MIAMIBEACH

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

COMMISSION MEMORANDUM

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

FROM: Kathie G. Brooks, Interim City Manager

DATE: March 13, 2013

SUBJECT: **REPORT OF THE FEBRUARY 13, 2013 LAND USE AND DEVELOPMENT COMMITTEE MEETING**

A Land Use and Development Committee meeting was held on February 13, 2013. Members in attendance were Commissioners Góngora and Libbin. Mayor Bower and Commissioner Tobin, along with members from the Administration and the public, were also in attendance. Please see the attached sign-in sheet. The meeting was called to order at 3:10 pm.

1. **REDUCED PARKING RATES FOR HOTEL EMPLOYEES.**
   (DEFERRED FROM THE JANUARY 23, 2013 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON, OCTOBER 19, 2011 CITY COMMISSION MEETING, ITEM C4K)

AFTER-ACTION: **DEFERRED**

2. **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 FROM THE JANUARY 23, 2013 LUDC MEETING ORIGINALLY REFERRED BY COMMISSIONER JORGE R. EXPOSITO OCTOBER 19, 2011 CITY COMMISSION MEETING, ITEM C4L)

AFTER-ACTION: **DEFERRED**

3. **REVIEW OF MIAMI BEACH LAND USE BOARDS TO IMPROVE THE CITY OF MIAMI BEACH BUILDING AND PLANNING DEPARTMENT PROCESSES.**
   (CONTINUED FROM THE JANUARY 23, 2013 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER MICHAEL GONGORA MARCH 21, 2012 CITY COMMISSION MEETING, ITEM C4M)

AFTER-ACTION: **DEFERRED**

Agenda Item C6C
Date 3-13-13

4. DISCUSSION REGARDING FOOD TRUCKS ON PRIVATE PROPERTY.
(DEFERRED FROM THE JANUARY 23, 2013 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON SEPTEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4K)

AFTER-ACTION: Richard Lorber provided an overview of the item. Commissioner Gongora indicated general support for the concept, but believes there should be a minimum distance separation between food trucks and sidewalk cafes. Commissioner Wolfson suggested that food trucks only be permitted on licensed private parking lots (commercial lots) that are not located within 500 feet of a sidewalk café and are not abutting a residential district.

MOTION: Wolfson/Góngora: (2-0) Direct staff to prepare an Ordinance consistent with the discussion above, and bring back before the land Use Committee.

5. DISCUSSION PERTAINING TO "SMARTER MATERIALS FOR NEXT GENERATION INFRASTRUCTURE," SUCH AS ELIMINATING THE DISPOSAL OF TIRES IN GLOBAL LANDFILLS AND INCINERATORS.
(DEFERRED FROM THE JANUARY 23, 2013 LUDC MEETING ORIGINALLY REFERRED BY COMMISSIONER MICHAEL GONGORA DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4M)

AFTER-ACTION: DEFERRED

6. DISCUSSION REGARDING AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS THAT WILL CREATE PROTECTION FROM TOTAL DEMOLITION OF ARCHITECTURALLY SIGNIFICANT SINGLE FAMILY HOMES BUILT PRIOR TO 1942.
(REQUESTED BY MAYOR MATTI HERRERA BOWER AND CITY COMMISSION DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4P)

AFTER-ACTION: Richard Lorber introduced the item and explained the current single family residential process, including limits on lot coverage, building size and other criteria, and the review by the Design Review Board. He explained how it would be possible to add additional incentives for retention of architecturally significant pre-1942 homes, and additional disincentives to the demolition of these homes. Members of the public spoke, including Terry Bienstock, Michael Larkin, Clotilde Luce, Carol Housen, Ralph Choeff, Todd Glazer, Daniel Ciraldo, Arthur Marcus, Jo Manning, Nancy Liebman, and Kent Harrison Robbins. Mayor Bower explained that she referred this matter at the request of residents, and that Daniel Ciraldo brought it to the City's attention, that he has a petition with many signatures. The houses that are being proposed are not compatible with the neighborhoods. We are losing beautiful historic homes. Commissioner Wolfson indicated that he does not support involuntary designation of homes. He noted that the earlier ordinances that the City passed were compromises, since there was not a strong consensus for historic preservation of single family districts. Commissioner Libbin expressed support for the approach of incentives, rather than much disincentives (although we should look at the DRB ability to permit 70% unit size). Commissioner Góngora is in favor with proposed incentives, rather than disincentives. Commissioner Tobin agreed that there are neighborhoods whose character is being changed by a small number of homes, and he believes that the City needs to do something. He would consider some disincentives as well as incentives. Commissioner Libbin explained that he would want to see something that discouraged speculation.

MOTION: Libbin/Góngora: (3-0) Direct staff to come up with as many creative positive incentives that we can propose to encourage people to keep architecturally significant older homes.

7. DISCUSSION CONCERNING A PROPOSED AMENDMENT OF THE CHARTER TO PROHIBIT THE INVOLUNTARY DESIGNATION OF SINGLE-FAMILY RESIDENCES AS INDIVIDUAL HISTORIC SITES, HEREINAFTER REFERRED TO AS THE MIAMI BEACH HOMEOWNER PROTECTION ACT.
(REQUESTED BY COMMISSION JONAH WOLFSON
JANUARY 16, 2013, CITY COMMISSION MEETING, ITEM C4I)

AFTER-ACTION: Commissioner Wolfson discussed his proposal for a charter amendment. He described that he would favor a charter amendment that required a vote of the citizens to approve any amendment that would restrict property rights. Commissioner Góngora explained his concern that if the charter amendment doesn't pass, then what would be the resulting effect, would we be required to begin designations? Kent Harrison Robbins, Charlie Urstadt, Daniel Ciraldo, Arthur Marcus and Jeff Donnelly spoke.

MOTION: CONTINUED

8. DISCUSSION REGARDING RESTRICTED WAKE ZONES

a) 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; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. FIRST READING.
(DEFERRED FROM THE JANUARY 23, 2013 LUDC MEETING
ORIGINALLY REQUESTED BY CITY COMMISSION
DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM R5F & R7I)

b) DISCUSSION ON ADDING SURPRISE LAKE TO "NO WAKE ZONES" ON MIAMI BEACH.
(REQUESTED BY COMMISSIONER EDWARD L. TOBIN
FEBRUARY 6, 2013 CITY COMMISSION MEETING, ITEM C4P
(VERBAL REPORT)

AFTER-ACTION: Michael Larkin explained the State law regarding no-wake zones. Sgt. George of the Miami Beach Police Marine Patrol discussed the current situation. The City Attorney's Office informed the Committee that the City could not establish a "no-wake" zone in the Surprise Lake area as it did not meet the requirements prescribed by the State Statutes.

MOTION: Wolfson/Góngora: (2-0) Move proposal "A" forward to the full Commission.

9. DISCUSSION REGARDING THE DEVELOPMENT OF THE WEST LOTS BETWEEN 79TH STREET TO 87TH STREET AND COLLINS AVENUE.
(REFERRED BY COMMISSIONER JERRY LIBBIN
DECEMBER 12, 2012, CITY COMMISSION MEETING, ITEM R9G)

AFTER-ACTION: DEFERRED

10. DISCUSSION REGARDING DEVELOPMENT OF THE PARKING LOT BETWEEN 72ND AND 73RD STREET AND COLLINS AVENUE.
(REFERRED BY COMMISSIONER JERRY LIBBIN
DECEMBER 12, 2012 CITY COMMISSION MEETING ITEM R9F)

AFTER-ACTION: DEFERRED

11. ZONING AND PLANNING INITIATIVES FOR NORTH BEACH INCLUDING ORDINANCE AMENDMENTS FOR PARKING REQUIREMENTS AND DEVELOPMENT REGULATIONS.
(REFERRED BY COMMISSIONER JERRY LIBBIN
DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4I #1)

AFTER-ACTION: DEFERRED

12. APPLICATION OF PARKING IMPACT FEES TO SATISFY HOTEL PARKING REQUIREMENTS OUTSIDE OF HISTORIC DISTRICTS.
(REFERRED BY COMMISSIONER JERRY LIBBIN
DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4I #3)

AFTER-ACTION: DEFERRED

13. DISCUSSION REGARDING THE CURRENT SIDEWALK CAFÉ ORDINANCE

a) DISCUSSION REGARDING THE LINCOLN ROAD UTILIZATION AREAS FOR SIDEWALK CAFES.
(REQUESTED BY COMMISSIONER MICHAEL GONGORA
JANUARY 16, 2013 CITY COMMISSION MEETING, ITEM C4R)

b) USE OF ELECTRICITY BY SIDEWALK CAFÉS.
(REQUESTED BY COMMISSIONER DEEDE WEITHORN
JANUARY 16, 2013 CITY COMMISSION MEETING, ITEM R9G)

c) DISCUSSION REGARDING RESTAURANT SOLICITATION OF PEDESTRIANS ON CITY SIDEWALKS, PARTICULARLY OCEAN DRIVE AND LINCOLN ROAD.
(REQUESTED BY CITY COMMMISSION
JANUARY 16, 2013 CITY COMMISSION MEETING, ITEM R9G
REFER ALL CURRENT SIDEWALK CAFÉ MATTERS TO THE LAND USE AND DEVELOPMENT COMMITTEE. ORIGINALLY REFERRED TO NCAC
DECEMBER 12, 2012 CITY COMMISSION MEETING, ITEM C4H)

AFTER-ACTION: Jorge Gomez introduced the item, explaining the various referrals that have been combined into this discussion, and going over the past history of the sidewalk café ordinance and its enforcement. Fred Beckmann explained that there is no restriction on the percentage of a block that may be devoted to sidewalk cafes, and there has been significant growth on some blocks of Lincoln Road. Stephen Scott discussed the Code Compliance efforts in enforcing the sidewalk café ordinance, noting that hundreds of warnings and citations have been given. He detailed several of the major recurring issues, including umbrellas, power usage, signage, and other unauthorized displays. Mayor Bower questioned why these violations are not made to be immediately removed, and staff explained that they are waiting for direction from the Commission. Richard Lorber detailed issues that have been raised by the Historic Preservation Board, other land use boards and Planning Department staff. The economics of sidewalk cafes and the differential between the sidewalk café fee and the rents being charged was discussed. Members of the public spoke, including Terry Bienstock, Marlo Courtney, David Wallack, Daniel Veitia, David Kelsey, Jo Manning, Arthur Marcus, Nancy Liebman, Christine Florez, Frank DelVecchio, Jane Losson, Ryan Grinler of Terranova Corporation, Carla Probus, William Cary, and Morris Sunshine. Commissioner Tobin discussed the issue of the hawkers, as well as fraudulent practices, and requested that the Committee support him in directing the Administration to focus enforcement on hawkers and fraud. Commissioner Wolfson expressed reluctance to step up enforcement efforts. Commissioner Libbin felt that the signage issue was out of control. Mayor Bower asked questions about the sidewalk café approved areas, and how the areas were determined and enforced. She indicated that she would be in favor of some type of overall restriction on the area to be allowed for sidewalk cafes. Commissioner Libbin discussed the "back of the house" equipment and expressed that these installations must be removed; however, this must done in a fair and equitable fashion. The Committee discussed the electricity issue, and whether they should be allowed to use the electricity, and whether they should be charged for its usage.

MOTION: Libbin/Gongora: (3-0) Direct the Administration to draft an ordinance which would strengthen the prohibition of hawkers at sidewalk cafes including increased fines.

MOTION: Libbin/Gongora: (3-0) Direct the Administration to advise the Committee on any suggested changes to the permitted signage for sidewalk cafes.

MOTION: Libbin/Gongora: (3-0) Direct the Administration to advise the Committee on any suggested changes to the issue of electricity usage.

MOTION: Libbin/Gongora: (3-0) Direct the Administration to advise the Committee on any suggested changes to the issue of sofas and banquettes.

Attachment

KGB/JGG/RL

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LAND USE AND DEVELOPMENT COMMITTEE MEETING
February 13, 2013 @ 3:00 pm
City Manager's Large Conference Room

Attendance Sheet

NAME	CONTACT NUMBER	I WISH TO RECEIVE THE AGENDA ELECTRONICALLY	E-MAIL ADDRESS
1. Daniel Veitia			daniel @ urbanvesource.com
2. David Kelsey	SBHRA		@
3. Joyce Meyers	CMB Planning		jmeyers @ miamibeachfl.gov
4. DEBORAH RUGGIERO			pvi73 @ aol.com
5. Carol HOUSEN	305 992 8163	✓	carolhousen @ gmail.com
6. Jo Manning	305-538-3270	✓	jomanning1940 @ gmail.com
7. Daniel Giraldo	305-496-7535	✓	dgc223 @ gmail.com
8. ARTHUR MARCUS	305-674-8945	✓	marcus_A @ bellsouth.net
9. Nancy Liebman	305-609-4288	✓	nanlieb@ @ AOL.com
10. Christine Florez	305 923 3862	✓	cbrusgflore @
11. ABLENE WELTMAN	917 439-7011	✓	Christinegraceforez @ gmail.com
12. Ned Kandel	917 392 4040	✓	arleneandned @ aol.com
13. Frank Del Vecchio	305-672-2486	Yes	fdelvecchio @ atlanticbb.net
14. Marian DelVecchio	"	✓	mdelvecchio @ atlanticbb.net
15. Jane Pierce Lasson	305 924 0262	✓	jplosson @ yahoo.com
16. Stephen Scott			@
17. Elsa URQUIZA	305 494-9060	✓	elsa.urquiza @ att.net
18. Misty Polanco	786-246-8475	✓	mpolanco @ terranovacorp.com
19. Ryan Grindler	305-695-8700	✓	Rgrindler @ terranovacorp.com
20. Paul Mokha	786-351-6965	✓	pmokha @ yahoo.com

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LAND USE AND DEVELOPMENT COMMITTEE MEETING
February 13, 2013 @ 3:00 pm
City Manager's Large Conference Room

Attendance Sheet

	NAME	CONTACT NUMBER	I WISH TO RECEIVE THE LINK TO THE ELECTRONIC AGENDA	E-MAIL ADDRESS
21.	AL FEOLA	305.531.9478	Yes	OMFEO @ATLANTICBB.NET
22.	Lynn W Bernstein	305-673-7010		@
23.	Monika Entin	305-377-6237		@
24.	MITCH GARRETT	248.479.5493		mitch.garrett @transinns.com
25.	HERNAN CARDENO	305.673.7776 XT. 6854		HERNANCARD@MIAMIBEACHFL.GOV
26.	DANIEL DALY	305 673-6649	YES	DANDALY3 @GMAIL.COM
27.	MALW COURSEY	804 Ocean Drive	Yes	@
28.	MICHAEL GEORGE	305 673 7959		MICHAELGEORGE @MIAMIBEACHFL.GOV
29.	Joan Liberty Balkin	305-905-7100	N.A.	N.A. @
30.	Christina Veiga	305-376-2029	yes	Cveiga @miamiherald.com
31.	Terry Bienstock	305 903-4000	Yes	tbienstock @tbienstock-law.com
32.	Barbara Cohen		Yes	Cohenbarbara @gmail.com
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