recommended obtaining approval from the City Commission prior to sending to the Planning Board.

Discussion continued.

Mayor Bower gave a history of the City's struggle for years not to give the permit, and they lost in court. Her question is if the building that has the permit was going to be built, does it have to go to any Land Use Board?

Commissioner Tobin stated that he has not seen a matter rushed through with such priority, and he is finding out the details of something that will be talked about for the next 20 to 30 years as a gigantic disaster, and everyone will want to know who caused this disaster. He does not think there is a need to rush to give the developer a break. That is his concern.

Jose Smith, City Attorney, explained the item and provided a brief history, including the appeal to the 3rd District Court of Appeals. Mr. Smith added that once the 3rd DCA ruled against the City, the City request a rehearing en banc, but it was denied. No appeal to the Florida Supreme Court was made.

Discussion continued and Commissioner Libbin stated that there has been fairly wide support by the neighborhood, and wonders what will happen if the Planning Board is not supportive.

Victor Diaz, Esq., stated that all this community support has come because the community has been presented with "Do you want a punch in the face, or do you want a punch in the stomach? This Commission is supposed to be the community's big brother and avoid this. He is saying that maybe they do not need to get a punch at all. They need to commence construction by January 2014 because extensions ran out. His motif is to vet this properly and not rush it through; to look at it in a calm, deliberate and detailed fashion.

Mayor Bower asked if Mr. Diaz thinks that the Commission should spend money to go back and reopen this and go to the Supreme Court.

Mr. Diaz stated that he thinks they have waived the right to review. He does not know whether somebody with a fresh set of eyes might see some litigation strategy, and he does not know if this set of plan exists or if they are buildable plans. Additionally, he does not have

the engineering or architectural skills to look at those and see whether they are in fact usable. Discussion continued.

Commissioner Tobin stated that there is no need to rush to take action now, and he finds it unusual and unsettling that he would have to make a decision that will affect the community without having time for thoughtful reflexion.

Commissioner Wolfson thinks he has a good working understanding of the legal issues interest with the development issues. He asked the Legal Department if the developer has certain developments rights currently.

Jose Smith, City Attorney, explained that the bad thing that happened to the community happened in 2005, when the 3rd District Court of Appeal ruled against the City. There was no appeal to the Supreme Court and anybody that filed a lawsuit to try to set aside that opinion or come up with a different theory will be filing a frivolous lawsuit. He thinks that they are stuck, whether they call it a "punch to the face" or "a punch to the stomach," they are stuck with those vested development rights. The issue is whether this body wants to hear it today and whether they want to amend the settlement agreement to provide for a different design. Discussion continued.

In answering Commissioner Wolfson's question, Mr. Smith explained that the settlement agreement settled a series of lawsuits that have to do with development rights or grandfathering. They lawsuits had to do with allegations of discrimination, of abusive process, violation of sunshine law and a myriad of other issues that Mickey Biss filed against the City. All members of the City Commission were joined in those lawsuits. The amount requested against the City was for \$10 million. The settlement agreement in 2006 settled all those lawsuits and allowed Mickey Biss to sell his project to the Congress Group. This proposed settlement agreement would provide for the new buyer of this property to change the building plans to reflect a different building than originally approved by the City.

Discussion held regarding the specific amendments to the settlement agreement.

Victor Diaz, Esq., representing 120 Ocean Drive, presented a rendering of the proposed building design. He continued stating that in October 2012, David Martin purchased the site, and in November René Gonzales, from the Congress Group, approached him to build this building and wanted him to provide the finances. He bought the site and would redesign the building, but he is afraid of beach politics. René Gonzales is building the Senior Center with him and they wanted to improve the design. He suggested for him not to fear the process, but rather engage. If he goes into the process with an open mind and engage the community, they will engage the community and they will do everything within their development rights. He committed to help them if this is made better for the City. The question before this Commission today is whether they continue to insist that this building be built, or they will allow the developer to go to the Building Department to process. The South of Fifth Neighborhood Association and many other residents of South Beach support the alternative design. He commended staff for their efforts in the redesign of the building, and thanked the Planning and Zoning staff for engaging in what was a difficult exercise, by making a very large building be contextual in a neighborhood that thanks to the Historic Preservation laws will never be built again. The Administration felt that the item should go in front of the City Commission prior to being considered by the Planning Board. In conclusion the new design is lower by 10 feet, the pedestal has gone from five (5) stories to two (2) stories for a 55% reduction in density, if the Planning Board allows. The lobby was raised and the alternate plaza design was done, by Raymond Jungles, which will include sidewalk café, with

architecture barriers to protect future evolution to enhance pedestrian quality. This project was not rushed; staff and community were engaged; this Commission was also engaged. They are not asking to approve the Building permits, but are asking to give permission to either force this on South of Fifth neighborhood, or allow them to go through all Land Use Boards for the new design to be developed.

Mayor Bower asked if anyone was in opposition of this building, and Mr. Diaz stated that there was only one neighborhood opposed.

Rene Gonzalez, Architect, spoke on behalf of the applicant 120 Ocean Drive, LLC.

Raymond Jungles spoke on behalf of the applicant 120 Ocean Drive, LLC.

David Martin spoke on behalf of the applicant 120 Ocean Drive, LLC.

Discussion continued.

Motion made by Commissioner Wolfson to approve the item. Seconded by Commissioner Weithorn.

Discussion continued.

12:13:31p.m.

Commissioner Weithorn stated, for the record, that she seconds this motion, not because she loves this building, but this is what happens when they do not look into development rights that are vested. It has an impact on the neighborhood. She added that when they approved the Comprehensive Plan, they did not spend two and a half hours discussing it. She added that maybe they should look at the Comprehensive Plan again, which has a far bigger impact on what tomorrow will look like, than this building. She requested, for the record, that Jorge Gomez take another look at Comprehensive plan; she would like to look at it, and urged her colleagues to do the same. **Jorge Gomez to handle.**

Amendment:

Commissioner Tobin asked if they were willing to approve it at a 20 ft. less on the height and they could come back later and discuss it.

Commissioner Wolfson did not accept the amendment.

SUPPLEMENTAL MATERIAL - Resolution

R7E A Resolution Transmitting The Request From The City Attorney's Office And The Public Works Department, For The Debarment Of Harbour Construction, Inc. Pursuant To Sections 2-397 Through 2-406 Of The Code Of The City Of Miami Beach To Aleksandr Boksner, Senior Assistant City Attorney, Whom Shall Be Charged With The Duty Of Promptly Investigating And Preparing All Necessary Written Report(s) Concerning The Proposed Debarment, And To Serve As The Prosecuting Authority Before The Debarment Committee For The Presentation Of All Relevant Evidence And Arguments For The Debarment Of Harbour Construction, Inc.
(City Manager's Office/City Attorney's Office)

ACTION: Resolution No. 2013-28144 adopted. Motion made by Commissioner Libbin to approve the resolution; seconded by Commissioner Exposito; Voice-vote: 6-0; Absent: Vice-Mayor Góngora. **City Manager's Office and Aleksandr Boksner to handle.**

Jose Smith, City Attorney, stated that this is a request to initiate debarment proceeding against Harbour Construction Inc. pursuant to section 2-397 through 2-406 of the City of Miami Beach Code. He prefaced this discussion by referring to the affidavit that was filed in connection with the arrest of the former Procurement Director, Gus Lopez, where approximately sixteen contractors were named as having had some involvement with the Procurement Office through an individual named Pierre Landrin and his company. The City Attorney's Office had an opportunity to review many of the sworn statements given to the State Attorney's Office, and we have concluded that there is good cause to initiate debarment proceedings against Harbour Construction Co., for a number of reasons, all dealing with violations of contract, violations of City law, violations of ethics, and we are asking you to authorize the City Attorney's Office bring action before the Debarment Committee and to proceed pursuant to the debarment sections of the Code to either suspend or permanently debar Harbour Construction Inc.

Discussion held.

Jose Smith, City Attorney, stated that the most the Debarment Committee can debar a contractor is for five years. This is the maximum penalty that can be imposed. Any appeal from the Debarment Committee will go to Circuit Court.

Motion made by Commissioner Libbin to approve the item; seconded by Commissioner Exposito.

Commissioner Tobin stated that in 2008 he brought to the attention of the Administration and the State Attorney's Office, specifically Joe Centorino, that there was corruption in the Procurement Department. He added that he gave Joe Centorino the names of the contractors and the name of the person being paid off. He instructed the City Attorney's Office to talk to the State Attorney and find out if those individuals that were involved in bid rigging, which he reported in 2008, finally surfaced. Jose Smith, City Attorney, stated that his office has been working very closely with the State Attorney's Office prosecutor assigned to the case, and he will be happy to follow up on this. **City Manager's Office and Aleksandr Boksner to handle.**

R9 - New Business and Commission Requests

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

ACTION: The following appointments were made:

COMMITTEE ON THE HOMELESS:

Rabbi Daniel Sherbill Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/19

COMMUNITY DEVELOPMENT ADVISORY COMMITTEE:

Andrew Fuller Term ending 12/31/13 Appointed by Commissioner Libbin TL 12/31/20

CONVENTION CENTER ADVISORY COMMITTEE:

Roger Abramson Term ending 12/31/14 Appointed by Commissioner Góngora TL12/31/16

LOAN REVIEW COMMITTEE:

Eric Lawrence Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/17

MIAMI BEACH COMMISSION FOR WOMEN:

Rocio Sullivan Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/19

Laura Cullen Term ending 12/31/13 Appointed by Commissioner Góngora TL12/31/17

POLICE CITIZENS RELATIONS COMMITTEE:

Michael Perlmutter Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/20

PRODUCTION INDUSTRY COUNCIL:

Bruce Orosz (Fashion) Term ending 12/31/14 Appointed by Commissioner Tobin TL 12/31/15

YOUTH CENTER ADVISORY BOARD:

Esther Egozi-Choukrou Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/17

CHARTER REVIEW BOARD: Effective January 1, 2013 through January 1, 2014:

Victor Diaz removed due to lobbying conflict, per legal opinion.

Scott Diffenderfer Appointed by Commissioner Exposito

Jackie Lalonde Appointed by Commissioner Góngora

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

ACTION: No appointments were made.

12:42:42 p.m.

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

ACTION: The following individuals spoke:

- 1) Anthony Gilbert has been a resident of Miami Beach for over twenty years, and he spoke on how the Netherlands has been fighting the seas for centuries. He suggested considering what has happened in Venice, and to change the name to Miami *Venice* Beach. He said it is freightening to see on the Internet how the North Pole now is an open sea because of the melting of the ice. The same is happening in the Antarctica and in the Greenland.
- 2) Antonio Machado stated he appreciates the chance Mayor Bower gives him to speak.

Mayor Bower asked to see if the City Manager or any of the Commissioners wants to send someone with Mr. Machado regarding his monthly complaints, which are the buses and loss of money from Pakistan.

Mayor Bower clarified that it is hard for one government to go to another government entity to complain. He also stated that there was corruption during the last State/County wide election and asked to be allowed to speak at the 5:30 p.m. Sutnick Hour.

- 3) Albert Wairman, a 12-year resident of the Blue Diamond, urged the Commission to prevent the destruction of the elevated wooden boardwalk stretching from 47th to 57th Streets. He added that the boardwalk is used by many people to exercise and for social gathering during the day and night. He appreciates the slight elevation, which provides a fantastic view of the beach and hotels. No ground level concrete pavers could provide the give that the wood does, making it easier on the legs, or the view or the breeze that the existing boardwalk elevation provides. He added that a petition to "Save the Boardwalk" has hundreds of names already, and stated that other City resources are being cherished not destroyed.
- 4) Ruth Tobias also spoke on the same issue of the elevated boardwalk; she lives on Collins Avenue and is also an avid user. She pleaded for the Commission to prevent its destruction, and added that in cement walkway people will ride bicycles. The boardwalk is very special to her, and she will even consider moving out of the area if the boardwalk is removed. She added that they have collected signatures and also provided a letter.

Discussion held. Jose Smith, City Attorney, explained that the beach is owned by the State, and the State has issued an order that the boardwalk has to be removed because it is not in compliance with their regulations, so it is an issue the residents should address with the State.

Vice-Mayor Góngora stated that the boardwalk is not scheduled to come down any time soon and they are looking into it. Discussion continued.

Jorge Gomez, Assistant City Manager, explained that behind the Eden Roc, as part of approvals granted to the developer, they were required to replace the boardwalk with the upgrade solution. In the future, the Fontainebleau also will be removing part of the boardwalk behind the facility, also the Saxony.

Albert Wairman stated that the entire boardwalk was recently rebuilt, the guardrails replaced and it is in good shape at this point. In terms of maintenance, they have done major amounts of work. He asked for guidance as what process they should follow to keep the boardwalk.

Motion made by Commissioner Libbin, seconded by Vice-Mayor Gongora, to place item on the Legislative Agenda. Approved by acclamation. **Kevin Crowder to handle.**

Commissioner Libbin requested, for those segments of the boardwalk that are to be replaced, and if permission from the State is granted, to look at the possibility of constructing the boardwalk on the dunes.

ACTION:

Motion made by Commissioner Libbin to give the Administration direction that future segments of the beachwalk should be elevated in order to have ocean view; seconded by Vice-Mayor Góngora. Motion approved by acclamation. **Fred Beckmann to handle.**

Commissioner Tobin asked Dr. Wairman to provide his contact information to the City Manager and to the City Clerk.

ACTION:

Motion made by Vice-Mayor Góngora to refer to boardwalk and beachwalk matters to the Land Use and Development Committee; seconded by Commissioning Tobin; Voice vote 7-0. **Richard Lorber to place on the committee agenda and to handle.**

- 5) Gene Cutie spoke against about off-leash dogs in South Pointe Park and referred to 900 complaints of unruly dogs and irresponsible dog owners that cannot control their pets. She pleaded for some common sense on the issue.
- 6) Juergen Brendel and Paula Jimenez, from the Venetian Homeowners Association, asked about the project in their neighborhood and requested to know the next step in the process.

Paula Jimenez stated that they have waited too long, and now that they have the money and the contractors selected, they would like to obtain a commencement date. She feels they have been neglected, as every other neighborhood gets their project going. She urged the Commission to keep in mind that this is not going away.

Mayor Bower informed them that their item R9H will be heard around 2:00 p.m.

- 7) Steve "Bubba" Cohen spoke about the flooding in the Venetian Islands and something needs to be done; the salt-water intrusion on the roads is causing millions of dollars of damages of vehicles that travel through. Additionally, he clarified that he met with the Interim City Manager and the Chief of Police regarding resolution to liability on his part. LTC 85-2011 identifies himself as Vice-President and second in command of PAL, and all the wrongdoings that happened, which imply happened under "his supposed leadership." The main item he requested, and the Manager felt may not be able to be done due to the timeframe, was an LTC this year, stating that he did not have anything to do with the wrongdoing, and he should be held harmless for anything that happened with PAL. The PAL Executive Director is still a paid police officer. He wants to get closure. The only complaint he has had during the past year is the investigation that was done.

Kathie G. Brooks, Interim City Manager, explained that Mr. Cohen met with Chief Martinez and herself, and he mentioned that he had been looking for some time for a letter stating that there was wrongdoing at the PAL. While she has no problem recognizing the audit that was done, which contained findings, it was done many years ago, and at this time, she does not think she can issue a letter regarding release of liability.

Jose Smith, City Attorney, stated that the City and PAL are separate entities, and asked why the City should hold him harmless for something that happened with PAL.

Discussion continued and Mayor Bower asked Mr. Cohen to meet with Jose Smith, City Attorney, as this issue has been going on for three year. Mr. Cohen referred to LTC 85-2011, and he wanted to clear his name there. Mayor Bower suggested the Legal Department to handle, and let them come to a conclusion and give the Commission advice.

Mr. Cohen spoke also about rebuilding Memorial Park and in favor of artificial turn.

Handouts and Reference Materials:

- 1, Email from Ephraim Weistein dated January 24, 2013 in reference to the boardwalk.
2. Contact information for Mr. Albert Wairman

5:35:42 p.m.

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

ACTION: The following individuals spoke:

- 1) Antonio Machado complained about the treatment of bus drivers, and explained that he was punched in the ribs; he added that every day he ride buses, drivers treat tourists bad, they refuse to take bicycles. He stated that the north portion of the boardwalk in back of the Fontainebleau was destroyed and wants to know why this happened. It was beautiful; he blamed it on Steve Muss and Norman Braman, and he asked if something can be done about transit and the abuse people are receiving. He also asked about the bike rack in front of City Hall that was moved.

Mayor Bower stated that the buses are to be stopping at the bus stop. She suggested that he speaks to Amarilys Diaz, in Commissioner Bruno Barreiro's Office, about this issue.

- 2) Tammy R. Tibbles, representing the Flamingo Neighborhood Association, explained that at a recent neighborhood meeting she was elected to speak on the FDOT project on Alton Road between 5th and Michigan. The neighbors are disappointed in the process that gave the illusion of public input, but ultimately put aside the concerns of the people and businesses affected by the project in lieu of other priorities, which have yet to be clearly communicated to the public. They will not agree to live with this plan. This project will create safety issues for their type of transport, not only motorized vehicles, but for non-motorized vehicles and pedestrians, and will create a detrimental impact on businesses and property owners. They are asking the Commission to seek all resources available to help them reengage FDOT to use the funding in the most cost-effective and advantageous way for the business and people affected by the project, and ask the Commission to ask FDOT to take a holistic view of the project, by consider the Comprehensive Plan approved in 2011, future developments, the tunnel project, street improvement in the Flamingo Park

neighborhoods, population demographics, transportation, zoning, population, etc. Let us not settle, let us change this.

- 3) Christine Florez, also spoke representing the West Avenue Corridor Neighborhood Association, and stated that the Flamingo Neighborhood Association has done most of the research and have a keen understanding of what is missing from the project. She highlighted that FDOT was not looking at the surrounding character of the neighborhood and they can enliven Alton Road and make it very viable for small businesses and provide amenities for residents in the community. They can widen sidewalks and have more input from residents. She thinks that there should be an overall change of policy for the project that is not being addressed to enlighten the community. Many employers and their employees that work on Lincoln Road and Alton Road will be greatly impacted by the project, and if mitigation is not done properly, they will hurt people unnecessarily.
- 4) Commissioner Wolfson announced that his aide Leonor Hernandez and her husband Antonio are celebrating their 26th wedding anniversary, and he congratulated and acknowledge them.

10:39:05 a.m.

R9C Update On The Miami Beach Convention Center Project.
(City Manager's Office)

ACTION: Verbal report given by Kathie G. Brooks, Interim City Manager.

On January 29, 2013, the City held the first Community Meeting providing members the public the opportunity to provide input to the two selected proposers on what their vision, concerns, etc. are for the Convention Center.

The meeting was very successful, having about 300 participants, 40 of which spoke and asked questions. The representatives from the two firms, Portman and Tishman, were in attendance. They also had forms that were collected at the Community Meeting for people who were not comfortable speaking, so they too can provide input. Portman and Tishman are also receiving e-mails from the public.

The next step is that the firms are going to take those comments, and incorporate them into their preliminary concept plans. The next Community Meeting is Wednesday, February 27, 2013 in the Convention Center, in Rooms D235 and D236. Following that meeting, there will be a Commission Workshop the next day on Thursday, February 28, 2013 at 3:00 p.m. The location of the Workshop will be the City Commission Chamber.

In addition, since the last Commission meeting, Portman and Tishman have met with the Convention Center Advisory Board, and received their input. This was done the same day as the January 29, 2013 Community Meeting. Portman and Tishman will continue to meet with the Convention Center Advisory Board throughout the process.

Additionally the two firms have met with the Convention Center operator, Global Spectrum, to obtain as much information as possible.

2:47:28 p.m.

R9D Discussion Regarding Items That Are Referred To Commission Committees To Be Reviewed If Not Heard By That Committee Within (6) Six Months Of Its Referral Dates.
(Requested by Commissioner Jerry Libbin)

ACTION: Discussion held. Motion made by Commissioner Libbin to refer the item to the Neighborhood/Community Affairs Committee; by acclamation. Barbara Hawayek to place on the committee agenda. **Max Sklar to handle.**

Referral:

Neighborhood/Community Affairs Committee

1:37:26 p.m.

R9E Discussion In Reference To Committee On Quality In Education's Motion Regarding Dangerous Pedestrian Crossing (Especially Child Pedestrians Coming From Nautilus Middle School) Problem On 41st Street.
(Requested by Vice-Mayor Michael Góngora)

ACTION:

Add to the legislative agenda a proposed school zone on 41st Street

Mayor Bower requested to add a proposed school zone on 41st Street to the Legislative Agenda, and thereby requiring FDOT to reduce the speed of vehicles traveling during the time children are crossing this road.

By acclamation, it was agreed to add to the State Legislative Agenda a proposed school zone on 41st Street.

Mayor Bower cannot understand why the State will not agree to add a crosswalk in this area.

1:38:54 p.m.

R9F Discussion Regarding Appointing A Commission Liaison To Report Back To The Mayor And Commission In Regards To The Miami Beach Convention Center RFQ No. 22-11/12.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Discussion held.

Vice-Mayor Góngora thought that the idea that was presented at the last Commission meeting to appoint a Commission Liaison to report back to the Mayor and Commission in regards to the Convention Center was a very good idea.

Commissioner Tobin nominated Commissioner Exposito to serve as the Liaison; seconded by Vice-Mayor Góngora. Voice-vote: 6-0; Absent: Commissioner Wolfson. **Max Sklar and Jorge Gomez to handle.**

5:11:36 p.m.

R9G Discussion And Presentation By Engineers From The Netherlands Who Will Share Insight Into The Way They Manage Potential Flooding.

(Requested by Commissioner Jerry Libbin)

ACTION: Discussion held.

Mayor Bower explained that is a presentation by a team from the Netherlands and Commissioner Libbin will introduced the item.

Commissioner Libbin thanked the presenters for traveling 24 hours to be here to make the presentation and introduced Esther Van Geloven, Sr. Commercial Officer at Netherlands Consulate General, who will introduce Edward Melger, Delft3D Sales Manager and Arnejan Van Loenen, with Deltares Company. Deltares is an independent, institute for applied research in the field of water, subsurface and infrastructure. The organization has a unique combination in the field of knowledge and experience in the field of water, soil and subsurface. They came into existence when the private and public sectors together with the knowledge institutes joined forces, including the Dutch federal government. Throughout the world, Deltares is involved in projects that focus is on deltas, coastal regions and river basins. The presentation will show some of the things they are doing, and talk about their experience in New Orleans. They have also been connected recently by the Governor of New York and he thought it would be interesting to learn more about what they can potentially bring to bear here to the City and learn from them.

[Click here to view the PowerPoint Presentation shown.](#)

Sr. Commercial Officer at Netherlands Consulate General Van Geloven apologized for the Ms. Simone Filippini, Counsel General, who was unable to attend today. She explained that the Netherlands is a very small country in Europe, two times the size of New Jersey, so the country is tiny, but internationally very active with about 17 million people that live there, and the third most densely populated country. The Netherlands is the third largest investor in the U.S., with a very strong presence in South Florida. In regards to water management, the Netherlands has some challenges. 17% of the GDP produced there is in a floodable area, so they have some similar issues as Miami Beach when it comes to protection from flooding. Water management for them is a matter of national survival. Some of the issues they deal with are sea level rise, more storms than previously, increased erosion, intense rainfall (and more of it as well); salt intrusion and subsidence. In the meanwhile, urban sprawl is happening in the country just like in Miami Beach. Since they have to learn how to live with water, initially they would build flood defenses and pumps; now they have a tendency to also live with water more and try to incorporate it into urban planning among other things. They have a Delta program that comes with adaptive strategies on how they can do this in a better way. Commissioner Libbin spoke to the Counsel General a few weeks ago and he was specifically asking about what do the Dutch do in the United States? They are actually very active on multiple levels in several different states and cities. In New Orleans, for example, after Katrina, since there is a Memorandum of Agreement with the Corp of Engineers and Dutch Rijkswaterstaat, which is the Dutch equivalent, experts were sent to help out after the disaster. After that they have had adaptation to sea level rise and a "Dutch dialogue," which is a collaboration between local experts and experts from the Netherlands, multidisciplinary, that focused on several areas in New Orleans to find out where the water was going right now, what do they do with the lake in terms of flooding, and working together made it very successful and much talked about. Then there is the Water Institutes of the Gulf, which is

actually loosely based on Deltares. There is a Memorandum of Agreement to come to more collaboration between cities that have things in common. In California, they have done several things, in naming a few examples. In New York, post Hurricane Sandy, they received a request from Governor Cuomo to assist, and also have received requests from the federal, Senators and Congressmen to talk about what they can do to help. Recently they hosted a study trip to the Netherlands so people from South Florida Water Management in the State of Florida can see for themselves what they do. One of the things they were able to witness was in the city of Rotterdam and how they adapt to sea level rise. They have the pumps, which Miami Beach also has, but are trying to make it more sustainable. They do not want to increase the dikes any more than they need do. They try to incorporate innovative water storage methods, like the water plazas, which can flood when necessary, and then they can take the water out when the flood has ceded. What people can see in the Netherlands is a dike in a boulevard, which is a very unique concept in a very busy and popular beach resort close to the Hague, where they build a ditch into boulevard and make it look very attractive, and it incorporates everything, lowly from the beach section up to the dike, but no one has an idea that there is a dike underneath it. The businesses next to it are happy with it as well, so it is a unique thing that they can show that it works. Another thing they have been doing is building with nature. An example of natural beach re-nourishment, is something built that slowly re-nourishes the beach by itself.

Edward Melger thanked the City Commission for the opportunity to be here and introduce Deltares, an independent research institute in the field of water, subsurface and infrastructure. Worldwide there are more people living in Deltas, in coastal areas and river regions. With sea level rise and storm surges, hurricanes, heavy rainfalls, these areas become more and more vulnerable for flooding. Managing these very intensely populated areas is very complex, and that is why they work closely together with other governmental organizations with other research institutes, businesses and universities worldwide in Europe, and in the United States. What they try to defend is situations like what was shown in the PowerPoint, pictures of Miami Beach not so long ago. A slide show was presented.

Mr. Melger stated that they will focus on the latest technology and innovative solutions. The organization is a not-for-profit foundation with about 840 people working in projects in over 50 countries. Their annual turnover is about 130 million Euros and working in those projects regained a lot of knowledge, expertise and at the same time allow them to put that knowledge and expertise into their software. Our open software is used in over 120 countries worldwide. Just an example of what they did in Thailand. A colleague of his traveled to Thailand, by invitation by the Dutch embassy and the Thai government, due to the fact that in August, September and October of 2011, there was a huge rainfall in this area, and there was a lot of water flowing through the city of Bangkok. They did not see the circumstances as urgent at first, but then when the water was flowing to Bangkok, they called in the "Dutch." With the team and the software package, he was able to estimate the velocity, the speed of the water going into the city of Bangkok and how far the water level would rise, and was also able to predict and to say where the Army and the local civilians would put the sand bags, where and when, to bypass the water from the inner city. After his mission in Thailand, he was awarded by the Thai government. Another example of what they do in the Netherlands. This is in the southern part of the Netherlands, in the harbor, it is the largest harbor in Europe, and until 2004, it was also the busiest harbor in the world, taken over by Singapore and Shanghai since then. Over the years they have done a lot of developments and have extended the harbor seawards; they have made new docks and new harbor basins. Deltares advised and did a research and report on the port design. They tested the coastal defenses using their unique scale models. They have done analysis about tidal flow prediction for ships during the construction phase, and of course, they did an environmental impact and assessments of the

system. His final example of what they do, is an example done in the United States, by finalizing the implementation of forecasting early warning system for the National Weather Service. It is nationwide. There are thirty-four centers in the United States that are now using a system of Delft-FEWS, developed by Deltares.

Arnejan Van Loenen, consultant operational water management at Dutch-based water research institute Deltares, explained about recent innovative developments, and especially the next generation flood modeling, with the hopes to contribute to coping with the challenges of today. Some challenges have already been mentioned such as sea level rise and climate change, but there are other challenges like keeping a population informed and have them participating. More and more data is available, especially distal terrain models with very high resolution. Half a meter is now available. In order cope with those challenges, they use the best data available. Current modeling systems are not able to do that. Then they developed a new modeling program. One of the elements of the programs fosters is really high detail. With the present modeling program, one has to aggregate to 25-meter resolution, which is quite coarse. Now they have a half-meter resolution. Due to increasing calculation time, they can also take measures real time. He showed a three-dimensional picture of a City where the model has been implemented and explained. A short video was presented.

Commissioner Libbin asked if the City wanted to implement certain requirements, such as seawalls being raised, Deltares could possibly design and look at its effect so the City can see the improvements.

Mr. Van Loenen explained that this is in development but will continue improving the program.

Commissioner Libbin thank them for their time and presentation and stated that he is aware that they have a luncheon tomorrow, which Mayor Bower is attending, and he expects that the City's professionals are working with them while they are in town, so we can take advantage of this kind of technology.

2:10:34 p.m.

ADDENDUM 1

R9H Discussion Regarding Progress For Venetian Islands Streetscape Project.
(Requested By Commissioner Edward L. Tobin)

ACTION: Discussion held.

Kathie G. Brooks, Interim City Manager, introduced the item. The bids on this were received on November 27, 2012; four prime bids were received. The evaluation committee met on January 17, 2013 and has made their recommendation. The intent is to bring the award of the contract to the March 2013 agenda. The amount that was bid is over budget, and at this point CIP is looking at the value engineering to make sure that the numbers are what they need. If over budget they will be looking for funding, and they will have to bring to the Commission a Capital Budget Amendment at that time.

Commissioner Tobin asked why the delay from November 27, 2012 to February 6, 2013. Ms. Brooks explained that the Evaluation Committee did not meet until January 17, 2013, and that Procurement staff has a lot of work.

Jeurgen Brendel spoke.

Discussion held.

Fernando Vazquez, CIP Director, explained the item. When you look at what has been done since the bids were originally discarded in October, CIP went back and relooked at certain components to try to introduce value engineering. CIP looked at substituting the pipe, using PVC instead of iron, reducing the amount of paving, looking at lighting. All without reducing service. When you look at the increase in cost in labor and materials from FDOT, we are looking at a 10% increase in cost in labor and material. Even though we requested additional funding, the base bids, we still want to add some components to try to make the construction a little more streamline. When CIP gets to a construction site that is as constricted as Venetian Islands, when you are building your storm water and your building your water, and you pour massive structures every so many feet, your road is totaled. When you work with the detail of doing so much of the roadway, it makes much sense from a production standpoint to recon the road, get it all done. In addition, CIP is looking at that alternative. CIP is also looking at some defer maintenance components. CIP wants to review the possibility of doing sanitary sewer rehab. CIP is evaluating potential alternatives to take advantage of the moment, streamline construction and improve the state of infrastructure.

Commissioner Exposito requested that the Venetian Island Homeowners Association be given a timeline, which includes, among other things: when will CIP have all its funding, when will it break ground, what is the anticipated completion date. The same information to be provided to the Commission. **Fernando Vazquez to handle.**

Discussion continued.

Fernando Vazquez, CIP Director, stated that we anticipate a commencement date of June 2013.

Jeurgen Brendel spoke.

Commissioner Tobin asked for a line item as to how much was paid to Hazen and Sawyer, and a line item showing whether or not we borrowed some money on the bid on the Venetian Island to pay for something on Sunset Islands. Provide all the detail **Fernando Vazquez to handle.**

Commissioner Weithorn says we have learned lessons in some neighborhoods, and are trying to prevent any problems. What Fernando is saying is that he needs one more month to flesh out any potential problem. She understands how frustrating it is to wait for construction, but it is worse when you do construction and things do not go the way they are supposed to go. The City has plans, but you stick your head in the ground, and if it does not look the same, you have a problem. CIP should be given opportunity to determine potential problems before encountering them, and that is what they are trying to do. The residents will be happier in the end. The Commission will hold CIP to June, and if they cannot make June, Fernando Vazquez must communicate this to the City Commission in March.

2:35:20 p.m.

ADDENDUM 1

R9I Discussion To Request That The Administration Provide A Point By Point Accounting At The March 13, 2013 Commission Meeting, In Response To The Recent Miami New Times Article Which Alleges Corruption By Certain City Departments.
(Requested by Commissioner Jerry Libbin)

ACTION: Discussion held.

To Do:

- 1) Administration to review the New Times article and report back at the next City Commission meeting.
- 2) Refer any findings of possible criminal activity to the State Attorney's Office for investigation.
- 3) List the names and classifications of the people involved at the time.
- 4) Independent evaluation of the Fire Department's reorganization and the fiscal impact.
- 5) Place on the agenda the scope and the cost of the independent evaluation of the Fire Department.

Commissioner Libbin stated that everyone received very disturbing copies of The New Times article (entitled Miami Beach Fire Department is A Flame With Corruption and Abuse), and requested the Administration to come back next month, after reviewing the article, to respond about the allegations of corruption in the various departments outlined in the article. This is neither a condemnation nor an agreement on anything. During agenda review he was informed that some of the issues on the article have been corrected, and those that have not been corrected must be corrected. He thinks that there should be a plan of action stating what the City has done and what has not been done, and if there needs to be another investigation, they need to know. **Carla Gomez, Chief Martinez and the City Attorney's Office to handle.**

Mayor Bower stated that if there is a doubt, this should be referred to the State Attorney's Office to investigate again; and those names of people involved should be mentioned. She requested to know all the people that were involved or responsible. **City Attorney's Office to handle.**

Commissioner Wolfson stated that he read the article and he knows that some things on the article, that he had personal knowledge, were not correct. It is a shame because people read it, things are getting better, and the facts are incorrect.

Discussion continued and Commissioner Libbin directed Administration to bring back a report. Mayor Bower clarified that no motion is needed.

Kathie G. Brooks, Interim City Manager, is happy to do it. She agrees that there are concerns with the article that are not accurate, such as that the City officials ignored repeated warnings about missing funds in Building. Administration conducted an audit and recovered millions of dollars. If issues have not been address, per City Commission direction, these will be addressed.

Commissioner Tobin stated that for some time he has been asking for an Outside Independent Evaluation of the Fire Department and added that what the article failed to include is what he considers to be a grotesque example of spending of public funds. In September and October 2012 there were 35 employees promoted, without a test or additional

training, and 35 employees F2 were made lieutenants and captains under the Fire reorganization that left the department with one supervisor for every 1 in 9/10 employee. The caps for F2s were around \$95,000. For three years, he has been asking for the fiscal impact of that, and the only impact provided to him was the fiscal impact that considered the time before the program was implemented, without the exception of the first few months, which he was told was to be "revenue mutual," but is not. He requested again an Outside Independent Evaluation of the Fire Department, which Legal suggested they do, and urged the Commission to support him. He suggested it be conducted by the International City Manager's Association, and also requested expediting the fiscal impact of the Fire Reorganization. **Carla Gomez to handle.**

Commissioner Weithorn, for the record, clarified that committee discussions were held for hours, and time and money was spent on the police report of recommendations, and of those, more than 50% are yet to be implemented. She does not want to spend money on another study unless they have the political will to do it. If her colleagues agree that they will take recommendations and implement at least 50% of them, before the study is done, she will support that.

Commissioner Libbin stated that he cannot commit to implementing the recommendations of a study until he knows what the study reveals. He requested the Administration to come back next month with what he asked, and place on the agenda an item including the scope and the cost of the proposed study for the Fire Department. **Carla Gomez to handle.**

Discussion continued.

Commissioner Tobin stated that the cost of the proposed study is approximately a salary of an individual firefighters, which is about \$70,000. He requested Administration to bring this back.

Kathie G. Brooks, Interim City Manager, stated that the item will be brought back to Commission at its next meeting along with the fiscal impact. She explained that she has been working with the actuary on it, but unfortunately he had a death in the family; however, she will keep pressing on that.

2:52:28 p.m.

ADDENDUM 2

R9J Discussion Regarding The Possible Withdrawal Of RFP No. 006-2013TC For Maintenance And Security Services At The Lincoln Road Mall.

(Requested by Commissioner Jerry Libbin)

ACTION: Discussion held. Motion made by Commissioner Tobin to amend the RFP; seconded by Commissioner Weithorn; Voice Vote: 5-1: Opposed Commissioner Libbin; Absent: Vice-Mayor Góngora.

To Do:

Make the RFP available for review

Commissioner Libbin has two concerns. There was an RFP for maintenance on Lincoln Road and what came to the Commission identified four areas of general agreement on the scope of the work. It seems there were additional areas of scope that were included or recommended by one or more Commissioner, but did not come back to a full Commission. He has concerns

on the process, and some of the things that were included and sent out with the bid are impossible to comply with. That can be remedied in several ways, by having an extension, by sending out an addendum, by sending out an amendment, but it bothers him that the changes did not come to a full Commission. The second issue is that there are some property owners who would like to have the opportunity to consider establishing a Business Improvement District. He suggested not wasting anybody's time and money going through a bid process, and letting this issue of the Business Improvement District surface on its own or rewrite it and send it to full Commission.

Kathie G. Brooks, Interim City Manager, explained. Ms. Brooks shared Commissioner Libbin's concern, and recommended that they do the addendum and send it out. She explained that the item was discussed at Finance, and they directed staff to work with Commissioners Exposito and Weithorn; she also looked at the bid specifications and was concerned about one item being too specific, and it was broadened and revised; the four minimum requirements were approved by the Commission, but for some reason, when it went out on the street, it went back to the original version, which was wrong, but she is trying to understand how this happened.

Commissioner Libbin stated that the Administration is not to act on anything unless approved by the City Commission, and to see if the owners request a Business Improvement District.

Ms. Brooks explained the time extension on the RFP. She suggested keeping the options open because the level of services on Lincoln Road is optimum.

Discussion held.

Commissioner Exposito stated that if in fact a mistake was made when the RFP went out, the correct and cleaner way to correct this is to have the RFP go out again.

Discussion continued.

Raul Aguila, Deputy City Attorney, stated that rather than scrap the RFP it could be amended prior to bid opening date. This does not taint the process, and it is common. Mr. Aguila stated that the specifications can also be tweaked.

Discussion continued.

Raul Aguila, Deputy City Attorney, stated that the bid opening date could be amended but cautioned that in most RFP the proposers are asked to keep prices current for a certain period of time, if you hold it too long it may affect the pricing.

Another option, Mr. Aguila explained, was to reject it.

Motion 1:

Motion made by Commissioner Libbin to get rid of it. No second offered.

Commissioner Weithorn stated that what concerns her more is how, something that they have spent collectively close to a hundred hours cleaning up; a different RFP goes out on the street. Commissioner Weithorn asked how this error could have happened after two Commissioners reviewed it and the City Commission approved it.

Kathie G. Brooks, Interim City Manager, stated that the culture in the organization was that what was approved by the City Commission was only a guide. She has been told that historically that is the case.

Discussion continued.

Commissioner Wolfson stated that an RFP, on its entirety, should be placed on the agenda to be voted on before it goes out.

Discussion continued.

Motion 2:

Motion made by Commissioner Libbin to stop the RFP until we know what the owners want to do regarding the bid, and continue providing current services. No second offered.

Discussion continued.

Motion 3:

Motion made by Commissioner Tobin to fix whatever needs to be fixed with this RFP.

Commissioner Weithorn seconded the motion that they amend the RFP and requested that the City Commission review it before it is sent out. **Alex Denis to handle.**

Commissioner Tobin stated that he does not want to see the RFP in its entirety on the agenda. It could be made available to those who want to see it, but he would like to trust staff will do a good job.

A voice vote was taken: 5-1: Opposed Commissioner Libbin; Absent: Vice-Mayor Góngora.

Discussion continued.

Raul Aguila, Deputy City Attorney, suggested extending the opening date of the bids by a week or two, through the beginning of March, and to come back to the City Commission in April or May. **Alex Denis to handle.**

Discussion continued.

Mayor Bower stated that since the RFP will not be coming back to the City Commission for a decision until April or May, the owners have time to develop the Business Improvement District and the decision can be held after that.

R10 - City Attorney Reports

R10A City Attorney's Status Report.

(City Attorney Office)

ACTION: Report given.

10:38:01

Announcement by Jose Smith, City Attorney regarding Item R10B.

3:33: 22

Mayor Bower announced the Attorney-Client Session

5:10:56 p.m.

Jose Smith, City Attorney, announced that the Attorney-Client Session has ended.

R10B Closed Attorney-Client Session

Pursuant To §286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

City Of Miami Beach v. 1747 Bay Road Properties, LLC

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On February 6, 2013, In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/OR Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matters.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Jorge Exposito, Michael Góngora, Jerry Libbin, Edward Tobin, Deede Weithorn And Jonah Wolfson; Interim City Manager Kathie G. Brooks, City Attorney Jose Smith, And First Assistant City Attorney Rhonda Montoya Hasan.

ACTION: Closed Executive Session announced and held.

Reports and Informational Items

1. Reports and Informational Items (see LTC No. 027-2013)
2. List of Projects Covered by the Cone of Silence Ordinance (see LTC 021-2013)
(Procurement)

Meeting adjourned at 8:44:31 p.m.

End of Regular Agenda